



ODUMUNC 39

Social, Cultural, and Humanitarian Committee

Reaffirming the Rights of Persons with Disabilities

By: ArLynn Parker



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Issue Brief for the GA Third Committee



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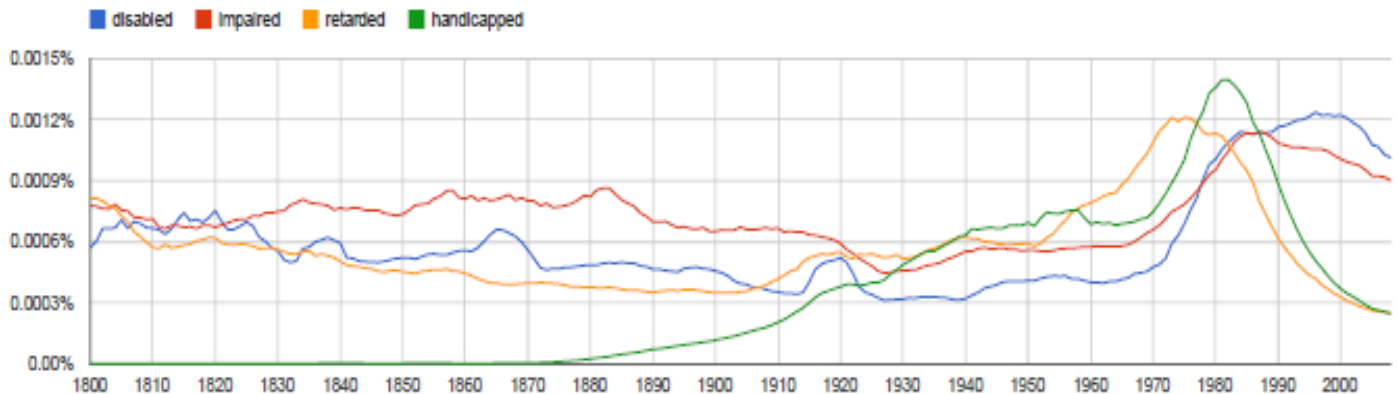
Introduction

Fifteen percent of the population, roughly one billion people, is disabled. Of that fifteen percent many are struggling to gain the proper assistance needed to succeed in society. Even with advances in medicine, the population growth has led to an increase in the number of disabled each year. Those with disabilities bear discrimination, social stigmas, physical and mental barriers, violence, a wide range of health issues, and lack of support from their governments. Advocates of Disability Rights promote the issue in order to increase participation of disabled persons within communities of all states, hence it has also become a matter of great concern on a global level as well. There are many nations that have taken promising steps toward improving the state of the disabled in their communities; primary examples include the United States with the Americans with Disabilities Act of 1990 and the European Union with the

European Disability Strategy adopted in 2010. Both address key problems facing persons with disabilities, however, advocates continue to push for further legislation and action from the United Nations as concerns range from education and funding to health service access and employment.

Background and Recent History:

The Americans With Disabilities Act (ADA) of 1990 was a turning point in identifying the rights of disabled persons, defining a disability as, “A physical or mental impairment that substantially limits a major life activity. What constitutes a major life activity is broadly defined to include basic tasks, like walking, reading, bending, and communicating, as well as major bodily functions, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and



Incidence of “disabled”, “impaired”, “retarded” and “handicapped” in Google Ngrams
Source independentliving.org.



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reproductive functions.”¹ Expressing a no-tolerance policy for the discrimination of impaired or handicapped citizens, the Act was influential for other nations and serves as a frequent reference in numerous cases in the United States for the justice of disabled persons.

As in much of the developing world, people with disabilities are being neglected of the most basic rights, and advocacy groups, such as Handicap International, are striving for change. Handicap International is one of the largest non-governmental organizations urging for the rights of disabled persons, supporting inclusion programs in more than 50 countries from local to global levels and bringing discrimination and ill-treatment of the disabled to the forefront of their participation in the public arena.² “[They] educate local officials, school administrators, employers, and community members about the rights of people with disabilities, and support the development of inclusive schools, hospitals, and services.”³ The group also focuses on economic inclusion with income-generating jobs for people with disabilities through vocational training, micro-enterprises, and salaried employment. Additional programs address accessibility to remove barriers for the disabled, emergency inclusion with response

services, an increase in participation in local governance, and social improvement with some rehabilitation and access to social services. All are prominent areas which face the disabled around the globe and require attention from their respective communities.

The European Union (EU) has also been promoting the inclusion of the disabled population within society “with the EU human rights approach to disability issues.”⁴ During the European Year of People with Disabilities (EYPD) in 2003 the goal was to push the political agenda toward full integration of disabled persons. The act outlined objectives envisaged by the European Commission to decrease barriers for people with disabilities through attentive participation by all levels of government. A budget of 12 million euro was set, the EYPD had a presence at over 200 events, shared in many significant European conferences, and “according to a survey in September 2003, one third of the EU population were aware of the EYPD and its purpose.”⁵

Following the European Union’s relative success of 2003, an Action Plan was established from 2004-2010 to address key disability issues in policies to strengthen both economic and social integration of the

¹ “Disability Discrimination,” *U.S. Equal Employment Opportunity Commission*, www.eeoc.gov.

<http://www.eeoc.gov/laws/types/disability.cfm>

² “Disability Rights,” *Handicap International*, http://www.handicap-international.us/disability_rights.

³ *Ibid.*

⁴ “Persons with disabilities,” *European Commission/Employment, Social Affairs, and Inclusion*, <http://ec.europa.eu/social/main.jsp?catId=1137&langId=en>.

⁵ “European Year of People With Disabilities 2003,” *EUR-Lex; Access to European Law*, Jan. 31, 2006, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:c11413>.



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disabled.⁶ The plan had three core objectives:

- to implement fully the Directive on equal treatment in employment and occupation;
- to reinforce mainstreaming of disability issues in the relevant Community policies;
- to improve accessibility for all.⁷

Encouraging employment among disabled persons, the first phase of the Action Plan held four priorities which included implications for employers and safety measures for the workplace, action for education, training and youth, ensuring equal access to on-line services, and finally accessible facilities promoting European standards for building construction.

The European Commission more recently issued the European Disability Strategy 2010-2020 which includes eight priority points for addressing rights of disabled persons:

- *Accessibility*, equal access to facilities and services;
- *Participation*, enabling people with disabilities to fully utilize their fundamental rights;

- *Equality*, exercising and supporting the equal treatment of people with disabilities;
- *Employment*, promoting quality jobs and employment situations by evaluating the labor market;
- *Education and training*, backing inclusive education for disabled students;
- *Social protection*, combating poor living conditions and exclusion;
- *Health*, increasing accessible health care and services; and
- *External action*, promoting disability rights as a human rights issue.⁸⁹

These major areas have been influential throughout member states of the European Union, and are based on empowering disabled persons, raising national awareness, with a progression report scheduled for 2016. The consistent implementation of these priorities can allow more equal participation for impaired citizens throughout the European Union.

⁶ "Equal opportunities for people with disabilities: a European action plan (2004-2010)," *EUR-Lex; Access to European Law*, Feb. 3, 2011, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:c11414>.

⁷ *Ibid.*

⁸ "Persons with disabilities," *European Commission/Employment, Social Affairs, and Inclusion*, <http://ec.europa.eu/social/main.jsp?catId=1137&langId=en>.

⁹ "European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe," *European Commission/Europa.eu*, <http://eur-lex.europa.eu/LexUriServ/>



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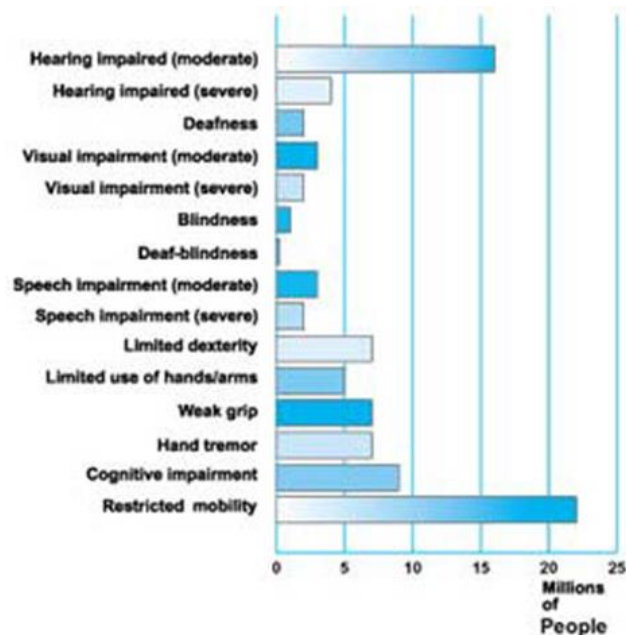
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On May 3, 2008, the UN enforced the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD/CRPD) with the purpose being “to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity,”¹⁰ as stated in Article I. The Convention, designed as a means of eradicating barriers for persons globally, was the first international, comprehensive human rights treaty, adopted by the General Assembly in December of 2006 and opened for signature and ratification on March 30, 2007.¹¹ As of 2008, 127 countries signed and Jamaica was the first of 25 countries to ratify the convention. Articles 3 and 4 describe the General Principles and Obligations of the CRPD that include regard and equal treatment without discrimination of people with disabilities and State Party measures to be taken for decision-making processes respectively; articles 4-32 identify rights of persons with disabilities and the duties of the States Parties in keeping them. The Convention defines specific rights such as accessibility, independent living with community inclusion, individual mobility, as well as political, cultural, and public involvement. Articles 33-39 handle the reports and overseeing of the Convention;

¹⁰ “Convention on the Rights of Persons with Disabilities,” *UNenable*, <http://www.un.org/disabilities/convention/conventionfull>.

¹¹ “Landmark UN treaty on rights of persons with disabilities enters into force,” *UN News Centre*, <http://www.un.org/apps/news/story.asp?NewsID=6554#.VdKpa5dbjhV>.

while articles 40-50 govern ratifications,



Estimated number of disabled people in EU

Source: *EUROSTAT/Tiresias.org*

amendments, and the overall entry into force. Along with addressing many issues facing the disabilities community the CRPD also recognizes international cooperation among States Parties, working cohesively in monitoring and implementing the framework to strengthen existing rights for disabled persons, as the Convention does not create new rights.¹²

¹² *Ibid.*

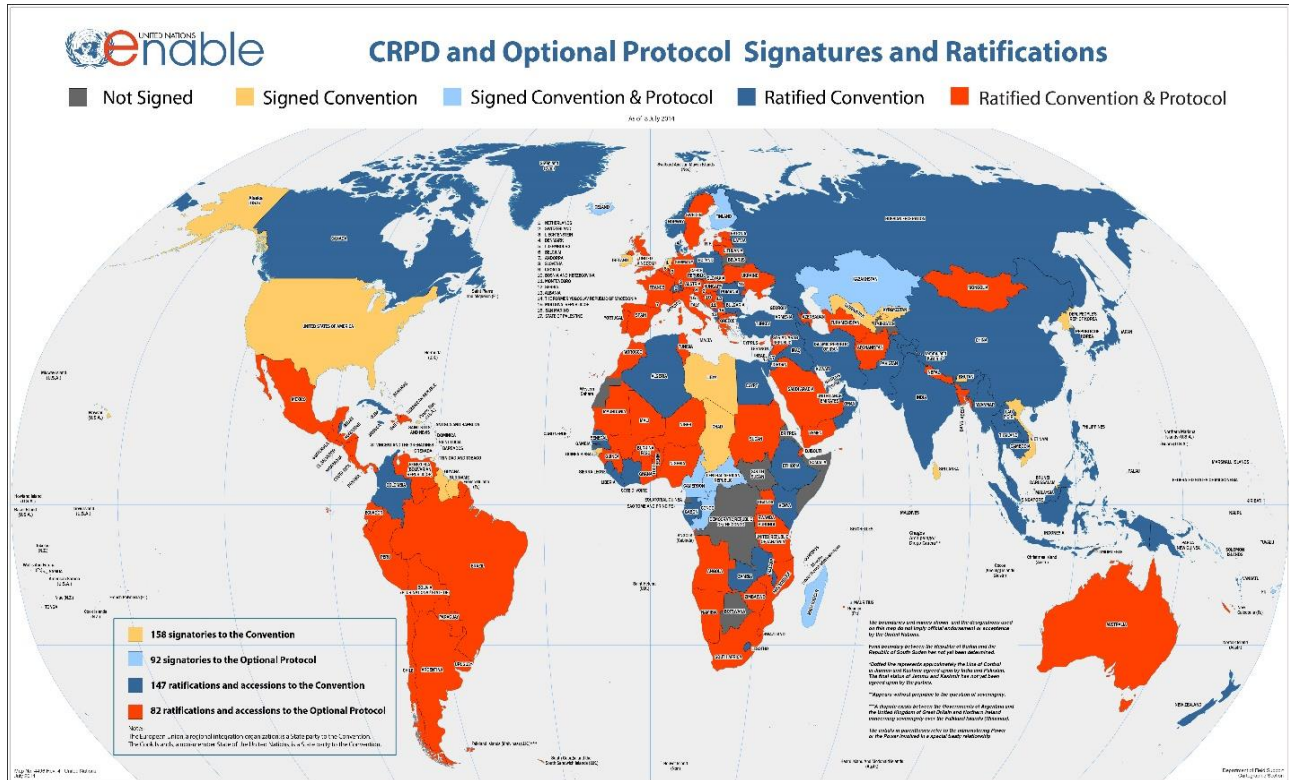


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Signatures and Ratifications of the CRPD
Source cjewalsh.ie

Current Situation:

Handicap International is relevant in the fight for Disability Rights in many countries, as the organization’s presence with local governments advocates for further implementation and ratification of the CRPD, though currently 157 countries have ratified. They also play a significant part in the issue of monitoring and clearing of landmines and cluster bombs in as many as 16 countries, such as Cambodia, Columbia, and Laos. “Landmines and cluster bombs are a significant cause of disability. These

weapons instill fear in whole communities, deepening poverty and acting as a lethal barrier to development. Contamination from landmines, cluster munitions and other explosive remnants of war terrorizes civilians in more than half of the world's countries.”¹³ The UNCRPD became applicable to victims of landmines and/or explosive remnants of war, as survivors are often rejected from their communities.

According to an Alternative Report by the Environmental Defense Fund on the UNCRPD, “Member States are not obliged to reimburse the extra costs related to the

¹³ “Landmines and Cluster Bombs,” *Handicapped International*, http://www.handicap-international.us/landmines_and_cluster_bombs



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treatment, such as accommodation and travel costs, or extra costs which persons with disabilities might incur while receiving cross-border healthcare.”¹⁴ The concern here lies within the travel accommodation of those using personal assistance or children with disabilities moving with their parents; the cost of accessible transportation may be a disincentive of getting the care that they need. Other points raised include:

“Member States are free to refuse the reimbursement of treatment that is not included in the ‘health benefits package’ in the Member State of affiliation. This nullifies the usefulness of the Directive for patients who need treatments related to their disabilities...,”¹⁵ so there will be no reimbursement from national health insurance.

“Member States are free to refuse the reimbursement of the full cost of the medical intervention if it exceeds its national ceiling for the same procedure.”¹⁶ This is especially an issue with low-income patients and people with disabilities who have changing conditions, causing unforeseen complications.

Resolutions and Role of the UN:

As afore mentioned, the Convention on the Rights of Persons with Disabilities has since influenced legislation and policy

regarding Disability Rights, promoting those rights already in existence. Most recent UN action in concerning Disability Rights has revolved around this treaty and its ratification in member states. “The 50-article Convention asserts the rights to education, health, work, adequate living conditions, freedom of movement, freedom from exploitation and equal recognition before the law for persons with disabilities. It also addresses the need for persons with disabilities to have access to public transport, buildings and other facilities and recognizes their capacity to make decisions for themselves.”¹⁷

Article 34 of the CRPD also established a Committee on the Rights of Persons with Disabilities, its members—a maximum of 18, and eligible for four years—elected by State Parties who are responsible for carrying out committee functions. Each State Party submits a report to the Committee through the Secretary General of the UN detailing the progress of measures taken on the Convention’s objectives. The Committee may then make suggestions and transmit the reports to the appropriate UN program for assistance. Reports are also available to the public in each country to facilitate the relevant access of services and materials as estimated.

¹⁴ “EDF launches its Alternative Report on the UN CRPD,” *IFSBH*, <http://www.ifglobal.org/en/37-temp-news/4691-edf-launches-its-alternative-report-on-the-un-crpd>

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ “Fruition of groundbreaking treaty on disability rights hailed by UN officials,” *UN News Centre*, <http://www.un.org/apps/news/story.asp?NewsID=26213#.VdZSJZdbjhV>.



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Relevant Articles

- Article 5: Equality and non-discrimination
- Article 9: Accessibility
- Article 12: Equal recognition before the Law
- Article 13 - Access to justice
- Article 14 - Liberty and security of the person
- Article 16 - Freedom from exploitation, violence and abuse
- Article 17 – Integrity of the Person
- Article 21 - Freedom of expression
- Article 31 Data and statistics
- Articles 6 and 7 women and children

Relevant Articles of the CRPD

Source: *slideshare.net*

“Realizing the Millennium Development Goals and other internationally agreed development goals for persons with disabilities towards 2015 and beyond” is a resolution adopted by the General Assembly on December 8, 2014. It reported on the progress of legislation and policy related to persons with disabilities by member states. Several states had formed action plans and taken measures with the disability agenda. Mexico, Mozambique, Qatar, Spain, Uruguay, Italy and Switzerland had added disability to their national and international development strategies to advance the inclusion of disabled persons or support the effort of the Millennium Goals. Other member state actions dealt with the eradication of poverty, access to education, gender equality, and

health and rehabilitation.¹⁸ The UN focused on the specific areas of bolstering disability data and statistics, promoting accessibility and capacity development, but also addressed certain developmental challenges. Gaining ratifying countries for the CRPD was a concern, yet another challenge lay in the knowledge gap regularly encountered relevant to people with disabilities in society. Concrete measures to address stigmatization of the disabled must be taken, with particular attention to marginalized groups “including those with mental, intellectual or psychosocial disabilities, and multiple forms of disabilities.”¹⁹ Priorities were identified in the resolution with a 2015 framework to work on further inclusion of

¹⁸ Realization of the Millennium Development Goals and internationally agreed development goals for persons with disabilities: a disability-inclusive development agenda towards 2015 and beyond, United Nations General Assembly.

¹⁹ *Ibid.*



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disabled persons which included transportation, decision-making processes, and enhanced cooperation with employment, and education for children with disabilities.

The resolution also identified priorities in order to build a better foundation on the inclusion of disabled persons:

- Strengthening and applying the international normative framework on disability—implement existing measures and common ground between the CRPD and other human rights material.
- Promoting accessibility for inclusive and sustainable development—creating accessible environments including information and communication technologies, as the need is still increasingly prevalent in numerous States; natural disaster and emergency service plans.
- Addressing gaps in capacity-building—relevant experience and skills are required by persons communicating these issues in the field, recognizing that allocated professionals and resources are lacking in many States; and initiatives should empower people with disabilities.
- Assessing the situation of persons with disabilities: inclusive monitoring and evaluation frameworks—adequate international data and statistics is certainly needed to integrate global monitoring of the disability issue.
- *Accessibility.* Enabling persons with disabilities access to goods and services, particularly in urban environments, is consistently an issue facing the UN in relation to Disability Rights. Barriers to sanitation, communications, public facilities and housing, and emergency structures further contribute to the marginalization of people with disabilities excluding them from basic services. Developing easier access within a larger scope of urban and developing communities should be a goal the body strives for.
- *Emergency services.* Natural disasters leave countless people injured and disabled. However, reallocating resources specifically to help persons could be seen as an impediment on pre-existing services that do not specialize in the disability field.
- *Employment.* Limited resources in countries such as Brazil, Russia, India, and China lead to limited jobs among disabled and impaired workers. Disabled workers are often discriminated against and excluded from equal job opportunities; however, conventions like the ADA may not increase the number of jobs for people with disabilities.
- *Funding.* The majority of measures handled by the body requires specific funding, and much of disability relief come from donations and volunteer services. One of the largest issues for humanitarian organizations is the shortage of overall funding. Government backing

Issues and Key Arguments:



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is one side of the monetary spectrum, while volunteer generosity is on the other. The efforts of humanitarian aid, as they are to strengthen the quality of life among suffering persons, is lost when the focus shifts to measuring financial resources available, or lack thereof. Where the funds come from is a significant contention; government backing is one side of the monetary spectrum, while volunteer generosity is on the other. Nevertheless, money for the programs and services is that back Disability Rights is essential.

- *Human Rights.* One school of thought argues that Disability Rights is covered by other pre-existing Human Rights conventions and laws. This remains in contention as the definition of disability has been clarified within the last decade, including conditions that were previously overlooked.
- *UNCRPD.* Rejecters of the UNCRPD (such as the Home School Legal Defense Association in the US) believe that it compromises certain rights, such as the parents of children with disabilities making decisions deemed less than in the best interest of the child, as the treaty states, thereby relinquishing parental rights. The overturning of states' current laws on governing persons with disabilities.

Country Positions:

China:

Having over 200 million disabled citizens, China adopted the CRPD in 2008, and the Beijing Declaration on Disability-inclusive Development in June of 2012. The latter promotes the removal of barriers and equality to aid the disabled. However, "During past UN reviews...the Chinese government refused to provide key information, obstructed submissions by independent civil society groups, and failed to implement critical recommendations;"²⁰ civil society organizations had been denied access into discussions of CRPD recommendations as of 2012.

Adjustments for education and employment still need to be enforced by CRPD standards and recommendations. Disability is often ignored, as researchers realized in 2015, yet the human rights perspective provides more participation and dignity for those with disabilities.

The European Union:

Almost 80 million people in the European Union have disabilities, many living with a larger likelihood of poverty, driving negative social attitudes and discrimination. In 2010, however, the European Union adopted the CRPD and nearly all of its member states have ratified in order to remove barriers in Europe with a "rights-based approach to disability."²¹ The

²⁰ "China: Cooperate With First UN Disability Rights Review," *Human Rights Watch*, Sept. 14, 2012, <https://www.hrw.org/news/2012/09/14/china-cooperate-first-un-disability-rights-review>

²¹ Max Rößler, "The United Nations Convention on the Rights of Persons with Disabilities in the



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European Commission has also taken a significant role in the ratifying and implementing of the CRPD in member states, using the Convention as a point of reference to authorize action. Some aspects situation in the European Union to reflect more of a market economy furtherance as opposed to human rights, yet the CRPD has become influential and continues to be implemented.

France:

France ratified the UNCRPD in 2010, with some objection to the portion on consent in article 15 of the Convention. The term “consent,” in relation to biomedical research applies to “consent given by a person who is able to consent, and in the case of persons who are not able to give their consent, permission given by their representative or an authority or body provided for by law.”²² A priority of the French Republic is that individuals who are unable to give their “free and informed consent” are granted special protection without prejudice, though the objection was made with overall approval of the Convention.

India:

Throughout India the environment is significantly harsher for the 40-80 million persons living in the area with disabilities, although “the government provides financial support to those states wanting to take up the arduous task of upgrading their existing

infrastructure.”²³ Still, there is a noticeable prejudice against the disabled, following the ever-present karmic belief that they are to blame for their impairments, which affects the day-to-day life of those persons. The disabled who are struggling with poverty are regularly excluded from mainstream culture, and there is nothing to be found in the education curriculum about people and children with special needs. Though the situation took a turn when India adopted the UN’s development plan for disabled people and saw employment adjustments as well as the inclusion of autism and hemophilia in disability related material.

The Middle East:

Egypt, Iran, Jordan, Lebanon, Libya Yemen, and most Arab countries have adopted and ratified the CRPD, though the region will not see change if each country does not include disability in legislation. However, society in these areas continuously overlook persons with disabilities; after ratification the inclusion process begins, and this is where many countries in the Middle East have fallen short. The region has trouble with legislation when it comes to data for disability-supporting policy, and there are very little attempts to create a physically more accessible environment. Awareness is not widespread and organizations such as Inclusion Network receive little public support. Without public advocacy the government will not take more defined steps

European Union,” University of Twente, Nov. 12, 2013.

²² United Nations Treaty Collection. May 11, 2015. Treaties.un.org.

²³ Monica Sarkar, “Disability in India: The struggles of infrastructure, prejudice and karma,” *CNN*, Dec. 27, 2013, cnn.com.



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in aiding those with disabilities throughout the Middle East.

The Netherlands:

Like France, The Kingdom of the Netherlands holds article 15 of the Convention in some contention, with specific protection of those unable to give their “free and informed consent” necessary. The Netherlands also declared that the best interests of the child be primary in the Convention’s ratification, specifically in regard to article 23 (paragraph 1b). Having a population of more than 1.7 million disabled persons, who are not able to work, the Netherlands signed the Convention in 2007, yet it has not been formally ratified.

The Russian Federation:

The lower house of the Russian government, known as the Duma, was scheduled in May of 2014 to amend 25 federal laws dealing with Disability Rights after ratifying the CRPD in 2012. Protecting people from exclusion, “the amendments include[d] a prohibition against disability-based discrimination and an expanded list of changes to be made so that public transport and other facilities and services are physically accessible.”²⁴ Under the main disability law—‘*On the Social Protection of the Disabled*’—the amendments do not address gaps in the legislation, including “[ensuring] that people with intellectual, developmental, and psychosocial disabilities benefit from the protections, benefits, and services guaranteed to people with physical

and sensory disabilities.”²⁵ Enforcement is the other key problem with this legislation in Russia, as even though disability rights specifications exist, the city governments are not making sure these measures are taking place, although an improvement in transportation was added in 2013 with Global Positioning Systems allowing blind people access to bus and other transportation schedules on smartphones, and hopefully more positive measures will follow. Russia’s Soviet history has seemingly influenced the situation of disabled persons; many during the era were institutionalized and isolated, leading to years of discrimination and harassment. Currently there are over 16,000 people who utilize wheelchairs, but only two-thirds of the buildings in Moscow alone are accessible to them. Disabled persons are still viewed as a social problem, yet programs such as the Acropolis art project and the Paralympics help to raise empowering attitudes among people with disabilities and impairments.

The United States of America:

Although the United States is a signatory of the CRPD, it fell six votes short of ratification in 2012. The Convention held bipartisan and American veteran support, so the Senate’s failure to ratify was extremely disappointing to those groups. One claim arose that the treaty “would give too much power to the United Nations at the expense of state laws governing accommodations and protections for the disabled.”²⁶

²⁴ “Russia: Pass Laws to Protect Disability Rights,” *Human Rights Watch*, May 11, 2014.

²⁵ *Ibid.*

²⁶ Jeremy W. Peters, “Dole, Slumped but Sharp, Returns to Senate to Push Disabilities Treaty,” *The New York Times*, July 23, 2014, nytimes.com.



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Advocates of home-schooling also reject the CRPD on the grounds that it violates parents' rights, though the treaty was modeled after the Americans with Disabilities Act.

Venezuela:

In 2014, Venezuela passed legislation stating that companies must have five percent of disabled persons hired so that employers will not reject anyone on the grounds of their physical abilities. Later that year the government created The Presidential Council for People with Disabilities, a national council with a goal of eliminating the stigma of disabled communities and to promote equal opportunity; the council was also created to strengthen the participation of disabled persons in state and local affairs, as well as raising awareness overall. In regards to the UNCRPD, Venezuela had already ratified in 2013, reaffirming its determination to support the rights and dignity of disabled persons. It also insisted that provisions guaranteeing legal protection, and ensuring development, of those with disabilities shall apply in the case of any conflict between state legislation and the Convention, specifically article 12, paragraph 2.²⁷

Questions for the Body:

1. How can we address negative attitudes and stigmas, while raising awareness of the Disability Rights issue on an effective international level?

2. What specific measures can be taken to meet the rising population of disabled with accessible environments, particularly in developing areas?
3. Is there anything in the relationship between countries and the UNCRPD that can be improved upon? What types of proactive roles can States take that have not yet ratified?
4. How can we strengthen measures exercised by the UNCRPD and/or other human rights conventions? In what areas can we improve?

²⁷ United Nations Treaty Collection. May 11, 2015. Treaties.un.org



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