

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case no: **14996/21**

In the application of:

**THE INTERNATIONAL COMMISSION
OF JURISTS (ICJ)**

Applicant for admission
as Amicus Curiae

In the matter between:

BLIND SA

Applicant

and

MINISTER OF TRADE, INDUSTRY AND COMPETITION

First Respondent

**MINISTER OF INTERNATIONAL RELATIONS AND
COOPERATION**

Second Respondent

SPEAKER OF NATIONAL ASSEMBLY

Third Respondent

**CHAIRPERSON OF THE NATIONAL COUNCIL OF
PROVINCES**

Fourth Respondent

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Fifth Respondent

INDEX:

APPLICATION TO BE ADMITTED AS *AMICUS CURIAE*

ITEM	DOCUMENT	PAGE
1	Notice of Motion	1-4
2	Founding Affidavit: Kajaal Ramjathan – Keogh	5-33

3	Annexure “ KRK1 ” – ICJ’s letter of authorization dated 21 June 2021	34
4	Annexure “ KRK2 ” – Convention on the Rights of Persons with Disabilities and Optional Protocol	35-71
5	Annexure “ KRK3 ” – International Covenant on Economic, Social and Cultural Rights	72-79
6	Annexure “ KRK4 ” – ICJ’s letter requesting consent to be admitted as <i>amicus curiae</i> addressed to the applicant’s attorneys, dated 21 April 2021	80-82
7	Annexure “ KRK5 ” – Applicant’s response to ICJ’s letter requesting consent to be admitted as <i>amicus curiae</i> , dated 22 April 2021	83
8	Annexure “ KRK6 ” – ICJ’s letter requesting consent to be admitted as <i>amicus curiae</i> addressed to the third and fourth respondents, dated 26 April 2021	84-86
9	Annexure “ KRK7 ” – Third and fourth respondents’ response to ICJ’s letter requesting consent to be admitted as <i>amicus curiae</i> , dated 11 May 2021	87-89
10	Annexure “ KRK8 ” – Third and fourth respondents’ notice to abide	90-91
11	Annexure “ KRK9 ” - ICJ’s letter requesting consent to be admitted as <i>amicus curiae</i> addressed to the first, second and fifth respondents, dated 26 April 2021	92-94
12	Annexure “ KRK10 ” – Second respondent’s notice to abide	95-96

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case no: **14996/21**

In the application of:

**THE INTERNATIONAL COMMISSION
OF JURISTS (ICJ)**

Applicant for admission
as *Amicus Curiae*

In the matter between:

BLIND SA

Applicant

and

MINISTER OF TRADE, INDUSTRY AND COMPETITION

First Respondent

MINISTER OF INTERNATIONAL RELATIONS AND

COOPERATION

Second Respondent

SPEAKER OF NATIONAL ASSEMBLY

Third Respondent

CHAIRPERSON OF THE NATIONAL COUNCIL OF

PROVINCES

Fourth Respondent

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Fifth Respondent

NOTICE OF APPLICATION:

APPLICATION TO BE ADMITTED AS *AMICUS CURIAE*

TAKE NOTICE that ICJ intends to apply to this Honourable Court for an order in the following terms:

Equal Education Law Centre (EELC)
Per: Ms CN Stuurman – chandre@eelawcentre.org.za
Tel: (021) 461 1421

- 1 Admitting ICJ as *amicus curiae* in the proceedings under case number 14996/21;
- 2 Directing ICJ to deliver its written submissions on a date to be determined by the Court;
- 3 Granting ICJ leave to make oral submissions at the hearing of the matter, subject to any directions given by the Court;
- 4 Awarding the costs of this application against any party that opposes the application; and
- 5 Granting further and/or alternative relief.

TAKE FURTHER NOTICE that the affidavit of **KAJAAL RAMJATHAN – KEOGH** will be used in support of this application.

TAKE FURTHER NOTICE that the ICJ has appointed the offices of **SAVAGE JOOSTE ATTORNEYS**, as set out below, as the address at which it will accept notice and service of all documents in these proceedings.

SIGNED AT CAPE TOWN ON THIS THE 24th DAY OF JUNE 2021.



EQUAL EDUCATION LAW CENTRE

Attorneys for the *amicus curiae*

Isivivana Centre, 3rd Floor

8 Mzala Street

Khayelitsha

Equal Education Law Centre (EELC)

Per: Ms CN Stuurman – chandre@eelawcentre.org.za

Tel: (021) 461 1421

Cape Town

Ref: (Ms Chandre Stuurman)

Tel: 021 461 1421

Fax: (086) 572 4675

Email: chandre@eelawcentre.org.za

C/o SAVAGE JOOSTE ATTORNEYS

5, 10th Street,

(Corner of Brooklyn Road &

Justice Mohamed Street)

Menlo Park

Pretoria

Email: stephenL@Savage.co.za

TO: THE REGISTRAR OF THE ABOVE HONOURABLE COURT

Gauteng Division

Pretoria

AND TO: SECTION27

Attorneys for the Applicant

1st Floor, South Point Centre Building

87 De Kerke Street

Braamfontein

Johannesburg

Ref: (D Petherbridge)

Per email: petherbridge@section27.org.za

C/O CENTRE FOR CHILD LAW

Faculty of Law

Law Building (Room 4-31)

University of Pretoria,

Pretoria

Equal Education Law Centre (EELC)

Per: Ms CN Stuurman – chandre@eelawcentre.org.za

Tel: (021) 461 1421

AND TO: THE STATE ATTORNEY, PRETORIA

Attorneys for the First, Second and Fifth Respondents
SALU Building
316 Thabo Schume Street
Corner of Francis Baard and Thabo Schume Street
Pretoria Central
Ref: (R.J. Sebelemetsa)
Email: rsebelemetsa@justice.gov.za

AND TO: THE STATE ATTORNEY, CAPE TOWN

Attorneys for the Third and Fourth Respondents
5th Floor, Liberty Life Centre
22 Long Street
Cape Town
Ref: (998/ 21/P8)
Email: LGava@justice.gov.za

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case no: **14996/21**

In the application of:

**THE INTERNATIONAL COMMISSION
OF JURISTS (ICJ)**

Applicant for admission
as *Amicus Curiae*

In the matter between:

BLIND SA

Applicant

and

MINISTER OF TRADE, INDUSTRY AND COMPETITION

First Respondent

MINISTER OF INTERNATIONAL RELATIONS AND

COOPERATION

Second Respondent

SPEAKER OF NATIONAL ASSEMBLY

Third Respondent

CHAIRPERSON OF THE NATIONAL COUNCIL OF

PROVINCES

Fourth Respondent


PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Fifth Respondent

FOUNDING AFFIDAVIT:

APPLICATION TO BE ADMITTED AS *AMICUS CURIAE*

I, the undersigned,



Handwritten signature and initials, likely representing the undersigned.

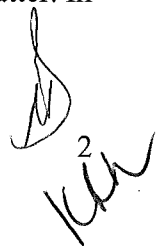
KAAJAL RAMJATHAN-KEOGH

do hereby make oath and state that:

1. I am an adult female and the Director for the Africa Regional Programme of the International Commission of Jurists, ("ICJ"), with a registered address of 6 Sturdee Avenue, Johannesburg where we were previously operating from but on account of the Covid-19 pandemic ICJ is now working remotely. We will accept correspondence at our attorneys address c/o Equal Education Law Centre at 8 Mzala Street, Khayelitsha, Cape Town.
2. I am duly authorised to depose to this affidavit and bring this application on behalf of the ICJ. In this regard, I attach a letter of authorisation dated 21 June 2021 as annexure "KRRK1".
3. The facts contained in this affidavit are both true and correct and, save where the contrary appears from the context or is otherwise stated, are within my personal knowledge. Where I deal with questions of law, I do so on the advice given by my legal representatives, which advice I accept to be correct.

INTRODUCTION

4. This is an application in terms of Rule 16A of the Uniform Rules of this Honourable Court for the admission of the ICJ as *amicus curiae* in the abovementioned matter. In what follows, I set out:

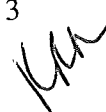


2

- 4.1. The ICJ's interest in this matter;
- 4.2. The legal submissions to be advanced by the ICJ, and their relevance to the proceedings and the reasons why the ICJ believes that the submissions will assist the court and are different from those of the other parties; and
- 4.3. The steps taken by the ICJ to comply with this Court's Rules and the consent of the parties.

THE ICJ'S INTEREST IN THIS MATTER

5. The ICJ is a non-governmental organisation that has, since 1952, performed a unique and prominent role in defending and promoting the rule of law and the legal protection of human rights worldwide.
6. The Commission itself is composed of approximately 60 eminent judges and lawyers from all parts of the world, representing diverse legal systems with deep knowledge of rule of law principles and human rights law. These judges and lawyers are elected by the Commission as a whole and appointed as ICJ "Commissioners".
7. The ICJ's work is founded on, amongst other things, the following pillars:
 - 7.1. Working to advance the progressive development and secure the universal implementation of civil, cultural, economic, political and social rights;
 - 7.2. Working at global, regional and national levels to promote principles of the



rule law and in particular the independence and accountability of the judiciary and legal profession and the fair administration of justice;

- 7.3. Working to secure access to justice without discrimination for persons seeking to vindicate their human rights, including for victims and survivors of human rights violations and abuses and to facilitate and protect the work of human rights defenders, including in particular those from marginalized communities;
- 7.4. Cooperating with governments, judiciaries and national human rights institutions committed to improving their human rights performance;
- 7.5. Working through an effective balance of research and monitoring, constructive engagement, criticism, capacity building and advocacy; and
- 7.6. Working with local and international advocacy groups, civil society organisations and human rights defenders.

8. The ICJ has a well-established African Regional Programme (“ARP”) based in Johannesburg, South Africa. The ARP works on various initiatives in South Africa. Including, of relevance to the present matter:

- 8.1. Research and advocacy measures to ensure the realisation of economic, social and cultural rights (“ESCR”) in international and South African law;
- 8.2. The protection and support of human rights defenders advocating for economic, social and cultural rights in South Africa;
- 8.3. Recent work focused squarely on the rights of persons with disabilities. These works include detailed guidelines on the legal enforcement and




adjudication of ESCR in South Africa (August 2019);¹ a submission to the UN Committee on Economic, Social and Cultural Rights;² a joint submission with local partners to the UN Committee on the Rights of Persons with Disabilities;³ and ongoing contribution to the *Basic Education Rights Handbook*.⁴

9. In this matter the applicants seek to ensure that international law and standards are adhered to and implemented, further developed, and human rights are protected, which is in furtherance of the ICJ's own strategic objectives.
10. Moreover, the International Covenant on Economic, Social, and Cultural Rights ("ICESCR") and the International Convention of the Rights of Persons with Disabilities ("CRPD") include the right to non-discriminatory access to education and cultural materials, such as reading materials, to all persons including persons with disabilities.
11. The ICJ has worked to promote non-discriminatory access to ECSCR in South Africa, which includes the right to education and the rights of persons with disabilities. One of the ICJ's means for achieving this objective include legal advocacy, at the national,

¹ International Commission of Jurists "A Guide for the Legal Enforcement and Adjudication of Economic, Social and Cultural Rights in South Africa" (August 2019): <https://www.icj.org/wp-content/uploads/2019/08/South-Africa-Guide-ESCR-Publications-Thematic-Report-2019-ENG.pdf>.

² International Commission of Jurists "Submission to UN CESCR Committee in advance of the examination of South Africa's Initial Periodic Report under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights" (August 2018): <https://www.icj.org/wp-content/uploads/2018/08/SouthAfrica-ICJSubmissionCESCR-Advocacy-Non-legal-submission-2018-ENG.pdf>.

³ The Right To Education For Children With Disabilities Alliance "Alternative Report to the UN Committee on the Rights of Persons with Disabilities in response to South Africa's Baseline Country Report of March 2013 on the UN Convention on the Rights of Persons with Disabilities, with particular reference to the provisions of Article 24" (January 2017): <https://static.pmg.org.za/170530report.pdf>

⁴Veriava, Thom and Hodgson (eds) "Basic Education Rights Handbook", Chapter 5: https://cisp.cachefly.net/assets/articles/attachments/67120_section27_basiceducationrightshandbook.pdf.

regional and global levels. The ICJ further seeks to improve legal frameworks for the protection of ECSCR and to bring them in line with international standards. This application to intervene as an *amicus curiae* acts on that objective.

SUMMARY OF ICJ's INTENDED SUBMISSION

12. In accordance with its mandate, purpose and existing body of work on ECSCR in South Africa, the ICJ has sought to intervene as an *amicus curiae* in this application to make submissions on the following:

- 12.1. The general applicability of international human rights law and standards to the interpretation of constitutional rights and legislative and other measures enacted to give effect to such rights in compliance with both international and domestic law;⁵
- 12.2. South Africa's obligations to respect, protect and fulfil the right to inclusive education pursuant to its obligations under the CRPD. For ease of reference and its direct relevance to these proceedings I attach the CRPD as annexure "KRK2". In this regard the ICJ's submissions will focus, in particular, on the content and scope of the rights to inclusive education (Article 24) and to participate in cultural life on an equal basis (Article 15) as authoritatively interpreted by the UN Committee on the Rights of Persons with Disabilities ("CRPD Committee") in its General Comment 4 (Right to Inclusive

⁵ International Commission of Jurists "A Guide for the Legal Enforcement and Adjudication of Economic, Social and Cultural Rights in South Africa" (August 2019): <https://www.icj.org/wp-content/uploads/2019/08/South-Africa-Guide-ESCR-Publications-Thematic-Report-2019-ENG.pdf>, pp 17-27.

Education)⁶ and General Comment 2 (Right to Accessibility).⁷

- 12.3. South Africa's obligations to respect, protect and fulfil the right to education pursuant to its obligations under ICESCR). For ease of reference and its direct relevance to these proceedings I attach the ICESCR as annexure "KRR3". In this regard the ICJ's submissions will focus, on the content and interpretation of the rights to education (Article 13) and to take part in cultural life (Article 15) as authoritatively interpreted by the UN Committee on Economic, Social and Cultural Rights in its General Comments 13 (Right to Education)⁸ and its General Comment 21 (Right to Take Part in Cultural Life).⁹
- 12.4. The relationship and interplay between the rights to education, cultural life and accessibility in terms of international human rights law, including the CRPD and ICESCR.
- 12.5. The relevance of and relative weight the Court should place on the provisions of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled ("the Marrakesh Treaty") in interpreting South Africa's international law obligations, including the CRPD and ICESCR, and domestic law.¹⁰

⁶ UN Committee on the Rights of Persons with Disabilities (CRPD), *General comment No. 4 (2016), Article 24: Right to inclusive education*, 2 September 2016, CRPD/C/GC/4, available at: <https://www.refworld.org/docid/57e977e34.html>.

⁷ UN Committee on the Rights of Persons with Disabilities (CRPD), *General comment No. 2: Right to accessibility*, 22 May 2014, CRPD/C/GC/2, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2&Lang=en.

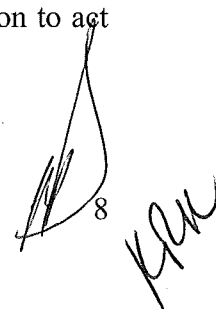
⁸ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 13: The Right to Education (Art. 13 of the Covenant)*, 8 December 1999, E/C.12/1999/10, available at: <https://www.refworld.org/docid/4538838c22.html>.

⁹ UN Committee on Economic, Social and Cultural Rights (CESCR), *General comment no. 21, Right of everyone to take part in cultural life (art. 15, para. 1a of the Covenant on Economic, Social and Cultural Rights)*, 21 December 2009, E/C.12/GC/21, available at: <https://www.refworld.org/docid/4ed35bae2.html>.

¹⁰ Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled: <https://www.wipo.int/treaties/en/ip/marrakesh/>.

7 KRR

13. Having carefully considered the founding papers in this application, the ICJ believes that it is well-placed to assist this Court in adjudicating key issues concerning the internationally recognised rights to education, cultural rights and accessibility.
14. Given South Africa's relatively recent ratification of the ICESCR and the limited opportunities South African courts have had to construe the application of the standards set in the CRPD, it is imperative that this Court look particularly closely at developments in these areas in its adjudication of this matter and application of both relevant domestic human rights law standards and international law and standards.
15. The summary of the intended legal submissions of the ICJ are made on the basis that:
 - 15.1. Section 39(1) of the Constitution provides that courts, "must consider international law" in interpreting the rights contained in the Bill of Rights;
 - 15.2. Section 39(2) of the Constitution provides that courts must, when interpreting legislation, "promote the spirit, purport and objects of the Bill of Rights";
 - 15.3. Section 233 of the Constitution provides that courts must, when interpreting legislation, "prefer any reasonable interpretation of the legislation that is consistent with international law over any alternative interpretation that is inconsistent with international law"; and
 - 15.4. South Africa's binding obligations under international human rights law, most particularly in terms of the CRPD and ICESCR, the African Charter on Human and People's Rights ("African Charter") , and the obligation to act

A handwritten signature, possibly 'Khan', is written in the bottom right corner of the page, with the number '8' written just above it.

consistently with the object and purpose¹¹ of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa ("African Disability Protocol").¹²

15.5. The Vienna Convention on the Law of Treaties ("VCLT"), provides that "[e]very treaty in force is binding upon the parties to it and must be performed by them in good faith" (article 26); that a State "may not invoke the provisions of its internal law as a justification for a failure to perform a treaty" (article 27); and in interpretation of treaties "any relevant rules of international law applicable in relation between the parties" shall be taken into account (article 31(3)(c)).

15.6. The applicability and persuasive force of the Marrakesh Treaty as a source of international human rights standards important to the interpretation and the jurisprudence of South African courts.¹³

Vienna Convention on the Law of Treaties

16. The VCLT generally reflects the law of treaties under international customary law.

Both the South African Constitutional Court and the executive and legislature have

¹¹ Article 18 of the Vienna Convention on the Law of Treaties provides:

"Obligation not to defeat the object and purpose of a treaty prior to its entry into force"

A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when:

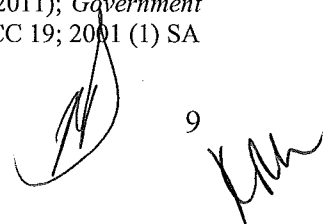
(a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or

(b) it has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed."

¹² South Africa is fully bound by the African Charter. South Africa has signed the Africa Disability Protocol but has not ratified it. The Disability Protocol has not yet come into force as this requires the depositing of an instrument of ratification by 15 Member States in accordance with Article 38 of the Protocol.

¹³ *S v Makwanyane and Another* (CCT3/94) [1995] ZACC 3; 1995 (6) BCLR 665; 1995 (3) SA 391; [1996] 2 CHRLD 164; 1995 (2) SACR 1 (6 June 1995); *Glenister v President of the Republic of South Africa and Others* (CCT 48/10) [2011] ZACC 6; 2011 (3) SA 347 (CC); 2011 (7) BCLR 651 (CC) (17 March 2011); *Government of the Republic of South Africa and Others v Grootboom and Others* (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46; 2000 (11) BCLR 1169 (4 October 2000).

9



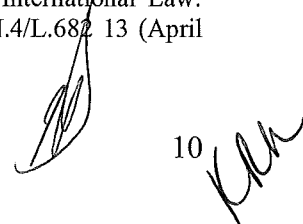
acknowledged that the “main provisions” of VCLT form part of international customary law.¹⁴ Though South African courts have not directly addressed the question, it is widely accepted that Article 31 of the VCLT forms part of international customary law.¹⁵

17. Article 31(3)(c) of the VCLT provides that the interpretation of treaties should take into account "any relevant rules of international law applicable in relation between the parties". It is not uncommon for treaty provisions adopted in divergent context to be in apparent conflict, as international law covers a broad range of fields, subject matter and treaties are negotiated and agreed in wide range of institutional settings or groupings of States.
18. Another principle international treaty interpretation is that apparently conflicting treaty provisions should be harmonized, to the extent possible, in light of their shared systemic objectives. This preference for interpretations of different international instruments as in harmony is sometimes referred to as “systemic integration”.¹⁶
19. For the present purposes, the import of the application of this principle in line with VCLT Article 31(3)(c) is that relevant provisions from international trade law and international copyright law treaty should be read, wherever possible, as part of a single

¹⁴ Law Society of South Africa and Others v President of the Republic of South Africa and Others (CCT67/18) [2018] ZACC 51; 2019 (3) BCLR 329 (CC); 2019 (3) SA 30 (CC) (11 December 2018), para 33-39.

¹⁵ Report of the Study Group of the International Law Commission “Fragmentation Of International Law: Difficulties Arising From The Diversification And Expansion Of International Law” A/CN.4/L.682 13 (April 2006): https://legal.un.org/ilc/documentation/english/a_cn4_l682.pdf, para 168.

¹⁶ Id, para 410.



overarching regime of international law.¹⁷ Indeed there is “substantial overlap”,¹⁸ for instance, between ICESCR, the CRPD and treaties such as the Berne Convention¹⁹ and the Agreement on Trade-Related Aspects of Intellectual Property Rights.²⁰

20. This Court’s overall approach to applicable international law should therefore, at a minimum, be to ensure that international human rights law is not construed in a manner so as to subordinate it to “international copyright law” and “international trade law.” Indeed, in light of the primacy given to human rights in South Africa’s Constitution, and the similar interpretative regime it entrenches,²¹ the effective application of VCLT Article 31(3)(c) is that courts and others applying these legal provisions ensure that international copyright law and international trade law are constituted consistently with applicable international human rights law, as detailed below.

The International Convention on the Rights of Persons with Disabilities

21. The South African education system today continues to reflect a dual system of apartheid in respect of children with disabilities, on the grounds of both race and disability. This deeply divided education system was produced and perpetuated

¹⁷ P Sands, ‘Treaty, Custom and the Cross-Fertilisation of International Law’ (1998) 1 Yale Human Rights and Development Law Journal 85, 95.

¹⁸ S Samtani ‘The Right Of Access To Educational Materials And Copyright: International And Domestic Law’ (Unpublished DPhil Thesis, University of Oxford, Hilary Term 2021), p 19.

¹⁹ Berne Convention for the Protection of Literary and Artistic Works <https://www.wipo.int/treaties/en/ip/berne/>, of which South Africa is a party.

²⁰ The Agreement on Trade-Related Aspects of Intellectual Property Rights, https://www.wto.org/english/docs_e/legal_e/27-trips_01_e.htm, of which South Africa is automatically a party as a Member State of the WTO.

²¹ Constitution, s 233 requires courts to “prefer any reasonable interpretation of the legislation that is consistent with international law over any alternative interpretation that is inconsistent with international law”.

11
KPR

deliberately during the *apartheid* regime.²² The absence of appropriately adapted reading materials in schools including textbooks is well documented, for example in the context of education for learners with visual impairments.²³

22. The CRPD deliberately prescribes something of a “paradigm shift” in the protection of the rights of persons with disabilities globally.²⁴ Its treatment of the right to education is no exception. States have an obligation under Article 24 of the CRPD to take all necessary measures to “ensure an inclusive education system at all levels and lifelong learning” in order to ensure: “the full development of human potential and sense of dignity and self-worth”; “development by persons with disabilities of their personality, talents and creativity”; and the “enabling persons with disabilities to participate effectively in a free society”.²⁵
23. To comply with these obligations States parties must ensure the general accessibility of education systems, in addition to providing reasonable accommodations required and additional individualised support measures, where necessary.²⁶
24. The CRPD additionally provides that States must take specific measures to ensure that persons with disabilities “learn life and social development skills to facilitate their full and equal participation in education and as members of the community”.

²² Charles Ngweni ‘Developing juridical method for overcoming status subordination in disablism: The place of transformative epistemologies’ (2014) 30 SAJHR 275.

²³ <http://section27.org.za/wp-content/uploads/2015/11/S27-left-in-the-dark-2015-accessible.pdf>

²⁴ P Mittler, ‘The UN Convention on the Rights of Persons with Disabilities: Implementing a Paradigm Shift Journal of Policy and Practice in Intellectual Disabilities’ Volume 12 Number 2 pp 79–89 June 2015. Also acknowledged by the UN Special Rapporteur in “International Principles and Guidelines on Access to Justice for Persons with Disabilities on the Rights of Persons with Disabilities” (2020): https://www.ohchr.org/Documents/Issues/Disability/SR_Disability/GoodPractices/Access-to-Justice-EN.pdf.

²⁵ CRPD, Article 24(1)(a)-(c).

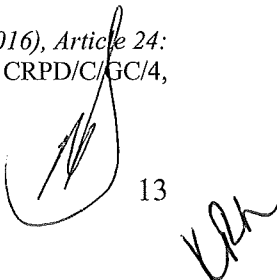
²⁶ Id, Article 24(2)(c)-(e).

25. This requires, inter alia, “facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication” and ensuring that education “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”.²⁷
26. In its General Comment 4 setting States obligations with respect to the right to inclusive education, the CRPD Committee highlights the “widespread lack of textbooks and learning materials in accessible formats and languages” and stresses that States have an obligation to “invest in the timely development of resources” to resolve this deficit making “accessibility a central aspect of education-related procurement”.
27. The CRPD Committee therefore emphasises the “urgency” of States ratifying the Marrakesh Convention in realising the right to inclusive education.²⁸
28. The CRPD Committee also emphasizes the importance of the relationship between the rights to inclusive education and participation in cultural life, particularly that States are required to take measures “within the educational environment to ensure opportunities for persons with disabilities to access cultural life and to develop and utilize their creative, artistic and intellectual potential”.²⁹

²⁷ Id, Article 24(3)(a)-(c).

²⁸ UN Committee on the Rights of Persons with Disabilities (CRPD), *General comment No. 4 (2016), Article 24: Right to inclusive education*, 2 September 2016, CRPD/C/GC/4, <https://www.refworld.org/docid/57c977e34.html>, para 22.

²⁹ Id, para 56.



13

29. This obligation suggests that the right to inclusive education must be understood consistently with the right to “participation in cultural life, recreation, leisure and sport”. The fulfilment of this right entails taking necessary measures to ensure persons with disabilities can “enjoy access to cultural materials in accessible formats”.³⁰
30. States must also ensure accessibility of a range of cultural facilities including libraries³¹ and more broadly take measures to secure the “opportunity to develop and utilize their creative, artistic and intellectual potential” for persons with disabilities “not only for their own benefit, but also for the enrichment of society”.³²
31. Moreover, and of direct application for the present purpose, Article 30(3) provides that States take all appropriate steps 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”.³³
32. Finally, Article 9 of the CRPD provides for a self-standing right of “accessibility” for persons with disabilities including access to “information and communications” and all “facilities and services open or provided to the public”.
33. States are required to ensure the “elimination of obstacles and barriers to accessibility.” This includes ensuring that “private entities that offer facilities and services which are open to or provided to the public take into account all aspects of

³⁰ CRPD, Article 30(1)(a).

³¹ Id, Article 30(1)(b).

³² Id, Article 30(2).

³³ Id, Article 30(4).

accessibility for persons with disabilities”.³⁴ States are also generally required to promote “appropriate forms of assistance and support to persons with disabilities to ensure their access to information”.³⁵

34. The CRPD Committee has provided an authoritative interpretation of Article 9 in its General Comment 2 (Accessibility),³⁶ in which it confirms the application of these obligations to all “goods, products and services” which are generally “open or provided to the public”.³⁷ Such access must be provided by States in a manner which ensures persons with disabilities “effective and equal access and respects their dignity”.³⁸
35. In the particular context of schools, the CRPD Committee clarifies that their accessibility encompasses “not just the buildings” but the “entire process of inclusive education” including “all information and communication”.³⁹ In this context the Committee explicitly mentions the need for accessibility of books.⁴⁰
36. When taken together, ICJ will argue that the obligations to fulfill the rights to inclusive education and participation in cultural life under the CRPD include the specific obligation for South Africa that it take measures to ensure the accessibility of reading materials for persons with disabilities ensured both inside and outside of educational

³⁴ Id, Article 9 and Article 9(2)(b) in particular.

³⁵ Id, Article 9(2)(f).

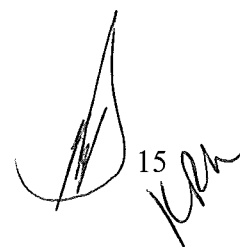
³⁶ UN Committee on the Rights of Persons with Disabilities (CRPD), *General comment No. 2: Right to accessibility*, 22 May 2014, CRPD/C/GC/2, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2&Lang=en.

³⁷ Id, para 13.

³⁸ Id.

³⁹ Id, para 39.

⁴⁰ Id, para 44.



environments such as schools, colleges and universities.

37. South Africa therefore carries a positive obligation to take proactive measures to eliminate barriers to accessing reading materials and is obligated to do so in respect of laws pertaining to intellectual property rights such as those contained in the Copyright Act.
38. To the extent that the Copyright Act may not be fully in alignment with these obligations, it is arguably also inconsistent with the Constitution.

The International Covenant on Economic, Social and Cultural Rights

39. South Africa has an obligation under Article 2 and 5 to take steps towards achieving the full realization of all ESCR, including the right to education, in particular the adoption of legislative measures and to guarantee such rights without discrimination, including on the basis of disability.⁴¹ Article 13 of ICESCR protects the right to education, which must be directed towards “full development of the human personality and the sense of its dignity “and “enable all persons to participate effectively in a free society”.
40. The CESCR Committee has set out the nature and scope of States Parties Article 13 obligations in its General Comment 13. The CESCR Committee has affirmed that,

⁴¹ Article 2(1)-(2) of ICESCR, read with UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), 2 July 2009, E/C.12/GC/20, available at: <https://www.refworld.org/docid/4a60961f2.html> [accessed 27 May 2021].

States must ensure that education is available, accessible, acceptable and adaptable.⁴²

This is the same formulation that was subsequently adopted by the CRPD Committee in its General Comment 4.⁴³

41. The availability of the right to education explicitly requires access to teaching materials and libraries.⁴⁴ The accessibility of education requires access to be non-discriminatory, including on the grounds of disability.⁴⁵ Securing non-discriminatory access to education is a “core obligation” of immediate effect, in other words not subject only to gradual progressive development.⁴⁶ The Committee is clear that violations of the right to education includes “the introduction or failure to repeal legislation which discriminates against individuals or groups, on any of the prohibited grounds”. This explicitly includes a prohibition of discrimination on the grounds of disability.⁴⁷
42. South Africa’s obligations in terms of the right to education must also be understood in light of its obligations under Article 15 of ICESCR, according to which it must take steps to realize the right of everyone to “take part in cultural life”.⁴⁸

⁴² UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 13: The Right to Education (Art. 13 of the Covenant)*, 8 December 1999, E/C.12/1999/10, available at: <https://www.refworld.org/docid/4538838c22.html>, para 6(a)-(d).

⁴³ Id, paras 20-25.

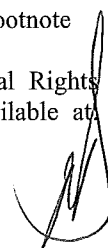
⁴⁴ Id, para 6(a). See also: S Samtani “The Domestic Effect of South Africa’s Treaty Obligations: The Right to Education and the Copyright Amendment Bill” (2020) American University Washington College of Law PIJIP Research Paper No. 61: <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1063&context=research>, p 11, Footnote 44 for Concluding Observations of the UN CESCR Committee confirming this.

⁴⁵ Id, para 6(b) read with para 36. See also UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 5: Persons with Disabilities*, 9 December 1994, E/1995/22, available at: <https://www.refworld.org/docid/4538838f0.html>, para 35.

⁴⁶ Id, para 57.

⁴⁷ Id, para 59.

⁴⁸ ICESCR, Article 15(1)(a).




43. The rights to education and participation in cultural activities are overlapping and complimentary States' obligations in terms of this right have been authoritatively interpreted by the CESCR Committee in its General Comment 21 (Right to Take Part in Cultural Life)⁴⁹ in which it affirms that "the right of everyone to take part in cultural life is ... intrinsically linked to the right to education".⁵⁰
44. Moreover, the right is a right to participate "effectively" in cultural life,⁵¹ which necessitates positive action by States including through "ensuring preconditions for participation, facilitation and promotion of cultural life, and access to and preservation of cultural goods".⁵²
45. The CESCR Committee explains that "cultural life" in the context of this right should be broadly understood as an "inclusive concept encompassing all manifestations of human existence" including, *inter alia*, "ways of life, language, oral and written literature".⁵³ At a broad level, to give effect to the right, States must ensure that it is available, accessible, acceptable, adaptable and appropriate.⁵⁴
- 45.1. Availability includes the "presence of cultural goods and services that are open for everyone to enjoy and benefit from, including libraries... [and] literature".⁵⁵

⁴⁹ UN Committee on Economic, Social and Cultural Rights (CESCR), *General comment no. 21, Right of everyone to take part in cultural life (art. 15, para. 1a of the Covenant on Economic, Social and Cultural Rights)*, 21 December 2009, E/C.12/GC/21, available at: <https://www.refworld.org/docid/4ed35bae2.html>.

⁵⁰ Id, para 2.

⁵¹ Id.

⁵² Id, para 6.

⁵³ Id, paras 10-14.

⁵⁴ Id, para 16(a)-(e).

⁵⁵ Id, para 16(a).



18

- 45.2. Accessibility requires that cultural goods that are available be physically and economically available to all people without discrimination, including on the basis of disability which the CDESCR Committee is clear is “essential” for States to “provide[] and facilitate[]”.⁵⁶ In order to facilitate the participation of persons with disabilities in cultural life, the CDESCR Committee clarifies that States must “recognize the right of these persons to have access to cultural material ... in accessible forms” and to have access to cultural spaces including libraries.⁵⁷
46. Noting that cultural activities, goods and services have both “economic and cultural dimensions, conveying identity, values and meaning” the CDESCR Committee makes clear that they “must not be treated as having solely a commercial value” and that States should endeavor to consider the relationship between this right and the rights to information and expression and to “the need to protect the free flow of ideas by word and image”.⁵⁸
47. The CDESCR Committee confirms that non-discriminatory participation in cultural life is a core obligation that States must fulfil with immediate effect, through legislative and other measures.⁵⁹ States also have an obligation of immediate effect to “eliminate any barriers or obstacles that inhibit or restrict a person’s access to the person’s own culture or to other cultures, without discrimination”.⁶⁰

⁵⁶ Id, para 16(b).

⁵⁷ Id, para 31.

⁵⁸ Id, para 43.

⁵⁹ Id, paras 44, 55(a) and 67.

⁶⁰ Id para 55(d).



19

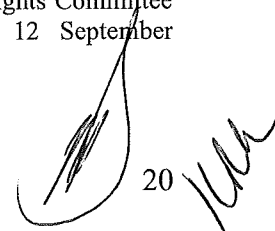
48. In order to comply with the duty to protect participation in cultural life, States must secure “the right to seek, receive and impart information and ideas of all kinds and forms including art forms,” which “implies the right of all persons to have access to, and to participate in, varied information exchanges, and to have access to cultural goods and services, understood as vectors of identity, values and meaning”.⁶¹ States must also, in accordance with this duty, take legislative and other measures to prevent any third party, including private actors, from “interfering in the exercise” with this right.⁶²
49. Moreover, States’ duty to facilitate participation in cultural life requires States to take “appropriate measures to remedy structural forms of discrimination so as to ensure that the underrepresentation of persons from certain communities in public life does not adversely affect their right to take part in cultural life”, an obligation which applies to persons with disabilities.⁶³
50. In sum, it is submitted that South Africa, in order to discharge its obligations under articles 13 and 15 of the ICESCR, is obliged to take legislative and other measures to remove barriers to non-discriminatory access to education and the ability to effectively participate in cultural life for persons with disabilities. Such immediate obligations require South Africa to ensure access to reading materials and resources to persons with disabilities for educational, recreational and other purposes, without discrimination.

⁶¹ Id. See also International Covenant on Civil and Political Rights, Article 19; UN Human Rights Committee (HRC), *General comment no. 34, Article 19, Freedoms of opinion and expression*, 12 September 2011, CCPR/C/GC/34, available at: <https://www.refworld.org/docid/4ed34b562.html>.

⁶² Id, para 50.

⁶³ Id, para 52(g).

20



51. Consequently, the Copyright Act as it stands, and when assessed for consistency with international law and standards, including South Africa's human rights treaty obligations, places an impermissible barrier to non-discriminatory access to educational and cultural facilities. When taking into account this applicable international law, the Copyright Act should therefore be considered to be inconsistent with the Constitution.

The Marrakesh Treaty

52. The Marrakesh Treaty, as its full title suggests, has a total of 79 Contracting Parties.⁶⁴ The treaty recognizes the "continuing shortage of available works in accessible format copies" for persons with visual and other print disabilities and sets out to improve such access.⁶⁵ The treaty itself expresses explicitly that what World Intellectual Property Organization (WIPO) has acknowledged as a "book famine",⁶⁶ is particularly severe in developing and least developed States. Though not yet a Contracting Party of the Marrakesh Treaty, representatives of South Africa played a "constructive role" in its development.⁶⁷

53. The key provisions of the Marrakesh Treaty and their conceptual relevance to this

⁶⁴ Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled: <https://www.wipo.int/treaties/en/ip/marrakesh/>. See also: https://wipolex.wipo.int/en/treaties/ShowResults?search_what=C&treaty_id=843.

⁶⁵ Id, Preamble.

⁶⁶ WIPO, "The Marrakesh Treaty – Helping to end the global book famine" (2016): https://www.wipo.int/edocs/pubdocs/en/wipo_pub_marrakesh_overview.pdf.

⁶⁷ M Low, "The Blind SA case: Watershed moment for disability rights in South Africa" (16 April 2021): <https://www.dailymaverick.co.za/article/2021-04-15-the-blind-sa-case-watershed-moment-for-disability-rights-in-south-africa/>.

matter have been canvassed in some detail in the applicants' papers.

54. In short, the Marrakesh Treaty allows for the making of accessible copies of books without the permission of copyright holders.⁶⁸ It also permits such accessible books to be shared across national borders. This for the explicit benefit of persons with visual and other print disabilities.⁶⁹ The suggested vehicle by which this is to be achieved is measures taken by States parties to provide for "limitations or exceptions in its national copyright law".⁷⁰

55. According to Article 10 of the Marrakesh Treaty:

"Contracting Parties may fulfill their rights and obligations under this Treaty through limitations or exceptions specifically for the benefit of beneficiary persons, other limitations or exceptions, or a combination thereof, within their national legal system and practice. These may include judicial, administrative or regulatory determinations for the benefit of beneficiary persons as to fair practices, dealings or uses to *meet their needs consistent with the Contracting Parties' rights and obligations under the Berne Convention, other international treaties, and Article 11.*" (Emphasis Added).

56. This is therefore an acknowledgment that the Marrakesh Treaty itself takes into

⁶⁸ "accessible format copy" is defined in Article 2 of the Treaty as:

"a copy of a work in an alternative manner or form which gives a beneficiary person access to the work, including to permit the person to have access as feasibly and comfortably as a person without visual impairment or other print disability. The accessible format copy is used exclusively by beneficiary persons and it must respect the integrity of the original work, taking due consideration of the changes needed to make the work accessible in the alternative format and of the accessibility needs of the beneficiary persons."

⁶⁹ Id, Article 3.

⁷⁰ Id, Article 4.

account that States are likely to have similar obligations to those delineated in its text from “other international treaties”, including as detailed above in the CRPD and ICESCR. The Marrakesh Treaty therefore itself acknowledges the same approach to interpretation of international law as is required by Article 31(3)(c) of the VCLT as detailed above.

57. Moreover, it is noteworthy, for example, that in giving content to the right to inclusive education the CRPD itself directly notes “the widespread lack of textbooks and learning materials in accessible formats” and indicates that States “must invest in the timely development of resources in ink or Braille, and digital formats, including through the use of innovative technology”.⁷¹
58. The CRPD Committee therefore emphasizes the “urgency” for State parties to CRPD to ratify and implement the Marrakesh Treaty in order to comply with their obligations in terms of the Convention.⁷² It also makes direct mention of the importance of the Marrakesh Treaty in the context of the right to accessibility.⁷³
59. While the Marrakesh Treaty is not per se binding on South Africa it is relevant to this matter in at least the following ways:

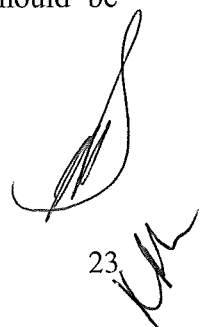
- 59.1. As a persuasive source of international law in interpreting and informing the content of the CRPD and ICESCR;

- 59.2. As a source of general international human rights law that should be

⁷¹ UN CRPD Committee, General Comment 4, para 22.

⁷² Id.

⁷³ UN CRPD Committee, General Comment 2, para 45.



considered in interpreting the legislation and the rights in the Bill of Rights according to domestic law in South Africa.⁷⁴

59.3. The Marrakesh Treaty is a particularly forceful non-binding source in international law given South Africa's clear commitment to, and agreement with, the content of the agreement which is reflected in the *travaux preparatoires* of the treaty.⁷⁵

60. Indeed, South Africa is so much in agreement with the Marrakesh Treaty that the present amendment to the Copyright Act explicitly seeks to comply with the provisions of the Marrakesh Treaty which South Africa has neither signed nor ratified.⁷⁶

61. In addition, the President's reservations about the amendment Act, which gave rise to his referral of the amendment Act back to Parliament, explicitly refer to his uncertainty that as it stands the Copyright Act complies with the requirements of the

⁷⁴ S v Makwanyane [1995] ZACC 3; 1995 (6) BCLR 665; 1995 (3) SA 391; [1996] 2 CHRLD 164; 1995 (2) SACR 1 at para 35; S v Williams 1995 (3) SA 632 (CC) at 639 in which the Court considered the jurisprudence of the United Nations Human Rights Committee, the European Commission and the European Court of Human Rights on the corresponding provisions in these treaties; Ferreira v Levin NO 1996 (1) SA 984 (CC) at 1035-6 and 1085; S v Rens 1996 (1) SA 1218 (CC) at 1225 in which the Court relied on a decision of the European Court of Human Rights on fairness in appellate proceedings; Coetzee v Government of the Republic of South Africa 1995 (4) SA 631 (CC) at 660-3 in which the international human rights norms were used to uphold a constitutional challenge to imprisonment for judgment debts. Glenister v President of the Republic of South Africa and Others 2011 (3) SA 347 (CC) at para 187.

⁷⁵ Government of South Africa "Draft South African Closing Statement Diplomatic Conference to Conclude a Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities" (27 June 2013), available at: https://libguides.wits.ac.za/ld.php?content_id=5267475, which inter alia, reads:

"The Marrakesh Treaty will forever be remembered as the first WIPO treaty that reaffirms exceptions and limitations in the copyright regime, but also as a means to end the book famine that has long plagued people with visual impairment and print disabilities. South Africa is embarking on the process of reviewing its copyright legislation and will accede to the Treaty when all internal processes are concluded. In conclusion, South Africa continues to attach great importance to a balanced approach between intellectual property right holders and public interest and it is within this context, that we reaffirm our support and commitment to this treaty."

Reproduced in the record at Annexure FA 22.

⁷⁶ Vol 1, pp 94-5.

Marrakesh Treaty.⁷⁷ The meaning and relative weight given to the Marrakesh Treaty in interpreting both international and domestic law, and the proper meaning of the Marrakesh Treaty, are therefore of direct relevance to the outcome of this application.

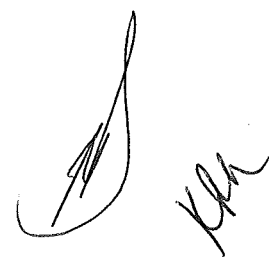
62. All this justifies, as a matter of both domestic and international human rights law, the consideration of the provisions of the Marrakesh Treaty in:

- 62.1. The interpretation of applicable international treaties to which South Africa is a party, including the CRPD and ICESCR;
- 62.2. The interpretation of applicable domestic constitutional provisions and the State's corresponding obligations;
- 62.3. The interpretation of the Copyright Amendment Act and its constitutionality; and
- 62.4. The determination of an effective, just and equitable, remedy in compliance with international human rights law and the Constitution.

NATURE OF SUBMISSIONS

63. The submissions sought to be made by the ICJ are relevant and important to the proceedings. They cover ground distinct from the submissions that will be made by the other parties and will assist this court in arriving at a just and equitable conclusion affording protection to international and domestically protected human rights and the rule of law.

⁷⁷ Vol 1, p 97.



64. I note that the Applicant relies on international instruments in its founding affidavit. While this is indeed so, the ICJ seeks to assist this Court with how these instruments ought to be interpreted, the tools used to interpret them and how such interpretation be implemented in South African domestic law.
65. In this instance, I believe that the submissions the ICJ make in this regard are substantially distinct from that of the Applicant in the main application. ICJ's submissions will also be relevant in assisting this Court in fulfilling its obligations to interpret international law within the context of this case.
66. This is particularly so where the Copyright Act does not align itself with what international law demands.

PROCEDURAL COMPLIANCE

54. A Rule 16A notice was issued on 24 March 2021, and as such, ICJ had to obtain the consent of the parties to intervene as amicus by 23 April 2021.
55. SECTION27, who represents BlindSA in this matter informed the ICJ's attorneys of record, Equal Education Law Centre ("EELC") that due to delays with service on some of the respondents, they were only due to file a notice of opposition by 23 April 2021.

Handwritten signature and initials, possibly 'KAR', in the bottom right corner of the page.

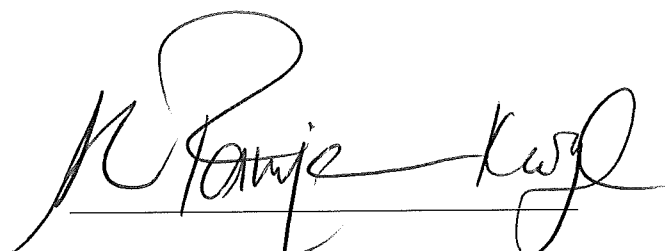
56. On 21 April 2021, the EELC addressed a letter to SECTION27, requesting their client's consent for ICJ to be admitted as amicus.
57. On 22 April 2021, the EELC received a response from SECTION27 stating that BlindSA has no objections to ICJ's admission as amicus. Copies of the correspondence are annexed and marked Annexure "**KRK4**" and Annexure "**KRK5**" respectively.
58. On 26 April 2021, the EELC addressed a letter to the third and fourth respondents, requesting their consent for IC's admission as amicus.
59. On 11 May 2021, a responses were received from the third and fourth respondents stating that they have no objections to ICJ being admitted as amicus. Copies of the letters are annexed hereto marked Annexure "**KRK6**" and Annexure "**KRK7**", respectively.
60. The EELC was informed by SECTION27 that the third and fourth respondents will not be opposing the application and filed a notice of abide, a copy of which is annexed marked Annexure "**KRK8**".
61. On 26 April 2021, ICJ addressed a further letter to the first, second and fifth respondents requesting consent for ICJ to be admitted as amicus. A copy of the letter is marked Annexure "**KRK9**".




62. The EELC was informed by SECTION27 that the second respondent will not be opposing the application and filed a notice of abide, a copy of which is annexed marked Annexure “**KRK10**”.
63. However, to date there has been no response from the first, second and fifth respondents to ICJ’s letter requesting consent. This is the reason the ICJ makes this application.

CONCLUSION

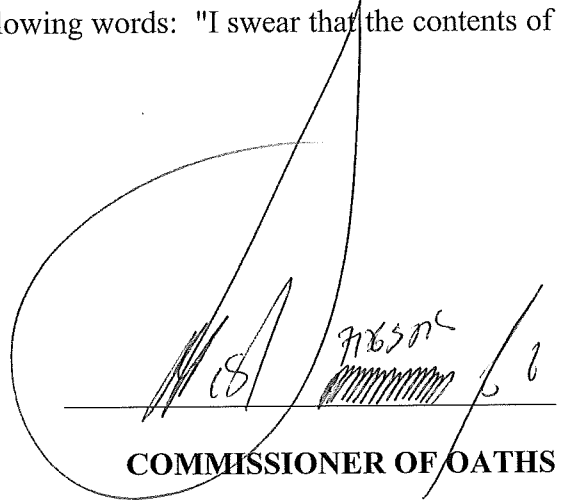
64. The submissions that the ICJ intends to make are different from those advanced by the parties to the application and the submissions are directly relevant to the issues before the Court, are cogent and will be helpful to this Court.
65. Accordingly, the ICJ has satisfied the requirements for admission as *amicus curiae*.
66. I pray for orders admitting the ICJ as *amicus curiae* and permitting it to present written and oral argument, as per the notice of motion that accompanies this affidavit.

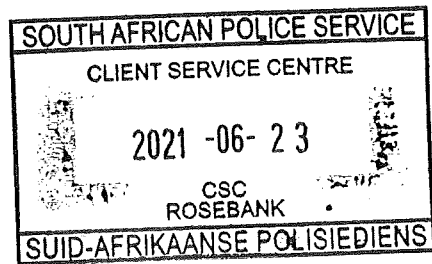


KAAJAL RAMJATHAN-KEOGH



I CERTIFY that this affidavit was signed and sworn to before me at ROSEBANK on this the 23rd day of JUNE 2021 by the deponent who acknowledged that she knew and understood the contents of this affidavit, had no objection to taking this oath, considered this oath to be binding on his conscience and who uttered the following words: "I swear that the contents of this affidavit are true, so help me God".


COMMISSIONER OF OATHS



Name : Madlopha
 Address: 15 Skon
Aven



International
Commission
of Jurists

Cypress Place South A
142 Western Service Road
Woodmead Business Park
2157 Johannesburg
South Africa

t +27 11 024 8268
f +27 86 572 7519
www.icj.org

President

Prof. Sir Nigel Rodley, United Kingdom

Vice-President

Prof. Robert Goldman, United States
Justice Michèle Rivet, Canada

Executive Committee

Prof. Carlos Ayala, Venezuela
Justice Azhar Cachalla, South Africa
Prof. Andrew Clapham, United Kingdom
Justice Radmila Dacic, Serbia
Ms Imrana Jalal, Fiji
Ms Hina Jilani, Pakistan
Mr Belisario dos Santos Junior, Brazil

Executive Committee Alternates

Prof. Marco Sassoli, Switzerland
Justice Stefan Trechsel, Switzerland

Other Commission Members

Prof. Kyong-Wahn Ahn, Republic of Korea
Justice Adolfo Azcuna, Philippines
Mr Muhannad Al-Hassani, Syria
Dr. Catarina de Albuquerque, Portugal
Mr Abdelaziz Benzakour, Morocco
Justice Ian Binnie, Canada
Justice Sir Nicolas Bratza, UK
Mr Reed Brody, United States
Prof. Miguel Carbonell, Mexico
Justice Moses Chinhengo, Zimbabwe
Ms Roberta Clarke, Barbados/Canada
Justice Elizabeth Evatt, Australia
Mr Roberto Garretón, Chile
Prof. Jenny E. Goldschmidt, Netherlands
Prof. Michelo Hansungule, Zambia
Ms Gulnora Ishankhanova, Uzbekistan
Mr. Shawan Jabarin, Palestine
Justice Kalthoum Kennou, Tunisia
Prof. David Kretzmer, Israel
Prof. César Landa, Peru
Justice Ketil Lund, Norway
Justice Qinisile Mabuza, Swaziland
Justice José Antonio Martín Pallín, Spain
Prof. Juan Méndez, Argentina
Justice Charles Mkandawire, Malawi
Mr Kathurima M'Inoti, Kenya
Justice Yvonne Mokgoro, South Africa
Justice Sanji Monageng, Botswana
Justice Tamara Morschakova, Russia
Ms Karinna Moskalenko, Russia
Justice Egbert Myjer, Netherlands
Justice John Lawrence O'Meally, Australia
Justice Fatsah Ouguergouz, Algeria
Dr Jarna Petman, Finland
Prof. Mónica Pinto, Argentina
Prof. Victor Rodríguez Rescia, Costa Rica
Mr Alejandro Salinas Rivera, Chile
Justice Ajit Prakash Shah, India
Justice Kalyan Shrestha, Nepal
Mr Raji Sourani, Palestine
Justice Philippe Texier, France
Prof. Rodrigo Uprimny Yepes, Colombia

To Whom it May Concern,

Re Authorization of Kaajal Ramjathan-Keogh to sign and depose legal documentation on behalf of ICJ for *Blind SA v Minister of Trade, Industry and Competition and Others* (Case: 14996/21)

This letter serves to confirm that Kaajal Ramjathan-Keogh, who is employed as the Africa Director at the International Commission of Jurists (ICJ), is authorized to sign and/or depose of any and all legal documentation on behalf of the ICJ for the ICJ's amicus intervention in *Blind SA v Minister of Trade, Industry and Others* for which the ICJ is legally represented by Equal Education Law Centre.

Yours sincerely,

SAM ZIA-ZARIFI
ICJ Secretary General
sam.zarifi@icj.org

Reg no: 114-425NPO

Convention on the Rights of Persons with Disabilities and Optional Protocol



UNITED NATIONS

Handwritten signature

Handwritten signature

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;



Handwritten signature and initials, possibly 'KPH', located in the bottom right corner of the page.

(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;

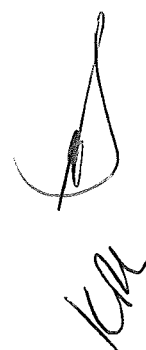
(b) To ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;

(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;



Handwritten signature and initials, possibly 'KAR', located at the bottom right of the page.

(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;

Handwritten signature and initials, possibly 'KPR', located in the bottom right corner of the page.

(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,



Handwritten signature and initials, possibly 'Klen', located in the bottom right corner of the page.

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.

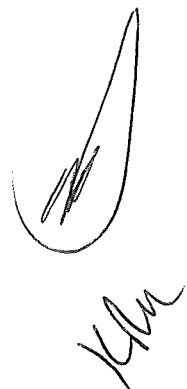
3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

(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.



Handwritten signature and initials, possibly 'KLM', located in the bottom right corner of the page.

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.

A handwritten signature, possibly 'KPM', is written below a large, stylized teardrop-shaped mark.

OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

The States Parties to the present Protocol have agreed as follows:

Article 1

1. A State Party to the present Protocol ("State Party") recognizes the competence of the Committee on the Rights of Persons with Disabilities ("the Committee") to receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the Convention.
2. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

Article 2

The Committee shall consider a communication inadmissible when:

- (a) The communication is anonymous;
- (b) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention;
- (c) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
- (d) All available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;
- (e) It is manifestly ill-founded or not sufficiently substantiated; or when
- (f) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date.

Article 3

Subject to the provisions of article 2 of the present Protocol, the Committee shall bring any communications submitted to it confidentially to the attention of the State Party. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.



Article 4

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.
2. Where the Committee exercises its discretion under paragraph 1 of this article, this does not imply a determination on admissibility or on the merits of the communication.

Article 5

The Committee shall hold closed meetings when examining communications under the present Protocol. After examining a communication, the Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

Article 6

1. If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end submit observations with regard to the information concerned.
2. Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.
3. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.
4. The State Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.
5. Such an inquiry shall be conducted confidentially and the cooperation of the State Party shall be sought at all stages of the proceedings.

Article 7

1. The Committee may invite the State Party concerned to include in its report under article 35 of the Convention details of any measures taken in response to an inquiry conducted under article 6 of the present Protocol.
2. The Committee may, if necessary, after the end of the period of six months referred to in article 6, paragraph 4, invite the State Party concerned to inform it of the measures taken in response to such an inquiry.

Article 8

Each State Party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in articles 6 and 7.

Article 9

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

Article 10

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

Article 11

The present Protocol shall be subject to ratification by signatory States of the present Protocol which have ratified or acceded to the Convention. It shall be subject to formal confirmation by signatory regional integration organizations of the present Protocol which have formally confirmed or acceded to the Convention. It shall be open for accession by any State or regional integration organization which has ratified, formally confirmed or acceded to the Convention and which has not signed the Protocol.

Article 12

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 Convention and the present Protocol. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by the Convention and the present Protocol.



Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.

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

3. For the purposes of article 13, paragraph 1, and article 15, paragraph 2, of the present Protocol, 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 meeting of States Parties, with a number of votes equal to the number of their member States that are Parties to the present Protocol. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

Article 13

1. Subject to the entry into force of the Convention, the present Protocol shall enter into force on the thirtieth day after the deposit of the tenth instrument of ratification or accession.

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

Article 14

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

2. Reservations may be withdrawn at any time.

Article 15

1. Any State Party may propose an amendment to the present Protocol 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 meeting 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 meeting, the Secretary-General shall convene the meeting 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.

Article 16

A State Party may denounce the present Protocol 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 17

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

Article 18

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

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

A handwritten signature in black ink, consisting of a large, stylized 'S' shape with a vertical line extending upwards from the top, and a smaller, more complex mark below it.

"KRK 3"

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;

Handwritten signature and initials, possibly 'KLN', located at the bottom right of the page.

(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 I 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 therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, 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.

Handwritten signature and initials in the bottom right corner of the page.

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.

Handwritten signature and initials, possibly 'KLM', located at the bottom right of the page.

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 I of the same article of the following particulars:

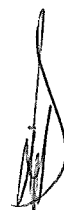
(a) Signatures, ratifications and accessions under article 26;

(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.



"KRK 4"



21 April 2021
Our Ref: (C Stuurman)

To: SECTION27
Attorneys for the Applicant
1st Floor, South Point Centre Building
87 De Kerke Street
Braamfontein
Johannesburg
Ref: (D Petherbridge)
PER EMAIL: petherbridge@section27.org.za

Dear Ms. Petherbridge

RE: BLIND SA vs MINSTER OF TRADE, INDUSTRY AND COMPETION & OTHERS – CASE NO.: 14996/21

1. We write on behalf of our client, the International Commission of Jurists, Africa Regional Programme ("ICJ").
2. Our client wishes to intervene in the above matter as *amicus curiae* in terms of Rule 16A of the Uniform Rules of Court and seeks the consent of the parties to the application for its admission.

OUR CLIENT'S INTEREST IN THIS APPLICATION

3. Composed of 60 eminent judges and lawyers from all regions of the world, the ICJ promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems.
4. The ICJ was established in 1952 and is active in five continents. The ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession. The overall aim of the ICJ Africa Regional Programme is to enhance the realisation of human rights on the African continent through adherence to the rule of law.

The Equal Education Law Centre is managed
By the Equal Education Law Centre Trust.

Isivivana Centre
3rd Floor
8 Mzala Street
Khayelitsha, 7784

Public Benefit Organisation
(Exemption No: 930038683)

Trustees:

Adv Janice Bleazard
Adv Michelle Norton SC
Dr Ursula Hoadley
Ntshadi Mofokeng
Michael Mbikiwa

Tatum Howie
Adv Achmat Toefy
Zukiswa Kota
Justice Catherine O'Regan
Sisakhe Ntlabezo

T +27 21 461 1421/3551
F +27 86 572 4675
info@eelawcentre.org.za
www.eelawcentre.org.za

NPO No: 099-658-NPO
Trust Certificate No. IT2966/2011

The Equal Education Law Centre
Trust is a registered Trust.



5. The ICJ Africa Regional Programme builds on the organisation's years of experience working with African judges, practicing lawyers, academics, civil society, politicians and government representatives and agencies, to improve the rule of law environment and entrench the respect for human rights in sub-Saharan Africa.
6. The ICJ's work in Africa dates as far back as 1961, in particular, its Africa Programme has been active in South Africa since 2012. In pursuit of its mandate, the ICJ has supported a range of standard setting initiatives on the continent; worked with local human rights and rule of law groups and individuals to raise serious human rights and rule of law concerns at national, regional and international levels; organized continuing legal education for judges and legal professionals; and assisted to provide protection to judges and legal professionals who found themselves at risk for practicing their profession.
7. This matter seeks to ensure that international and regional instruments and mechanisms are adhered to, further developed, and protected, which is in furtherance of the ICJ's own strategic objectives.
8. Moreover, the International Covenant on Economic, Social, and Cultural Rights ("ESCR") include the rights to decent work, an adequate standard of living, housing, food, water and sanitation, social security, health, and education. The ICJ has been working over several years to promote these rights in South Africa, which includes the right to education and the rights of persons with disabilities. One of the ICJ's means for achieving this objective include legal advocacy, especially at the national and regional levels, to improve legal frameworks for the protection of ESCR and bring them in line with international standards. This intervention acts on that objective.

SUBMISSIONS SOUGHT TO BE MADE

9. If admitted, ICJ would like to make written and oral submissions on the following:
 - 7.1. International human rights law arguments considering, inter alia, the Marrakesh VIP Treaty; United Nations Convention of the Rights of Persons with Disabilities, and the International Covenant on Economic Social and Cultural Rights.
 - 7.2. The ICJ wishes to make submissions on the appropriate interpretation of the provisions contained in the above instruments and other international standards and best practices.
 - 7.3. The ICJ's submissions would further be directed at assisting the Court to consider the important questions that arise in light of relevant principles of international

The Equal Education Law Centre is managed
By the Equal Education Law Centre Trust.

Trustees:

Adv Janice Bleazard
Adv Michelle Norton SC
Dr Ursula Hoadley
Ntshadi Mofokeng
Michael Mbikiwa

Tatum Howie
Adv Achmat Toefy
Zukiswa Kota
Justice Catherine O'Regan
Sisakhe Ntlabezo

Isivivana Centre
3rd Floor
8 Mzala Street
Khayelitsha, 7784

T +27 21 461 1421/3551
F +27 86 572 4675

info@eelawcentre.org.za
www.eelawcentre.org.za

Public Benefit Organisation
(Exemption No: 930038683)

NPO No: 099-658-NPO
Trust Certificate No. IT2966/2011

The Equal Education Law Centre
Trust is a registered Trust.



EQUAL
EDUCATION
LAW CENTRE

law. It will also be directed at assisting the Court to consider relevant foreign law.

10. Having regard to its objectives and the nature of its work, our client is uniquely placed to assist the Court in determining the legal issues that this matter gives rise to.
11. In light thereof, we request, on behalf of our client, your client's consent for the admission of ICJ as *amicus curiae* in the above-mentioned High Court application.
12. We request receipt of your written response on or before **Friday, 23 April 2021.**

Yours faithfully,

EQUAL EDUCATION LAW CENTRE (EELC)

Per: Chandre N Stuurman

chandre@eelawcentre.org.za

The Equal Education Law Centre is managed
By the Equal Education Law Centre Trust.

Trustees:

Adv Janice Bleazard
Adv Michelle Norton SC
Dr Ursula Hoadley
Ntshadi Mofokeng
Michael Mbikiwa

Tatum Howie
Adv Achmat Toefy
Zukiswa Kota
Justice Catherine O'Regan
Sisakhe Ntlabezo

Isivivana Centre
3rd Floor
8 Mzala Street
Khayelitsha, 7784

T +27 21 461 1421/3551
F +27 86 572 4675

info@eelawcentre.org.za
www.eelawcentre.org.za

Public Benefit Organisation
(Exemption No: 930038683)

NPO No: 099-658-NPO
Trust Certificate No. IT2966/2011

The Equal Education Law Centre
Trust is a registered Trust.

KRK5

To: Ms C Stuurman
Attorney
Equal Education Law Centre

Email: chandre@eelawcentre.org.za

22 April 2021

Dear Ms Stuurman,

**RE: BLIND SA v MINISTER OF TRADE, INDUSTRY AND COMPETITION and
OTHERS case no 14996/21 - CONSENT TO INTERVENE AS *AMICUS CURIAE***

1. Your letter dated 21 April 2021 refers.
2. We have considered your letter, and on instruction from our client, hereby confirm that we consent to your client's request in terms of Rule 16A(2) of the Uniform Rules of Court to be admitted as an *amicus curiae* in the matter, and to make the submissions described in your letter.

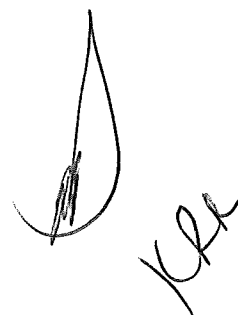
Yours sincerely,



Demichelle Petherbridge

Attorney

SECTION27





26 April 2021

To: The State Attorney, Cape Town
 Attorneys for the Third and Fourth Respondents
 5th Floor, Liberty Life Centre
 22 Long Street
 Cape Town
PER EMAIL: LGava@justive.gov.za

Dear Sir,

RE: BLIND SA vs MINISTER OF TRADE, INDUSTRY AND COMPETITION & OTHERS – CASE NO.: 14996/21

1. We write on behalf of our client, the International Commission of Jurists, Africa Regional Programme ("ICJ").
2. Our client wishes to intervene in the above matter as *amicus curiae* in terms of Rule 16A of the Uniform Rules of Court and seeks the consent of the parties to the application for its admission.

ICJ's INTEREST IN THIS APPLICATION

3. Composed of 60 eminent judges and lawyers from all regions of the world, the ICJ promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems.
4. The ICJ was established in 1952 and is active in five continents. The ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession. The overall aim of the ICJ Africa Regional Programme is to enhance the realization of human rights on the African continent through adherence to the rule of law.

The Equal Education Law Centre is managed
 By the Equal Education Law Centre Trust.

Trustees:

Adv Janice Bleazard
 Adv Michelle Norton SC
 Dr Ursula Hoadley
 Ntshadi Mofokeng
 Michael Mbikiwa

Tatum Howie
 Adv Achmat Toefy
 Zukiswa Kota
 Justice Catherine O'Regan
 Sisakhe Ntlabezo

Isivivana Centre
 3rd Floor
 8 Mzala Street
 Khayelitsha, 7784

T +27 21 461 1421/3551
 F +27 86 572 4675

info@eelawcentre.org.za
www.eelawcentre.org.za

Public Benefit Organisation
 (Exemption No: 930038683)

NPO No: 099-658-NPO
 Trust Certificate No. IT2966/2011

The Equal Education Law Centre
 Trust is a registered Trust.



5. The ICJ Africa Regional Programme builds on the organisation's years of experience working with African judges, practicing lawyers, academics, civil society, politicians and government representatives and agencies, to improve the rule of law environment and entrench the respect for human rights in sub-Saharan Africa.
6. The ICJ's work in Africa dates as far back as 1961, in particular, its Africa Programme has been active in South Africa since 2012. In pursuit of its mandate, the ICJ has supported a range of standard setting initiatives on the continent; worked with local human rights and rule of law groups and individuals to raise serious human rights and rule of law concerns at national, regional and international levels; organized continuing legal education for judges and legal professionals; and assisted to provide protection to judges and legal professionals who found themselves at risk for practicing their profession.
7. This matter seeks to ensure that international and regional instruments and mechanisms are adhered to, further developed, and protected, which is in furtherance of the ICJ's own strategic objectives.
8. Moreover, the International Covenant on Economic, Social, and Cultural Rights ("ESCR") include the rights to decent work, an adequate standard of living, housing, food, water and sanitation, social security, health, and education. The ICJ has been working over several years to promote these rights in South Africa, which includes the right to education and the rights of persons with disabilities. One of the ICJ's means for achieving this objective include legal advocacy, especially at the national and regional levels, to improve legal frameworks for the protection of ESCR and bring them in line with international standards. This intervention acts on that objective.

SUBMISSIONS SOUGHT TO BE MADE

9. If admitted, ICJ would like to make written and oral submissions on the following:
 - 7.1. International human rights law arguments considering, inter alia, the Marrakesh VIP Treaty; United Nations Convention of the Rights of Persons with Disabilities, and the International Covenant on Economic Social and Cultural Rights.
 - 7.2. The ICJ wishes to make submissions on the appropriate interpretation of the provisions contained in the above instruments and other international standards and best practices.
 - 7.3. The ICJ's submissions would further be directed at assisting the Court to consider the important questions that arise in light of relevant principles of international

The Equal Education Law Centre is managed
By the Equal Education Law Centre Trust.

Trustees:

Adv Janice Bleazard
Adv Michelle Norton SC
Dr Ursula Hoadley
Ntshadi Mofokeng
Michael Mbikiwa

Tatum Howie
Adv Achmat Toefy
Zukiswa Kota
Justice Catherine O'Regan
Sisakhe Ntlabezo

Isivivana Centre
3rd Floor
8 Mzala Street
Khayelitsha, 7784

T +27 21 461 1421/3551
F +27 86 572 4675
info@eelawcentre.org.za
www.eelawcentre.org.za

Public Benefit Organisation
(Exemption No: 930038683)

NPO No: 099-658-NPO
Trust Certificate No. IT2966/2011

The Equal Education Law Centre
Trust is a registered Trust.



EQUAL
EDUCATION
LAW CENTRE

law. It will also be directed at assisting the Court to consider relevant foreign law.

10. Having regard to its objectives and the nature of its work, our client is uniquely placed to assist the Court in determining the legal issues that this matter gives rise to.
11. In light thereof, we request, on behalf of our client, the parties' consent for the admission of ICJ as amicus curiae in the above-mentioned High Court application.
12. We request receipt of your written response on or before **Friday, 30 April 2021.**

Yours faithfully,

EQUAL EDUCATION LAW CENTRE (EELC)

Per: Chandre N Stuurman

chandre@eelawcentre.org.za

The Equal Education Law Centre is managed
By the Equal Education Law Centre Trust.

Trustees:

Adv Janice Bleazard
Adv Michelle Norton SC
Dr Ursula Hoadley
Ntshadi Mofokeng
Michael Mbikiwa

Tatum Howie
Adv Achmat Toefy
Zukiswa Kota
Justice Catherine O'Regan
Sisakhe Ntlabezo

Isivivana Centre
3rd Floor
8 Mzala Street
Khayelitsha, 7784

T +27 21 461 1421/3551
F +27 86 572 4675

info@eelawcentre.org.za
www.eelawcentre.org.za

Public Benefit Organisation
(Exemption No: 930038683)

NPO No: 099-658-NPO
Trust Certificate No. IT2966/2011

The Equal Education Law Centre
Trust is a registered Trust.

"KRK 7"



Office of the State Attorney Cape Town

PRIVATE BAG X 9001
CAPE TOWN
8000

4TH FLOOR, 22 LONG STREET,
LIBERTY CENTRE BUILDING
CAPE TOWN

TEL: (SWITCHBOARD): (021) 441 9200
(DIRECT LINE): (021) 441 9246
(SECRETARY): (021) 441 9208

FAX: (021) 421 9364

DOCEX: 156

DATE: 11 MAY 2021

ENQ: L M GAVA
EMAIL: lgava@justice.gov.za
cvisagie@justice.gov.za

OUR REF: 998/21/P8
YOUR REF:

Equal Education Law Centre
3rd Floor Isivivana
8 Mzala Street
KHAYELITSHA
7784

ATTENTION: MS C STUURMAN
BY E-MAIL: chandre@eelawcentre.org.za

Dear Madam

**RE: BLIND S A / THE MINISTER OF TRADE, INDUSTRY AND COMPETITION
& OTHERS (CASE NO: 14996/21)**

1. Your letter dated 26 April 2021 refers.
2. We hold instructions that our client has no objections to your admission as amicus curiae.

"KRK 7"



Office of the State Attorney Cape Town

PRIVATE BAG X 9001
CAPE TOWN
8000

4TH FLOOR, 22 LONG STREET,
LIBERTY CENTRE BUILDING
CAPE TOWN

TEL: (SWITCHBOARD): (021) 441 9200
(DIRECT LINE): (021) 441 9246
(SECRETARY): (021) 441 9208

FAX: (021) 421 9364

DOCEX: 156

DATE: 11 MAY 2021

ENQ: L M GAVA
EMAIL: lgava@justice.gov.za
cvisagie@justice.gov.za

OUR REF: 998/21/P8

YOUR REF:

Equal Education Law Centre
3rd Floor Isivivana
8 Mzala Street
KHAYELITSHA
7784

ATTENTION: MS C STUURMAN
BY E-MAIL: chandre@eelawcentre.org.za

Dear Madam


**RE: BLIND S A / THE MINISTER OF TRADE, INDUSTRY AND COMPETITION
& OTHERS (CASE NO: 14996/21)**

1. Your letter dated 26 April 2021 refers.
2. We hold instructions that our client has no objections to your admission as amicus curiae.

3. We trust that the above is in order.

Yours faithfully,

STATE ATTORNEY

pp 

Per: L M GAVA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 14996/21

In the matter between:

BLIND SA

Applicant

And

MINISTER OF TRADE, INDUSTRY AND COMPETITION

First Respondent

**MINISTER OF INTERNATIONAL RELATIONS
AND COOPERATION**

Second Respondent

**SPEAKER OF THE NATIONAL COUNCIL
OF PROVINCES**

Third Respondent

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Fourth Respondent

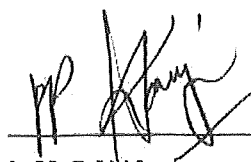
NOTICE TO ABIDE

BE PLEASED TO TAKE NOTICE that the Third and Fourth Respondents do not intend to oppose the above Application, but will abide by the decision of the above Honourable Court.

DATED AT CAPE TOWN THIS 3rd DAY OF MAY 2021.

OFFICE OF THE STATE ATTORNEYS
L M GAVA
TEL: 021 441 9200
FAX: 021 421 9364



STATE ATTORNEY**L M GAVA**

Attorney for Third and Fourth Respondents
4th Floor, 22 Long Street,
CAPE TOWN - 8001
(Ref.: 998/21/P8)

TO : THE REGISTRAR
High Court of South Africa
GAUTENG DIVISION, PRETORIA

AND TO : SECTION 27
Applicant's Attorneys
First Floor
South Point Corner Building
87 De Korte Street
Braamfontein
JOHANNESBURG
E-mail: petherbridge@section27.org.za
(Ref: D Petherbridge)

C/O CENTRE FOR CHILD LAW
Faculty of Law
Law Building (Room 4-31)
University of Pretoria,
PRETORIA

OFFICE OF THE STATE ATTORNEYS
L M GAVA
TEL: 021 441 9200
FAX: 021 421 9364





26 April 2021

To: The State Attorney, Pretoria
 Attorneys for the First, Second and Fifth Respondents
 SALU Building
 316 Thabo Schume Street
 C/o Francis Baard and Thabo Schume Street
 Pretoria Central
PER EMAIL: RSebelemetsa@justice.gov.za

Dear Sir,

RE: BLIND SA vs MINSTER OF TRADE, INDUSTRY AND COMPETION & OTHERS – CASE NO.: 14996/21

1. We write on behalf of our client, the International Commission of Jurists, Africa Regional Programme ("ICJ").
2. Our client wishes to intervene in the above matter as *amicus curiae* in terms of Rule 16A of the Uniform Rules of Court and seeks the consent of the parties to the application for its admission.

ICJ's INTEREST IN THIS APPLICATION

3. Composed of 60 eminent judges and lawyers from all regions of the world, the ICJ promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems.
4. The ICJ was established in 1952 and is active in five continents. The ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession. The overall aim of

The Equal Education Law Centre is managed
 By the Equal Education Law Centre Trust.

Trustees:

Adv Janice Bleazard
 Adv Michelle Norton SC
 Dr Ursula Hoadley
 Ntshadi Mofokeng
 Michael Mbikiwa

Tatum Howie
 Adv Achmat Toefy
 Zukiswa Kota
 Justice Catherine O'Regan
 Sisakhe Ntlabezo

Isivivana Centre
 3rd Floor
 8 Mzala Street
 Khayelitsha, 7784

T +27 21 461 1421/3551
 F +27 86 572 4675

info@eelawcentre.org.za
www.eelawcentre.org.za

Public Benefit Organisation
 (Exemption No: 930038683)

NPO No: 099-658-NPO
 Trust Certificate No. IT2966/2011

The Equal Education Law Centre
 Trust is a registered Trust.



the ICJ Africa Regional Programme is to enhance the realization of human rights on the African continent through adherence to the rule of law.

5. The ICJ Africa Regional Programme builds on the organisation's years of experience working with African judges, practicing lawyers, academics, civil society, politicians and government representatives and agencies, to improve the rule of law environment and entrench the respect for human rights in sub-Saharan Africa.
6. The ICJ's work in Africa dates as far back as 1961, in particular, its Africa Programme has been active in South Africa since 2012. In pursuit of its mandate, the ICJ has supported a range of standard setting initiatives on the continent; worked with local human rights and rule of law groups and individuals to raise serious human rights and rule of law concerns at national, regional and international levels; organized continuing legal education for judges and legal professionals; and assisted to provide protection to judges and legal professionals who found themselves at risk for practicing their profession.
7. This matter seeks to ensure that international and regional instruments and mechanisms are adhered to, further developed, and protected, which is in furtherance of the ICJ's own strategic objectives.
8. Moreover, the International Covenant on Economic, Social, and Cultural Rights ("ESCR") include the rights to decent work, an adequate standard of living, housing, food, water and sanitation, social security, health, and education. The ICJ has been working over several years to promote these rights in South Africa, which includes the right to education and the rights of persons with disabilities. One of the ICJ's means for achieving this objective include legal advocacy, especially at the national and regional levels, to improve legal frameworks for the protection of ESCR and bring them in line with international standards. This intervention acts on that objective.

SUBMISSIONS SOUGHT TO BE MADE

9. If admitted, ICJ would like to make written and oral submissions on the following:
 - 7.1. International human rights law arguments considering, inter alia, the Marrakesh VIP Treaty; United Nations Convention of the Rights of Persons with Disabilities, and the International Covenant on Economic Social and Cultural Rights.
 - 7.2. The ICJ wishes to make submissions on the appropriate interpretation of the provisions contained in the above instruments and other international standards and best practices.

The Equal Education Law Centre is managed
By the Equal Education Law Centre Trust.

Trustees:

Adv Janice Bleazard
Adv Michelle Norton SC
Dr Ursula Hoadley
Ntshadi Mofokeng
Michael Mbikiwa

Tatum Howie
Adv Achmat Toefy
Zukiswa Kota
Justice Catherine O'Regan
Sisakhe Ntlabezo

Isivivana Centre
3rd Floor
8 Mzala Street
Khayelitsha, 7784

T +27 21 461 1421/3551
F +27 86 572 4675

info@eelawcentre.org.za
www.eelawcentre.org.za

Public Benefit Organisation
(Exemption No: 930038683)

NPO No: 099-658-NPO
Trust Certificate No. IT2966/2011

The Equal Education Law Centre
Trust is a registered Trust.



EQUAL
EDUCATION
LAW CENTRE

7.3. The ICJ's submissions would further be directed at assisting the Court to consider the important questions that arise in light of relevant principles of international law. It will also be directed at assisting the Court to consider relevant foreign law.

10. Having regard to its objectives and the nature of its work, our client is uniquely placed to assist the Court in determining the legal issues that this matter gives rise to.

11. In light thereof, we request, on behalf of our client, the parties' consent for the admission of ICJ as amicus curiae in the above-mentioned High Court application.

12. We request receipt of your written response on or before **Friday, 30 April 2021.**

Yours faithfully,

EQUAL EDUCATION LAW CENTRE (EELC)

Per: Chandre N Stuurman

chandre@eelawcentre.org.za

The Equal Education Law Centre is managed
By the Equal Education Law Centre Trust.

Trustees:

Adv Janice Bleazard
Adv Michelle Norton SC
Dr Ursula Hoadley
Ntshadi Mofokeng
Michael Mbikiwa

Tatum Howie
Adv Achmat Toefy
Zukiswa Kota
Justice Catherine O'Regan
Sisakhe Ntlabezo

Isivivana Centre
3rd Floor
8 Mzala Street
Khayelitsha, 7784

T +27 21 461 1421/3551
F +27 86 572 4675

info@eelawcentre.org.za
www.eelawcentre.org.za

Public Benefit Organisation
(Exemption No: 930038683)

NPO No: 099-658-NPO
Trust Certificate No. IT2966/2011

The Equal Education Law Centre
Trust is a registered Trust.

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 14996/2021

In the matter between: -

BLIND SA

Applicant

And

MINISTER OF TRADE, INDUSTRY & COMPETITION

First Respondent

**THE MINISTER OF INTERNATIONAL RELATIONS
AND COOPERATION**

Second Respondent

SPEAKER OF THE NATIONAL ASSEMBLY

Third Respondent

**CHAIRPERSON OF THE NATIONAL COUNCIL
OF PROVINCES**

Fourth Respondent

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

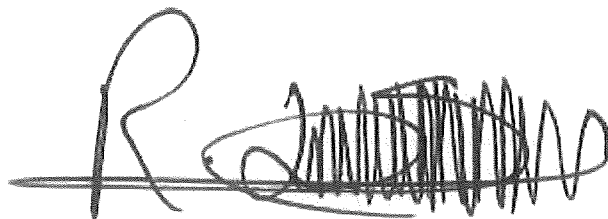
Fifth Respondent

NOTICE OF INTENTION TO ABIDE

BE PLEASED TO TAKE NOTICE that the **Second Respondent** will abide by the decision of the above Honourable Court and requests that all pleadings be served on their Attorneys, the details whereof are set out below.



DATED AND SIGNED AT PRETORIA ON THIS 26TH DAY OF APRIL 2021.



THE STATE ATTORNEY, PRETORIA

ATTORNEYS FOR SECOND RESPONDENT
316 SALU BUILDING
CNR THABO SEHUME & FRANCIS BAARD
GROUND FLOOR
ENTRANCE AT THABO SEHUME
PRIVATE BAG X 91
PRETORIA, 0001

REF: 0820/2021/Z64

TEL: 071 870 2442

E-MAIL: rsebelemetsa@justice.gov.za

ENQ: MR R.J. SEBELEMETSA

TO: THE REGISTRAR OF THE HIGH COURT
PRETORIA

**AND
TO:**

SECTION27

APPLICANT'S ATTORNEY
FIRST FLOOR
SOUTH POINT CORNER BUILDING
87 KORTE STREET
BRAAMFONTEIN
TEL: 011 356 4100
EMAIL: petherbridge@section27.org.za
REF: D Petherbridge

C/O CENTER FOR CHILD LAW

FACULTY OF LAW
LAW BUILDING (Room 4-31)
UNIVERSITY OF PRETORIA
PRETORIA
0002
TEL: 012 420 4502

