



OFFICE OF THE
PUBLIC ADVOCATE

**Submission on the proposed UN convention on the rights of
persons with disabilities**

7 July 2006

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About the Office of the Public Advocate

The Public Advocate in Victoria is appointed by the Governor in Council pursuant to the *Guardianship and Administration Act 1986* (Vic). The Office of the Public Advocate (OPA) represents the interests of people with a disability, aiming to promote their rights and dignity and to strengthen their position in society. It is a statutory office, independent of government and government services, and can highlight situations in which people with disabilities are exploited, neglected or abused.

The Public Advocate delegates his authority to his staff, who may be advocates, investigators or guardians. The office also coordinates the Private Guardian Support Program, the Community Guardians Program, the Community Visitors Program and the Independent Third Person Program in Victoria. Further information on the role of the Office is available from: www.publicadvocate.vic.gov.au.

Comment on particular draft articles with ‘some issues remaining’

Preamble

The working group draft text is supported.

Article 2 Definitions

The proposed definition has the advantage of being inclusive. This means that arguments can be framed around measures, needs, human rights and discrimination rather than becoming principally concerned with whether a person does or does not have a disability. For this reason the Office supports the proposed definition.

Article 11 Situations of Risk

Incorporating particular examples may encourage a limiting or narrowing of interpretation.

Article 23 Respect for home and the family

There is no basis in human rights for excluding the phrase ‘experience their sexuality’.

Comment on particular draft articles with ‘difficult issues remaining’

Article 12 Equal recognition before the law

The Office strongly prefers the first alternative as it mandates guardianship which is a necessary protection for some people with cognitive disabilities in particular circumstances.

Article 17 Protecting the integrity of the person

The additional clause 4 is necessary for promoting and protecting human rights. The involuntary treatment of persons is necessary in some circumstances for persons with cognitive decision making disabilities. If this situation is not mandated it cannot be properly regulated; potentially giving rise to serious human rights breaches. The protection of the law should not be removed through a denial of the inevitable intersection of circumstances and impairment. Clause 4 empowers appropriate safeguards.

Article 25 Health

This article should incorporate the phrase ‘including sexual and reproductive health services’. The Office is not aware of any reason why this should be excluded

Article 34 International Monitoring

The Office supports both the creation of an International Disabilities Ombudsman and a treaty body. The establishment of the Office of the Public Advocate in the state of Victoria in 1986 is held to have led to better lives and human rights protection for persons with disabilities in this State. The Office performs a number of functions including a monitoring function with reports made to the parliament. It is reasonable to expect that these functions, performed on an international scale through the United Nations, would also enhance the human rights and position of persons with disabilities.