

**Let the world know - International seminar on human rights and disability  
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Pre-paper 1. ([Full seminar report, PDF, 339 KB.](#))

The seminar – background, purpose and organization  
By Marcia Rioux

511 Brunswick Avenue, Toronto, Ontario, M5R 2Z6 CANADA  
tel. (416) 929-2242, fax (416) 929-3539, email [mrrioux@interlog.com](mailto:mrrioux@interlog.com)

## **I Background**

There has been an increasing international recognition that disability is a human rights issue. There is also recognition that disability and disability-related exclusion and marginalization is a concern for the UN human rights bodies.

The World Programme of Action concerning Disabled Persons, adopted by the U.N. in 1982, recognized the responsibility within the U.N. system of addressing the human rights of people with disabilities, in the following recommendations:

*Organizations and bodies involved in the United Nations system responsible for the preparation and administration of international agreements, covenants and other instruments that might have a direct or indirect impact on disabled people should ensure that such instruments fully take into account the situation of persons who are disabled. (para. 164)*

*Particular conditions may exist which inhibit the ability of disabled persons to exercise the human rights and freedoms recognized as universal to all mankind. Consideration should be given, by the United Nation Commission on Human Rights, to such conditions. (para. 166)*

*Incidents of gross violation of basic human rights, including torture, can be a cause of mental and physical disability. The Commission on Human Rights should give consideration, inter alia, to such violations for the purpose of taking ameliorative action. (para. 168)*

In August 1984, the Sub-Commission on Prevention of Discrimination and Protection of Minorities appointed a Special Rapporteur, Mr. Leandro Despouy, to conduct a comprehensive study on the relationship between human rights and disability. In his report (1993), Mr. Despouy made it clear that disability is a human rights concern, in which the UN monitoring bodies should be involved. Included among his recommendations were the following:

*After the Decade has ended, the question of human rights and disability should be kept on the agendas of the General Assembly, the Economic and*

*Social Council, the Commission on Human Rights and the Sub-Commission as an item of constant concern and ongoing attention.*

*The UN Committee monitoring the Covenant on Economic, Social and Cultural Rights should assume the supervisory task in the disability field. The Committee should receive a special mandate for this purpose.*

The Committee on Economic, Social and Cultural Rights in 1994 assumed this responsibility by issuing a General Comment No. 5, in which the Committee makes an interesting analysis of disability as a human rights issue. The General Comment states:

*The Covenant does not refer explicitly to persons with disabilities. Nevertheless, the Universal Declaration of Human Rights recognizes that all human beings are born free and equal in dignity and rights and, since the Covenant's provisions apply fully to all members of society, persons with disabilities are clearly entitled to the full range of rights recognized in the Covenant. In addition, in so far as special treatment is necessary, States parties are required to take appropriate measures, to the maximum extent of their available resources, to enable such persons to seek to overcome any disadvantages, in terms of the enjoyment of the rights specified in the Covenant, flowing from their disability. Moreover, the requirement contained in article 2 of the Covenant that the rights 'enunciated ... will be exercised without discrimination of any kind' based on certain specified grounds 'or other status' clearly applies to discrimination on the grounds of disability.*

At the 54th session of the UN Commission on Human Rights in March/April 1998 the Commission adopted resolution 1998/31, in which the Commission made a series of statements and recommendations for the future development in this area. Resolution 98/31 was a principal breakthrough and a general recognition of the UN responsibility for human rights and disabled persons. Therefore, expectations were high that finally things would start to develop. However, in the two years following the adoption of the Commission resolution, there was little follow-up to the expectations raised. This was a major concern when the Commission on Human Rights again discussed human rights and disability at its 56<sup>th</sup> session in April this year. As a result of the discussion the Commission adopted another resolution (2000/51), which incorporated the recommendations of Resolution 98/31.

In the first operative paragraph the Commission recognizes the UN Standard Rules as an evaluative instrument to be used to assess the degree of compliance with human rights standards concerning disabled people:

*[The Commission] Recognizes that any violation of the fundamental principle of equality or any discrimination or other negative differential treatment of persons with disabilities inconsistent with the United Nations Standard Rules on the Equalization of Opportunities for Persons with*

*Disabilities is an infringement of the human rights of persons with disabilities.* (para. 1)

Further, it encourages NGOs in the disability field to provide relevant information to the Committee on Economic, Social and Cultural Rights and to the Office of the High Commissioner for Human Rights (para. 7). NGOs are advised to avail themselves of the technical assistance of the Office of the High Commissioner to assist them to function effectively in the human rights sphere (para. 8). In the resolution the Commission encourages all the treaty bodies to monitor the compliance of States with their commitments in order to ensure full enjoyment of rights by persons with disabilities. Governments should cover fully the question of human rights of persons with disabilities, when reporting under the relevant United Nations human rights instruments. In paragraph 11 the Commission:

*Invites all the human rights treaty monitoring bodies to respond positively to its invitation to monitor the compliance of States with their commitments under the relevant human rights instruments in order to ensure full enjoyment of those rights by persons with disabilities, and urges Governments to cover fully the question of the human rights of persons with disabilities in complying with reporting obligations under the relevant United Nations human rights.*

In addition, the following operative new paragraph was added which reflects the recognition of the on-going lack of action. The operative paragraph 30 of this resolution has the following wording:

[The Commission] “*Invites the High Commissioner for Human Rights, in cooperation with the Special Rapporteur on Disability, to examine measures to strengthen the protection and monitoring of the human rights of persons with disabilities and solicit input and proposals from interested parties, including particularly the panel of experts;*” [para. 30]

This readiness within the UN Commission on Human Rights to include the disability dimension into monitoring the general treaties on human rights seems to have come without anticipation to those concerned, despite the history of action described above. There appears to be a lack of knowledge and expertise both in the human rights administration, among governments and among international disability organisations to use this opportunity effectively.

Evidently there is a need for mutual learning. Disability leaders need to find an effective mechanism to communicate their experiences to the human rights monitoring bodies. Human rights experts need to learn more about how various ‘*obstacles prevent persons with disabilities from exercising their rights and freedoms and make it difficult for them to participate fully in the activities of their societies*’ (Standard Rules, para 15).

It is this framework that has provided the impetus for holding the Stockholm Seminar. It is an opportune time to develop the capacity and competence of all parties concerned to ensure that the occurring violations of the human rights of disabled persons start to reach the appropriate entities within the UN system and governments and political parties around the world.

## **II. Purpose**

The purpose of the expert meeting is to draft guidelines for identifying and reporting human rights violations and abuses against disabled people. The following have been identified as specific objectives and expected results of the meeting:

- To provide a forum to exchange knowledge and expertise and to dialogue on the integration of disability-related issues into the human rights process
- To develop a substantive methodology for relating obstacles to participation, neglect, abuse and other forms of discrimination to legal provisions of existing UN human rights Instruments
- To design a process for follow-up and for collection and analysis of information; and within this to develop and support a reporting capacity within disability NGO's

## **III Organization of the Seminar**

Three factors make it a particularly favourable time to begin a concentrated effort to profile the infringements of human rights of people with disabilities:

- The recent recognition in theory and law disability as a rights issue;
- The recent promulgation of policies in many countries directed at strengthening the rights of people with disabilities and eliminating discrimination at the national level; and
- The increasing organization of the disability rights movement worldwide.

In light of these three factors, this meeting provides a unique opportunity to carry out an analysis of the most effective ways of reporting human rights abuses and violations against disabled people and of designing a mechanism for the reporting of such abuses.

The systematic collection of such data would provide evidence for the United Nations and state governments of the need for further attention directed towards eliminating these abuses and would provide information to support the struggle of disabled people to justice, equality, self-determination, dignity and worth in their societies. It would also provide a way of exposing the various forms of discrimination and violence to which disabled people around the world continue to be exposed.

The seminar will use, as a basis for its work, the Universal Declaration of Human Rights and the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities. Both these documents will be available for participants at the seminar.

The work will be organized around the following forms of documentation and small groups will be asked to develop guidelines for enabling a coherence of information to be collected ensuring that there is consistency and compatibility across the areas when the various reporting takes place. In the workshops we will first consider content and then process. The five areas of documentation around which the workshops will be organized are:

**1. documenting individual reports of infringements**

In this area, seminar participants will look at what constitutes an infringement of a human right; a method of reporting that enables comparability of data collected; how to guarantee privacy and confidentiality to the individual reporting; and methods of ensuring the credibility of reported infringements. They will review and assess current on-going methods of reporting of infringement of rights in disability and in the cases of other marginalized groups (women, refugees, etc.)

**2. documenting of legal cases/jurisprudence:**

In this area, seminar participants will determine a methodology for documenting legal cases that is consistent and comparable across jurisdictions recognizing such factors as: type of legislation, level of court and so on. Cases to be considered will include:

- i. cases where courts made no finding with respect to rights (discrimination by court interpretation of law) (e.g. “justifiable” homicide; exclusion from schools; substitute consent; best interests cases)
- ii. cases where court found directly on the infringement of human rights (e.g. anti-discrimination cases or equality cases)

**3. documenting of media (a media watch);**

Seminar participants in this area, will be asked to consider how to document infringements of human rights in the media and by the media including:

- i. media reporting in a manner that is an infringement of human rights
- ii. media reporting of infringements of human rights

**4. documenting of policy, services and practices**

Seminar participants will be asked to consider ways of documenting policies, services and practices that are contrary to the Universal Declaration – either by omission or commission. The Standard Rules will provide guidance in this area. Mechanisms for consistency across jurisdictions will need to be considered as well as determining a methodology for those who are documenting infringements to recognize which right has been infringed.

5. **documenting of legislation** that is contrary to the Universal Declaration, both state and national (or federal). In this area, participants will be asked to look for a methodology to document legislation at various levels of government. Attention will need to be paid to legislation that directly contravenes human rights, legislation that supports human rights and legislation that is silent but in its silence infringes rights.

Further to developing guidelines for the information to be collected, each of the groups will be asked to develop criteria and methodology for the **collection of the information** including:

- setting guidelines for the practical frameworks for reporting, and how to ensure that the information is systematic when collected.
- determining how the collection of information could happen following the expert meeting; and
- providing guidance on how to use the data and its interpretation most effectively, taking into account that there are a number of different audiences for the results of the seminar.

The diversity of expertise of the participants in both methodology and content of understanding infringements of human rights should provide a cross-fertilization of ideas that will enable the purpose of the seminar to be met.