

CENTRE for DISABILITY
LAW & POLICY

Centre for Disability Law and Policy NUI Galway

Submission to Irish Aid White Paper Review (2012)

The Centre for Disability Law and Policy (CDLP) with the support of Professor Nora Groce, Director of the Inclusive Development Centre, University College London, welcomes the opportunity to make this submission on the review of the White Paper on Irish Aid. The CDLP was formally established in 2008 at the National University of Ireland Galway. Its work is dedicated to producing research that informs national and international disability law reform. Since its establishment, the CDLP has organised and participated in a number of key events regarding disability and development aid, including a conference in October 2011 partnership with CBM Ireland, Dochas, the International Disability and Development Consortium and the Disability Federation of Ireland. This conference included keynote speakers such as Judith Heumann (Special Advisor on International Disability Rights to the US Department of State) and Bob McMullan, former Australian MP. The CDLP has developed an expertise in disability law and policy, and welcomes the opportunity to share its insights on disability and development aid.

Table of Contents

Introduction	3
Section 1: Progress made, changing context and key issues	4
Section 2: Ways of Working: National, European and International	9
Conclusion and Recommendations	13

Introduction

The Centre for Disability Law and Policy (CDLP) with the support of Professor Nora Groce, Director of the Inclusive Development Centre, University College London welcomes the opportunity offered by the White Paper Review to make contribution on the future of Ireland's international cooperation programme. Ireland's foreign policy places human rights as a core element of its work¹ and Ireland's aid programme is recognized worldwide as a leader in delivering effective aid programmes.²

For this submission, the CDLP will use as its basis for recommendations Ireland's commitment to human rights both in international and national law and its commitment to assist the poorest of the poor. The CDLP hopes that the forthcoming document resulting from this review will place people with disabilities central to its work on poverty reduction and ensure their inclusion in all long-term development goals **supported by Ireland.** The CDLP also in this submission supports the Dochas submission and the submission from the Task Force on Disability Inclusion, each of which calls for disability to be afforded the same status as gender and HIV/AIDS within Irish Aid's programme.³ From this perspective, we will not be repeating the recommendations made by these groups but rather focusing on the Centre's area of expertise, which is law and policy. The submission is comprised of two main sections, corresponding to the focus areas identified in the Irish Aid Consultation paper:

¹ See Dochas, Submission to the Review of the White Paper on Irish Aid, Mobilising for Transformation: Irelands role in ending extreme poverty (Dublin: Dochas, 2011) available at

http://www.dochas.ie/shared/files/2/dochas submission to the review of the _white_paper_on_irish_aid.pdf> (last accessed 24 April 2011); Dochas, Disability and International Development Working Group, Disability Inclusion Task Force Submission on Overseas Development Aid (Dublin: Dochas, 2011) available

http://www.dochas.ie/shared/files/2/disability inclusion taskforce response to

_ia_white_paper_-_final.pdf> (last accessed 24 April 2011).

² Ireland's International Aid Programme Again Rated Among the Best in The World, see http://www.irishaid.gov.ie/latest newsf90d.html?article=1706

³ See Dochas Submission to the Review of the White Paper on Irish Aid, Mobilising for Transformation: Irelands role in ending extreme poverty (Dublin: Dochas, 2011) available at

http://www.dochas.ie/shared/files/2/dochas_submission_to_the_review_of_the _white_paper_on_irish_aid.pdf> (last accessed 24 April 2011); Dochas, Disability and International Development Working Group, Disability Inclusion Task Force Submission on Overseas Development Aid (Dublin: Dochas, 2011) available

http://www.dochas.ie/shared/files/2/disability inclusion taskforce response to ia white paper - final.pdf> (last accessed 24 April 2011).

- Section 1: Progress Made, Changing Context and Key issues
- Section 2: Ways of Working: National, European and International

Section 1 will address the progress made since the publication of the White Paper in 2006 at Irish, European and international levels, with a focus on disability as a core issue for development aid. Section 2 will then provide recommendations for ways of working to ensure policy coherence across Ireland's national, European and international commitments.

Section 1: Progress made, changing context and key issues

Irish Aid in its 2006 White Paper stated that it would "examine the possibilities for increased activity in the area of disability and development, such as support for specific programmes to address the needs of disabled people."⁴ This commitment was supported by an allocation of funding of €6.5 million which has been provided since 2008 specifically to NGOs working with people with disabilities." ⁵ In commenting on its progress, Irish Aid in the consultation document prepared for the White Paper review states that disability issues "are systematically considered in the design of Irish Aid development programmes and are addressed in a multidimensional way."⁶

It is important to point out also that while it may not be directly attributable to Irish Aid, seven of Irish Aid's partner countries have ratified the Convention on the Rights of Persons with Disabilities (CRPD) therefore signaling a commitment to the human rights of persons with disabilities in the countries where Irish Aid targets its aid.⁷

The progress made on disability as outlined in the consultation document is welcome and reflects international trends where bilateral donor agencies are incorporating disability as an important element of their development aid programme⁸ (see Box 1).

⁴ Irish Aid, White Paper on Irish Aid (Dublin: Irish Aid, 2006), p. 116

⁵ Irish Aid, Consultation Paper for the Review of the White Paper on Irish Aid (Dublin: Irish Aid, 2011), p. 31

⁷ The following partner countries of Irish Aid have ratified the Convention: Ethiopia (2010), Uganda (2008), Tanzania (2009), Zambia (2010), Malawi (2009), Lesotho (2008) and most recently Mozambique (2012).

^{(2009),} Lesotho (2008) and most recently Mozambique (2012).

8 See Lord, J. et al, *Disability and International Cooperation and Development: A Review of Policies and Practices* (Washington D.C.: World Bank, 2010).

Box 1: AUSAID

AusAID policy on disability is *Development for All: Towards a Disability-Inclusive Australian Aid Program 2009-2014* was published in 2009. The process that led to its development has been recognised worldwide as unique, as it was developed in a purposefully participatory manner, including consultation not only within and among the Australian disability community, but also including the participation of people with disability and other stakeholders in developing countries where AusAID works.

In terms of the progress made by Ireland and Irish Aid the CDLP feels the review of the White Paper offers the opportunity for reflection on progress to date and provides a space to sharpen Irish Aid's focus on disability. As part of this process, we feel a series of internal reflections on the progress made to date would benefit Irish Aid on two fronts. First of all, this would highlight the mechanisms Irish Aid has in place to support its systematic consideration of disability. Secondly, this process would help to identify where supports need to be strengthened so as to prepare Irish Aid for its compliance with Article 32 of the CRPD. Sample of questions that could be helpful in this process of reflection are outlined below:

- Is there an existing policy or guidance that supports the systematic consideration of disability within Irish Aid development programmes?
- Are there specific goals for including persons with disabilities in Ireland's development assistance and humanitarian aid?
- Is there a requirement from Irish Aid for all NGOs funded under the Civil Society Fund and other funding streams to demonstrate practical commitment to accessibility or the inclusion of persons with disabilities in projects or programmes?
- Is there a focal person to support the systematic consideration of disability within Irish Aid?
- What monitoring mechanisms are in place (e.g. disaggregated data) to measure Irish Aid's progress on its commitment to include persons with disabilities?

The landscape since the publication of 2006 White Paper has changed on a number of fronts. The consultation document recognises that advances have been made in the global fight for poverty reduction and that Ireland has become a world leader in aid effectiveness. It also recognises that with our changing economic circumstances, now more than ever, Irish tax payers' monies spent under the Irish Aid programme need to be targeted and focused on reaching the poorest of the poor.

Since the White Paper publication in 2006 and its stated commitments to disability, there have been significant changes in the area of international law and policy on disability, all of which are relevant to Irish aid and its development programme. The adoption of the CRPD by the United Nations in 2006 signaled a global reform of law and policy. Currently 113 States have ratified the Convention and Ireland is expected to ratify the Convention within the lifetime of Irish Aid's forthcoming new strategy. ⁹ The Convention is described as having a dual human rights and development mandate ¹⁰ with Article 32 focusing on how international cooperation (not just development aid) can facilitate the human rights of persons with disabilities (see Appendix 1).

Along with the international developments brought about by the Convention, there have also been changes at a EU regional level. The landscape in European development aid and its inclusiveness of disability is also shifting. The EU has ratified (confirmed) the CRPD in December 2010, 11 and its European Disability Strategy 2010-2020 includes external action commitments to raise awareness of the CRPD and the need for accessibility in emergency and humanitarian aid. 12 One example of the EU's disability perspective in development aid is its criteria for providing funding to preaccession countries, such as Serbia, Turkey and Iceland. 13 In providing this funding, the EU rules stipulate that disability-based discrimination must be prohibited during the implementation of the assistance, and that sectoral reports prepared by receiving countries must include a synthesis of the implementation of "action to strengthen integration in employment and social inclusion of other disadvantaged groups, including people with disabilities." 14 This provides a good example of how to target development

⁹ See UN Enable website for ratifications, *Convention on the Rights of Persons with Disabilities, Signatures and Ratifications* (Geneva: UN, 2012) http://www.un.org/disabilities/countries.asp?navid=12&pid=166> (last accessed 24 April 2012).

¹⁰ See Kayess, R., "The Convention on the Rights of Persons with Disabilities: why it is needed?" (2009) *Disability and Development Bulletin* Special Issue, No.73, p. 13.

 $^{^{11}}$ See Europa Press Release, "EU ratifies UN Convention on disability rights" 5 January 2011, available at:

http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/4&format=HTML&aged=0&language=EN&guiLanguage=fr (last accessed 24 April 2012).

¹² European Commission, *European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe Brussels*, 15.11.2010 COM(2010) 636 final, Areas for Action, s.2.1.8 External Action.

¹³ European Commission Regulation (EC) No 718/2007 of 12 June 2007 implementing Council Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (IPA), L 170 Official Journal of the European Union. ¹⁴ Ibid, Article 169(3)(g)(iv).

assistance to ensure equality of opportunity for people with disabilities.

The recent publication of the World Report on Disability calculates that more than one billion people worldwide have some form of impairment representing around 15% of the global population. This is the first time since the 1970s that a global picture of disability population has been reported and it signals an increase from 10% to 15%, accounting for one in every seven having a disability. Over four out of every five people with disabilities in the world live in developing countries, meaning that these countries have a higher prevalence of disability and impairment than higher income countries. Given the demographic trends in ageing worldwide, it is clear that more and more people will develop disabilities as they age. In addition, the figure of 15% does not take into account the family members, carers and other individuals who are affected by disability in their daily lives.

People with disabilities have worse health and socio-economic outcomes than non-disabled people, even when development assistance is factored in. Lower participation rates in education, lower levels of labour market participation, less access to credit and microfinance combine to place people with disabilities among the poorest in developing countries. Finally, along with the emergence of this credible data from WHO and the World Bank, there has been a growing recognition that unless disability explicitly features in programmes and initiatives targeting global poverty reduction and development goals such as the Millenium Development Goals, ¹⁷ the outcomes of these programmes will be limited unnecessarily.

With respect to the **key issues** named in the White Paper the CDLP supports Irish Aid's continued focus on hunger, climate change, fragile states, basic needs, gender, governance and human rights and the private sector. All of these areas outlined **have relevance to persons with disabilities, yet disability remains on the periphery of development interventions developed to respond to them**. With respect to hunger and basic needs at least 20% of impairments are caused by malnutrition and since 20% of the worlds poorest people are disabled people, they are more likely to be exposed to food shortage, and prevailing attitudes which deny

¹⁵ World Health Organization and World Bank, *World Report on Disability* (Malta: WHO, 2011).

¹⁶ World Health Organization and US National Institute on Ageing, *Global Health and Ageing* (Geneva: WHO, 2011).

¹⁷ See Groce, N. and Trani, J., "Millennium Goals and Disability" (2009) 374(9704) *The Lancet* 1800 – 1801.

them access to food. ¹⁸ In terms of basic needs people with disabilities have poor health outcomes, are denied equal access to education and have poor access to HIV/AIDs prevention and treatment programmes. Women with disabilities face discrimination on a number of levels that are specific to their disability and also their gender. Governance and human rights are of particular importance, the CRPD enshrines the human rights approach in the disability agenda, but at present any people with disabilities remain excluded and disenfranchised in many developing countries and have no say in the issues the concern them. The difficulty of engagement for marginalised groups, particularly people with disabilities, has been highlighted by Quinn who claims that the primary concern of people with disabilities in developing countries is simply survival and as a result they are less likely to have their voices heard. ¹⁹

The private sector also has a key role to play for people with disabilities, in particular, people with disabilities face problems in access to development interventions such as microcredit and finance. Finally, people with disabilities are most vulnerable to climate change and situations of fragility. For example, a recent study published by HelpAge International and Handicap International in 2012 reveals the low level of activities targeting people with disabilities in situations of humanitarian circumstances, the study revealed that less then 1.2% of Ireland's 2010 funding was allocated to projects which had an activity targeting people with disabilities.²⁰

Responding to these **key issues from a disability perspective requires Irish Aid to take a twin track approach to disability**. The United Nations defines this approach as (a) focusing on integrating disability-sensitive measures into the design, implementation, monitoring and evaluation of all policies and programmes and (b) providing disability-specific initiatives to

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¹⁸ Yeo, R., *Chronic Poverty and Disability*, Background Paper No. 4, Chronic Poverty Research Centre (Frome: Action on Disability and Development, 2000). ¹⁹ See Quinn, G., "Resisting the 'Temptation of Elegance': Can the Convention on the Rights of Persons with Disabilities Socialise States to Right Behaviour?" in Quinn, G. and Arnadóttir, O., eds., *The UN Convention on the Rights of Persons with Disabilities" European and Scandinavian Perspectives* (Leiden: Martinus Nijhoff, 2010) pp. 215 -255.

²⁰ See HelpAge International and Handicap International, *A study of humanitarian financing for older people and people with disabilities, 2010-2011* (Lyon; London: HelpAge International and Handicap International, 2012). The study also points out that of the 6003 projects analysed, funded by many donors and nations, only 5.2% mentioned either people with disabilities or older people (many of whom have disabilities) alongside other groups considered "vulnerable" in situations of humanitarian crisis.

support the empowerment of persons with disabilities.²¹ Traditional disability-specific projects, prevention measures and infrastructural accessibility are necessary but not sufficient to alleviate the multiple forms of exclusion faced by people with disabilities. This is evidenced by a 2010 study from the UN Office of the High Commissioner for Human Rights which found that international cooperation does not appear to have consistently applied a "twintrack" approach as cooperation focuses overwhelmingly on disability-specific projects and less on mainstreaming disability rights into broader international cooperation. ²² The CDLP recommends the following steps to ensure that disability is systemically integrated into Irish Aid's key areas of focus:

- Adopting disability as a cross-cutting issue
- Implementing the 'twin track approach' to disability and
- Ensuring that mainstream development activity and humanitarian assistance do not create intentional or unintentional barriers to equality of participation by people with disabilities.

Section 2: Ways of Working: National, European and International

This section suggest sets out a number of ways the Irish government and Irish Aid can enhance its commitment to the inclusion of persons with disabilities. Using the theme of policy coherence outlined in the ways of working section of the consultation paper, the CDLP wishes to highlights how domestic and international policy that Ireland has signed up to can strengthen Irish Aids progress on including disability.

Domestic policy: Connecting the global with the local

Ireland's key domestic policy framework for the rights of persons with disabilities is its National Disability Strategy – a strategy which includes elements of legislation, policy and an aligned funding programme. As a whole, **Ireland's National Disability Strategy is monitored by the National Disability Strategy Stakeholders Monitoring Group (NDSSMG)**, which meets biannually to discuss progress. This group is made up of two main subgroups, the Senior Officials Group on Disability (civil servants from ten government

²¹ See UN Economic and Social Council, Report of the Special Rapporteur on disability of the Commission for Social Development on monitoring of the implementation of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (Geneva: Commission for Social Development, 2012). ²² UN Office of the High Commissioner for Human Rights, Monitoring the Convention on the Rights of Persons with Disabilities: Guidance for Human Rights Monitors (Geneva: OHCHR, 2010).

departments) ²³ and the Disability Stakeholders Group (national representative organisations for people with disabilities, family members, carers and service providers)

The NDSSMG monitors the strategy's implementation at national level and reports to the Cabinet Committee on Social Inclusion.²⁴ Social partners (Irish Congress of Trade Unions, Irish Business and Employers Confederation) also attend the NDSSMG, as does the National Disability Authority. Finally, some public bodies with responsibility for developing and implementing disability policy, or providing guidance to government can also attend at the request of a particular department such as the National Council for Special Education and the Health Services Executive.

It is notable that the Department of Foreign Affairs is not represented on the NDSSMG with the implication being that this department does not play a role in the implementation or monitoring of the National Disability Strategy. While the department's remit goes beyond the domestic context, membership and participation on the NDSSMG would be particularly useful in developing synergies between Ireland's domestic policy (including developments in the implementation of the National Disability Strategy), and Ireland's policy on development aid and international cooperation. This would ensure that Irish Aid-funded programmes actively promote equal opportunities people with disabilities in developing countries, aligned with Ireland's domestic disability policy.

The Department of Foreign Affairs is represented on another interdepartmental group, the inter-departmental committee on the Convention of the Rights of Persons with Disabilities. The main purpose of this committee is to identify potential aspects of Irish

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The 10 departments represented on this group are the Department of Health and Children, the Department of Social Protection, the Department of Jobs, Enterprise and Innovation, the Department of Communications, Energy and Natural Resources, the Department of the Environment, Heritage and Local Government, the Department of Transport, the Department of An Taoiseach, the Department of Justice and Equality, the Department of Finance, and the Department of Education and Skills.

²⁴ This Committee is supported by a Senior Officials Group on Social Inclusion, which comprises senior civil servants from the relevant government departments. Such committees are established by government to assist it in carrying out its responsibilities and have a membership comprising two or more members of Government (and may also include the Attorney General and Ministers of State). This committee must present a report to government once a year which can highlight substantive issues for government approval. For more information see Department of An Taoiseach, *Cabinet Handbook* (Dublin: Stationery Office, 2007).

domestic law, which might need to be reformed in preparation for Ireland's ratification of the Convention. Since the focus of the Committee is primarily on reforming domestic law, the Department of Foreign Affairs simply has a watching brief on this committee, where it is updated on developments in disability equality which occur within the remit of the other departments. However, it is unclear whether the work of this committee will continue following Ireland's ratification of the CRPD. Therefore, it is vital that the Department of Foreign Affairs' involvement and participation on the NDSSMG be secured to ensure that joined-up thinking between domestic and foreign policy on issues regarding the rights of disabled people is sustained.

In addition to the National Disability Strategy monitoring process, the Department of Justice has recently published **Disability** guidelines Assessment **Guidelines.** These intended to assist government departments to ensure that policies and programmes enhance equality opportunity for people with disabilities and do not impact **negatively on disabled people**. The Cabinet Handbook contains a requirement that any 'substantive memoranda' drafted by officials for approval by government at cabinet meetings must assess the impact this proposal will have on people with disabilities.²⁵ Any Irish Aid or Department of Foreign Affairs funding proposal for development aid, which requires cabinet approval, would therefore have to consider the impact of that funding arrangement on people with disabilities in developing countries.

Examples of 'substantive memoranda' set out in the Disability Impact Assessment Guidelines include: "a change in policy, the introduction, abolition, or significant change in an existing scheme, a decision which impacts on the public at large, or on a significant subset of that population, a decision to draft or approve legislation and a decision involving expenditure increases or reductions, or changes in taxation." This description is extremely broad and would cover many proposals for development aid discussed at cabinet level; therefore, in order to ensure that such proposals will be granted cabinet approval, it will be important to emphasize how such funding can enhance the participation of people with disabilities in developing countries.

The **CDLP recommends** that:

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²⁵ Department of An Taoiseach, *Cabinet Handbook* (Dublin: Stationery Office, 2007), section 3.4(v).

²⁶ Department of Justice and Equality, *How to Conduct a Disability Impact Assessment: Guidelines for Government Departments* (Dublin: Stationery Office, 2012).

- The Department of Foreign Affairs becomes a member of the NDSSMG to ensure that joined-up thinking between domestic and foreign policy on issues regarding the rights of disabled people is sustained.
- The new disability impact assessment guidelines are used by the Department of Foreign Affairs and Irish Aid to ensure that their policies enhance the equality of persons with disabilities.

The European Dimension: Ensuring Policy Coherence at EU level

The EU developments discussed in Section 1, including the EU's ratification of the CRPD²⁷ and the publication of European Disability Strategy 2010-2020, ²⁸ all contribute to the changing legal and policy framework for the provision of aid at a global level. As a member state of the EU, Ireland can incorporate this perspective in its forthcoming aid programme. In addition, as a member state of the EU, Ireland is one of the most significant contributors to European Development Aid. Two key instruments administer this funding, the EU Development Cooperation Instrument²⁹ and the European Development Fund,³⁰ both include disability-specific requirements in its development funding. Therefore, in order to ensure policy coherence between national and EU policy in the field of development aid, it is important to ensure that Irish development aid is inclusive of people with disabilities and is used to promote equality of opportunity.

International policy: Ireland's commitment to human rights

The Irish government has ratified a number of international treaties, including the International Covenant on Economic Social

http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/4&format=HTML&aged=0&language=EN&guiLanguage=fr (last accessed 24 April 2012).

²⁷ See Europa Press Release, "EU ratifies UN Convention on disability rights" 5 January 2011, available at:

²⁸ European Commission, *European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe Brussels*, 15.11.2010 COM(2010) 636 final, Areas for Action, s.2.1.8 External Action.

²⁹ Regulation (EC) No 1905/2006 of 18 December 2006 establishing a financing instrument for development cooperation - 27.12.2006 L 378/ Official Journal of the European Union.

³⁰ The disability dimension was added to the EDF by the revision to the Cotonou Agreement which came into force in November 2010. See Council Decision of 14 May 2010 on the signing, on behalf of the European Union, of the Agreement amending for the second time the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, as first amended in Luxembourg on 25 June 2005, (2010/648/EU), L 287/1 Official Journal of the European Union.

and Cultural Rights, International Covenant on Civil and Political Rights, Convention on the Rights of the Child, Convention on the Elimination of Discrimination Against Women, and the Convention on the Elimination of All Forms of Racial Discrimination. The government has also signed the CRPD in 2007 and is expected to ratify it within the lifetime of the forthcoming Irish Aid policy. Once the government ratifies the CRPD, it will be bound to implement Article 32 on international cooperation. This will require Ireland to into the breadth of its disability international cooperation programme. As noted in Section 1, international cooperation extends beyond the provision of economic assistance to providing support in the areas of technology, research and access to knowledge. It will also require the involvement of people with disabilities and their organisations at levels of the development process, which implies closer cooperation with people with disabilities and their representative organisations e.g. disabled peoples organisations (DPOs).

The incorporation of disability into international cooperation mechanisms as set out in Article 32 CRPD will require Irish Aid to reflect on how its current systems for including people with disabilities measure up to what Article 32 asks States to do. As stated in Section 1, this review presents Irish Aid with the opportunity to undertake this questioning in a pro-active manner, so that once the Convention is ratified, it will have already taken steps to ensure coherence between Ireland's national and international commitments. It will also enable Irish Aid to ensure that people with disabilities benefit from development interventions and humanitarian assistance, helping to break the cyclical link between poverty and disability.

Finally, the **CDLP recommends** that Irish Aid and the Department for Foreign Affairs and Trade should begin to realign policies and practices in readiness for achieving compliance with Article 32. First steps in this process could include:

- an assessment of the current status of disability within Irish Aid's funded activities in partners countries
- the development of a disability inclusion policy
- the designation of a focal person to lead the compliance process.

Conclusion and Recommendations

The review of Irish Aid's White Paper comes at a crucial moment in international thinking about development aid and disability. As Ireland's expected ratification of the CRPD due to occur within the

lifetime of the next development aid strategy, it is clear that there will be a need to make tangible steps to ensure that our development aid is inclusive of people with disabilities and promotes their equal participation in partner countries. This submission has set out a number of possible steps which could achieve this aim, including the commencement of a reflection process on the status of disability in activities currently funded by Irish aid, the implementation of a twin-track approach which combines disability-specific interventions with the recognition of disability as a crosscutting issue across all funded activities, and the designation of a focal person on disability inclusion within Irish Aid. The CDLP looks forward to continued engagement with Irish Aid as it develops its new policy framework, and offers its support to Irish Aid, with a view to ensuring that development aid continues to be inclusive of people with disabilities.