

The human rights of persons with disabilities



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Angela Gaff



AL-HAQ

West Bank Affiliate of the
International Commission of Jurists

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INTRODUCTION

The Intifada has been responsible for raising the status of persons with disabilities in Palestinian society, and for making a hitherto almost invisible sector of society prominent in the public eye. There are no statistics available indicating the number of Palestinians who have been disabled by injuries sustained at the hands of the Israeli military authorities, including as a result of torture in detention. Suffice it to say that those Palestinians with Intifada-related disabilities represent a substantial and visible sector. They have enjoyed hero status in Palestinian society (although sometimes this has been short-lived). On the one hand, this has been beneficial because it has highlighted the plight of Palestinians with disabilities in general and has meant that they no longer constitute an "invisible" sector of society. On the other hand, there is now a discrepancy between the status enjoyed by those with Intifada-related disabilities and the status of those whose disabilities derive from other causes. It is al-Haq's concern that the human rights of *all* Palestinians with disabilities are promoted. Experience has shown that wars, such as the First and Second World Wars, which produced a new community of "war-disabled" persons, often bring in their wake a heightened consciousness of the situation of *all* persons with disabilities and often, as was the case in Europe and North America, legislation which promotes their rights.

Since the Israeli occupation of the West Bank and Gaza Strip in 1967, Palestinians with disabilities, like all Palestinians, have had neither a Palestinian government from which to demand their rights nor legislation to protect and promote those rights. Israel, as the occupying power, has not abided by its obligations regarding the occupied Palestinian population, including Palestinians with disabilities under occupation. This paper is written at a crucial time, when Palestinians with disabilities are mobilizing themselves with a view to demanding from the authorities a recognition of their rights. No longer will Palestinians with disabilities be content to be cast in the role of recipients of paternalistic charity; instead, they will demand equal rights with others.

The purpose of this paper is to provide an outline of international law and of international standards related to disability, together with Jordanian and Israeli laws which specifically affect Palestinians with disabilities. The paper is primarily aimed at Palestinians with disabilities, but also at their friends, families and carers, those working with persons with disabilities, and at the general "able-bodied" community. It is hoped that it will serve as a reference for use in future deliberations about the formulation of disability legislation

under a Palestinian authority. The paper is aimed at those with both mental and physical disabilities. The Intifada may have thrown light on the situation of persons with physical disabilities, but has done little to focus attention on that of those with mental disabilities who historically have been less able to articulate their needs than other groups of persons with disabilities in the Palestinian community.

This paper intentionally includes no examination of the question of the prevention of disability. Disability of course derives from multifarious causes, including accidents, congenital reasons, illnesses, medical negligence, torture and other assaults. It is not within the terms of reference of this paper to advocate prevention mechanisms, since the emphasis of this study is rather on raising the status of persons with disabilities. The question of prevention merits discussion elsewhere.

Al-Haq's concern is that such have been the difficulties experienced by Palestinians with disabilities in obtaining even such basic commodities as wheelchairs and crutches, that there is a risk that their aspirations will be limited to the attainment of these basic necessities. It is essential that Palestinians with disabilities are made aware of their full human rights so that they can then demand them. Palestinians with disabilities must be regarded as human beings with equal rights with others, who have a right to participate in society and to expect that society will accommodate their disability.

It is not the intention of this paper to detail the ways in which persons with disabilities are disadvantaged in Palestinian society. Much has been written elsewhere about their situation.¹ Suffice it to say that Palestinians with disabilities are discriminated against in all sectors of life including: employment (if they are able to find employment at all, they are often marginalized in specific manual tasks and are discriminated against in terms of wages and as regards other terms and conditions); education (they are routinely refused access

¹ See: Peter Coleridge, *Disability, Liberation & Development* (Oxford: Oxfam, 1993); Mona Odeh Salem and Afaf al Haj Ali, *Focus on the Lives of Disabled Women in Palestinian Society* (Ramallah: Bir Zeit University, 1991); Gaza National Committee for Rehabilitation and Diakonia, *Disability and Rehabilitation Needs in the Gaza Strip, A Survey Report on Bureij and al-Shati Refugee Camp* (Gaza: Diakonia, 1993); Rita Giacaman, Ibrahim D'eibes, Hala Salem Atieh, Laila Bakr, Rustom Nammari, and Sue Waller, *Towards the Formulation of a Rehabilitation Policy in the West Bank and Gaza Strip* (Ramallah: Bir Zeit University, October 1989).

to mainstream education, and most educational establishments are not physically accessible); transport (transport facilities are not made physically accessible); as regards the construction of buildings (in the West Bank and Gaza, to the knowledge of al-Haq, only one public building, in Nablus, has been made accessible) and in general life (many other services and facilities are not accessible). Palestinians with disabilities, particularly women (who suffer discrimination both because they are women and because they are persons with disabilities) are often unable to have "normal" personal, social and intimate relations.

Persons with disabilities are routinely oppressed, in both educational and residential institutions, by segregation which isolates them from the rest of society. Furthermore, many Palestinians with disabilities live in institutions where they are treated inhumanely. Rehabilitation institutions do not always provide adequate rehabilitation and do not gear their activities to assist their clients to become integrated into their local communities. Persons with disabilities, like others on the margins of society, are the first to suffer in time of economic recession and unemployment. There is at present no social security system in place to assure a basic minimum standard of living to persons with disabilities.

It must be borne in mind that persons with disabilities do not form a homogeneous whole; it is vital that consideration be always given to the very varying needs of different groups in the community of persons with disabilities. For example, the needs of someone who has a mental disability are very different from those of someone who is deaf. In the same way that we need to re-examine our ideas about disability, it is also perhaps timely that we reappraise our attitudes towards the concept of "able-bodiedness". Those described as "able-bodied" or "normal" do not form a homogeneous group either. What is it to be "normal" or "able-bodied"? There are surely many degrees of bodily ability and normality. Disability should not be regarded as deviance from a norm. It should also be remembered that having a disability and being able-bodied are not necessarily permanent states; in the same way that many of us who are able-bodied may, with ageing, or due to other phenomena, acquire a disability, disability can also be a temporary state.

1981 was the UN International Year of the Disabled, and the period between 1983 and 1992 was pronounced as the United Nations Decade of Disabled Persons. References are made in this paper to the World Programme of Action which was published in 1983 and which forms a set of principles designed to realize the human rights of persons with disabilities throughout the

world. The Decade of Disabled Persons aimed to achieve the implementation of the World Programme of Action.²

Section I of this paper examines definitions of disability and other terminology employed in the discussion of disability, together with definitions of discrimination. International standards, including the International Bill of Rights, UN conventions and declarations, are examined in Section II and in Section III, the issue of the right of those under occupation to adequate health care is discussed, together with the Palestinians' experience of that right being denied. In Section IV, the paper discusses the domestic laws which currently affect Palestinians with disabilities, including Israeli law and Jordanian law. Finally, Section V explores areas for potential legislation for Palestinians with disabilities in a future state.

In relation to both existing international and domestic law and as regards laws that need to be formulated for adoption by a Palestinian authority, 10 areas have been pinpointed as follows: 1. Anti-discrimination and redress; 2. Work; 3. Education; 4. Freedom of movement; 5. Social security; 6. Cultural and political life; 7. Legal proceedings; 8. Housing and access to buildings; 9.

² The objectives of the World Programme of Action, which was adopted by the General Assembly in resolution 37/53 of 3 December 1982, are:

[To] promote effective measures for prevention of disability, rehabilitation and the realization of the goals of "full participation" of disabled persons in social life and development, and of "equality". This means opportunities equal to those of the whole population and an equal share in the improvement in living conditions resulting from social and economic development. These concepts should apply with the same scope and with the same urgency to all countries, regardless of their level of development.

The relevant terms of action proposed by the World Programme of Action are defined as prevention, rehabilitation, and equalization of opportunities. See Section I for definitions of those terms. These terms of reference mark a move away from the paternalistic protective approach which previously characterized attitudes to persons with disabilities.

The World Programme of Action recognizes that its implementation is dependent on the stage of economic development of the country in question.

The United Nations Centre for Social Development and Humanitarian Affairs coordinates and supervises the implementation of the World Plan on the basis of the information provided, in particular by governments.

Family life; 10. Rehabilitation. This grouping is used to examine the laws which can be of assistance to persons with disabilities in Section II (on international standards), in Section IV. A. (in relation to Israeli law), and in Section V, (in relation to laws which need to be formulated under any Palestinian authority).⁵ It should be stressed that it is somewhat artificial to divide the rights of persons with disabilities in this way as such rights are interconnected. For instance, the right to rehabilitation is linked to the right to work, to education, and to take up other general rights in life. Similarly, the right to freedom of movement is also linked to other rights; unless one has the ability to move around, one cannot avail oneself of other rights.

I. DEFINITIONS

A. What do we mean by "disability?"

Firstly, as regards terminology, al-Haq chooses to employ the term "persons with disabilities" (singular: "person with a disability") rather than "disabled persons" in deference to the argument that the latter term may be misinterpreted to imply that the person in question is somehow disabled in their personhood. In some instances, the terms "disabled person" and "disabled persons" are used in quotations from other sources.

Definitions of disability vary greatly from country to country, partly because there has been relatively little specific attention paid to disability in international law and consequently, little standardization of terminology. Accordingly, someone who is regarded as a person with a disability in one country may not be deemed so in another. Different criteria include: the total and partial impairment of senses, and physical and intellectual capacities³; injury or illness⁴; the inability to accomplish physiological functions⁵; inability to obtain or to keep employment⁶; an inability to function normally in certain areas of social life⁷; the experience of restricted possibilities of education, rehabilitation and employment.⁸ According to the definition contained in the UN Declaration on the Rights of Disabled Persons (see Appendix B), the term "disabled person" means "any person unable to ensure by himself or herself, wholly or partly, the necessities of a normal individual and/or social life, as a result of a deficiency, either congenital or not, in his or her physical or mental capabilities." The International Labour Organisation (ILO), on the other hand, states that "disabled person means an individual whose prospects of securing,

³ Chad, Jordan, Kenya, Singapore, Uruguay.

⁴ Czech and Slovak Federal Republic, Finland, and Romania.

⁵ China and Morocco.

⁶ Bangladesh and Trinidad and Tobago.

⁷ China, Ethiopia, Finland, Jordan, Mauritius, Norway, Poland, and Singapore.

⁸ Czech and Slovak Federal Republic, Jordan and Kenya.

retaining and advancing in suitable employment are substantially reduced as a result of a duly recognized physical or mental impairment."⁹

A third approach is represented by the The World Health Organization (WHO) and is adopted by the World Programme of Action. WHO makes the following distinction between impairment, disability and handicap:

Impairment: Any loss or abnormality of psychological, physiological, or anatomical structure or function.

Disability: Any restriction or lack (resulting from impairment) of ability to perform an activity in the manner or within the range considered normal for a human being.

Handicap: A disadvantage for a given individual, resulting from an impairment or disability, that limits or prevents the fulfilment of a role that is normal, depending on age, sex, social and cultural factors, for the individual.¹⁰

Handicap is therefore the loss of opportunity which stems from an impairment or a disability.

These definitions have been criticized because they individualize disability and presuppose a static, unchanging environment without conveying a sense that the environment handicaps a person when it does not accommodate that person's impairment or disability.¹¹ Cultural, physical or social barriers

⁹ See Appendices C, D, and E.

¹⁰ World Health Organization, *International Classification of Impairments, Disabilities and Handicaps (ICIDH)* (Geneva: World Health Organization, 1980).

¹¹ Michael Oliver wrote that :

As long as the environment consists of social roles that are considered to be normal, the inability of the individual to live up to the requirements of these roles puts him or her in a disadvantaged position and thus creates a handicap.

See Michael Oliver, *The Politics of Disablement*, (London: Macmillan, 1990), pp. 4-6.

prevent a person with an impairment from having access to the various systems of society that are available to other citizens. Disability can therefore be seen as a construct of attitudinal and environmental barriers and not simply the product of the functional limitations of the person(s) in question. The environment is perceived not as a norm in which a person can function to a lesser or greater extent owing to their disability or non-disability, but rather as a variable which can and should be fashioned by society to meet the demands of all human beings, dependent on their needs. The World Programme of Action affirms that "experience shows that it is largely the environment which determines the effect of an impairment or a disability on a person's daily life."¹² However, the role played by the environment in disabling a person is not reflected in the definitions adopted by the WHO.

Alternative definitions have been devised which place the causation of disability within society and societal organization. The British Union of the Physically Impaired Against Segregation (UPIAS) has devised the following definitions:

Impairment: lacking part of or all of a limb, or having a defective limb, organism or mechanism of the body.

Disability: the disadvantage or restriction of activity caused by a contemporary social organisation which takes no or little account of people who have physical impairments and thus excludes them from the mainstream of social activities.¹³

Palestinians with disabilities will at some stage need to devise their own working definition of disability. In the meantime, however, al-Haq will employ the UPIAS definition because it places due responsibility for disability on society and the environment.

The World Programme of Action defines prevention, rehabilitation, and equalization of opportunities, which represent the three main aims of the

¹² *World Programme of Action Concerning Disabled Persons*, published by the United Nations Department of Public Information, DPI/933/Rev. 1-35888-August 1992-7M.

¹³ Union of the Physically Impaired Against Segregation, *Fundamental Principles of Disability* (London: UPIAS, 1976).

Programme as follows:

Prevention: means measures aimed at preventing the onset of mental, physical and sensory impairments (primary prevention) or at preventing impairment, when it has occurred, from having negative physical, psychological and social consequences.

Rehabilitation: means a goal-oriented and time-limited process aimed at enabling an impaired person to reach an optimum mental, physical and/or social functional level, thus providing her or him with the tools to change her or his own life. It can involve measures intended to compensate for a loss of function or a functional limitation (for example by technical aids) and other measures intended to facilitate social adjustment or readjustment.

Equalization of opportunities: means the process through which the general system of society, such as the physical and cultural environment, housing and transportation, social and health services, educational and work opportunities, cultural and social life, including sports and recreational facilities, are made accessible to all.

B. What do we mean by "discrimination?"

The rights of persons with disabilities stem from the general principles of non-discrimination and equality which have evolved over the last few decades. Certain lawyers have argued that the principle of non-discrimination is a rule of *jus cogens* which is a peremptory norm of international law from which no derogation is possible.

The UN Human Rights Committee in General Comment No. 18 on non-discrimination defines discrimination as

any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or

exercise, on an equal footing, of all rights and freedoms.¹⁴

Discrimination against persons with disabilities is different from that against women or racial minorities. In the latter case, the discrimination results solely from attitudes towards the groups in question. However, in the case of persons with disabilities, these people are different in a physically significant sense. The discrimination which is meted out to them, though, is usually caused more by societal attitudes to disability than to the differences in question.

There are four main types of discrimination that can arise between the provider of a job, service, or facility and a person with a disability which can affect that person's participation in society:

1. Direct discrimination

Direct discrimination occurs when a person with a disability is treated less favorably than an able-bodied person in comparable circumstances. If, for example, a teacher training college refuses to give an application form to a person with a disability on account of that disability or the owner of a restaurant refuses to allow a group of persons with Down's Syndrome to eat in that restaurant, such discrimination should be regarded as unlawful unless the disability in question absolutely prevents the person from availing him or herself of the job, service, or facility in question.

2. Indirect discrimination

This occurs when in order to qualify for a job, service, or facility etc., one is made subject to a condition which to all intents and purposes is neutral, but which has a disproportionate effect on all those who have a disability which prevents them from or makes it difficult to meet the condition. This discrimination is unfair when it is recognized that the condition is not essential to the satisfactory performance of the work or use of the facility. For instance, if an employer insists that a potential employee hold a driving license when it was not necessary to drive in order to discharge the responsibilities of the job in question, that would constitute indirect discrimination.

¹⁴ GAOR/45/40 p. 173, para. 7.

3. Fair discrimination

There are some cases where it would be considered fair to discriminate against a person with a disability. There are clearly certain disabilities which would mean that a person would not be in a position to perform the functions of a particular job.

4. Positive discrimination

Positive discrimination, also known as reverse discrimination or affirmative action, involves the provider of services, employment or other facility, discriminating in favor of a group which usually has been hitherto discriminated against. The concept of positive discrimination arose in the context of the struggle of African Americans for their civil rights. Usually, in practice, positive discrimination involves the reservation of college or employment positions for previously disfavored groups such as women, persons with disabilities and people from racial minorities. The basis for positive discrimination is that even if there were laws proscribing discrimination, these would not ensure equal opportunities for groups previously discriminated against due to the opportunities denied to them in the past.¹⁵ Different countries offer different financial incentives, such as subsidies and tax incentives, to persuade employers to engage workers with disabilities. Some countries, such as Egypt and the United Kingdom, have introduced quota systems whereby employers are obliged to employ a certain percentage of persons with disabilities.¹⁶ Some

¹⁵ The Tallinn Guidelines, which were drafted following the International Meeting on Human Resources in the Field of Disability, convened at Tallin, Estonian Soviet Socialist Republic, in the Soviet Union in August 1989, indicate that persons with disabilities "...should be actively recruited and when a disabled candidate and a non-disabled candidate are equally qualified, the disabled candidate should be chosen".

¹⁶ In practice, such quota systems do not seem to work very successfully, usually due to lack of enforcement. For instance, the British Disabled Persons (Employment) Act of 1944 provides that employers who employ more than a certain number of persons should ensure that a certain percentage of that number is constituted by persons with disabilities. The British charity, Mencap, gave evidence to the House of Commons Employment Select Committee in 1991 to the effect that there had only been 10 prosecutions under this particular provision.

people believe that employment quotas are not advisable because they involve persons with disabilities being imposed upon workplaces. There is a risk, it is argued by some, that under quota systems, the employment of persons with disabilities is regarded as a constraint, something that the employer will enter into only under compulsion.

These prosecutions had resulted in ten fines, the last of which was imposed in 1975, the average sum being 62 sterling pounds.

II. INTERNATIONAL HUMAN RIGHTS STANDARDS APPLICABLE TO DISABILITY

Two kinds of international instruments govern international anti-discrimination law: covenants and conventions on the one hand, and declarations and resolutions on the other. The differences between the two groups should be explained. To be bound by a convention or a covenant, a state must sign and ratify the instrument in question. In so doing, it becomes legally bound to implement the provisions contained in that covenant in its domestic jurisdiction. The status of a declaration or resolution, however, is only authoritative. State parties do not sign or ratify declarations or resolutions and therefore do not become bound by them.

There have been many instances of the United Nations passing a declaration which later is re-embodied in the form of a convention which then legally binds those states that ratify it. An example is the UN Declaration on the Rights of the Child of 1959. The rights of children were then promoted in the Convention on the Rights of the Child of 1989. In the case of persons with disabilities, however, as we shall see, there have been two UN declarations promoting the rights of persons with disabilities, but no convention. Persons with disabilities have not, therefore, been given the same recognition as women, children, and refugees.

Specific reference to disability is scant in international conventions, although, as we shall see below, there are some declarations, which by their nature do not create binding obligations, promoting the rights of persons with disabilities. However, the rights of persons with disabilities are guaranteed in certain provisions which appear to be of a general nature. It could be argued that the only law that persons with disabilities need is one that provides that they have equal rights with other human beings. Such an argument could also be made, of course, in relation to several oppressed groups, but the international community has determined that the right to equality of, for instance, women and refugees, should be given specific articulation in the form of a convention.

There were discussions at the 42nd session of the United Nations General Assembly in October 1987 about the creation of a convention to protect the rights of persons with disabilities, similar to the Convention on the Elimination of All Forms of Discrimination Against Women. A draft outline of such a convention was prepared by Italy. However, it was thought that existing instruments already provided adequate protection for persons with disabilities. Subsequently, in the 44th session, Sweden put forward a draft convention.

Again, this was considered unnecessary.

As we have seen, conventions create binding obligations upon those states which ratify them, unlike declarations; but what is the strength and the purpose of such obligations? There are only limited circumstances in which an individual can present a petition under a convention. An example is that of the International Convention on the Elimination of All Forms of Racial Discrimination which provides a right of petition to an individual who alleges that he or she has been the subject of racial discrimination. Other conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women do not provide such a right of individual petition.

Usually, conventions bring with them watchdog committees such as the Committee on the Elimination of Discrimination Against Women. Such committees monitor the implementation of the conventions in question in the domestic jurisdictions of signatory states. Conventions impose reporting obligations on states whereby the state parties to the convention submit reports to the committee and non-governmental organizations and United Nations bodies also submit reports in rebuttal of the state report.¹⁷ An example is the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which came into force in 1987. Israel, which ratified the convention in October 1991, submitted its report in April 1994. Al-Haq submitted a report to the Committee based on its documentation of cases of torture of Palestinians by the Israeli authorities. The Committee against Torture issued a report on 25 April 1994 expressing its concern that no real steps had been taken to implement the Convention into domestic legislation, and that there were indeed, contrary to Israeli statements to the contrary, cases of torture.

¹⁷ Leandro Despouy, the Special Rapporteur of the Sub-Commission on Discrimination and Protection of Minorities, argues that there is a clear need to establish a watchdog mechanism or ombudsman in order to supervise respect for the human rights of persons with disabilities. It should be pointed out that the Centre for Social Development and Humanitarian Affairs does coordinate and supervise the implementation of the World Plan of Action but does not have the remit to monitor the promotion of the human rights of persons with disabilities in general. He suggests that the Committee on Economic, Social and Cultural Rights may be able to undertake a further supervisory function in relation to persons with disabilities. Another option, he suggests, would be for the Centre for Social Development and Humanitarian Affairs to undertake that function. See Leandro Despouy, *Human Rights and Disabled Persons* (New York: Centre for Human Rights, 1993).

Perhaps the biggest advantage of the rights of persons with disabilities being promoted in the form of a convention is that this would raise the issue of those rights in the international arena as being as worthy of vigilance and respect as those of other groups such as women, refugees, children etc.

It should be stressed that there is ultimately no sanction for a state party which is found to have contravened its obligations under a covenant or a convention. There have been calls for the formation of an International Penal Court whereby state parties who do not abide by convention or covenant obligations can be called to account. Until such time as such a court is formed, however, there is no actual sanction against a state that contravenes a convention or covenant.

In this section, the paper will discuss the rights of persons with disabilities under the International Bill of Rights, in the Convention on the Rights of the Child, in regional instruments, in United Nations declarations, and in ILO recommendations and conventions.

A. The International Bill of Rights

The provisions of the Universal Declaration of Human Rights (UDHR) of 1948, and the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) are considered by the UN as constituting the International Bill of Rights.

Many of the provisions of UDHR are regarded as constituting international customary law which is binding on all states regardless of whether or not they are members of the United Nations. Consequently, Palestinians with disabilities can draw upon the provisions of UDHR as a basis for human rights advocacy.

ICESCR and ICCPR both came into force in 1976. They were signed by Israel on 19 December 1966 and ratified on 3 October 1991. Israel is legally bound to implement both covenants in the Occupied Palestinian Territories. The Palestinian authority is not able to ratify the Covenants. The Oslo Agreement which was signed on 13 September 1993 by Israel and the Palestine Liberation Organization specifically states that the Palestinian Authority is not able to ratify human rights covenants and conventions.

The International Bill of Rights can be used as a basis for advocacy in relation to many of the major areas of concern that were highlighted in the Introduction, as follows:

1. Anti-discrimination and redress

Article 1 of UDHR states:

All human beings are born free and equal in dignity and rights....

Article 2 states:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion.

Articles 3 and 6 in turn use the expression "Everyone has the right to ...", and Article 7 states:

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination ... and against any incitement to such discrimination.

Article 8 provides that:

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

ICESCR is based upon a general proscription of discrimination. In the preamble, for instance, reference is made to the need to create conditions "whereby everyone may enjoy" the full range of human rights. Article 2 guarantees that the rights enunciated in the Covenant will be exercised by all without discrimination of any kind.

Article 2 of ICCPR provides that everyone shall have an effective remedy for all forms of discrimination specified in the Covenant. Article 26 further guarantees equal legal protection not only against those forms of discrimination specifically mentioned in the covenant, but *all* forms of discrimination:

All persons are equal before the law and are entitled without any

discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, *or other status*. [Emphasis added.]

There is therefore a clear basis to argue that "other status" encompasses the rights of persons with disabilities. In Resolutions 92/49 and 93/29, the UN Commission on Human rights said that States Parties to the Covenant should, in their periodic reports, include information on the rights of persons with disabilities.

2. Work

Article 23 of UDHR provides as follows:

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

The right to work has great relevance to the community of persons with disabilities. This is germane both to people whose disability does not affect their ability to work (except perhaps with some modifications to the working environment) alongside other people, and to those whose disability is too severe for them to work in a "normal" workplace. In the latter case, the person in question still has the right to work, and it is the duty of society to create working environments, such as sheltered workshops, which fulfill that right.

Article 7 of ICESCR refers to the right of everyone to the enjoyment of just and favorable conditions of work which ensure adequate remuneration. The

principle of "equal remuneration for work of equal value without distinction of any kind" is established. Accordingly, therefore, a person with a disability cannot be paid less, or indeed be given conditions which are less favorable, simply on the basis that he or she has a disability which does not have a bearing upon the ability of that person to perform his or her work.

3. Education

Article 26 of UDHR and Article 13 of ICESCR both provide for the right to education. Article 26 provides, *inter alia*, that education shall be directed to "the full development of the human personality". In the case of persons with disabilities, this means both that they must have effective access to mainstream education (with teachers who are trained in special education) and, if (and only if) necessitated by the severity of the disability, to segregated special education. In addition, educational and training establishments should be made physically accessible to persons with disabilities.

4. Freedom of movement

Article 13 of UDHR provides in part 1 that:

Everyone has the right to freedom of movement and residence within the borders of each State.

This article is acutely relevant to those whose disability makes movement difficult and to the obligation of any society to adapt the environment so as to facilitate movement. This means that not only should transport facilities be accessible to persons with disabilities, but that the environment should be adapted so as to facilitate the movement of wheelchairs, with curb ramps etc.

5. Social security

Article 22 of UDHR provides that:

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural

rights indispensable for his dignity and the free development of his personality.

Article 25 states that everyone has:

the right to a standard of living adequate for the health and well-being of himself and of his family
and

the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control.

Article 11 of ICESCR recognizes that everyone has the right to an adequate standard of living for him or herself and his or her family, including adequate food, clothing and housing.

These provisions give a basis for the provision of social security payments to persons with disabilities.

6. Cultural and political life

Article 15 of UDHR recognizes the right of everyone to participate in cultural life. Sometimes, such is the concentration on what are seen as the more material and "essential" aspects of the lives of persons with disabilities, that the very important question of cultural life and leisure is neglected. Theaters, cinemas and libraries should be accessible to persons with disabilities. Article 25 of ICCPR establishes the right of everyone to take part in the conduct of public affairs, directly or via freely chosen representatives; to vote and be elected at periodic elections by universal suffrage; and to have access, on general terms of equality, to public service in his country. This right is violated, for example, when a person is denied the right to stand for a public post on account of disability.

7. Legal proceedings

Article 14 of ICCPR provides that:

All persons shall be equal before the courts and tribunals...

The effect of this provision is that persons with disabilities have the right to such measures as will ensure that their disability does not render them disadvantaged in court. This means that, for instance, a deaf person has the right to have the court proceedings "signed" to him or her. A blind person would have the right to have written evidence printed in Braille.

8. Housing and access to buildings

There are no specific provisions in the International Bill of Rights which relate to the right of a person with a disability to have access to public buildings, and to have his or her own home made accessible. However, it is clearly a corollary of freedom of movement and the right to cultural life that buildings be made accessible.

9. Family life

Article 16 of UDHR provides that:

Men and women of full age ... have the right to marry and to found a family.

This is most relevant to Palestinian women with disabilities who feel that it is not open to them to marry and have a family life due to the ways in which their society regards their particular impairment as rendering them unsuitable.

10. The right to rehabilitation

There is no specific reference in the International Bill of Rights to the right to rehabilitation. However, since the aim of rehabilitation is to ensure that a person with a disability is able to integrate him or herself into society, the right to rehabilitation is linked to other rights, such as the right to work, to education, and to family life.

B. UN Convention on the Rights of the Child¹⁸

¹⁸ The Convention was opened for signature, ratification and accession by General Assembly Resolution 44/25 of 20 November 1989. The convention came into force on 2 September 1990, and was ratified by Israel on 3 October 1991.

In particular, Article 23 provides that:

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present Article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international co-operation, the exchange of appropriate information in the field of preventive health care and of medical, psychological, and

Parties to the treaty have two years from its ratification to report on the measures undertaken to give these rights effect and on "progress made on the enjoyment of those rights". Israel's report was due to be submitted in November 1993, and at the time of going to press, no report has been submitted. Article 2 provides that the Convention applies to all children "within the jurisdiction" of the signatory state. Clearly, therefore, Israel will be required to include in its report information about the implementation of the Convention in relation to Palestinian children, including those with disabilities.

functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

The Convention calls for strong protection of children who live not with their families but in institutions and residential homes. The Convention reflects a strong presumption against out-of-home institutional treatment and a preference for a "family environment" when residential treatment is required. This is in keeping with the integrational and anti-segregational approach of the World Plan of Action.

C. Regional instruments

Provision is made for the rights of persons with disabilities by the Council of Europe, in the European Convention on Human Rights, the Organization of African Unity, and the Organization of American States. These provisions are not applicable to Palestinians with disabilities but are discussed here as examples to draw upon.

Article 15 of the European Social Charter, adopted in Turin in 1961, makes specific reference to persons with disabilities. It affirms "the right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement".

On 24 July 1986, the Council of the European Union adopted a Recommendation on the employment of persons with disabilities in the European Community.¹⁹ The Recommendation is based on the principle that persons with disabilities have the right to equal opportunity in training and employment. The Council of the European Communities, the Commission and the Committee of Ministers have adopted various resolutions on an appropriate policy for the rehabilitation of persons with disabilities; member States are called on to increase preventative measures to eliminate impairments, disabilities and handicaps, implement a comprehensive and coordinated policy of rehabilitation,

¹⁹ See European Community *Official Journal* No. L225/443 of 12 August 1986.

and foster the full participation of persons with disabilities in the life of the community.

Article 18.4 of the African Charter on Human and Peoples' Rights, adopted in 1981 in Nairobi, states that:

[t]he aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.

There is no specific reference to disability in the Inter-American Convention on Human Rights, but in the American Declaration of the Rights and Duties of Man, adopted in Bogota in 1948, Article XVI proclaims the right of every person to enjoy the protection of the State from the consequences of "unemployment, old age, and any disabilities arising from causes beyond his control that make it physically or mentally impossible for him to earn a living." On 14 November 1988, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights was adopted. In article 18, the Protocol states that persons with disabilities have the right to special protection. It declares that they have the right to appropriate work programs, special training for their families, social groups and the consideration of the requirements of persons with disabilities in urban development plans.

D. United Nations declarations and resolutions

The General Assembly and the Economic and Social Council have passed many declarations and resolutions which are designed to promote, directly or indirectly, the rights of persons with disabilities. As was discussed above, these resolutions and declarations do not have the binding force of conventions and covenants which are signed and ratified by state parties. They are, however, regarded as authoritative standards. The Declaration on Social Progress and Development was adopted by the General Assembly by Resolution 2542 of 11 December 1969. Article 10 states that social progress and development shall aim at the continuous raising of the material and spiritual standards of living of all members of society, with respect for and in compliance with human rights and fundamental freedoms, through the attainment of the Declaration's main goals. Article 11, Section (c) of the Declaration includes the goal of the protection of the rights and the assuring of the welfare of persons with disabilities as well as

protection for the physically or mentally disadvantaged.

The General Assembly proclaimed the Declaration of the Rights of Mentally Retarded Persons in Resolution 2856 of 20 December 1971,²⁰ In 1975, the General Assembly adopted the Declaration on the Rights of Disabled Persons which proclaimed that persons with disabilities have the same civil rights as other human beings.²¹ These declarations were the first internationally recognized sets of principles to promote the rights of persons with disabilities. As has been discussed above, they do not have the binding force of a convention.

In Resolution 31/82 of 13 December 1976, the General Assembly recommended that "all Member States should take account of the rights and principles laid down in the Declaration on the Rights of Disabled Persons in establishing their policies, plans and programmes" and that "all international organizations and agencies concerned should include in their programs provisions ensuring the effective implementation of those rights and principles."

The General Assembly proclaimed the year 1981 International Year of Disabled Persons on 16 December 1976 in Resolution 31/123. The theme of the Year was "full participation and equality", defined as the right of persons with disabilities to participate fully in the social life and development of their societies, to enjoy living conditions equal to those of their fellow citizens, and to have an equal share in improved conditions resulting from socio-economic development. The Year also involved campaigns to increase public awareness, understanding and acceptance of persons with disabilities and efforts to encourage persons with disabilities to form organizations through which they could effectively express their views and call for action to improve their situation.

The General Assembly proclaimed the period 1983-1992 United Nations Decade of Disabled Persons, in Resolution 37/53 on 3 December 1982 and encouraged member states to implement the *World Programme of Action concerning Disabled Persons*. This program recognizes that "equalization of opportunities" is an objective as well as a means of achieving full participation

²⁰ See Appendix A.

²¹ See Appendix B.

in all areas of social, cultural and economic life.²² The Standard Rules on the Equalization of Opportunities for Persons with Disabilities were drafted pursuant to Economic and Social Council Resolution 1990/26 of 24 May 1990, in which the Council authorized the Commission for Social Development to elaborate Standard Rules for the Equalization of Opportunities for Persons with Disabilities. The Standard Rules were adopted by the United Nations Economic and Social Council at its thirty-third session in February 1993.²³ The Standard Rules to some extent perform the function of a convention. For instance, the Rules provide for a monitoring mechanism similar to the kind of committee which would perform the role of "watchdog" in relation to a United Nations convention.²⁴ However, the Standard Rules do not create a set of legal obligations because states are not required to sign or ratify them.

The Vienna Declaration and Programme of Action was adopted by the World Conference on Human Rights in June 1993. This declaration is an inter-governmental declaration and is therefore somewhat different from a standard UN declaration. Unlike a convention or a covenant, it does not create binding obligations. Paragraph 22 states that:

Special attention needs to be paid to ensuring non-discrimination, and the equal enjoyment of all human rights and fundamental freedoms by disabled persons, including their active participation in all aspects of society.

Section 6 of Part II reads as follows:

63. The World Conference on Human Rights reaffirms that all human rights and fundamental freedoms are universal and thus

²² Owing to limitations of space, we are not able to append the World Programme of Action here.

²³ See Appendix H.

²⁴ At the time of publication, it would appear, according to the information that al-Haq has been able to gather, that no monitoring mechanisms have been set up. It was announced at a UN Conference in Reykjavik, Iceland, on 1 June 1994, that a UN Special Rapporteur, Mr. Bengt Lindquist, had been appointed and that he would then contact various groups of persons with disabilities so that they could nominate the experts who would work with him.

unreservedly include persons with disabilities. Every person is born equal and has the same rights to life and welfare, education and work, living independently and active participation in all aspects of society. Any direct discrimination or other negative discriminatory treatment of a disabled person is therefore a violation of his or her rights. The World Conference on Human Rights calls on Governments, where necessary, to adopt or adjust legislation to assure access to these and other rights for disabled persons.

64. The place of disabled persons is everywhere. Persons with disabilities should be guaranteed equal opportunity through the elimination of all socially determined barriers, be they physical, financial, social or psychological, which exclude or restrict full participation in society.

65. Recalling the World Programme of Action concerning Disabled Persons, adopted by the General Assembly at its thirty-seventh session, the World Conference on Human Rights calls upon the General Assembly and the Economic and Social Council to adopt the draft standard rules on the equalization of opportunities for persons with disabilities, at their meetings in 1993.²⁵

E. The International Labour Organisation (ILO)

The ILO was established under the aegis of the League of Nations in 1919 to work towards the improvement of work conditions as well as the elimination of hardship. The ILO is now a specialized agency of the UN and has produced many conventions and recommendations. As is the case with UN conventions, ILO conventions are ratified by states and create legal obligations on those states to implement them. Recommendations, on the other hand, rather like UN declarations, do not create legal obligations but simply constitute

²⁵ World Conference on Human Rights: The Vienna Declaration and Programme of Action June 1993, United Nations Department of Public Information. Printed by the United Nations Reproduction Section, New York, DPI/1394-3399-August 1993-20M.

authoritative principles. There are two procedures for the investigation of an allegation of non-observance of ratified conventions. One procedure provides for the submission of written representations by associations of workers or employers which are examined by a committee, consisting of representatives from unions and employers' associations. The second procedure involves the examination of a complaint by another state or by a delegate to the conference.

The ILO has always placed great emphasis on the need to integrate persons with disabilities into the work place. There are two recommendations and one convention which affect persons with disabilities. Recommendation No. 99 of 1955 concerning Vocational Rehabilitation of the Disabled was a milestone in the promotion of the right of persons with disabilities to participate fully in opportunities for training and employment. Many countries have based their vocational rehabilitation laws and practices on this recommendation (see Appendix C).

On 20 June 1983, the plenary International Labour Conference adopted Convention No. 159 and Recommendation No. 168 concerning vocational rehabilitation of persons with disabilities. Both instruments appealed for renewed efforts to ensure that persons with disabilities are assured equal access to training and employment. They also placed emphasis on the important role played by employers' and workers' organizations and the community as a whole in attaining this goal. Israel has not ratified Convention No. 159. As has been discussed above, the Palestinian Authority is not, under the terms of the Oslo and Cairo Agreements, in a position to ratify the Convention. However, it is hoped that the principles set out in Convention No. 159 and indeed in the two recommendations can be assimilated into domestic legislation.

III. THE EXPERIENCE WITH HEALTH SERVICES OF PALESTINIANS WITH DISABILITIES UNDER OCCUPATION

There is international consensus that the Fourth Geneva Convention, Relative to the Protection of Civilian Persons in Time of War of 12 August 1949 applies to the Occupied Palestinian Territories. Israel, nevertheless, has adopted the position, using obfuscating legalistic arguments which have been explored in detail elsewhere, that the Fourth Geneva Convention in fact does not apply.²⁶ United Nations Security Council Resolution 681 (1990) urged that Israel accept the *de jure* applicability of the Fourth Geneva Convention to the Occupied Territories.²⁷ Israel states that it is prepared to be bound by the "humanitarian" provisions of the Fourth Geneva Convention. However, Israel has never recognized those provisions which relate to the health of Palestinians under occupation as constituting "humanitarian" provisions.

Article 56 of the Fourth Geneva Convention requires that Israel, as the occupying power, maintain health services in territories that it has occupied:

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics.

According to the authoritative International Committee of the Red Cross Commentary on the Fourth Geneva Convention, Article 56 stresses the fight against epidemics and contagious diseases, and clearly envisages the work of the

²⁶ See Raja Shehadeh, *Occupier's Law: Israel and the West Bank* (Washington: Institute for Palestine Studies, 1988), pp. xi-xiii. See also Mazen QPTY, "The Application of International Law in the Occupied Territories as Reflected in the Judgments of the High Court of Justice in Israel", in *International Law and the Administration of Occupied Territories*, Emma Playfair, ed., (Oxford: Clarendon Press, 1992) pp. 87-124.

²⁷ This has been reiterated in several subsequent resolutions, including, recently, Resolutions 799 of 18 December 1992 and 904 of 18 March 1994.

occupying power as encompassing:

supervision of public health, education of the general public, the distribution of medicines, the organization of medical examinations and disinfection, the establishment of stocks and medical supplies, and the opening of new hospitals and medical centres.²⁸

Clearly, therefore, it is incumbent on Israel as the occupying power to not only maintain the health services as they were at the time of occupation, but also to develop them. This is especially the case given the fact that the occupation has now lasted for over 27 years.²⁹

The Israeli government's failure to make any provision for Palestinians with disabilities must be seen in the context of its general neglect of the health needs of Palestinians under occupation. The infant mortality rate in the Occupied Palestinian Territories is currently more than 50:1,000, in comparison to 34:1,000 in Jordan and 10.3:1,000 in Israel. Symptoms of malnutrition are currently found in more than 35% of Palestinian children in the West Bank and Gaza.³⁰ It is noteworthy that not one rehabilitation center has been built by the Israeli government. Those which exist have been built by foreign NGOs and by UNRWA. The Israeli government has not provided such basic commodities as wheelchairs and crutches.

Palestinians in the West Bank and Gaza were entitled to heavily subsidized or free medical care prior to Israeli occupation in 1967. Under

²⁸ Jean Pictet, ed., *Commentary: Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva: ICRC, 1958) p. 314.

²⁹ This paper is written after the Declaration of Principles signed by Israel and the Palestine Liberation Organization on 13 September 1993 delegated many powers to a Palestinian Authority. Al-Haq's view is that the status of all of the West Bank and the Gaza Strip continues to be that of occupied territory. The Israeli authorities have delegated some of their powers and responsibilities, including health care, to a Palestinian authority, but ultimate responsibility lies with the Israeli authorities.

³⁰ See Mustafa Barghouthi, *Palestinian Health: Toward a Healthy Development Strategy in the West Bank and Gaza Strip*, (Jerusalem: Union of Palestinian Medical Relief Committees, 1993).

Jordanian rule, Palestinians in the West Bank had no health insurance, but relied on the heavily subsidized government health system. In Gaza, which was under Egyptian administration between 1948 and 1967, people were treated free of charge. In 1973, by amending existing law, Israel instituted a system of mandatory health insurance for government employees in the Occupied Territories, and for Palestinian laborers living in the Occupied Territories but working inside Israel through the Labour Exchange. In 1978, Military Orders 746 in the West Bank and 575 in the Gaza Strip made General Health Insurance available to all other Palestinians, including organizations, who wished to join voluntarily and pay premiums monthly or annually. A few "social assistance cases" also received GHI without paying insurance premiums. This marked the end of low-cost health care.

The system of government health insurance now operated in the Occupied Palestinian Territories is lamentably inadequate. The cost of the monthly premiums is very high in relation to *per capita* income, and the quality of care available is low. There have been problems with ineligibility for some family members and some items not being covered. As a result of the inadequacy of the system, enrollment has decreased, and it is thought that only 30% of the Palestinian population are enrolled.³¹

³¹ For a full examination of the issue of Israeli Government Health Insurance, see Linda Bevis and Zuhair Sabbagh, *An Ailing System: Israeli Military Government Health Insurance in the Occupied Palestinian Territories*, (Ramallah: Al-Haq, 1993).

IV. DOMESTIC LAWS WHICH AFFECT PALESTINIANS WITH DISABILITIES

Civil law in force in the West Bank and Gaza Strip is that which was in existence at the time of the Israeli occupation in June 1967. In the West Bank, the law in force was Jordanian law, whilst that in force in the Gaza Strip was Palestinian law which contained many elements of Egyptian law. Israeli law is examined here because it has been applied to East Jerusalem.

A. Israeli Civil Law

The status of East Jerusalem is that of occupied territory, the illegal annexation of which, in 1980, has been denounced by the international community. The state of Israel has imposed Israeli civil law on East Jerusalem. Those Palestinians with disabilities who live in East Jerusalem and who are therefore subject to Israeli law, are in a far better position *qua* persons with disabilities in terms of financial and other benefits available to them, than those who live in the rest of the West Bank, and in the Gaza Strip. There are many provisions scattered throughout Israeli law which benefit persons with disabilities but there is no single consolidating disability statute, and no defined anti-disability discrimination principle. For instance, no specific mechanisms exist whereby a person with a disability can seek redress if he or she is dismissed from a job, or refused a job on the grounds of his or her disability, where the disability in question would have had no effect on that person's ability to do his or her job. There are no financial incentives such as tax benefits, to encourage employers to engage workers with disabilities. Nor are there quotas which, for instance, require that an employer who employs more than a certain number of employees must show that a certain percentage of those employees are persons with disabilities. This paper will discuss the provisions which relate to persons with disabilities under the same headings as were previously discussed in the Introduction.

1. Anti-discrimination and redress

An "equality principle" has evolved judicially in Israel and has subsequently been given some statutory recognition. The principle applies to government or public institutions only and is therefore of no benefit to those who have been discriminated against in private organizations. The principle has

been described thus:

Equality before the law is a basic principle of Israel's legal system ... [This principle] has grown to become a well-rooted binding legal rule.³²

This principle is a "soft" principle, in that it will not overcome contrary provisions in legislation; it is simply used by courts as an interpretative principle. The Knesset, therefore, has power to enact laws that infringe upon all basic anti-discrimination principles. To al-Haq's knowledge, no case has as yet been brought by a person with a disability under the "equality principle".

The Law Prohibiting Discrimination Against the Blind Accompanied by Guide Dogs of 1993 provides that the fact that a blind person is accompanied by a guide-dog shall not constitute a pretext for non-employment in any position whatsoever. Further, the law states that blind persons accompanied by guide-dogs shall not be prevented from having access to public places and to transportation. Interestingly, there is no law that states that being blind *per se* shall not constitute a pretext for refusal of employment or refusal of access to public places or transportation. The protection only applies when a blind person is accompanied by a guide-dog.

2. Work

There are no specific provisions which relate to discrimination in the workplace, although Section 1 above has relevance to the sphere of employment. There are no provisions for quotas in the workplace and no provisions for sheltered workshops for those whose disabilities may prevent them from participating in a "normal" workplace.

3. Education

The Special Education Law of 1988 requires that the state provides free, appropriate education in the least restrictive environment for children in need of special education. Each "maladjusted child" is legally entitled to such education in his or her area of residence, or as near as possible if suitable

³² *Directives of the Attorney General, Constitutional and Administrative Law, Racial Discrimination in a Coalition Agreement, No. 21, 480 of 1st August 1985.*

programs are not available through the local education authority. The law broadly defines those children eligible as falling between the ages of three and 21. The child in question is to receive "systematic instruction, teaching and treatment" suited to his or her needs, including treatments such as physiotherapy, speech therapy, and occupational therapy, as well as subsidiary services such as transportation, medical, paramedical, psychological and social services.

The legislatively declared purpose of special education is to develop the child's skills so that he or she can engage in normalized behaviour and become integrated into society and the "employment cycle". A multi-disciplinary placement committee determines the special education needs of the child under review. It must give priority to placement in regular education with special treatment when appropriate. Parents have the right to be heard by the committee.

The law provided for a seven year phased implementation of the requirements for special education for children aged below five or over 18, and the provision of subsidiary services. The seven-year period was in fact delayed for a period of three years. All other parts of the law were to come into force by January 1989, six months after the law's date of publication. The law has yet to be fully implemented, owing to lack of special education teacher training, lack of funding etc.³³ Some cases calling for the right of the disabled child to special education within the precincts of the mainstream education system have been brought to court.³⁴

³³ The Association of Civil Rights in Israel reported to al-Haq on 28 April 1994 that there is a substantial gap between law and practice in relation to the Special Education Act. The Ministry of Education is not effective in applying "mainstreaming". A lot of resources are given to segregated classes. Those resources should, in the anti-segregation spirit of the Act, follow the child and should not be poured into segregated classes.

³⁴ For instance, in a recent case brought by the parents of a disabled child, the petitioners objected to the child's restrictive placement in a segregated special class. They argued that that child's best interests would be served by placement in a regular classroom. The parents convinced the Court that they should recommend that priority be given to regular education and that a new classroom placement be negotiated. *Tel Aviv Municipality v Hadot*, Tel Aviv Juvenile Court, 9 May 1991.

4. Freedom of Movement

There are no provisions which relate to the right to freedom of movement or which oblige the suppliers of transport services to render those services accessible to persons with disabilities.

5. Social Security

a. Work-related Injury Pension ³⁵

An injured person who was injured in the course of, and due to, his or her work, or who becomes ill with an occupational disease, is entitled to medical services, medical treatment, rehabilitation, and a pension in compensation for lost earnings.

b. Volunteers' Pension ³⁶

Similar payments are made to those injured whilst carrying out voluntary activity undertaken for national or public benefit.

c. Nursing Allowance ³⁷

This is paid to women over the age of 60 and men over the age of 65 who are dependent on the assistance of others for day-to-day activities, or who require observation. The possible help provided includes nursing services, help with household chores, laundry and meal services. The services are tailored to meet the particular needs of the person in question.

d. General Disability Pension ³⁸

³⁵ This is provided by Article C of the National Insurance Law 1972.

³⁶ This is provided by to Article 12 of the National Insurance Law.

³⁷ This is provided by Article F5 of the National Insurance Law.

³⁸ This is provided by Article F of the National Insurance Law.

A person with a disability who, owing to his or her disability, has lost their earning capacity, or ability to run a household or who indeed never had such an ability is entitled to a general disability pension. This allowance is payable to men between the ages of 18 and 65 and to women between the ages of 18 and 60. The payment is also made to the parents of children with disabilities. For children between the ages of three and 18, the payment is made where the child in question is dependent on the assistance of others in day-to-day activities in a manner exceptional for children of his or her age. For children up to the age of three, the payment is made only in extremely severe cases. The amount paid differs according to the degree of disability, the number of dependants, and family income.

e. **Mobility Pension** ³⁹

Persons between the ages of three and 65, with disabilities in the lower extremities resulting in restricted mobility are entitled to a mobility pension.

The various benefits which are payable under the aegis of the mobility pension are as follows:

i. Standing Loan

This covers, in full or in part, the taxes which apply to a vehicle which person with disability wishes to purchase. The amount of the loan depends on the percentage of mobility restriction and on whether the person wishes to drive the car him or herself, or whether someone else will drive it for them.

ii. Allowance for Owner of Vehicle

A monthly allowance is payable to a person with restricted mobility who owns a car. The rate of the allowance depends on the size of the vehicle.

iii. Allowance for Person without a Vehicle

³⁹ The legal basis for this is the *Agreement Concerning Mobility Pension between the Government of Israel and the National Insurance Institute*, publicized in the Government Gazette on 3 July 1977.

A monthly allowance for a person with restricted mobility who does not have a vehicle is payable provided that the person in question is over the age of 18, is not receiving a General Disability Pension, and has a degree of restriction of at least 80%.

iv. **Loan from the Loans Fund**

A person with 100% restriction, who drives him or herself and who earns at least 25% of the average salary, can obtain a loan to buy a first car or, in some cases, replace a car.

f. **National Insurance**⁴⁰

Persons with disabilities, whether disabled by a work-related injury or not, are entitled to receive exemptions on the payment of National Insurance payments.

g. **Income Tax**

Income tax exemptions are claimable by persons with disabilities, pursuant to the Income Tax Ordinance.

h. **Land Tax**⁴¹

A person with a disability only pays Purchase Tax at the rate of 0.5% (as opposed to the standard rate which is 5%) of the value of the purchase of the land in question. The claimant is entitled to this exemption twice in his or her lifetime.

i. **Housing Subsidies**

It is possible for a person with a disability to apply for exemptions on

⁴⁰ Provided by Article 169 of the National Insurance Law 1972.

⁴¹ Provided for by the Land Betterment Law (Purchase Tax), 1974.

loan interest in connection with the purchase of housing, a loan for the adaptation of housing, and subsidies on rent payments for persons dependent on a disability pension.

j. Public Health Services

Partial or full funding is claimable for medical instruments such as hearing aids, artificial limbs and walkers for adults and children.

k. Registration of Land⁴²

A person with a disability is exempt from the fee payable on the registration of a mortgage.

l. Licensing fees

A person with a disability will pay a reduced licensing fee on one motor vehicle, provided that it is not used for business purposes.

6. Cultural and political life

a. The hearing-impaired.

Interestingly, those with hearing impairments are not classified as having a disability in Israeli law. There are, however, certain provisions which benefit them. For instance, the Law on Relief for the Deaf 1992 states that the Broadcasting Authority, the Educational Television and the Second Television Authorities and the Radio Authority shall ensure that at least one weekly news broadcast shall be accompanied by translation into sign language. Further, there are, for instance, rules which provide that a certain number of television programs should be signed for deaf people. Further, at least one quarter of all programs in Hebrew and Arabic, which are not broadcast live, shall be subtitled, i.e. Hebrew programs with Hebrew subtitles, and Arabic programs with Arabic subtitles.

⁴² Provided by Land Regulations (Fees), 1974, Disabled Rights.

b. In general

There are no specific provisions for accessibility to culture on the part of persons with disabilities in Israeli law.

7. Legal proceedings

s. 15 Criminal Procedure Law (Consolidated Version) 1982, provides that the Court shall appoint a legal representative for an accused person who is "dumb, blind, or deaf", in the event that that person does not already have defense counsel. The assumption clearly is that such a representative would make sure that evidence is properly communicated to his or her client. There appears to be no provisions which specifically provide for signing or Braille.

8. Housing and access to buildings⁴³

Israeli law also contains provisions aimed at removing obstacles which prevent free access to public buildings for persons with disabilities.

As regards the construction of buildings, the law imposes conditions for granting building permits in accordance with the needs of persons with disabilities. The umbrella organization of persons with disabilities has a seat in the institutions that discuss urban construction plans and building permits. The regional committees must inform the organization concerning plans for public buildings submitted to them.

As regards the alteration of buildings, if the conditions in the regulations to guarantee the comfort of persons with disabilities are not met, the Minister and, in some cases, the local committee have the authority to oblige the owners or the managers of a public building to make the appropriate arrangements. If the place where the regulations were violated requires a business license, the license may be canceled because of the violation.

The regulations discuss comfortable access to the building and the passages within it: horizontal level or ramp-angles; appropriate stairs, doors and accessories, toilets, public telephones, drinking water fountains; warning signs for the deaf; parking spaces close to the entrance; suitable signs for special

⁴³ See Planning and Construction Law, Chapter E1 158 b-f, Part H of the second appendix of the Planning and Construction Regulations (Request for Permit, Conditions and Fees) 1970.

toilets; and special seats in places of entertainment.

Jewish immigrants with disabilities are able to claim preferential treatment in the allocation of apartments.

9. Family life

There are no provisions which deal specifically with the right to family life.

10. Rehabilitation

a. Rehabilitation generally ⁴⁴

Under these provisions, all persons with disabilities are entitled to vocational, personal and social rehabilitation. The rehabilitation provisions give municipalities the authority to provide services but do not create obligations to provide those services. Budgetary considerations can therefore limit the individual's access to rehabilitation.

b. Occupational rehabilitation

The rehabilitation services that are available include functional, medical, social, and psychological diagnosis; advice and guidance in choosing a profession; provision of supporting social services during the rehabilitation period and professional training at vocational schools, higher education institutions or within the work place. Travel expenses and personal expenses are paid. Rehabilitation payments at the rate of a 100% disability pension, for the period of the occupational rehabilitation are payable. For persons with work-related disabilities whose disability is over 20%, advances for the purpose of occupational and financial rehabilitation and assistance in solving housing and mobility problems are also payable. For persons with work-related disability whose permanent disability is over 75%, a grant to help solve housing and mobility problems deriving from the disability and a special pension for personal services such as nursing are payable. As mentioned above, questions of

⁴⁴ The legal basis for this is the Welfare Service Law and Regulations 1958, Chapter 5.

resources can prevent a person from having the rehabilitation that he or she may need.

B. Jordanian Law

The operative law in relation to disability in the West Bank is that which was in force in Jordan at the time of the Israeli occupation in June 1967. There was very little provision for persons with disabilities in Jordanian law at the beginning of the Israeli occupation.

The 1963 Order for Assistance and Rehabilitation provided for the payment of social security to persons and their families who were unable to work. One of the categories of payee was someone who had a serious illness (and that person's family) which prevented the person in question from working. The Order empowered but did not oblige the Minister for Social Affairs and Labor to provide rehabilitation, including occupational rehabilitation for a period of up to one year.

The Civil Retirement Law of 1959 provided for the payment of a pension to a person obliged to leave his or her employment due to a work-related injury.

The Jordanian Labor Law, in chapter 12, provided for compensation to a person with a disability from a work-related injury.

Laws enacted in Jordan after the Israeli occupation are not applicable to the West Bank. However, the Welfare of Disabled Persons Law Number (12) for the Year 1993 is included here, as one of the few disability statutes in the Middle East, for reference only.⁴⁵

The law assures Jordanians with disabilities, *inter alia*, the right to special education (although not necessarily within mainstream education), to rehabilitation, employment, and a "suitable environment". The law provides that public and private sector employers employing between 25 and 50 workers shall employ one person with a disability, and those employing over 50 shall ensure that at least two per cent of the total employees are persons with disabilities.

The Jordanian law is not a useful model for Palestinians with disabilities. There are no mechanisms of redress for those Jordanians with disabilities whose rights are abused, no insistence that special education be provided, unless impossible, within mainstream education and no stated principle of equality for Jordanians with disabilities with "able-bodied" Jordanians.

⁴⁵ See Appendix G.

C. The Gaza Strip and Palestinian Law

There were no provisions in relation to persons with disabilities in the Palestinian law which was applicable in the Gaza Strip at the time of the Israeli occupation in June 1967 and therefore no disability provisions currently in operation in the Gaza Strip.

V. THE WAY FORWARD - TOWARDS HUMAN RIGHTS FOR PALESTINIANS WITH DISABILITIES

As noted above, despite the absence of an international convention protecting the rights of persons with disabilities, there is some provision for their rights in international law. However, those rights will not be fully realized unless they are embodied in domestic laws. If it is to promote the rights of persons with disabilities, any Palestinian government will have to formulate detailed provisions. In many countries, the laws which relate to persons with disabilities are scattered throughout the different statutes which relate to health, social security, education, transport, buildings etc. In other countries, however, (and usually those with most developed legislative provisions for persons with disabilities), there is a consolidating statute which brings together all of the provisions which relate to the rights of persons with disabilities. These provisions are usually reiterated in the other relevant statutes. Much consideration will need to be given to a proper body of laws which will guarantee that Palestinians with disabilities are afforded their human rights. It is al-Haq's view that all legislation should be scrutinized to make sure that it is responsive to the needs of persons with disabilities.

The existence of laws *per se* does not mean that they will be implemented. Unless effective enforcement mechanisms are incorporated, those laws will be useless. For example, there is no point in having a law which states that all new public buildings should be made accessible to persons with disabilities if that law is going to be ignored by building contractors and engineers. The kind of enforcement mechanisms needed would be, for instance, a requirement that no public building could be constructed without a license issued by the municipality certifying that the plans include adequate provision for persons with disabilities. Those who construct buildings built without a license should be liable to fines.

The same broad areas of rights of persons with disabilities as were discussed in the Introduction will be used as a basis for discussion of the kinds of laws that will need to be formulated for Palestinians with disabilities. Al-Haq does not wish to be prescriptive but to raise possibilities as a basis for future discussion.

A. Key areas of concern and the need for Palestinian laws

1. Anti-discrimination laws

Discrimination (both direct and indirect) against Palestinians in employment (selection for employment; pay and other conditions of employment, promotion etc.), education, and the provision of services must be made illegal. There must be effective remedies whereby a Palestinian with a disability who has been discriminated against can make a complaint and be given proper redress. Redress would usually entail the payment of damages or reinstatement into a job or training place if this was lost or refused. A body with responsibility for the elimination of discrimination against persons with disabilities and for providing information to persons with disabilities about their rights could be established.

To improve protection against discrimination, representation of persons with disabilities on various bodies such as trade unions and professional organizations should be ensured. Consideration should also be given to the possibility of discrimination on the basis of disability being a criminal offense. The effect of this would be that the perpetrator of such discrimination would be liable to criminal sanctions and to a criminal record.

Discrimination based on association with a person with a disability should also be made illegal. It should, for instance, be illegal for a person to be refused a job because of that person's responsibilities to look after a person with disabilities.

2. Work

Not only are many workplaces not accessible to persons with disabilities but employers fail to appreciate that a disability need not affect the capacity of an employee to do a job. Persons with disabilities are discriminated against in terms of the jobs that they are offered and refused, and also as regards equality of pay. Persons with disabilities are often marginalized in particular (usually non-skilled) activities. According to the ILO, unemployment amongst persons with disabilities is two to three times that in the "able-bodied" world. Effective anti-discrimination laws would go a long way to address the problems faced by persons with disabilities in the world of work. Under the Americans with Disabilities Act 1990, employers are required to "reasonably accommodate" the needs of persons with disabilities. Reasonable accommodation requires that an

employer modify the work environment so as to enable an employee to do his or her job. However, if the reasonable accommodation necessary for the employee to carry out his or her job is thought to cause "undue hardship" then if the employer declines to make the modifications in question, he or she will not be deemed as discriminating against the employee in question.

Thought should also be given to the question of affirmative action or positive discrimination. (See Section I.B.) This would probably entail reserved college and training places for persons with disabilities and quotas for the employment of persons with disabilities in workplaces which employ more than a certain number of persons. If such a quota system were to be introduced, it would be important to ensure that there were adequate monitoring and enforcement mechanisms. It is al-Haq's concern that if positive discrimination is in fact considered for persons with disabilities, that thought be given to achieving real equality in the workplace. It is not sufficient, in order to increase the real participation of persons with disabilities in the workplace, that large numbers of persons with disabilities are clustered in the lower echelons of work hierarchies. One or two persons placed in positions which are "able-body dominated" would arguably achieve more than several numbers of persons in the lower echelons.

Other steps need to be taken to raise awareness amongst employers about disability. The YMCA Beit Sahour Rehabilitation Program, for instance, has set up a series of meetings with local employers, for instance the owners of factories, to raise the level of awareness of disability issues amongst employers and to persuade them to place clients with disabilities in their workplaces. For those who are unable to work alongside "able-bodied" colleagues in an equal capacity, sheltered workshops should be developed, which give those people, who cannot compete in the mainstream labour market, the chance to work.⁴⁶

Active steps should also be taken to encourage self-employment and co-operatives.

3. Education

On 21 November 1991, the Arab Society for the Physically Handicapped and Bir Zeit University, held a conference entitled *Towards a Unified Strategy in Support of Disabled Students at Palestinian Universities in the West Bank and*

⁴⁶ See Appendix C, VIII.

Gaza Strip. Not one of the Palestinian universities is properly accessible to those in wheelchairs.⁴⁷ Schools, universities, and vocational training centers must be made accessible.⁴⁸

Admission of children with disabilities to any mainstream school in the West Bank and Gaza Strip depends on the individual discretion of the headteacher of the school in question. The right of persons with disabilities to have access to mainstream education must be protected, unless this is made impossible by the severity of a disability. The World Plan of Action stressed that:

education of disabled persons should as far as possible take place in the general school system.

Of the Arab countries, only Yemen has a law that children with disabilities should not be excluded from mainstream education.

Special education teachers as consultants to mainstream education

⁴⁷ Al-Haq wrote a letter to all of the Palestinian universities on 18 January 1994, asking about provision made for students with disabilities. At the time of publication, four replies have been received, from Bethlehem University, from An-Najah University and the Islamic University of Gaza. Bethlehem University, al-Haq was informed, currently has seven students with disabilities. It reported that it is in the process of making the university accessible. With the help of two agencies, the university has installed an elevator in the Social Centre, four temporary ramps, and two portable frames for toilets. Necessary alterations in the ladies' toilet have also been made. Funding has been assured for two more elevators in the Science and Hermas buildings, structural alterations, permanent ramps and rails to various entrances, adaptations to four more toilets, and construction of improved links between buildings. Bir Zeit University also reported that arrangements are made for the taping of material and for amanuenses for blind students. An-Najah University reported that it has at present 50 students with physical disabilities. There are currently no ramps or disabled toilets, and the buildings are not accessible to wheelchairs and no provision is made for blind and deaf students. However, the university reported that modifications are currently being carried out. The Islamic University of Gaza reported having 17 students with disabilities. It said that it could not carry out any modifications to make the university campus accessible due to inadequate funds and restrictions placed on the university.

⁴⁸ UNRWA has a special fund for equipping schools with bathrooms for the disabled.

teachers should be available, and there should be emphasis in teacher training courses on the needs of children with disabilities.

4. Freedom of movement

Transport facilities are pivotal to the lives of persons with disabilities. The failure to provide adequate transport for persons with disabilities is discriminatory in that it affects their ability to take up educational and employment possibilities and to participate equally with the able-bodied in cultural activities and in social and family life.

There should be reserved seats in taxis and on buses and trains. In the fullness of time, buses and other means of transport should be modified so that a wheelchair user can ride on a bus. There should be curb ramps so as to ensure that a wheelchair user can move as freely as possible.

5. Social security

A whole range of social security provisions needs to be considered in order to assure persons with disabilities an adequate standard of living. These should include: allowances for those who cannot work; allowances for those who cannot work because they are caring for a person with a disability; subsidies for housing, vehicle licensing, nursing care etc.

6. Cultural and political rights

There are many kinds of laws that could be enacted to promote the participation of Palestinians with disabilities in cultural and political life. These include: accessibility of polling stations, theaters, cinemas, libraries, including reserved seats in cinemas and theaters and the circulation of books and pamphlets in Braille; al-Haq hopes that the new Palestinian television authority will ensure that a substantial proportion of all television programs are "signed" for the deaf.⁴⁹

⁴⁹ At the time of publication, a new Palestinian sign language has been devised, and introduced by the Benevolent Society for the Deaf in Ramallah.

7. Legal proceedings

Professionally trained "signers" must be available to explain to a deaf person the reason for his or her arrest and to communicate the evidence and arguments made in court proceedings. Braille facilities must be made available in order that blind people can see evidence against them. Palestinians with disabilities must give careful consideration to the kind of social security provisions which they should be afforded including subsidies for housing, grants to make accommodation accessible, subsidies for car taxes and travel allowances, subsidies for housing costs, allowances for those who cannot work, allowances for carers, repair service, home helps, home cleaning, laundry service, meals-on-wheels, etc.

8. Housing and access to buildings

Persons with disabilities have a right to housing which will facilitate their integration in society as much as is possible. Homes are still being constructed which are not accessible to people with disabilities. Grants should be made available to persons with disabilities to enable them to make adjustments to their homes. Similarly, libraries, theaters, and other public buildings must also be made accessible.

The granting of licenses for new buildings must be made conditional upon compliance with certain standards whereby the requirements of persons with disabilities are provided for.

9. Family life

As we saw in Section II.A., Article 16 of UDHR affirms the right of men and women to have a family life. It is very difficult to formulate laws which deal with the domain of personal relationships. What is needed is a change in society's attitudes to disability and particularly to disability in women. It is hoped that if the status of persons of disabilities were raised in relation to legislation promoting other rights, then, by a "ripple effect" such persons would be less discriminated against in the sphere of personal relations. The paper discusses the particular case of women with disabilities hereunder.

10. Rehabilitation

As we have seen in Section IV, in Israel, persons with disabilities do not have an absolute right to appropriate rehabilitation. Instead, the authorities are empowered to provide rehabilitation but are not under a duty to do so. Every Palestinian with a disability has the right, which should be enshrined in law, to satisfactory rehabilitation, which should be community-based, should encourage the development of life and vocational skills, and enable the person with a disability to stay with his or her family. The State must provide all necessary technical aids. Import taxes on such aids should be abolished or reduced and the local production of such devices encouraged.

B. Women with disabilities

The Nairobi Forward-Looking Strategies for the Advancement of Women⁵⁰ identified women with disabilities as particularly vulnerable and meriting "special concern". A woman with a disability, like any other woman, may suffer from discrimination on account of her sex. As a person with a disability, she may suffer from further discrimination on account of her disability. The confluence of two strands of discrimination renders women with disabilities extremely vulnerable. The United Nations Special Rapporteur on human rights and disability strongly criticized this neglect:

We would now like to focus our attention on the negative consequences for women of the persistence of certain cultural barriers that make them the victims of twofold discrimination: as women and as disabled persons. Much has been written on discrimination against women, but very little has so far been done to deal adequately with the problem of disabled women. The few attempts made have been based on a mistaken approach, since they treat the acute problem of disability as part of the general topic of discrimination against women. However, sex and disability are two separate factors which, when combined in the

⁵⁰ *Nairobi Forward-looking Strategies for the Advancement of Women*, UN Doc. A/CONF. 116/28 of 15 September 1985, paragraph 296.

same person, usually reinforce each other and compound prejudices.⁵¹

In terms of education and training, many girls with disabilities are denied education and social intercourse in a bid by the family to protect them from shame. This of course renders women with disabilities vulnerable as regards employment.

Girls with disabilities are brought up in even greater ignorance of their sexuality than their "able-bodied" counterparts. This not only handicaps them in terms of their own development, but also renders them more vulnerable to sexual abuse from carers both in institutions and in and around the family. Women with disabilities are generally not brought up to be assertive and have been known to suffer abuse without complaint so as to not forego the assistance given to them. Palestinian women with disabilities are generally not expected to have families or to have intimate relationships.

Positive discrimination can benefit both women and persons with disabilities. Consideration can also be given to the concept of positive discrimination, enhanced employment quotas etc., for women with disabilities.

17 experts participated in the Seminar on Women and Disability, held at Vienna from 20 to 24 August 1990. The Seminar adopted 77 resolutions which are appended here, not because they in any way constitute binding law, but because they provide suggestions for future deliberations.⁵²

It is also noteworthy that The Committee on the Elimination of Discrimination Against Women, in General Recommendation No. 18, having examined 60 periodic reports of states parties to the Convention on the Elimination of Discrimination against Women, recommended that:

... States parties provide information on disabled women in their periodic reports, and on measures taken to deal with their particular situation, including special measures to ensure that they have equal access to education and employment, health services and social security, and to ensure that they can participate in all

⁵¹ *Human rights and disability. Final report by Mr. Leandro Despouy, Special Rapporteur*, UN Doc. E/CN. 4/Sub.2/1991/31 of 12 July 1991, para. 140.

⁵² See Appendix F.

areas of social and cultural life.⁵³

C. AIDS and disability legislation: a special concern

In the United States of America, persons with AIDS (Acquired-Immunity Deficiency Syndrome) are deemed to be protected by the Americans with Disabilities Act 1990. The Civil Rights Bill for Disabled Persons which was rejected by the British House of Commons in May 1994 also sought to define someone with AIDS as constituting a person with a disability. Not many cases of AIDS have been identified in the West Bank and Gaza Strip. Palestinian society is not, however, immune from the AIDS risk and it is al-Haq's concern that at some stage, the issue of the human rights of persons with AIDS will need to be discussed. Experience throughout the world has shown that those with AIDS need anti-discrimination legislation in order to protect them from discrimination at work, in education, and in the provision of services. Wrong or inaccurate information about the causes, nature and prevention of AIDS necessitate an open and serious discussion together with education initiatives. Consideration should also be given to the question of whether persons with AIDS should benefit from anti-disability discrimination legislation.

⁵³ General Recommendation No. 18 (Tenth Session 1991)[UN Doc. A/46/38]

Appendices

Appendix A

UN DECLARATION ON THE RIGHTS OF MENTALLY RETARDED PERSONS

Proclaimed by General Assembly resolution 2856 (XXVI) of 20 December 1971

The General Assembly,

Mindful of the pledge of the States Members of the United Nations under the Charter to take joint and separate action in co-operation with the Organization to promote higher standards of living, full employment and conditions of economic and social progress and development,

Reaffirming faith in human rights and fundamental freedoms and in the principles of peace, of the dignity and worth of the human person and of social justice proclaimed in the Charter,

Recalling the principles of the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Declaration of the Rights of the Child and the standards already set for social progress in the constitutions, conventions, recommendations and resolutions of the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the United Nations Children's Fund and other organizations concerned,

Emphasizing that the Declaration on Social Progress and Development has proclaimed the necessity of protecting the rights and assuring the welfare and rehabilitation of the physically and mentally disadvantaged,

Bearing in mind the necessity of assisting mentally retarded persons to develop their abilities in various fields of activities and of promoting their integration as far as possible in normal life,

Aware that certain countries, at their present stage of development, can devote only limited efforts to this end,

Proclaims this Declaration on the Rights of Mentally Retarded Persons and calls for national and international action to ensure that it will be used as a common basis and frame of reference for the protection of these rights:

1. The mentally retarded person has, to the maximum degree of feasibility, the same rights as other human beings.
2. The mentally retarded person has a right to proper medical care and physical therapy and to such education, training, rehabilitation and guidance as will enable him to develop his ability and maximum potential.
3. The mentally retarded person has a right to economic security and to a decent standard of living. He has a right to perform productive work or to engage in any other meaningful occupation to the fullest possible extent of his capabilities.
4. Whenever possible, the mentally retarded person should live with his own family or with foster parents and participate in different forms of community life. The family with which he lives should receive assistance. If care in an institution becomes necessary, it should be provided in surroundings and other circumstances as close as possible to those of normal life.
5. The mentally retarded person has a right to a qualified guardian when this is required to protect his personal well-being and interests.
6. The mentally retarded person has a right to protection from exploitation, abuse and degrading treatment. If prosecuted for any offence, he shall have a right to due process of law with full recognition being given to his degree of mental responsibility.
7. Whenever mentally retarded persons are unable, because of the severity of their handicap, to exercise all their rights in a meaningful way or it should become necessary to restrict or deny some or all of these rights, the procedure used for that restriction or denial of rights must contain proper legal safeguards against every form of abuse. This procedure must be based on an evaluation of the social capability of the mentally retarded person by qualified experts and must be subject to periodic review and to the rights of appeal to higher authorities.

2027th plenary meeting, 20 December 1971.

Appendix B

UN DECLARATION ON THE RIGHTS OF DISABLED PERSONS

Proclaimed by General Assembly resolution 3447 (XXX) of 9 December 1975

The General Assembly,

Mindful of the pledge made by Member States, under the Charter of the United Nations, to take joint and separate action in co-operation with the Organization to promote higher standards of living, full employment and conditions of economic and social progress and development,

Reaffirming its faith in human rights and fundamental freedoms and in the principles of peace, of the dignity and worth of the human person and of social justice proclaimed in the Charter,

Recalling the principles of the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Declaration of the Rights of the Child and the Declaration on the Rights of Mentally Retarded Persons, as well as the standards already set for social progress in the constitutions, conventions, recommendations and resolutions of the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the United Nations Children's Fund and other organizations concerned,

Recalling also Economic and Social Council resolution 1921 (LVIII) of 6 May 1975 on the prevention of disability and the rehabilitation of disabled persons,

Emphasizing that the Declaration on Social Progress and Development has proclaimed the necessity of protecting the rights and assuring the welfare and rehabilitation of the physically and mentally disadvantaged,

Bearing in mind the necessity of preventing physical and mental disabilities and of assisting disabled persons to develop their abilities in the most varied fields of activities and of promoting their integration as far as possible in normal life,

Aware that certain countries, at their present stage of development, can devote

only limited efforts to this end,

Proclaims this Declaration on the Rights of Disabled Persons and calls for national and international action to ensure that it will be used as a common basis and frame of reference for the protection of these rights:

1. The term "disabled person" means any person unable to ensure by himself or herself, wholly or partly, the necessities of a normal individual and/or social life, as a result of a deficiency, either congenital or not, in his or her physical or mental capabilities.
2. Disabled persons shall enjoy all the rights set forth in this Declaration. These rights shall be granted to all disabled persons without any exception whatsoever and without distinction or discrimination on the basis of race, colour, sex, language, religion, political or other opinions, national or social origin, state of wealth, birth or any other situation applying either to the disabled person himself or herself or to his or her family.
3. Disabled persons have the inherent right to respect for their human dignity. Disabled persons, whatever the origin, nature and seriousness of their handicaps and disabilities, have the same fundamental rights as their fellow-citizens of the same age, which implies first and foremost the right to enjoy a decent life, as normal and full as possible.
4. Disabled persons have the same civil and political rights as other human beings; paragraph 7 of the Declaration on the Rights of Mentally Retarded Persons applies to any possible limitation or suppression of those rights for mentally disabled persons.
5. Disabled persons are entitled to the measures designed to enable them to become as self-reliant as possible.
6. Disabled persons have the right to medical, psychological and functional treatment, including prosthetic and orthetic appliances, to medical and social rehabilitation, education, vocational training and rehabilitation, aid, counselling, placement services and other services which will enable them to develop their capabilities and skills to the maximum and will hasten the processes of their social integration or reintegration.

7. Disabled persons have the right to economic and social security and to a decent level of living. They have the right, according to their capabilities, to secure and retain employment or to engage in a useful, productive and remunerative occupation and to join trade unions.

8. Disabled persons are entitled to have their special needs taken into consideration at all stages of economic and social planning.

9. Disabled persons have the right to live with their families or with foster parents and to participate in all social, creative or recreational activities. No disabled person shall be subjected, as far as his or her residence is concerned, to differential treatment other than that required by his or her condition or by the improvement which he or she may derive therefrom. If the stay of a disabled person in a specialized establishment is indispensable, the environment and living conditions therein shall be as close as possible to those of the normal life of a person of his or her age.

10. Disabled persons shall be protected against all exploitation, all regulations and all treatment of a discriminatory, abusive or degrading nature.

11. Disabled persons shall be able to avail themselves of qualified legal aid when such aid proves indispensable for the protection of their persons and property. If judicial proceedings are instituted against them, the legal procedure applied shall take their physical and mental condition fully into account.

12. Organizations of disabled persons may be usefully consulted in all matters regarding the rights of disabled persons.

13. Disabled persons, their families and communities shall be fully informed, by all appropriate means, of the rights contained in this Declaration.

*2433rd plenary meeting.
9 December 1975.*

Appendix C.

INTERNATIONAL LABOUR ORGANISATION RECOMMENDATION NO. 99

Recommendation concerning Vocational Rehabilitation of the Disabled

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-eighth Session on 1 June 1955, and

Having decided upon the adoption of certain proposals with regard to the vocational rehabilitation of the disabled, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation,

adopts this twenty-second day of June of the year one thousand nine hundred and fifty-five the following Recommendation, which may be cited as the Vocational Rehabilitation (Disabled) Recommendation, 1955:

Whereas there are many and varied problems concerning those who suffer disability, and

Whereas rehabilitation of such persons is essential in order that they be restored to the fullest possible physical, mental, social, vocational and economic usefulness of which they are capable, and

Whereas to meet the employment needs of the individual disabled person and to use manpower resources to the best advantage it is necessary to develop and restore the working ability of disabled persons by combining into one continuous and co-ordinated process medical, psychological, social, educational, vocational guidance, vocational training and placement services, including follow-up,

The Conference recommends as follows:

1. DEFINITIONS

I. For the purpose of this Recommendation -

(a) the term "vocational rehabilitation" means that part of the continuous and co-ordinated process of rehabilitation which involves the provision of those vocational services, e.g. vocational guidance, vocational training and selective placement, designed to enable a disabled person to secure and retain suitable employment; and

(b) the term "disabled person" means an individual whose prospects of securing and retaining suitable employment are substantially reduced as a result of physical or mental impairment.

II. SCOPE OF VOCATIONAL REHABILITATION

2. Vocational rehabilitation services should be made available to all disabled persons, whatever the origin and nature of their disability and whatever their age, provided they can be prepared for, and have reasonable prospects of securing and retaining suitable employment.

III. PRINCIPLES AND METHODS OF VOCATIONAL GUIDANCE, VOCATIONAL TRAINING AND PLACEMENT OF DISABLED PERSONS

3. All necessary and practicable measures should be taken to establish or develop specialised vocational guidance services for disabled persons requiring aid in choosing or changing their occupations.

4. The process of vocational guidance should include, as far as practicable in the national circumstances and as appropriate in individual cases-

- (a) interview with a vocational guidance officer;
- (b) examination of record of work experience;
- (c) examination of scholastic or other records relating to education or training received;
- (d) medical examination for vocational guidance purposes;
- (e) appropriate tests of capacity and aptitude, and, where desirable, other psychological tests;

- (f) ascertainment of personal and family circumstances;
- (g) ascertainment of aptitudes and the development of abilities by appropriate work experiences and trial, and by other similar means;
- (h) technical trade tests, either verbal or otherwise, in all cases where such seem necessary;
- (i) analysis of physical capacity in relation to occupational requirements and the possibility of improving that capacity;
- (j) provision of information concerning employment and training opportunities relating to the qualifications, physical capacities, aptitudes, preferences and experience of the person concerned and to the needs of the employment market.

5. The principles, measures and methods of vocational training generally applied in the training of non-disabled persons should apply to disabled persons in so far as medical and educational conditions permit.

6. (1) The training of disabled persons should, wherever possible, enable them to carry on an economic activity in which they can use their vocational qualifications or aptitudes in the light of employment prospects.

(2) For this purpose, such training should be-

- (a) co-ordinated with selective placement, after medical advice, in occupations in which the performance of the work involved is affected by, or affects, the disability to the least possible degree;
- (b) provided, wherever possible and appropriate, in the occupation in which the disabled person was previously employed or in a related occupation; and
- (c) continued until the disabled person has acquired the skills necessary for working normally on an equal basis with non-disabled workers if he is capable of doing so.

7. Wherever possible, disabled persons should receive training with and under the same conditions as non-disabled persons.

8. (1) Special services should be set up or developed for training disabled persons who, particularly by reason of the nature or the severity of their

disability, cannot be trained in company with non-disabled persons.

(2) Wherever possible and appropriate, these services should include, *inter alia*:

- (a) schools and training centres, residential or otherwise;
- (b) special short-term and long-term training courses for specific occupations;
- (c) courses to increase the skills of disabled persons.

9. Measures should be taken to encourage employers to provide training for disabled persons; such measures should include, as appropriate, financial, technical, medical or vocational assistance.

10. (1) Measures should be taken to develop special arrangements for the placement of disabled persons.

(2) These arrangements should ensure effective placement by means of-

- (a) registration of applicants for employment;
- (b) recording their occupational qualifications, experience and desires;
- (c) interviewing them for employment;
- (d) evaluating, if necessary, their physical and vocational capacity;
- (e) encouraging employers to notify job vacancies to the competent authority;
- (f) contacting employers, when necessary, to demonstrate the employment capacities of disabled persons, and to secure employment for them;
- (g) assisting them to obtain such vocational guidance, vocational training, medical and social services as may be necessary.

11. Follow-up measures should be taken-

- (a) to ascertain whether placement in a job or recourse to vocational training or retraining services has proved to be satisfactory and to evaluate employment counselling policy and methods;

(b) to remove as far as possible obstacles which prevent a disabled person from being satisfactorily settled in work.

IV. ADMINISTRATIVE ORGANISATION

12. Vocational rehabilitation services should be organised and developed as a continuous and co-ordinated programme by the competent authority or authorities and, in so far as practicable, use should be made of existing vocational guidance, vocational training and placement services.

13. The competent authority or authorities should ensure that an adequate and suitably qualified staff is available to deal with the vocational rehabilitation, including follow-up, of disabled persons.

14. The development of vocational rehabilitation services should at least keep pace with the development of the general services for vocational guidance, vocational training and placement.

15. Vocational rehabilitation services should be organised and developed so as to include opportunities for disabled persons to prepare for, secure and retain suitable employment on their own account in all fields of work.

16. Administrative responsibility for the general organisation and development of vocational rehabilitation services should be entrusted -

(a) to one authority, or

(b) jointly to the authorities responsible for the different activities in the programme with one of these authorities entrusted with primary responsibility for co-ordination.

17. (1) The competent authority or authorities should take all necessary and desirable measures to achieve co-operation and co-ordination between the public and private bodies engaged in vocational rehabilitation activities.

(2) Such measures should include as appropriate-

(a) determination of the responsibilities and obligations of public and private bodies;

- (b) financial assistance to private bodies effectively participating in vocational rehabilitation activities; and
- (c) technical advice to private bodies.

18. (1) Vocational rehabilitation services should be established and developed with the assistance of representative advisory committees, set up at the national level and, where appropriate, at regional and local levels.

(2) These committees should, as appropriate, include members drawn from among-

- (a) the authorities and bodies directly concerned with vocational rehabilitation;
- (b) employers' and workers' organisations;
- (c) persons specially qualified to serve by reason of their knowledge of, and concern with, the vocational rehabilitation of the disabled; and
- (d) organisations of disabled persons.

(3) These committees should be responsible for advising-

- (a) at the national level, on the development of policy and programmes for vocational rehabilitation;
- (b) at regional and local levels, on the application of measures taken nationally, their adaptation to regional and local conditions and the co-ordination of regional and local activities.

19. (1) Research should be fostered and encouraged, particularly by the competent authority, to evaluate and improve vocational rehabilitation services for the disabled.

(2) Such research should include continuous or special studies on the placement of the disabled.

(3) Research should also include scientific work on the different techniques and methods which play a part in vocational rehabilitation.

V. METHODS OF ENABLING DISABLED PERSONS TO MAKE USE OF VOCATIONAL REHABILITATION SERVICES

20. Measures should be taken to enable disabled persons to make full use of all available vocational rehabilitation services and to ensure that some authority is made responsible for assisting personally each disabled person to achieve maximum vocational rehabilitation.

21. Such measures should include-

(a) information and publicity on the availability of vocational rehabilitation services and on the prospects which they offer to the disabled;

(b) the provision of appropriate and adequate financial assistance to disabled persons.

22. (1) Such financial assistance should be provided at any stage in the vocational rehabilitation process and should be designed to facilitate the preparation for, and the effective retention of, suitable employment including work on own account.

(2) It should include the provision of free vocational rehabilitation services, maintenance allowances, any necessary transportation expenses incurred during any periods of vocational preparation for employment, and loans or grants of money or the supply of the necessary tools and equipment, and of prosthetic and any other necessary appliances.

23. Disabled persons should be enabled to make use of all vocational rehabilitation services without losing any social security benefits which are unrelated to their participation in these services.

24. Disabled persons living in areas having limited prospects of future employment or limited facilities for preparation for employment should be provided with opportunities for vocational preparation, including provision of board and lodging, and with opportunities for transfer, should they so desire, to areas with greater employment prospects.

25. Disabled persons (including those in receipt of disability pensions) should

not as a result of their disability be discriminated against in respect of wages and other conditions of employment if their work is equal to that of non-disabled persons.

VI. CO-OPERATION BETWEEN THE BODIES RESPONSIBLE FOR MEDICAL TREATMENT AND THOSE RESPONSIBLE FOR VOCATIONAL REHABILITATION

26. (1) There should be the closest co-operation between, and the maximum co-ordination of, the activities of the bodies responsible for medical treatment and those responsible for the vocational rehabilitation of disabled persons.

(2) This co-operation and co-ordination of activities should exist-

(a) to ensure that medical treatment and, where necessary, the provision of appropriate prosthetic apparatus, are directed to facilitating and developing the subsequent employability of the disabled persons concerned;

(b) to promote the identification of disabled persons in need of, and suitable for, vocational rehabilitation;

(c) to enable vocational rehabilitation to be commenced at the earliest and most suitable stage;

(d) to provide medical advice, where necessary, at all stages of vocational rehabilitation;

(e) to provide assessment of working capacity.

27. Wherever possible, and subject to medical advice, vocational rehabilitation should start during medical treatment.

VII. METHODS OF WIDENING EMPLOYMENT OPPORTUNITIES FOR DISABLED PERSONS

28. Measures should be taken, in close co-operation with employers' and workers' organisations, to promote maximum opportunities for disabled persons to secure and retain suitable employment.

29. Such measures should be based on the following principles:

- (a) disabled persons should be afforded an equal opportunity with the non-disabled to perform work for which they are qualified.
- (b) disabled persons should have full opportunity to accept suitable work with employers of their own choice;
- (c) emphasis should be placed on the abilities and work capacities of disabled persons and not on their disabilities.

30. Such measures should include-

- (a) research designed to analyze and demonstrate the working capacity of disabled persons;
- (b) widespread and sustained publicity of a factual kind with special reference to-

- (i) the work performance, output, accident rate, absenteeism and stability in employment of disabled persons in comparison with non-disabled persons employed in the same work;
- (ii) personnel selection methods based on specific requirements;
- (iii) methods of improving work conditions, including adjustment and modification of machinery and equipment, to facilitate the employment of disabled workers;

- (c) the means whereby increased liability of individual employers in respect of workmen's compensation premiums may be eliminated;
- (d) the encouraging of employers to transfer workers whose working capacity has undergone a change as a result of a physical impairment to suitable jobs within their undertakings.

31. Wherever appropriate in the national circumstances, and consistent with national policy, the employment of disabled persons should be promoted by means such as-

- (a) the engagement by employers of a percentage of disabled persons under such arrangements as will avoid the displacement

- of non-disabled workers;
- (b) reserving certain designated occupations for disabled persons;
- (c) arranging that seriously disabled persons are given opportunities for employment or preference in certain occupations considered suitable for them;
- (d) encouraging the creation and facilitating the operation of co-operatives or other similar enterprises managed by, or on behalf of, disabled persons.

VIII. SHELTERED EMPLOYMENT

32. (1) Measures should be taken by the competent authority or authorities, in co-operation, as appropriate, with private organisations, to organise and develop arrangements for training and employment under sheltered conditions for those disabled persons who cannot be made fit for ordinary competitive employment.

(2) Such arrangements should include the establishment of sheltered workshops and special measures for those disabled persons who, for physical, psychological or geographical reasons, cannot travel regularly to and from work.

33. Sheltered workshops should provide, under effective medical and vocational supervisions, not only useful and remunerative work but opportunities for vocational adjustment and advancement with, whenever possible, transfer to open employment.

34. Special programmes for the homebound should be so organised and developed as to provide, under effective medical and vocational supervision, useful and remunerative work in their own homes.

35. Where and to the extent to which statutory regulation of wages and conditions of employment applying to workers generally is in operation it should apply to disabled persons employed under sheltered conditions.

IX. SPECIAL PROVISIONS FOR DISABLED CHILDREN AND YOUNG PERSONS

36. Vocational rehabilitation services for disabled children and young persons of school age should be organised and developed in close co-operation between

the authorities responsible for education and the authority or authorities responsible for vocational rehabilitation.

37. Educational programmes should take into account the special problems of disabled children and young persons and their need of opportunities, equal to those of non-disabled children and young persons, to receive education and vocational preparation best suited to their age, abilities, aptitudes and interests.

38. The fundamental purposes of vocational rehabilitation services for disabled children and young persons should be to reduce as much as possible the occupational and psychological handicaps imposed by their disabilities and to offer them full opportunities of preparing for, and entering, the most suitable occupations. The utilisation of these opportunities should involve co-operation between medical, social and educational services and the parents or guardians of the disabled children and young persons.

39. (1) The educational, vocational guidance, training and placement of disabled children and young persons should be developed within the general framework of such services to non-disabled children and young persons, and should be conducted wherever possible and desirable, under the same conditions as, and in company with, non-disabled children and young persons.

(2) Special provision should be made for those disabled children and young persons whose disabilities prevent their participation in such services under the same conditions as, and in company with, non-disabled children and young persons.

(3) This provision should include, in particular, specialised training of teachers.

40. Measures should be taken to ensure that children and young persons found by medical examination to have disabilities or limitations or to be generally unfit for employment-

(a) receive, as early as possible, proper medical treatment for removing or alleviating their disabilities or limitations;

(b) are encouraged to attend school or are guided towards suitable occupations likely to be agreeable to them and within their capacity and are provided with opportunities of training for

such occupations.

(c) have the advantage of financial aid, if necessary, during the period of medical treatment, education and vocational training.

X. APPLICATION OF THE PRINCIPLES OF VOCATIONAL REHABILITATION.

41. (1) Vocational rehabilitation services should be adapted to the particular needs and circumstances of each country and should be developed progressively in the light of these needs and circumstances and in accordance with the principles laid down in this Recommendation.

(2) The main objectives of this progressive development should be-

- (a) to demonstrate and develop the working qualities of disabled persons;
- (b) to promote, in the fullest measure possible, suitable employment opportunities for them;
- (c) to overcome, in respect of training or employment, discrimination against disabled persons on account of their disability.

42. The progressive development of vocational rehabilitation services should be promoted with the help, where desired, of the International Labour Office -

- (a) by the provision, wherever possible, of technical advisory assistance;
- (b) by organising a comprehensive international exchange of experience acquired in different countries; and
- (c) by other forms of international co-operation directed towards the organisation and development of services adapted to the needs and conditions of individual countries and including the training of the staff required.

Appendix D.

INTERNATIONAL LABOUR ORGANISATION CONVENTION NO. 159, CONCERNING VOCATIONAL REHABILITATION AND EMPLOYMENT (DISABLED PERSONS)

INTERNATIONAL LABOUR CONFERENCE

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-ninth Session on 1 June 1983, and

Noting that since the adoption of the Vocational Rehabilitation (Disabled) Recommendation, 1955, significant developments have occurred in the understanding of rehabilitation needs, the scope and organisation of rehabilitation services, and the law and practice of many Members on the questions covered by that Recommendation, and

Noting the existing international standards contained in the Vocational Rehabilitation (Disabled) Recommendation, 1955, and the Human Resources Development Recommendation, 1975, and

Considering that the year 1981 was declared by the United Nations General Assembly the International year of Disabled Persons, with the theme "full participation and equality" and that a comprehensive World Programme of Action concerning Disabled Persons is to provide effective measures at the international and national levels for the realisation of the goals of "full participation" of disabled persons in social life and development, and of "equality", and

Considering that these developments have made it appropriate to adopt new international standards on the subject which take account, in particular, of the need to ensure equality of opportunity and treatment to all categories of disabled persons, in both rural and urban areas, for employment and integration into the community, and

Having decided upon the adoption of certain proposals with regard to vocational

rehabilitation which is the fourth item on the agenda of the session; and

Having determined that these proposals shall take the form of an international Convention,

adopts this twentieth day of June of the year one thousand nine hundred and eighty-three the following Convention, which may be cited as the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983:

PART 1. DEFINITION AND SCOPE

Article 1

1. For the purposes of this Convention, the term "disabled person" means an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognised physical or mental impairment.
2. For the purposes of this Convention, each Member shall consider the purpose of vocational rehabilitation as being to enable a disabled person to secure, retain and advance in suitable employment and thereby to further such person's integration or reintegration into society.
3. The provisions of this Convention shall be applied by each Member through measures which are appropriate to national conditions and consistent with national practice.
4. The provisions of this Conventions shall apply to all categories of disabled persons.

PART 11. PRINCIPLES OF VOCATIONAL REHABILITATION AND EMPLOYMENT POLICIES FOR DISABLED PERSONS

Article 2

Each Member shall, in accordance with national conditions, practice and possibilities, formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons.

Article 3

The said policy shall aim at ensuring that appropriate vocational rehabilitation measures are made available to all categories of disabled persons, and at promoting employment opportunities for disabled persons in the open labour market.

Article 4

The said policy shall be based on the principle of equal opportunity between disabled workers and workers generally. Equality of opportunity and treatment for disabled men and women workers shall be respected. Special positive measures aimed at effective equality of opportunity and treatment between disabled workers and other workers shall not be regarded as discriminating against other workers.

Article 5

The representative organisations of employers and workers shall be consulted on the implementation of the said policy, including the measures to be taken to promote co-operation and co-ordination between the public and private bodies engaged in vocational rehabilitation activities. The representative organisations of and for disabled persons shall also be consulted.

PART 111. ACTION AT THE NATIONAL LEVEL FOR THE DEVELOPMENT OF VOCATIONAL REHABILITATION AND EMPLOYMENT SERVICES FOR DISABLED PERSONS

Article 6

Each Member shall, by laws or regulations or by any other method consistent with national conditions and practice, take such steps as may be necessary to give effect to Articles 2, 3, 4 and 5 of this Convention.

Article 7

The competent authorities shall take measures with a view to providing and evaluating vocational guidance, vocational training, placement, employment and

other related services to enable disabled persons to secure, retain and advance in employment; existing services for workers generally shall, wherever possible and appropriate, be used with necessary adaptations.

Article 8

Measures shall be taken to promote the establishment and development of vocational rehabilitation and employment services for disabled persons in rural areas and remote communities.

Article 9

Each Member shall aim at ensuring the training and availability of rehabilitation counsellors and other suitably qualified staff responsible for the vocational guidance, vocational training, placement and employment of disabled persons.

PART IV. FINAL PROVISIONS

Article 10

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 11

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 12

1. A Member which has ratified this Convention may denounce it after the

expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 13

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 14

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 15

At such times as it may consider necessary the Governing Body of the International Labour Office shall present the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 16

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides-

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 12 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 17

The English and French versions of the text of this Convention are equally authoritative.

Appendix E

INTERNATIONAL LABOUR ORGANISATION, RECOMMENDATION NO. 168, CONCERNING VOCATIONAL REHABILITATION AND EMPLOYMENT (DISABLED PERSONS)

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office and having met in its Sixty-ninth Session on 1 June 1983, and

Noting the existing international standards contained in the Vocational Rehabilitation (Disabled) Recommendation, 1955, and

Noting that since the adoption of the Vocational Rehabilitation (Disabled) Recommendation, 1955, significant developments have occurred in the understanding of rehabilitation needs, the scope and organisation of rehabilitation services, and the law and practice of many Members on the questions covered by the Recommendation, and

Considering that the year 1981 was declared by the United Nations General Assembly the International Year of Disabled Persons, with the theme, "full participation and equality" and that a comprehensive World Programme of Action concerning Disabled Persons is to provide effective measures at the international and national levels for the realisation of the goals of "full participation" of disabled persons in social life and development, and of "equality", and

Considering that these developments have made it appropriate to adopt new international standards on the subject which take account, in particular, of the need to ensure equality of opportunity and treatment to all categories of disabled persons, in both rural and urban areas, for employment and integration into the community, and

Having decided upon the adoption of certain proposals with regard to vocational rehabilitation which is the fourth item on the agenda of the session and,

Having determined that these proposals shall take the form of a

Recommendation supplementing the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983, and the Vocational Rehabilitation (Disabled) Recommendation, 1955, adopts this twentieth day of June of the year one thousand nine hundred and eighty-three the following Recommendation, which may be cited as the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983.

1. DEFINITIONS AND SCOPE

1. In applying this Recommendation, as well as the Vocational Rehabilitation (Disabled) Recommendation, 1955, Members should consider the term "disabled person" as meaning an individual whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognised physical or mental impairment.

2. In applying this Recommendation, as well as the Vocational Rehabilitation (Disabled) Recommendation, 1955, Members should consider the purpose of vocational rehabilitation, as defined in the latter Recommendation, as being to enable a disabled person to secure, retain and advance in suitable employment and thereby to further such person's integration or reintegration into society.

3. The provisions of this Recommendation should be applied by Members through measures which are appropriate to national conditions and consistent with national practice.

4. Vocational rehabilitation measures should be made available to all categories of disabled persons.

5. In planning and providing services for the vocational rehabilitation and employment of disabled persons, existing vocational guidance, vocational training, placement, employment and related services for workers generally should, wherever possible, be used with any necessary adaptations.

6. Vocational rehabilitation should be started as early as possible. For this purpose, health-care systems and other bodies responsible for medical and social rehabilitation should co-operate regularly with those responsible for vocational rehabilitation.

11. VOCATIONAL REHABILITATION AND EMPLOYMENT OPPORTUNITIES

7. Disabled persons should enjoy equality of opportunity and treatment in respect of access to, retention of and advancement in employment which, wherever possible, corresponds to their own choice and takes account of their individual suitability for such employment.

8. In providing vocational rehabilitation and employment assistance to disabled persons, the principle of equality of opportunity and treatment for men and women workers should be respected.

9. Special positive measures aimed at effective equality of opportunity and treatment between disabled workers and other workers should not be regarded as discriminating against other workers.

10. Measures should be taken to promote employment opportunities for disabled persons which conform to the employment and salary standards applicable to workers generally.

11. Such measures, in addition to those enumerated in Part VII of the Vocational Rehabilitation (Disabled) Recommendation, 1955, should include:

- (a) appropriate measures to create job opportunities on the open labour market, including financial incentives to employers to encourage them to provide training and subsequent employment for disabled persons, as well as to make reasonable adaptations to workplaces, job design, tools, machinery and work organisation to facilitate such training and employment;
- (b) appropriate government support for the establishment of various types of sheltered employment for disabled persons for whom access to open employment is not practicable;
- (c) encouragement of co-operation between sheltered and production workshops on organisation and management questions so as to improve the employment situation of their disabled workers and, wherever possible, to help prepare them for employment under normal conditions;
- (d) appropriate government support to vocational training,

vocational guidance, sheltered employment and placement services for disabled persons run by non-governmental organisations;

(e) encouragement of the establishment and development of co-operatives by and for disabled persons and, if appropriate, open to workers generally;

(f) appropriate government support for the establishment and development of small-scale industry, co-operative and other types of production workshops by and for disabled persons (and, if appropriate, open to workers generally), provided such workshops meet defined minimum standards;

(g) elimination, by stages if necessary, of physical, communication and architectural barriers and obstacles affecting transport and access to and free movement in premises for the training and employment of disabled persons; appropriate standards should be taken into account for new public buildings and facilities;

(h) wherever possible and appropriate, facilitation of adequate means of transport to and from the places of rehabilitation and work according to the needs of disabled persons;

(i) encouragement of the dissemination of information on examples of actual and successful instances of the integration of disabled persons in employment;

(j) exemption from the levy of internal taxes or other internal charges of any kind, imposed at the time of importation or subsequently on specified articles, training materials and equipment required for rehabilitation centres, workshops, employers and disabled persons, and on specified aids and devices required to assist disabled persons in securing and retaining employment;

(k) provision of part-time employment and other job arrangements, in accordance with the capabilities of the individual disabled persons for whom full-time employment is not immediately, and may not ever be, practicable;

(l) research and the possible application of its results to various types of disability in order to further the participation of disabled persons in ordinary working life;

(m) appropriate government support to eliminate the potential for

exploitation within the framework of vocational training and sheltered employment and to facilitate transition to the open labour market.

12. In devising programmes for the integration or reintegration of disabled persons into working life and society, all forms of training should be taken into consideration; these include, where necessary and appropriate, vocational preparation and training, modular training, training in activities of daily living, in literacy and in other areas relevant to vocational rehabilitation.

13. To ensure the integration or reintegration of disabled persons into ordinary working life, and thereby into society, the need for special support measures should also be taken into consideration, including the provision of aids, devices and ongoing personal services to enable disabled persons to secure, retain and advance in suitable employment.

14. Vocational rehabilitation measures for disabled persons should be followed up in order to assess the results of these measures.

111. COMMUNITY PARTICIPATION

15. Vocational rehabilitation services in both urban and rural areas and in remote communities should be organised and operated with the fullest possible community participation, in particular with that of the representatives of employers', workers' and disabled persons' organisations.

16. Community participation in the organisation of vocational rehabilitation services for disabled persons should be facilitated by carefully planned public information measures with the aims of:

- (a) informing disabled persons, and if necessary their families, about their rights and opportunities in the employment field; and
- (b) overcoming prejudice, misinformation and attitudes unfavourable to the employment of disabled persons and their integration or reintegration into society.

17. Community leaders and groups, including disabled persons themselves and their organisations, should co-operate with health, social welfare, education,

labour and other relevant government authorities in identifying the needs of disabled persons in the community and in ensuring that, wherever possible, disabled persons are included in activities and services available generally.

18. Vocational rehabilitation and employment services for disabled persons should be integrated into the mainstream of community development and where appropriate receive financial, material and technical support.

19. Official recognition should be given to voluntary organisations which have a particularly good record of providing vocational rehabilitation services and enabling disabled persons to be integrated or reintegrated into the worklife of the community.

IV. VOCATIONAL REHABILITATION IN RURAL AREAS

20. Particular efforts should be made to ensure that vocational rehabilitation services are provided for disabled persons in rural areas and in remote communities at the same level and on the same terms as those provided for urban areas. The development of such services should be an integral part of general rural development policies.

21. To this end, measures should be taken, where appropriate, to:

- (a) designate existing rural vocational rehabilitation services, or, if these do not exist, vocational rehabilitation services in urban areas as focal points to train rehabilitation staff for rural areas;
- (b) establish mobile vocational rehabilitation units to serve disabled persons in rural areas and to act as centres for the dissemination of information on rural training and employment opportunities for disabled persons;
- (c) train rural development and community development workers in vocational rehabilitation techniques;
- (d) provide loans, grants or tools and materials to help disabled persons in rural communities to establish and manage co-operatives or to work on their own account in cottage industry or in agricultural, craft or other activities;
- (e) incorporate assistance to disabled persons into existing or planned general rural development activities;

(f) facilitate disabled persons' access to housing within reasonable reach of the workplace.

V. TRAINING OF STAFF

22. In addition to professionally trained rehabilitation counsellors and specialists, all other persons who are involved in the vocational rehabilitation of disabled persons and the development of employment opportunities should be given training or orientation in rehabilitation issues.

23. Persons engaged in vocational guidance, vocational training and placement of workers generally should have an adequate knowledge of disabilities and their limiting effects, as well as a knowledge of the support services available to facilitate a disabled person's integration into active economic and social life. Opportunities should be provided for such persons to update their knowledge and extend their experience in these fields.

24. The training, qualifications and remuneration of staff engaged in the vocational rehabilitation and training of disabled persons should be comparable to those of persons engaged in general vocational training who have similar duties and responsibilities; career opportunities should be comparable for both groups of specialists and transfers of staff between vocational rehabilitation and general vocational training should be encouraged.

25. Staff of vocational rehabilitation, sheltered and production workshops should receive, as part of their general training and as appropriate, training in workshop management as well as in production and marketing techniques.

26. Wherever sufficient numbers of fully trained rehabilitation staff are not available, measures should be considered for recruiting and training vocational rehabilitation aides and auxiliaries. The use of such aides and auxiliaries should not be resorted to as a permanent substitute for fully trained staff. Wherever possible, provision should be made for further training of such personnel in order to integrate them fully into the trained staff.

27. Where appropriate, the establishment of regional and subregional vocational rehabilitation staff training centres should be encouraged.

28. Staff engaged in vocational guidance, vocational training, placement and employment support of disabled persons should have appropriate training and experience to recognise the motivational problems and difficulties that disabled persons may experience and, within their competence, deal with the resulting needs.

29. Where appropriate, measures should be taken to encourage disabled persons to undergo training as vocational rehabilitation personnel and facilitate their entry into employment in the rehabilitation field.

30. Disabled persons and their organisations should be consulted in the development, provision and evaluation of training programmes for vocational rehabilitation staff.

VI. THE CONTRIBUTION OF EMPLOYERS' AND WORKERS' ORGANISATIONS TO THE DEVELOPMENT OF VOCATIONAL REHABILITATION SERVICES

31. Employers' and workers' organisations should adopt a policy for the promotion of training and suitable employment of disabled persons on an equal footing with other workers.

32. Employers' and workers' organisations, together with disabled persons and their organisations, should be able to contribute to the formulation of policies concerning the organisation and development of vocational rehabilitation services, as well as to carry out research and propose legislation in this field.

33. Wherever possible and appropriate, representatives of employers' workers' and disabled persons' organisations should be included in the membership of the boards and committees of vocational rehabilitation and training centres used by disabled persons, which make decisions on policy and technical matters, with a view to ensuring that the vocational rehabilitation programmes correspond to the requirements of the various economic sectors.

34. Wherever possible and appropriate, employers and workers' representatives in the undertaking should co-operate with appropriate specialists in considering the possibilities for vocational rehabilitation and job reallocation of disabled persons employed by that undertaking and for giving employment to other

disabled persons.

35. Wherever possible and appropriate, undertakings should be encouraged to establish or maintain their own vocational rehabilitation services, including various types of sheltered employment, in close co-operation with community-based and other rehabilitation services.

36. Wherever possible and appropriate, employers' organisations should take steps to:

- (a) advise their members on vocational rehabilitation services which could be made available to disabled workers;
- (b) co-operate with bodies and institutions which promote the reintegration of disabled persons into active working life by providing, for instance, information on working conditions and job requirements which disabled persons have to meet;
- (c) advise their members on adjustments which could be made for disabled workers to the essential duties or requirements of suitable jobs;
- (d) advise their members to consider the impact that reorganising production methods might have, so that disabled persons are not inadvertently displaced.

37. Wherever possible and appropriate, workers' organisations should take steps to:

- (a) promote the participation of disabled workers in discussions at the shop-floor level and in works councils or any other body representing the workers;
- (b) propose guidelines for the vocational rehabilitation and protection of workers who become disabled through sickness or accident, whether work-related or not, and have such guidelines included in collective agreements, regulations, arbitration awards or other appropriate instruments;
- (c) offer advice on shop-floor arrangements affecting disabled workers, including job adaptation, special work organisation, trial training and employment and the fixing of work norms;
- (d) raise the problems of vocational rehabilitation and

employment of disabled persons at trade union meetings and inform their members, through publications and seminars, of the problems of and possibilities for the vocational rehabilitation and employment of disabled persons.

VII. THE CONTRIBUTION OF DISABLED PERSONS AND THEIR ORGANISATIONS TO THE DEVELOPMENT OF VOCATIONAL REHABILITATION SERVICES

38. In addition to the participation of disabled persons, their representatives and organisations in rehabilitation activities referred to in Paragraphs 15, 17, 30, 32 and 33 of this Recommendation, measures to involve disabled persons and their organisations in the development of vocational rehabilitation services should include:

- (a) encouragement of disabled persons and their organisations to participate in the development of community activities aimed at vocational rehabilitation of disabled persons so as to further their employment and their integration or reintegration into society;
- (b) appropriate government support to promote the development of organisations of and for disabled persons and their involvement in vocational rehabilitation and employment services, including support for the provision of training programmes in self-advocacy for disabled persons;
- (c) appropriate government support to these organisations to undertake public education programmes which project a positive image of the abilities of disabled persons.

VIII. VOCATIONAL REHABILITATION UNDER SOCIAL SECURITY SCHEMES

39. In applying the provisions of this Recommendation, Members should also be guided by the provision of Article 35 of the Social Security (Minimum Standards) Convention, 1952, of Article 26 of the Employment Injury Benefits Convention, 1964, and of Article 13 of the Invalidity, Old-Age and Survivors' Benefits Convention, 1967, in so far as they are not bound by obligations arising out of ratification of these instruments.

40. Wherever possible and appropriate, social security schemes should provide, or contribute to the organisation, development and financing of training, placement and employment (including sheltered employment) programmes and vocational rehabilitation services for disabled persons, including rehabilitation counselling.

41. These schemes should also provide incentives to disabled persons to seek employment and measures to facilitate a gradual transition into the open labour market.

IX. CO-ORDINATION

42. Measures should be taken to ensure, as far as practicable, that policies and programmes concerning vocational rehabilitation are co-ordinated with policies and programmes of social and economic development (including scientific research and advanced technology) affecting labour administration, general employment policy and promotion, vocational training, social integration, social security, cooperatives, rural development, small-scale industry and crafts, safety and health at work, adaptation of methods and organisation of work to the needs of the individual and the improvement of working conditions.

Appendix F

RECOMMENDATIONS OF THE SEMINAR ON WOMEN AND DISABILITY, VIENNA, AUGUST 1990.

A. Statistical information.

1. National Governments should take early steps to incorporate the collection of gender-specific data on issues related to disability in existing statistical series. Moreover, each Government should undertake a country-wide survey on disability that would investigate the incidence of disability, its major causes and measures taken by individuals or families to deal with the situation. A model questionnaire should be prepared for this purpose by the United Nations Statistical Office to highlight the issue of women with disabilities and to obtain such information as income level, employment and educational attainment. Such a survey would allow an analysis of the national situation as well as permitting regional and international comparisons. Personnel trained in data collection on disabled women should, if possible, be involved in household surveys and censuses.

2. The Expert Group fully endorsed recommendation 7.m. of the Expert Group Meeting on Alternative Ways to Mark the End of the United Nations Decade of Disabled Persons, in which was proposed the revision of the International Classification of Impairment, Disability and Handicap, that an expert meeting on definitions, composed of representatives of organizations of disabled people, should be organized by 1992.

B. Ethics and human rights

3. Disabled women should be informed of their civil and human rights in order to be able to make their own decisions.

4. Appropriate legislation that guarantees the full exercise of the rights of women to decide on sexuality, pregnancy, new reproductive technology, adoption, motherhood and any other relevant issue should be adopted and implemented.

5. No medical decisions concerning a disabled woman should be made without

her informed consent.

6. Measures should be adopted to protect women with mental or learning disabilities and information should be provided in a manner that they can easily understand. When appropriate, an advocate should be provided to facilitate the decision-making of such women.

7. Open and public discussions on topics such as sexuality, which are often considered too delicate to deal with, should be encouraged, with due respect to cultural norms, in order to increase the level of knowledge of disabled women, their families, professional staff and the general population.

8. In countries where cultural and religious traditions make access to medical, vocational, rehabilitative and other services and to employment for disabled women difficult, measures should be taken to ensure that these obstacles are removed so that disabled girls and women can receive those benefits.

9. Development and application of new reproductive technologies to prevent disabilities should be seen in terms of ethical and human rights.

C. National legislation

10. National legislation should not discriminate against disabled people and should include such aspects as social security, environmental barriers, transport, and medical and technical facilities, and should take into consideration the particular needs of disabled women as their legal right. It should facilitate improvement of their situation within the family and the society.

11. Legislation to protect the civil and human rights of disabled girls and women should be passed by electoral bodies at the national or provincial levels, in compliance with international norms. This legislation should be monitored by the appropriate governmental bodies to ensure effective implementation.

12. Equalization of opportunities for disabled girls and women can only be realized when discriminatory patterns and practices that deny equal access are removed. Thus, special legislation should be prepared to deal with provisions in social security systems for women with disabilities and for young disabled mothers with children; with public transportation, in view of the fact that

women are less mobile and more confined to the house due to social and cultural patterns in some regions; and in other areas where special legislation is justified by the particular situation of disabled women.

D. Conventions and other international legal instruments

13. All countries, if they have not already done so, should ratify or accede to the International Covenants on Human Rights (General Assembly resolution 2200 A (XXI), annex, of 16 December 1966), the Convention on the Elimination of All Forms of Discrimination against Women (General Assembly resolution 34/180, annex, of 18 December 1979), as well as other relevant instruments such as the Convention on the Rights of the Child (General Assembly resolution 44/25 of 20 November 1989), Convention No. 159 on the Vocational Rehabilitation and the Employment of Disabled Persons and Recommendation No. 168 on the same subject of the International Labour Organisation (ILO), the Agreement on the Importation of Educational, Scientific and Cultural Materials (the "Florence Agreement") and its Protocol of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

14. The Committee on the Elimination of Discrimination against Women (CEDAW) should request States parties to the Convention on the Elimination of All Forms of Discrimination against Women to include information on the situation of disabled women in their periodic reports to CEDAW on the implementation of the Convention.

15. In the elaboration of any new international legal instrument on disabled persons specific provision should be made for improving the situation of disabled women. Further, disabled women should be involved in the development of those instruments, especially in the work of the proposed standard rules on the equalization of opportunities for disabled children, youth and adults, as in resolution 1990/26 of 24 May 1990 of the Economic and Social Council.

E. National focal point on women with disabilities

16. A national committee with representation from the national machinery for the advancement of women, other relevant government bodies, disabled women from non-governmental organizations and experienced individuals should be the

focal point for women with disabilities. That committee should act as a strong national task force to implement recommendations concerning women with disabilities, and should develop programmes for the equalization of opportunities and the full participation of disabled women in society.

17. This national focal point should also be closely linked to existing and planned national disability committees. These committees should be strengthened, if necessary, or established where they do not exist. Disabled women and their organizations should be active members.

18. National machinery for the advancement of women should be strengthened and women with disabilities should be included in that machinery.

19. Disabled women should be actively involved in both disabled people's self-help organizations and women's organizations. Organizations of disabled persons at the national level should encourage the establishment of sub-committees of disabled women or independent disabled women's groups.

20. The national focal point, as well as disabled women themselves, should launch special campaigns to increase the membership of disabled women in those organizations. That should be the case for non-governmental organizations specialized in disabled persons as well as in other such organizations, particularly women's groups.

21. There should be a stronger presence of disabled women in national delegations to international meetings, committees and commissions concerning issues of either women or disabled persons. The participation of disabled women should be encouraged not only when topics related to them are specifically on the agenda, but also in all technical meetings.

22. Governmental and non-governmental national women's organizations and bodies should include disabled women and issues related to them within the general women's movement, and should implement action plans according to the present recommendations.

F. Leadership development

23. The purpose of leadership development should be to assist disabled girls and women to attain self-esteem and to encourage them to take leadership positions,

in order to become integrated members of their communities, and to encourage their increased participation at all levels in all countries.

24. Disabled women should be incorporated in all training within all national bodies that organize leadership and management development.

25. Programmes should be designed specifically for disabled girls and women, and should be considered an integrated part of existing women's training programmes.

26. Leadership training seminars, educational programmes and job-training programmes for establishing co-operatives and income-generating activities should be organized at local level, including rural areas, to increase disabled women's awareness of their own situation at the grass-roots level.

27. The United Nations system should assist disabled women in developing leadership skills through the elaboration of model curricula by ILO, the Food and Agriculture Organization of the United Nations (FAO) and UNESCO to be used at various levels of leadership in all countries and through technical co-operation. Every effort should be made to have disabled women as trainers.

28. Recommendation 7.k of the Expert Group Meeting on Alternative Ways to Mark the End of the United Nations Decade of Disabled Persons supporting the establishment of a United Nations Children's Fund (UNICEF) Task Force on Disabled Children, Youth and Women with participation by organizations of disabled women should be endorsed. Endorsement should also be given to the recommendation for a special award to be presented in recognition of dedicated efforts on behalf of disabled women.

G. Education

29. Disabled women and girls should have full access and the right to primary, secondary and higher education and they should be encouraged to avail themselves of that right. Education must be in mainstream schools with special tuition requirements waived and supporting services provided, where necessary. This should also include adult literacy and other educational programmes. Disabled women should be encouraged to seek educational opportunities to enable them to advance as full members of society.

30. It is also important to educate parents and family members of disabled girls and women on how to develop positive attitudes towards disability and to bring about an awareness concerning the special needs and problems of disabled women. It would be useful to elaborate a training kit for family members, especially mothers, who are usually the primary caretakers. Existing handbooks, such as the manual on training in the community for people with disabilities, developed by the World Health Organization, should be made available for training purposes. It is important that adult disabled women are considered independent of rather dependent on their families.

31. UNESCO should give priority attention to the concerns of disabled girls and women in its educational programmes, especially those relating to the International Literacy Year, proclaimed by the General Assembly in its resolution 42/104 of 7 December 1987.

H. Vocational training and employment

32. Employment is a critical component in enabling disabled women to achieve self-esteem and social recognition. Disabled women should be trained for employment opportunities for which there is a demand in the labour market. When special training is needed, women with disabilities should not be disadvantaged in comparison with other population groups. Disabled women should have appropriate access to all training programmes. Existing vocational training programmes for women should be made especially accessible to disabled women.

33. For the integration of disabled women into vocational training programmes, supportive services should be provided.

34. Disabled women should be encouraged to seek employment opportunities that have a reasonable wage and status. Effective assistance should be given to disabled women to maintain employment by such means as follow-up services and contacts with employers.

35. In the creation of small enterprises and other forms of self-employment, disabled women should have an equal right to financial assistance, if available.

36. The programmes of ILO and FAO, as well as other organizations concerned

with employment, should take into account the needs of disabled women. Those organizations should work in close co-operation with disabled women and their organizations.

I. Marriage and parenthood

37. Taking into account that many women with disabilities experience great difficulties in getting married and setting up a family, counselling and training should be provided in this area. Media can play an important role in removing negative attitudes on marriage and parenthood of disabled persons. Non-governmental organizations should consider setting up services that would assist disabled people to meet potential spouses.

38. Disabled women should have access to family-planning methods as well as to information on the sexual functioning of their bodies. That information should be provided on cassette, in large print, in Braille and in sign language or by counsellors in public social services on a local basis.

J. Violence, sexual abuse and safety

39. Violence against disabled girls and women is a major problem. Statistics show that disabled girls and women are more likely to be the victims of violence because of their vulnerability. Special programmes to prevent such violence must be developed with an understanding of the unique needs of girls and women who need assistance with their personal hygienic care. They should be informed on how to prevent the occurrence of violence, how to recognize when violence has occurred and how to report such acts. Disabled girls and women with mental or communicative disabilities are particularly vulnerable.

40. Disabled girls and women should have access to general and specific training programmes in accordance with their needs and, where integration may be hindered, supporting services should be provided with the purpose of facilitating integration into the general population.

41. Disabled women, their families and social service personnel should be fully informed on taking precautions against sexual abuse. In the case of abuse of disabled women, especially of mentally handicapped women, legislation should be developed and enforced.

K. Mass media, communication and information

42. The visibility of disabled women has to be increased at all levels of society. The media play an important role in disseminating information on disabled women and can contribute to a positive change in public attitudes. In order to achieve this, portrayal of positive images of disabled women at all levels of society by the media (television, newspapers, publications) is imperative. Women with disabilities, preferably nominated by disabled women's organizations, should be actively consulted and involved in presentations, and should monitor the programmes. In view of the practice of exchanging radio and television productions on regional and international levels, those programmes could be disseminated on a larger scale. The use and choice of positive language describing disability and women's matters should be encouraged and deserve full media attention.

43. Governments that operate television, radio and newspapers should be encouraged to develop programming that addresses the needs of disabled women in co-operation with organizations of disabled people.

44. Examples of active women with disabilities should be shown by the media to bring about awareness in the public as well as to provide positive role models for other disabled women and girls.

45. A national network of disabled women should be initiated jointly by the national focal point and disabled women throughout the country as an important step in information sharing and dissemination, and in making aware and motivating women with disabilities to become actively involved in organizational work.

46. As part of the activities marking the end of the Decade of Disabled Persons, a special brochure on disabled women should be published and widely distributed by all national Governments and women's organizations. A special video highlighting the life of disabled women should also be produced.

47. Basic documents relevant to disabled women should be more available in local languages, where possible.

L. Counselling

48. Disabled women should be able to receive counselling services from other women with disabilities and similar experiences. These services should be available in women's organizations, organizations for the disabled, social service agencies and local services.

M. Social security

49. Disabled women should receive sufficient economic support to live with dignity, whether single or married. If they are entitled to received social benefits, those should be given to them and not to their family.

50. Legislation and practices that discourage or prevent women with disabilities from participating in the labour force should be reviewed to eliminate work disincentives. Women should be able to receive appropriate basic financial support in order to compensate for disability-related services, such as personal assistance services, transportation, housing, technical aids and health care.

51. Provisions should be made to improve the situation of caretakers taking into account that 80 per cent are female, often family members and low paid or working on a voluntary basis. Women with disabilities should have the right and possibility to choose their attendant.

52. The subject of caretakers for disabled women should be given particular attention in preparing the priority theme on development ("Child and dependent care") for the Commission on the Status of Women in 1995 and also should be considered as a special issue by other relevant United Nations bodies.

N. Health

53. In developing countries, primary health care should cover the needs of disabled women at home and provide access to health clinics and hospitals.

54. The provision of special facilities should be made for each category of needs on a cost-effective basis, with both health care to women at home and at clinics under the existing health services system.

55. WHO and other relevant agencies should encourage Governments to provide adequate training programmes for health personnel regarding the specific needs of women and girls with disabilities.

56. There should be no discrimination against disabled women with regard to the availability of health-care services.

O. Rehabilitation

57. Rehabilitation services should be available to disabled women without sexual bias. Women should receive rehabilitation to enable them to have greater opportunities in the home and family and to participate fully in society. Medical rehabilitation services should be gender-neutral and available to all women with disabilities regardless of age.

58. Training in community-based rehabilitation approaches should be provided in all rural and urban areas with the involvement of disabled women at all levels.

P. Public buildings and housing

59. Legislation should be enacted to bring about environmental adjustments and changes in order to provide disabled women with access to all buildings including, but not limited to, hospitals, educational centres and public facilities.

60. All new housing being constructed should be accessible to disabled women.

61. Disabled women nominated by disabled people's organizations should be chosen, preferably as consultants, advisors or experts, to participate at all stages of planning and decision-taking procedures, in order to ensure that women will have access to all ranges of personal, family and social life.

Q. Transportation

62. Transportation should be accessible to all disabled women. There should be no policy that discriminates against disabled girls or women. Disabled mothers should be able to transport their children as required.

63. Special efforts should be made by those responsible for transportation to ensure that disabled women have the same access as disabled men to all services.

R. Technical needs and assistance

64. As women with disabilities have less access to equipment and technical aids, there should be local production of necessary equipment and it should be distributed to every woman with disabilities at low cost or free of charge. Programmes for the production of equipment and technical aids at the regional and national levels, including training in production and use for disabled women, are strongly recommended. Technical aids should take into account women's requirements in their design, materials and quality. If these technical aids are not available locally, the supply of imported equipment should be provided wherever needed, at work or at home.

65. Disabled girls and women should be provided with technical aids and assistance specifically designed to meet their unique needs. These services should be provided in a manner that takes into consideration the cultural and religious traditions of these women.

66. Member States should pursue such financial policies, fiscal policies and existing tax and import duty policies as are necessary to ensure that assisting devices can be obtained by disabled women at minimal cost.

S. Research

67. Any development programme for disabled women should investigate the actual living conditions of disabled women both in urban and rural areas. Furthermore, there should be research on ways and means of improving the status, raising the living standard of disabled women and providing necessary facilities for them.

68. Descriptions provided by disabled women themselves regarding their situation should be the most important source of information. Women's own interpretation and documentation of their experiences, which is now underway, can be the start of a world-wide research project on women with disabilities. It is suggested that an international network linked to the national focal point on

women with disabilities should be gradually created.

69. Particular attention should be given to improving the exchange of research experiences. In this context special attention should be given to recruiting and educating suitably qualified women with disabilities as researchers.

T. Project funding

70. The United Nations and the specialized agencies and international, national and local donor agencies should include in their priorities funding for programmes for disabled women. When priorities do exist in favour of disabled persons or women in general, favourable consideration should be given to the inclusion of programmes or components of programmes for disabled women.

71. In order to implement the recommendations made for activities at the international level, appropriate resources should be made available. Developing projects for and with disabled women should get the necessary support and funding. In this respect the Voluntary Fund for the United Nations Decade of Disabled Persons should continue to provide assistance beyond the year 1992 with priority to the issue of disabled women.

U. Regional and subregional activities

72. The regional commissions of the United Nations should include in their programmes of work special activities regarding the situation of disabled women in co-operation with other United Nations agencies, the Division for the Advancement of Women, the Social Development Division, and disabled women and their organizations.

73. Organizations working at a regional level, such as the regional commissions, regional offices of the specialized agencies, intergovernmental organizations and regional networks of the mass media, are requested to provide assistance to women with disabilities.

74. Organizations of the United Nations system as well as regional intergovernmental organizations should support non-governmental organizations and organizations concerned with disabled women financially and in other ways in order to ensure disabled women the exercise of their rights.

V. International focal points

75. The designated focal point in the United Nations system for the advancement of women is the Division for the Advancement of Women; for disabled persons, it is the Social Development Division (Disabled Persons' Unit). Both entities should continue to give attention to the issues of disabled women and work in close co-operation.

76. Organizations of disabled women, including committees of larger organizations, should participate actively in intergovernmental reviews of the Nairobi Forward-looking Strategies and the World Programme of Action concerning Disabled Persons as a means of promoting the implementation of the present recommendations. These organizations should in particular participate in the United Nations world conference on women to be held in 1995 and its related forum for non-governmental organizations and in similar activities relating to the World Programme of Action concerning Disabled Persons.

77. To facilitate such participation, the international focal points should make a special effort to provide information and document distribution to disabled women, their organizations and organizations concerned with the issues of disabled women, especially through newsletters and bulletins and should seek to consult them on a regular basis.

Appendix G (Translation by Brother de Carpentier, Director of The Holy Land Institute for the Deaf, Salt, Jordan.)

JORDANIAN LAW FOR THE WELFARE OF DISABLED PERSONS

Law Number (12) for the Year 1993

Article 1:

This Law shall be called the "Law for the Welfare of Disabled Persons" for the year 1993 and shall be put into effect two months after the date of the publication thereof in the Official Gazette.

Article 2:

The following words and expressions as mentioned in this Law shall have the specific meanings given for each of them unless otherwise stated:

The Ministry: The Ministry of Social Development.

The Minister: The Minister of Social Development.

The Disabled Person: Any person with a permanent, partial or total impairment in any of his senses or physical, psychological or mental abilities to the extent that the ability to learn, to be rehabilitated or to work, is limited in a way which renders him/her deficient in fulfilling his/her normal daily requirements in circumstances similar to those of able-bodied persons,

The Council: "The National Council for the Affairs of Disabled Persons" established under the provisions of this Law.

Special Education: Educational and teaching services offered to disabled persons for the purpose of fulfilling their needs, developing their capabilities and helping them integrate into the society.

Rehabilitation: The services and activities that enable the disabled person to pursue his/her life in a better manner on the physical, social, intellectual, psychological and vocational levels.

Article 3:

The philosophy of the Hashemite Kingdom of Jordan with regard to its disabled citizens springs forth from Arab-Islamic values, the Jordanian Constitution, the National Charter, the laws governing education and higher education, the World Declaration on Human Rights, and the International Declaration on Disabled Persons, and stresses the following principles:

- A. The right of disabled persons to be integrated into the general life of the society.
- B. The right of disabled persons to education and higher education commensurate with their abilities.
- C. The right of disabled persons to employment commensurate with their capabilities and qualifications, and their right to sports and recreation.
- D. The right of disabled persons to preventative health care and medical treatment.
- E. The right of disabled persons to a suitable environment that allows them freedom of movement and transportation in a safe and secure manner.
- F. The right of disabled persons to obtain such aids, equipment and materials that assist them in education, training, movement and transportation.
- G. The right of those who have multiple and severe disabilities to education, training and rehabilitation.
- H. The right of needy parents with disabled dependants to relief, welfare and support services.
- I. The right of disabled persons to participate in decision making pertaining to them.

Article 4:

The Ministry in cooperation with the other ministries, governmental departments

and all parties concerned with the welfare and education of disabled persons, shall work towards the provision by these parties of their services and programmes for the welfare of disabled persons, including the following:

a. The Ministry

1. Shall provide the social assessment required for the determination of the nature and degree of disability;
2. Shall provide to those with multiple and severe disabilities the special services for disabled persons in the fields of welfare, care, relieve, and training, as well as the family and information services;
3. Shall supervise and license all institutions and centres in the public and private sectors concerned with the rehabilitation, welfare and relief of disabled persons;

b. The Ministry of Education

1. Shall provide the educational assessment required for the determination of the nature and degree of disability;
2. Shall provide primary and all forms of secondary education for disabled persons commensurate with their capabilities, among which the educational provisions that include programmes of special education.
3. Every educational establishment in the public and private sectors concerned with the education and teaching of disabled persons, shall be considered a school, to be licensed and supervised by the Ministry of Education.

c. The Ministry of Higher Education and the governmental and non-governmental Institutes for Higher Education.

1. Shall provide opportunities for disabled persons to exercise their rights to such education commensurate with their

capabilities and potential.

2. The Ministry of Higher Education shall work towards the training of qualified technical staff to work with the various categories of disabled persons.

d. The Ministry of Health and the Royal Medical Services each in their fields of specialization shall provide the following:

1. The special preventative, curative, physical and mental health services pertinent to disabled persons.

2. The medical diagnosis and classification services required for determining the nature and degree of disability, in cooperation with the Ministry.

3. Health insurance cards free of charge for needy disabled persons and their dependants who are not covered by any other health insurance scheme, according to regulations issued for this purpose.

e. The Ministry of Information shall through its various organs, involve itself with disabled persons and emphasize the importance of integrating disabled persons into society.

f. The Ministry of Labour and the Vocational Training Corporation shall provide

1. the programs and plans and the evaluation services, necessary to achieve the appropriate vocational training for disabled persons, and the development of their capabilities, and the creation of appropriate employment opportunities, and the support for protected workshop projects.

2. Public and private sector establishments and companies employing between 25 and 50 workers shall employ one disabled person and if the number of workers in any of these

establishments exceeds 50, disabled workers should account for 2%, provided that the type of disability is not inconsistent with the nature of the work in the establishment.

g. The Ministry of Youth shall provide for young disabled persons the opportunities for sports and recreation in playgrounds and halls, as well as the equipment, to satisfy their needs and develop their capabilities.

Article 5:

a. All educational and medical materials, assistive devices, tools, instruments and their requisite parts, means of transport required by the schools, establishments and programs for disabled persons and individual or collective production projects owned and managed by disabled persons, and means of transport which are especially adapted for the use of disabled persons, shall be exempted from customs and import duties and all other fees and taxes, at the recommendation of the Minister, and subject to the terms to be agreed upon between the Ministry and the General Customs Department.

b. Centers and establishments for the welfare of disabled persons, belonging to the government or charitable societies, shall be exempted from the buildings, lands and education taxes imposed on the real estates owned by such centres, and shall be exempted from registration fees for the real estates they own, and any other revenues or royalties for improvements, and fees collected by any Municipality or Rural Council in the Kingdom, as long as these real estates are being used for services for disabled persons; the exemption shall be issued at the discretion of the Minister.

Article 6:

a. A council, to be known as "The National Council for the Welfare of Disabled Persons" shall be established under the presidency of the Minister and with the following members:

- | | |
|---|---------------|
| 1. Secretary-General of the Ministry | Vice-Chairman |
| 2. Secretary-General, Ministry of Labour | Member |
| 3. Secretary-General, Ministry of Education | Member |
| 4. Secretary-General, Ministry of Health | Member |

- | | |
|---|-----------------------|
| 5. Secretary-General, Ministry of Higher Education | Member |
| 6. Representative of the Ministry of Youth | Member |
| 7. Representative of the Ministry of Information | Member |
| 8. Representative of the General Headquarters of the Jordanian Armed Forces | Member |
| 9. Representative of the Queen Alia Voluntary Fund, to be nominated by the Fund's Council of Trustees | Member |
| 10. Representative of the Executive Council of the General Union of the Voluntary Agencies, to be nominated by the Executive Council | Member |
| 11. Director of Special Education at the Ministry | Member and Rapporteur |
| 12. Representative for non-governmental centers and establishments working in different fields of disability, nominated by the Minister | Member |
| 13. Representative for the guardians of disabled persons, nominated by the Minister | Member |
| 14. Three Representatives for disabled persons, nominated by the Minister, one being physically disabled, one blind and one deaf | Member |
| 15. Representative of the Jordanian University, to be nominated by its President | Member |

b. The Minister shall appoint a civil servant of the Ministry as Secretary.

c. At the discretion of the President of the National Council, the Council of Ministers has the right to co-opt onto the membership of the Council a maximum of three persons dealing with the welfare and affairs of disabled persons, providing that the approval of the Council of Ministers is obtained whenever such aid and donations come from foreign sources.

d. Proposing special draft regulations pertaining to disabled persons and as required for the implementation of this Law.

e. Laying down internal executive and organizational instructions for the administrative, educational and rehabilitation projects and programmes as required for the implementation of this Law and the regulations issued thereunder.

Article 8:

a. When constructing official and public buildings and opening roads, the concerned parties shall make arrangements for the required special lanes and facilities and the necessary devices for the use of disabled persons to facilitate their ease of movement and to ensure their safety.

Article 9:

a. Local and foreign special establishments and centers for the welfare and rehabilitation of disabled persons, shall be established in accordance with a license, to be issued by the Minister, and this license shall be temporary or permanent according to the regulations issued for this purpose by the Minister.

b. Any temporary or permanent license issued by the Minister prior to the enforcement of this Law shall be considered as issued thereunder.

Article 10:

In the event that any school or establishment or center of the establishments, centers and schools for the welfare of disabled persons violates any of the provisions of this Law or any regulations issued thereunder, the concerned Minister shall serve it a warning to cease this violation within a period he shall determine.

If the transgressor fails to remove the causes of the violation within that period or if the violation continues or re-occurs, the concerned Minister may close down the establishment for the period he deems appropriate, or may abolish its license absolutely.

Article 11:

The Council of Ministers shall issue the regulations necessary for the implementation of the provisions of this Law.

Article 12:

The Prime Minister and the Ministers are charged with the execution of the provisions of this Law.

Signed by the Council of Ministers.

Appendix H

UN STANDARD RULES ON THE EQUALIZATION OF OPPORTUNITIES FOR PERSONS WITH DISABILITIES

The General Assembly,

Recalling Economic and Social Council resolution 1990/26 of 24 May 1990., in which the Council authorized the Commission for Social Development to consider, at its thirty-second session, the establishment of an ad hoc open-ended working group of government experts, funded by voluntary contributions, to elaborate standard rules on the equalization of opportunities for disabled children, youth and adults, in close collaboration with the specialized agencies, other intergovernmental bodies and non-governmental organizations, especially organizations of disabled persons, and in which it requested the Commission, should it establish such a working group, to finalize the text of those rules for consideration by the Council at its forty-eighth session,

Also recalling that in its resolution 32/2 of 20 February 1991 the Commission for Social Development decided to establish an ad hoc open-ended working group of government experts in accordance with Economic and Social Council resolution 1990/26,¹

Taking note with appreciation of the participation of many States, specialized agencies, intergovernmental bodies and non-governmental organizations, especially organizations of disabled persons, in the deliberations of the working group,

Noting with appreciation the generous financial contributions of Member States to the working group,

Welcoming the fact that the working group was able to fulfil its mandate within three sessions of five working days each,

¹ See Official Records of the Economic and Social Council, 1991, Supplement No. 6 (E/1991/26), chap. I, sect. D.

Acknowledging with appreciation the report of the ad hoc open-ended working group to elaborate standard rules on the equalization of opportunities for disabled persons,²

Taking note of the discussion of the Commission for Social Development at its thirty-third session on the draft standard rules,³

1. Adopts the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, set forth in the annex to the present resolution;
2. Requests Member States to apply the Standard Rules in developing national disability programmes;
3. Urges Member States to meet the requests of the Special Rapporteur for information on the implementation of the Standard Rules;
4. Requests the Secretary-General to promote the implementation of the Standard Rules and to report thereon to the General Assembly at its fiftieth session;
5. Urges Member States to support, financially and otherwise, the implementation of the Standard Rules.

ANNEX

Standard Rules on the Equalization of Opportunities for Persons with Disabilities.

INTRODUCTION

Background and current needs

² E/CN.5/1993/5.

³ See Official Records of the Economic and Social Council, 1993, Supplement No.4 (E/1993/24), chap. III, sect. E.

Previous international action

Towards standard rules

Purpose and content of the Standard Rules for the Equalization of 'Opportunities for Persons with Disabilities.

Fundamental concepts in disability policy

PREAMBLE

I. PRECONDITIONS FOR EQUAL PARTICIPATION

Relieving conditions of persons with disabilities. Ignorance, neglect, superstition and fear are social factors which throughout the history of disability have delayed the development of and isolated persons with disabilities.

4. Over the years disability policy developed from elementary care at institutions to education for children with disabilities and rehabilitation for persons who became disabled during adult life. Through education and rehabilitation, persons with disabilities became more active and a driving force in the further development of disability policy. Organizations of persons with disabilities, their families and advocates were formed, which advocated better conditions for persons with disabilities. After the Second World War the concepts of integration and normalization were introduced, which reflected a growing awareness of the capabilities of persons with disabilities.

5. Towards the end of the 1960s organizations of persons with disabilities in some countries started to formulate a new concept of disability. This new concept indicated the close connection between the limitation experienced by individuals with disabilities, the design and structure of their environments and the attitude of the general population. At the same time the problems of disability in developing countries were more and more highlighted. In some of those countries the percentage of the population with disabilities was estimated to be very high and, for the most part, persons with disabilities were extremely poor.

Previous international action

6. The rights of persons with disabilities have been the subject of much attention

in the United Nations and other international organizations over a long period of time. The most important outcome of the International Year of Disabled Persons, 1981, was the World Programme of Action concerning Disabled Persons,⁴ adopted by the General Assembly in its resolution 37/52. The International Year of Disabled Persons and the World Programme of Action provided a strong impetus for progress in the field. They both emphasized the right of persons with disabilities to the same opportunities as other citizens and to an equal share in the improvements in living conditions resulting from economic and social development. Here, also, for the first time, handicap was defined as a function of the relationship between persons with disabilities and their environment.

7. The Global Meeting of Experts to Review the Implementation of the World Programme of Action concerning Disabled Persons at the Mid-Point of the United Nations Decade of Disabled Persons was held at Stockholm in 1987. It was suggested at that meeting that a guiding philosophy should be developed to indicate the priorities for action in the years ahead. The basis of this philosophy should be the recognition of the rights of persons with disabilities.

8. Consequently, the Meeting recommended that the General Assembly convene a special conference in order to draft an international convention on the elimination of all forms of discrimination against persons with disabilities, to be ratified by States by the end of the Decade.

9. A draft outline of the Convention was prepared by Italy and presented to the General Assembly at its forty-second session. Further representations concerning a draft convention were made by Sweden at the forty-fourth session of the Assembly. However, on both occasions, no consensus could be reached on the suitability of such a convention. In the opinion of many representatives, existing human rights documents seemed to guarantee persons with disabilities the same rights as other persons.

Towards standard rules

10. Guided by the deliberations in the General Assembly, the Economic and

⁴ A/47/351/Add.1 and Corr.1, annex, sect. VIII, recommendation 1 (iv).

Social Council, at its first regular session of 1990, finally agreed to concentrate on the elaboration of an international instrument of a different kind. In its resolution 1990/26, the Council authorized the Commission for Social Development to consider, at its thirty-second session, the establishment of an ad hoc open-ended working group of government experts, funded by voluntary contributions, to elaborate standard rules on the equalization of opportunities for disabled children, youth and adults, in close collaboration with the specialized agencies, other intergovernmental organizations and non-governmental organizations, especially organizations of persons with disabilities themselves. The Council also requested the Commission to finalize the text of those rules for consideration in 1993 and for submission to the General Assembly at its forty-eighth session.

11. The subsequent discussions in the Third Committee of the General Assembly at the forty-fifth session showed that there was wide support for the new initiative to elaborate standard rules on the equalizations of opportunities for persons with disabilities.

12. At the thirty-second session of the Commission for Social Development, the initiative for standard rules received the support of a large number of representatives and discussion led to the adoption of resolution 32/2, in which it was decided to establish an ad hoc open-ended working group in accordance with Economic and Social Council resolution 1990/26.

Purpose and content of Standard Rules for the Equalization of Opportunities for Persons with Disabilities.

13. The Standard Rules for the Equalization of Opportunities for Persons with Disabilities have been developed on the basis of the experience gained during the United Nations Decade of Disabled Persons (1983-1992).⁵ The International Bill of Human Rights, comprising the Universal Declaration of Human Rights,⁶ the International Covenant on Economic, Social, and Cultural Rights,⁷ and the

⁵ Proclaimed by the General Assembly in its resolution 37/53.

⁶ Resolution 217 A (III), annex.

⁷ Resolution 2200 A (XXI), annex.

International Covenant on Civil and Political Rights,⁸ the Convention on the Rights of the Child⁹ and the Convention on the Elimination of All Forms of Discrimination against Women,¹⁰ as well as the World Programme of Action concerning Disabled Persons, constitute the political and moral foundation for these Rules.

14. Although these Rules are not compulsory, they can become international customary rules when they are applied by a great number of States with the intention of respecting a rule in international law. They imply a strong moral and political commitment on behalf of States to take action for the equalization of opportunities. Important principles for responsibility, action and cooperation are indicated. Areas of decisive importance for the quality of life and for the achievement of full participation and equality are pointed out. These Rules offer an instrument for policy-making and action to persons with disabilities and their organizations. They provide a basis for technical and economic cooperation among States, the United Nations and other international organizations.

15. The purpose of these Rules is to ensure that girls, boys, women and men with disabilities, as citizens of their societies, may exercise the same rights and obligations as others. In all societies of the world there are still obstacles preventing persons with disabilities from exercising their rights and freedoms and making it difficult for them to participate fully in the activities of their societies. It is the responsibility of States to take appropriate action to remove such obstacles. Persons with disabilities and their organizations should play an active role as partners in this process. The equalization of opportunities for persons with disabilities is an essential contribution in the general and world wide effort to mobilize human resources. Special attention may need to be directed towards groups such as women, children, the elderly, the poor, migrant workers, persons with dual or multiple disabilities, indigenous persons and ethnic minorities. In addition, there are a large number of refugees with disabilities with special needs which require attention.

⁸ *ibid.*

⁹ Resolution 44/25, annex.

¹⁰ Resolution 34/180, annex.

Fundamental concepts in disability policy

16. The following concepts appear throughout. They are basically built on the concepts in the World Programme of Action concerning Disabled Persons. In some cases they reflect the development which has taken place during the United Nations Decade of Disabled Persons.

Disability and handicap.

17. The term "disability" summarizes a great number of different functional limitations occurring in any population in all countries of the world. People may be disabled by physical, intellectual or sensory impairment, medical conditions or mental illness. Such impairments, conditions or illnesses may be permanent or transitory in nature.

18. Handicap is the loss or limitation of opportunities to take part in the life of the community on an equal level with others. The term "handicap" describes the encounter between the person with a disability and the environment. The purpose of this term is to emphasize the focus on the shortcomings in the environment and in many organized activities in society, for example, information, communication and education, which prevent persons with disabilities from participating on equal terms.

19. This use of the two terms disability and handicap should be seen in the light of modern disability history. During the 1970s there was a strong reaction among representatives of organizations of persons with disabilities and professionals in the field of disability against the terminology of the time. The terms disability and handicap were often used in an unclear and confusing way, which gave poor guidance for policy-making and for political action. The terminology reflected a medical and diagnostic approach, which ignored the imperfections and deficiencies of the surrounding society.

20. In 1980, the World Health Organization adopted an international classification of impairment, disability and handicap (ICIDH), which suggested a more precise and at the same time relativistic approach. This classification makes a clear distinction between impairment, disability and handicap. ICIDH has been extensively used in areas such as rehabilitation, education, statistics, policy, legislation, demography, sociology, economics and anthropology. Some

users have expressed concern that ICIDH, in its definition of the term handicap, may still be considered too medical and too centred on the individual, and may not adequately clarify the interaction between societal conditions or expectations and the abilities of the individual. These concerns, and others which have been expressed by users over the past 12 years since the publication of ICIDH, will be addressed in forthcoming revisions of ICIDH.

21. Based on experience in connection with the implementation of the World Programme of Action and on the general discussion which occurred during the United Nations Decade of Disabled Persons, there was a deepening of knowledge and extension of understanding concerning disability issues and the terminology used. Current terminology recognizes the necessity of addressing both the individual needs (such as rehabilitation and technical aids) and the shortcomings of the society (various obstacles for participation).

Prevention

22. Prevention means action aimed at preventing the occurrence of physical, intellectual, psychiatric or sensory impairments (primary prevention) or at preventing impairments from causing a permanent functional limitation or disability (secondary prevention). Prevention may include many different types of action such as primary health care, prenatal and postnatal child care, education in nutrition, immunization campaigns against communicable diseases, measures to control endemic diseases, safety regulations, programmes for the prevention of accidents in different environments, including adaption of workplaces to prevent occupational disabilities and diseases, and prevention of disability which results from pollution of the environment or armed conflict.

Rehabilitation

23. Rehabilitation is a process aimed at enabling persons with disabilities to reach and maintain their optimal physical, sensory, intellectual, psychiatric and/or social functional levels, thus providing them with the tools to change their lives towards a higher level of independence. Rehabilitation may include measures to provide and/or restore functions, or compensate for the loss or absence of a function or for a functional limitation. The rehabilitation process does not involve initial medical care. It includes a wide range of measures and activities from more basic and general rehabilitation to goal-oriented activities,

for instance vocational rehabilitation.

Equalization of opportunities

24. Equalization of opportunities means the process through which the various systems of society and the environment, such as services, activities, information and documentation, are made available to all, particularly to persons with disabilities.

25. The principle of equal rights implies that the needs of each and every individual are of equal importance, that these needs must be made the basis for the planning of societies and that all resources must be employed in such a way as to ensure that every individual has equal opportunity or participation.

26. Persons with disabilities are members of society and have the right to remain within their local communities. They should receive the support they need within the ordinary structures of education, health, employment and social services.

27. As persons with disabilities achieve equal rights, they should also have equal obligations. As these rights are being achieved, societies should raise their expectations of persons with disabilities. As part of the process of equal opportunities, provision should be made to assist persons with disabilities to assume their full responsibility as members of society.

PREAMBLE

Mindful of the pledge made by States, under the Charter of the United Nations, to take joint and separate action in cooperation with the Organization to promote higher standards of living, full employment and conditions of economic and social progress and development,

Reaffirming the commitment to human rights and fundamental freedoms, social justice and the dignity and worth of the human person proclaimed in the Charter,

Recalling in particular the international standards on human rights which have been laid down in the Universal Declaration of Human Rights, the International

Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Noting that these instruments proclaim that the rights recognized therein should be ensured equally to all individuals without discrimination,

Recalling the provisions of the Convention on the Rights of the Child, which prohibit discrimination on the basis of disability and require special measures to ensure the rights of children with disabilities, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which provides for some protective measures against disability,

Recalling also the provisions in the Convention on the Elimination of All Forms of Discrimination against Women to ensure the rights of girls and women with disabilities,

Having regard to the Declaration on the Rights of Disabled Persons, the Declaration on the Rights of Mentally Retarded Persons, the Declaration on Social Progress and Development, the Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care, and other relevant instruments adopted by the General Assembly,

Also having regard to the relevant conventions and recommendations adopted by the International Labour Organisation, with particular reference to participation in employment without discrimination for persons with disabilities,

Mindful of the relevant recommendations and work of the United Nations Educational, Scientific and Cultural Organization, in particular the World Declaration on Education for All, the World Health Organization, the United Nations Children's Fund and other concerned organizations,

Having regard to the commitment made by States concerning the protection of the environment,

Mindful of the devastation caused by armed conflict and deploring the use of scarce resources in the production of weapons,

Recognizing that the World Programme of Action concerning Disabled Persons

and the definition therein of "equalization of opportunities" represent earnest ambitions by the international community to render these various international instruments and recommendations of practical and concrete significance,

Acknowledging that the objective of the United Nations Decade of Disabled Persons (1983-1992) to implement the World Programme of Action is still valid, and requires urgent and continued action,

Recalling that the World Programme of Action is based on concepts which are equally valid in developing as well as industrialized countries,

Convinced that intensified efforts are needed to achieve the full and equal enjoyment of human rights and participation in society by persons with disabilities,

Re-emphasizing that persons with disabilities, their parents, guardians, advocates and organizations, must be active partners with States in the planning and implementation of all measures affecting their civil, political, economic, social and cultural rights,

Complying with Economic and Social Council resolution 1990/26, and basing themselves on the detailed enumeration in the World Programme of Action of specific measures required for the attainment by persons with disabilities of equality with others,

States have adopted the Standard Rules on the Equalization of Opportunities for Disabled Persons outlined below in order:

- (a) To stress that all action in the field of disability presupposes adequate knowledge and experience of the conditions and special needs of persons with disabilities;
- (b) To emphasize that the process through which every aspect of societal organization is made accessible to all is a basic objective of socio-economic development;
- (c) To outline crucial aspects of social policies in the field of disability, including, as appropriate, the active encouragement of technical and economic cooperation;
- (d) To provide models for the political decision-making process required for the attainment of equal opportunities, bearing in

mind the widely differing technical and economic levels, the fact that the process must reflect keen understanding of the cultural context within which it takes place and the crucial role of persons with disabilities within it.

(e) To propose national mechanisms for close collaboration among States, the organs of the United Nations system, other intergovernmental bodies and organizations of persons with disabilities;

(f) To propose an effective machinery for monitoring the process by which States seek to attain the equalization of opportunities for persons with disabilities.

I. PRECONDITIONS FOR EQUAL PARTICIPATION

Rule 1. Awareness-raising

States should take action to raise awareness in society about persons with disabilities, their rights, their needs, their potential and their contribution.

1. States should ensure that responsible authorities distribute up-to-date information on available programmes and services to persons with disabilities, their families, professionals in this field and the general public. Information to persons with disabilities should be presented in accessible form.

2. States should initiate and support information campaigns concerning persons with disabilities and disability policies, conveying the message that persons with disabilities are citizens with the same rights and obligations as others, thus justifying measures to remove all obstacles to full participation.

3. States should encourage the portrayal of persons with disabilities by the mass media in a positive way; organizations of persons with disabilities should be consulted on this matter.

4. States should ensure that public education programmes reflect in all their aspects the principle of full participation and equality.

5. States should invite persons with disabilities and their families and organizations to participate in public education programmes concerning disability

matters.

6. States should encourage enterprises in the private sector to include disability issues in all aspects of their activity.
7. States should initiate and promote programmes aimed at raising the level of awareness of persons with disabilities concerning their rights and potential. Increased self-reliance and empowerment will assist persons with disabilities to take advantage of the opportunities available to them.
8. Awareness-raising should be an important part of the education of children with disabilities and in rehabilitation programmes. Persons with disabilities could also assist one another in awareness-raising through the activities of their own organizations.
9. Awareness-raising should be part of the education of all children and should be a component of teacher-training courses and training of all professionals.

Rule 2. Medical care

States should ensure the provision of effective medical care to persons with disabilities.

1. States should work towards the provision of programmes run by multidisciplinary teams of professionals for early detection, assessment and treatment of impairment. This could prevent, reduce or eliminate disabling effects. Such programmes should ensure the full participation of persons with disabilities and their families at the individual level, and of organizations of persons with disabilities at the planning and evaluation level.
2. Local community workers should be trained to participate in areas such as early detection of impairments, the provision of primary assistance and referral of appropriate services.
3. States should ensure that persons with disabilities, particularly infants and children, are provided with the same level of medical care within the same system as other members of society.

4. States should ensure that all medical and paramedical personnel are adequately trained and equipped to give medical care to persons with disabilities and that they have access to relevant treatment methods and technology.

5. States should ensure that medical, paramedical and related personnel are adequately trained so that they do not give inappropriate advice to parents, thus restricting options for their children. This training should be an ongoing process and should be based on the latest information available.

6. States should ensure that persons with disabilities are provided with any regular treatment and medicines they may need to preserve or improve their level of functioning.

Rule 3. Rehabilitation

States should ensure the provision of rehabilitation services to persons with disabilities in order for them to reach and sustain their optimum level of independence and functioning.

1. States should develop national rehabilitation programmes for all groups of persons with disabilities. Such programmes should be based on the actual individual needs of persons with disabilities and on the principles of full participation and equality.

2. Such programmes should include a wide range of activities, such as basic skills training to improve or compensate for an affected function, counselling of persons with disabilities and their families, developing self-reliance, and occasional services such as assessment and guidance.

3. All persons with disabilities, including persons with severe and/or multiple disabilities, who require rehabilitation should have access to it.

4. Persons with disabilities and their families should be able to participate in the design and organization of rehabilitation services concerning themselves.

5. All rehabilitation services should be available in the local community where the person with disabilities lives. However, in some instances, in order to attain a certain training objective, special time-limited rehabilitation courses may be

organized, where appropriate, in residential form.

6. Persons with disabilities and their families should be encouraged to involve themselves in rehabilitation, for instance as trained teachers, instructors or counsellors.

7. States should draw upon the expertise of organizations of persons with disabilities when formulating or evaluating rehabilitation programmes.

Rule 4. Support services

States should ensure the development and supply of support services including assistive devices for persons with disabilities, to assist them to increase their level of independence in their daily living and to exercise their rights.

1. States should ensure the provision of assistive devices and equipment, personal assistance and interpreter services, according to the needs of persons with disabilities, as important measures to achieve the equalization of opportunities.

2. States should support the development, production, distribution and servicing of assistive devices and equipment and the dissemination of knowledge about them.

3. To achieve this, generally available technical know-how should be utilized. In States where high-technology industry is available, it should be fully utilized to improve the standard and effectiveness of assistive devices and equipment. It is important to stimulate the development and production of simple and inexpensive devices, when possible using local material and local production facilities. Persons with disabilities themselves could be involved in the production of these devices.

4. States should recognize that all persons with disabilities who need assistive devices should have access to them as appropriate, including financial accessibility. This may mean that assistive devices and equipment should be provided free of charge or at such a low price that persons with disabilities or their families can afford to buy them.

5. In rehabilitation programmes for the provision of assistive devices and equipment, States should consider the special requirements of girls and boys with disabilities concerning the design, durability and age-appropriateness of assistive devices and equipment.

6. States should support the development and provision of personal assistance programmes and interpretation services, especially for persons with severe and/or multiple disabilities. Such programmes would increase the level of participation of persons with disabilities in everyday life, at home, at work, in school and during leisure-time activities.

7. Personal assistance programmes should be designed in such a way that the persons with disabilities using the programmes have a decisive influence on the way in which the programmes are delivered.

II. TARGET AREAS FOR EQUAL PARTICIPATION.

Rule 5. Accessibility

States should recognize the overall importance of accessibility in the process of equalization of opportunities in all spheres of society. For persons with disabilities of any kind, States should (a) introduce programmes of action to make the physical environment accessible; and (b) undertake measures to provide access to information and communication.

(a) Access to the physical environment

1. States should initiate measures to remove the obstacles to participation in the physical environment. Such measures should be to develop standards and guidelines and to consider enacting legislation to ensure accessibility to various areas in society, for instance concerning housing, buildings, public transport services and other means of transportation, streets and other outdoor environments.

2. States should ensure that architects, construction engineers and others who are professionally involved in the design and construction of the physical environment have access to adequate information on disability policy and measures to achieve accessibility.

3. Accessibility requirements should be included in the design and construction of the physical environment from the beginning of the designing process.

4. Organizations of persons with disabilities should be consulted when developing standards and norms for accessibility. They should also be involved locally from the initial planning stage when public construction projects are being designed, thus ensuring maximum accessibility.

(b) Access to information and communication

5. Persons with disabilities and, where appropriate, their families and advocates should have access to full information on diagnosis, rights and available services and programmes, at all stages. Such information should be presented in forms accessible to people with disabilities.

6. States should develop strategies to make information services and documentation accessible for different groups of people with disabilities. Braille, tape services, large print and other appropriate technologies should be used to provide access to written information and documentation for persons with visual impairments. Similarly, appropriate technologies should be used to provide access to spoken information for persons with auditory impairments or comprehension difficulties.

7. Consideration should be given to the use of sign language in the education of deaf children, in their families and communities. Sign language interpretation services should also be provided to facilitate the communication between deaf persons and others.

8. Consideration should also be given to the needs of people with other communication disabilities.

9. States should encourage the media, especially television, radio and newspapers, to make their services accessible.

10. States should ensure that new computerized information and service systems offered to the general public are either made initially accessible or are adapted to be made accessible to persons with disabilities.

11. Organizations of persons with disabilities should be consulted when developing measures to make information services accessible.

Rule 6. Education

States should recognize the principle of equal primary, secondary and tertiary educational opportunities for children, youth and adults with disabilities, in integrated settings. They should ensure that the education of persons with disabilities is an integral part of the educational system.

1. General educational authorities are responsible for the education of persons with disabilities in integrated settings. Education for persons with disabilities should form an integral part of national educational planning, curriculum development and school organization.

2. Education in mainstream schools presupposes the provision of interpreter and other appropriate support services. Adequate accessibility and support services, designed to meet the needs of persons with different disabilities, should be provided.

3. Parent groups and organizations of persons with disabilities should be involved in the education process at all levels.

4. In States where education is compulsory it should be provided to girls and boys with all kinds and all levels of disabilities, including the most severe.

5. Special attention should be given to the following areas:

- (a) Very young children with disabilities;
- (b) Pre-school children with disabilities;
- (c) Adults with disabilities, particularly women.

6. To accommodate educational provisions for persons with disabilities in the mainstream, States should:

- (a) Have a clearly stated policy, understood and accepted at the school level and by the wider community;
- (b) Allow for curriculum flexibility, addition and adaptation;

(c) Provide for quality materials, ongoing teacher training and support teachers.

7. Integrated education and community-based programmes should be seen as complementary approaches in providing cost-effective education and training for persons with disabilities. National community-based programmes should encourage communities to use and develop their resources to provide local education to persons with disabilities.

8. In situations where the general school system does not yet adequately meet the needs of all persons with disabilities, special education may be considered. It should be aimed at preparing students for education in the general school system. The quality of such education should reflect the same standards and ambitions as general education and should be closely linked to it. At a minimum, students with disabilities should be afforded the same portion of educational resources as students without disabilities. States should aim for the gradual integration of special education services with mainstream education. It is acknowledged that in some instances special education may currently be considered to be the most appropriate form of education for some students with disabilities.

9. Owing to the particular communication needs of deaf and deaf/blind persons, their education may be more suitably provided in schools for such persons or special classes and units in mainstream schools. At the initial stage, in particular, special attention needs to be focused on culturally sensitive instruction that will result in effective communication skills and maximum independence for people who are deaf or deaf/blind.

Rule 7: Employment

States should recognize the principle that persons with disabilities must be empowered to exercise their human rights, particularly in the field of employment. In both rural and urban areas they must have equal opportunities for productive and gainful employment in the labour market.

1. Laws and regulations in the employment field must not discriminate against persons with disabilities and must not raise obstacles to their employment.

2. States should actively support the integration of persons with disabilities into open employment. This active support could occur through a variety of measures, such as vocational training, incentive-oriented quota schemes, reserved or designated employment, loans or grants for small business, exclusive contracts or priority production rights, tax concessions, contract compliance or other technical or financial assistance to enterprises employing workers with disabilities. States should also encourage employers to make reasonable adjustments to accommodate persons with disabilities.

3. States' action programmes should include:

(a) Measures to design and adapt workplaces and work premises in such a way that they become accessible for persons with different disabilities;

(b) Support for the use of new technologies and the development and production of assistive devices, tools and equipment and measures to facilitate access to such devices and equipment for persons with disabilities, to enable them to gain and maintain employment;

(c) Provision of appropriate training and placement and ongoing support such as personal assistance and interpreter services.

4. States should initiate and support public awareness-raising campaigns designed to overcome negative attitudes and prejudices concerning workers with disabilities.

5. In their capacity as employers, States should create favourable conditions for the employment of persons with disabilities in the public sector.

6. States, workers' organizations and employers should cooperate to ensure equitable recruitment and promotion policies, employment conditions, rates of pay, measures to improve the work environment in order to prevent injuries and impairments and measures for the rehabilitation of employees who have sustained employment-related injuries.

7. The aim should always be for persons with disabilities to obtain employment in the open labour market. For persons with disabilities whose needs cannot be met in open employment, small units of sheltered or supported employment may be an alternative. It is important that the quality of such programmes be

assessed in terms of their relevance and sufficiency in providing opportunities for persons with disabilities to gain employment in the labour market.

8. Measures should be taken to include persons with disabilities in training and employment programmes in the private and informal sectors.

9. States, workers' organizations and employers should cooperate with organizations of persons with disabilities concerning all measures to create training and employment opportunities, including flexible hours, part-time work, job-sharing, self-employment and attendant care for persons with disabilities.

Rule 8. Income maintenance and social security

States are responsible for the provision of social security and income maintenance for persons with disabilities.

1. States should ensure the provision of adequate income support to persons with disabilities who, owing to disability or disability-related factors, have temporarily lost or received a reduction in their income or have been denied employment opportunities. States should ensure that the provision of support takes into account the costs frequently incurred by persons with disabilities and their families as a result of the disability.

2. In countries where social security, social insurance or other social welfare schemes exist or are being developed for the general population, States should ensure that such systems do not exclude or discriminate against persons with disabilities.

3. States should also ensure the provision of income support and social security protection to individuals who undertake the care of a person with a disability.

4. Social security systems should include incentives to restore the income-earning capacity of persons with disabilities. Such systems should provide or contribute to the organization, development and financing of vocational training. They should also assist with placement services.

5. Social security programmes should also provide incentives for persons with disabilities to seek employment in order to establish or re-establish their income-

s earning capacity.

6. Income support should be maintained as long as the disabling conditions remain in a manner that does not discourage persons with disabilities from seeking employment. It should only be reduced or terminated when persons with disabilities achieve adequate and secure income.

7. States, in countries where social security is to a large extent provided by the private sector, should encourage local communities, welfare organizations and families to develop self-help measures and incentives for employment or employment-related activities for persons with disabilities.

Rule 9. Family life and personal integrity

e States should promote the full participation of persons with disabilities in family life. They should promote their right to personal integrity and ensure that laws do not discriminate against persons with disabilities with respect to sexual relationships, marriage and parenthood.

1. Persons with disabilities should be enabled to live with their families. States should encourage the inclusion in family counselling of appropriate modules regarding disability and its effects on family life. Respite-care and attendant-care services should be made available to families which include a person with disabilities. States should remove all unnecessary obstacles to persons who want to foster or adopt a child or adult with disabilities.

2. Persons with disabilities must not be denied the opportunity to experience their sexuality, have sexual relationships and experience parenthood. Taking into account that persons with disabilities may experience difficulties in getting married and setting up a family, States should encourage the availability of appropriate counselling. Persons with disabilities must have the same access as others to family-planning methods, as well as to information in accessible form on the sexual functioning of their bodies.

3. States should promote measures to change negative attitudes towards marriage, sexuality and parenthood of people with disabilities, especially of girls and women with disabilities, which still prevail in society. The media should be encouraged to play an important role in removing such negative attitudes.

4. Persons with disabilities and their families need to be fully informed about taking precautions against sexual and other forms of abuse. Persons with disabilities are particularly vulnerable to abuse in the family, community or institutions and need to be educated on how to avoid the occurrence of abuse, recognize when abuse has occurred and report on such acts.

Rule 10. Culture

States will ensure that persons with disabilities are integrated into and can participate in cultural activities on an equal basis.

1. States should ensure that persons with disabilities have the opportunity to utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of their community, be they in urban or rural areas. Examples of such activities are dance, music, literature, theatre, plastic arts, painting and sculpture. Particularly in developing countries, emphasis should be placed on traditional and contemporary art forms, such as puppetry, recitation and story-telling.

2. States should promote the accessibility to and availability of places for cultural performances and services, such as theatres, museums, cinemas and libraries, to persons with disabilities.

3. States should initiate the development and use of special technical arrangements to make literature, films and theatre accessible to persons with disabilities.

Rule 11. Recreation and sports

States will take measures to ensure that persons with disabilities have equal opportunities for recreation and sports.

1. States should initiate measures to make places for recreation and sports, hotels, beaches, sports arenas, gym halls etc. accessible to persons with disabilities. These measures should encompass support for staff in recreation and sports programmes, including projects to develop methods of accessibility, and participation, information and training programmes.

2. Tourist authorities, travel agencies, hotels, voluntary organizations and others involved in organizing recreational activities or travel opportunities should offer their services to all, taking into account the special needs of persons with disabilities. Suitable training should occur to assist this process.
3. Sports organizations should be encouraged to develop opportunities for participation by persons with disabilities in sports activities. In some cases, accessibility measures could be enough to open up opportunities for participation. In other cases, special arrangements or special games would be needed. States should support the participation of persons with disabilities in national and international events.
4. Persons with disabilities participating in sports activities should have access to instruction and training of the same quality as other participants.
5. Organizers of sports and recreation should consult with organizations of persons with disabilities when developing their services for persons with disabilities.

Rule 12. Religion

States will encourage measures for equal participation by persons with disabilities in the religious life of their communities.

1. States should encourage, in consultation with religious authorities, measures to eliminate discrimination and make religious activities accessible to persons with disabilities.
2. States should encourage information on disability matters to be distributed to religious institutions and organizations. States should also encourage religious authorities to include information on disability policies in the training for religious professions, as well as in religious education programmes.
3. They should also encourage the accessibility of religious literature to person with sensory impairments.
4. States and/or religious organizations should consult with organizations of persons with disabilities when developing measures for equal participation in

religious activities.

III. IMPLEMENTATION MEASURES

Rule 13. Information and research

States assume the ultimate responsibility for the collection and dissemination of information on the living conditions of persons with disabilities and promote comprehensive research on all aspects, including obstacles which affect the lives of persons with disabilities.

1. States should, at regular intervals, collect gender-specific statistics and other information concerning the living conditions of persons with disabilities. Such data collection could be conducted in conjunction with national censuses and household surveys and could be undertaken in close collaboration, inter alia, with universities, research institutes and organizations of persons with disabilities. The data collection should include questions on programmes and services and their use.
2. States should consider establishing a data bank on disability, which would include statistics on available services and programmes as well as on the different groups of persons with disabilities. They should bear in mind the need to protect individual privacy and personal integrity.
3. States should initiate and support programmes of research on social, economic and participation issues that affect the lives of persons with disabilities and their families. Such research should include studies on the causes, types and frequencies of disabilities, the availability and efficacy of existing programmes and the need for development and evaluation of services and support measures.
4. States should develop and adopt terminology and criteria for the conduct of national surveys, in cooperation with organizations of persons with disabilities.
5. States should facilitate the participation of persons with disabilities in data collection and research. To undertake such research States should particularly encourage the recruitment of qualified persons with disabilities.
6. States should support the exchange of research findings and experiences.

7. States should take measures to disseminate information and knowledge on disability to all political and administration levels within national, regional and local spheres.

Rule 14. Policy-making and planning

States will ensure that disability aspects are included in all relevant policy-making and national planning.

1. States should initiate and plan adequate policies for persons with disabilities at the national level, and stimulate and support action at regional and local levels.

2. States should involve organizations of persons with disabilities in all decision-making relating to plans and programmes concerning persons with disabilities or affecting their economic and social status.

3. The needs and concerns of persons with disabilities should be incorporated into general development plans and not be treated separately.

4. The ultimate responsibility of States for the situation of persons with disabilities does not relieve others of their responsibility. Anyone in charge of services, activities or the provision of information in society should be encouraged to accept responsibility for making such programmes available to persons with disabilities.

5. States should facilitate the development by local communities of programmes and measures for persons with disabilities. One way of doing this could be to develop manuals or check-lists and provide training programmes for local staff.

Rule 15. Legislation

States have a responsibility to create the legal bases for measures to achieve the objectives of full participation and equality for persons with disabilities.

1. National legislation, embodying the rights and obligations of citizens, should include the rights and obligations of persons with disabilities. States are under an obligation to enable persons with disabilities to exercise their rights,

including their human, civil and political rights, on an equal basis with other citizens. States must ensure that organizations of persons with disabilities are involved in the development of national legislation concerning the rights of persons with disabilities, as well as in the ongoing evaluation of this legislation.

2. Legislative action may be needed to remove conditions which may adversely affect the lives of persons with disabilities, including harassment and victimization. Any discriminatory provisions against persons with disabilities must be eliminated. National legislation should provide for appropriate sanctions in case of violations of the principles of non-discrimination.

3. National legislation concerning persons with disabilities may appear in two different forms. The rights and obligations may be incorporated in general legislation or contained in special legislation. Special legislation for persons with disabilities may be established in several ways:

(a) By enacting separate legislation, exclusively dealing with disability matters.

(b) By including disability matters within legislation on particular topics;

(c) By mentioning persons with disabilities specifically in the texts that serve to interpret existing legislation.

A combination of these different approaches might be desirable. Affirmative action provisions may also be considered.

4. States may consider establishing formal statutory complaints mechanisms in order to protect the interests of persons with disabilities.

Rule 16. Economic policies.

States have the financial responsibility for national programmes and measures to create equal opportunities for persons with disabilities.

1. States should include disability matters in the regular budgets of all national, regional and local government bodies.

2. States, non-governmental organizations and other interested bodies should

interact to determine the most effective ways of supporting projects and measures relevant to persons with disabilities.

3. States should consider the use of economic measures (loans, tax exemptions, earmarked grants, special funds etc.) to stimulate and support equal participation by persons with disabilities in society.

4. In many States it may be advisable to establish a disability development fund, which could support various pilot projects and self-help programmes at the grass-roots level.

Rule 17. Coordination of work

States are responsible for the establishment and strengthening of national coordinating committees, or similar bodies, to serve as a national focal point on disability matters.

1. The national coordinating committee or similar bodies should be permanent and based on legal as well as appropriate administrative regulation.

2. A combination of representatives of private and public organizations is most likely to achieve an intersectoral and multidisciplinary composition. Representatives could be drawn from concerned government ministries, organizations of persons with disabilities and non-governmental organizations.

3. Organizations of persons with disabilities should have considerable influence in the national coordinating committee in order to ensure proper feedback of their concerns.

4. The national coordinating committee should be provided with sufficient autonomy and resources to fulfil its responsibilities in relation to its decision-making capacities. It should report to the highest governmental level.

Rule 18. Organizations of persons with disabilities

States should recognize the right of the organizations of persons with disabilities to represent persons with disabilities at national, regional and local levels. States should also recognize the advisory role of organizations of persons with

disabilities in decision-making on disability matters.

1. States should encourage and support economically and in other ways the formation and strengthening of organizations of persons with disabilities, family members and/or advocates. States should recognize that these organizations have a role to play in the development of disability policy.
2. States should establish ongoing communication with organizations of persons with disabilities and ensure their participation in the development of government policies.
3. The role of organizations of persons with disabilities could be to identify needs and priorities, to participate in the planning, implementation and evaluation of services and measures concerning the lives of persons with disabilities, and to contribute to public awareness and to advocate change.
4. As instruments of self-help, organizations of persons with disabilities provide and promote opportunities for the development of skills in various fields, mutual support among members and information sharing.
5. Organizations of persons with disabilities could perform their advisory role in many different ways such as having permanent representation on boards of government-funded agencies, serving on public commissions and providing expert knowledge on different projects.
6. The advisory role of organizations of persons with disabilities should be ongoing in order to develop and deepen the exchange of views and information between the State and the organizations.
7. Organizations should be permanently represented on the national coordinating committee or similar bodies.
8. The role of local organizations of persons with disabilities should be developed and strengthened to ensure that they influence matters at the community level.

Rule 19. Personnel training

States are responsible for ensuring the adequate training of personnel, at all levels, involved in the planning and provision of programmes and services concerning persons with disabilities.

1. States should ensure that all authorities providing services in the disability field give adequate training to their personnel.
2. In the training of professionals in the disability field, as well as in the provision of information on disability in general training programmes, the principle of full participation and equality should be appropriately reflected.
3. States should develop training programmes in consultation with organizations of persons with disabilities, and persons with disabilities should be involved as teachers, instructors or advisers in staff training programmes.
4. The training of community workers is of great strategic importance, particularly in developing countries. It should involve persons with disabilities and include the development of appropriate values, competence and technologies as well as skills which can be practised by persons with disabilities, their parents, families and members of the community.

Rule 20. National monitoring and evaluation of disability programmes in the implementation of the Standard Rules

States are responsible for the continuous monitoring and evaluation of the implementation of national programmes and services concerning the equalization of opportunities for persons with disabilities.

1. States should periodically and systematically evaluate national disability programmes and disseminate both the bases and the results of the evaluations.
2. States should develop and adopt terminology and criteria for the evaluation of disability-related programmes and services.
3. Such criteria and terminology should be developed in close cooperation with organizations of persons with disabilities from the earliest conceptual and

planning stages.

4. States should participate in international cooperation in order to develop common standards for national evaluation in the disability field. States should encourage national coordinating committees to participate also.
5. The evaluation of various programmes in the disability field should be built in at the planning stage, so that the overall efficacy in fulfilling their policy objectives can be evaluated.

Rule 21. Technical and economic cooperation

States, both industrialized and developing, have responsibility to cooperate in and undertake measures for the improvement of the living conditions of persons with disabilities in developing countries.

1. Measures to achieve the equalization of opportunities of persons with disabilities, including refugees with disabilities, should be integrated into general development programmes.
2. Such measures must be integrated in all forms of technical and economic cooperation, bilateral and multilateral, governmental and non-governmental. States should bring up disability issues in discussions on such cooperation with their counterparts.
3. When planning and reviewing programmes of technical and economic cooperation, special attention should be given to the effects of such programmes on the situation of persons with disabilities. It is of utmost importance that persons with disabilities and their organizations are consulted on any development projects designed for persons with disabilities. They should be directly involved in the development, implementation and evaluation of such projects.
4. Priority areas for technical and economic cooperation should include:
 - (a) The development of human resources through the development of skills, abilities and potentials of persons with disabilities and the initiation of employment-generating activities

for and of persons with disabilities;

(b) The development and dissemination of appropriate disability-related technologies and know-how.

5. States are also encouraged to support the formation and strengthening of organizations of persons with disabilities.

6. States should take measures to improve the knowledge of disability issues among staff involved at all levels in the administration of technical and economic cooperation programmes.

Rule 22. International cooperation

States will participate actively in international cooperation concerning policies for the equalization of opportunities for persons with disabilities.

1. Within the United Nations, its specialized agencies and other concerned intergovernmental organizations, States should participate in the development of disability policy.

2. Whenever appropriate, States should introduce disability aspects in general negotiations concerning standards, information exchange, development programmes etc.

3. States should encourage and support the exchange of knowledge and experience between:

(a) Non-governmental organizations concerned with disability issues;

(b) Research institutions and individual researchers involved in disability issues;

(c) Representatives of field programmes and of professional groups in the disability field;

(d) Organizations of persons with disabilities;

(e) National coordinating committees.

4. States should ensure that the United Nations and its specialized agencies, as well as all intergovernmental and interparliamentary bodies, at global and

regional levels, include in their work the global and regional organizations of persons with disabilities.

IV. MONITORING MECHANISM

1. The purpose of a monitoring mechanism is to further the effective implementation of the Standard Rules. It will assist each State in assessing its level of implementation of the Standard Rules and in measuring its progress. The monitoring should identify obstacles and suggest suitable measures which would contribute to the successful implementation of the Rules. The monitoring mechanism will recognize the economic, social and cultural features existing in individual States. An important element should also be the provision of advisory services and the exchange of experience and information between States.
2. The Standard Rules on the Equalization of Opportunities for Persons with Disabilities shall be monitored within the framework of the sessions of the Commission for Social Development. A Special Rapporteur with relevant and extensive experience of disability issues and international organizations shall be appointed, if necessary, funded by extrabudgetary resources, for three years to monitor the implementation of the Standard Rules.
3. International organizations of persons with disabilities having consultative status with the Economic and Social Council and organizations representing persons with disabilities who have not yet formed their own organizations should be invited to create among themselves a panel of experts, on which organizations of persons with disabilities shall have a majority, taking into account the different kinds of disabilities and necessary equitable geographical distribution, to be consulted by the Special Rapporteur and, when appropriate, by the Secretariat.
4. The panel of experts will be encouraged by the Special Rapporteur to review, advise and provide feedback and suggestions on the promotion, implementation and monitoring of the Standard Rules.
5. The Special Rapporteur shall send a set of questions to States, entities within the United Nations system, and intergovernmental and non-governmental organizations, including organizations of persons with disabilities. The set of questions should address implementation plans for the Standard Rules in States.

The questions should be selective in nature and cover a number of specific rules for in-depth evaluation. In preparing the questions the Special Rapporteur should consult with the panel of experts and the Secretariat.

6. The Special Rapporteur shall seek to establish a direct dialogue not only with States but also with local non-governmental organizations, seeking their views and comments on any information intended to be included in the reports. The Special Rapporteur shall provide advisory services on the implementation and monitoring of the Standard Rules and assistance in the preparation of replies to the sets of questions.

7. The Centre for Social Development and Humanitarian Affairs of the United Nations Office at Vienna, as the United Nations focal point on disability issues, the United Nations Development Programme and other entities and mechanisms within the United Nations system, such as the regional commissions and specialized agencies and interregional commissions and specialized agencies and inter-agency meetings, shall cooperate with the Special Rapporteur in the implementation and monitoring of the Standard Rules at the national level.

8. The Special Rapporteur, assisted by the Secretariat, shall prepare reports for submission to the Commission for Social Development, at its thirty-fourth and thirty-fifth sessions. In preparing such reports, the Rapporteur should consult with the panel of experts.

9. States should encourage national coordinating committees or similar bodies to participate in implementation and monitoring. As the focal points on disability matters at the national level, they should be encouraged to establish procedures to coordinate the monitoring of the Standard Rules. Organizations of persons with disabilities should be encouraged to be actively involved in the monitoring of the process at all levels.

10. Should extrabudgetary resources be identified, one or more positions of Interregional Adviser on the Standard Rules should be created to provide direct services to States, including:

- (a) The organization of national and regional training seminars on the content of the Standard Rules;
- (b) The development of guidelines to assist in strategies for

implementation of the Standard Rules.

(c) Dissemination of information about best practices concerning implementation of the Standard Rules.

11. At its thirty-fourth session, the Commission for Social Development should establish an open-ended working group to examine the Special Rapporteur's report and make recommendations on how to improve the application of the Standard Rules. In examining the Special Rapporteur's report, the Commission for Social Development, by its open-ended working group, shall consult international organizations of persons with disabilities and specialized agencies, according to Rules 71 and 76 of the rules of procedures of the functional commissions of the Economic and Social Council.

12. At its session following the end of the Special Rapporteur's mandate, the Commission should examine the possibility of either renewing; that mandate. appointing a new Special Rapporteur or considering another monitoring mechanism, and should make appropriate recommendations to the Economic and Social Council.

13. States should be encouraged to contribute to the United Nations Voluntary Fund on Disability in order to further the implementation of the Standard Rules.