

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**JENNIFER TANUDJAJA, JANICE ARSENAULT, ANSAR  
MAHMOOD,  
BRIAN DUBOURDIEU, CENTRE FOR EQUALITY RIGHTS IN  
ACCOMMODATION**

**Applicants**

**- and -**

**ATTORNEY GENERAL OF CANADA and  
ATTORNEY GENERAL OF ONTARIO**

**Respondents**

**APPLICATION UNDER Rule 14.05(3)(g.1) of the *Rules of  
Civil Procedure*, R.R.O. 1990, O. Reg. 194 and under the  
*Canadian Charter of Rights and Freedoms***

---

**FACTUM OF THE PROPOSED INTERVENER,  
ARCH DISABILITY LAW CENTRE, THE DREAM TEAM, CANADIAN  
HIV/AIDS LEGAL NETWORK AND HIV/AIDS LEGAL CLINIC ONTARIO**

---

**ARCH Disability Law Centre  
425 Bloor Street East, Suite 110  
Toronto, ON M4W 3R4**

**Laurie Letheren (LSUC # 35968K)  
Tel: 416-482-8255 ext. 232  
Fax: 416-482-2981  
Email: [letherel@lao.on.ca](mailto:letherel@lao.on.ca)**

**Counsel for the Proposed  
Intervenor, ARCH Disability Law  
Centre, The Dream Team,  
Canadian HIV/AIDS Legal Network  
and HIV/AIDS Legal Clinic Ontario**

**TO: Tracy Hefferman**  
Advocacy Centre for Tenants Ontario  
425 Adelaide St. West, Suite 500  
Toronto, Ontario  
M5V 3C1

Tel: (416) 597-5855  
Fax: (416) 597-5821

**Counsel for the Applicants**

**AND TO: Peter Rosenthal**  
Roach Schwartz and Associates  
688 St. Clair Avenue West  
Toronto, Ontario  
M6C 1B1

Tel : (416) 657-1465  
Fax : (416) 657-1511

**Counsel for the Applicants**

**AND TO: Fay Faraday**  
860 Manning Avenue  
Toronto, Ontario  
M6G 1W8

Tel: (416) 389-4399  
Fax: (647) 776-3147

**Counsel for the Applicants**

**AND TO: Janet Minor and Arif Virani**  
Ministry of the Attorney General  
Constitutional Law Branch  
720 Bay St. 4<sup>th</sup> Floor  
Toronto, Ontario  
M7A 2S9

Tel: (416) 326-4137; (416) 326-0131  
Fax: (416) 326-4015

**Counsel for the Respondent, AG of Ontario**

**AND TO: Gall Sinclair and Michael Morris**  
Department of Justice  
Ontario Regional Office  
The Exchange Tower  
130 King Street West  
Suite 3400, Box 36  
Toronto, Ontario  
M5X 1K6

**Tel: (416) 954-8109 / 973-9704**

**Fax: (416) 973-0809**

**Counsel for the Respondent, AG of Canada**

# INDEX

	<u>PAGES</u>
<b>PART I – STATEMENT OF FACTS</b>	1
A. Nature of the Motion	1
B. The Proposed Intervenor	3
<b>PART II – ISSUES</b>	6
<b>PART III – LAW AND ARGUMENT</b>	7
A. Intervening as a Friend of the Court on a Rule 21 Motion	7
B. Intervening in Constitutional Application	9
C. The Coalition has a Clear Interest in this Appeal	10
D. The Coalition will Provide a Unique Perspective that will Assist the Court	12
E. No Prejudice to the Parties	14
<b>PART IV – ORDER REQUESTED</b>	14
<b>SCHEDULE A – LIST OF AUTHORITIES</b>	16
<b>SCHEDULE B – STATUTES RELIED UPON</b>	17
Convention on the Rights of Persons with Disabilities	TAB A
International Covenant on Economic, Social and Cultural Rights	TAB B

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**JENNIFER TANUDJAJA, JANICE ARSENAULT, ANSAR MAHMOOD,  
BRIAN DUBOURDIEU, CENTRE FOR EQUALITY RIGHTS IN  
ACCOMMODATION**

**Applicants**

**- and -**

**ATTORNEY GENERAL OF CANADA and  
ATTORNEY GENERAL OF ONTARIO**

**Respondents**

**APPLICATION UNDER Rule 14.05(3)(g.1) of the *Rules of  
Civil Procedure*, R.R.O. 1990, O. Reg. 194 and under the  
*Canadian Charter of Rights and Freedoms***

**FACTUM**

**FACTUM OF THE COALITION OF ARCH DISABILITY LAW CENTRE, THE  
DREAM TEAM, CANADIAN HIV/AIDS LEGAL NETWORK AND HIV/AIDS  
LEGAL CLINIC ONTARIO FOR LEAVE TO INTERVENE  
PURSUANT TO RULE 13.02 OF THE *RULES OF CIVIL PROCEDURE***

**PART I – STATEMENT OF FACTS**

**A. Nature of the Motion**

1. This is a motion for intervention by ARCH Disability Law Centre (“ARCH”), The Dream Team, Canadian HIV/AIDS Legal Network (“Legal Network”) and HIV/AIDS Legal Clinic Ontario (“HALCO”), “the Coalition”, which seeks leave to intervene as a friend of the Court in the Respondents’ motion to strike the

**Amended Notice of Application, pursuant to Rule 13.02 of the *Rules of Civil Procedure*.**

***Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, Rule 13.02.**

2. **The Attorney General of Canada and the Attorney General of Ontario (the “Respondents”) move to strike the Amended Notice of Application filed by the Applicants on May 26, 2010. The Respondents move to strike on the grounds that the Application discloses no reasonable cause of action and the Applicants’ claim is non-judicial. More specifically, the Respondents argue that the *Charter* claims made in the Application, what the Attorney General of Ontario calls the “constitutionalized right to housing”, has no reasonable prospect of success. The Respondents assert that section 7 of the *Charter* does not protect pure economic rights and that neither section 7 nor 15 “place positive obligations on the state”. The Respondents further argue that the Application seeks relief beyond the jurisdiction of a court to grant.**

**Factum of the Attorney General of Canada paras1-4.**

**Factum of the Attorney General of Ontario paras1-5.**

3. **The Coalition seeks to intervene with respect to the judiciability of the issues raised in the Application, The importance of the issues raised in this Application, requires a full hearing of the evidence and arguments in order for the Court to have a full understanding of the issues raised, particularly in light**

of the importance of supportive and sustainable housing for people with disabilities.

## **B. The Proposed Intervenor**

4. ARCH Disability Law Centre was founded over thirty years ago as a charitable organization with an Ontario-wide mandate and is governed by a community based board of directors, the majority of whom must be people with disabilities. Among other litigation, ARCH engages in test case litigation on behalf of both individuals with disabilities and organizations that represent their interests. ARCH has intervened and represented intervenors before the Supreme Court of Canada in numerous cases in which the Court conducted a *Charter* or human rights analysis.

.Affidavit of Ivana Petricone, Motion Record, pages 2-4 paras. 6-10.

5. As intervenor at several levels of Court, including the Supreme Court, ARCH has also addressed the role of Canada's obligations under the *Convention on the Rights of Persons with Disabilities* ("CRPD") in interpreting equality rights guaranteed under the *Charter*. In cases such as *Frederick Moore on behalf of Jeffrey P. Moore v. B.C. and Canada (Attorney General) v. Jodhan*, ARCH submitted that the equality provisions in the *Charter* share many of the same values as those advanced in the CRPD and that therefore,

Canada's obligations under the CRPD are important indicators of the meaning of the full benefit of the *Charter's* protection.

6. The Dream Team was founded in 2000 and is comprised of psychiatric consumers and survivors who advocate for safe and affordable supportive housing for people living with mental health and addiction issues. By using their personal experiences and by conducting and presenting research, The Dream Team advances the rights of people with mental health disabilities and addictions in both public and political arenas. Part of its mandate is to increase awareness about the lives of people with mental health disabilities and the contributions they can and do make to the community, particularly when they have access to supportive housing.

Affidavit of Ivana Petricone, Motion Record, pages 5-7 paras. 18-21.

7. The Dream Team has filed a number of applications at the Human Rights Tribunal of Ontario against several Ontario municipalities whose by-laws place restrictions on persons with disabilities. The Dream Team takes the position these by-laws have a discriminatory impact as they determine the number of people of disabilities who may live in a particular municipality or restrict the proximity of supportive housing residences to each other.

Affidavit of Ivana Petricone, Motion Record, page 7 para. 22.

8. The Canadian HIV/AIDS Legal Network ("Legal Network") was founded in 1992 as a non-governmental organization, and federally incorporated as a



not-for-profit organization in 1993. The Legal Network is the only national organization in Canada that works exclusively on legal and policy issues related to HIV and AIDS. The Legal Network also has an extensive history on a wide range of work internationally. The Legal Network is in Special Consultative Status with the Economic and Social Council (ECOSOC) of the United Nations.

Affidavit of Ivana Petricone, Motion Record, pages 7-9 paras. 23-27.

9. The Legal Network has been involved in public interest litigation on HIV-related human rights issues both internationally and domestically, recently intervening before both the European Court of Human Rights in the matter of *John Shelley v. United Kingdom*, 23800/06 [2008] 108, and the Supreme Court of Canada in *Canada(Attorney General) v. PHS Community Services Society*, 2011 SCC 44.

Affidavit of Ivana Petricone, Motion Record, pages 9-10 paras. 28-31.

10. HIV/AIDS Legal Clinic Ontario ("HALCO") is a community legal clinic founded in 1994, which provides legal services to individuals living with HIV in Ontario. HALCO is the only organization in Canada providing direct legal services exclusively to people living with HIV, and has responded to over 30,000 legal inquiries in various areas of laws since 2003 including human rights, housing, landlord and tenant and social assistance. HALCO also engages in public legal education initiatives and has provided several hundred oral presentations on various legal topics to audiences including

individuals living with HIV/AIDS, health care professions and both governmental and non-governmental organizations.

Affidavit of Ivana Petricone, Motion Record, pages 11-12 paras. 36-39.

11. HALCO has been granted intervenor status by various levels of appellate courts in numerous cases which affect persons living with HIV/AIDS. HALCO and the Legal Network assisted the Ontario Court of Appeal as intervenors in *Bedford et al. v. Attorney General of Canada*, 2012 ONCA 186 on issues of the constitutionality of Criminal Code provisions regarding sex work. HALCO and the Legal Network also recently intervened before the Supreme Court in both *R. v. Mabior*, 2012 SCC 47, and *R. v. D.C.*, 2012 SCC 48 which both addressed the criminalization of the non-disclosure of HIV-positive status.

Affidavit of Ivana Petricone, Motion Record, pages 12-13 paras. 40-41

## **PART II – ISSUES**

12. Does the proposed intervenor satisfy the requirements to be granted intervenor status in this motion?
- a. Do the *Rules of Civil Procedure* allow an intervention on a motion to strike?
  - b. Does the Coalition have a clear interest in this matter and a unique perspective that will assist the Court in determining this appeal?
13. Will the granting of intervenor status to the Coalition result in any prejudice to the parties?

### **PART III – LAW AND ARGUMENT**

14. Interventions to serve as a friend of this Court are governed by Rule 13.02 of the *Rules of Civil Procedure* which states that:

Any person may, with leave of a judge or at the invitation of the presiding judge or master, and without becoming a party to the proceeding, intervene as a friend of the court for the purpose of rendering assistance to the court by way of argument.

*Rules of Civil Procedure*, R.R.O. 1990, Regulation 194.

15. On a motion for leave to intervene on the essential matters to be considered are: (1) the nature of the case; (2) the issues that arise; and (3) the likelihood of the moving party being able to make a useful contribution to the resolution of the appeal without causing injustice to the immediate parties.

*Peel (Regional Municipality of) v. Greater Atlantic and Pacific Co. of Canada* (1990), 74 O.R. (2d) 164 (Ont. C.A.) [*Peel v. Great Atlantic and Pacific*] at 3. Joint Book of Authorities Tab 14.

*Reference re Workers Compensation Act, 1983* (Nfld.), 1989 CanLII 23 (SCC), [1989] 2 S.C.R. 335 [*Re Workers Compensation Act*] at 339. Joint Book of Authorities Tab 21

*R. v. Finta*, [1993] 1 S.C.R. 1138 at 1142-1144. Joint Book of Authorities Tab 22

#### **A. Intervening as a Friend of the Court on a Rule 21 Motion**

16. Rule 21 provides for the opportunity to determine issues which may dispose of proceeding before trial. As a general principle of interpretation, Rule 1.04 sets out that the rules should be liberally construed and must be given broad construction.

*Rules of Civil Procedure, R.R.O. 1990, Regulation 194.*

17. An intervention in a motion under Rule 21 is not procedurally barred.

Canadian Courts have recognized that applying Rule 13 solely to actions or proceedings is unduly restrictive and in appropriate cases, the term “proceeding” should include “motions”. A broad interpretation of Rule 13.02 would allow for intervention on a Rule 21 motion. Allowing for a party to intervene as a friend of the court or to be added as a party on a Rule 21 motion, supports the purpose of the rules; to allow for a just, expeditious and inexpensive determination of the merits of the matters before the court.

*Trempe v. Reybroek*, 2002 CanLII 49410 (ON SC), [2002] 57 O.R. (3d) 786 (S.C.J.) at para 19. Joint Book of Authorities Tab 6.

*Rauscher v. Rottford Developments Ltd.*, (1989), 69 O.R. (2d) 749 (H.C.) at 750. Joint Book of Authorities Tab 23.

18. A similar analysis was taken by the Court in *Barbra Schlifer*

*Commemorative Clinic v. HMQ Canada*, 2012 ONSC 4539, where the City of Toronto was granted leave to intervene in the injunction motion. The Court determined that the City demonstrated it could offer assistance to the Court in the proceeding and would not delay or prejudice the hearing.

*Barbra Schlifer Commemorative Clinic v. HMQ Canada*, 2012 ONSC 4539. Joint Book of Authorities Tab 24.

19. Even if the Court does not agree to interpret the term “proceeding” to include motions, the Superior Court has inherent jurisdiction which allows for

the Court to make its own determinations of important issues such as whether a party may intervene in a motion. This is particularly important in Rule 21 motions, where if the motion were successful, a final determination of the proceeding would result.

*Finlayson v. Gmac Leaseco Limited*, 2007 CanLII 4317 (ON SC), [2007] 84 O.R. (3d) 680 at para 25. Joint Book of Authorities Tab 5.

### **B. Intervening in Constitutional Application**

20. On a motion for leave to intervene in a *Charter* application, specific considerations must be taken into account. At least one of three criteria must be met by the intervenor: (1) it has a real substantial and identifiable interest in the subject matter of the proceedings; (2) it has an important perspective distinct from the immediate parties; or (3) it is a well recognized group with a special expertise and a broadly identifiable membership base. The Coalition submits that it meets not one, but each of these criteria.

*Bedford v. Attorney General of Canada*, 2009 ONCA 669 (CanLII) at para 2. Joint Book of Authorities Tab 7.

*M. v. H.*, 1994 CanLII 7324 (ON SC), (1994), 20 O.R. (3d) 70, 9 R.F.L. (4th) 94 (Gen. Div.) [*M. v. H.*] at para 49. Joint Book of Authorities Tab 20.

21. Additionally, leave to intervene should be more readily granted when constitutional issues are involved.

*Peel v. Great Atlantic and Pacific*, *supra* at pg 3.

*M. v. H.*, *supra* at paras 35-38.

### **C. The Coalition has a Clear Interest in this Appeal**

22. Canadian Courts have recognized that in legal proceedings involving matters of public importance, a court should have before it different perspectives from organizations or groups representing substantial public interests and having a clear interest in the issue between the parties.

*Re workers Compensation Act, supra* at 335.

23. The Coalition seeks to intervene as the motion to strike and the Amended Notice of Application raise important public interest issues that directly affect the community the Coalition represents; people with disabilities and people living with HIV/AIDS. The Coalition has a direct and genuine interest in the outcome of the motion to strike on this particular Amended Notice of Application as well as in the more extensive implications of the Court's decision to strike a *Charter* application at this stage.

24. This motion to strike raises fundamentally important issues for the Coalition. People with disabilities are a socially and economically disadvantaged group who often rely on the *Charter* to advance their right to be respected as full and equal members of society.

25. People with disabilities fought hard to have "disability" included as a

protected ground in the *Charter*. The importance of this inclusion was the recognition of people with disabilities as persons who are equally deserving of respect and consideration.

26. A dismissal of the Application at this point would not only thwart the important claims made by the Applicants but would have a particularly chilling impact on the ability of people with disabilities to present new and unique arguments on the questions of the purpose and meaning of the *Charter*.
27. Granting the motion to dismiss would have a more severely limiting effect on future related *Charter* applications than would an ultimate dismissal of the Application after consideration of all evidence and full argument based on the evidence. A dismissal of the Application at this early stage would significantly impact the important rights based advocacy in which the groups represented by the Coalition would engage in the future.
28. The Court's determination of this Application will have an impact far beyond the Applicants. People with disabilities, including people living with HIV/AIDS are an historically marginalized groups in Canada who are extremely likely to experience social and economic disadvantage. As a result, they are more likely to experience significant periods of homelessness or precarious housing.
29. As a result, is extremely important to the Coalition that the motion to dismiss be denied. The validity of the dispute requires a full hearing on the

evidence. The Court must fully consider the extent to which the *Charter* provides rights; may create obligations and allows for the relief sought particularly in light of the importance of adequate housing for people with disabilities.

**D. The Coalition will Provide a Unique Perspective that will Assist the Court**

30. With respect to the issue of useful and different submissions, Sopinka, J.

held in the *Reference Re Workers Compensation Act*:

This criteria is easily satisfied by an applicant who has a history of involvement in the issue, giving the applicant an expertise which can shed fresh light or provide new information on the matter.

This is particularly true in case such as the present one, which raise important public policy concerns.

*Re workers Compensation Act, supra* at 339.

31. If granted leave to intervene, the Coalition's submissions will provide the Court with the unique perspective of people with disabilities, including people living with HIV/AIDS. Through this perspective, the Coalition will make submissions on the potentially broad impact that granting the Respondent's motion to strike would have on these communities.

(vi). Affidavit of Ivana Petricone, Motion Record, pages 13, 16 paras. 43, 48



32. The Coalition will take the position that the legal claims sought by the Applicants are justiciable and present a reasonable cause of action. In addressing the importance of a full hearing of the Application, the Coalition proposes to focus on the following submissions and will not take a position on other issues:

- The importance of this Court taking this opportunity to fully analyse Canada's obligations in ratifying the *Convention on the Rights of People with Disabilities (CRPD)* and *International Covenant on Economic and Social and Cultural Rights (ICESCR)*, and to interpret the Applicants' rights under the *Charter* in light of these international obligations.

Affidavit of Ivana Petricone, Motion Record, page 15, paras. 48 (iii).

- The Coalition will advance arguments that Canada's international human rights obligations are important indicators of the meaning of the full benefit of the *Charter's* protection.

Affidavit of Ivana Petricone, Motion Record, page 16, paras. 48 (iv), (v).

- There are critical issues of unsettled law surrounding whether economic benefits such as a person's right to housing is a right protected by the *Charter*. This is an area of law which is still being developed, and a decision to allow the motion to strike without benefit of a complete evidentiary record and a full hearing will have a negative impact on the

work of equality seeking groups, such as those represented by the Coalition, in the future.

Affidavit of Ivana Petricone, Motion Record, page 15, paras. 48(i).

33. The Coalition is able to offer the Court insight and submissions that are unique and different from those of the parties. An outline of the Coalition's proposed legal submissions is more thoroughly set out in the affidavit of Ivana Petricone.

**E. No Prejudice to the Parties**

34. The Coalition makes no attempt to present new evidence for the record, but rather to provide the Court with a different perspective from that of the parties. If granted leave to intervene, the Coalition will not create any delay in the hearing of the motion to dismiss or cause any other prejudice to the parties.

**PART IV – ORDER REQUESTED**

35. ARCH, The Dream Team, The Legal Network and HALCO collectively seek an order granting the Coalition leave to intervene as a friend of the court in the Respondent's motion to strike the Amended Notice of Application. The Coalition requests that it be permitted to file a factum not exceeding 30 pages, and to present oral argument not exceeding 20 minutes at the hearing of the Respondents' motion.

36. The Coalition does not seek costs and requests that, in the event the motion is dismissed, no costs be awarded against it.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 31st day of January, 2013.



Laurie Letheren (LSUC #35968K)

ARCH Disability Law Centre  
425 Bloor Street West, #110  
Toronto, Ontario M4W 3R5

Tel. (416) 482.8255  
Fax. (416) 482.2981

Counsel for the Proposed Intervenor, the Coalition.

**SCHEDULE A – LIST OF AUTHORITIES**

*Barbra Schlifer Commemorative Clinic v. HMQ Canada*, 2012 ONSC 4539.

*Bedford v. Attorney General of Canada*, 2009 ONCA 669 (CanLII).

*Finlayson v. Gmac Leaseco Limited*, 2007 CanLII 4317 (ON SC). [2007] 84 O.R. (3d) 680 at para 25.

*M. v. H.* 1994 CanLII 7324 (ON SC), (1994), 20 O.R. (3d) 70, 9 R.F.L. (4th) 94 (Gen. Div.).

*Peel (Regional Municipality of) v. Greater Atlantic and Pacific Co. of Canada* (1990), 74 O.R. (2d) 164 (Ont. C.A.).

*R. v. Finta*, [1993] 1 S.C.R. 1138.

*Rauscher v. Rottford Developments Ltd.*, (1989), 69 O.R. (2d) 749 at 750 (H.C.)

*Reference re Workers Compensation Act, 1983 (Nfld.)*, 1989 CanLII 23 (SCC) [1989] 2 S.C.R. 335.

*Trempe v. Reybroek*, 2002 CanLII 49410 (ON SC), [2002] 57 O.R. (3d) 786 (S.C.J.) at para 19.

## **SCHEDULE B – STATUTES RELIED UPON**

***Rules of Civil Procedure, R.R.O. 1990, Regulation 194, Rules 1.04, 13.02, 21, 37.***

### **RULE 1 CITATION, APPLICATION AND INTERPRETATION**

#### ***General Principle***

**1.04 (1)** These rules shall be liberally construed to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits. R.R.O. 1990, Reg. 194, r. 1.04 (1).

### **RULE 13 INTERVENTION**

#### **LEAVE TO INTERVENE AS FRIEND OF THE COURT**

**13.02** Any person may, with leave of a judge or at the invitation of the presiding judge or master, and without becoming a party to the proceeding, intervene as a friend of the court for the purpose of rendering assistance to the court by way of argument. R.R.O. 1990, Reg. 194, r. 13.02; O. Reg. 186/10, s. 1.

### **RULE 21 DETERMINATION OF AN ISSUE BEFORE TRIAL**

#### **WHERE AVAILABLE**

#### ***To Any Party on a Question of Law***

**21.01 (1)** A party may move before a judge,  
**(a)** for the determination, before trial, of a question of law raised by a pleading in an action where the determination of the question may dispose of all or part of the action, substantially shorten the trial or result in a substantial saving of costs; or  
**(b)** to strike out a pleading on the ground that it discloses no reasonable cause of action or defence,  
 and the judge may make an order or grant judgment accordingly. R.R.O. 1990, Reg. 194, r. 21.01 (1).

### **RULE 37 MOTIONS — JURISDICTION AND PROCEDURE**

#### **NOTICE OF MOTION**

**37.01** A motion shall be made by a notice of motion (Form 37A) unless the nature of the motion or the circumstances make a notice of motion unnecessary. R.R.O. 1990, Reg. 194, r. 37.01.

***Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11, ss. 7, 15.***

**Legal Rights**

**Life, liberty and security of person**

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

**Equality Rights**

**Equality before and under law and equal protection and benefit of law**

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

***La Charte canadienne des droits et libertés, Loi constitutionnelle de 1982 (R-U), constituant l'annexe B de la Loi de 1982 sur le Canada (R-U), 1982, c 11***

**Garanties juridiques**

**Vie, liberté et sécurité**

7. Chacun a droit à la vie, à la liberté et à la sécurité de sa personne; il ne peut être porté atteinte à ce droit qu'en conformité avec les principes de justice fondamentale.

**Droits à l'égalité**

**Égalité devant la loi, égalité de bénéfice et protection égale de la loi**

15. (1) La loi ne fait acception de personne et s'applique également à tous, et tous ont droit à la même protection et au même bénéfice de la loi, indépendamment de toute discrimination, notamment des discriminations fondées sur la race, l'origine nationale ou ethnique, la couleur, la religion, le sexe, l'âge ou les déficiences mentales ou physiques.

## **CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES**

### **Preamble**

*The States Parties to the present Convention,*

(a) *Recalling* the principles proclaimed in the Charter of the United Nations which recognize the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world,

(b) *Recognizing* that the United Nations, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, has proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind,

(c) *Reaffirming* the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination,

(d) *Recalling* the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

(e) *Recognizing* that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others,

(f) *Recognizing* the importance of the principles and policy guidelines contained in the World Programme of Action concerning Disabled Persons and in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in influencing the promotion, formulation and evaluation of the policies, plans, programmes and actions at the national, regional and international levels to further equalize opportunities for persons with disabilities,

(g) *Emphasizing* the importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development,





**(h) Recognizing also that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person,**

**(i) Recognizing further the diversity of persons with disabilities,**

**(j) Recognizing the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support,**

**(k) Concerned that, despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world,**

**(l) Recognizing the importance of international cooperation for improving the living conditions of persons with disabilities in every country, particularly in developing countries,**

**(m) Recognizing the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty,**

**(n) Recognizing the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,**

**(o) Considering that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them,**

**(p) Concerned about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status,**

**(q) Recognizing that women and girls with disabilities are often at greater risk, both within and outside the home, of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation,**

**(r) Recognizing that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis**

with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child,

(s) *Emphasizing* the need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities,

(t) *Highlighting* the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recognizing the critical need to address the negative impact of poverty on persons with disabilities,

(u) *Bearing in mind* that conditions of peace and security based on full respect for the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full protection of persons with disabilities, in particular during armed conflicts and foreign occupation,

(v) *Recognizing* the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms,

(w) *Realizing* that the individual, having duties to other individuals and to the community to which he or she belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the International Bill of Human Rights,

(x) *Convinced* that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities,

(y) *Convinced* that a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries,

*Have agreed as follows:*

## **Article 1 Purpose**

**The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.**

**Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.**

## **Article 2 Definitions**

**For the purposes of the present Convention:**

**“Communication” includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;**

**“Language” includes spoken and signed languages and other forms of non spoken languages;**

**“Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;**

**“Reasonable accommodation” means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;**

**“Universal design” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.**

**Article 3**  
**General principles**

The principles of the present Convention shall be:

- (a) **Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;**
- (b) **Non-discrimination;**
- (c) **Full and effective participation and inclusion in society;**
- (d) **Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;**
- (e) **Equality of opportunity;**
- (f) **Accessibility;**
- (g) **Equality between men and women;**
- (h) **Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.**

**Article 4**  
**General obligations**

1. **States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:**

- (a) **To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;**
- (b) **To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;**
- (c) **To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;**

**(d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;**

**(e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;**

**(f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;**

**(g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;**

**(h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;**

**(i) To promote the training of professionals and staff working with persons with disabilities in the rights recognized in the present Convention so as to better provide the assistance and services guaranteed by those rights.**

**2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.**

**3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.**

**4. Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State. There shall be no restriction upon or derogation from any of the**

human rights and fundamental freedoms recognized or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognize such rights or freedoms or that it recognizes them to a lesser extent.

5. The provisions of the present Convention shall extend to all parts of federal States without any limitations or exceptions.

#### **Article 5 Equality and non-discrimination**

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.

2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.

3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.

4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

#### **Article 6 Women with disabilities**

1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.

2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

#### **Article 7 Children with disabilities**

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

#### **Article 8 Awareness-raising**

1. States Parties undertake to adopt immediate, effective and appropriate measures:

(a) To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;

(b) To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;

(c) To promote awareness of the capabilities and contributions of persons with disabilities.

2. Measures to this end include:

(a) Initiating and maintaining effective public awareness campaigns designed:

(i) To nurture receptiveness to the rights of persons with disabilities;

(ii) To promote positive perceptions and greater social awareness towards persons with disabilities;

(iii) To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;

(b) Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;

(c) Encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention;

**(d) Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.**

**Article 9  
Accessibility**

**1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:**

**(a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;**

**(b) Information, communications and other services, including electronic services and emergency services.**

**2. States Parties shall also take appropriate measures:**

**(a) To develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;**

**(b) To ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;**

**(c) To provide training for stakeholders on accessibility issues facing persons with disabilities;**

**(d) To provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;**

**(e) To provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;**

**(f) To promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;**



**(g) To promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;**

**(h) To promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.**

**Article 10  
Right to life**

**States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.**

**Article 11  
Situations of risk and humanitarian emergencies**

**States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.**

**Article 12  
Equal recognition before the law**

**1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.**

**2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.**

**3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.**

**4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The**

safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.

5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

### **Article 13 Access to justice**

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.

2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

### **Article 14 Liberty and security of person**

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:

(a) Enjoy the right to liberty and security of person;

(b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation.

**Article 15**  
**Freedom from torture or cruel, inhuman or degrading  
treatment or punishment**

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.

2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

**Article 16**  
**Freedom from exploitation, violence and abuse**

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.

2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.

3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.

4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.

5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

**Article 17**  
**Protecting the Integrity of the person**

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

**Article 18**  
**Liberty of movement and nationality**

1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:

(a) Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;

(b) Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;

(c) Are free to leave any country, including their own;

(d) Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.

2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.

**Article 19**  
**Living Independently and being Included in the community**

States Parties to the present Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

(a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;

**(b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;**

**(c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.**

#### **Article 20 Personal mobility**

**States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:**

**(a) Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;**

**(b) Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;**

**(c) Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;**

**(d) Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.**

#### **Article 21 Freedom of expression and opinion, and access to information**

**States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:**

**(a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;**

**(b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means,**

modes and formats of communication of their choice by persons with disabilities in official interactions;

(c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;

(d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;

(e) Recognizing and promoting the use of sign languages.

#### **Article 22**

##### **Respect for privacy**

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.

2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

#### **Article 23**

##### **Respect for home and the family**

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:

(a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;

(b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;

**(c) Persons with disabilities, including children, retain their fertility on an equal basis with others.**

**2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.**

**3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.**

**4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.**

**5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.**

#### **Article 24 Education**

**1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:**

**(a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;**

**(b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;**

**(c) Enabling persons with disabilities to participate effectively in a free society.**

**2. In realizing this right, States Parties shall ensure that:**

**(a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;**

**(b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;**

**(c) Reasonable accommodation of the individual's requirements is provided;**

**(d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;**

**(e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.**

**3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:**

**(a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;**

**(b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;**

**(c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.**

**4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.**



5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

## **Article 25 Health**

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

(a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;

(b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;

(c) Provide these health services as close as possible to people's own communities, including in rural areas;

(d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;

(e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;

(f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

**Article 26**  
**Habilitation and rehabilitation**

1. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:

(a) Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;

(b) Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.

2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.

3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

**Article 27**  
**Work and employment**

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

(a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;

(b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy

working conditions, including protection from harassment, and the redress of grievances;

(c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;

(d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;

(e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;

(f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;

(g) Employ persons with disabilities in the public sector;

(h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;

(i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;

(j) Promote the acquisition by persons with disabilities of work experience in the open labour market;

(k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

#### **Article 28**

##### **Adequate standard of living and social protection**

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.

2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:

(a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;

(b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;

(c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;

(d) To ensure access by persons with disabilities to public housing programmes;

(e) To ensure equal access by persons with disabilities to retirement benefits and programmes.

#### **Article 29 Participation in political and public life**

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake:

(a) To ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:

(i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;

(ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;

**(iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;**

**(b) To promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:**

**(i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;**

**(ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.**

**Article 30  
Participation in cultural life, recreation,  
leisure and sport**

**1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:**

**(a) Enjoy access to cultural materials in accessible formats;**

**(b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;**

**(c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.**

**2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.**

**3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.**

**4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.**

**5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:**

**(a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;**

**(b) To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;**

**(c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;**

**(d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;**

**(e) To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.**

#### **Article 31 Statistics and data collection**

**1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:**

**(a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;**

**(b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.**

**2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of**

**States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.**

**3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.**

### **Article 32 International cooperation**

**1. States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities. Such measures could include, inter alia:**

**(a) Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;**

**(b) Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;**

**(c) Facilitating cooperation in research and access to scientific and technical knowledge;**

**(d) Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.**

**2. The provisions of this article are without prejudice to the obligations of each State Party to fulfil its obligations under the present Convention.**

### **Article 33 National implementation and monitoring**

**1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.**

2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.

3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

#### **Article 34**

##### **Committee on the Rights of Persons with Disabilities**

1. There shall be established a Committee on the Rights of Persons with Disabilities (hereafter referred to as "the Committee"), which shall carry out the functions hereinafter provided.

2. The Committee shall consist, at the time of entry into force of the present Convention, of twelve experts. After an additional sixty ratifications or accessions to the Convention, the membership of the Committee shall increase by six members, attaining a maximum number of eighteen members.

3. The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence and experience in the field covered by the present Convention. When nominating their candidates, States Parties are invited to give due consideration to the provision set out in article 4, paragraph 3, of the present Convention.

4. The members of the Committee shall be elected by States Parties, consideration being given to equitable geographical distribution, representation of the different forms of civilization and of the principal legal systems, balanced gender representation and participation of experts with disabilities.

5. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties from among their nationals at meetings of the Conference of States Parties. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The initial election shall be held no later than six months after the date of entry into force of the present Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall



address a letter to the States Parties inviting them to submit the nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating the State Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

7. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once. However, the term of six of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these six members shall be chosen by lot by the chairperson of the meeting referred to in paragraph 5 of this article.

8. The election of the six additional members of the Committee shall be held on the occasion of regular elections, in accordance with the relevant provisions of this article.

9. If a member of the Committee dies or resigns or declares that for any other cause she or he can no longer perform her or his duties, the State Party which nominated the member shall appoint another expert possessing the qualifications and meeting the requirements set out in the relevant provisions of this article, to serve for the remainder of the term.

10. The Committee shall establish its own rules of procedure.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention, and shall convene its initial meeting.

12. With the approval of the General Assembly of the United Nations, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

13. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

#### **Article 35** **Reports by States Parties**

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a comprehensive report on measures taken to give effect to its obligations under the present Convention and on the progress

made in that regard, within two years after the entry into force of the present Convention for the State Party concerned.

2. Thereafter, States Parties shall submit subsequent reports at least every four years and further whenever the Committee so requests.

3. The Committee shall decide any guidelines applicable to the content of the reports.

4. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports, repeat information previously provided. When preparing reports to the Committee, States Parties are invited to consider doing so in an open and transparent process and to give due consideration to the provision set out in article 4, paragraph 3, of the present Convention.

5. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

#### **Article 36 Consideration of reports**

1. Each report shall be considered by the Committee, which shall make such suggestions and general recommendations on the report as it may consider appropriate and shall forward these to the State Party concerned. The State Party may respond with any information it chooses to the Committee. The Committee may request further information from States Parties relevant to the implementation of the present Convention.

2. If a State Party is significantly overdue in the submission of a report, the Committee may notify the State Party concerned of the need to examine the implementation of the present Convention in that State Party, on the basis of reliable information available to the Committee, if the relevant report is not submitted within three months following the notification. The Committee shall invite the State Party concerned to participate in such examination. Should the State Party respond by submitting the relevant report, the provisions of paragraph 1 of this article will apply.

3. The Secretary-General of the United Nations shall make available the reports to all States Parties.

4. States Parties shall make their reports widely available to the public in their own countries and facilitate access to the suggestions and general recommendations relating to these reports.

5. The Committee shall transmit, as it may consider appropriate, to the specialized agencies, funds and programmes of the United Nations, and other competent bodies, reports from States Parties in order to address a request or indication of a need for technical advice or assistance contained therein, along with the Committee's observations and recommendations, if any, on these requests or indications.

#### **Article 37**

##### **Cooperation between States Parties and the Committee**

1. Each State Party shall cooperate with the Committee and assist its members in the fulfilment of their mandate.

2. In its relationship with States Parties, the Committee shall give due consideration to ways and means of enhancing national capacities for the implementation of the present Convention, including through international cooperation.

#### **Article 38**

##### **Relationship of the Committee with other bodies**

In order to foster the effective implementation of the present Convention and to encourage international cooperation in the field covered by the present Convention:

(a) The specialized agencies and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite specialized agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee, as it discharges its mandate, shall consult, as appropriate, other relevant bodies instituted by international human rights treaties, with a view to ensuring the consistency of their respective reporting guidelines, suggestions and general recommendations, and avoiding duplication and overlap in the performance of their functions.

#### **Article 39**

##### **Report of the Committee**

The Committee shall report every two years to the General Assembly and to the Economic and Social Council on its activities, and may make

suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

**Article 40**  
**Conference of States Parties**

1. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the present Convention.

2. No later than six months after the entry into force of the present Convention, the Conference of States Parties shall be convened by the Secretary-General of the United Nations. The subsequent meetings shall be convened by the Secretary-General biennially or upon the decision of the Conference of States Parties.

**Article 41**  
**Depositary**

The Secretary-General of the United Nations shall be the depositary of the present Convention.

**Article 42**  
**Signature**

The present Convention shall be open for signature by all States and by regional integration organizations at United Nations Headquarters in New York as of 30 March 2007.

**Article 43**  
**Consent to be bound**

The present Convention shall be subject to ratification by signatory States and to formal confirmation by signatory regional integration organizations. It shall be open for accession by any State or regional integration organization which has not signed the Convention.

**Article 44**  
**Regional integration organizations**

1. "Regional integration organization" shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by the present Convention. Such organizations shall declare, in their instruments of formal

confirmation or accession, the extent of their competence with respect to matters governed by the present Convention. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.

2. References to "States Parties" in the present Convention shall apply to such organizations within the limits of their competence.

3. For the purposes of article 45, paragraph 1, and article 47, paragraphs 2 and 3, of the present Convention, any instrument deposited by a regional integration organization shall not be counted.

4. Regional integration organizations, in matters within their competence, may exercise their right to vote in the Conference of States Parties, with a number of votes equal to the number of their member States that are Parties to the present Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

#### **Article 45 Entry Into force**

1. The present Convention shall enter into force on the thirtieth day after the deposit of the twentieth instrument of ratification or accession.

2. For each State or regional integration organization ratifying, formally confirming or acceding to the present Convention after the deposit of the twentieth such instrument, the Convention shall enter into force on the thirtieth day after the deposit of its own such instrument.

#### **Article 46 Reservations**

1. Reservations incompatible with the object and purpose of the present Convention shall not be permitted.

2. Reservations may be withdrawn at any time.

#### **Article 47 Amendments**

1. Any State Party may propose an amendment to the present Convention and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a conference of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of

the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly of the United Nations for approval and thereafter to all States Parties for acceptance.

2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

3. If so decided by the Conference of States Parties by consensus, an amendment adopted and approved in accordance with paragraph 1 of this article which relates exclusively to articles 34, 38, 39 and 40 shall enter into force for all States Parties on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment.

#### **Article 48 Denunciation**

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

#### **Article 49 Accessible format**

The text of the present Convention shall be made available in accessible formats.

#### **Article 50 Authentic texts**

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Convention shall be equally authentic.

IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

## **International Covenant on Economic, Social and Cultural Rights**

**Adopted and opened for signature, ratification and accession by General Assembly  
resolution 2200A (XXI)  
of 16 December 1966**

**entry into force 3 January 1976, in accordance with article 27**

### **Preamble**

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

### **PART I**

#### **Article 1**

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

### **PART II**

#### **Article 2**

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

### **Article 3**

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

### **Article 4**

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

### **Article 5**

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

## **PART III**

### **Article 6**

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

### **Article 7**

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:



(I) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(II) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions; (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

#### **Article 8**

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State. 3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

#### **Article 9**

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

#### **Article 10**

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

#### **Article 11**

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

#### **Article 12**

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

#### **Article 13**

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

#### **Article 14**

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

#### **Article 15**

1. The States Parties to the present Covenant recognize the right of everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications;

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture. 3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

### **PART IV**

#### **Article 16**

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2.

(a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;

(b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts thereof, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts thereof, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

#### **Article 17**

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

#### **Article 18**

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

#### **Article 19**

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

#### **Article 20**

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

#### **Article 21**

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

**Article 22**

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

**Article 23**

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

**Article 24**

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

**Article 25**

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

**PART V****Article 26**

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

**Article 27**

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

#### **Article 28**

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

#### **Article 29**

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

#### **Article 30**

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 26;

(b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

#### **Article 31**

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

**JENNIFER TANUDJAJA, JANICE ARSENAULT, ANSAR  
MAHMOOD, BRIAN DUBOURDIEU, CENTRE FOR  
EQUALITY RIGHTS IN ACCOMMODATION**

**-and-**

**ATTORNEY GENERAL OF CANADA and  
ATTORNEY GENERAL OF ONTARIO**

**Applicants**

**Respondents**

---

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

---

**FACTUM OF THE PROPOSED INTERVENER,  
ARCH DISABILITY LAW CENTRE, THE DREAM TEAM,  
CANADIAN HIV/AIDS LEGAL NETWORK AND HIV/AIDS  
LEGAL CLINIC ONTARIO**

---

**ARCH DISABILITY LAW CENTRE  
Suite 110 – 425 Bloor Street East  
Toronto, ON, M4W 3R4**

**Laurie Letheren (LSUC # 35968K)**

**Tel: 416-482-8255 ext. 232**

**Fax: 416-482-2981**

**Email: [letherel@lao.on.ca](mailto:letherel@lao.on.ca)**

**Counsel for the Proposed Intervenor,  
ARCH Disability Law Centre, The Dream Team, Canadian  
HIV/AIDS Legal Network and HIV/AIDS Legal Clinic Ontario**

