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**SPECIFIC GROUPS AND INDIVIDUALS:
OTHER VULNERABLE GROUPS AND INDIVIDUALS**

**Report of the United Nations High Commissioner for Human Rights
on progress in the implementation of the recommendations contained
in the study on the human rights of persons with disabilities**

Summary

In its resolution 2005/65, the Commission on Human Rights requested the Office of the High Commissioner for Human Rights to report to the Commission at its sixty-second session on progress in the implementation of the recommendations contained in the study on human rights and disability and on the achievement of the objectives set forth in the programme of work of the Office in relation to the human rights of persons with disabilities.

The study on “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 (then) 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, the Office of the High Commissioner for Human Rights, the Commission on Human Rights, national human rights institutions and civil society.

The present report consists of three parts. The first part summarizes replies received from States pursuant to resolution 2005/65. The second part focuses on the work undertaken by OHCHR in the field of human rights and disability. The third contains some concluding remarks and recommendations on how to enhance the effectiveness of the human rights machinery in the context of disability.

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Introduction

1. The present report is submitted in accordance with Commission on Human Rights resolution 2005/65, in which the Commission requested the Office of the High Commissioner for Human Rights (OHCHR) “to report to the Commission at its sixty-second session on progress in the implementation of the recommendations contained in the study on human rights and disability and on the achievement of the objectives set forth in the programme of work of the Office in relation to the human rights of persons with disabilities” (see also E/CN.4/2003/88, E/CN.4/2004/74 and E/CN.4/2005/82).

2. The 2002 study on ‘Human rights and disability: the current use and future potential of United Nations human rights instruments in the context of disability’ (hereinafter, the study) focuses on the work carried out by the (then) six core United Nations human rights treaty bodies to advance the equal effective enjoyment of human rights and fundamental freedoms by persons with disabilities. The study concludes that, despite their considerable potential, the United Nations human rights treaties have not been fully used 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, treaty bodies, the Office of the High Commissioner for Human Rights, the Commission on Human Rights, national human rights institutions and civil society.¹ The study is available on the OHCHR website (www.ohchr.org/english/issues/disability/study.htm).

3. In June 2005, a comprehensive note verbale was sent to all Permanent Missions to the United Nations Office at Geneva, requesting information or comments pursuant to the relevant resolutions and decisions adopted by the Commission on Human Rights at its sixty-first session. As of 30 November 2005, the following States provided information on progress in the implementation of the recommendations contained in the study on the human rights of persons with disabilities: Georgia, Mexico and the Syrian Arab Republic. The replies received are available on the OHCHR extranet page and are also available for consultation at the Secretariat.

4. The present report consists of three parts. The first part summarizes replies received from States pursuant to resolution 2005/65. The second part focuses on the work undertaken by OHCHR in the field of human rights and disability. The third contains some concluding remarks and recommendations on how to enhance the effectiveness of the human rights machinery in the context of disability.

I. REPLIES RECEIVED FROM GOVERNMENTS

A. Georgia

5. The Government of Georgia reported on the entry into force of the Law on the Social Protection of Persons with Disabilities. The aim of the law is to prohibit all forms of discrimination and ensure the equalization of opportunities for persons with disabilities. According to this law, the State shall adopt measures to provide persons with disabilities with favourable living conditions and to facilitate their involvement in political and economic life. Special measures and guarantees will be put in place to ensure the effective realization of the rights of children with disabilities.

6. In 2005, the Ministry of Labour, Public Health and Social Protection adopted a Programme on the Promotion of Social Adaptation of Persons with Disabilities. The programme envisages the adoption of several measures aimed at facilitating the full inclusion of persons with disabilities in their society, including social rehabilitation programmes, tax benefits and funding of organizations of persons with disabilities. Other programmes intended to facilitate the equalization of opportunities for persons with disabilities are carried out at the municipal level.

B. Mexico

7. The Government of Mexico reported that in December 2000 the Representative Office for the Promotion and Social Integration of Persons with Disabilities was established by presidential decree with a view to mainstreaming disability issues in all public policies and programmes adopted at the federal, state and municipal levels. The Representative Office, which is assisted by the National Consultative Council for the Integration of Persons with Disabilities, has carried out several programmes with different state ministries aimed at creating or modifying public policies so as to meet the expectations and needs of persons with disabilities and their representative organizations.

8. In June 2005, Mexico enacted the General Law on Persons with Disabilities. The law states that public policies on disability shall be informed by the principles of equality, social justice, equalization of opportunities, respect for human differences, dignity, integration, respect and accessibility. The law created the National Council for Persons with Disabilities, which ensures inter-ministerial coordination on disability issues.

9. The Government of Mexico reported that 55.5 percent of the 3.1 million persons with disabilities under its jurisdiction live in conditions of poverty. The Ministry (*Secretaría*) of Social Development promotes the adoption of measures guaranteeing the integration of persons with disabilities in all actions and programmes that it coordinates, for example those relating to food support and those relating to the improvement of housing conditions in disadvantaged urban areas.

10. Other programmes aimed at promoting the social integration of persons with disabilities and their inclusion in social development programmes include: (a) awareness-raising programmes on disability, including programmes aimed at providing health education and information on the prevention of disabilities; (b) habilitation and rehabilitation programmes aimed at facilitating the valorisation of persons with disabilities and their participation in social life; (c) programmes to promote inclusive education and the strengthening of special education; (d) tax incentives to improve access of persons with disabilities to the work market; (e) special programmes for women with disabilities; and (f) social security programmes.

11. Mexico recalled that, as a follow-up to the proposal formulated by President Fox at the World Conference against Racism, held in Durban in September 2001, during the fifty-sixth session of the General Assembly the Mexican delegation presented a draft resolution for the establishment of 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. Mexico has participated actively in the work of the Ad Hoc Committee of the General Assembly since its inception, and supported through voluntary contributions the

participation of organizations of persons with disabilities and experts from developing and least developed countries in the sessions of the Ad Hoc Committee.

12. Mexico is a party to the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities and to ILO Convention No. 159 concerning Vocational Rehabilitation and Employment (Disabled Persons) of 1983.

C. Syrian Arab Republic

13. The Syrian Arab Republic provided information on the most important pieces of legislation on the rights of persons with disabilities, including the recent Disabled Persons' Act No. 34 of 17 August 2004. The Act accords numerous benefits and rights to persons with disabilities in the fields of health, education, sport, rehabilitation, employment, access to built environment and means of communication, tax exemption and services. Other legislative instruments aimed at protecting and promoting the rights of persons with disabilities include:

- Legislative Decree No. 40 of 1970 concerning the establishment of vocational education institutes for deaf and deaf-mute persons;
- Legislative Decree No. 154 of 1970 relating to the establishment of specialized centres for the rehabilitation and vocational training of persons with disabilities;
- Act No. 144 of 1958, which establishes special schools for the education and rehabilitation of blind persons; and
- Legislative Decree No. 1439 of 1973 on the establishment of special schools for persons with physical disabilities who are unable due to their disability to enrol in public schools.

14. The Syrian Arab Republic also reported that special educational institutes have been established in different parts of the country to respond to the special needs of children with mental disabilities and children with cerebral palsy and to facilitate their integration in the communities where they live. In 1997, the Government launched, in collaboration with the regional office of the International Labour Organization in Beirut, a community rehabilitation scheme. The scheme is a strategy designed to achieve equal opportunities and social integration for persons with different forms of disability. The scheme is implemented through the concerted efforts of persons with disabilities, their families and communities and of health, social, educational and vocational welfare institutions.

15. In the Syrian Arab Republic, more than 600 private associations and institutions have been established pursuant to the Private Associations and Institutions' Act No. 93 of 1958. Among these private organizations, 26 complement and support the Government's efforts with regard to the welfare, rehabilitation and education of persons with different kinds of disabilities. These civil society organizations are overseen by the Ministry of Social Affairs and Labour, and provide a wide range of services and assistance to persons with disabilities and their families.

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

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

- Supporting the drafting of a comprehensive and integral international convention on protection and promotion of the rights and dignity of persons with disabilities;
- Encouraging the integration of disability issues in the activities of treaty bodies and human rights extra-conventional mechanisms; and
- Continuing its close collaboration with other United Nations agencies and bodies with a mandate on disability, including the Special Rapporteur on disability of the Commission for Social Development.

17. In accordance with the mandate entrusted to it by the General Assembly² and the Commission on Human Rights,³ the Office continued in 2005 to provide assistance and technical support to the Ad Hoc Committee established by the General Assembly with the task of negotiating a new international convention on the rights and dignity of persons with disabilities.⁴ OHCHR was represented at the fifth and sixth sessions of the Ad Hoc Committee, which took place in New York on 24 January- 4 February and 1-12 August 2005, and provided technical advice on procedural and substantial issues, as requested, to the Chairperson of the Ad Hoc Committee, the Secretariat, and States and observers participating in the negotiating process.

18. OHCHR is of the view that its experience in providing support to the work of treaty bodies could prove useful to inform discussions concerning possible monitoring mechanisms for the new disability convention. At the fifth session of the Ad Hoc Committee, OHCHR submitted a background conference paper entitled “Monitoring implementation of the international human rights instruments: an overview of the current treaty body system”, which provided factual information about the existing human rights treaty body system.⁵

19. At that session, the Office also organized a panel discussion on “UN human rights treaty monitoring bodies and mechanisms: achievements and challenges”. The aim of this event was to assist the Ad Hoc Committee in identifying the factors and elements to be taken into account in discussions concerning possible monitoring mechanisms for the proposed new treaty, but to do so by focusing on the achievements of, and challenges faced by, the current treaty monitoring system. The panel included the following experts:

- Jane Connors, OHCHR, provided a brief overview of the current monitoring system, and focused on current efforts regarding treaty body reform;
- Kyung-wha Kang, Permanent Mission of the Republic of Korea, provided information on the experience of States in dealing with the current monitoring system;

- Hanna Beate Schöpp-Schilling, Vice-Chairperson of the Committee on the Elimination of Discrimination against Women, focused on the achievements of, and challenges faced by, CEDAW in monitoring States' compliance with the Convention;
- Philip Alston, New York University, reflected a broader perspective on the discussion of needed reforms to the treaty body system going beyond the current issues being discussed by treaty bodies and States;
- Theresia Degener, co-author of the OHCHR study on "Human rights and disability", provided an overview on how the current functioning of the treaty body system had influenced the ability of the existing treaty bodies to protect the human rights of persons with disabilities.

20. At its sixty-first session, the Commission requested OHCHR to prepare an expert paper, "focusing on the lessons learned from existing monitoring mechanisms, possible relevant improvements and possible innovations in monitoring mechanisms for a comprehensive and integral international convention on the protection and promotion of the rights and dignity of persons with disabilities".⁶ The expert paper was to be made available to the Ad Hoc Committee at its seventh session (16 January-3 February 2006). The paper makes specific suggestions on the issue of monitoring mechanisms for the new disability convention, based of the experience gained by the Office in providing assistance to the existing treaty bodies. In order to provide advice to the High Commissioner on this issue, OHCHR organized a small Expert Meeting on Possible Monitoring Mechanisms for the New Disability Convention (Geneva, 24-25 November 2005). On 25 November, OHCHR organized a public briefing on the outcome of the expert meeting, with a view to facilitating an exchange of views between the experts and interested delegations, United Nations agencies and civil society organizations. More than 20 permanent missions attended.

21. In order to contribute to the clarification of controversial issues discussed in previous sessions, the Office submitted to the Ad Hoc Committee at its sixth session two background conference documents on "The concept of "special" measures in international human rights law" and on "Legal capacity".⁷ The first document reviews the existing core human rights treaties and the jurisprudence of treaty bodies on "special" or temporary measures, with a view to clarifying the nature and scope of these measures, as well as their relations with other social policies aimed at eliminating discrimination suffered by particular groups of individuals. The second provides an overview of the way in which the terms "recognition everywhere as a person before the law" and "legal capacity" are used in existing human rights law treaties and in selected domestic legal systems, and seeks to assess the relationship – and possible overlapping – between these two terms and such other terms such as "legal personality", "juridical capacity" and "capacity to act".

22. During 2005, OHCHR has continued its efforts to disseminate the study on human rights and disability to States, national institutions, disability and human rights NGOs, academic institutions and disability advocates. To make information concerning the possible use of the existing human rights machinery available to the general public, OHCHR prepared a "Fact Sheet on human rights and disability" to present in concise and non-technical language the main findings of the study. The Fact Sheet, which will be published in 2006, also aims to facilitate the submission of disability-related information to the treaty bodies by disability NGOs, national human rights institutions and specialized agencies of the United Nations.

23. OHCHR continues to collaborate closely with other United Nations agencies and bodies with a mandate on disability. As requested by the General Assembly and the Commission on Human Rights,⁸ OHCHR continued to work in close collaboration and coordination with the Division for Social Policy and Development of the Department of Economic and Social Affairs (DESA) in supporting the work of the Ad Hoc Committee. In June 2005, OHCHR participated in a Consultative Meeting of the Arab Region on the Draft Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities. The meeting, organized by DESA, took place in Casablanca, Morocco, on 15-17 June 2005.

24. During 2005, the Office also continued its close collaboration with such agencies as the International Labour Organization and the World Health Organization, and – to a lesser extent – with the United Nations Educational, Scientific and Cultural Organization, the United Nations Children’s Fund and the World Bank. OHCHR also attended the annual informal consultation of United Nations agencies working in the field of disability, which took place on 15 February at the DESA office in New York.

25. In 2005, OHCHR continued to provide support and assistance to the Special Rapporteur on disability of the Commission for Social Development, Ms. Al-Thani, in her efforts to promote the implementation of the 1993 Standard Rules on the Equalization of Opportunities for Persons with Disabilities. In particular, the Office assisted the Special Rapporteur during her mission to Geneva to present her annual report for the Commission on Social Development to the sixty-first session of the Commission on Human Rights.

III. CONCLUSIONS AND RECOMMENDATIONS

26. **The report submitted by the High Commissioner to the sixty-first session of the Commission on Human Rights showed that since the publication of the study in 2002 there have been some encouraging developments in the way in which disability issues are addressed within the existing human rights treaty system. The review of positive changes introduced since the publication of the study showed that implementation of the recommendations contained in the study on disability could undoubtedly contribute to increasing the attention devoted to disability under existing human rights mechanisms. They 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.**

27. **OHCHR recognizes the need to ensure greater attention to the human rights of persons with disabilities. In view of the growing attention the issue of disability is attracting at the international level, the Commission on Human Rights may wish to consider requesting that a more analytical report focusing on specific issues concerning the human rights of persons with disabilities be prepared by the High Commissioner in the future.**

28. **OHCHR supports the elaboration of a new international convention to promote and protect the rights and dignity of persons with disabilities, and considers that such an instrument could strengthen the protection already afforded by existing human rights treaties by tailoring existing human rights and standards to the particular situation and needs of persons with disabilities. OHCHR welcomes the valuable contribution made 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 G. Quinn and T. Degener, "Human rights and disability: the current use and future potential of United Nations human rights instruments in the context of disability", HR/PUB/02/1, United Nations, New York and Geneva, 2002. For more detailed information on the content of the study, see E/CN.4/2002/18/Add.1.

² General Assembly resolution 59/198, para. 6.

³ Commission on Human Rights resolution 2005/65, paras. 6 and 7.

⁴ General Assembly resolution 56/168 of 19 December 2001.

⁵ A/AC.265/2005/CRP.2, available at <http://www.un.org/esa/socdev/enable/rights/ahc5documents.htm> .

⁶ Commission on Human Rights resolution 2005/65, para. 7.

⁷ See <http://www.un.org/esa/socdev/enable/rights/ahc6documents.htm> .

⁸ See General Assembly resolution 59/198, para. 6, and Commission on Human Rights resolution 2005/65, para. 6.
