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HUMAN RIGHTS AND DISABILITY

Written statement of Disabled Peoples' International, a
non-governmental organization in consultative status
(category II)

The Secretary-General has received the following communication which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[2 August 1991]

1. Disabled Peoples' International welcomes the final report of the Special Rapporteur for human rights and disability, Mr. Leandro Despouy (E/CN.4/Sub.2/1991/31).
2. Disabled Peoples' International, a cross-disability coalition of nearly 100 national affiliates mostly from the developing countries, began efforts in 1982 to promote and protect the human rights of persons with disabilities and to prevent disabilities caused by human rights violations.

3. The Sub-Commission and the Commission responded, and in 1984 the Sub-Commission named Mr. Despouy Special Rapporteur. Since 1984 the Rapporteur has worked closely with our organization and with other organizations of disabled peoples. We wish to take this opportunity to thank the Rapporteur for his warm, productive and cooperative relationship with Disabled Peoples' International. At all times he acted with true understanding of our organization's three basic concepts: full participation and equality, the importance of our own voice (the organization's motto is *Vox nostra*), and DPI's commitment to peace. Regarding the last concept, DPI had republished its Peace Statement and had made public its special appeals for peace prior to the initiation of armed hostilities and had transmitted them to the President of the United States, the Prime Minister of Canada and the Secretary-General of the United Nations. We are extremely pleased that throughout his report the Rapporteur emphasized the relationship between violations of the rules of war, inhumane weapons and the incidence of temporary and permanent disability (see paras. 119-129 of the report).

4. DPI wishes to make some additional comments regarding Mr. Despouy's outstanding study. We are pleased that the Special Rapporteur pointed out the special problems of vulnerable groups such as children, women, indigenous peoples, migrant workers and refugees (paras. 130-157) that bear on the question of disability.

5. The Rapporteur has also stressed another prime issue for DPI - that of extreme poverty and underdevelopment and the incidence of disability (paras. 158-169). In this light, DPI stresses the obligations of the international community as a whole to address pressing issues of humanitarian concern in conformity with its obligations under Article 1 of the Charter of the United Nations. The Rapporteur also indicates a new initiative of the Sub-Commission, that of human rights and the environment, that is directly related to the incidence of disability.

6. The Rapporteur also discusses apartheid and disability, another key issue for DPI (paras. 170-173). While we join the Rapporteur in noting the recent progress in South Africa in eliminating apartheid, we join him also in pointing out that conditions are far from satisfactory. DPI urges the international community to seek ways to ensure that the impact of long years of apartheid, and other discriminatory measures on causes, care, treatment and services for persons with disability be taken on as an issue of the highest priority.

7. Discrimination in all areas against persons with disabilities is rampant worldwide, and we are pleased that the Rapporteur presented many of the key issues in this enormous area of concern. We totally agree with his statement that the primary obligation to suppress discrimination and remove all barriers to full integration of persons with disabilities falls on Governments (para. 206). Governments may not sit idly by but must act themselves in this area. There has been a distressing tendency in certain developed countries to deny a duty in this area and to pass off responsibility to "charity" organizations. We affirm that this constitutes a violation of the rights of disabled persons.

8. Section IV of the report contains a particularly salient discussion of the community care versus institutionalization debate. DPI strongly opposes institutionalization except in the most extreme of circumstances. We applaud the Rapporteur's emphasis on what we call the mandate for independent living - which requires community-based and in-home care. In no way may absence of these independent living services be used to justify institutionalization - Governments are under a legal duty to assure that these services are available through government programmes or other government-supported efforts.

9. The Rapporteur also addresses the importance of organizations of disabled persons and methods to facilitate their formation and functioning (paras. 221-228). To illustrate their importance in this field, we are convinced that the Sub-Commission and Commission would not have taken up the question of human rights and disability were it not for the pressure from DPI. In national situations, we have been constantly appalled at what non-disabled persons plan for disabled persons - whether in terms of employment, rehabilitation, independent living, wheelchair design, education, sports or any other area. We have clearly demonstrated in a number of countries that organizations of disabled persons and individual disabled persons are the best resources regarding our needs and the best way to deliver them.

10. Organizations of disabled persons are especially important because of the critical issue of remedies for discrimination and other human rights violations. DPI remains extremely concerned because of serious domestic barriers to redress - whether because of judicial barriers (failure of Governments to acknowledge economic or other rights, lack of justiciable laws, etc.), lack of legislative action, executive branch hostility, social hostility. We appreciate that the Rapporteur pointed out this problem (paras. 255-256) and agree that remedies worldwide are going through a period of transformation.

11. Rehabilitation is also a necessity to ensure the full human rights of persons with disabilities. We insist on a mandate for rehabilitation. The Rapporteur points out a number of issues relating to rehabilitation (paras. 233-241). The Rapporteur mentions International Labour Organisation Convention No. 159 on Rehabilitation and Employment (Disabled Persons). DPI participated heavily in the development of that Convention, and we remain distressed at the low number of ratifications this Convention has received. We urge States that have not done so to ratify Convention No. 159 as an issue of highest priority, especially in light of the conclusion of the United Nations Decade of Disabled Persons in 1992.

12. Finally, DPI wishes to comment on the Rapporteur's recommendations. We think most strongly that an ombudsman would be most useful in this area. Issues of disability, while invoking the same general provisions of human rights as all other issues, clearly require specialized remedies. For example, institutionalization, a deprivation of liberty and therefore a human rights violation, requires not only remedies such as habeas corpus or amparo, but also the provision of specialized community care such as services for independent living. Similar examples exist for practically all effected rights. We concur that disabled persons and their organizations also ought to

continue to utilize all the relevant international human rights procedures. The Committee on Economic, Social and Cultural Rights appears to us to be particularly relevant in this area, and should be utilized to the maximum possible.

13. In conclusion, DPI would like to make a strong recommendation that the Rapporteur did not make - that the report be published in the United Nations World Campaign for Human Rights Study Series or other appropriate series. We also urge the Sub-Commission to ask the Commission to recommend that the Department of Public Information facilitate its dissemination in Braille, large print and on tape and in children's versions.
