Asia-Europe Meeting

Persons with Disabilities and Human Rights
16th Informal ASEM Seminar on Human Rights

Seminar Report

16th Informal ASEM Seminar on Human Rights:
Persons with Disabilities and Human Rights
Seminar Report[1]

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INTRODUCTION

Introduction

The United Nations Convention on the Rights of Persons with Disabilities (UN CRPD) which entered into force on 3rd May 2008 aims 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*'[2]. The CRPD is a first in many ways – in addition to being the fastest negotiated human rights treaty and having the highest number of signatories on the date it was opened for signature[3], it is also the first human rights convention open for signature by regional integration organisations. As of November 2016, 47 ASEM partners have ratified the CRPD. It therefore sits at the heart of common efforts across ASEM countries to advance justice for persons with disabilities.

The 16th Informal ASEM Seminar on Human Rights on the topic "*Persons with Disabilities and Human Rights*" was organised by the Asia-Europe Foundation (ASEF), the Raoul Wallenberg Institute (as delegated by the Swedish Ministry for Foreign Affairs), the French Ministry of Foreign Affairs and International Development, the Philippine Department of Foreign Affairs, and the Swiss Federal Department of Foreign Affairs. It was hosted by the Chinese Ministry of Foreign Affairs, the China Disabled Persons' Federation, and the China University of Political Science and Law. Additional events at the Seminar included an exhibition on assistive technologies and a study-visit to the Braille press and library (organised by the China Disabled Persons' Federation). The Seminar co-organisers also conducted a panel discussion on "*Mainstreaming Disabilities and Human Rights: Sharing Best Practices from Asia and Europe*" during the closing plenary session.

Key Messages

The Seminar brought together over 120 official government representatives and civil society experts, representing 47 ASEM partners to discuss the application of a rights-based approach in strengthening and promoting the rights of persons with disabilities as exemplified by the UN CRPD. The Seminar also reflected on the mutually reinforcing overlap between the UN CRPD and the UN Sustainable Development Goals (UN SDGs). The symmetry between both instruments was highlighted especially, given that the structural change demanded by the UN CRPD can be usefully channelled through the implementation of the UN SDGs. At the same time, as emphasised by world leaders in the Declaration accompanying the announcement of the UN's 2030 Agenda on Sustainable Development, the implementation of such structural change must be "*grounded in the UN Charter, the Universal Declaration of Human Rights, international human rights treaties*"[4], in this case, the UN CRPD.

The Seminar acknowledged that **one of the main messages of the UN CRPD was to treat persons with disabilities as '*subjects*' and not as '*objects*' to be managed by others.** This profound attitudinal shift means that more positive public attitudes need to be nurtured. In this regard, the media plays an important role in raising awareness, empowerment and effecting societal perceptions. **Media outlets should avoid patronising or**

'inspirational' coverage of disability; they should learn how to report on disability in an appropriate and sensitive manner.

The ability to participate in political processes is an essential element of every democratic society. For one thing it helps to sustain a positive process of reform. Studies consistently show that **persons with disabilities are highly motivated to participate in political life. However, they remain under-represented**, with little provision for accessing information and participating in public life. In almost all countries, **traditional legal capacity laws tend to follow a medical model to disability; they place 'best interests' over 'individual choice'**. Determination of legal incapacity often leads to an automatic loss of the right to participate in political life of the nation. **Increasingly, there is a policy shift towards 'supported decision-making' as an alternative to traditional guardianship**. This should gradually remove one of the biggest barriers to political participation. Movement in this direction is to be encouraged among ASEM partners.

Access to and participation in culture was also highlighted at the Seminar since it enables groups like persons with disabilities to shape their own narrative and to correct narratives that reinforce negative policies. Furthermore, access to information and communication are also crucial to access social services. However, **media consumption by persons with disabilities remains low due to inaccessibility** (such as the absence of captioning and the lack of legal status for sign language in some countries) and **access to published materials can also be limited by intellectual property barriers**. More is needed to create space for persons with disabilities to participate in the broader cultural life of the nation. Mention was made of the positive potential of the UN WIPO Marrakesh treaty which seeks to rebalance intellectual property rights with the access rights of persons with disabilities and of the need for more ratifications from ASEM countries.

One of the barriers to social, political and economic participation is the absence of children with disabilities in mainstream education systems. The Seminar felt that **inclusive education is vital for imparting market able skills, for enabling active citizenship and for instilling an ethic of respect for difference in all children. It was noted that** one of the main benefits of widening work opportunities for persons with disabilities in the open and supported labour market was not just economic independence but also increased independence in other dimensions of life – including independent living. In providing services to persons with disabilities, the Seminar concluded that **there needs to be a shift from a traditional welfare and medicalised approach** which separates persons with disabilities from the general population toward a new **service provision model that is increasingly personalized to enable the person live the life they aspire to and does not entrap them at the edges of society.**

Access to justice was also highlighted at the Seminar as a crucial way of enabling persons with disabilities to vindicate their rights and challenge the discriminatory behaviour of others. It follows that the system of justice in any country is of vital interest in advancing the rights of persons with disabilities. Unfortunately, in the criminal law codes of many countries, **disability is still not acknowledged as grounds for hate-crime.** Legal capacity issues still negatively impact the ability of persons with disabilities to initiate legal proceedings. And evidence given by persons with disabilities may not always be given the same level of credibility. This just adds to the **difficulty faced by individuals with disabilities to report discrimination, crime and abuse, particularly sexual abuse.** In addition to the physical barriers that prevent disabled persons from accessing police stations and courts, the

lack of interpretation services and alternative communication methods can also prevent them from full participation in legal proceedings. Disabled Persons' Organisation (DPOs) in some countries do not have standing to participate in legal proceedings or bring cases on their clients' behalf to the courts. While many DPOs are funded through member contributions they may not qualify for get legal aid and their own resources may not allow for meaningful access to justice.

As mentioned, The Sustainable Development Goals (UN SDGs) have firmly included disabilities in the international development agenda. The UN SDGs, unlike the Millennium Development Goals that preceded them, now cover all countries (and not just developing countries) and also contain very specific references to persons with disabilities. Official Development Assistance (ODA) is one of the mechanisms by which disability-inclusive development can be realised. Persons with disabilities should be active stakeholders (not just beneficiaries) in such project consultations and design. In addition to providing technical and economic assistance, States should also facilitate international cooperation to support the implementation of the CRPD; support for international research and joint advocacy on disabilities will improve CRPD implementation and monitoring among States Parties.

Data collection is crucial for rational disability policy-making in terms of design, monitoring, and reporting; the need for disability disaggregation in all data collection has been specifically noted in Goal 17 of the SDGs. However, because there is a lack of shared methodologies, civil society and governments still approach data collection on an *ad-hoc* basis. ASEM partners need to implement systematic data collection; there are existing tools which are designed specifically for collecting disability data and particularly for persons with disabilities to use them; ASEM partners should encourage the use of such tools. In future, the focus of data collection should be on the barriers faced by persons by disabilities and not just the prevalence of disability.

Recommendations

The 16th Informal ASEM Seminar on Human Rights convened four working groups which focused on *participation in political life; social and economic inclusion; legal status, justice and remedy; and national implementation and international cooperation*. The main recommendations from the Seminar were shared with the ASEM partners and are noted here in some detail.

1. **Ensure participation in political and cultural life**
   1) States must respect the principle of participation and must meaningfully include persons with disabilities in political decision-making and policy-framing processes
      a) They must recognise that all persons with disabilities, including those with intellectual and psycho-social disabilities, have their own individual will and preferences that must be respected;
      b) New technologies and accessible media formats must be provided to ensure that all voters can make informed and independent voting decisions.
   2) ASEM partners must follow universal design principles so that persons with disabilities have equal opportunities to participate in political, cultural and public life.

3) States should sign and ratify the *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled*, to reduce copyright and intellectual property barriers for accessing printed works.

2. Make social services inclusive

1) Social services to persons with disabilities should be inclusive and follow a rights-based approach. They should not be segregated from services provided to the rest of the general population.

2) More efforts should be made to personalize social services to ensure they underpin the autonomy as well as the will and preference of the person. Where services are outsourced or delegated to private operators, a clear set of key performance indicators must be put in place to ensure equality and quality of those services; accreditation of services can also be instituted.

3) All persons with disabilities have equal rights to health. Service providers should provide information and services about sexual and reproductive health issues to all persons with disabilities.

3. Provide opportunities for economic inclusion

1) To provide equal opportunities and training to participate in the labour market, States should strengthen existing anti-discrimination legislation to ensure hiring practices are bias-free.

2) Government agencies should assist private employers and businesses in hiring persons with disabilities, and also provide disability awareness training for staff and human resources personnel.

3) Entrepreneurship skills and training should be provided to persons with disabilities so that they have the opportunity to establish their own independent businesses.

4. Promote disability-inclusive education

1) ASEM partners should implement their commitments made under the CRPD towards achieving inclusive education for all learners. In this regard, the should take note of the guidelines and clarifications provided by the UN Committee on the Rights of Persons with Disabilities in its *General Comment no. 4 on Article 24: Right to Inclusive Education.*

2) Education and research institutions should encourage student and staff mobility to forge deeper university research links between Asia and Europe, including legal research; more importantly, persons with disabilities should be enabled to conduct these researches through participatory research methodologies directly and in collaboration with universities.

5. Strengthen advocacy and awareness

1) Self-advocacy is crucial for empowerment, and persons with disabilities including those with intellectual and psycho-social disabilities should be given opportunities to represent and speak for themselves. In this regard, ASEM partners need to:

   a) Stimulate more international civil society exchanges so that civil society and DPOs can share lessons and best practices in strengthening regional and national advocacy efforts;

   b) Encourage cooperation between the Asian and European regional disability organisations' networks and promote the establishment of university-based disability studies centres in both Asia and Europe to complement the voice of civil society and DPOs;

c) Create more forums where persons with disabilities can participate; exchange programmes and inter-regional visits by persons with disabilities in specific fields such as sports, arts and culture can increase awareness on disabilities as well as enhance mutual understanding between the two regions.

2) Disability sensitivity should be an integral part of journalism training. Media practitioners with disabilities should be encouraged, along with their non-disabled peers, to cover international stories and events and be given equal opportunities to create and share content.

6. Mainstream disabilities in development assistance projects

1) International and regional financial institutions should include disabilities into all development assistance projects. ASEM partners should mainstream disabilities in their own ODA programmes to bring them in line with Article 32 of the CRPD and must ensure that:

   a) Persons with disabilities are not just beneficiaries in ODA projects; they are stakeholders who should be actively consulted for project design, implementation and monitoring;

   b) Reporting on disability inclusion and accessibility should be a requirement for grant recipients and should include feedback from persons with disabilities who were involved in the project;

   c) The continuation of disability-inclusive practices should be designed into the grant's exit strategy from the beginning of the project itself, so that grant recipients are able to continue the project under the accessibility conditions set by donor agencies.

7. Ensure access to justice and remedy

1) Law enforcement agencies, national human rights institutions, ombudsman offices and civil society organisations need to work together to provide specialist assistance to persons with disabilities to combat crime and to seek appropriate civil and criminal remedies. In addition,

   a) Training is required for the judiciary and law enforcement officials on the CRPD, on how to identify and address disability-related abuse and crime, as well as on how to use alternative means of communication with victims and plaintiffs;

   b) Such trainings should ideally be delivered by people with disabilities and/or by DPOs so that awareness and understanding is created on the social model of disability and the lived experiences of persons with disabilities.

2) Training is required for persons with disabilities to understand their rights and legal protections, including knowledge of the legal system, especially legal capacity laws, in their countries.

8. Improve national implementation of the UN CRPD and SDGs

1) States must ensure that their existing domestic legislation (including Federal and local law) is harmonised with CRPD standards; aside from amending existing regulations, additional legislation may be required to achieve the comprehensive inclusion of all disabled persons.

2) The 2030 Agenda for Sustainable Development provides a special platform for the promotion of human rights of persons with disabilities. As the CRPD and the SDGs are inter-linked, ASEM partners should utilise both to promote and implement disability-inclusive development and human rights.

9. Enhance regional cooperation on disabilities

1) Regional organisations in Asia and Europe are encouraged to step up their engagement on disability related reform issues to add value to the efforts of their relevant Member States.

2) They should establish a desk on CRPD international cooperation within their own networks, creating focal points for sharing information on CRPD implementation progress and include contact information for support.

3) Philanthropy in Europe and Asia should be encouraged to support meaningful and focused dialogues and mutual research.

WORKING GROUP REPORTS

Working Group 1: Participation in Political and Cultural Life[5]

Introduction

The discussion ranged freely over the topics of participation in the political and cultural life of the nation. The deliberations were divided into three parts: (1) the right to political participation, challenges and opportunities, (2) the right to cultural participation, challenges & opportunities and (3) general ideas on how to continue the dialogue to mutual advantage. There was a high degree of consensus within the group especially about the nature and effects of the barriers encountered.

What arose in the discussions were the many links between the immediate rights in question (political and cultural participation) with other rights in the convention including the right to accessibility (Article 9), the right to legal capacity (Article 12), the right to inclusive education (Article 24), the right to equality and non-discrimination (Article 5) and the nature of the mechanisms to be put in place for domestic implementation and monitoring (Article 33). The participants were also at pains to point out how different groups of persons with disabilities experienced the barriers differently (especially those with intellectual disabilities) as well as the cumulative disadvantages that flow from intersecting identities (age, gender, race, disability, etc.). The panel shared many examples of positive practice that all can learn from and be inspired by. And they were of one view that this dialogue was valuable and should continue in some shape or form into the future.

A: The Right to Participation in political & public life (Article 29 UN CRPD)

Principles, Purposes and Objectives

At the outset the participants discussed the nature and purpose(s) of this right. It was agreed that the right (or bundle of rights) was important in itself and also instrumental to the achievement of other rights and interests.

It is important in itself since admission to the political realm denotes full and equal citizenship - a right to share in the agenda of State. It is more important instrumentally because, unless one is politically engaged, quoting the words of one participant, "nothing happens." In other words, in order to sustain reform and the momentum of change it is vitally important to be engaged - and to have the right to be engaged. A practical example was given by one participant in the context of disaster relief where, at least in the past, the absence of participation from persons with disabilities from the process of designing and implementing disaster relief meant that such processes treated persons with disabilities as being virtually invisible.

Many participants remarked on the value of positive role models of persons with disabilities in political and public life. One participant noted that the increasing visibility of public and political figures with disabilities assisted to "reduce stigma and encourage participation." Such engagement helps to create a virtuous circle of increasing levels of involvement.

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[5] Rapporteur: Dr. Gerard Quinn (Centre for Disability Law and Policy, NUI Galway); Moderator: Dr. Rosemary Keyess (Faculty of Law, UNSW). Dr Quinn was assisted by Mr. Chen Bo (PhD student, Centre for Disability Law and Policy, NUI Galway).

One participant mentioned the findings of the EU Fundamental Rights Agency to the effect that, on average, more persons with disabilities showed an interest in the political affairs of the nation (relative to other groups). This desire to be engaged does not merely cover issues that one might expect (such as those related to disability) but also many other issues such as the environment and economic affairs. Having reported this positive message, the EU FRA also observed that few persons with disabilities actually vote. This was explained by a range of factors including inaccessibility and, in some cases, the lack of legal capacity as adjudged by outdated laws. The good news is they wanted to be involved.

Many participants tied the right to participation in political and public life (Article 29) with the institutional framework for domestic implementation and monitoring arising under Article 33 of the UN CRPD. It was noted that Article 33 'brought the convention home' by enabling domestic political systems 'to take ownership.' That is to say, the convention isn't just 'out there' in the UN system - it has to be internalized domestically under the guidance of Article 33. In the matrix provided by Article 33, Governments becomes smart by having a clear Focal Point and, if deemed necessary, a clear policy coordination mechanism. Civil society has a right to be engaged. And a 'reality' check in the shape of human rights institutions is also deemed needed. It is this triangulation between Government, civil society and human rights bodies that will increasingly drive change with respect to the disability rights agenda. Whilst political participation is important generally, it is important specifically to the efficient functioning of the Article 3 mechanism.

Several noted the disadvantages persons with disabilities - or certain cohorts of those with disabilities - face in any political system. Unlike many other civil society organisations, persons with disabilities faced (and continue to face) high opportunity costs associated with political participation. Advocacy was difficult for many since mere survival was the priority. This was especially so for those with intellectual disabilities. In the past this has led to some unevenness with respect to disability policies and laws. Forging alliances with other interest groups could also be hard because of the stigma sometimes attached to disability. An example was given of the relationship between disability advocacy groups and groups advocating for the rights of older people. Only recently have grand disability alliances been forged to overcome this obstacle and only recently have effective alliances been forged between disability DPOs and other advocacy groups. Some participants mentioned the rise of university-based disability studies centres, disability law centres and disability clinics in both Asia and Europe as an added factor to complement the voice of civil society.

Barriers - Outdated Legal Capacity Laws & Policies

The conversation covered a variety of obstacles or barriers to the enjoyment of the right of effective participation in public and political life. Many put forward out-dated legal incapacity laws as the foremost legal barrier. The main problem was that the declaration of legal incapacity had the effect of denying or substantially rolling back the right to vote and to be involved in political and public affairs. Some cited constitutional provisions in many countries that not only denied the right to vote to certain categories of persons with disabilities but which mentioned disability as a ground for removal from office, even that of the Head of State. Such provisions, the participants noted, "set a tone" that made the deprivation of the right to vote and otherwise engage in political affairs seem 'natural.' Such barriers disproportionately affects persons with psycho-social disabilities. It was noted that this creates a catch 22 situation – while there is a need for reforms to include persons with psycho-

social disabilities to advance change, there is also the relative exclusion of persons with psycho-social disabilities from the process of change which makes change less likely

The participants noted the many reforms taking place around the world on the topic of legal capacity as it affects the right to participate in political and public life. Mention was made of a landmark decision of the Tokyo High Court in 2013 (restoring the right to vote) as well as the caselaw of the European Court of Human Rights in the past few years. It was noted that the Court has been active on the issue of legal capacity in the last 10 years or so by, firstly, narrowing down the scope of legal capacity laws and demanding due process and secondly, in de-coupling the loss of legal capacity with any automatic loss of an ancillary right like the right to vote or stand for elections. The Court has yet to reach the issue of supported decision-making. Mention was also made of the Council of Europe's Venice Commission's *Interpretive Guidance on its Code on Electoral Matters* as it applies to the right to vote for persons with disabilities. It was observed that the Venice Commission has come a long way in acknowledging a plenary right to vote regardless of disability. Mention was also made of the many pilot projects around the world on supported decision-making (particularly in Australia) that are, collectively, tending to demonstrate the viability of a right to vote regardless of disability. This gave rise to the question posed by one of the participants 'what does the right to decision-making actually mean in the context of political participation?.'

Barriers – Inaccessibility

The other major barrier discussed had to do with inaccessibility. The participants noted that inaccessibility takes many forms and is itself a major deterrent to participation. The participants identified inaccessible election materials including inaccessible material provided by political parties. If electors are to make real and effective choices then they must have available to them material and information that distinguishes between the candidates and their respective platforms. Very often such information is in inaccessible formats especially for visually impaired citizens. For those with intellectual disabilities the failure of candidates and parties to provide 'easy to read' versions of their materials and manifestos also amounts to a serious barrier.

Another manifestation of inaccessibly identified by the participants has to do with the voting card itself. Such cards can be easily overlaid with a plastic cover that imparts the choices through braille with a space to mark a vote. These are cheap and easily made. What is more, they would allow for the secrecy of the ballot to be maintained. Otherwise, in the words of one participant, "I have to whisper to an assistant or a relative" which is hardly conducive to maintaining the secrecy of the ballot. Mention was made by some participants of the beneficial work done by the International Foundation on Electoral Systems (IFES) in providing models for accessible voting cards and procedures. The point was made that there are models 'out there' that do not have to be reinvented - simply used.

Inaccessible polling stations figured prominently as an example of physical barriers to political participation. The point was made by several participants that polling stations carry symbolic significance. It is where the collective will and conscience of the nation is expressed. Exclusion - or effective exclusion through inaccessibility - does not just mean a denial of a basic right, it also connotes a deep indignity that no citizen should have to face. The

participants agreed that it was no answer to carry a person up steps no matter how well intentioned the officials or bystanders might be. And the participants also emphasized that the goal of accessibility cannot be effectively met by only designating certain polling stations to be accessible.

Another aspect of inaccessibility arose in the context of overall environmental accessibility. One participant emphasized that living in an 'inaccessible location makes it hard if not impossible to attend political events." A direct link was drawn between Article 29 and Article 9 (Accessibility). The main point was that engagement on political and public life is not just restricted to election day. It happens every day throughout the year. To a certain extent election day is just the culmination of the political life of the nation and if people with disabilities cannot gain access to political and public events then it is hard to see how they can be politically educated as citizens and voters. This was brought vividly home by one participant from an Asian country with many islands. He said, "because of inaccessible ferries and public transport it is simply impossible to follow political events." Transport barriers had the effect of narrowing down the range of political and other experiences opened up for others. Most citizens take for granted the right and opportunity to meet their public figures and question them in person. Not so for many persons with disabilities.

And, as if transport inaccessibility wasn't bad enough, the main substitute for physical presence at events, namely the media, is also often inaccessible. The legal requirement of captioning for TV is still a rarity. Few Governments require accessibility on the internet. This applies not just to Government departments and their websites, but also to political parties and other webcasts or broadcasts of a political nature. Furthermore, the regulation of hate speech directed a persons with disabilities on the web and in social media is insufficiently regulated in many places. It was felt by the panel that "we need principles of universal design at all stages in political participation."

Barriers – Awareness

The discussion was fascinating as it turned on culture and conceptions of culture. One participant posed a question at the outset - "are you really a citizen or just an object of charity?"

The point was made by a participant that "even good laws can be undone or misapplied or not applied at all with the wrong mindset." So having new laws was only the beginning of a process of change. If old stereotypes persisted then this would inevitably drag down good laws. The process of reform had to be accompanied, as one participant put it, by a "whole society attitudinal change." The group felt that "more targeted measures need to be found to project an image of persons with disabilities as active citizens." It was asserted that "persons with disabilities need to be visible within political parties, assume positions of high level responsibility and act as role models." A particular point of emphasis and consensus was the "need for civil society to be involved in the design of awareness rising programmes" and "to be centrally involved in the training of election officials."

Barriers - Lack of Inclusive Education

It was recalled that one purpose of the right to inclusive education is to equip the person with the skills for a lifetime of active citizenship. Active citizenship means taking pride in collective achievements and taking responsibility to help bring about change where change is needed. And another related purpose is to acquire and practice tolerance toward others who hold different views or are simply different. It stands to reason, that if one

is excluded from education or if one does not have access to a system of inclusive education, then one will be less prepared than others for active citizenship in political and public life. This exclusion, the group felt, reinforces negative attitudes in others towards persons with disabilities. And, persons with disabilities themselves can too easily internalise these attitudes causing 'spoilt identity' and further exclusion.

Barriers Compounded by Inter-Sectional Disadvantages

The above barriers were felt by the panel not to stand in isolation. People with disabilities bear other identities - as older persons, as persons of ethnic minorities, as women and girls, as prisoners, as refugees, etc. The panel felt that "persons with disabilities come with a mix of identities" and this can draw in its wake "a set of overlapping and accumulated disadvantages."

Pointers toward Future Good Practice

The panel agreed that there are now many resources to point to in order to inform a process of policy reform to overcome the many barriers identified. These resources took the shape of ideas or positive national practices.

At the level of ideas there are many useful resources to draw on:
1. The use of 'indicator sets' such as those developed by the EU Fundamental Rights Agency have proved relevant in securing the right to political participation of persons with disabilities in Europe. At a global level the International Foundation for Electoral System (IFES) has also produced extremely useful material and guidance on electoral systems and disability.
2. At the level of positive national practice in both Europe and Asia in the increasing dialogue between DPOs, governments, political parties, as well as between DPOs and National Human Rights Institutions and law reform commission bodies or similar bodies to analyse barriers and come forward with solutions.
3. New laws on supported decision-making the link between them and the right to vote are emerging. And specific mention was made of non-discrimination laws in several European and Asian countries (with effective and robust remedies) that have been applied by the courts to break down the barriers faced by people with disabilities in the political sphere.

B: The Right to participate in cultural life, recreation, leisure and sport (Article 30 UN CRPD)

There was much discussion among the participants on why participation in cultural life, recreation, leisure and sport, was so important. Firstly,, it gives a person access to shared understandings of the world and philosophies of life. Secondly, it affords an equal right to influence change in those ideas. It was felt that cultural expression is close to self-expression, both in an individual and in a collective sense. One participant said "the personal is political" and that "this space for imagination and re-imagination in culture is the bedrock of an open, tolerant and ever changing society."

Cultural space has many domains including cultural sites such as theatres, libraries, public stadiums, recreation facilities, sports facilities, churches, temples, Mosques, etc. And access to these sites - when not physical - can be mediated through the mass media (TV, radio), ICT (web based links) and social media.

Several barriers were identified and discussed by the participants including the following:

Attitudinal Barriers

These barriers both excluded and deterred people with disabilities from cultural participation. One participant stressed the need to move from policies based on "deficits, to diversity toward recognition as normal." To a certain extent it was emphasised that the relative invisibility of persons with disabilities in culture and sports reinforced the impression that they did not belong. Contrariwise, the visible involvement of more people in culture and sports meant that there was an expectation that they would participate. And such an expectation created a welcoming environment that helped reduce inhibitions. This was why the participants felt that tackling the attitudinal barriers was critically important.

Physical Barriers

The discussion on physical barriers with respect to culture, mirrored the earlier discussion on physical barriers with respect to political participation. Interestingly, the possibility that some available supports might in themselves amount to barriers also figured. One participant pointed out that his 'interpreter might be a barrier.' This was meant to emphasise that a solution for one barrier might itself create more unintended barriers. The solution was proper training and accreditation.

Media Barriers

It was again emphasised that inaccessible media (e.g., the absence of captioning on television, the absence of regulations mandating an accessible web experience, the absence of sign language)and the related problem that sign language tends not to have legal status in many European and Asian countries, all figured in the discussion. Much of the discussion was taken up by the question of the needed reform/liberalisation of intellectual property rights to make space for equality of access for visually impaired readers. Intellectual property law has effectively created a book famine whereby only a limited amount of published work is available to visually impaired readers. This blocks off entire zones of culture from visually impaired readers and seriously undermines their right to inclusive education.

Good Practice Pointers into the Future

Despite the many barriers, many participants pointed out the flourishing of artistic expression by persons with disabilities in Europe and Asia. Positive Practices include:

1. Countries like Iceland have moved to make sign language an official language in its constitution. Publications by organisations such as the European Union of the Deaf, which monitor the legal status of sign language throughout Europe are good tools to gauge positive trends.

2. The increasing ratification of the *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled* is promising towards the growth of good practice. This treaty, which liberalizes copyright law to allow for greater access to published material (available electronically) by blind and visually impaired readers, has even been signed by the European Union - signalling its intention to ratify.

3. Public procurement law in many European and Asian States are playing an expanding role in demanding accessibility with respect to cultural facilities that are privately provided. This is a good example of the State using its purchasing power to nudge private actors in the direction of accommodating persons with disabilities in their new facilities. Overall, there seems to be an increasing degree of accessibility for such facilities.

4. A new generation of cultural and sporting personalities in the public media serves to encourage others and helps to raise expectations for the younger generation. Singular mention was made of Robert Martin who has just joined the UN Committee on the Rights of Persons with Disabilities as an equal peer. It was also stressed that a close examination and monitoring of the accessibility of cultural and other sporting facilities is now attracting the attention of NHRIs and DPOs working together.

C: Views on Moving the Asia-Europe dialogue forward on disability

All working group discussants welcomed the dialogue and several ideas for maintaining it and strengthening it arose during the course of the day.

1. One idea was to work more intensively to ensure that overseas development aid was more inclusive of persons with disabilities. The idea here was for a transfer of know-how to enable the recipients of assistance to find their own solutions for themselves.

2. More civil society-to-civil society links and dialogue should be fostered. Such links and supports were felt by all participants to be of inestimable value in both valorising the rights paradigm as applied to disability as well as moving it forward.

3. Similarly, Government-to-Government links should also be stepped up. It should be possible, for example, to do staff exchanges as a way of facilitating the building up of Focal Points and Coordination mechanisms. Such exchanges need not be a drain on resources as they can be reciprocal.

4. The growing number of disability studies and disability law centres in both Asian and European Universities presents, it was felt, an ideal opportunity for useful research exchanges.

5. Finally, the growing engagement of philanthropy both in Asia and in Europe and the usefulness of bringing them together to facilitate some more joint Asia/Europe comparative research that could be very helpful to policy reform on both sides.

Working Group 2: Social and Economic Inclusion[6]

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[6] Rapporteur: Dr. Seree Nonthasoot (DPhil (Oxon), Representative of Thailand to the ASEAN Intergovernmental Commission on Human Rights); Moderator: Mr. Arthur Limbach-Reich (Academic Network of European Disability)

Introduction and Crosscutting Issues

There are a number of crosscutting issues to social and economic inclusion. The first one that must be mentioned relates to the heterogeneity and classification of disabilities. There are various types of disabilities that result from many causes, including congenital conditions and accidents. Persons with disabilities are not a homogenous group and persons with different disabilities have diverse conditions and needs. Hence, to classify them as a single group will deny some groups proper care and services. This is often the case for those with mental illness, autism, neuro-developmental and psychosocial disabilities or disorders, whose specific needs will not be met in the situation of standardised services.

This is often the case for those with mental illness, autism, neuro-developmental and psychosocial disabilities or disorders, whose specific needs[7] will not be met in the situation of standardised services.

Participants also discussed the differences of the terms 'inclusion' and 'integration' that are often used interchangeably. It was pointed out that in the 1970s the term 'integration' was primarily in use and 'inclusion' subsequently gained momentum, having been adopted explicitly in the provisions of the Convention on the Rights of Persons with Disabilities (CRPD).[8] However, the concept of 'inclusion' is not comprehensively defined with the CRPD and may change overtime.[9] The ultimate objective of inclusion is an effective and meaningful participation in public life. For persons with disabilities, in many instances inclusion can only be achieved through reasonable accommodation.

Another issue that crosscuts the social and economic inclusion landscape is the intersectionality of disabilities with other subjects. Two were pointed out. The first is disabilities and gender perspective, including violence against women and education for women with disabilities. Already women have suffered from multiple discriminations and women with disabilities are more prone to discrimination than others. It is important that gender perspective must be mainstreamed so that social and economic measures can be effectively inclusive. The other intersectional subject with disabilities is the direct relevance of the Sustainable Development Goals that contain references to persons with disabilities. A number of SDG targets include persons with disabilities and these must be integrated into the policy arena at the national level.

Diversity of stakeholders and providers of social and economic services for persons with disabilities is also mentioned. While states as duty bearers to persons with disabilities continue to play an undeniable role as social service providers, examples are provided from a number of countries of provision of services by civil society organisations (CSOs), disabled peoples' organisations (DPOs) as well as private operators. In some instances CSOs provide financial support to groups of persons with disabilities to run businesses and inclusive education and social service programmes. Partnership between states and these non-state providers is becoming an

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[7] A special note should be made about "needs" – the term has a double connotation between an individual's wants as opposed to requirement. Both are not always congruent and may be very disaparate for children who don't "need" (want) or don't have the movitation for additional lessons, but still they may "need" (require) special education to fulfil the learning standards defined by society.

[8] Eg, CRPD Art 27 para 1, in both English and French versions.

[9] A reference was made to the 'inclusive education' that is defined in the WHO's World Report on Disability (2011) as "[e]ducation which is based on the right of all learners to a quality education that meets basic learning needs and enriches lives. Focusing particularly on vulnerable and marginalized groups, it seeks to develop the full potential of every individual." Another related term that is also defined in the same document is 'inclusive society' which means "[o]ne that freely accommodates any person with a disability without restrictions or limitations." See further discussion in Section VII below.

instrumental element in the effective provision of different social services and states are recommended to foster closer cooperation. As a note of caution, stakeholders must also ensure that financial interests do not overshadow the rights and needs of persons with disabilities; their interests and needs must come first.

Attitudinal stigma and physical barriers continue to be an impediment to social and economic inclusion. A misconception that persons with disabilities are not able to undertake certain activities remains a major cause of stigma against them. At the same time, one must also be aware of the possible risk that inclusion in the mainstream labour market, which is economically driven, may result in competitive pressure for which labour market participants particularly those with disabilities require support. Awareness raising programmes are a tool that must be utilised more widely and continuously to redress misconceptions.

Proper access to social services is predicated on communications and information that must be made available to persons with disabilities who are users of those services.

While persons with disabilities are the target of social and economic inclusion measures, their family and caregivers must not be neglected since they bear the primary responsibility providing frontline care and assistance. It is essential that the family and caregivers of persons with disabilities be provided with adequate training and support as well as be considered an integral part of the social protection programme since they play an important role for persons with disabilities. Their understanding and supportive attitude toward persons with disabilities is a precondition for the latter's meaningful participation and inclusion in the various aspects of society.

Accessibility to Social Protection

Celebrating its 10th anniversary in 2016, the CRPD is credited as a transformative instrument that has brought a new level of protection for persons with disabilities around the world. As the most popular international human rights instrument, marked by the highest number of ratifying countries since its adoption in 2006, the CRPD has led to a multitude of novel structures and services. In some countries, new government agencies have been instituted to discharge protection mandate and services in compliance with the Convention while in others governments have relied on existing bureaucratic infrastructure to provide the services to persons with disabilities like healthcare and education.

Participants took turns to discuss and refer to new developments in social protection for persons with disabilities. The first notable point is a shift from social and medical models to the rights-based approach which has been mainstreamed in many areas, including social protection. This new approach focuses on the individual not merely as a welfare recipient or a subject of medical attention, but a rights holder to whom services must be offered. This has led to a change in many countries on how social services are administered and provided. Services are now individualised, based on specific needs of the person. The so called 'case management' that is used in European examples revolutionizes both the cost structure and the quality of services. By constructing relevant services based on the needs and specific conditions of the individual, delivery of social protection becomes targeted and responsive. It is pointed out that despite the initial higher cost of delivery, this form of

individualised package of services is financially viable in the long run. Another change is mentioned in regards to the funding or financing of services that are traditionally state-driven and delivered. In some countries, funds are now directly transferred to the persons for whom services are required. They then 'acquire' the relevant services from providers in the market. This new method thus alters the status of persons with disabilities from recipients to 'buyers' of services. Also noteworthy is the provision of personal assistance in a European example. Appointment of a personal assistant is cited as a solution to the abuses and violence sustained by women with disabilities from the carers in their households.

Despite the progress that has made social protection more accessible to persons with disabilities, challenges persist. First and foremost is the question of sustainability of the various social protection programmes that have been created. The lack of comprehensive and reliable database is also mentioned, especially in countries with geographical issues such as archipelago and dispersed islands. Without adequate data to develop identification of those requiring social protection, they remain in a marginalized situation and out of reach. While education and employment are salient social services for persons with disabilities, a key concern is the absence of a bridge between these services, invariably resulting in persons with disabilities who are educated but remain unemployed. For persons who are blind or deaf-blind, the lack of proper communications through braille or sign language creates an insurmountable barrier for their access to social services and protection to which they are entitled.

Good Practices on Private Operators on Public Services

The first point of departure when discussing public services is the mandate of states as duty bearers toward persons with disabilities to provide them the services as well as to ensure their quality, regularity and accessibility.

A good practice of states is mentioned and should be replicated; in the situation where a State provides social services through a centralised system, transparency measures that include publication of data and assessment of services can serve as benchmark for good service delivery standard for providers especially at municipal level. Competition among public providers, especially municipalities, to deliver accessible services should be recognized and promoted.

Increasingly states have relied on private operators to provide services. This can result from limitations in public budget, capacity, manpower or technology. The service partnership can come in many forms, including outsourcing and Public Private Partnerships (PPPs) contract. In such instances, it is of utmost importance that relevant legislation put in place a clear set of key performance indicators (KPIs) to ensure equality and quality of services to persons with disabilities. In countries where private operators are significantly relied upon, accreditation of services has been instituted for such a purpose.

Apart from the KPIs or accreditation system, participants raised concerns about the lack of awareness and understanding of the rights and needs of persons with disabilities by personnel of private firms that service them. A good practice in this respect is a training programme for employees of private firms that are on the front

line of services to have a clear understanding of the conditions and requirements of persons with different types of disabilities that use their services. At the most basic level, such understanding will help prevent disruption and violations of rights. A situation of a person with autism whose outward appearance and gesticulation may give rise to concern in public spaces like a bus or train is cited as an example where the knowledge of their condition by transport personnel will prevent alarm and negative impacts to both the person with such a condition and the commuting public.

Community-Based Interventions

Community-based interventions that include community-based rehabilitation represent a shift from institutionalisation. Such interventions can provide integration and inclusivity, especially for persons with mental health conditions. However, a participant cited the absence of sufficient and disaggregated data on the prevalence of mental illness among men and women to constitute a more gender responsive delivery.

For community-based interventions to be effective, training of parents of children, especially those with cerebral palsy, is instrumental. Increased awareness of parents of the conditions and appropriate ways to provide assistance to their children will directly contribute to the inclusion of their children into community.

Information Access

Information and communication are key to access social services, especially for blind and deaf persons. Adequate information about social services intended for persons with disabilities must be provided to them. Participants alerted the meeting to the fact that it is not unusual that information is given primarily and sometimes exclusively to service professionals who are the first point of contact with persons with disabilities. The assumption is that service professionals will then convey the necessary information to persons with disabilities who are the recipients of those services. It is emphasized that the requirement of communication and provision of relevant information must be considered a constitutive part of the social services themselves. Needless to say, communication is to be made in the form and manner that will allow persons with different disabilities fully to understand the types and requirement of services to which they are entitled and have accessibility.

ICT infrastructure is a new area toward which mainstreaming efforts must be directed. As telecommunication networks expand and increasingly become a backbone of the new digital economy, the issue of accessibility of persons with disabilities to ICT system itself, in addition to the conventional social services, becomes relevant.

Labour Market Participation

Discussion on labour market participation or employment commenced with a call for a paradigm shift from fragmented models that focus on education or employment to an integrated system that provide a whole-of-life social protection. Social protection, it was emphasised, must provide and serve as a bridge between education and employment.

A problem that continues to exclude persons with disabilities to participate in the labour market is the dichotomy of expectations of their workability. While their parents and caregivers have low expectation of their ability and capability to have a gainful employment, their prospective employers may often impose expectation of mainstream workability on them, anticipating persons with disabilities to be able to function and perform at the working hours like their non-disabled peers. This mismatched expectation naturally leads to exclusion at home and at the workplace where persons with disabilities who do not fit the workable expectation are viewed as liabilities rather than contributing agents.

Some participants pointed to sheltered employment that is still used in many countries as a form of employment that provides an appropriate platform for persons with disabilities who cannot work in the mainstream environment due to a lack of appropriate labour market provisions of working conditions. The products from these shelters are supported through public procurement regulation that lays down a requirement for acquisition of shelter products as preferred and priority sources. Other participants emphasised that deployment of sheltered employment should be an exceptional rather than a general form of labour market participation for persons with disabilities since by definition shelters create physical exclusion and impede inclusion. It was suggested further that human rights principles such as non-discrimination and equality must continue to be the underlying direction for sheltered employment.

To support persons with disabilities to be included in mainstream labour market, some countries utilize positive discrimination in the form of quota through legislation. In some instances, the fines that are collected from non-compliance are pooled into a fund that is used for various skill development programmes for persons with disabilities. Some other countries observe meritocracy but institutionalize training and vocational courses for persons with disabilities to be equipped with necessary skill and learning background for their intended employment.

A new model of employment support by CSOs/DPOs was mentioned during the discussion. "Supported employment" or "job-coaching" is a personalized social support system that is administered by CSOs/DPOs puts persons with disabilities at the centre and creates support programmes that provide measures fitting the specific needs and conditions of each individual.

Participants also shared the view that the increasingly expanding digital economy represents a variety of promising opportunities that have not been fully explored for and by persons with disabilities.

Rights to Inclusive Education

The suggested educational theme was on adult and non-formal education. However, participants exchanged views primarily on the interplay between inclusive and special education. The first issue is definition. It was pointed out that there is no universal meaning of inclusive or special needs education and this has rendered challenging the collection of comprehensive data.[10] While the recently adopted General Comment No. 4 by the

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[10] See n. 3 for a definition provided in the WHO World Report on Disability (2011). Additionally, the same report states: "There are no universally agreed definitions for such concepts as special needs education and inclusive education, which hampers comparison of data."

CRPD Committee focuses on the right to inclusive education, the text of the CRPD itself does not explicitly favour one type of education over the other. It was emphasized that as a rights holder persons with disabilities have equal rights to access inclusive education like everyone. As the primary duty-bearers, states have an obligation to provide both systems of education. A critical question that was subject to a debate is: Who have the right to choose the type of primary education for children with disabilities? Their parents? Or the children themselves? There is a divergence of views among the participants. One group points to the 'prior' right of the parents to choose the type of education for their children, which is recognized by the Universal Declaration of Human Rights[11] The other group indicates the unequivocal recognition by the CRPD Committee that education is the right of each individual learner including children and responsibilities of the parents in the area of education are 'subordinate' to the rights of the child.[12]

Discussion on inclusive and special needs education invariably implies physical separation of their facilities. It was pointed out, however, that institutions providing these two types of education can co-exist in the same compound and share the same facilities, which will foster inclusion for students with disabilities.

A number challenges persist in the education system designed for persons with disabilities. First, capacity of teachers is called into question. In inclusive system, teachers are not aware of specific needs of children with disabilities especially deaf and those with learning disabilities. The lack of sign language interpreter or the inability of the teachers to provide sign language interpretation hampers inclusion of and comprehension by deaf students. Secondly, there is tension between parents and teachers in regard to the appropriate type and delivery of education for children with disabilities. Thirdly, physical barriers still abound in education facilities, especially in the inclusive education structure designed for their inclusion. The absence of a 'friendly' environment or ecosystem is a basic impediment to inclusion. Fourthly, even in inclusive education system, there is a lack of socialization between students with disabilities and their mainstream peers. Fifthly, no education system will be effective if it does not lead to a successful transition to employment. Participants pointed to an inadequacy of job matching for children with disabilities who have graduated from school. Finally, the effectiveness of special education is cast into doubt when in some countries special education institutions function as 'storage' and not an enabling environment for students with disabilities.

On a positive note, there are many examples of good and innovative practices on education for persons with disabilities, such as those compiled and indicated by the Zero Project.[13] These good practices should be further shared and discussed.

Inclusive Healthcare

However, the CRPD Committee provides further elaboration of the two terms in the General Comment No. 4: "Integration is a process of placing persons with disabilities in existing mainstream educational institutions, as long as the former can adjust to the standardized requirements of such institutions. Inclusion involves a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures and strategies in education to overcome barriers with a vision serving to provide all students of the relevant age range with an equitable and participatory learning experience and environment that best corresponds to their requirements and preferences. Placing students with disabilities within mainstream classes without accompanying structural changes to, for example, organisation, curriculum and teaching and learning strategies, does not constitute inclusion. Furthermore, integration does not automatically guarantee the transition from segregation to inclusion." See para 11 of the General Comment.

[11] UDHR Art 26(3) Parents have a prior right to choose the kind of education that shall be given to their children.
[12] General Comment No. 4 para 10.
[13] See http://www.zeroproject.org/practice-type/innovative-practices-2016-on-education-and-ict/

Despite being the last issue to be discussed, inclusive healthcare received great attention from participants. The starting point of discussion is the general observation that women and men with disabilities are often considered as a population in need of special health care. It is often ignored that people with disabilities have the same general health care needs as others and that the need for special care is in addition to their need to access general health care services and not an alternative to it. Lack of understanding and awareness about the health of people with disabilities, and the barriers experienced by men and women with disabilities in accessing health and rehabilitation, result in their exclusion from health promotion and disease prevention programmes.

A point on the scope of 'inclusive health' was also raised. 'Inclusive health' implies a comprehensive approach to health including health promotion, prevention, medical care as well as habilitation and rehabilitation. Some participants raised concern on the prevailing use of 'rehabilitation' to cover every aspect of states' obligation to enable persons with disabilities to attain and maintain maximum independence and inclusion and the notable lack of usage of 'habilitation' that has different connotation to the former term. The CRPD,[14] it was noted, adopts both habilitation and rehabilitation and they should be utilized accurately.

The SDGs, specifically Goal 3 on ensuring healthy lives and promote well-being for all at all ages, include a target to ensure universal access to sexual and reproductive healthcare (SRH) services, information and education available to all by 2030. While the SDG3 is a great opportunity to advocate for inclusive access to SRH services, information and education at the global level, this objective cannot be achieved without significant actions that ensure access to health care for all people with disabilities.

An impediment to inclusive health for persons with disabilities is the predominant assumption and misconception that they have no sexual and reproductive need like persons with no disabilities. This is invariably applicable alongside a deep-rooted suspicion that persons with disabilities may not have the capability to function as good parents. In this respect, the CRPD has called for a revolutionary recognition that as rights-holders, persons with disabilities are also entitled to sexual and reproductive matters and decision-making. As a duty-bearer, states, particularly public service providers, are responsible to give comprehensive and adequate information about safe sex and reproductive health to persons with disabilities who hold the ultimate right to make decisions for and by themselves.

A government participant gave a reference to an example where a government provided anonymous counselling services on SRH to the public, including persons with disabilities. However, availability of these services in the rural area remains an issue.

Violence against people with disabilities continues to be an overlooked component of health and, therefore, an unaddressed obstacle to the inclusive healthcare target of the SDGs. The interconnection between violence, health, gender and disability, remains largely neglected, with disaggregated data on violence and disability lacking and actions to prevent violence not consistently put in place. Gender sensitive actions on prevention of violence need to be fully considered as a way to promote the health and wellbeing of men and women with

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[14] CRPD Art 26.

disabilities as well as to prevent disabilities which are often caused by violence, the reduction of which is also adopted as an explicit target of the SDG16.

Advocacy actions, therefore, must address the need for the following:
1. Undertaking further researches and investigations on violence and disability to develop a clear picture of the current situation at the country and at the global level and to better identify and understand the violence prevention factors;
2. Increasing the awareness and the knowledge on violence against men, women and children with disabilities (including domestic violence) and on the consequences of violence in terms of disability;
3. Disseminating the findings of these investigations among decision and policy makers; and
4. Developing disability inclusive violence prevention approaches. All of these are essential steps towards the achievement of the SDG3.

Way Forward

It is logical to conclude that a good way to start addressing inaccessibility and enhancing accessibility to social protection as well as fostering social and economic inclusion is examining the current weaknesses and challenges that are already discussed. And rightly so. Rectification of those shortcomings will already improve the situation. However, participants also suggested specific measures that, if implemented concurrently, will systematically yield concrete results.

1. To begin with, introduction of legislation and effective implementation of relevant legal frameworks are key to ensure equality and quality of social services and inclusion of persons with disabilities.
2. Further commitment can provide enhanced accessibility. There is a consensus among participants that the CRPD has brought significant positive changes to legal, regulatory and social framework on disabilities at the national level. Ratification to additional treaties will widen the scope of commitment and lead to greater accessibility. In this respect, states are encouraged to become parties to
    1) the Optional Protocol to the CRPD on communications procedure and
    2) the Marrakesh Treaty that facilitates access to published works for persons who are blind or visually impaired.

   Additionally, they are called for to mainstream and implement the Sustainable Development Goals and their various targets, bearing in mind that those goals and targets have already incorporated disability-related provisions.

3. Accessibility is an important precondition to inclusivity. It encompasses not only accessible measures to physical structure like buildings and facilities but also those pertaining to services like information and technology. It is recommended that accessibility as principle and concrete measures, including universal and friendly design, should be incorporated in the design process of policies and infrastructure.

4. The Sustainable Development Goals represent a new instrument for development that explicitly includes a number of indicators related to persons with disabilities. There are two suggestions on the SDGs. Firstly,

awareness raising campaign should be organized on the SDGs and their substantive compatibility with the CRPD. Secondly, it is suggested that the goals and indicators that are linked to disability rights be systematically mainstreamed at the national level through all appropriate measures, including policy and legislation.

5. Systematic monitoring and evaluation (M&E) programme plays an important role in ensuring the effectiveness and quality of the various accessibility measures and it is emphasized that M&E be incorporated at the design stage of accessibility programme.

6. Meaningful participation of persons with disabilities is an instrumental and indispensable component in every policy stage from design to implementation and evaluation. The shift of mindset from the social model that views persons with disabilities as recipients of state-sponsored programmes to the rights-based model that focuses on their rights and the obligation of the duty bearers will not be successful unless persons with disabilities who are the agents of change are provided space and opportunity to engage and express their opinions concerning policies and measures that will have an impact on their lives. In other words, 'nothing about us without us!'

Working Group 3: Legal Status, Justice and Remedy[15]

Introduction

For the purposes of the working group discussion, the group considered 7 key questions for this workshop as outlined in the concept paper:

1) For persons with disabilities who have been placed under legal guardianship; what guarantees need to be in place to ensure there is no breach of trust in that position?
2) What efforts have been undertaken (and further required) to reduce the legal and physical barriers to access remedy? What special considerations are needed for vulnerable groups to facilitate their ability to participate in legal proceedings?
3) How can law enforcement agencies and civil society organisations provide specialist assistance to persons with disabilities in reporting crime and to seek appropriate remedy?
4) What have been the experiences (successes and challenges faced) of NHRIs and ombudsman offices in ASEM countries, in conducting inquiries and receiving complaints?
5) What training does the judiciary need in order to be sensitive to a human rights based approach to disability? Also for law enforcement bodies and other agencies?
6) What has been the experience of DPOs (organisations representing persons with disabilities) in approaching the Courts on behalf of individuals? What cooperation efforts exist?

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[15] Rapporteur: Mr. David Reubain (Equality); Moderator: Mr. Yoshikazu Ikehara (Tokyo Advocacy Law Office).

7) In the context of implementing the CRPD at the judicial level, are specific laws required to protect persons with disabilities or is it just a matter of mainstreaming the Convention into existing human rights protection laws?

Question 1 - For persons with disabilities who have been placed under legal guardianship; what guarantees need to be in place to ensure there is no breach of trust in that position?

This discussion principally related to Article 12(4) of the CRPD. The focus of the discussion was how PwDs can retain as much choice, independence and autonomy as possible and how best to deal with limitations of capacity in accordance with CRPD principles.

There was a discussion of the "best interest" approach taken by a number of countries, a normative approach which effectively seeks to determine an objective preference for a person without necessarily having regard to the individual perspectives of that person. A question was asked if that is the right way forward and if not, what is the right way? Generally, countries have legislation to ensure protection of personal and property rights, particularly relevant to people with an intellectual disability. A distinction is made between legal and mental capacity. However, colleagues gave examples of instances of PwDs being subject to orders and being subject to guardians when arguably they don't need them. Guardianship is meant to be a last resort but often it is not. In some countries, guardians can be family members, organisations or a publically appointed official. Generally, countries have measures to safeguard against exploitation on the part of the guardian, including the need for court approval to determine the assets of a PwDs and criminal sanctions for guardians who abuse their position.

There was also a discussion about the focus on medical examination of the PWD as part of the process of determining guardianship, which can be very unhelpful and arguably not conducive to the social model of disability. In some countries, it would appear that medical model approaches which engage psychiatrists are used, emphasising medical diagnosis; for example bluntly saying that a person with schizophrenia cannot decide. In one country, the civil code of the country includes the social worker as a recognised individual to bring evidence as to what the capacity of the individual is but it was reported that judges tend to ignore the social worker's assessment and rely very much on that of the psychiatrist.

A number of colleagues reported developing work around supported decision making to try to ensure full compliance with Article 12. In some cases, this may require a change in legislation. Colleagues discussed alternatives to a "best interest" approach which seek to maximise the choice of the PwDs, such as progressive capacity and supported decision-making or "will and preference" (a reference to a phrase in Article 12(4)). A question was asked about what a social model to approach to capacity and the use of guardianship would look like. In at least two countries there are pilot changes on supported decision making, focusing on helping the PwDs to take decisions whilst minimising limitations placed on their decisions.

Regarding "will and preference" or best interest, there was a discussion about it involving changing from thinking about what the dominant world view might assume about PwDs and what they should or shouldn't do to thinking which focuses on each individual's preferences, a shift from objectifying people to thinking about people as

individuals and keeping the individual's preferences at the centre of the process. One way of understanding this is that "will and preference" places choice and control with the individual and best interest places choice and control in someone else. There was a discussion of the use of facilitated decision making with individuals with significant needs, using "will and preference" at the heart of that.

There was a discussion about remedies available to PwDs who wish to dispute guardianship orders or the choice of guardian. In some countries, the person under guardianship can ask for cancellation of guardianship decision but the law may still take a strongly medical perspective - the main evidence for giving or cancelling guardianship being based on the reports on the doctor, psychologist or psychiatrist. Article 12 requires every country to have a monitoring mechanism for guardians and guardianship. Meanwhile, it was reported that in some countries, only financial and property rights can be restricted to guardianship, not other rights (such as to vote, marry etc).

It appeared that not all countries' legislation complies with Article 12 of the CRPD.

Summary

1. *Discussion around decision making and legal capacity (as distinct from mental capacity).*
2. *Guardianship orders should be the last resort because otherwise can lead to disadvantageous outcomes*
3. *Dangers of reliance on psychiatrists and doctors because that may not fit in with the social model. Whereas the social model can work with support schemes as a way of maximising choice for people with limited capacity.*
4. *Discussion around best interest vs will and preference, and the dominant world view which may not reflect will and preference.*
5. *Consideration as to how to put disabled people at the centre of decision making.*

Recommendations

1. *The preferences of PwDs should always be central to decision-making.*
2. *Use of medical professionals in decisions relating to capacity should be only part of any process, which should always include the PwDs themselves as well as supporting professionals such as advocates and social workers.*
3. *Good practice should be shared between countries.*

Question 2 - What efforts have been undertaken (and further required) to reduce the legal and physical barriers to access remedy? What special considerations are needed for vulnerable groups to facilitate their ability to participate in legal proceedings?

This discussion principally related to Articles 9, 12(3) and 13(1) of the CRPD.

Many countries have passed specific anti-discrimination laws for PwDs and some have enacted further legislation in light of the obligations of the CRPD. Some countries embed rights for PwDs in their constitutions. Aside from anti-discrimination laws, there are a variety of laws to provide support and welfare and also

compensation for PwDs. Some countries still use quotas (requiring employers to hire PwDs) to try and increase opportunities of employment for PwDs or in some cases will subsidise salaries with public funds.

However, there are difficulties in resourcing and supporting PwDs to enforce those rights (a disproportionate number of whom are also poor); in some cases resulting in a lack of case law and precedent. Some countries offer legal aid or assistance but it is limited and the quality of support is not always good. Physical barriers to permit access to courts and other premises have been addressed in some countries but not all.

Some colleagues told of difficulties in effective communication of rights, legal processes, etc for some PwDs and of the need to work with the police, legal profession and the judiciary to increase education and awareness. Specific suggestions included the need to translate court document into Easy Read and the provision of sign language, pictures and brail (as happens in some countries).

In at least one case, it was reported that a country prohibited legal action against the government, which significantly limits rights and available remedies (and which is arguably in breach of the CRPD). Meanwhile, colleagues reported that some countries have entered reservations in respect of some of the articles of the CRPD (for example article 15 regarding torture and mistreatment and article 18 regarding the right to liberty of movement and nationality).

In some countries, ombudspersons are key to handling complaints; especially where there are few specialist human rights or disability lawyers and little available training in these areas. NGOs try and assist but resources are limited. In addition, some PwDs are vulnerable and afraid and therefore anxious about enforcing their rights.

One colleague reported different challenges that PwDs face from the private sector as opposed to the public and third sectors.

There was general agreement about the need for further training, work and understanding regarding capacity and autonomy for PwDs, including for judges and lawyers.

There was a discussion about PwDs having less power than other people in society and therefore less ability to reduce barriers. Again, participants reported inadequate funding for legal support which affects the ability of PwDs to ensure that their position as *rights holders* is made manifest. One participant reported that people with learning disabilities had talked about wanting to learn about judicial processes from others with learning disabilities and another participant reported that judges questioned whether the country's adversarial system is appropriate for those with learning disabilities and also the need to change court attire to make the atmosphere less threatening and having closed courts to make them less confrontational. Regarding empowering disabled people, one participant sought to situate this issue within a broader perspective - thinking about empowerment from an economic perspective, ensuring the PwDs attain a decent job with adequate income, which is the approach of their government.

Summary

1. *Variety of arrangements of specialist support, ombudspersons, etc are in place in different countries to support access to remedies.*
2. *For people with intellectual disabilities, guardianship is often used, but this can be unhelpful.*
3. *An issue is the limited resources for PWDs to take cases (legal aid, support services).*
4. *In some countries, a lack of human rights lawyers, lack of lawyers with human rights expertise.*
5. *Issue of guardianship versus progressive capacity vs will and preference.*
6. PWDs *aren't so willing to take up court cases.*

Recommendations

1. *Consideration should be given to providing effective and comprehensive resource and support to PwDs and organisations to enable effective enforcement of rights.*
2. *Consideration should be given to the provision of comprehensive training and support for the judiciary and others, based on the social model of disability and the CRPD.*
3. *The availability of alternative means of communication (Easy Read, Braille, sign language) in court proceedings should be ensured.*

Question 3 - How can law enforcement agencies and civil society organisations provide specialist assistance to persons with disabilities in reporting crime and to seek appropriate remedy?

This discussion principally related to Articles 9, 12 and 13 of the CRPD.

Generally, colleagues discussed the need for specific training for police and other agencies including the judiciary, ideally delivered by PwDs and their NGOs (although again, it is also important to ensure adequate resource to enable this). Some police forces have specialist victims units to handle situations affecting particular marginalised or oppressed groups, including PwDs; particularly where there has been evidence of poor responses to such crimes in the past. In some cases, the media been active in exposing abuses against PwDs (for example exposing an incident of a child with disabilities being kept in a cage).

There was a discussion about differing approaches to PwDs in the judicial system. In some countries, criminal sentences may be reduced for convicted PwDs whilst in others, if a PwD is the victim then that may result in a more severe sentence for the perpetrator (particularly as offences against PwDs may be classified as "hate" crimes, although there is evidence that it may be hard to establish proof of this). There was a discussion about difficulties in obtaining convictions against perpetrators when the victim has an intellectual disability, whose evidence may not be trusted.

On the other hand, participants cited examples of inadequate police investigations which did not take into account the experience of disability, the social model and the wider understanding of the ways in which disabled people can be mistreated. In one country, the criminal code provides for a lower sentence for those convicted of sexual offences against a PwD who lacks capacity than it does for offences relating to the grooming of children.

Summary

1. *Specialist units to support disabled victims.*
7. *Training for prosecutors, that has arisen for example around understanding hate crimes.*
8. *Sometimes, the evidence of disabled witnesses is not afforded as much credibility.*
9. *Interpretation facilities.*
10. *We heard of an instance of a piece of legislation that provided that a criminal sentence for a conviction for sexual grooming is lower if the victim is disabled!*
11. *Learning about the lived experience of disabled people and to help for disabled people to understand processes which would make them more willing to take legal action.*

Recommendations

1. *Consideration should be given to the provision of comprehensive training and support for the judiciary, police and others, based on the social model of disability and the CRPD.*
2. *Consideration should be given to the establishment of specialist units to investigate crimes against PwDs.*

Question 4 - What have been the experiences (successes and challenges faced) of National Human Rights Institutions (NHRIs) and ombudsmen offices in ASEM countries, in conducting inquiries and receiving complaints?

This discussion principally related to Article 33 and also to the Paris Principles as adopted by the United Nations Human Rights Commission in 1992 and the United Nations General assembly in 1993.

Not all countries have NHRIs (Which is the collective term for Human Rights Commissions and Ombudsmen) and for those that do, the level of resourcing varies considerably (in one case, with only one member of staff working on disability). Some have attained "A" status in accordance with the Paris Principles whilst others are seeking it (some participants stressed the importance of attaining "A" status for effectiveness). The powers available to NHRIs vary, with some able to take legal and other enforcement action and intervene in cases whilst others can only make recommendations, negotiate or mediate (albeit that approach can sometimes be effective and relatively quick), as well as policy and advocacy work and promoting good practice and awareness-raising. Funding, often from the government, can compromise the independence and autonomy of NHRIs (notwithstanding the Paris Principles). Some countries have a number of Human Rights Commissions and some countries have specific, disability-focused agencies whilst others incorporate disability into broader equality and human rights agencies.

There was a discussion about difficulties in bringing forward cases, complaints or examples for NHRIs to act upon. Some PwDs would rather "suffer in silence", because of a fear of what may happen to them if they complain. PwDs don't always know about the availability of NHRIs and it is often important for the institutions to actively reach out to PwDs.

In some cases, NGOs provide information/knowledge to support NHRIs but NGOs may not be funded for human rights protection and advocacy. There was a discussion about the impact on a country of not having a body which monitors and takes requests and complaints and generally it was considered that this makes a big difference. Capacity building for NGOs and capacity building for PwDs - to know what their rights are, how to implement and realise their rights in practice – is also very important as otherwise, there is a lack of complaints and legal cases which then weakens the impact of NHRIs.

Summary

1. *Discussion of independence of NIHRs and category A status.*
2. *Some NHRIs, ombudsman, commissions are under-resourced and under-staffed.*
3. *Some countries don't have NIHRs.*
4. *Some commissions work on policies but don't take cases.*
5. *Bodies can have a role in alternative dispute resolution.*

Recommendations

1. *All countries should aim to establish NHRIs which attain "A" status.*
2. *NHRIs should be effectively resourced and a sufficient degree of independence to not compromise activities.*
3. *NHRIs should have sufficient training and specialism to enforce the CRPD.*
4. *Consideration should be given to support NGOs and build capacity to enable them to play an active role in enforcing and advancing the CRPD.*

Question 5 - What training does the judiciary need in order to be sensitive to a human rights based approach to disability? Also for law enforcement bodies and other agencies?

This discussion principally related to Article 13(2).

In one country at least, judges have received specific training around the social model of disability and more particularly on the nature of exclusion and disadvantage that disabled people face. The aim of this is also to increase understanding of the context of PwDs lives in any court proceedings. Some colleagues reported specific training on human rights, although not necessarily focused on disability. Other colleagues reported that there is currently no formal training for judiciary or law enforcement agencies. Others stated that they their countries provide training to understand people with different types of impairment or provide courses on better equipping courts to interact/communicate with PwDs. Finally, some colleagues indicated that more general training is provided on equality and non-discrimination, though not specifically related to disability.

Some participants again stressed that any training should be delivered by PwDs and NGOs, not advocates or academics!

Summary

1. *On the social model of disability and the lived experience of disabled people.*

2. *On alternative means of communication*
3. *On the CRPD*
4. *On equality and non-discrimination, law and practice generally.*
5. *Training should be delivered by people with disabilities and/or disabled people's organisations*

Recommendations

1. *Consideration should be given to the provision of comprehensive training and support for the judiciary and law enforcement agencies, based on the social model of disability, the nature of exclusion and disadvantage faced by PwDs and the CRPD.*
2. *Training should also be provided on the impact of different types of impairment and on effective alternative means of communication.*
3. *Where possible, training should be delivered by PwDs and DPOs.*

Question 6 - What has been the experience of DPOs (organisations representing persons with disabilities) in approaching the Courts on behalf of individuals? What cooperation efforts exist?

This discussion included reference to Articles 13 and 33(3).

A question was raised about the extent to which DPOs can generally bring cases rather than individuals having to bring cases - because when DPOs bring them they can raise bigger, strategic issues. In some countries, DPOs only undertake campaigning and lobbying (partly because they don't have capacity or resources to do more or don't have legal standing before courts) whilst in others they may undertake advocacy or can bring collective, strategic or test complaints.

There was a discussion about the difference between organisations *of* PwDs as opposed to organisations *for* PwDs; the former being run by PwDs whereas the latter may not be. In one country, there is a national council of persons with disability but whose members are a mix of civil servants and representatives of disabled people (who may or may not be disabled themselves). That council has not been active or effective in promoting any outstanding changes.

Summary

1. *DPOs can bring collective complaints but some do not or cannot or do not have the resources to bring collective complaints*
2. *The standing of a DPO - is the DPO recognised by the court to bring a case.*
   But DPOs may have a legal standing before the CRPD committee itself?

Recommendations

1. *Consideration should be given to supporting and empowering DPOs to support or bring complaints.*
2. *Consideration should be given to the importance of supporting organisations of (as opposed to for) PwDs.*

Question 7 - In the context of implementing the CRPD at the judicial level, are specific laws required to protect persons with disabilities or is it just a matter of mainstreaming the Convention into existing human rights protection laws?

This discussion principally related to Article 4.

As a starting point, one participant indicated that this issue is not a question of either one or the other option but both! It is not sufficient just to ratify the CRPD and seek to mainstream it but rather also to pass specific laws that apply those principles to domestic situations. For example, regarding Article 24 - the right to education, a lot more detail is needed beyond that set out in the CRPD to ensure comprehensive inclusion of all disabled people and additional legislation may also be needed to ensure comprehensive change. It may be difficult to transpose human rights instruments directly into domestic law since they may not reflect the particular nuances of that country's legislative framework. There are also issues of interpretation of the CRPD between countries and in a local context. Another participant commented on the need for new, distinct legislation because there is a perception from some corners of the legal fraternity in that country that the CRPD does not "trump" domestic law. One participant indicated that it is very hard to implement international instruments and so domestic legislation is important. In another country, judges have respect for international treaties but have to be supported with local provisions to ensure implementation.

Not all countries have signed the Optional Protocol to the CRPD and this is another reason why effective domestic remedies may need to be enacted (indeed, Article 2(d) of the Optional Protocol requires that domestic remedies be first exhausted).

Many countries have now implemented rights based anti-discrimination legislation and a lot of progress has been made but there is evidently continuing disadvantage. In some countries, provinces, regions and sub-national jurisdictions have a level of autonomy and may develop regional laws on disability, including in making infrastructure and public services accessible. One participant stated that ratifying the convention is not enough and neither is mainstreaming the obligations through federal legislation, since their country is politically complex and requires action by local authorities. There was a discussion about helping to implement CRPD obligations by providing model laws and by laws.

In one country, the reporting procedure set out in Article 35 of the CRPD is considered even more important than the right to individual petition set out in the Optional Protocol. However, a question was raised regarding to what extent anyone is willing to criticise their state, particularly NGOs which may feel vulnerable. In one country, the national commission on disability has 10 government members and 9 NGO representatives but it only meets once a year and is ineffective. In other cases, there is little consequence to the state in failure to implement the CRPD, and there is a view that it has "no teeth". In another country, very little happens at the domestic level even where concluding observations are critical since these are not widely disseminated within the country. Accordingly, governments and NGOs have an important task in widely disseminating reports and concluding observations the country. One participant reported that their NGO prepared its own translation of the concluding observations which was actually different from that of the government. In that case, the concluding observations

effectively criticised the government and argued for a change in the law on mental health to prevent involuntary hospitalization and to change terminology. One participant indicated that their country views the convention reporting process as the key method for reviewing the situation for PwDs and that workshops are arranged to enable civil society involvement. One participant commented that it may take 3 or 4 reports and concluding observations relating to one country, before change happens and another participant concurred by raising the importance of long-term dialogue between the government and civil society arising from reports.

There was also a discussion about the importance of public procurement legislation to enforce rights, requiring companies that contract with the state to reflect minimum standards. Reference was made by one participant to a statutory duty on public bodies (which is related to but different from public procurement legislation) as an additional way of addressing inequality and lack of diversity. In that country, the duty arose in recognition of institutional discrimination in the way that disadvantage can be embedded in structures and arrangements of an organization. Another participant reported that in their country, it is in fact the private sector that acts more to further equality!

Summary

1. *General consensus on the need to build the UNCRPD into domestic legislation for a number of reasons:*
   a) international treaties are sometimes not given as much credence as domestic legislation
   b) to enable the treaty obligations to reflect country specific and regional arrangements (without weakening them)
   c) to ensure domestic legislation builds on the UNCRPD
2. *There was a view that the optional protocol of individual petition and reporting procedure can be very helpful, although some felt that their governments paid little attention to the concluding observations following reporting. On the other hand, others thought it was a way of engaging civil society.*
3. *Regarding other legislation, public procurement and proactive obligations on bodies can also be important.*
4. *Specific laws that may need changing to comply with the UNCRPD are likely to include mental health legislation, but anyway the UNCRPD needs to be worked through into all relevant laws and bi-laws.*

Recommendations

1. *Give careful consideration as to what domestic and regional legislation is required to ensure full compliance with the CRPD.*
2. *Consider regional and trans-national co-operation and collaboration to ensure best and most effective legislative arrangements which give full effect to the CRPD.*
3. *Ensure that NHRIs are effective and potent*
4. *Consider support for NGOs to enable them to play a full and active role.*
5. *Consider related legislation, such as public procurement provisions and public sector duty provisions which can also advance the CRPD.*

Working Group 4: International Cooperation and National Implementation[16]

Introduction

The discussion was organised in two segments: general comments and group discussions. The current report composes the following three portions: I. Explore multi-layers of international cooperation and its impact on national implementation of the UN Convention on Rights of Persons with Disabilities (CRPD); II. Explore methodologies to make international cooperation more effective; III. Conclusions & Recommendations.

I. Explore Multi-layers of International Cooperation and its Impact on National Implementation of CRPD

Article 32 of CRPD stipulates 4 key areas of international cooperation, namely: (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. However, it is not an exhaustive list. All participants acknowledge that international cooperation plays a key role in national implementation by raising both governmental and public awareness in terms of promoting and protecting the human rights of persons with disabilities. International cooperation is explored in the following political, policy and program layers.

Political Commitments Being Essential in International Cooperation

Since there is a gap between ratification and implementation of CRPD by state parties, the engagement of the United Nations is quite important. Most participants acknowledged the importance of international cooperation in influencing their governments to sign, ratify or implement CRPD. Since CRPD itself is a result of inter-governmental efforts, its implementation and monitoring can hardly be conducted without international mechanism, i.e. the CRPD Committee.

Although the UN system is the main engine to promote implementation of CRPD, the importance of regional inter-governmental mechanisms, such as ESCAP, EU and ASEAN were also highlighted. These regional frameworks are playing similar roles as the United Nations does, but in many cases they are even more effective in mobilizing countries in a certain region.

The engagement of civil society organizations, especially DPOs, in decisional making process of international cooperation is also emphasized, because they are working directly with persons with disabilities and know well about their situations and needs. International organizations should involve more participation from DPOs when discussing disability-related issues. The UN has set a good example in this regard.

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[16] Rapporteur: Ms. Xiaomei Li (China Disabled Persons' Federation); Moderator: Ms. Martina Orsander (*MyRight- Empowers people with disabilities);*

Many participants believe that the UN 2030 Development Agenda will be a special platform for further promotion of human rights for persons with disabilities. Its principle to "leave no one behind" has special implications for persons with disabilities. It is of great importance to apply a human rights & development approach to the implementation of both UN 2030 Development Agenda and CRPD.

International Policy Exchanges on Disability Mainstreaming

Some ASEM member countries have already established bilateral or multilateral cooperative relations. Several participants described their experience of incorporating disability issues into the existing cooperation frameworks, such as APEC, ASEM and EU. Such cooperation is often in forms of meetings, seminars and symposiums where government officials in charge, legislators, researchers and service providers share their experiences, measures taken and methodologies. Many of such dialogues and exchanges became mechanised and are being organised periodically. Such dialogues are often joined by academic and research institutions and will subsequently result in policy suggestions to their government. Participants noticed that there are many articles in the CRPD calling for mainstreaming disability into other areas, such as social welfare, cultural activities, daily life, etc.

Disability is an issue that countries as well as multi-stakeholders are more likely to seek common ground. When there is a policy dialogue between two countries or among several countries, disability-related issues usually cause no contradictions, and countries can learn from each other.

Best Practices Sharing of International Cooperation Programs

Due to diversified participation from both governmental development agencies and local DPOs, experiences were shared on disability-related programs especially in developing countries, such as training and capacity building programs. One such example shared was the Asia Pacific Development Center on Disability (APCD) based in Bangkok, Thailand, promoting accessibility and empowerment of persons with disabilities around Asia and the Pacific.

In some developing countries, international development funding is allocated to help DPOs to translate policy documents, legislation and CRPD into local language or accessible format. However, these provisions are still not easy to be understood, especially by persons with disabilities. It is viewed that official development aid (ODA) should be delivered in accessible ways.

Participants pointed out that it is important for the donors to consult the beneficiaries before launching a project, and let them know what is working and what is not working, as well as the positive aspects and negative aspects of the project. They should also take into consideration of local culture and social environment. An holistic approach should be applied in project design and evaluation, which goes beyond disability to other related factors such as culture, history and tradition. Besides, the existing local governmental infrastructure should be fully utilised, so that the project could reach every person with disability in need.

Opportunities for collaboration between the diverse actors working towards disability-inclusive international development and humanitarian action should be sought. A mechanism facilitating this is the Global Action on Disability (GLAD) Network, which supports bilateral and multilateral donors and organisations, the private sector, foundations and others contributing resources to work together, in collaboration with DPOs and partner governments, to enhance the inclusion of persons with disabilities in international development and humanitarian action.

NGO participants from developing countries speak about their needs for international aid to initiate projects. However, some also called for the donors to consider their domestic ownership of the projects, particularly when it comes to international assistance or aid, it should be ownership-based and represent the local culture.

The variation in definitions of persons with disabilities is one of the cross-cutting issues in the concept note. Since different countries have different explanations of disability, it makes the collection of statistics very difficult. Participants believe that whether or not we need to have a common definition in order to bring forth accurate statistics, we should still make things sensible. However, the most important thing is to make policies accessible for all, including persons with disabilities.

II. Explore Methodologies to Make International Collaborations More Effective

In order to seek effective solutions for international collaborations to work for national implementation of the CRPD, so as to reach a consensus and finally make suggestions for improving our existing mechanism, the working group narrowed down to three key issues, which are:

1. Advocacy and capacity building
2. Media and empowerment
3. International and regional networks

Advocacy and capacity building

Before we get to advocacy for persons with disabilities, there are some crucial issues that need to be clarified. The working group didn't spend much time on the definition of advocacy itself. Instead, they effectively focused on what, and *to what level,* advocacy should address, whom do we advocate for, how to make effective advocacy, and how to find the best practices, etc.

Cultural and environmental differences should be well considered, so as to put together a successful advocacy strategy. When we advocate, we are advocating to three levels: a) governmental/state level; b) community and DPOs level; c) individuals level. To advocate to governments that we want policy changes, and then to advocate to a larger group of people, to raise their awareness, and eventually to reach the goal of our advocacy.

The next question comes to how can we advocate? The working group has touched on three key features:

1. **Self-advocacy.** As we already know that self-advocacy calls for persons with disabilities to speak up for themselves, the significances of self-advocacy for persons with disabilities to take control of their own lives, including being in charge of their own care in medical system, are also widely accepted, though it

should be noted that self-advocacy includes silent voices. Advocacy also helps donors understand the real needs of persons with disabilities.

2. **Self-representation.** It is both in cultural and political contexts. It is to encourage persons with disabilities to represent their own interests within a particular culture. It intersects with capacity building, and involves education, training and all sorts of empowerment. The crucial concept here is inclusion.

3. **Supported decision-making.** A reliable supportive mechanism is essential for persons with disabilities to make decisions when needed. The working group addressed the importance of making legal representations through supported decision-making mechanism.

Advocacy calls for solidarity. DPOs need to promote sharing of resources and experiences (including both good and negative experiences) of advocacy efforts with each other. Furthermore, capacity building and advocacy are mutually reinforcing, both serving the ultimate goal of international cooperation. The working group also touched on other methodologies such as encouraging sharing experiences between different advocating groups, technical cooperation and information sharing, etc.

Media and empowerment

As all sorts of social media platforms get to influence us greatly and deeply with each passing day, there is a arising awareness of how to better use media as a tool to advocate rights for persons with disabilities. The group recognised the media provides great opportunity for awareness-raising for persons with disabilities and DPOs, particularly now that social media plays such a big role, as it is free and accessible.

A key element of empowerment comes from education and being able to represent onself. Education is important for everybody: just as people with disabilities need education and training to enable them to enter employment, so do employers and new businesses in hiring people with disabilities; support is also needed for entrepreneurship. Through discussion, the working group came up with the following recommendations:

1. Media education and engagement on disability-related issues: Media should avoid patronising or 'inspirational' coverage of disability. Media practitioners with disabilities should be encouraged to cover international events and meetings (Examples that were discussed include the *MyRight* codex in Bosnia-Herzegovina; *SUSTENTO* easy-to-read radio news broadcasts in Latvia).

2. Capacity-building for journalists: journalists should receive trainings in how to talk about disability issues, how to interview and deal with people with disabilities in an appropriate and sensitive manner, and also how to present information in an accessible and easy-to-understand way.

3. Disability awareness training: employers, businesses and members of staff need training and support that will assist them in hiring people with disabilities. Businesses need to be persuaded that being inclusive is good for business.

4. Disability Equality Training (DET). As well as working with experienced journalists, we need to work towards developing a curriculum and introducing disability sensitivity as an integral part of training for future journalists. DET contains training based on the social model of disability, facilitated by persons with disabilities.

5. Education and training for people with disabilities: Strengthening the capacity building of persons with disabilities and DPOs to engage into the media. People with disabilities should be trained to provide DET on a broader level.

Developing and strengthening international and regional networks

1. In a longer term, it is necessary to create an international institution, network or a unified framework like the UN system, which focuses specifically on disability. It will serve as the focal point for each region to share experiences, as well as monitoring and evaluating the implementation of CRPD.
2. Regional organisations should set up a desk on international cooperation on disability issues within their own networks to promote intra-regional cooperation. Furthermore, regional focal points should be established to strengthen the cooperation between Asia-Pacific organisations and European organisations.
3. Countries and aid institutions should develop a 'golden standard' by which development assistance programmes are linked to Article 32. This standard should be short and in an easy to read format. and which can be used in international development or cooperation aid projects
4. Development aid programmes should be required to include disability/inclusive aspects; persons with disabilities should be included as key stakeholders not only in the implementation of a project but also in its planning and preparation. Focus should be put also on the exit of such programmes. They have to be done in a manner that ensures that the inclusive aspects of development assistance projects are sustainable in the long run.
5. Governments and donors should set up some mechanisms for remote areas, and make sure persons with disabilities in remote areas are as well considered and can benefit from inclusive development assistance
6. To encourage international level events for persons with disabilities for sharing experiences. International exchange programmes and visits among persons with disabilities in specific fields such as sports, culture, etc. are good areas of cooperation and for improving visibility of within the media
7. Know when to focus on differences and when to ignore them. Differences should be considered in rehabilitation, accommodations, etc. However, in general, services and information should be accessible for all persons with disabilities. It's even more crucial in cross-region cooperation.

III. Conclusion and Recommendations

With discussions being organised in smaller groups, participants of the working group came up with the following recommendations:

1. More inter-governmental efforts are necessary on political perspective, especially through the UN system or within regional cooperative frameworks.
2. Policy exchanges and dialogues should be strengthened among countries already having bilateral or multilateral dialogue mechanism.
3. Sharing experiences and methodologies in program implementation is equally important.

4. International development programs should focus more in the disability-related areas, and should continue in the long run.

5. Capacity building is one of the ultimate goals for the persons with disabilities, and is addressed both in article 12 and 32, so we should continue to facilitate and support capacity-building, including the exchange and sharing of information.

6. Inclusive development. To this end, it is hoped that persons with disabilities could enjoy inclusive education, employment, access to materials, and eventually a better life.

7. Outcomes evaluation and measurement. This can also better promote equality.

8. It is necessary to create a platform or an organization that comprehensively representing the over 1 billion persons with disabilities in the world, for coordination of the work for persons with disabilities and for sharing experiences and information. A world disability organization (WDO) might be considered in this context.

9. Sharing in a much broader way, as with information, events, and best practices, etc.

10. ODA should be accessible.

11. Data collection is very important.

12. More sports-related international cooperation should be conducted.

13. A general comment on A32 of CRPD should be drafted by CRPD Committee.

14. The golden standard rule shall be applied in raising awareness of CRPD.

Due to the limited time, the working group couldn't cover everything relating to international cooperation and national implementation. There would be much more to be discussed if time allows. We believe that one of the aims of the 16th Informal ASEM Seminar on Human Rights is to raise the awareness of rights of persons with disabilities. The working group has not covered everything, but has stimulated more discussions on disabilities. For all topics, included or not, discussions will continued.

CONCLUSIONS

The overall consensus of the Seminar was that the legacy of the past needs to be overcome and new orientations in law and policy need to be built for a more inclusive future. There is an overwhelming to recognise persons with disabilities as individuals – not as 'objects' of the law or charity but as equal human 'subjects.' Persons with disabilities are not a homogenous group. The heterogeneity of different types of disabilities must be recognised along with the realisation that disability intersects with other identities (e.g. gender, age, membership to an ethnic minority or indigenous community) which affect each individual's experience and needs.

The CRPD does not establish new rights nor does it attempt to provide a definition of what 'disability' is. Instead it lays down the minimum standards that are required to promote and secure the enjoyment of all existing human rights by persons with disabilities. This means that ASEM partners who have ratified the CRPD need to undertake more efforts to incorporate the CRPD into country-specific arrangements because domestic legislation is vitally important in realising the rights of persons with disabilities. Systemic change implied by the UN CRPD can be usefully moved forward by robust efforts to implement the UN Sustainable Development Goals. Both are mutually reinforcing.

At the same time, regional action is also needed to help guide and sustain action at the national level. A high degree of regional action both in Europe and in Asia was acknowledged as providing a good platform for supporting change into the future and inter-Regional such as this ASEM level meeting are particularly useful *fora* to exchange challenges as well as good practice.

Asia-Europe Meeting

About the Organisers

The **Asia-Europe Foundation (ASEF)** promotes understanding, strengthens relationships and facilitates cooperation among the people, institutions and organisations of Asia and Europe. ASEF enhances dialogue, enables exchanges and encourages collaboration across the thematic areas of culture, economy, education, governance, public health and sustainable development.

ASEF is an intergovernmental not-for-profit organisation located in Singapore. Founded in 1997, it is the only institution of the Asia-Europe Meeting (ASEM).
Together with about 750 partner organisations ASEF has run more than 700 projects, mainly conferences, seminars and workshops. Over 20,000 Asians and Europeans have actively participated in its activities and it has reached much wider audiences through its networks, web-portals, publications, exhibitions and lectures.

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The **French Ministry of Europe and Foreign Affairs**, as a founding member of ASEM, is pleased to have supported the ASEM human rights dialogue since its inception in 1997.

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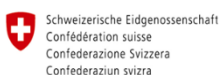
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Asia-Europe Meeting

The aim of the Informal ASEM Seminar on Human Rights is to promote mutual understanding and co-operation between Europe and Asia in the area of political dialogue, particularly on human rights issues.
Previous seminar topics include:

- *Access to Justice; Regional and National Particularities in the Administration of Justice; Monitoring the Administration of Justice* (1997, Sweden)
- *Differences in Asian and European Values; Rights to Education; Rights of Minorities* (1999, China)
- *Freedom of Expression and Right to Information; Humanitarian Intervention and the Sovereignty of States; Is there a Right to a Healthy Environment*? (2000, France)
- *Freedom of Conscience and Religion; Democratisation, Conflict Resolution and Human Rights; Rights and Obligations in the Promotion of Social Welfare* (2001, Indonesia)
- *Economic Relations; Rights of Multinational Companies and Foreign Direct Investments* (2003, Sweden)
- *International Migrations; Protection of Migrants, Migration Control and Management* (2004, China)
- *Human Rights and Ethnic, Linguistic and Religious Minorities (2006,* Hungary)
- *Human Rights and Freedom of Expression* (2007, Cambodia)
- *Human Rights in Criminal Justice Systems* (2009, France)
- *Human Rights and Gender Equality* (2010, Philippines)
- *National and Regional Human Rights Mechanisms* (2011, Czech Republic)
- *Human Rights and Information and Communication Technologies* (2012, Korea)
- *Human Rights and the Environment* (2013, Kingdom of Denmark)
- *Human Rights and Businesses* (2014, Viet Nam)
- *Human Rights and Trafficking in Persons* (2015, Switzerland)
- *Persons with Disabilities and Human Rights (2016, China)*

The Seminar series is co-organised by the Asia-Europe Foundation (ASEF), the Raoul Wallenberg Institute (nominated by the Swedish Ministry of Foreign Affairs), the French Ministry of Europe and Foreign Affairs, the Philippine Department of Foreign Affairs and the Federal Department of Foreign Affairs of Switzerland (FDFA). ASEF has acted as the Secretariat of the Seminar since 2000 (www.asef.org).

Supervision of the seminar is entrusted to a Steering Committee, composed of the Seminar's four co-organisers as well as representatives of the Ministries of Foreign Affairs of China and Indonesia as well as the European Union.

The Informal ASEM Seminar on Human Rights series is co-organised by:

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