

# Our Rights - issue 33, May 2011



**The International Disability  
and Human Rights Network**

Please visit <http://www.daa.org.uk/> to leave comments, or email us at [info@daa.org.uk](mailto:info@daa.org.uk) with your news stories.

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## **Convention**

### **Sign ups**

#### **CRPD**

- 148 signatories
- 100 ratifications

#### **Optional Protocol**

- 90 signatories
- 61 ratifications

### **Call for African Union states to ratify CRPD**

The Secretariat of The African Decade of Persons with Disabilities (SADPD) has called on The African Commission on Human and Peoples' Rights to urge African Union member states to ratify the CRPD and the Optional Protocol. They also ask that the Convention be incorporated into domestic laws to ensure its implementation. Besides ratification of the CRPD, the SADPD also asks, among other

things, that:

- The Commission should undertake a fact finding mission to Tanzania and neighbouring states to investigate and make recommendations on the situation of persons with albinism.
- The Special Rapporteur on Women's Rights in Africa to undertake investigation on sexual violence against disabled women
- The Special Rapporteur on internally displaced persons and refugees to undertake a mission to all the countries in conflict to investigate the situation of disabled people within the refugee communities, internally displaced persons and people in conflict situations.

<http://allafrica.com/stories/201105051029.html>

Editorial comment: The call from the African Decade points to the fact that only 26 of the African Union 53 member states have ratified the CRPD, and of these but 14 have also ratified the Optional Protocol.

## **100<sup>th</sup> ratification**

On May 12<sup>th</sup>, UN Secretary General Ban Ki-moon said that Colombia's ratification of the CRPD marked, "...an important milestone for Colombia and for the global community." He added, "The Convention on the Rights of Persons with Disabilities is a powerful tool for inclusion and development. Let us use it to make concrete improvements in the lives of persons with disabilities."

<http://www.un.org/apps/news/story.asp?NewsID=38365&Cr=disability&Cr1=>

## **New on-line book on CRPD**

The Center for Human Rights of Persons with Disabilities in Finland (VIKE) has just published an English translation of, **United Nations Convention on the Rights of Persons with Disabilities – Multidisciplinary Perspectives**, a collection of 15 essays, edited by Jukka Kumpuvuori and Martin Scheinin.

The essays are organised in four sections; UN CRPD – why and what?, 'Traditional disability rights and the UN CRPD, Participation of persons with disabilities, New trends in disability rights.

The book offers introductory material on disability rights, as well as some in-depth studies of particular articles of the Convention and how it has played out in specific countries and regions.

The publication can be downloaded free of charge at:

<http://www.kynnys.fi/vike.html>

## **UK's draft report on implementing CRPD out for public comment**

The United Nations asks all countries that have ratified the Convention to submit a progress report after two years. In accordance with this, on May 16<sup>th</sup>, the Office for Disability Issues (ODI) released a draft report on the UK's implementation of the United Nations (UN) Convention on Rights for Disabled People, since July 2009.

They have invited comments from disabled people and their organisations. Evidence can also be submitted directly to the UN. The deadline is June 20<sup>th</sup>.

The ODI is currently developing a cross-government Disability Strategy which will identify how the Convention will be implemented in the future.

For more information see: <https://www2.dwp.gov.uk/odi/un-convention-on-the-rights-of-disabled-people/have-your-say.asp>

## UK

### High Court rules social care cuts unlawful

Birmingham City Council has been told by a High Court judge that it ignored provisions in the Disability Discrimination Act when it decided to stop providing care packages for about 4,000 adults whose needs had been assessed as 'substantial'.

The council cannot carry on assessing individual needs until Mr Justice Walker delivers his full judgment next month, and is likely to have to conduct fresh consultation on equalities issues before reaching a new decision on the future of social care – a process that could take several months.

Tony Rabaiott, from the union Unison, welcomed the result, saying, "Social Care workers across Birmingham have been telling Unison over the last few months that they are genuinely frightened by the proposal to so severely axe social care provision. They have been telling us that vulnerable people will simply be left to fend for themselves."

This ruling could affect other councils who have been making similar cuts in the provision of social care.

<http://www.birminghampost.net/news/west-midlands-news/2011/04/20/birmingham-city-council-social-care-cuts-ruled-unlawful-by-high-court-65233-28557053/#ixzz1KFJrOUyU>

**Editorial comment:** The legal findings need to be examined in detail, nonetheless, the results of this case promise to be extremely important for disabled and elderly people throughout the country fighting against cuts to social care.

### Daily Mail and misleading articles on disability benefits

In February, the Daily Mail, one of the UK's tabloid newspapers, quoting unnamed 'government sources', claimed that

- Half the 3.2million people on disability benefit have never

been asked for evidence to back their claims, it emerged last night.

- Almost a million people have been on disability living allowance (DLA ) for at least 14 years.
- DLA costs the taxpayer £12billion a year, the same as the Department for Transport's entire annual budget.

On April 15<sup>th</sup>, after appeals to the Press Complaints Commission, the newspaper republished its original article together with a letter from the Disability Alliance and a number of disability charities contesting the Mail's account.

<http://www.dailymail.co.uk/news/article-1353111/Disability-benefits-Half-claimants-asked-prove-eligibility.html#ixzz1JtczA31e>

**Editorial comment:** The Disability Alliance has claimed that the publication of their joint letter represents a victory over the Mail. It doesn't. There has been no retraction. Instead the Daily Mail has republished the original article, with the same misleading headline, tacking on the critical letter at the end without comment. The message is, 'here is one opinion and here is a different one.'

<http://www.disabilityalliance.org/mailetter.htm>

The offending article is one in a series of attacks the Daily Mail has launched over the last year or so against disabled people in the paper's support for the government's policy of cuts. It's February contribution was grossly misleading in that getting DLA is very tough, and even the Department of Work and Pensions says that fraud accounts for only 0.5% of claims. At the same time the government wants to cut DLA by 20%. This means that a great many people who are fully entitled to and reliant on DLA to cover the extra costs of being disabled will lose out. With over a third of disabled people in the UK continuing to live in poverty, this move cannot help but substantially increase that number.

For more details on the inaccurate reporting of disability benefits see:

[http://fullfact.org/factchecks/incapacity\\_benefit\\_disability\\_living\\_allowance\\_reforms-2615](http://fullfact.org/factchecks/incapacity_benefit_disability_living_allowance_reforms-2615)

[http://fullfact.org/blog/disability\\_living\\_allowance\\_dla\\_dwp\\_press\\_release-2637](http://fullfact.org/blog/disability_living_allowance_dla_dwp_press_release-2637)

## **Benefit cuts: Staff briefed on suicide threats**

In April, staff at Jobcentres received new guidance from the DWP (Department of Work and Pensions) ‘...to help them manage suicide and self-harm declarations from customers’.

The senior staff member who sent the document to the Guardian newspaper said, "Absolutely nobody has ever seen this guidance before, leading staff to believe it has been put together ahead of the incapacity benefit and disability living allowance cuts."

He added, "We were a bit shocked. Are we preparing ourselves to be like the Samaritans? The fact that we've dealt with the public for so many years without such guidance has made people feel a bit fearful about what's coming."

The DWP said that the new guidelines were not related to any recent policy changes and had been in development since 2009. "This guidance is about supporting our staff and ensuring we can help our customers."

Julie Tipping, an appeals officer for Disability Solutions, says that in the last year, two of her clients have made "real attempts" at suicide after a decision was made that they were fit for work. Both were taken to hospital and subsequently sectioned.

Eleanor Lisney, of Disabled People Against Cuts, said that the thought of being moved on to jobseeker's allowance was like a sword hanging over the heads of disabled groups and she feared an increase in related suicides.

<http://www.guardian.co.uk/society/2011/may/08/jobcentre-staff-guidelines-suicide-threats>



## Thousands march against government attack on disabled people

On Wednesday, May 11<sup>th</sup>, five thousand disabled people and supporters from all over Britain made their way to London to protest about the government's cuts to benefits and other policy changes that will make life more difficult than it already is for disabled people and their families.

Many were angry about cuts in mobility allowance, which they say will limit their independence; others at the changes to payments from disability living allowance to child benefit, which they claim will hit them hardest. Many of the demonstrators fear that, despite changes that have already affected them disproportionately, the worst is yet to come.



<http://www.guardian.co.uk/society/2011/may/11/disabled-marchers-thousands-benefits-protest?intcmp=239>

<http://www.guardian.co.uk/society/2011/may/11/hardest-hit-march-disabled-people?intcmp=239>

<http://www.campaignagainstcuts.org.uk/london-march-lobby-parliament-11052011-pictures-video.php>

For an excellent Steve Bell cartoon see:

<http://www.guardian.co.uk/commentisfree/cartoon/2011/may/12/disability-protest-america-osborne>

## **Hostile attitudes towards disabled people on the rise**

A survey has shown that since the government launched its benefits reform disabled people have faced growing public antagonism.

A majority of those questioned reported that they experienced hostility, discrimination and physical attacks from strangers every week. More than a third claimed the position had worsened over the previous 12 months.

In the survey, 37% said besides being abused in the streets, they were also being wrongly reported to the benefits fraud hotline and accosted when trying to use parking spaces reserved for disabled people.

Ministers have been blamed for portraying disabled people as scroungers as they seek to cut the number of people on the disability benefits.

<http://www.guardian.co.uk/society/2011/may/14/disabled-face-increasing-hostility-strangers>

**Editorial comment:** These negative attitudes have undoubtedly been fanned by newspapers such as the Daily Mail that have run grossly misleading stories about disabled people and benefits. For more details see:

<http://www.daa.org.uk/index.php?mact=Blogs,cntnt01,showentry,0&cntnt01entryid=385&cntnt01returnid=98>

## **Increase in reports of disability hate crime**

In Brighton and Hove, Sussex police say that reports of disability hate crime have doubled from 17 incidents in 2009/10 to 33 during 2010/11.

They believe the increase is down to better recording by police and a campaign to encourage victims to come forward.

A police spokesperson said, "Fortunately there's not a lot of physical harm reported to us but it's harassment and name calling and of course it's very, very distressing for the people involved."

In March Brighton and Hove City Council's partnership community safety team launched a poster campaign and a new hate incident report form.

<http://www.bbc.co.uk/news/uk-england-sussex-13281321>

### **Gang of youths attack wheelchair user**

A 51 year-old wheelchair user was attacked late at night and robbed in Salisbury by three young men and two teenage girls. They tipped him out of his electric wheelchair and then kicked him while he was on the ground.

Curiously, the gang returned a few minutes later and without a word righted the wheelchair and then ran off again.

The man received hospital treatment for concussion, cuts and bruises.

<http://www.bbc.co.uk/news/uk-england-wiltshire-13274711>

### **£3m for disabled people's organisations**

The government's Office of Disability Issues has announced that £3m will be made available over the next 4 years to support the development of local disabled people organisations (DPOs).

As part of the scheme, from July DPOs will be able to bid for a share of money for specific projects that will make a significant difference to their development and sustainability.

<http://odi.dwp.gov.uk/odi-projects/user-led-organisations.php>

**Editorial comment:** Is it really a coincidence that this announcement came on the same day as thousands of disabled people marched in London in protest against the massive cuts to benefits and essential services?

Of course, any help is welcomed, but given that most DPOs are either struggling to survive or have closed because of local authority budget cuts, £3m is derisory. 'Insulting' is a perhaps more appropriate word, when this figure is compared to the estimated £9.2 billion income disabled people of working age will lose over the next few years because of government cuts and changes to benefit entitlement.

Furthermore, although DPOs provide the most effective support for disabled people, as the market for this support (information, advice, direct payments, support planning, etc.) is thrown open, many DPOs will struggle to compete with private firms and/or traditional charities.

### **£1m to help disabled people seeking political office**

The government wants to encourage more disabled people into local and national politics and to improve public attitudes to disability through a new training and development scheme. The Access to Elected Office for Disabled People project includes plans for a £1m fund to help disabled politicians meet costs. Political parties will be asked to improve their internal disability policies and to work with the umbrella organisation, the [Local Government Association](#), and disabled organisations to develop a cross-party network of disabled councillors and MPs, who would become ambassadors and role models for aspiring candidates. Consultation on the scheme ends this month and it should start later this year.

<http://www.guardian.co.uk/society/2011/may/04/disabled-people-electoral-representation>

## **Ryanair guilty of disability discrimination**

A judge at Northampton County Court found that Ryanair was in breach of disability laws when it left Jo Heath, a wheelchair user, on the runway at Luton Airport (in June 2008) because “all it was interested in was getting the plane airborne on time.”

Jo’s husband, Paul, said, “Ryanair tried to brush us under the carpet. They offered us more money than we eventually received but we refused it because they wanted us to sign a confidentiality clause.”

Ryanair said it would appeal on the grounds that Luton Airport was responsible for assisting the passengers under European Union law.

<http://www.travelweekly.co.uk/Articles/2011/04/15/36867/ryanair+found+guilty+of+disability+discrimination+case.html>

**Editorial comment:** This is yet another case of Ryanair’s disabled practices which stretch over many years. For example, in 2004 they were found guilty of discrimination for charging a disabled man for using a wheelchair. He was but one of many disabled passengers to be charged. After this ruling, signs were placed at their check-in desks saying all passengers were being charged 50 pence to cover the cost of carrying wheelchair users. This infuriated disabled people and after protests the sign was removed and the charge dropped.

<http://news.bbc.co.uk/1/hi/business/3443739.stm>

In 2005, Ryanair ejected a group of blind passengers from a flight. The Royal National Institute for the Blind (RNIB) said that it had received a number of complaints about the way Ryanair dealt with passengers with sight difficulties. "We have had eight complaints about them during the past couple of years - and we can find no record of any complaints about any other airlines.

<http://www.timesonline.co.uk/tol/news/uk/article578102.ece>

## **Opinion poll finds disabled people fear the legalisation of assisted suicide**

A survey by Scope, a disability charity, has found that 70 per cent of disabled people were concerned that the legalisation of assisted suicide would create pressure on vulnerable people to “end their lives prematurely”.

Richard Hawkes, chief executive of Scope, said, “...while high profile lawyers, doctors and celebrities such as Terry Pratchett and Patrick Stewart grab the headlines, the views of the thousands of ordinary disabled people who could be affected by this issue are rarely listened to.”

“Disabled people are already worried about people assuming their life isn't worth living or seeing them as a burden, and are genuinely concerned that a change in the law could increase pressure on them to end their life.”

<http://www.telegraph.co.uk/news/uknews/8501306/Allowing-assisted-suicide-would-pressurise-disabled-to-kill-themselves.html>

## **International**

### **Canada: Update on deportation of family with disabled child**

As reported previously, a French family with a disabled daughter had been ordered to be deported from Canada because of the ‘burden’ she would impose on health and social care services.

In 2010, a Federal Court judge ruled against a judicial review of the family's residency application. However, after intense public and political pressure the family is now to be allowed to remain in the country.

A spokesperson said the case is a special one and both the federal and state governments worked hard to find a solution.

**Editorial comment:** This is wonderful news for family and eight-year-old Rachel. Nonetheless, this victory is 'special', and Canada's disabilist immigration policy remains in place. It is to be hoped that after the embarrassment of this high-profile case there will be pressure to change this policy in line with the spirit of the CRPD.

<http://www.cbc.ca/news/canada/montreal/story/2011/04/20/barlagne-family-residency.html>

For previous stories on this case see:

[http://www.daa.org.uk/index.php?mact=Blogs,cntnt01,showentry\\_0&cntnt01entryid=382&cntnt01returnid=98](http://www.daa.org.uk/index.php?mact=Blogs,cntnt01,showentry_0&cntnt01entryid=382&cntnt01returnid=98)

## **Hungary: New constitution enshrines discrimination**

The new Hungarian Constitution states that *"Those deprived of their right to vote by a court by reason of limited mental capacity shall not have the right to vote."* Article XXIII (6).

According to Mental Health Europe (MHE) and European Network of ex-Users and Survivors of Psychiatry (ENUSP), this restriction is in violation of the UN CRPD, ratified by Hungary in 2007. Under Article 29, States Parties must ensure that people with disabilities *"can effectively and fully participate in political and public life on an equal basis with others...including the right and opportunity... to vote and be elected."*

MHE and ENUSP urge European institutions to compel the Hungarian government to amend its constitution so as to bring it in line with both the CRPD and EU standards on human rights.

<http://www.e-include.eu/en/news/819-the-new-hungarian-constitution-strips-away-the-right-to-vote-of-people-with-intellectual-disabilities>

## **India: State Commissioner for Persons with Disabilities attacks slow pace of change**

K.V. Rajanna, the Commissioner for Persons with Disabilities in the state of Karnataka, says that although money had been spent on disability, living conditions had not improved. "This is due to the slow pace of implementation of projects and indifference of officials to the plight of these peoples," he added.

He has also started legal proceedings against the Secretary responsible for primary education for failing to implement the scheme for integrated education. He asked the officials to see that all disabled children who drop out of school were identified and sent back.

<http://www.hindu.com/2011/05/18/stories/2011051856860700.htm>

## **International: More disabled women than disabled men**

USAID (US Agency for International Development) have compiled a collection of statistics on the gender dimension of disability. One key finding is that there are considerably more disabled women than disabled men.

In low and middle income countries women account for up to  $\frac{3}{4}$  of all disabled people. According to the International Labor Organisation (ILO), this is due to neglect in health care, poor workforce conditions, and/or gender-based violence.

In the EU, 44% of disabled women are unemployed, as compared to 25% of disabled men. When employed, they face a huge gender pay gap: according to US figures disabled men earn 55% more than their female counterparts.

Disabled women and girls also face shockingly high risks of male violence. For example, in OECD (Organisation for Cooperation and Development) countries between 39-68% of



disabled women report being sexually abused before their 18th birthday.

<http://www.womenlobby.org/spip.php?article1664&lang=en>

## **Sierra Leone: Police attack young disabled people in Freetown**

On Wednesday, May 11<sup>th</sup>, large numbers of police forcibly evicted about 300 young disabled people, mostly children and young women, from a building they had been living and working in for the last 12 years. It appears the city council wants to sell or rent the building to private tenants.

The building was in poor repair and had been abandoned by its owners, who could not be traced. Nonetheless, the government has ignored attempts to regularise the occupancy and instead police have harassed the young people, many of whom used the building for training and the development of small-scale enterprises.



During the violent eviction, police vandalised equipment and household items, broke windows, manhandled some of the disabled youths, used tear gas and fired gun shots. 10 young disabled people were taken to hospital and over 112 treated for minor injuries.

The eviction happened despite the fact that court has yet to determine who owns the building. No alternative accommodation and/or compensation was offered by the council .

Aminata Bangura, a single mother and student in the building, said: “We are particularly disappointed in the Ministers of Social Welfare and Youth, who are clearly taking pleasure out of Freetown City Council’s ruthless act to deprive us, in the interest of taking money from a private company to occupy the building. The Government is actually putting disabled youths in danger by backing the eviction act and not speaking out against this inhumane act of violent (sic). We are being failed by institutions which are meant to be standing up for us–this is why we need to step up to act and resist.”

<http://www.disabled-world.com/news/africa/freetown.php>  
<http://www.sierraexpressmedia.com/archives/23856>

**Editorial comment:** Sierra Leone has ratified the UN Convention.

## **Tanzania: Exclusion makes deaf people vulnerable to HIV/Aids**

In Tanzania, and no doubt throughout Africa, people who are deaf or hearing impaired are treated as second-class citizens. They become socially and economically marginalised because their communication needs are not addressed.

One consequence of this is that deaf people are particularly vulnerable to HIV/Aids, as it is made difficult for them to find out about appropriate precautions or treatment.

Ms Upendo Mnasi, a member of the Tanzania Association of the Deaf (Chavita), is both deaf and HIV positive. She says, "The major problem we are facing is failure to get proper instructions from experts on how to administer the tablets. Most nurses and doctors who provide medicines are not capable of using sign language for deaf people living with HIV."

<http://allafrica.com/stories/201104220471.html>

## **USA: Mother in armed standoff with police over refusal to medicate disabled daughter**

Maryanne Godboldo said she should have the right to decide treatment for her disabled daughter, Ariana, whom she was weaning off antipsychotic drugs because of the negative side effects they were having on the child.

However, Detroit's Child Services disagreed. They claimed not giving the medication amounted to medical neglect, showed up at her home with police officers and tried to break down the door in an attempt to take Ariana away. When her mother, who had a handgun, resisted, a heavily-armed paramilitary police (SWAT) team was called in and an hours-long standoff ensued.



**Maryanne Godboldo**

The siege ended peacefully, but the young girl was taken from her mother and is currently held at a local psychiatric hospital, where, interestingly, officials say there is no “emergency need” to give her antipsychotic drugs.

Maryanne charged with multiple felonies, has been released from jail and is awaiting trial. A committee has been established to support her and her family.

<http://justice4maryanne.bbnw.org/index.php>  
<http://www.cchrint.org/tag/maryanne-godboldo/>

## **USA: Sanctions against doctor who certified prisoners with learning difficulties fit to be executed**

Dr. George Denkowski, a psychologist who examined 14 inmates who are now on Texas' Death Row, and two others who were subsequently executed, and found them intellectually competent enough to face the death penalty, agreed on Thursday never to perform such evaluations again.

This was part of a settlement issued by Texas State Board of Examiners of Psychologists against Dr. Denkowski whose testing methods have been sharply criticized by other psychologists and defence lawyers as unscientific.

Although Dr. Denkowski, nicknamed 'Dr. Death' by defence lawyers, admitted no wrongdoing and defends his practice, those critical of his methods said the settlement could give those inmates still on death row an important opportunity to appeal against their sentences.

The United States Supreme Court ruled in 2002 that states cannot execute people with learning difficulties. But the court did not provide guidelines, leaving it up to the states. Texas essentially developed criteria which made it easier to find that a prisoner did not have learning difficulties. Dr. Denkowski's discredited evaluations greatly facilitated this process.

<http://www.nytimes.com/2011/04/15/us/15ttpsychologist.html?pagewanted=1& r=1>

<http://www.youtube.com/watch?v=jx1fy0Hlh14&feature=related>

<http://www.youtube.com/watch?v=s3Pjnhv1ROU>

## **USA: Child denied Communion because of his impairment**

Kevin Castro, an 8-year-old disabled youngster from Floresville, Texas, has been denied his First Communion because he has cerebral palsy. Instead, Kevin was offered the Sacrament of the Anointing of the Sick, also known as The Last Rights.



Rev. Phil Henning of Sacred Heart Catholic Church said the boy had "the mental capacity of a 6-month old" and didn't have "sufficient knowledge of Christ" to participate in the religious rite, even though he had never met Kevin and Catholic doctrine doesn't

specify what level of knowledge is adequate.

Kevin's grandmother, Irma Castro, said he had prepared for months for the "religious milestone" only to be offered a ritual '...they give you before death. That was very offensive."

The family said Kevin was being discriminated against because he is disabled.

<http://abcnews.go.com/Health/boy-cerebral-palsy-denied-communion-texas-catholic-church/story?id=13461019>

## USA: Disabled people arrested at Washington protest



Coming to Washington DC from 25 different states, 300 members of ADAPT, the militant disability rights group, occupied the rotunda of the Cannon House Office Building. There were chants of, "I'd rather be in jail than in a nursing home." About 100 people were arrested. The demonstrators were protesting against the budget proposal of Rep. Paul Ryan and other Republicans, that would cut Medicaid funding by more than \$700 billion and shift control of the program to the states.

Under the Ryan's proposal, ADAPT say it's likely that more disabled people would be unable to live independently and instead would end up in nursing homes and other institutions.

<http://www.commondreams.org/headline/2011/05/03-5>

For more on the work ADAPT has done over the last 25 years, see: <http://www.adapt25.org/>

