



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2004/74
15 December 2003

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Item 14 (d) of the provisional agenda

SPECIFIC GROUPS AND INDIVIDUALS:

OTHER VULNERABLE GROUPS AND INDIVIDUALS

**Progress in the implementation of the recommendations contained
in the study on the human rights of persons with disabilities**

Report of the Office of the High Commissioner for Human Rights

Summary

In its resolution 2003/49, the Commission on Human Rights requested the Office of the High Commissioner for Human Rights (OHCHR) to report to the Commission on Human Rights at its sixtieth session on progress in the implementation of the recommendations contained in the study on human rights and disability, and on the programme of work of the Office in relation to the human rights of persons with disabilities.

The study, *Human Rights and Disability: the current use and future potential of United Nations human rights instruments in the context of disability*, analyses the provisions of the six core human rights treaties from a disability perspective and reviews the functioning of the United Nations human rights system in the context of disability. The study addresses a wide range of recommendations designed to enhance the future use of the United Nations human rights system in the context of disability. It is directed at States parties, the treaty monitoring bodies, OHCHR, the Commission on Human Rights, national human rights institutions and civil society.

The present report provides several examples of the progress made by the different stakeholders in implementing the recommendations addressed to them by the study on human rights and disability. However, the study was published only in November 2002, and stakeholders are just now becoming familiar with the analysis and recommendations it contains. Therefore, any evaluation of the extent to which States have translated its recommendations into practice can only be a very preliminary one, and an assessment of the actual impact of the study on the work carried out by treaty bodies will only become possible in the years to come.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 54	
I. IMPLEMENTATION OF THE RECOMMENDATIONS CONTAINED IN THE STUDY ON HUMAN RIGHTS AND DISABILITY	6 - 285	
A. States	6 - 166	
B. Treaty bodies	17 - 19 10	
C. Commission on Human Rights	20 - 21 12	
D. National human rights institutions	22 - 25 12	
E. Non-governmental organizations	26 - 28 14	
II. OHCHR PROGRAMME OF WORK ON THE HUMAN RIGHTS OF PERSONS WITH DISABILITIES	29 - 37 15	
A. Implementation of the recommendations contained in the Study on human rights and disability	29	15
B. The work carried out by OHCHR in the field of human rights and disability	30 - 37 15	
III. CONCLUSIONS AND RECOMMENDATIONS	38 - 43 18	

INTRODUCTION

The mandate

1. The present report is submitted in accordance with Commission on Human Rights resolution 2003/49, in which the Commission requested the Office of the High Commissioner for Human Rights (OHCHR) “to report to the Commission on Human Rights at its sixtieth session on progress in the implementation of the recommendations contained in the study on human rights and disability presented at the fifty-eighth session of the Commission and on the programme of work of the Office in relation to the human rights of persons with disabilities”.

The study

2. The study, *Human Rights and Disability: the current use and future potential of United Nations human rights instruments in the context of disability*¹ (hereinafter, the study) analyses the six main human rights treaties from a disability perspective, with a view to reviewing the extent to which existing human rights norms and standards are used to advance the rights of persons with disabilities. The study concludes that despite their considerable potential, the United Nations human rights treaties have not been fully used so far in the context of disability. In order to enhance the future use of the existing human rights treaties and mechanisms, the study addresses a wide range of recommendations to States parties, the treaty monitoring bodies, the Office of the High Commissioner for Human Rights (OHCHR), the Commission on Human Rights, national human rights institutions and civil society.²

3. Among the options for the future proposed in the study is the possible adoption of a new thematic treaty on the rights of persons with disabilities. In the authors’ view, such an instrument would enhance the visibility of disability issues within the human rights system and would allow for the tailoring of general human rights norms and standards to the particular situation and needs of persons with disabilities. A new treaty could also stimulate the mainstreaming of disability into the existing human rights system. In its resolution

56/168, the General Assembly established an Ad Hoc Committee to consider proposals for a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities. At its second session, held in New York from 16 to 27 June 2003, the Ad Hoc Committee decided to establish a Working Group to prepare a draft text which would be the basis for negotiation in the Ad Hoc Committee. The Working Group will meet intersessionally in New York for one session of 10 working days early in 2004, and will present the outcome of its work on a draft text to the Ad Hoc Committee at its third session.

Structure of the report

4. The present report consists of two parts. The first part refers to progress made by a wide variety of stakeholders in implementing the recommendations contained in the study. The second part focuses on the work undertaken by OHCHR in the field of human rights and disability, in general and with specific reference to the recommendations that the authors of the study have specifically addressed to it. The report then identifies some concluding remarks and recommendations on how to enhance the effectiveness of the human rights machinery in the field of disability.

5. The study was published - in its English version - in November 2002, and translated into French and Spanish in June/July 2003. Although OHCHR has made an effort to ensure its wide dissemination among the various actors, it has to be recognized that they are just now becoming familiar with its analysis and recommendations. Therefore, any evaluation of the extent to which States and other actors have implemented its recommendations must only be a very preliminary one. Only a detailed analysis of the future sessions of the United Nations treaty bodies will provide a clearer picture of the actual impact of the study on the way in which disability issues are addressed within the human rights system.

I. IMPLEMENTATION OF THE RECOMMENDATIONS CONTAINED IN THE STUDY ON HUMAN RIGHTS AND DISABILITY

A. States

6. The study acknowledges that some States have started to treat disability as a broad human rights issue, and recommends that States (a) address thoroughly the question of the human rights of persons with disabilities while reporting under the human rights treaties they have ratified; it also suggests that States (b) consult more closely with non-governmental organizations (NGOs) working in the field of disability– especially NGOs of persons with disabilities – in the drafting of their periodic reports, and (c) consider nominating persons with disabilities for election to the treaty monitoring bodies. The following States replied to the note verbale sent by OHCHR to request information on measures adopted to implement these recommendations: Argentina, Czech Republic, Egypt, Finland, Greece, Italy, Lebanon, Luxembourg, Malta, Morocco, Netherlands, New Zealand, Panama, Poland, Portugal, Russian Federation, Spain, Sweden and Trinidad and Tobago.

7. Some of the replies provide information on the extent to which States report on the progress made and obstacles encountered in implementing the equal and effective enjoyment of human rights and fundamental freedoms by persons with disabilities. From the submissions received, it appears that States are beginning to include information on disability in their periodic reports to treaty bodies. However, it must be noted that most of these replies refer to periodic reports submitted before the publication of the study (November 2002).

8. The degree of attention that States devote to disability under the existing human rights instruments varies from one treaty to another. From the submissions received, it appears that States parties very often include reference to the rights of children with disabilities in their periodic reports to the Committee on the Rights of the Child. In this sense, the inclusion in this convention of a specific article on disabled children (art. 23) and the specific request – contained in the guidelines elaborated by the Committee for the preparation of initial³ and periodic reports (CRC/C/58) – to include information on children with disabilities seem to have played an important role in raising awareness on the

rights of disabled children. Despite the fact that several States now include information on disability in their periodic reports, the study on human rights and disability notes that States tend to report on disability just under article 23, and not under all the rights protected by the Convention. The study concludes that States should report more fully on children with disabilities under the Convention.⁴ In this regard, some recent reports address disability as a broad human rights issue, and refer to the rights of disabled children under several headings. The second periodic report of New Zealand (CRC/C/93/Add.4) (2001) includes sections on discrimination against children with disabilities, health and welfare of disabled children and students with disabilities. Sweden's third periodic report (CRC/C/125/Add.1) (2002) also addresses disability issues in several contexts and reports in particular that the Riksdag adopted in May 2000 an action plan for a national disability policy aimed at combating discrimination against persons with disabilities and promoting their full participation in the community.

9. The study notes that coverage of disability issues in State party reports to the Committee on Economic, Social and Cultural Rights (CESCR) tends to be piecemeal and that countries tend to treat disability as a medical issue rather than a human rights one. In its 1991 revised reporting guidelines (E.C.12/1999/1), the Committee specifically requests States parties to report on disability under articles 6 (work), 9 (social security), 10 (protection of the family, mothers and children) and 13 (education). In order to realize the potential of the Covenant in the context of disability, the study encourages States to apply the letter and the spirit of general comment No. 5 on persons with disabilities and the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities⁵ when compiling their periodic reports to CESCR.⁶

10. The replies received show that States usually refer to disability issues in their reports to CESCR. Although States still do not refer to the general comment on disability or the United Nations Standard Rules in their reports to CESCR, it seems that they have started to address the issue of disability in their periodic reports in a more systematic way. In its second periodic report (E/1990/6/Add.30) (2000), Trinidad and Tobago provides information on disability in the sections relating to employment and vocational training, social security, access to transportation and public buildings, health, education and

participation in cultural life The Government has also adopted a National Policy on Persons with Disabilities, which seeks to integrate persons with disabilities into society. Poland's fourth periodic report (E/C.12/4/Add.9) (2001) provides a detailed analysis of the situation of disabled persons in the labour market, and refers to the adoption by the Sejm of a Charter of Disabled Persons' Rights, aimed at ensuring the achievement of equality of opportunities and treatment in the field of employment The fourth periodic report of the Russian Federation (E/C.12/4/Add.10) (2002) includes information on measures for enhancing the rehabilitation and social integration of persons with disabilities in the areas of employment, social security, assistance to families and children with disabilities, public health and education

11. In its general recommendation No. 18 on disabled women, the Committee on the Elimination of Discrimination against Women (CEDAW) urges States parties to provide information on the situation of women with disabilities in their reports, and highlights the need to take measures (including temporary special measures) to ensure that women with disabilities have equal access to education, employment, health services and social security. Only a limited number of responding States seem to include disability issues in their reports under the Convention on the Elimination of All Forms of Discrimination against Women. The second periodic report of the Czech Republic (CEDAW/C/CZE/2) (2000) contains a few references to women with disabilities with regard to the right to the same employment opportunities, including the application of the same criteria for selection in matters of employment, and the right to education of children with disabilities In its fifth periodic report (CEDAW/C/SWE/5) (2000), Sweden reported on a study conducted by the Swedish Ombudsman for Disabled Persons on the situation of women with disabilities, which indicated that disabled women often experience double discrimination in such fields as access to transportation services and disability benefits, nursing benefits, mobility allowance and assistance benefits The fifth report of New Zealand (CEDAW/C/NZL/5) (2002) includes sections on disability under chapters on development and the advancement of women, employment, health, economic and social life and women's views.

12. From the replies received, it appears that only a few States include information on disability in their reports under the International Covenant on Civil and Political Rights

(ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination. With regard to the latter, it appears from the submissions received that States have begun to report on disability as a separate prohibited ground of distinction. For example, Trinidad and Tobago's joint eleventh to fourteenth report (CERD/C/382/Add.1). (2000) includes information on the Equal Opportunities Bill, which prohibits, inter alia, discrimination on the basis of disability and seeks to promote equality of opportunities in the fields of employment, education, the provision of goods and services, and accommodation. Furthermore, Argentina reported that its next report – currently under preparation – will include a specific chapter on the rights of persons with disabilities. References to disabled persons in periodic reports to the Human Rights Committee continue to be marginal. Among the States that submitted information on the extent to which they include information on disability in their periodic reports, only three States – Finland (CCPR/C/FIN/2003/5), Sweden (CCPR/C/SWE/2000/5) and Trinidad and Tobago (CCPR/TTO/99/3) – have addressed the issue of disability in their reports to the Committee. Furthermore, references to persons with disabilities continue to be extremely succinct. Poland reported that its next periodic reports will include information on the rights of persons with disabilities.

13. Notwithstanding its obvious relevance, the potential of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment still remains underused in the context of disability. The issue of disability seems to receive minimal or no attention in the reports submitted to the Committee against Torture. From the submissions received, it appears that no State has referred to the right of persons with disabilities to be free from torture and inhuman and degrading treatment.

14. Some States have reported that they prepare their periodic reports in consultation with civil society organizations.⁷ However, other States that replied to the note verbale manifested their willingness to interact more with NGOs in the preparation of future reports to the monitoring committees. For instance, Trinidad and Tobago reported that some NGOs in the field of disability were consulted for the preparation of its second report under the CRC, (CRC/C/83/Add.12 – forthcoming). Poland reported that with respect to its forthcoming fifth report under ICCPR, it is preparing the part relating to the human rights

of persons with disabilities with the assistance of NGOs in the field of disability represented on the National Advisory Council for Disabled Persons. Other States – without referring expressly to the preparation of reports to the monitoring committees – have indicated that they consult with disability organizations in developing policies and strategies in the context of disability.⁸

15. None of the States that replied to the note verbale commented on the third recommendation contained in the study, i.e. to consider nominating persons with disabilities for election to the treaty monitoring bodies.

16. Some of the submissions received also contain information on the measures adopted at the national level to promote and protect the human rights of persons with disabilities. In Egypt, a National Committee for the Eradication of Disability has been established pursuant to Ministerial Decision No. 60 of 1997 to promote the full integration and the equalization of opportunities for persons with disabilities. The National Committee includes representatives of the Ministries of Health and Housing, Social Affairs and Education and members of NGOs in the field of disability. Greece provided detailed information on measures taken to facilitate access to transportation, health and rehabilitation services, education and employment. Morocco reported that the statute of the Consultative Council on Human Rights (Conseil consultatif des droits de l'homme) has been recently modified and now entrusts the Council to protect and promote the rights of disabled persons. Panama reported on the main functions of the Instituto Panameño de Rehabilitación Especial (IPHE) and on the programmes the Institute has developed to facilitate access to rehabilitation and inclusive education.

B.Treaty bodies

17. The study on human rights and disability provides several examples of the work carried out by the monitoring committees in the context of disability. In order to encourage treaty bodies to further increase their efforts in this regard, the study recommends that the human rights treaty monitoring bodies (a) consider drafting general comments and

recommendations on the full enjoyment of human rights by persons with disabilities; (b) consider organizing thematic days of discussion on disability; (c) take into account the concerns of persons with disabilities in their lists of issues; (d) refer to disability issues in the dialogue with States parties; and (e) refer systematically to disability in their concluding observations/comments and recommendations.

18. The Division for the Advancement of Women of the Secretariat provided information on the CEDAW adopted during its twenty-sixth to twenty-ninth sessions to strengthen attention to disability. The Committee reported that it referred to disability in its lists of issues and questions addressed to Yemen, Norway and Japan. It also stressed that disability-related issues were included in the concluding comments and recommendations addressed to Argentina (A/57/38, vol. I, para. 357), Sri Lankam (*ibid.*, paras. 292-293), Canada (*ibid.*, paras. 346, 357-358), Luxembourg (*ibid.*, para. 321), Costa Rica (*ibid.*, para. 67) and New Zealand (*ibid.*, paras. 397, 421-422). The Committee reported that its working methods do not, at present, provide for days of general discussions on particular topics or articles of the Convention, and that the Committee's present schedule for the preparation of general recommendations does not yet include the preparation of a general recommendation on disability.

19. The Committee on the Rights of the Child systematically addressed the issue of disability during its thirty-second, thirty-third and thirty-fourth sessions. Disability-related issues were included in all 27 concluding observations adopted during these three sessions. In 2003, the Committee met with the informal working group "Rights for Disabled Children" - set up as a follow-up to the day of general discussion on children with disabilities in October 1997 (see CRC/C/69) - to discuss further their cooperation. The Committee's present schedule for the preparation of general comments does not yet include the preparation of a general comment on disability. Nevertheless, the question of children with disabilities has been taken into consideration in the three general comments adopted by the Committee in 2003, on general measures of implementation for the Convention on the Rights of the Child, adolescent health and development, and HIV/AIDS and the rights of the child.

C. Commission on Human Rights

20. The study acknowledges the interest demonstrated by the Commission on Human Rights in the issue of the human rights of persons with disabilities and addresses the following recommendations to the Commission: (a) to set aside a thematic day of discussion on disability and human rights, and (b) to appoint a special rapporteur on the human rights of persons with disabilities.

21. The issue of disability is on the agenda of the Commission under the item dealing with other vulnerable groups and individuals. Since its fifty-eighth session, the Commission has adopted annually a resolution on the human rights of persons with disabilities, which had previously been adopted every two years. Among other things, last year's resolution (2003/49) encouraged States, treaty monitoring bodies, OHCHR, national human rights institutions and NGOs to continue implementing the recommendations addressed to them by the study on human rights and disability. The Commission also reaffirmed its commitment to contribute to the process established by the General Assembly in resolution 56/168 and invited all actors involved in the process to contribute to the work of the Ad Hoc Committee established by the General Assembly.

D. National human rights institutions

22. The study on human rights and disability commends national human rights institutions (NIs) for the work they already carry out in the field of disability and invites them to strengthen their work on human rights and disability, inter alia by forming – possibly with the assistance of OHCHR – a working group on disability and human rights. According to the study, such a working group would enable NIs to deepen their

understanding of disability as a human rights issue and to engage in useful exchanges of experience.

23. The following NIs have provided information: Canadian Human Rights Commission; Danish Institute for Human Rights; French National Consultative Commission of Human Rights; German Institute for Human Rights; Greek National Commission for Human Rights; Hong Kong Equal Opportunities Commission; Irish Human Rights Commission; National Human Rights Commission of Mauritius; Mexican National Commission for Human Rights; Human Rights Commission of New Zealand; Norwegian Centre for Human Rights; Swedish Disability Ombudsman; and the Defensoría del Pueblo of Venezuela.

24. The majority of the NIs that replied to the note verbale reported that they already participate in the preparation of the reports of their State party on the implementation of human rights treaties by providing comments and input to the Ministry in charge of reporting.⁹ Some of them also expressed their intention to prepare independent submissions to the treaty bodies in connection with their country's periodic report to these bodies.¹⁰ A few NIs reported that owing to their limited resources they have not been able to date to develop expertise in the area of disability and to participate in the drafting/discussions of periodic reports submitted by the State party to treaty bodies.¹¹ A few others mentioned that participation in the drafting or discussion of State party reports is not included in their mandate.¹²

25. As recommended by the study, NIs seem to have started to work together with regard to the ongoing discussion on the proposed new convention on the human rights of persons with disabilities. Several NIs expressed their support for the adoption of a new international convention,¹³ and some of them participated in the second session of the Ad Hoc Committee.¹⁴ During the session, the representatives of NIs had regular meetings and made joint statements. To discuss and adopt common positions with regard to the new treaty, NI regional workshops were organized in the course of 2003 in Africa,¹⁵ the Latin American region¹⁶ and the Commonwealth–Asian-Pacific region,¹⁷ respectively. The Danish Institute for Human Rights reported that the fifth European Meeting of National

Human Rights Institutions will discuss, inter alia, the need for a more permanent European working group on human rights and disability.

E. Civil society

26. The study notes that NGOs in the field of disability have expertise on disability issues and possess knowledge about human rights law, but often fail to engage with the human rights system. To redress this situation, the study suggests the “establishment of some forms of International Disability Human Rights Watch”¹⁸ with a clear mandate to monitor human rights developments around the world as they affect persons with disabilities. Such a grouping should work more closely with traditional human rights NGOs in order to learn from their experiences and to encourage them, in turn, to mainstream disability in their own agenda. The following NGOs have provided information on measures taken to follow up on the recommendations contained in the study: Centre for International Rehabilitation (CIR); Disabled Peoples’ International; Landmine Survivors Network (LSN); Save the Children UK; World Network of Users and Survivors of Psychiatry (WNUSP).

27. It appears from the replies received that NGOs in the field of disability are becoming more aware of the potential of existing human rights treaties in promoting and protecting the human rights of persons with disabilities. CIR has established a project – the International Disability Rights Monitor – which aims to build international research capacity to document the progress, problems and barriers experienced by persons with disabilities on a country-by-country basis. LSN reported that while not directly engaged in monitoring or reporting activities, the organization is involved in building the capacity of other disability groups – in particular at the national level – to become more involved in such work. In this regard, LSN has drafted a document called “The disability dimension: NGO reporting and the UN treaty body system”, which contains guidelines for NGOs in the field of disability in an effort to assist them to participate more actively in the monitoring activities of treaty bodies. WNUSP is also planning to carry out human rights education in order to allow member organizations to monitor the implementation of existing human rights treaties from a disability perspective. Save the Children UK noted

that it is not directly engaged in the preparation of/discussion on periodic reports. However, as part of the International ave the Children Alliance, the organization is actively involved in the work of the Rights of Disabled Children Committee, which provides country-based information on the situation of children with disabilities to the Commission on the Rights of the Child.

28. Responding civil society organizations strongly support the adoption of a new international convention on the rights of persons with disabilities and are actively involved in discussions concerning the nature and content of this new treaty.

II. OHCHR PROGRAMME OF WORK ON THE HUMAN RIGHTS OF PERSONS WITH DISABILITIES

A. Implementation of the recommendations contained in the study on human rights and disability

29. The study addresses several recommendations to OHCHR aimed at strengthening its work on disability. Some recommendations – such as the setting up of a web page on human rights and disability or the appointment of one staff member to work solely on disability and human rights issues – have already been implemented by the Office (see E/CN.4/2003/88, paras. 35-39). Other recommendations – such as the publication of more focused thematic studies and manuals on human rights and disability or the invitation to the Office to take a leading role in advancing the cause of the human rights of persons with disabilities within the wider United Nations system – are part of the Office's long-term plan in the disability field.

B. The work carried out by OHCHR in the field of human rights and disability

30. One of the recipients of the United Nations Human Rights prize (awarded every five years), awarded on 10 December 2003, was Mr. Pufang Deng, the Chairperson of the China Disabled Persons' Federation.

31. OHCHR considers that its action in the field of the promotion and protection of the human rights of persons with disabilities should remain tridimensional (the multi-track approach), and focus on:

(a) Encouraging the integration of disability issues in the activities of treaty bodies and extraconventional human rights mechanisms, including facilitating the contribution of national human rights institutions, NGOs and United Nations agencies with a mandate that includes disability to the work of the human rights treaty-monitoring bodies;

(b) Supporting the drafting of a comprehensive and integral international convention to protect and promote the rights and dignity of persons with disabilities; and

(c) Reinforcing social development efforts in the field of disability, through assistance and support to the Special Rapporteur on disability of the Commission for Social Development.

32. During 2003, OHCHR has continued to disseminate the study on human rights and disability as a fundamental tool for promoting increased attention to the human rights dimension of disability issues and to the potential of the existing human rights instruments and mechanisms in the context of disability. The English version needed to be reprinted in September 2003. To facilitate the submission of disability-related information to the treaty bodies by NGOs active in the field of disability, the Office has prepared a Fact Sheet on "Human rights and disability". The Fact Sheet presents in concise and non-technical language the main findings of the study and provides practical information on the treaty-monitoring bodies.

33. OHCHR continues to participate actively in the work of the Ad Hoc Committee of the General Assembly on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities. During 2003, the Office collaborated with the Division for Social Policy and Development of the Department of Economic and Social Affairs of the Secretariat, which acts as the

substantive secretariat of the Ad Hoc Committee. OHCHR also contributed to the work of the Ad Hoc Committee and, pursuant to paragraph 5 of General Assembly resolution 57/229, submitted a contribution to the Committee at its second session focusing on the work done in the field of human rights and non-discrimination.

34. The Office attended the second session of the Ad Hoc Committee (New York, 16-27 June 2003) and provided technical advice on procedural and substantial issues. OHCHR also participated in the regional meetings and expert seminars organized in Ecuador, South Africa, Lebanon and Thailand to contribute to the work of the Ad Hoc Committee. In order to support an effective and meaningful participation of national human rights institutions and civil society organizations in discussions concerning the proposed new convention, OHCHR participated in several meetings and seminars organized by NIs and NGOs to discuss the nature and content of the new treaty.

35. In 2003, OHCHR strengthened collaboration with other United Nations agencies and bodies with a mandate on disability issues. The Office works closely with the International Labour Organization (ILO) and the World Health Organization (WHO), and continued to organize informal meetings on human rights and disability with other Geneva-based United Nations agencies. The aim of these informal consultations is to enhance collaboration and exchange of information on disability-related issues and to coordinate initiatives regarding the proposed new convention. In an effort to ensure greater involvement and collaboration between United Nations agencies and bodies and civil society, Geneva-based human rights and NGOs in the field of disability have been invited to participate in these informal meetings.

36. The Office continues its close cooperation with the Special Rapporteur on disability of the Commission for Social Development. OHCHR welcomed the appointment of Ms. Sheikha Hessa Khalifa bin Ahmed al-Thani (Qatar) as the new Special Rapporteur on disability and stands ready to assist her in promoting the implementation of the 1993 United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities¹⁹ and the adoption of the proposed Supplement to the Rules.²⁰

37. In its resolution 2002/61, the Commission on Human Rights requested the Secretary-General to report annually to the General Assembly on the progress of efforts to ensure the full recognition and enjoyment of the human rights of persons with disabilities. In accordance with this request, the Secretary-General submitted a report to the General Assembly focusing on the issue of procedural safeguards for persons with mental disabilities (A/58/181 and Add.1). The report analyses briefly the key international human rights instruments relating to persons with mental disabilities, with a view to identifying the main substantive standards and procedural guarantees applicable in the context of guardianship, compulsory institutionalization and involuntary or forced treatment. OHCHR believes that this report could also represent a useful contribution to the discussions on the proposed new convention on disability.

III. CONCLUSIONS AND RECOMMENDATIONS

38. The implementation of the recommendations contained in the study would contribute to increasing the attention devoted to disability under existing human rights mechanisms, and should therefore be carefully considered by States, treaty bodies, national institutions, non-governmental organizations and other relevant actors – including relevant United Nations bodies, agencies and programmes. The present report shows encouraging developments in the way in which disability issues are addressed within the human rights treaty system, though much more needs to be done to ensure the equal effective enjoyment by persons with disabilities of the protection afforded by existing human rights treaties.

39. This report shows that States have begun to address the question of the human rights of persons with disabilities in their periodic reports and to collaborate more closely with national institutions and NGOs in the fields of human rights and disability during the preparation and discussion of their periodic reports. It also shows that the degree of attention that States devote to disability under the existing human rights instruments varies from one treaty to another. It is vital that States

address disability-related issues more systematically when complying with their reporting obligations. In particular, greater attention to disability issues under the ICCPR and the Convention against Torture is necessary to ensure the promotion and protection of the civil and political rights of persons with disabilities.

40. The study lists several examples of the work carried out by the treaty bodies in the context of disability and encourages them to devote further attention to this issue. As also recommended by the Commission on Human Rights, monitoring bodies may wish to refer more systematically to disability in their lists of issues and in their concluding observations/comments and recommendations. Treaty bodies may also wish to consider the drafting of general comments or recommendations on the human rights of persons with disabilities.

41. The present report shows that several national human rights institutions already participate in the preparation of State party reports by providing comments and input to the relevant departments in charge of drafting them. NIs have an important role to play in ensuring the implementation of international human rights treaties at the national level, and they should be encouraged to continue – and if possible, enhance – their collaboration with Governments and civil society organizations. They should also be encouraged to increase their collaboration with existing human rights treaty bodies by providing them with country-related information on disability.

42. NGOs in the field of disability have started to collaborate with States, treaty bodies and other civil society organizations in an effort to increase attention to disability under existing human rights mechanisms. This report shows some positive examples of the work carried out by NGOs in raising awareness on the potential of existing human rights treaties in the context of disability. However, the level of NGO cooperation with treaty monitoring bodies still seems to be limited (with the exception of the Committee on the Rights of the Child) and would need to be enhanced. It is vital that disability NGOs obtain resources to engage more effectively with the human rights system, including through closer collaboration with traditional human

rights NGOs. It would also be important for NGOs in the field of disability to enhance their level of participation in the preparation of periodic reports by States.

43. Chapter 13 of the study on human rights and disability concluded that a new convention on the human rights of persons with disabilities would represent an additional tool for strengthening the promotion and protection of the human rights of persons with disabilities. OHCHR supports efforts to draft a new instrument and welcomes the decision taken by the Ad Hoc Committee to establish a working group to prepare a draft text that would be the basis for discussion. OHCHR provides whatever assistance and support it can to the Ad Hoc Committee and its working group. The Office also welcomes the valuable contribution offered by national human rights institutions and civil society organizations to this process and would like to encourage their continuing active and meaningful participation in discussions on the proposed new treaty.

Notes

¹ *Human Rights and Disability: the current use and future potential of united nations human rights instruments in the context of disability* by Gerard Quinn and Theresia Degener, United Nations publication, Sales No. E.02.XIV.6, United Nations, New York and Geneva, 2002.

² For more detailed information on the content of the Study, which is also available on the OHCHR web site in English, French and Spanish at <http://www.unhchr.ch/html/menu6/2/disability.doc>, see document E/CN.4/2002/18/Add.1.

³ Committee on the Rights of the Child, General guidelines regarding the form and contents of initial reports to be submitted by states parties under article 44, paragraph 1 (b), of the Convention, CRC/C/5, 30 October 1991.

⁴ Quinn and Degener, op. cit., p. 140.

⁵ Adopted by the General Assembly by its resolution 48/96 of 20 December 1993.

⁶ Quinn and Degener, op. cit., pp. 81-82.

⁷ Czech Republic; Finland; Lebanon; Netherlands; Russian Federation; Sweden.

⁸ Argentina, Italy, Malta, Portugal, Spain.

⁹ Canadian Human Rights Commission; Danish Institute for Human Rights; Greek National Commission for Human Rights; Hong Kong Equal Opportunities Commission (HKEOC); Irish Human Rights Commission; Mexican National Commission for Human Rights; Human Rights Commission of New Zealand; Defensoría del Pueblo of Venezuela.

¹⁰ Danish Institute for Human Rights; Irish Human Rights Commission; Defensoría del Pueblo of Venezuela.

¹¹ German Institute for Human Rights; Norwegian Centre for Human Rights.

¹² National Human Rights Commission of Mauritius; Swedish Disability Ombudsman.

¹³ Danish Institute for Human Rights; Human Rights Commission of New Zealand; Irish Human Rights Commission; National Human Rights Commission of Mauritius; Mexican National Commission for Human Rights.

¹⁴ Danish Institute for Human Rights; Human Rights Commission of New Zealand; Irish Human Rights Commission; Mexican National Commission for Human Rights.

¹⁵ Regional workshop on promoting the rights of people with disabilities: towards a new UN convention (Kampala, 5-6 June 2003).

¹⁶ Workshop on the human rights of persons with disabilities of the network of national institutions for the promotion and protection of human rights in the Americas (San José, 28 March 2003).

¹⁷ Regional workshop on promoting the rights of people with disabilities: towards a new UN convention (New Delhi, 26-30 May 2003).

¹⁸ Quinn and Degener, *op. cit.*, p. 179.

¹⁹ General Assembly resolution 48/96 of 20 December 1993.

²⁰ "Reaching the most vulnerable: proposed supplement to the Standard Rules on the Equalization of Opportunities for Persons with Disabilities", annex to the report of the Special Rapporteur of the Commission for Social Development on monitoring the implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities on his third mandate, 2000-2002 (E/CN.5/2002/4).
