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## Disability: A Human Rights Issue

December 3 1994 saw the second European Day of Disabled Persons. The occasion was marked by a series of events across the twelve Member States of the European Union, including a meeting<sup>1</sup> at the European Parliament in Brussels at which a report on Human Rights and Disabled People was presented to members of the Parliament. The Report was drawn up by representatives of 24 European and national disabled people's organizations, and focused on four issues: a European definition of disability; bio-ethics, eugenics and euthanasia; Independent Living; and sexuality, and it launched a campaign addressing these topics.

In spite of the diverse nature of these four topics, the report reveals some underlying themes which are central to all of them: namely, a failure to recognize disability as a human rights issue and discrimination. Thus, the report concludes, with regard to a European definition of disability:

A Disabled Person is an individual in their (sic) own right, placed in a disabling situation, brought about by environmental, economic and social barriers that the person, because of their (sic) impairment(s), cannot overcome in the same way as other citizens. These barriers are all too often reinforced by the marginalising attitudes of society.

It is up to society to eliminate, reduce or compensate for these barriers in order to allow each individual to enjoy full citizenship, respecting the rights and duties of each individual.

Rights based terminology is not only used in relation to the definition of disability, but also in the sections of the report dealing with bio-ethics, eugenics and euthanasia: 'Disabled people have an equal claim on life and a right to the social and economic resources which would enable them to live with a maximum of dignity and self-determination'; Independent Living: '... independent, self determined living should be

1. This meeting was in fact held on 1 December 1994.

the right of every disabled person'; and sexuality: 'Disabled people must have a right to self-determination in all aspects of their sexuality...'

If this report is seen in the light of other developments including, in particular, the First European Day of Disabled Persons held in 1993, when more than 500 disabled people came together to hold the first European Disabled People's Parliament, and passed a resolution calling on the European Community to recognize that 'disability is a human rights issue' and to develop an equal opportunity policy for disabled people, it reveals the extent to which disabled people now view themselves as a minority group who are discriminated against, and whose human rights are being ridden roughshod over.

Such an approach to disability is relatively new in Europe, where policy has been largely shaped by welfare and charity models. In the United States, in contrast, disability has been seen from a civil rights perspective for some time. The article by Waddington in this issue discusses the consequences of these divergent approaches for disability employment policy in Europe and the US.

As the presence of Waddington's article suggests, European academics are also now beginning to place disability in a civil rights framework, and to consider the role that discrimination plays in disadvantaging those with impairments.<sup>2</sup> They are frequently being encouraged to do so by organizations of disabled people. Many such organizations, including the Dutch Council of the Disabled and *Action Européenne des Handicapés*, have used funds provided by the Commission of the European Community<sup>3</sup> to organize academic conferences and meetings to discuss matters such as human rights and disability, and the impact of disability anti-discrimination legislation. One such meeting has already led to a publication in the well known International Studies in Human Rights series,<sup>4</sup> and further publications are to be expected.

At the Community level, the European Parliament, the Economic and Social Committee and the European Trade Union Confederation have been calling, for some time, for concrete action to combat discrimination on the grounds of disability, and the Commission too has now taken up the call. In its recently published White Paper on Social Policy<sup>5</sup> the Commission states that 'serious consideration must be given to the intro-

2. This is reflected by the fact that three books by British authors examining disability from this perspective have recently been, or are about to be, published: Gooding, *Disabling Laws, Enabling Acts, Disability Rights in Britain and America*, (Pluto Press, 1994); Doyle, *Disability, Discrimination and Equal Opportunities*, (Mansell, 1995); Waddington, *Disability, Employment and the European Community*, (Maklu, Nomos, Blackstone, Bruylant, Schulthess, 1995).
3. The Commission does not provide funds to cover the full cost of such conferences.
4. Theresia Degener and Yolana Koster-Dreese (eds), *Human Rights and Disabled Persons*, (Martinus Nijhoff Publishers, 1995).
5. European Social Policy - A way forward for the union. A white paper COM(94) 33.

duction of a specific reference to combatting discrimination on the grounds of race, religion, age and disability' at the next Inter Governmental Conference.<sup>6</sup>

In Britain, meanwhile, the government has recently promised to introduce some form of disability anti-discrimination legislation. This follows the controversy which resulted from the role the Minister for Disabled People played in blocking a private member's bill on this topic in 1994. The promised measure will be much more limited than US legislation<sup>7</sup> on which previous private bills in Britain have been based, and even though the bill has not yet been published, it has already attracted criticism from disabled people. 1994 also saw the extension of the equal treatment provision in the German constitution to disabled people.

These events suggest that Europe is on the verge of a series of exciting new developments in disability policy. Furthermore, because of the growing calls both within and outside the European Community for a Treaty amendment covering disability discrimination, it seems possible that the Community will play a prominent part in the development of this policy. The impact which Community intervention can have has already been demonstrated by Article 119 and the related secondary legislation, which have resulted in greater protection for women at work. It is to be hoped that other groups who face discrimination, including disabled people, can obtain similar protection, even if this were only confined to the workplace. For these reasons the new developments in the study of disability in Europe outlined above should be welcomed, and the call for a Treaty amendment which will enable the Community to take steps to combat disability discrimination deserves support. Such an amendment should also be extended to discrimination motivated by race, religion and age.

Lisa Waddington.

6. Section VI Social Policy and Social Protection - An Active Society for All, para. 27.

7. For an examination of the employment provisions of the American legislation, the Americans with Disabilities Act, see Waddington in this issue.