OLA LINDER: Welcome to this webinar a little bit delayed from the initial time plan but we still have a very interesting agenda going forward we're going to be talking about legal remedies through education for the rights of disabled people. We will be going for about two hours hopefully given the delay but we will have a short break roughly in the middle. Please remember to mute yourself to avoid background noises when you're not speaking. Me will have questions and comments function in the Q&A box, or you could raise your hand if you would like to address something in relation to what the speakers have said, or If you have a general question. F you have any problems you can send an email to DRDN@independentliving.org. The webinar will also be recorded, so you know, we're going to start a recording soon. The organisers are the Independent Living Institute through the project Disability Rights Defenders Network, and Article 19 as a Tool, that works with the U another convention. We also have the ENIL with us today we have Ines, would you like to say a couple of words to introduce Ines?

INES BULIC: Hi thank you hello to everyone we're very pleased to be very co-organising this Disability Rights Defenders and Article 19 as a Tool. ENIL is a user-led EU wide cross-disability network. We bring together mainly grass roots organisations from across the Council of Europe area, organisations of disabled people campaign on the right to independent living, access to personal assistants, deinstitutionalisation, peer support, and other things that are necessary for disabled people to enjoy the right to independent living. We are always very happy to partner with Disability Rights Defenders, also to help our members activists expand their knowledge on legal issues and access information on how they can use the law to access their right to independent. So this is it from my side I am also looking forward to hearing everyone speak today. Back to you Ola.

OLA LINDER: Thank you. We will have a look at the agenda now, the times are not correct as you will understand due to the slight delay. I will just briefly introduce the topic, after me we will have Paul Lappalainen speak, Swedish/US lawyer and also part of the European Equality Law Network on access to justice and access to remedies. After that we have my colleague Mari Siilsalu who is working with the article 19 project and the Independent Living Institute who will give you an overview of a survey that we did earlier on the legal remedies for the rights of persons with disabilities where we had a global outreach in the answers that we got.

After that we have Ann Campbell speaking from Validity Foundation, she’s the co-executive director there, looking beyond compensation for innovative remedies for women with disabilities. After that we have a break, we will see at what time exactly perhaps a little bit after 3 now. After this we have Stellan Gärde a Swedish lawyer and author who will focus on legal aid as a human right so to connect remedies to actually being able to use them. And finally we have Timothy Hodgson, legal advisor at the International Commission of Jurists and lecturer at the University of Pretoria South Africa who will give us inside into economic and social rights litigation which I am really looking towards, to better understand how we can work with economic and social rights also in practice.

Following we will have a discussion until we finish, the webinar, so I am hoping for a deep and dialogue on this very important topic on remedies on the rights of persons with
disabilities. So before we move on to Paul I will briefly say something on why we're doing this. The main reason is that we found that if we're going to use the law, as a tool for social change we need to better understand where we can and how we can use them in the legal system. Usually when the disability movement in Sweden they demand change and they demand laws they want them to be to implemented they don't normally use the strategies to have the change behind the laws materialise though legal action. We have become to focus on strategic litigation and other things to actually have the law be used in action. We have also understood that the remedies we have in Sweden they are quite limited, and if we expand our views and look at how other countries do it I think we will learn a lot and hopefully this meeting today can lead to better discussion in Europe globally on how we can learn from each other how to use them in a more efficient way. So with that said I would like to give the floor to Paul Lappalainen.

PAUL LAPPALAINEN: Thank you Ola. Let's see if I can, I will move straight to my power points. If I can get them up. Ok I put the title, Disability Rights Enforcement, Remedies and Solutions. I can say quickly about my background I am quite old to be doing a PhD but one thing I am working on right now is a PhD, a comparative analysis of the development over the quality law from the US, Canada, through the UK, EU then to Sweden. I will be giving the timeframe I am only going to be touching on certain amount of I but this will be a sort of a comparative framework but naturally I have some focus on Sweden, at least on my examples.

Here is structure, preliminary issues, at attitude and behaviour, power enforcement, then enforcement by who. Usually we're looking eat quality bodies, at least in continental Europe there's been relies reliance on, civil society what's the role of civil society in terms of both legislation and litigation, and there's the issue of remedies, what's the goal. We have in Sweden there's a primary reliance on damages, or money damages but there are a possibilities concerning equitable remedies or court orders in certain countries, settlements can also be relevant in certain situations. Especially since damages only in terms of money do not necessarily get the results that you want and then there's question of power. How do civil society organisations, in particular, work with the courts. It's important with good advocacy in the courts, but it's also important with advocacy outside the courts. Then finally I will mention a couple of sample case where sill vil society organisation Sued a bus company, where the Government requires the removal of assistance devices. from pupils with dyslexia in Sweden and what's been done in that case.

Ok this my description of the basic problem, is a man sitting on these boxes I see any qualified a applicants the box our prejudice, history, sexism, racism, self-image, denial there are at at in relation to discrimination as least as I see it this particular gives a good definition or good say presents a good picture. The bigger question is how do you help him see, or actually how do you force him to see.

Then here's another way of looking at the problem, you have the different interests talking about promoting equality or working against discrimination. But then you have both those who have power, the power to discriminate, and also the status quo is have for rerealisticking change offer problems in regards to requiring change. In regards to requiring changes their segment from Martin Luther King it's a sad historical fact that privileged groups have seldom given up their privileges voluntarily. One of the reasons I bring that up at least from the Swedish perspective there is some idea that change will automatically occur. If you have a law. A well meaning law. Even if the law does not include sanctions. For me as a lawyer that's very strange idea, but it is something that permeates a lot of legal thinking or a
lot of legislation that intended to help people, that's not, it doesn't mean it permeates most leg variation legislation that I intended to help people is based on idea we will somehow voluntarily help people or do what we're required to do without necessarily having sanctions in place.

Another idea that at least I relate to the field of discrimination law, is a statement by Chief justice earn warren during the 1960s said that many believe you cannot wipe out racial discrimination by law, only through changing the hearts and minds of men. Set there's a false credo, prejudice cannot be wiped out but in flicktion of it upon others can and this applies not just to racial discrimination but also to disability discrimination.

What are the key lessons was that if you ensure that discrimination costs, or carries with it cost risks, people can change their behaviour. But just because you want better, just because you ask for better attitudes they will not necessarily change their behave on that basis.

Another idea is that legislation and litigation go hand in hand. Disability civil societies, disability organisations need to know what they want in the law. Especially regarding enforcement. One of the reasons I bring this up from the Swedish perspective is that disability organisations were very ... were a key element behind the adoption of disability discrimination laws. At the same time, when you ask them what kind of law do you want, they expected politicians and civil servants to produce a good law. When I asked well what kind of law do you specifically want, they said we don't have the competence. There are other experts who should be doing that. If you are waiting for other people to do it they will help both the unions and the employers organisations and other interests more powerful civil society organisations they ensured that the live didn't have say sufficient enforcement measures in it. Even if we have a law. And the importance of litigation is naturally that litigation can indicate the weaknesses in law, leading to demands for change. There's a question of enforcement by who, equality bodies, and/or civil society. There's a question the history of equality bodies. Sometimes there confusion at least in Europe about are are they civil servant or anti-discrimination advocates, and there's a question or whether or not they can be effective advocates, since they are also Civil Servants. At least we have this problem in Sweden right now.

Bart of the background is that in terms of US enforcement, the NAACP legal defence fund was a key actor in ensuring that US developed fair employment practices, committees, civil rights act and the equal employment opportunities commission. Eventually that led to the adoption of the ADA, Americans with disabilities act, and the ELC gathered disability mandates. At the same time, especially based on NAACP legal defence fund, other organisations developed, or other legal defence funds were also developed at the same time. You have the Disability Rights Education and Defence Fund, you have the Disability Rights Advocates in California that is also developed to help enforce the law on behalf of people with disabilities. Because there was a realisation that the EEAC would not be enough. That public interests lawyers were needed.

And then you have development within the EEOC you can see the UK develop the disability rights commission in the 1990s, Sweden also got a so-called disability ombudsman during the 1990s, they had quite little power but also they laid the foundation for the equality ombudsman at least in Sweden. One thing if you look comparatively at different countries, when there's a strong civil society, strong civil society advocacy in terms of both legislation and litigation, you develop what I would call a healthy competition with equality bodies. Which leads to improved case law, and improved implementation of the law or at least
finding out when the law doesn't work. If you don't have cases going to court, you're not going to find that out.

Then basically looking at what's the purpose of an equality body, it's to provide some balance of power in regards to those with the power to discriminate. At least in Sweden, and I think in most countries, people who are the targets or subjects of discrimination, or the victims of discrimination, generally, they lack the economic power to enforce their rights, even if they have certain rights that could be enforced. Those with the power to incriminate employers, unions, businesses, for them, devending themselves in regards to discrimination cases they can write that off. At least in Sweden, if they can also threaten the say discriminated parties with the idea that they will risk, they will risk paying the costs of the winning party. Which means that you can risk at least in Sweden, you can risk paying 200 thousand Crowns in legal costs, and at best in many cases, the most you can get is her 30 to 40,000 Swedish corona. It's very hard for people to litigate to take those risk for such a small reward.

One thing that keep in mind in regards to EU directives is the idea that at least the race directive requires the establishment of an equality body. EU does not require the establishment of an equality body concerning disability. But many countries have levelled up the protection, and for example in the UK or in Sweden we have a equality body that is supposed to cover all grounds. If you look at the directives, the directives say that they should provide independent assistance to victims of discrimination. At least today in Sweden, here last year the equality ombudsman filed 4 or 5 cases in the courts and they have a budget of 120 million Crowns per year it's hard to say they are providing assistance victims of discrimination, or at least extremely few.

There's confusion about the role of equality bodies [has been point at these body have a distinct role from national governments and civil society organisation, building a culture that values equality, providing information support to victims, monitoring conducting research, engaging with public bodies, social partners, NGOs. My question here is isn't that also the role of civil society organisations if it's not, at least of some, shouldn't it be? What are we doing to make sure it is. In regard to public interest law whether it's NGO, civil society or equality bodies, at least in terms of strategic litigation it's important to have the right clients.

Right clients meaning you want to have good cases, sometimes you him multiple case he was you have a lot of people being affected by the same problem, you can try to figure out should you bring it as a class action, or use the multiple cases in a more creative way. Also situation testing is proof. One of difficulties in regard to equality cases is proving the cases sometimes you have to develop situation testing so you can prove the case.

In terms of say US cases that have been benefited EU law, cases that have been taken on by civil society organisations, not by the official equality body in the Uses. You have the shifted burden of proof, indirect discrimination, harassment all of those are issues that have been developed in case law in the US, and then we benefited by them. What? Ok. In terms of access to justice in Sweden it's a question of equality bodies, union's other NGOs, anti-discrimination bureau's disability organisations, private lawyers. You're going to hear a little bit later about legal aid, legal insurance. One of the big problems in regards to legal cases is who is going to pay for them.

One idea that I at least mention on occasion, is the civil society organisations could be promoting is the idea of say like the Canadian court challenges programme, where civil society organisations were able to bring equality law case's financed by a Government fund. At the same time that they have a good equality body as well. Then the use of anti-discrimination clauses in public contracts. The reason that's important is that in order to
increase the cost risk, many companies have public contracts and even if you're not going to change the damages system in Sweden, if they risk looking the public contracts they will think twice about what they are doing in terms of counteracting discrimination, promoting equality.

One of the big problems in this field is say this picture, she is in a wheelchair, the reporter is asking or somebody is King the assistant, does she take sugar. It says, no but she studied disability law she will sue youness you speak directly to her. This is a very nice idea, the problem is at least today there's not a whole lot of capacity in this regard.

In regards remedies, something you have to think about is what is the goal. In Sweden we have the loser pays system, which means that individuals who want to bring cases, and civil societies organise organisations that will to bring cases they quite often don't have the the economy where they want to take on the risk of losing. Which means that they can alternatively bring cases, small claims cases. That's not an ideal situation, but it's maybe better than nothing been done. Then there's a question of whether or not a public sector lawyer can be a problem, can they have the trust of the clients but also private lawyers, that's an important issue for them. Do to you have trust of the client. Then at least in Sweden there's the issue of who has a right to bring an action. In Sweden it's essentially only the victim who can bring cases. In other European countries, there are situations where an equality body can bring a case on behalf of the victim. Even if the victim has not made a complaint. There's the potential facts that's why I brought up the issue of if there are many victims or potential for a class action, that can also lead to different affects in terms of media, in terms of having an affect on policy et cetera.

As to money damages s, that's what we have to rely on in Sweden, essentially, then there's the question of equitable remedies you can find in some countries. It's maybe better if a court can order, or issue an injunction saying that a company has to stop acting in a certain way or must act in a certain way. One are the issues also in the place like Sweden is if only money damages are available, it is important on occasion to look at the issue settlement. F you have been improperly or if you have been discriminated against in regards to getting a job, if you, the best that a court can do is order the payment of damages. Or compensation as it's called here. Whereas in a settlement, you can get the job as well. If in certain situations.

Strong advocacy, even outside the court, this means [inaudible] [background noise] at least civil society organisations in Sweden have not combined these ideas. Have generally not combined these ideas. One thing is outside influence, or media information in the media or demonstration's might I am just saying might, affect the results in it's court decision, or mat affect the court favourably. I wouldn't guarantee it, but it's something that would be interesting if in a disability discrimination case, if the courts also all of a sudden have to accommodate a number of people with disabilities in the Court Room. This is into the normal situation but if all of a sudden, say I am just ma engineering imagining if you have 20 people in wheelchairs who want to go to a public trial, that could be interesting for the court, for the judges in general, for a variety of reasons. Nut thing to think about is even if you lose a case, if it's a loss on met writs, advocacy can affect public opinion, can affect policy makers another thing about the outside use of social media, that can be a tool for fundraising for the case. And also a way of increasing awareness on the particular issues. Now lastly I will mention a couple of sample cases at least here from Sweden, there's a wheelchair user who's denied access to a bus, the driver was unclear about the accessibility that was available on the bus. The bus was accessible, the driver didn't know what, the driver claimed he didn't know how to make it accessible. There's a complaint to the equality
ombudsman the they decided not to pursue the case, as I understand it they called up the bus company and the bus company said well, we won't allow this to happen again. But it had already occurred, the wheelchair user went to a civil society organisation that agreed to sue the bus, on the plaintiff's behalf. There was a decision made that would also take on the economic risks in the case. We're not going to bring it as a small claims case. Eventually there was a successful legal judgment in that case. And then there's national school agency guidelines that require removal of assistance devices for pupils with dyslexia during so-called national exams. Here we have a situation where lock governments after actually responsible for schools, thousands of pupils are affected per year. It was decided that we would use or that small claims cases would be filed in different regions on the same day, there was joint press conference, two cases lost, one was won at the trial level. The 3 appeals cases were lost, and now there's a pending, an appeal pending to the supreme court at the same time, the Chancellor of justice in Sweden said that well, the national school agency is not responsible for discrimination, because it is not an education provider as required under the law. A new case had been filed against the national Government for violations of the Constitution, for violations of the European human rights convention as well as Swedish lawed the claim is that the national school agency guideline is an instruction to discriminate. We'll see what happens in that case. That about it from me. Now how am I doing on time?

OLA LINDER: You're doing ok, we're a bit over time a we already started a little late, so I think we should be moving on on the agenda, I hope.

PAUL LAPPALAINEN: I am done.

OLA LINDER: Am hoping you will stay with us for discussion and perhaps we have some questions for you too. Next up me Mari Siilsalu who will give us an overview of the survey that was conducted on legal remedies globally, please share your presentation, I wish you very welcome to this talk.

MARI SIILSALU: Hello, thank you Ola. So yes, as we said I will put on my presentation, there you go. And yes, thank you Paul for a very good presentation. In conclusion I could also say that we in the disability movement have seen quite significant progress sometimes if it comes to enacting new legislation that gives us rights for disabled people. We have witnessed the adoption of the UNCRPD and it's ratification in different countries, we have seen the excitement of pass sing all the different legislation against discrimination in different countries. But as the excitement of the new legislation passed phrase fades away we can also see the relevance of what I choose to describe with this equation, law plus remedies, equals rights. That in situations where the laws that give us right are not followed, we kind of need a Plan B. We need to be able to do something about it. Because when the laws are not followed, and we can't do anything about it, then the situation comes painfully close to a situation where there will be no laws at all. We just can't access our rights, it just doesn't matter was written on the paper. So as we became more and more aware of these issues, we in the Independent Living Institute decided to carry out a survey on remedies. We would like to take a little peak into the world of different remedies, different plans of P that we the how these remedies are designed and organised in different countries.
Today I would like to look at the survey report with you guys as well. So the survey had 6 questions to our respondents, and the first question was what country you come from? We had 30 respondents and they as you see on the picture that I am sharing now, then the respondents came from 20 different countries, which gives a quite a diverse representation of different countries. But since we only had 30 respondents, when we're looking at the results of this survey we have to be very aware of that we can't look at the results as statistical information because there are just so few respondents. We have to look at it as information with qualitative value. So the next question was a question of for what remedies are available in your country and the most popular remedies that are visible on the pie chart that I am sharing now, is the remedy of damages usually monetary, also the remedy of injunctions as well as remedy of issuing an appeal.

Another very popular thing is what here on this pie chart is called 'others'. This where I would really recommend you guys to actually read the survey report, because there we could see some really interesting examples of systems of equality ombudsman or others that exemplify a little bit more creative ways of organising remedies in disability rights.

The next question that the survey was working with, was what are the things that are lacking in the remedy system in your country. And what people, what the respondents then pointed out was that the payment of damages is too low to effectively remedy discrimination, which is also what Paul you were touching upon as an issue. The next thing is that institutions are our responsible for helping people to seek remedy, or not active enough they don't do their work probably so people don't get support.

Another thing is that there is a general absence of strategic litigation strategy in DPOs, also lack of political independence amongst DPOs is a problem in some countries if the DPOs are not politically independent then they can't always help effectively if it comes to remedying lack of access to rights for disabled people.

Finally, there was actually more of a proposal coming up that there should be established some easy access low cost bodies which would have legal decision making power. Which so it wouldn't be so incredibly difficult for people to get a legal remedy. And another thing that the survey was discussing was, was actually the issue of what exactly deters people in your country from taking court action. And the pie chart that I am sharing now, shows that one of the huge factors what holds people back from taking court action is high financial risk, which is again another thing that Paul actually also touched upon, that if you risk to having to pay the out the party's litigation costs when you lose in court, then you might not really want to take the risk. Another thing is that taking court action can take a lot of time which people always don't have, and one third thing that was pointed out quite a lot was lack of knowledge among disabled people but also other actors that are supposed to contribute to the process of using legal remedies.

Finally, the last question that was asked from the respondents was should the discussion on remedies continue? And there we got and overwhelmingly positive answer from our respondents, everybody was thinking that the international disability rights community should continue discuss remedies and how to make them more effective in our work towards disability rights. And there were also some other topic s pointed out which may go beyond the discussion of remedies, but are also very, very important if it comes to organising access to remedies and these issues are access to justice in general, and also training for lawyers and DPOs, development of law clinics, as well as awareness raising on human rights and disability rights more in general. So I really hope that the discussion on remedies will continue from here, so that we can discover better ways to find remedy for breaches of rights for disabled people. I will also put a link to this survey report into the chat box, so you guys
can find it from there. And yeah, you are very, very welcome to contact also after, contact us also after the webinar if you have any questions about the survey or would like to continue the discussion somehow. Thank you.

OLA LINDER: Thank you Mari for your talk and the presentation. Now, I would like to invite Ann Campbell from Validity to the floor. Will you be sharing a presentation.

ANN CAMPBELL: I will not because I don't like slides very much, so I am just going to talk to you guys if that's all right.

OLA LINDER: Excellent.

ANN CAMPBELL: Super so thank you very much for giving me some space to speak today about this really extremely important topic. What would like to speak to you a little bit about is the connections between the violations of rights that women with disabilities experience, and options and opportunities for remedies and redress offered by the international torture law framework, and how that looks like a national law frameworks. Because I think in my view that it opens up a lot of potential remedies that are not traditionally used by people with disabilities, including it also offers ways of potentially tackling institutionalisation and access to services and supports in the community.

So I think most people here are familiar with the types of violations that women with disabilities experience, but let me serious set out a little about the sorts of taking that I am talking about when I am talking for the next 10 minutes or so.

Obviously women with disabilities experience all of the same violation and violence as men with disabilities, but they also experience gender specific violations, and these include for example, domestic violence, sexual violence including an institutions and group homes, and arrange of violation of suitable and reproductive rights including non-consensual sterilisation, forced abortion and on the flipside denial of access to abortion, physical and gynaecological examination without consent, denial of pain medication and on the flipside denial of access to contra exceptions and various forms of humiliation, such as in Hungary we met a teenager in an institution who was forced to wear diapers in spread of being access to feminine hygiene products or in Moldova we mute young woman unpsychiatric hospital who was tied resonated to a f naked to a bed in full view of everybody else on the ward. So to me from a non-legal perspective, many of these acts alone or together, can be called torture. And there is law internationally to back that up. To back up that claim.

The definition of torture in article 1 of the UN conventions against torture, includes four specific elements that you have to prove in order to prove that somebody has been tortured. First is that they have been subjected to severe pain and suffering. That is analysed from the subjective and objective point of view, so both did the person experience the act as severe pain suffering, and from an outsider perspective, does it look like that's what it was. And pain and suffering is both physical and so-called mental suffering, which is psychological or emotional suffering. And it can be that if you have been subjected to four or 5 different types of violation’s so-called small violations that are forms of humiliation, that a lone they might not objectively look like they give rise to severe pain and suffering, but actually together the affect can be very, very severe for the person experiencing it.

The second criteria that you have to prove is that what happened to you or the act that was inflicted on you was inflicted intentionally, that means that the person did it with intent, not to torture you but to actually do what they did. They were conscious of what they were
The third thing is it must have inflicted severe pain and suffering, intentionally for a specific purpose. And traditionally that is understood as extracting a confession from a prisoner for example. But actually, the convention lists a number of other purposes including for the purpose of intimidating somebody coering them for the purpose of punishing somebody or based on discrimination of any kind. The fourth criteria you must be subjected to severe pain and suffering, intentionally, for one of those purpose’s by state authorities, or with their acquiescence. So they have not stopped it.

Many of the violations that I spoke about at the beginning, for example, forced sterilisation, these are inflicted intentionally. The level of pain and suffering emotionally, psychologically and physically is very severe, and measures that are taken in group homes or in institutions are often taken to punish the person for breaking the rules of the group home or the institution, or to control their behaviour by intimidating them into following the rules or coercing them into following the rules many measure such as restraits or forced medication are discriminatory because they are either exclusively or disproportionately applied to disabled people. And when, the last criteria around it must be done by a state authority, seems like it might be a limitation, but there's actually quite a bit of case law that suggests that if a private actor carries at these acts, so a private institution offer a carer in somebody's home or somebody providing a service in a private support service, day care centre for example, the state has an obligation to carry out due diligence toe prevent those sorts of violations. So for example, before the European court of human rights there have been a number of cases where somebody was beaten or murdered by their spouse in their house out the court was found, the state was found liable under Article 3 and the prohibition of torture and ill treatment because they didn't take effective measures. They failed to take effective measures to prevent the murder or the violence. And they didn't take enough steps to provide a sufficiently deterrent affect to stop the person from doing that.

Now one of the reasons that I think the prohibition on torture is actually a very interesting lens for lawyers to look at, when they are talking about the remedies for people with disabilities is because it opens up access to the international redress framework. This framework looks at redress for victims of torture from a really wide angle, so it looks at 5 different types of remedies or redress that can be accessed. Or should be accessed for people who have been subjected to torture. One of them that I think is crucial, is the remedy of satisfaction it's called. Which is essentially about recognising that what has happened to the person is a form of human rights violation, and a form of torture, and a lawful act. I think because of the types of violence that women with disabilities are subjected to, regularly, are not considered crimes or even human rights violations, that the requirement to recognise these as torture and as unlawful can be an incredibly powerful tool. I am thinking for example forced sterilisation it's one of the tongues that comes to my mind straight a way so many women with disabilities are forcibly stare lies sterilised without talking to them without any notice being given to their opinion whatsoever and yet everybody thinks it's quite normal. Whereas in fact, the torture framework can be used to compel courts to recognise that that is unlawful.

It also can be quite powerful in terms of recognising that institutions are actually place of detention, so if you can make the argument understanding the torture framework that rape in an institution is Akin to rape in a place of detension because the person can't get out you can make the point that institutions are not by choice but people after forced into them they are unlawful as a result. The second element of redress framework I find particularly interesting, for lawyers to look at in this context is the requirement for the state to ensure
non-repetition of the violation.

So once you have shown you have been subjected to torture there's an obligation on the state to ensure that you are not going to be subjected to it again. This to me is very interesting I think, because it requires the court - sorry I keep saying the court, the state, to make sure that they take measures to create an effective deterrent for people, private actors so they don't do this again. And that includes things like regular monitoring of institutions, of service providers, there must be a genuinely effective complaints mechanism but in addition to that, when a prisoner is tortured in prison, there's an obligation to remove the prisoner from that prison and to take them out of the environment where they have been subjected to torture. So the question arises for me is there also an argument that a person who has been tortured in an institution must be removed from that institution and placed in a place where they are not at risk of that happening again. In my view there is quite a strong argument with that.

The third element the redress framework that is very relevant is that people who are subjected to torture are entitled to rehabilitation as a form of redress. I think in the context of women with disabilities, and people with disabilities in general this rehabilitation must be disability sensitive and disability specific. And there is a possibility there of looking at, lit engage that entitlement to rehabilitation to access adequate and effective supports and services for people who have been subjected to these sorts of acts.

The other up to elements of the redress framework, there are restitution, and compensation, but I think they are less relevant so I won't highlight those anymore particularly I guess I want to briefly finish up because I know I don't have very much time, by saying that in national jurisdictions, the international Convention, the UN Convention against torture requires states to have a prohibition on torture at their national level so most states do have that as a crime, and using the criminal law is, can be quite an effective way of trying to highlight these issues. Even if the country doesn't have and split prohibition on torture they will have other forms of law that they use to litigate torture that are used by so-called I guess traditional torture cases. So have a look at those and see what is available.

Most countries also allow you to apply or interim measures during litigation, for example for release from a place of detention or for immediate access to medical or psychological or social services. We have ton that in Hungary for example using and process we have had some limited success with it but also look at victim support services, for for victims of crime general lined victims of torture specifically. While many don't cater for people with disabilities explicitly, they actually have expertise in relation to psychosocial disabilities even to they don't use that term. So working with them and making allies of them and capacity building them to provide services to people with disabilities is, can be quite beneficial.

Also, research what redress schemes exist for victims of torture in your country: There maybe existing schemes or there may have been schemes set up for certain reasons, for example I am thinking in Ireland a scheme was set up for compensating sexual abuse of children in schools biomedical the Catholic church honour check republic a scheme from says other to compensate difficulties of sterilisation in the Roma community. These schemes are often available without having to prove the torture or at least not to same level as in a court if they don't exist consider what systematic violation might be susceptible to advocacy to create that sort of a scheme or public enquiry.

Lastly also look at considering using civil law to litigate positive obligations of state to provide redress for victims of torture. There are lots of pros and cons to that, I think some of them were touched on earlier and so I won't go into particular detail but we're taking that after new in Moldova for example. Crafting a case for access to social services for our client
as a victim of torture and of trafficking, we're also taking that have view in Uganda, looking to
graft a case for access to suitable reproductive rights, information and counselling for a our
client a a victim of rape in an institution. That what to if say for now I am open to questions
later of course and feel free to reach that me individually if anybody is interested in more
thank you.

OLA LINDER: Thank you very much Ann it was very illuminating thinking. We're getting
closer to a much broader picture now regarding different kinds of rights issues, and what
different kinds of remedies might be useful and effective but I think before me move on we
should take 5s minute or so of a break that we promised, so I suggest we see each other
back at quarter past 3, CET then me will be talking to Stellan Gärde and Timothy Hodgson
about the right to legal aid and lit engage economic at social right I will see you back in a few
minutes. Thank you so far...

OLA LINDER: Ok welcome back everybody let's get on with the agenda next up we have
Stellan Gärde, to talk about the right to legal aid as a human right. Welcome to the floor.
Are you with us Stellan?

INES BULIC: Ola. This Ines speaking, Julia is saying she needs a slightly longer break, so
she needs another 5 minutes. She just sent me a private message so maybe we wait a little
bit longer, I am no sure I leave it to you but she did send me message.

OLA LINDER: Well of course we need to do that F she needs it. Just didn't know about it.
We'll see each other break then at 20 past we'll get on with it straight away.

OLA LINDER: I think the captioning function and Julie Julia who is doing the service, let's
say Stellan are you ready to go at 20 past. Ok food thank you we'll see each other pack
very soon then.

OLA LINDER: Ok I see the clock has struck 20 past 3, so I give the floor Stellan are you
ready?

STELLAN GÄRDE: Yes I am ready. Yes. I asked hello friends, I I am a litigation lawyer in
Sweden, and these last years before I made enough I many cases related to labour law and
what seemed a very good position that all the cost of cases were financed for each members
of the trade unions by the trade unions. So there was the, by the membership they had a
free access to lit engage lawyers and also negotiators and so on. But when you come into
the area of disability and the area of Civil courts administrative courts, it's obvious that
biggest difficulty for access to justice today I find in the courts. If if there were positions for
funding or any other sense, the possibility to access the court without being afraid of a lot of
financial costs, it would be very big difference for the people involved.

But I will just go, did you have the text I gave you Ola?

OLA LINDER: Yes I can share it with everybody. Just let me know when you want me to
shift something.

STELLAN GÄRDE: It's the first page, I just like to cite on the top, in Article 6 human
convention of human rights, you have the right to a fair trial regulations, and that is the most
important part of that or at least very important part of that is the right to fair hearing. This regulations has been interpreted in that way also if there's a huge imbalance between the parties, so if you have a one person who is private person, and you are have you case against the state or the local community. We have employers, lawyers, are employed and have M enough resources to engage lawyers, the they don't always do in court cases, then if you have no access to legal aid you will be you will not be imbalanced there is no equality of arms unthat situation. Actually the European Court of Human Rights has taken some case's they if you take the next page go down, second page, there are some cases, one very obvious case was steel and Morris versus the United Kingdom. It was two people that belongeding to Greenpeace who were in court against McDonalds. McDonalds argued they were liable due to their participation in a a grown peace campaign against the company. And in the two persons were not given the right to legal aid by the state and just for taking the court found that the plans between the parties were not in any sense equal. Just in the first instance there were 313 days of trial, and they didn't have the possibility financially to have the cost covered for their lawyer. The court said the parties had complete different conditions of bringing that action and the lack of legal aid in the case means that the defendants did not have a fair trial. Evening it should be, I don't know for sure that everyone looks at this as a human right but it's actually a very basic human right but legal aid should be given in some cases. Also in second case is will just further below owe La it was it's a PCS versus United Kingdom, it was parents who had had a case where involuntary custody of their children and of course that was a huge complicated case and of great interest for the parents and even that they weren't given any legal aid from the state it was found it violated the right to a fair trial. The third case was a defamation, and it was not that kind of case that the court fantastic was in the breach of the fair trial regulations. In Sweden when I have reached one clients I have one client who his name is dick, he was on the national television the other day last week, for his situation when he was ill treated very ill treated in an institution. His disability is in that regard that he's is on the age of 4, Heyes about 40 years old, but he is mentally 4 year old child position. He was not given legal aid due to the fact they sit he had a trustee who was not a lawyer only his Grandma ma and he had no legal experience at all. But the courts did say that according to the Swedish system, she would be able to with the support of the court, to do all the cases. His case. And this case was going up to two different levels, and was a lot of oral hearings and a lot of witnesses and a also a lot of interpretation of the law sent on and court cases and so on. For me it was obvious she was not able to do the case., and this was in the administrative courts. And in Sweden it's 98% of cases they are not, they don't give any legal aid in the administrative courts. A lot of cases are administrative cases due to disability, the right to different assistance from the state and so on! believe in this area where we have a disability, where you can't dewart yourself, in any says. You need a lawyer, they should be obviously general rule to say that this area of the law will be free legal aid. In the administrative coined Sweden, even if you win the case against the state or the local community you're not giving any support, you're not covered your costs any how. So next week, this case has been going two Supreme Court of Sweden the supreme administrative court, next week we will take the court to the European Court of human rights. I believe there's a need for the area of disability to be very active to ask for and demand legal aid in their cases. Normally its very, very difficult for them to, themselves the law is very complicated many times to make a case in the courts. And even if you go to, this is in if you go to Civil courts, obviously in general we can say that if you're going to have effective human rights, any convention has the pace for any human rights that they have to be effective if it should be the only way to make them totally effective
is to also offered possibility to take the case to court. And if there is no possibility for legal aid, in human rights cases, and in Sweden it's very, very difficult to have human rights cases and legal aid, even in civil courts even if you have legal aid according to a state scheme it's obvious that you will have a problem with the if you lose the case, you could have cost for half a million, bought your own cost and costs for the opposite party. I think when it comes to basic human rights I think one should very strongly that are funds developed in order to for people who are obviously in case where their human rights have been via lady, the possibility of have their legal aid either by the state scheme or by a private fund scheme, proceed to that human rights are effectively protected so I take any questions later on this matter. Thank you very much.

OLA LINDER: Thank you Stellan it's really interesting to saw in more cases how the access to justice matter so is central to actually using your remedies. Are final speaker before we go into the discussion I Timothy Hodgson, I welcome you to the floor will you be giving a presentation.

TIMOTHY HODGSON: No I don't have a PowerPoint.

OLA LINDER: That's fine.

TIMOTHY HODGSON: Also I think the least Swedish person in this conversation, which is no problem for me, I am in South Africa I am South African I am sitting here in Johannesburg I work for International Commission of Jurists, the International Commission of Jurists for those of you not familiar is an international organisation which is a human rights organisation but at the top of it's it's a secretariat of commissioners who are mostly judges, very senior judges round the world sometimes academics and other lawyers, and we work towards promoting the human rights and full of law all round the world. My speciality is economic and social rights. I think what Ola wanted me to speak about today is both economic the social rights but connecting to it remedies which is a theme we have discussed and disability litigation.

What I wanted to do to start off with I am doing to talk a little bit about domestic and social economic rights litigation but first let me say so we'll all on the same page when we talk about economic and social rights we're talking about the right to worked the right to housing, the right to healthcare the right to water, the right to education, the right to Social Security and so on and so forth. We're talking about rights which classically are considered to be issues of policy for how the state will improve society and welfare of society and in different countries round the world at different times, governments support different programmes for this. The question is really what is the role of the courts in ensuring that people's welfare is protected. In international human rights language and ensure river hang the culture and human rights of people are protected promoted and fulfilled. That's what we're talking about there when we get to remedies I want to say this because is has not been mentioned. From an international law perspective there are principle says there are uh N guiding principle s that have been endorsed by most all countries in world in 2005 on remedy and reparation. I won't go into detail about other you can find it online or I can provide it to you but these principles a play apply to all states, they apply to all areas including the realisation of social and economic and civil and political rights, they obviously apply to situations involving the disability convention too, and that means that there's an entitlement to an effective remedy, a right to an effective remedy which includes Ross s res res Tuesday, compensation, and
guarantees of non-rep repetition. They will see when you look at the recent case which Ola sent to me the independent living the Swedish case about person the deaf man who could not get a job I think that's correct, it was discriminated against by the University, the committee on the right of persons with disabilities follows really this list of remedies that it profits. Res Tuesday, compensation, rehabilitation, satisfaction, and guarantees of non-repetition and generally makes order ands provide remedies that follow all of the things instead of merely provide dinner deck clear racial or compensation. It's even discussed today I don't want to underestimate it today, I don't want to get into the specifics of how there can be remedies for social economic rights cases, and it's a very important thing that people miss, sometimes we get stuck up in a substantive legal principle, what does reasonable accommodation mean what does accessibility mean, what does reasonableness mean in a test of whether a Government policy is reasonable. Procedural law and legal procedures often dictate the availability of remedies. So in almost every single country where there's effective litigation, on social an economic rights you will find courts have adopted procedural measures, which allow for that so for example, one of big problems that have been raised here is legal assistance. Another one is costs, in South Africa for example F you're a Nop for-profit organisation you make a bonafide argument in court there's a legal rule set up in the courts you cannot have a cost order again you cannot carry the cost of the other party's litigation. Because you are lit engage in the public interest. One major thing. Second thing is standing rules so allowing for organisations or NGOs to litigate on behalf of categories of people whether as a class action or in public interest litigation in India, South Africa, Colombia all other countries where you find a lot of litigation for welfare and social many rights you see these procedural rules have allowed for that.

What I can say in general before I start out is that in Sweden if you look the the most recent recommendation of committee on economy and social rights the UN Committee, rerepeatedly the committee recommends to Sweden to ensure that the rights in the international covenant to which Sweden is a party can be domestically or domesticated through putting legislation so they can be litigated direct Lee so what is social economic rights litigation how has it happened in South Africa s because I am using South Africa as a case in point, there are other countries though. Actually most countries in the world most constitutional democracy some form of social and economic rights litigation can happen.

All the rights I spoke about the question is when they are deprived by a bun and by definition if you're a person living in that in there are people living in provided t all round the world, then you are very unlike to have full access to economic and social rights if you're living in poverty. There's always a litigant, the question is how can they found the courts and one have discussed all sorts of problems and hurdles that have happened on the way. Toe hurdles are even bigger in the disability community. Now the reason why they are often bigger in the disability community is that this classic separation between a social or human rights model, and a medical model. So very often the disability advocacy community in many countries round the world, it's not every single country, is separated from the human rights community or people advocating for other quite unquote mainstream human rights issues by virtue of the fact that it's considered something else something separate. The separation happens even in legal advocacy and in legal communities you often find human rights lawyers who are only doing disability work then human rights lawyers doing everything but disability work, and they are separated. But this happens in South Africa too it's very hard to explain other than this way offer thinking about the world. But with social and economic rights litigation the typical situation you have person living in poverty, they are being evicted from their house, or they are being dismiss from the there job or they are not
being able to trade in the situation they might be a foreign national, not allowed to trade not being given the documents require to trade or you have a person who in the situation of a child with a disability is being denied access to a local neighbourhood school. That person comes to a lawyer, normally a not-for-profit lawyer because they don't have money and says what can we do about this. [background noise] the typical problem that's been raised round the world is how can the courts dictate to the Government what to do. The core of social and economic rights litigation is to say although the courts can't make policy decisions for the Government, in any country in world that's not you go idea judge are not well placed to do this, the court can say whether a basic level adherence to human rights protection has existed in a policy or law either in is formation or implementation. They can say whether or not that law or policies discriminatory, they can say whether or not it's been considered to be reasonable. The sentenced to determine whether or not the Government has taken sufficient measures, to progressively realise all these economic social cultural rights in a country like South Africa has been for courts to say we will just tell you whether or not the measures you have Tanner one of reasonable options you could have taken. So to give you a silly example, there are many ways you can respond to COVID round the world but a court might be able to say it's unreasonable to say [background noise] COVID-19 Chinese virus brought on us by other people wearing mask is an inhibition of your freedom as we see in some place of world it's not that court will say this best policy option they will say you have considered this which experts have you consulted is it based on rash evidence is is something you could have come to use a conclusion it I a reasonable conclusion. This is how this litigation works. Socio economic rights litigation is aided by the fact there are international standards for the minimum core or minimum standard of each right which everyone is entitled to and the standard that retro gretion, or moving backwards in access to housing, water, or any of these materials is not permitted on behalf of the states that are bound to the covenant. We're getting into the debate about whether or not you have chosen a reasonable policy, why because you have not even provided the minimum amount of access. So when it comes to persons with disabilities, this is normally the case. Normally the problem is that there is simply not adequate consideration of persons with disabilities needs in a policy about education, or healthcare or how King, or if it it's, it's not implemented in a way that is reasonable at all. It's very little effort. Sometimes and this is a question which always come up, resources are mentioned. So when accommodation is asked for for a person with disability, or whether more generally persons with disabilities ask why can't we be accessing the same schools, same healthcare institution, housing as everyone else the Government will say that there is no money. That is in social economic rights litigation across the world permissible defence from the Government. I can tell a in my experience in almost every country in very court case is have ever seen a Government claying a lack of resources has never been able to illustrate a lack of resources. Why because once a court simly accounts, put up information explaining why there is a lack of resources everything suddenly goes silent right. So a local Government will not want to disclose it's budgetary information because almost always governments are spending money on things they don't need to spend money on, or wasting money or not bringing in as much one nice they could. Governments don't like that scrutiny so when you litigate you shouldn't fear the Government Kayning a lack of resource because most often they are not even going to explain why they lack resources. But even if they do, the courts shouldn't be looking at the minutae of budgets, and determining what the Government should or shouldn't budget but for example if the Swedish Government tomorrow said it's not going to budget a single cent for education next year you would understand that a court might be able to do something about
that. Because it would be obvious to a judge that this a Government that is not taking education seriously. That is not actually taking positive measures to respect, protect, promote and fulfil the right to education. I have given you these centimetres I have not used specific case but there are many right, there are many cases relating to disability and not to disability in countries across the world about challenges to policieses to get the policy struck down or changed, or challenges to the implementation of policies, challenges to discriminatory policies, challenge thoughts Government's non-initiation of a policy in the first place so you might have a country in which there are no measures taken by the Government to provide housing for homeless people. So shelter and housing. Or victims of domestic violence. And then you can say well there is a positive obligation on the states to plan for that and the remedy you ask for is the creation of those housing settlements or whatever the case maybe. I just talk a little bit more to remedies, you also obviously need a court system that I amenable to the Krause of creative remedies. In South Africa the constitution says that courts in determining the constitution natural of a certain law policy or action can make any sort of which is just and equitable in circumstances that's constitutional direction which the constitutional court says require them to innovate and create different remedies in different situation. Is a also you direction you could produce out of the principle of international law if you were a judge who wanted to do that, or out of the principles of natural justice. That is obviously the judge's job to ensure justice in a particular situation and specifically when it human rights claims that R been made and judges should try and interpret their powers broadly. Although not too broadly to be inappropriate in their function. One of the things that you realise from social economic rights litigation when you see it practically there is very little a judge can't do when a case is argued properly and the correct information is in front of that judge. One thing which judges don't do enough in these cases when they are claiming that they can't make decision about social and economic rights they can't make orders is they are not insisting on information. Simply by convincing judges a to insist on the state providing evidence, experts to be providing evidence, is normally half of the battle won in this type of social and economic rights situation. The orders F you have already been discussing today, can be anything a long these lines of the international principles on remedy and reparation. It can be financial damages, but depending on the circumstances that maybe very effective or it may not be very effective or they can be declaration. Of illegal gallonty they can Structural intertickets so sometimes whatever the courts does in South Africa it will say the Government has taken 20 year it's done nothing to produce social housing for people. There is no reason for us to believe that if we don't require the Government to report back every year about this, that it's going to continue to allow to change its ways and produce results. So then the court creates a mechanism through which there's a report back. In some situation's and in some other unc there is it's too but the court can appoint a special master an administrative position right, which which is administrative body which will be required to observe the implementation of a judgment. This is very common in India, has happened on litigation to do with the right to food, in Colombia what the court has sometimes done is these violations of a specific rights, so in a classic context in the Colombian situation the right to healthcare so is common, that we will allow people to come to court and just get a declaration of this rights which then can be disputed by the Government. You get a declaration saying you have a right when you go to the clinic to get X medical service. And it's not being enforced. In Sweden this probably less of a problem except for looking at the details for marginalised and disadvantaged groups of people. So Sammy sami people, ro ma people, ethnic in orders. Litigation across the board is always important in social economic rights litigation because it's always discriminated
against minorities who have the least access to economic and social rights.

The last thing I want to leave you with is also that the question if you are working in disability rights advocacy, if you're not working mother-hand in-hand or ensuring or demanding support and a AI audience from activists in civil society, any entity that's public active in moving forward a society if that there is separation between disability fantastic, other human rights advocacy which I have identified, then it means that the segregation of persons with disabilities from mainstream society is playing out in acdivvyst environment. If that's happening you can be very surprised when it comes to COVID-19 litigation and remedies gains for people that are not M disabled, our happening quicker than gains for people who have disabilities. This is an unfortunate and terrible thing that happens in South Africa civil society too, I think I explained this to Ola the other day when we had a discussion, you will have a situation where there's a problem with access to textbooks for an entire province of people, they are not getting text books they need to study for school. Then you have litigation which demands access to textbooks. Only for 3 years later to have to have for example, blind children litigate again to get access to Braille text books loss they still don't have access to their textbooks. And really I can't encourage enough for the strategy to be the complete mainstreaming of disability rights in any and all advocacy, for the improvement of social welfare in society, and I hope that I have created overall general idea about how it is that a court might be able to both determine whether a violation of economic and social rights has occurred, and then to provide some kind of are you me remedial action for it the remedial action will depend on the circumstances and dependent on s rights, but it's about craft in something which is effective, that gets the correct Government response as well as makes structural change as well as reparation to a particular individual or group of people.

OLA LINDER: Yes thank you very much Timothy, I think one of the main lessons here is that we need to pursue procedural frameworks, parallel to the material rights because without the procedural work toes enforce the rights, it's really hard to claim they are effective, and even actually rights. I think we have a few minutes now not many 4 brief discussion or actually questions, to the speakers. I see two hounds, please keep the questions s brief, first one up we have amose Becky we can't hear you? Are you with us.

>>>: Can you hear me now? My name is amose faith pe ki I work as a care giver I am a student in University studying international social work I am also a mum to an autistic boy who'll is 24. Following the discussion what the last speaker just said the courts sometimes they just tend to ask very little information because I can as well see my son situation not only as racism and discrimination because sentencing Manuel to compulsory indefinite psychiatric care because he has an out burst and the police was called, and the police officers went ahead and pressed charges means you sentencing Manuel for being autistic, mental and intellectual disabled. It means Manuel, had a choice choose to be autistic which I don't get it. And then before the sentencing we were sent for forensic psychiatric evaluation, meaning the autistic person there are times when they are autistic a times when they are not autistic: I don't get the picture my same son was knifed when I tried to press charges I was told he doesn't have the psychological capacity to witness or explain what actually happened. Now is like something like a systematic torture, and we talk about forced medication if you look at my son his so so his position so I pa te tick. He's been forced on medication, he's been locked up been beaten, belted for not following the rules and regulations we know this autistic people have the tendency of, a have a problem following
rules and regulations they are punish belt him locking him up in a psychiatric centre meant for psycho, this not someone who's psychopath this is an autistic person that was born autistic is going to live his life. So just complete punishment. Even I don't know where to turn to people when people ask me on media Becky can we raise some funds for lawyers, I don't even know where to turn to. I say I don't know I c cannot tell you guys I don't want to collect anybody's money because I don't even know where to take it. That's my question. I don't know.

OLA LINDER: Yeah I think your remarks role show that sometimes it's hard to know what remedy would be useful, if there is any in the country. And this is a perfect example for where we need legal aid schemes so you can access to a lawyer and go through the case and try to find these legal revenues for change or.

PAUL LAPPALAINEN: Have you been in contact with civil rights defenders.

>>: The point is you make contact with a lot of I have made contacts with autism and Aspergers I have made contact with Ola Lynndener, I have made contact most often I make contact with autism in the U the.

PAUL LAPPALAINEN: I don't c about them I know about civil rights defenders.

>>: I have contacted Ola Linder, I have contacted you.

OLA LINDER: I don't want to go into the case now in this open space, but perhaps we can move on to the next question or also, do you have a question DAG.

>>: Yes can you hear me great. Thank you very much my name is Dag, and I am a doctoral candidate at the University of Pretoria working on violence against persons with disabilities in Africa a case study of Ethiopia I am a person with disabilities myself I have a couple of questions and one comment very brief ones. The first one is a question to Mari regarding the report the survey report on remedies, so this issue of equality bodies has it surfaced in your survey by any chance, how prevalent they are, how present they are all over the world, or are they more vocal and available in the west or in the north, than the south? That is one question. The other one again is related to the survey report and that is the issue of lawyers with disabilities, did you by any chance have any response indicating the relevance of having lawyers with disabilities empowering persons with disabilities to get involved as lawyers and also assist incure bring the status quo of discrimination in and violence. The last one is a comment regarding the issue of torture, I think that was a presentation by Ann Campbell, the ICCPR and the human rights committee general comment 20 I guess on Article 7 states this requirement of involve of public official is is not necessary I it's relevant in order for torture to be defined as torture. So we do have an authoritative interpretation regarding that, indicating that the presence of public entity or public organ is not necessary, I just wanted to highlight that thank you.

OLA LINDER: Ok thank you I think the question is directed to evidence people, who is open to answer verse I think it was both to Mari and to Ann.

ANN CAMPBELL: I am happy to briefly respond to the point on thereture which is very, very
good one. Absolutely there's difference between the way that the ICCPR deals with it and the way the CAT deals with it also differences between the definition of torture and the definition of inhuman treatment under CA dah, in human treatment doesn't require the participation of a state official directly either. But I think also, and probably most important for this webinar into look at the national laws that are in place in your own jurisdiction for this question because many national laws have domesticated the CA dah convention or torture definition in different ways, some are wider than the actual article 1 definition is. I was speaking about for example in Uganda they have enacted an anti-torture act that's includes, that doesn't require state involvement and also includes a really long schedule listing the types of things that the Ugandan Government considers to be torture including things like non-consensual medication for example. Though of course it's always more complicated on ground than the it sounds on pep in relation to that! But yeah it's a really important point that the different ways that the legislation domesticated the different international bodies the way they interpret it means the requirement of state obligation is not always as clear-cut as it seems when you read it first. Sometimes there's quite a lot of wiggle room round it.

OLA LINDER: Thank you. Mari do you have a reply too?

MARI SIILSALU: Yes I do, I would like to address the first question first about the equality ombudsman and how prevalent they are in the world according to our remedies survey. Yes the remedy survey did discuss the topic of ombudsman if you read to it learn more about that, specifically there was the discussed the Swedish example of equality ombudsman and both the good things about it but also the short comments of the equality ombudsman system like for example some lacks in legal power for the ombudsman and this kind of things. Now, when looking at the issue of prevalence, then we have to really remember that the survey did not cover the different countries in the world very well. We had only 30 respondents, which is way to a little to make any conclusions about prevalence of something. But it did indicate that there is this kind of system of having an equality ombudsman is used. Now if it comes to the second question about the need for disabled lawyers in the litigation, to combat the status quo in the lawyering area, then that question, I don’t at least remember that would have come up explicitly in the survey. However, the independent living movement of course stresses the point of having disabled people promoting their own rights in as many areas as possible. So the independent living movement of course does really stress the point that if you're going to have, effectively litigation systems and effective representation of disabled people, then of course lawyers too have to be people who have their own experience of being disabled themselves. Thank you.

OLA LINDER: Thank you. I think we may have one final question from cat ca then after your question we'll have some final words to end the webinar. You need to unmute.

>>: I will have one very quick question it's related to CRPD it's implementation on national level particularly Article 19, and the way that disabled people are provided with personal assistants. There are many countries where Government say we have personal assistance but actually it's far from the, from what the CRPD prescribes. So is there any possible to have a court case or a legal case of violation of CRPD if a personal assistants is not provided in the way it's prescribed in CRPD, and I want to thank everybody for this brilliant webinar and for all these people, who I see here, which doesn't happen very often and it's very helpful. Thank you guys.
OLA LINDER: Than you any of the speakers would like to address the question? I don't hear anybody. Tim you have your hand out. I will give the word to you.

TIMOTHY HODGSON: I wasn't on that, I mean I think that what Kapka is asking is very good question, I think that you could litigate on that, and I think the reason why it would be important too is that for convention and for human rights instruments to exist, you have to really cut down language to a very small amount. And in those words always need to be given meaning right in my environment when someone says you have a right to education, then the question is, it doesn't talk about schools it doesn't talk about teachers, doesn't talk about how good the teacher bus be, whether the teacher must be qualified in a certain way et cetera. And the same thing with support workers, you're going to need to give definition to it because otherwise it's open to interpretation by Governments and normally even if it's not with disability it's as often as abuse as neglect. Just absolutely no ability or knowledge. I can tell you in South Africa for example just to give you one example of a support worker, orientation and mobility instructors are needed for blind people and for other persons with disabilities to be able to navigate the environment. But the Government doesn't produce any formal training process to train these people. It's not and acknowledged profession. So it's any happening informally within the disability community so then obviously the standards can be complicated, there's too few people, they don't get paid enough, it's not like with doctors or OTs or things like that you can regulate so I think that litigation would help even F Government probably to refine its own mandate. The point that I wanted to make and it's coming back to the question that was asked first by I think it was amose your child's situation is obviously horrible, but unfortunately common all around the world. Because of the way that in institutionalisation is a preferred method of dealing with disability. I have posted a link here to recent principles produced by the Special Rapporteur disability are attempt to try to ensure that people with disabilities can be involved in their own trials, in accessing justice. Those principles would be very useful to advocate on any in any country to try to get the Government to think about read forms to the legal systems that need to heap to prevent those situations from happening it's obviously not a very easy thing for to assist a specific case and this is very long-term change, but the entire world is created in such a way so as to not provide what is necessary for persons with disabilities to enjoy there rights and when they come into contact with the justice system, it's almost always the most painful experiences and these principles I think can be very useful for advocacy to change legal systems and legal processes to try to make it much more possible in the future, to be able to litigate on these issues.

OLA LINDER: Yes thank you. I am going to say a few closing words. I think that the question to which we have arrived apt the end regarding Article 19 and the right to living independently in the community is quite representative one for understanding thes complexity sometimes or the rights issues at hand, and how at least in Sweden and I'm sure in many other countries too, that the legal frameworks are not very good at actually fitting the rights and the litigation or possible litigation to have the rights materialised in the internal prosee industrial frameworks. It's just not how the rights have been managed in the national context so I think this is where we wanted to end up with this webinar, to find that there are remedies there are possibilities, across the globe but it's not always the case that you have all of them in one country. So you don't necessarily have the opportunity to easily litigate in on the rights just by referring to them. You would have to find other more detailed after news
and I think coming back systemic change also regarding M remedies is a very important one, regarding legal aids so you can access those remedies. We heard stories also about the urgency of the matter in personal testimony. So I think we have a lot of work to do and I would be happy to keep collaborating on this international area too, regarding remedies and access to justice, and with that I think we should close this webinar and continuities discussion elsewhere so thank you very much everybody for attending, thank you Julia for captioning.

>>: Thank you very much Ola. Good performance.

>>: Thanks everyone.

>>: Bye-bye. everybody it was great being with you.

TIMOTHY HODGSON: Cheers everyone