

## Report Training Seminar

### Worldwide Implications of the Human Rights Convention for Disabled Persons

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**'Networking to make disability matter'**

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## Introduction

“According to the new UN Convention on the Rights of Persons with Disabilities (CRPD), governments all over the world have to make the inclusion of disabled persons in society an integrated part of their development cooperation policy. Why? Because disabled persons worldwide have the same rights as other people. This obligation asks for enforceable disability measures in the South, the East and the West. NGO’s and other lobby-organisations should empower disabled people to make use of their rights”.

These were some concluding words of the seminar’s chair Bas Treffers, Vice-president of the European Disability Forum, at the training seminar ‘Worldwide Implications of the Human Rights Convention for Disabled Persons’ on 7 December 2006 in The Hague. The meeting was organized by the Dutch Coalition on Disability and Development (DCDD) and the National Disability Council VGPN (Vereniging Gehandicapt Platform Nederland).

The seminar was part of the European project ‘Breaking the cycle of poverty and disability in Development Cooperation’. The project aims to promote a coherent and co-ordinated approach to mainstream disability in development co-operation policies of 25 European Union Member States. This program is supported by DG Employment and Social Affairs of the European Commission, and implemented in partnership with CBM (Germany), Light for the World (Austria), AIFO (Italy), Handicap

International (France, Luxembourg), eRko (Slovakia), Healthlink (UK), PHOS (Belgium), SHIA (Sweden), DPI (Italia), Groupement Français des Personnes Handicapées (France). More information about the project: [www.make-development-inclusive.org](http://www.make-development-inclusive.org).

The European Commission, Plan Netherlands and the Dutch Ministry of Health, Welfare and Sports sponsored the seminar.



Ministry of Health, Welfare and Sport



## United Nations Convention on the Rights of Persons with Disabilities

Since 2001, the United Nations have been negotiating a new human rights convention. In August 2006 the UN Ad Hoc Committee finalized the draft Convention on the Rights of Persons with Disabilities (CRPD) and in the beginning of 2007 the Convention was adopted by the General Assembly. The Convention is of great importance to disabled persons because the text, for the first time in human history, provides a legal framework laying down their rights.

The Convention is a powerful instrument in the struggle for access to equal rights and will enhance the dignity of persons with disabilities. In addition it will prove to be a valuable instrument for mainstreaming disability from a rights perspective. But the struggle is not over yet, according to the experts attending the DCDD training seminar: “In Holland it usually will take up to 2 years to get a Convention like this ratified by parliament and government” said a civil-servant of the Ministry of Foreign affairs in the Hague, after he was challenged by other attendees. “That is when no unexpected complications arise”.

Almost all speakers at the seminar called upon all involved organizations to keep the pressure up. “Lets work together and demand accountability from politicians and governments on the status of ratification and the practical implementation of the Convention”.

## International Cooperation: Article 32 CRPD

Presentations by: Varina Tjon-A-Ten, former member of parliament for the Dutch Labour party (PvdA) and Charlotte McClain-Nhlapo, Disability Advisor of the World Bank



*Under article 32, states recognize the importance of international cooperation in support of national efforts for the realization of the purpose and objectives of the Convention. This means that states are made responsible for the position and rights of disabled persons not only in their own countries but also outside. Since disabled persons belong to the worlds most vulnerable and poor groups, the West should spend a substantial part of the development goals and budget to create a better life for them.*

As it comes to 'mainstreaming the position of disabled persons in the field of international cooperation' there is still a lot of work to do, according to Varina Tjon-A-Ten and Charlotte McClain-Nhlapo. Varina Tjon-A-Ten, the first speaker of the day, sneered to the Dutch government with the following example: "in spite of the fact that the Dutch policy on Development Cooperation recognizes that persons with disabilities belong to the most vulnerable groups, that they belong to the world's poorest persons, that disability limits access to education and employment, that disability leads to economic and social exclusion and that persons with disabilities are caught in a vicious cycle of poverty and disability, each being both a cause and a consequence of the other,

there is no policy on specific targeting of persons with disabilities in the Dutch policy on Development Cooperation." "The Dutch policy towards disability is said to be one of mainstreaming within the fields of education, health care, human rights and HIV/Aids; the spearheads in the Dutch policy on Development Cooperation. However, there are no data to support this. The language of Dutch policy towards this group is still rather 'exclusive' than 'inclusive'."

Human rights lawyer Charlotte McClain-Nhlapo stated that "only an international effort can improve the situation of 480 million disabled persons in developing countries, of whom 240 million live in extreme poverty." The UN-Convention will further protect the rights of disabled persons in America and Europe, but it will only benefit *all* disabled persons worldwide if the included strong obligation for international cooperation is really implemented. Furthermore, within international cooperation more resources must come available for the implementation of the rights of disabled persons. This means that international cooperation should be designed with the participation of disabled persons. To make the Convention slogan "Nothing about us without us" reality within international cooperation, direct involvement of disabled persons in the recipient countries is of vital importance". She stressed the utmost importance of article 32: "This is the driving engine of the whole Convention".

Both speakers concluded that the correct implementation of the Convention, and especially article 32, should be guarded strongly by NGO's, lobby-organisations for disabled persons as well as by politicians and human rights activists worldwide. "With the adoption of the final text the work has only just begun".



### Lessons Learnt

- Article 32 is a key article in the Convention: it is the driving engine for action and change and it facilitates both governments and states to collaborate internationally.
- With the adoption of the final text of the Convention the work for DPO's, NGO's, lobby-organisations, politicians and human rights activists has only just begun.
- DPO's and NGO's must promote and underline the importance of article 32 and the state obligations resulting from this article towards persons with disabilities worldwide.
- DPO's and NGO's have to demand accountability of governments for the implementation of article 32 and the Convention as a whole.
- The principle of "good governance" is an entry-point that can be used for the implementation of article 32 and the Convention as a whole.
- Governments and NGO's should give technical and financial assistance to implement article 32.
- Partnerships between DPO's and NGO's, international as well as regional, are of the highest importance for the implementation of article 32.

## Women with Disabilities: Article 6 CRPD

Presentations by: Hellen Grace Asamo, Chair of the National Union of Women with Disabilities, Uganda and Lydia la Rivière-Zijdel, Chair of DCDD and expert in the international area of gender and disability

*Article 6 focuses on the position of disabled women who often face double discrimination on their gender as well as their impairment. Under this article states are obliged to take specific measures to ensure the full and equal enjoyment of all human rights by women and girls.*

"For all Ugandan women gender is a handicap, let alone for women who are disabled. The same can be said for girls. A boy with a handicap might be considered a problem, but he still is presented as part of the family. A disabled girl however, is considered a shame: she is hidden in the house and not allowed to meet anyone outside her first circle. Education for women as well as for girls is seen as a waste of time. This applies in the strongest way to disabled women and girls". This is how Hellen Grace underscored the dual problem that disabled women, in an undeveloped country like Uganda have to face. As chair of the Ugandan National Union of Women with disabilities, Hellen Grace urged the international world to ensure that women and girls with disabilities across the third world benefit from the Convention as much as boys and men and to secure all rights that improve their lives. Also it is necessary to facilitate the mainstreaming of the disability and gender dimensions faced by women with disabilities. How necessary this still is today, Hellen Grace showed by the example of a young disabled girl who was rejected by University when she arrived in a wheelchair. "This is the discrimination we see when we are talking about rights. There are mainstream anti-discrimination-laws, but in practice there are many cases like this".

According to Lydia la Rivière-Zijdel, expert in the international area of gender and disability, discrimination of disabled women and girls is not only daily practice when it comes to education, but also in many other fields. "Teaching Reproductive Health is not for disabled girls in Uganda. They are seen as a-sexual, so it is not necessary to give them information about sexual behaviour", she noted. It also is difficult, if not impossible for disabled women, to get into organizations for the rights of the disabled persons. Male-conceptions are the rule. Only disabled boys are recognized and only men have admittance to the interest groups and organizations. Lydia la Rivière-Zijdel: "It is always a man in the top:

although 53 percent of the disabled persons in Holland is female, the main lobby-organization has never been chaired by a woman. It is still a tough fight to get women- issues on the agenda”.

### Lessons learnt

- Disabled women and girls face double discrimination, on their gender as well as their impairment.
- The new Convention foresees in a twin-track approach towards gender: the Convention has a specific article about women and girls with disabilities (article 6) and foresees in references to gender in many other articles.
- A twin-track approach towards gender (specific attention and mainstreaming), in all projects, programs and policies, is of the highest importance. Without this approach the human rights of disabled women and girls will never be fully exercised.
- A continental framework and strategy to advance mainstreaming of issues, gender in specific, should be developed.
- The balance of power between men and women has to be equalized. In many countries women are still submissive to men. In the Netherlands 68% of the women is financially dependent upon their husbands, which means that also in developed countries the balance of power is not equalised
- Full participation of disabled women in local and national DPO's must be ensured.
- Interests of disabled boys and girls have to be united.



## Education: Article 24 CRPD

Presentations by: Laurie Cordua, representative from Los Pipitos, Nicaragua, Marlies van der Kroft, Consultant in Disability, Development and Human Rights, José Smits, Chair of the Perspectief Foundation and Marianne Kroes, Senior Consultant of the Council for Disabled and Chronical Ill (CG-Raad)

*Under article 24 all governments should guarantee the right to education to all people with disabilities. They have to ensure an inclusive educational system at all levels.*

Speaker Laurie Cordua from the organization Los Pipitos presented a case study on a successful Nicaraguan experience with inclusive education. Los Pipitos is an association of parents of disabled children. It influences the state effectively on the integration and rights for disabled children. A big problem is the lack of budgetary possibilities, and a social bottleneck is the fact that in Nicaragua the parents keep their disabled children hidden at home. In the social surveys and census often a lower number of disabled children are recognized. The purpose of policy must be inclusion of disabled children in mainstream schools. But up to now there is the more realistic focus upon the more reachable aim of *integration*. In Nicaragua 38% of the disabled children go to primary school, 10% to secondary school and 2% to university. These figures are the lowest in Central America. A positive aspect is that Nicaragua will ratify the new UN-Convention on Rights of persons with Disabilities. “The ratification of the Convention will give people with disabilities a powerful instrument to demand inclusion and the elimination of all forms of discrimination. From persons with disabilities, we find ignorance about the laws that protect them, so they do not demand compliance”.

Inclusive education does not only face opposition in the South, also in the Netherlands most parents of disabled pupils rather send their children to special schools, than to mainstream schools. José Smits presented a case study on the limited practice of inclusive education in the Netherlands also called “the backpack” (rugzakje). The Netherlands has a strong tradition in providing special care and today 7 % of all Dutch pupils go to special education. To promote inclusive education, the government provides every child of a certain amount of money for additional services in a regular school. Still parents often choose special education, mainly because they think it provides a safer environment.

Regular as well as special schools can select and refuse children with learning disabilities. In the Netherlands 2.000 disabled children are refused and receive no education. The national government seems unable to provide proper solutions on this issue and keeps to its "backpack-policy".

Marlies van der Kroft presented a successful country-wide project on inclusive education in Lao. Despite of scarce resources the country has managed to expand inclusive education from a pilot project in 1993 within 1 school to all 18 provinces of the country in 2002. Because disabled children face particular barriers the aim was to find innovative ways to ensure that they can be included in education. The main challenge of the programme has been to keep pace with the rapid growing demand, and to ensure the quality of education, which implies training of qualified teachers and careful monitoring. In the classroom one of the most difficult challenges is to balance between the needs of all children. No one should be neglected and yet some need more attention than others and teachers need to gain the confidence to make these decisions.

The legal aspects of article 24 on education were explained by Marianne Kroes. According to her, article 24 provides the "right to education" but it gives no obligation for access to inclusive education. It only says: no barriers are allowed and reasonable accommodations must be provided. Many participants of the conference held a different opinion, namely that article 24 does provide an obligation for inclusive education. The Committee to the CPRD will have to decide about the exact obligations under the Convention, and so whether it obliges states to inclusive education, or not. In conclusion Marianne underlined that "the right to education is the gateway to participate in society. Education is the classic example of a field in which disability is the result of the interaction between a person and the environment".



### Lessons Learnt

- All children benefit from inclusive education, disabled children and not-disabled children.
- Inclusive education should be managed as a national strategy.
- High quality of inclusive education implies training of qualified teachers, careful monitoring, periodical evaluation and it requires an open mind to keep learning.
- Inclusive education can be realized even when only scarce resources are available.
- The Dutch government does not implement the right to inclusive education for all disabled children. Article 24 of the new Convention has to be included in the Dutch national policy.
- The positive state obligations under article 24 of the Convention are being discussed by human rights experts and lawyers. The Committee to the CPRD will have to decide about the exact obligations under the Convention, and so whether it obliges states to inclusive education, or not.

## Main Conclusions

- With the new UN Convention on the Rights of Persons with Disabilities, the human rights of disabled persons worldwide are being recognised. The Convention obliges states ratifying the Convention to implement the human rights of disabled persons. It is the task of DPO's, NGO's and human rights organisations to pressure their governments to ratify the Convention and to implement it.
- With article 32, governments do not only have an obligation to implement the human rights of disabled persons in their own country, they also have the obligation to support other countries herein. Therefore, the Convention must be included in the foreign policy of all countries, which makes monitoring the government's policy necessary.
- All disabled persons have the same human rights and must have the same opportunities; there are no special categories or criteria.
- The new Convention foresees in a twin-track approach towards gender: the Convention has a specific article about women and girls with disabilities (article 6) and foresees in references to gender in many other articles. A twin-track approach of gender (specific attention and mainstreaming), in all projects, programs and policies, is of the highest importance. Without this approach the human rights of disabled women and girls will never be fully exercised.
- Role models of men and women in developing countries should be stressed and the power balance has to be changed in favour of women.
- Not only in the South, but also in the North there is a great lack of inclusive education while inclusive education has to be the main aim.
- The North and South can learn from *each other* when it comes to the implementation of the rights of persons with disabilities.
- The articles of the Convention are multi-interpretable. The future Committee to the CPRD will have to interpret the articles and decide upon the state obligations.

