

Our Rights - issue 30, February 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 with your news stories.

This newsletter can be also be downloaded from the DAA website as text (RTF) and PDF versions.



CONTENTS

Convention

Sign ups.....	3
Optional Protocol.....	3
Convention: UK committee inquiry into independent living as set out in CRPD	3

UK4

UK: Disabled MP claims he was ridiculed in Parliament	4
UK: Disabled protesters hemmed in by police barricades	4
UK: Disabled volunteers have no protection from discrimination.....	5
UK: Disabled man jailed for sexual attack on other disabled men	6
UK: cuts puts pressure on parents of disabled children	7

International.....8

Belgium: Euthanasia and organ harvesting.....	8
East Africa: People with albinism continue to be murdered for body parts.....	9
Egypt: Disabled people fight for democracy	10
India: “Don’t be shy about being disabled”	11
International: Global Disability Rights Library.....	11
Kuwait: Abuse of disabled children covered up.....	12
The Netherlands: HORROR STORY. Disabled teenager tied up for three years in institution	13
Switzerland: Social worker sexually assaulted 100+ disabled children and adults.....	13
USA: State sued over failure to move disabled people from institutional care.....	14
USA: Virginia warned over failure on independent living.....	15
USA: Disabled people confined for decades without being reviewed	15
USA: McDonald’s sued over abuse of disabled man by employees	16
USA: City’s disaster plans to discriminate against disabled people.....	18

Convention

Sign ups

CRPD

- 147 signatories
- 98 ratifications

Optional Protocol

- 90 signatories
- 60 ratifications

Convention: UK committee inquiry into independent living as set out in CRPD

The UK Parliament's Joint Committee of Human Rights is conducting an inquiry into the implementation of the right to independent living for disabled people, as guaranteed by Article 19 of the CRPD.

The Committee invites interested persons and groups to submit evidence on this issue and would welcome written submissions by **Friday 29th April 2011**.

The Committee particularly welcomes submissions from disabled people and their families about independent living and how government policies, practices and legislation or the activities of public authorities and others can implement the right to independent living in practice.

For background information and the consultation questions:
<http://www.parliament.uk/business/committees/committees-a-z/joint-select/human-rights-committee/news/right-of-disabled-people-to-independent-living-call-for-evidence/>

UK

UK: Disabled MP claims he was ridiculed in Parliament



According to Tory MP Paul Maynard, who has cerebral palsy, he was mocked because of his impairment by opposition Labour MPs during a speech in the House of Commons last October.

He said: "They were constantly intervening, trying to put me off my stride, which may be just normal parliamentary tactics. But some were pulling faces at

me, really exaggerated gesticulations, really exaggerated faces."

A spokeswoman for Commons Speaker John Bercow said "discrimination or abuse towards any Member on any grounds is not acceptable".

Trevor Phillips, chairman of the Equalities Commission, compared MPs who are said to have heckled Paul Maynard to football hooligans, adding that he had found the claims "shocking". He called on John Bercow, the Commons Speaker, to investigate the claims.

<http://www.telegraph.co.uk/news/newstopics/politics/8306852/Trevor-Phillips-physically-sick-over-disabled-MP-mocking-claims.html>

UK: Disabled protesters hemmed in by police barricades

Police in London 'kettled' (confined within metal barriers) a group of disabled people who were demonstrating peacefully

against Atos Origin, the company contracted by the government to deal with the administration of **disability** benefits. It is alleged that in many cases Atos have unfairly recommended that disabled people should lose benefits.



Protesters outside Atos building in London

Some of the protesters have questioned the police tactics for what was a small, peaceful action. Labour MP John McDonnell has tabled an early day motion (EDM 1344) praising the disabled people who took part in the demonstration, and expressing concern on behalf of protesters about being kettled and “unduly restricted in their demonstration”.

<http://www.bhfederation.org.uk/federation-news/item/1061-atos-protests-concerns-over-police>

For a firsthand account and photos of the demonstration, see: <http://disabledpeopleprotest.wordpress.com/2011/01/24/atos-origin-and-triton-sqwe-were-kettled/>

UK: Disabled volunteers have no protection from discrimination

In a landmark judgment, the Court of Appeal ruled against a woman who claimed she had been discriminated against on grounds of disability, after she was told to stop volunteering for Mid-Sussex Citizens Advice.

The decision means that unless there is a contract between the volunteer and the organisation, voluntary workers are not protected by the UK's Disability Discrimination Act.

John Wadham, from the Equality and Human Rights Commission, who supported the women's case, said "If discrimination laws don't apply to this sector it will be legal for organisations when taking on people to discriminate against groups such as the disabled or ethnic minorities.'

Jason Galbraith-Marten, the barrister representing Citizens Advice, said the verdict would be a great relief to much of the sector, whose operations inevitably depended greatly on voluntary labour.

"The cost of litigation, successful or otherwise, that would be generated from the extension of anti-discrimination rights, would be too great a financial burden for many [voluntary organisations] to bear," he said.

<http://www.guardian.co.uk/money/2011/jan/28/discrimination-ruling-against-voluntary-workers>

UK: Disabled man jailed for sexual attack on other disabled men

Christopher Killick, a disabled man from South London, was jailed for three years for sexual assaults on two disabled men. The Court heard how he systematically exploited his victims over some years, thinking that because of their physical and speech impairments they would not be able to make a formal complaint.

What Killick hadn't taken into account were advances in assistive communication. This is an important landmark case not only because of this, but more significantly, it is the first time, with the exception of sign language users, that evidence was admitted from witnesses who could not speak. In the future this case should offer far greater protection for people with speech difficulties.

This was made clear by Alison Saunders, Chief Crown Prosecutor for CPS London, who said:

'I would encourage victims to come forward, whatever their circumstance in life, with confidence that we will do all we can to seek justice for them.'

She continued, 'I would like to pay tribute to the victims and witness in this case for their patience and determination in giving evidence in this trial. Without them, Christopher Killick would never have faced the consequences of his actions. He subjected these men to appalling acts of sexual violence when he knew their disabilities meant they were unable to stop him. He is a very dangerous and manipulative man.'

<http://www.dailymail.co.uk/news/article-1351658/Disabled-man-jailed-sex-attacks-wheelchair-bound-cerebral-palsy-sufferers-landmark-ruling.html>

UK: cuts puts pressure on parents of disabled children



Riven Vincent has asked her local authority to take Celyn, her six-year-old disabled daughter, into care because she was not receiving enough respite support. This was particularly embarrassing for David Cameron, the Prime Minister, as during the election he had visited Vincent to assure her that if he became prime minister he would not do anything that would harm disabled children.

"I have no wish to put my daughter into a home", said Vincent. "We want to look after her, all I am asking for is a little more support. Without this we simply cannot cope and nor can

families up and down the country just like ours," she wrote. "We are crumbling."

Vincent's complaint has sparked off a national outcry from scores of other parents experiencing similar problems.

At a press conference Cameron said: "Obviously, I'm going to look into this case very closely and have already started to do that." However, he also commented, "I don't believe there is a relationship between the cuts that are inevitably taking place nationally in some public services and this individual case."

Improvements had recently begun to be made as a result of the Labour government's Aiming High for Disabled Children programme, but money for this scheme ends at the beginning of April. Funding promised by the Coalition Government will not be ring-fenced and campaigners are worried that this may mean the money is spent elsewhere.

<http://www.guardian.co.uk/society/2011/jan/20/mother-disabled-child-parents?INTCMP=SRCH>

<http://www.independent.co.uk/news/uk/politics/cameron-bears-brunt-of-anger-at-funding-cuts-for-care-of-disabled-2190324.html>

International

Belgium: Euthanasia and organ harvesting

In a talk given in December at the Belgian Royal Medical Academy, doctors revealed that about 20% of the 705 people who died through euthanasia (officially) in 2008 had had neuromuscular disorders. They added that these people's organs were extremely desirable as they are relatively high quality for transplanting to other patients.

Stephan Drake, writing on the Not Dead Yet website comments:

"One has to wonder what kind of pressures - subtle or otherwise

- will people with disabilities experience in Belgium as they are increasingly seen as viable donors, and maybe more "useful" dead than alive when their organs are seen as more valuable than they themselves."

<http://notdeadyetnewscommentary.blogspot.com/>

A copy of the doctors' presentation can be found at:

<http://www.scribd.com/doc/47509584/Organ-Donation-After-Euthanasia>

East Africa: People with albinism continue to be murdered for body parts



The murder and dismemberment of people with albinism is driven by the false belief that their body parts have a special potency when used in traditional medicine or as a cure for HIV/Aids.

Ernest Kimaya, chairperson of the Tanzania Albino Society, said that although the government is trying to stop the killings, at least 10,000 people with albinism in Tanzania, Kenya and Burundi

abandoned their villages and went into hiding between 2007 and 2009.

There have also been attacks on people with albinism in the Democratic Republic of Congo, Guinea, Swaziland and South Africa.

Most reported killings have occurred in Tanzania, where a "set" including limbs, ears, tongue, nose and genitals sells for thousands of dollars. In August, a man was arrested in Kenya for attempting to sell a Kenyan person with albinism for US\$250,000.

Mumbi Ngugi from the Nairobi-based Albinism Foundation of East Africa, said, "The Kenyan minister for planning promised

last year to carry out a census; there is a promise to provide sun screen, and persons with albinism have been included in some programmes targeting persons with disabilities such as the fund for persons with disabilities, but little has been done in the way of providing protection for persons with disabilities.”

<http://www.irinnews.org/Report.aspx?Reportid=91898>

For other reports on this problem in Our Rights, see:

http://www.daa.org.uk/index.php?mact=Blogs,cntnt01,showentry_0&cntnt01entryid=123&cntnt01returnid=98

http://www.daa.org.uk/index.php?mact=Blogs,cntnt01,showentry_0&cntnt01entryid=237&cntnt01returnid=98

Egypt: Disabled people fight for democracy



As the photographs show, disabled people were involved in the Egyptian revolution, taking a full part in the events in Al-Tahrir Square.

DAA salutes our sisters and brothers in Egypt!!

<http://www.apcdfoundation.org/ecafe/node/599>

India: “Don’t be shy about being disabled”

India is about to carry out a new national census. Javed Abidi, honorary director of National Centre for Promotion of Employment for Disabled People (NCPEDP), said, “The disabled people in the country must not be shy and should not hide their disability fearing social stigma during the Census. The exercise (Census) is an opportunity for them to get united and stand up for their rights.”

According to the 2001 census, the first to have a question about disability, disabled people made up only 0.9% of India’s population. But Abidi reckons the number is closer to 50 to 60 million or about 5%.

He said that they have been successful in getting a well-rounded question about disability included in the census questionnaire and have also sensitized and trained enumerators. Now, they need to remove the social stigma attached to disability so that people do not feel shy and reveal complete information about their impairment.

http://www.dnaindia.com/health/report_dont-be-shy-of-disability_1501473

Editorial comment: When compared with an estimated 10% for the proportion of disabled people in developing countries, the 5% figure still seems far too low. One reason may be that disabled children are not generally included. Perhaps the forthcoming census will provide a more accurate picture.

International: Global Disability Rights Library

The Global Disability Rights Library project announces a call for organizations to apply to receive a free digital Global Disability Rights Library (GDRL). Applications are open to disabled people's organizations, universities, and agencies in developing countries. Sixty organizations will receive the digital library to empower them to disseminate valuable disability rights

knowledge and toolkits to their communities. The goal of the GDRL project is to improve the lives of persons with disabilities in developing countries. To read more, go to

<http://www.usicd.org/index.cfm/global-disability-rights-library>

Kuwait: Abuse of disabled children covered up

According to the Public Authority for the Disabled (PAD), disabled children are being subjected to increasing levels of sexual abuse and financial and administrative fraud at local special needs schools. Things were made worse by officials' attempts to cover up this scandalous situation aided by MPs' failure to take action against the perpetrators.

Ayed Al-Shemmari, PAD chairman, demanded a parliamentary investigation be launched into the shocking abuse of young disabled people at Kuwait's special needs schools, "which is on the rise according to the Audit Bureau report."

Al-Shemmari also revealed details of a case in which a disabled student suffered sexual abuse and harassment by a staff member. After the abuse was discovered, the crime was concealed by other senior staff and no legal action was taken against the expatriate culprit, who was quickly deported.

He further alleged that the deportation order was issued following pressure from certain MPs and education ministry officials, whom he did not name.

http://www.kuwaittimes.net/read_news.php?newsid=OTY5OTU2MDM2

Editorial: Kuwait has not signed the CRPD.

The Netherlands: HORROR STORY. Disabled teenager tied up for three years in institution



The Dutch government defended the practice of continual restraint for patients with mental health problems, after photos of a tethered 18-year-old were shown on TV.

His mother says Brandon, who has been institutionalised since he was five, has lived like a caged animal for

the last three years.

Experts say this is not an isolated case, and there may be as many as 40 patients held in similar circumstances in the country.

There has been a national outcry and the deputy minister of health has promised an urgent review.

<http://www.bbc.co.uk/news/world-europe-12256811a>

Switzerland: Social worker sexually assaulted 100+ disabled children and adults

An unnamed 54-year-old man from northern Switzerland confessed to the sexual assault of 114 disabled people in nine institutions over 28 years. Most of the facilities where the alleged incidents occurred are in Bern canton.

Almost all the victims were male. 42 were older than 18, one was a year old at the time of the alleged assault. Police said the man told investigators that some of the abuses occurred several times on the same day.

The statute of limitations has passed for most of the offenses, authorities said, but the man can be prosecuted for 33 cases.

<http://edition.cnn.com/2011/WORLD/europe/02/01/switzerland.sx.charges/index.html>

USA: State sued over failure to move disabled people from institutional care

In a lawsuit against the state of Arkansas, the US Justice Department claims that residents of the Conway Human Development Center aren't being given enough of a chance to move out into the community.

The state-run institution holds around 510 people with learning difficulties and/or physical impairments. This includes children.

At Conway, the Justice Department allege that staff used unjustified physical restraints that immobilized residents and that medical care is dangerously ineffective.

The suit is being contested by the state that claims Conway is "an excellent facility" with "high standards and high quality of services." Well-organized groups representing families of residents are supporting the state in this case.

However, according to Charlie Lakin, director of the Research and Training Center on Community Living at the University of Minnesota, repeated studies have shown that people who leave institutions and get community-based care have improved outcomes, including better life skills.

Nationally the number of people with learning difficulties in state institutions has dropped from about 84,239 in 1990 to 33,682 in 2009. Eleven states no longer have such facilities, but a few states, such as Arkansas, retain extensive networks of centers.

Under the Obama administration, the Justice Department's Civil Rights Division has stepped up efforts to push for deinstitutionalization of disabled people who are deemed able to live outside, enforcing a 1999 Supreme Court decision that rested on the Americans with Disabilities Act.

<http://online.wsj.com/article/SB10001424052748704307404576079750072401830.html?KEYWORDS=Arkansas+battle+over+closing+institutions#articleTabs%3Darticle>

USA: Virginia warned over failure on independent living

A Justice Department investigation has found that Virginia is violating the rights of disabled residents by failing to provide sufficient community living options for those who are currently in institutions.

It was also found that the state is not using available resources to expand community living and is instead prioritizing spending on institutions.

Virginia has been advised to establish more Medicaid waivers to allow disabled people the option to live in the community, as well as develop create plans to move residents out of institutions.

If changes are not made, Virginia could face legal action.

http://www.disabilityscoop.com/2011/02/15/feds-virginia-violations/12292/?utm_medium=email&utm_campaign=February+15%2C+2011%3A+News+from+Disability+Scoop&utm_source=YMLP&utm_term=

USA: Disabled people confined for decades without being reviewed

A class action lawsuit filed Wednesday on behalf of 4,200 people, claims three Texas residents with learning difficulties (whose cases, if won, will set a precedent for the others) have been institutionalized for between 30 to 60 years without any review of their placements.

“An entire class of citizens is being confined by the state of Texas, with no opportunity to challenge the need for continued

institutionalization, despite changes in ability, commitment criteria and increased community services,” said Beth Mitchell, senior managing attorney at Advocacy Inc, a disability rights group that brought the lawsuit.

<http://www.disabilityscoop.com/2011/01/27/confined-involuntarily-suit/12117/>

Editorial comment: The above three stories demonstrate that the forced confinement of disabled people is not limited to Eastern Europe or places like Mexico. Living conditions may not be as dire in Texas or other US states, although institutions have always been places where abuse thrives. Furthermore, the simple fact of depriving people of their liberty because they may have a ‘socially-unacceptable’ impairment represents a serious violation of their human rights. What the Federal Government has done in Virginia and Arkansas holds out hope for positive change in the US. Also, last year the Department of Justice took legal action against the state of Arkansas for violating the Americans with Disabilities Act (ADA) by forcing people with learning difficulties into institutions.

(<http://www.daa.org.uk/index.php?mact=Blogs,cntnt01,showentry,0&cntnt01entryid=158&cntnt01returnid=98>)

At the very least, countries who have ratified the CRPD (the USA has signed but not ratified) should be held to account on this issue. After all, the entire Convention is about prohibiting disability-based discrimination and guaranteeing disabled people, ‘... equal and effective legal protection against discrimination on all grounds’ (Art. 5). Article 12.4 is particularly relevant, as it states that ‘... measures relating to the exercise of legal capacity (limiting the exercise of that capacity) should ‘... apply for the shortest time possible and are subject to regular review’. Finally, Article 19 holds that disabled people must be allowed to ‘...live in the community, with choices equal to others...’.

USA: McDonald’s sued over abuse of disabled man by employees

A civil action has been started by the mother of a Navajo man with learning difficulties who was allegedly abused by three

employees of one of McDonald's restaurants in New Mexico. It is claimed that the restaurant in Farmington hired employees in violation of corporate policies requiring a safe environment for customers.



When the unnamed man came in for an evening meal, one of the employees took him back to his apartment where he was later joined by two others. They proceeded to brand a swastika on the man's arm using a heated metal coat hanger, shaved a swastika on the back of his head and drew "satanic, sexual, hate-filled images and degrading words" on his body using a permanent marker, and filmed and photographed the episode.

According to the complaint, McDonald's corporate policies require background checks for job applicants to ensure the safety of vulnerable people. The lawsuit says the men were unfit to work in a McDonald's since each had "multiple criminal convictions including felonies and other anti-social history."

In November 2010, Federal authorities indicted the three men, the first be prosecuted under a law that makes it easier for the government to bring charges against people accused of committing hate crimes.

<http://www.krqe.com/dpp/news/crime/feds-file-hate-charges-in-swastika-case>

USA: City's disaster plans to discriminate against disabled people

A federal judge has ruled that Los Angeles is discriminating against disabled people by failing to include them in its emergency preparedness plans.

The judge wrote that, "Because of the city's failure to address their unique needs, individuals with disabilities are disproportionately vulnerable to harm in the event of an emergency or disaster." She also noted that in 2008 the city's own Department on Disability reported that disabled residents are "at-risk for suffering and death in disproportionate numbers."

Finding that the city had violated the Americans With Disabilities Act, she ordered officials to meet with the parties that brought the lawsuit within three weeks to come up with a plan.

Advocates said the need for a plan encompassing disabled people was highlighted during Hurricane Katrina, when mortality rates were drastically higher for elderly and disabled people than for the general population.

Shawna Parks, legal director of the Disability Rights Legal Center, said the ruling was the first of its kind in the nation and she hoped it would lead to reforms around the country.

<http://www.latimes.com/news/local/la-me-disabled-ruling-20110212,0,7903445.story>

Editorial comment: This is an extremely significant case as it highlights the urgent need to make all disaster planning fully inclusive. Protecting disabled people in times of emergencies is particularly important in Los Angeles, a city vulnerable to earthquakes, wildfires and floods.

