

EDITORIAL

A New United Nations Treaty on Disability—An Opportunity for the Asian Development Bank?

By Andrew Byrnes

Background

According to United Nations estimates, 400 million of the 600 million people in the world with disabilities live in the Asia and Pacific region. The Asian Development Bank (ADB) studies confirm this general picture and show that persons with disabilities are generally among the poorest members of their societies, are disproportionately excluded from educational and employment opportunities, and are subject to discrimination in many areas of public and private life. Women with disabilities are subject to particular disadvantage and discrimination in virtually every area.

International efforts to improve the lives of persons with disabilities took a major step forward on 25 August 2006, when an Ad Hoc Committee of the United Nations General Assembly, after more than 4 years of work, agreed on the text of a new international human rights treaty, the Convention on the Rights of Persons with Disabilities, together with an accompanying Optional Protocol to the Convention. The General Assembly will formally adopt the final text of the Convention and the Optional Protocol by the end of 2006,¹ and the Convention will enter into force once 20 states ratify or accede to it. Both governments and civil society from the Asia and Pacific region played an important role in developing the treaty.

A central principle of the international disability movement has been captured in the slogan "Nothing about us without us." A notable feature of the drafting of the new convention was the extensive involvement of persons with disabilities and their organizations in all aspects of the process at the national, regional, and international levels. The perspectives of persons with disabilities were critical to identifying the issues that need to be addressed in the treaty, and many provisions in the treaty have their origins in proposals by disabled people's organizations.

The new Treaty on the Rights of Persons with Disabilities

The new Convention provides a comprehensive statement on the rights of persons with disabilities, building on existing human rights law and detailing what the realization of those rights for persons with disabilities requires. It obligates states parties to undertake wide-ranging measures to eliminate discrimination on the ground of disability. In addition to reaffirming the entitlement of persons with disabilities to fully enjoy existing human rights on the basis of equality with others, the Convention addresses issues of particular concern to persons with disabilities (such as the discriminatory denial of the right to exercise legal capacity, and vulnerability to violence and abuse) and articulates some of these rights in innovative ways. For example, the Convention guarantees rights of personal mobility and a general right of accessibility, covering not only the need to provide ramps and other forms of physical access for persons with mobility impairments but also a broader right of access to information, opportunities, and inclusion in society. The Convention places particular emphasis on the right to inclusive education, the right to employment opportunities, the right to health, rights to habilitation and rehabilitation, and the right to respect for private and family life.

The Convention establishes a new committee of independent experts, initially comprising 12 members, who will examine reports submitted by states parties on the steps they have taken to implement the Convention. The Committee will also consider complaints by individuals of violations of the Convention by States, or undertake inquiries into allegations of grave or systematic violations in those states which have accepted one or both of these procedures. The treaty also obliges states to establish national institutions to promote and monitor its implementation.

¹ For the text of the draft Convention and Optional Protocol, see the interim report of the 8th session of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities. Available at www.un.org/esa/socdev/enable/rights/ahc8intreporte.htm (as of 29 September 2006). For developments generally relating to the drafting of the Convention, see www.un.org/esa/socdev/enable/rights/adhoccomm.htm.

An important provision in the Convention is article 24 relating to international cooperation. The treaty recognizes "the importance of international cooperation and its promotion" and obliges states "to undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society." These measures include "[e]nsuring that international cooperation, including international development programs, are inclusive of, and accessible to, persons with disabilities."

The Convention also contains provisions that recognize the need to take specific measures to address the gender-specific violations of their rights to which women with disabilities are subject. Article 6 "recognize[s] that women and girls with disabilities are subject to multiple discrimination and, in this regard, shall take measures to ensure the full and equal enjoyment by them of all their human rights and fundamental freedoms." Gender-specific violations, including the denial of women's reproductive rights and other forms of violence against women, and the need to ensure that women have access to economic opportunities and support are specifically addressed.

ADB and Disability

The adoption of the treaty provides an opportunity for ADB to review and strengthen significantly its work in relation to disability, as part of its commitment to poverty reduction. Providing persons with disabilities with the opportunity to realize their potential through the provision of equal education and promoting employment opportunities, as well as adopting inclusive development strategies more generally, is not just a matter of social justice but also has the potential to contribute significantly to reducing poverty among marginalized groups. The new Convention provides an up-to-date framework for assessing goals and identifying measures that ADB and governments might take to reduce poverty by ensuring that persons with disabilities enjoy their internationally guaranteed rights.²

ADB has already adopted a number of initiatives in relation to disability. In 2005 it published *Disability Brief: Identifying and Addressing the Needs of Disabled People*.³ This is an extremely useful resource for identifying disability issues in country analysis and program and project analysis and design; it also refers to a

number of loan projects with a disability focus or impact. Reference to the position of disabled people also appears in a number of country analyses and other documents.⁴ But it does not appear that disability perspectives are integrated into projects in a systematic manner or taken up more broadly in ADB (including in the employment of ADB staff).⁵ For example, the completion report on the regional technical assistance project that started in 2000 and produced the *Disability Brief*⁶ stated that there

"are no immediate stand-alone follow-up activities planned with the Regional and Sustainable Development Department, as a further development of a strategy to ensure disability mainstreaming....The disability publications prepared under the project provide tools to integrate disability in country programs and projects. It is expected that this will contribute to increased interventions on disability by the operations departments."⁷

The experience of ADB's External Forum on Gender and Development in relation to the integration of gender into ADB activities suggests that a more active approach is required. This would involve the commitment of resources to ensuring that disability-specific projects are adopted, as well as promoting the incorporation of disability perspectives into all projects. Given the significant dimensions of poverty and related challenges facing persons with disabilities in the region, ADB should give serious consideration to adopting a policy on disability and development to parallel its policy on gender and development.

The adoption of the new Convention provides an excellent opportunity for ADB to take stock of its activities with respect to disability. It could usefully start with a review of the extent to which disability perspectives have been incorporated in ADB loans and other activities, take as a specific study the position of women with disabilities, and then initiate the development of a policy on disability and development that would have explicit regard to the standards of the new Convention. In this way, ADB would build on its existing work in the field by taking significant new steps to ensure that its efforts and those of member countries consciously and comprehensively address the needs and rights of persons with disabilities in the region.

² Other relevant factors are the renewed Asian and Pacific Decade of Persons with Disabilities (1993-2002, renewed 2003-2012) and the Biwako Millennium Framework towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific (2002), www.unescap.org/esid/psid/disability/bmf/bmf.html, which will be updated in 2007.

³ www.adb.org/Documents/Reports/Disabled-People-Development/disability-brief.pdf. Another publication at much the same time was L. J. Edmonds, *Disabled People and Development*, Asian Development Bank (ADB) Poverty and Social Development Paper (June 2005).

⁴ For example, ADB and World Bank, *Pakistan 2005 Earthquake: Preliminary Damage and Needs Assessment* (2005), www.adb.org/Documents/Reports/pakistan-damage-needs-assessment.pdf, though these are minor references.

⁵ A search of the "Approved Projects" section of the ADB website (<http://209.225.62.100/Projects/approvals.asp>, visited 29 October 2006) using the terms "disability" and "disabled" produces only a handful of hits, including the two regional technical assistance (RETA) projects referred to in this article, and a grant for Expanding Employment Opportunities for Poor Disabled Persons in Mongolia, MON 35179-01, (<http://209.225.62.100/Documents/Profiles/GRNT/35179012.ASP>).

⁶ RETA 5956: *Identifying Disability Issues Related to Poverty Reduction*. This followed up on a recommendation of a workshop on Disability and Development held in 1999 under RETA 5564 that ADB "strengthen [...] [its] capacity in the disability dimension."

⁷ www.adb.org/Documents/TACRs/REG/tacr-reg-5956.pdf.