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<td>Author(s)</td>
<td>Keogh, Mary</td>
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<td>Publication Date</td>
<td>2014-05-15</td>
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<td>Item record</td>
<td><a href="http://hdl.handle.net/10379/4555">http://hdl.handle.net/10379/4555</a></td>
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Mainstreaming Disability in Development Aid – A Comparative Analysis of
the United States Agency for International Development, the Australian
Agency for International Development and the Ministry for Foreign Affairs
of Finland

This thesis is submitted to the National University of Ireland, Galway in
fulfilment of the requirement for the degree of

Doctor of Philosophy

By

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SEPTEMBER 2013
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Abstract

Intergovernmental organisations such as the United Nations (UN) and the World Bank claim that the majority of the one billion persons with disabilities worldwide live in developing countries and are at high risk of poverty and vulnerable living conditions. The Convention on the Rights of Persons with Disabilities (CRPD) was adopted in 2006. While first and foremost a human rights treaty, it is also recognised as having a development mandate requiring responses by State Parties to respect, promote and fulfill the rights of persons with disabilities. Article 32 on international cooperation obligates Donor States to mainstream disability in policies that support international development programmes. One of its main requirements is to ensure that persons with disabilities living in poor countries have access to and are included in development aid.

This thesis investigates how three Donor States and their bilateral agencies mainstream disability in the policies that support their international development programmes. Semi structured interviews were conducted with twenty-five key informants across three jurisdictions – the United States, Finland and Australia. The data collected from the interviews and documentary analysis highlights the successes and challenges that Donor States and their respective bilateral agencies face in mainstreaming disability in international development programmes.
Acknowledgements

Firstly, I would like to thank my supervisors, Dr. Nata Duvvury and Professor Gerard Quinn, whose guidance and direction during my Ph.D. journey has been invaluable and a great source of support and inspiration. I am very grateful for the many opportunities they provided to me to further my knowledge.

I would also like to acknowledge the guidance of members of my Graduate Research Committee – Dr. Mary Keys and Shivaun Quinlivan for their support and encouragement.

I would also like to acknowledge the funding and support from the Centre for Disability Law and Policy through the Programme for Research in Third-Level Institutions, as well as the friendship from all of my colleagues at the Centre. In particular a special thanks to Charles O’Mahony and Dr. Noelin Fox whose humour and friendship were a real source of support.

To all of my great friends, in particular Helen, Gina, Martina and Frances, who have offered enormous encouragement over the course of my Ph.D. journey – thank you all.

Finally, I would like to thank my wonderful husband Thomas, who was a constant source of love and support and also my family – my dad Peter, my mum Rita and my sister Catherine for their love and support – I dedicate this thesis to them.
### List of Abbreviations

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<tr>
<td>ADDC</td>
<td>Australia Disability and Development Consortium</td>
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<tr>
<td>AusAID</td>
<td>Australian Agency for International Development</td>
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<tr>
<td>CBM</td>
<td>Christian Blind Mission</td>
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<tr>
<td>CRPD</td>
<td>Convention on the Rights of Persons with Disabilities</td>
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<tr>
<td>DFID</td>
<td>Department for International Development</td>
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<tr>
<td>DRF</td>
<td>Disability Rights Fund</td>
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<tr>
<td>DPI</td>
<td>Disabled People International</td>
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<td>FIDIDA</td>
<td>Finnish Disabled People’s International Development Association</td>
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<tr>
<td>IASG</td>
<td>UN Inter-Agency Support Group</td>
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<td>IDA</td>
<td>International Disability Alliance</td>
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<td>IDDC</td>
<td>International Disability and Development Consortium</td>
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<td>ILO</td>
<td>International Labour Organisation</td>
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<td>HI</td>
<td>Handicap International</td>
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<td>HLMDD</td>
<td>High Level Meeting on Disability and Development</td>
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<td>HLP</td>
<td>High Level Panel</td>
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<td>LCD</td>
<td>Leonard Cheshire Disability</td>
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<td>MDGs</td>
<td>Millennium Development Goals</td>
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<td>MFA</td>
<td>Ministry for Foreign Affairs of Finland</td>
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<tr>
<td>MIUSA</td>
<td>Mobility International USA</td>
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<tr>
<td>NCD</td>
<td>National Council on Disability</td>
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<tr>
<td>NORAD</td>
<td>Norwegian Agency for Development Cooperation</td>
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<tr>
<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
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<tr>
<td>USAID</td>
<td>United States Agency for International Development</td>
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<tr>
<td>UNDESA</td>
<td>United Nations Department for Economic and Social Affairs</td>
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<tr>
<td>UNDG</td>
<td>United Nations Development Group</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
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<td>WHO</td>
<td>World Health Organization</td>
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Chapter One: Introduction

1.1 Setting the context

Over the past fifteen years there has been growing recognition by State Parties, intergovernmental organisations and bilateral agencies that persons with disabilities must be included in development interventions if global efforts to eradicate extreme poverty are to succeed. A number of factors have contributed to the emergence of disability in the international development narrative. Firstly, the adoption of the Convention on the Rights of Persons with Disabilities (CRPD) and the activity it has created at both a national and international level on promoting and respecting the rights of persons with disabilities. With regard to development and its inclusion of persons with disabilities, Article 32 of the CRPD creates obligations on States to implement international development programmes that are inclusive of and accessible to persons with disabilities. Secondly, while the CRPD is a recent international instrument (2006), over the past forty years States have already established a strong basis for cooperation on the well-being and rights of persons with disabilities. For example, at an international level, the ‘World Programme of Action Concerning Disabled Persons’, the ‘UN Standard Rules on the Equalisation of Opportunities for Persons with Disabilities’ and a regional series of decades on disability, have contributed to promoting disability as a development issue. Lastly, emerging research and data, such as the ‘World Report on Disability’, highlights that one billion of the world’s population live with a disability and face barriers to inclusion and participation in their communities, making the rights of persons

with disabilities an important issue for governments’ domestic and foreign policy.\textsuperscript{3}

In this thesis one part of the process for including persons with disabilities in development is examined, how State Parties and their bilateral agencies mainstream disability as a thematic issue through their international development commitments. The rationale for doing so is two fold. First of all it is prompted by the adoption of the CRPD, which is first and foremost a human rights treaty, it has a development mandate requiring responses by State Parties to respect, promote and fulfill the rights of persons with disabilities. Article 32 of the CRPD on international cooperation obligates Donor States to mainstream disability as a thematic issue through their international development commitments to ensure that persons with disabilities living in poor countries have access to and are included in development aid. The CRPD itself obligates all States who have ratified the CRPD to implement its provisions regardless of how rich or poor a State might be. Therefore a study assessing how this has been achieved so far by bilateral agencies can contribute to further policy development for mainstreaming disability and effective implementation of Article 32.

Secondly it is prompted by the lack of academic investigations that have been carried out to date on this subject. While there has been some progress on including disability in the development narrative, there has been minimal academic research into how measures taken to mainstream disability in international development bring about change for persons with disabilities.\textsuperscript{4}

\textsuperscript{3} World Bank and World Health Organisation ‘World Report on Disability’ (2011)
\textsuperscript{4} For example, the reports published by the United Nations in the lead up to post 2015 discussions have referenced disability in the context of being left behind in previous development goals. See United Nations General Assembly, ‘A life of dignity for all: accelerating progress towards the Millennium Development Goals and advancing the United Nations development agenda beyond 2015’ (2013) A/68/202. This report states that the new goals and targets should “take into account crosscutting issues such as gender, disability, age and other factors leading to inequality, human rights, demographics, migration and partnerships.” See also United Nations, ‘A New Global Partnership: Eradicate Poverty and Transform Economics through Sustainable Development’, (2013). Its recommendations include “data must enable us to reach the neediest, and find out whether they are receiving essential services. This means that data gathered will need to be disaggregated by gender, geography, income, disability, and other categories, to make sure that no group is being left behind.” See also the United Nations Development Group, ‘The Global Conversation Begins – Emerging Views For A New Development Agenda’ (2013), 23, 40. See reports published as part of the World We Want consultations where disability is referenced with respect to health and governance; World We Want, ‘Report of the Global
However, despite a dearth of academic research what has been highlighted at a policy level is that measures so far have tended to focus on disability-specific interventions.\textsuperscript{5}

This study aims to understand the meaning and implications of Article 32 of the CRPD for the efforts of bilateral agencies to mainstream disability into their development efforts. The sub-questions include the following:

- What have been the efforts of bilateral agencies to mainstream disability in development to-date?
- What have been the achievements of these efforts and what were the challenges?
- What are the gaps and what future steps do bilateral agencies need to take to act in coherence with Article 32 of the CRPD.

To investigate these questions, an extensive literature review of law and policy was conducted along with twenty-five semi-structured interviews with key informants across three jurisdictions the United States, Finland and Australia.

1.2 Thesis outline

The study, its theoretical foundations, methods and discussions of findings are discussed in the following format.

Chapter two outlines the theoretical framework that supports this thesis. It is constructed by drawing out aspects from a number of existing theories in the fields of social science and law, all of which could contribute to a deeper understanding of mainstreaming disability in development. These theories are

\textsuperscript{3} Office of the High Commissioner for Human Rights, ‘Thematic study on the role of international cooperation to support national efforts for the realization of the purposes and objectives of the Convention on the Rights of Persons with Disabilities.’ (2010) 17 A/HRC/16/38

This report pointed to the fact that the trend in mainstreaming disability in international development has been to focus primarily on disability specific interventions.
‘Intersectionality’, the ‘Capability Approach’ (Sen) and the ‘Vulnerability Approach’ (Fineman). Each of these theories and disability as a development theme are only beginning to be discussed in the disability discourse. However, a clear focus on them can potentially bridge disability from being a specialist topic to one, which crosses a number of disciplines. This would allow disability to be viewed holistically rather than through a narrow identity lens. Another important dimension of these theories is their approach to understanding marginalisation and disadvantage, which they place it within a broader understanding of equality. This understanding encourages State activity to create opportunities and potential for persons with disabilities, while also calling for the active participation of those who are most marginalised. Chapter two also deals with definitional issues and key concepts that form the basis of the discussion in this thesis.

Chapter three describes and justifies the methods that were used to conduct research on bilateral agencies that for the majority of States are the main conduits of international development programmes.\(^6\) This methodology chapter further presents the outline and purpose of this study. In particular it describes the research design, the research methodology and methods used. It outlines the selection criteria used for choosing the three bilateral agencies for this study – United States Agency for International Development (USAID), Australian Agency for International Development (AusAID) and the Ministry for Foreign Affairs (Finland).

As this thesis draws on a legal and a sociology perspective, chapter four provides a review of the broader international legal instruments that support international cooperation in order to set the context for the discussion of Article 32. This context setting is important as it provides the basis for discussing the role of the State and its obligations to promote and protect human rights. The chapter

\(^6\) The majority of governments channel their development assistance through agencies that are established for this purpose or else through their Ministries for Foreign Affairs. The majority of Donor States are members of the Development Assistance Committee (DAC) of the Organisation of Economic Cooperation and Development (OECD), the list can be found here http://www.oecd.org/dac/dacmembersdatesofmembershipandwebsites.htm > accessed 17 January 2014. Two of the agencies selected for this research, USAID and AUSAID are designated by their respective government to manage the US and Australia’s international development programmes for persons in low income/poor countries. Finland channels its development assistance through its Foreign Ministry.
provides general references to international cooperation in human rights treaties prior to the CRPD, also highlighting existing jurisprudence on international cooperation. Chapter four traces the evolution of international cooperation and disability in international law and policy, identifying the key areas of law and policy prior to the adoption of the CRPD. It concludes with a focus on the development of Article 32 of the CRPD, exploring in particular the State Parties understanding of the role of international cooperation in achieving the rights of persons with disabilities. Recent commentary on Article 32 of the CRPD, extrapolated from State Parties reports submitted to the Committee on the Rights of Persons with Disabilities, demonstrates their understanding.

Chapter five presents data collected from this study and addresses the first research question: what have been the efforts of bilateral agencies to mainstream disability in development to-date? In the words of the key informants, with reference to supporting policy material, this chapter sets out how the three agencies describe their implementation of mainstreaming disability to-date. The chapter explores the understanding of the bilateral agencies regarding the obligations mandated by Article 32, their underlying theoretical perspective framing their understanding of disability, vulnerability, and development, and their different strategies for achieving mainstreaming. Data from internal and external key informants both of which present differing perspectives on mainstreaming from a policy official and implementer’s perspective is also included.

Chapter six responds to the research question regarding challenges and achievements of bilateral agencies in mainstreaming disability as well as the gaps in bilateral efforts of mainstreaming. Using the data from key informant interviews, the similarities and differences between the agencies across a number of headings, which emerged from the interview data, are drawn out. In doing so, the chapter presents a comparable analysis among the three agencies. In the context of gender mainstreaming and the different typologies that exist for gender mainstreaming, the achievements and challenges of mainstreaming disability emerging from the research data are discussed.
Chapter seven addresses the final research question and discusses how each of the agencies fares against the theoretical framework supporting this thesis. As discussed in the introduction, this thesis aims to contribute to mainstreaming disability and its implementation. It does so by measuring the agencies' performance against the different elements of the theoretical framework, which facilitated a discussion for what future steps were needed.

Chapter eight summarises the findings and presents the main conclusions arising from this study. The findings include that mainstreaming disability is not the sole responsibility of just one entity and secondly, mainstreaming disability has not yet reached beyond a disability specific focus.
Chapter Two: Theoretical framework

2.1 Introduction

This chapter outlines the theoretical framework for the purposes of this thesis. Using the theories discussed, this chapter identifies the key elements needed to construct a theory for mainstreaming disability in development. In constructing such a theory aspects from a number of existing theories from the fields of social science and law are drawn out. These theories are the Capability Approach, Intersectionality and the Vulnerability Theory. The theories and their relevant aspects were selected because they contribute to a deeper understanding of mainstreaming disability in development as a thematic issue. The theories explored in this chapter are only beginning to emerge in the disability discourse, as is disability as a theme in international development. The reasons for their selection as theories to underpin a framework for mainstreaming disability in development are summarised below and discussed in more detail in sections 2.4, 2.5 and 2.6.

The main reasons influencing their selection are: (1) a recognition that development is a drive towards expanding choice and creating opportunities so that all citizens can fulfill their potential and persons with disabilities must be active participants in this process. Sen’s Capability Approach focuses on how this can be achieved for all citizens, including persons with disabilities; (2) a recognition the debate within the disability discourse between the social and medical model of disability has led to an oversimplification of issues facing persons with disabilities. The social model’s concentration on barrier removal and the identity politics of the disability movement have contributed to a view that persons with disabilities are a homogenous group. Both the Vulnerability Theory and Intersectionality respond to this limitation. Firstly, by asserting that for all persons vulnerability is part of the human condition affecting both persons with disabilities and without disability. It can be caused by economic and institutional factors, and not solely as a result of an individual’s impairment. Secondly, Intersectionality provides the opportunity to explore the intersection of
disability with a number of identities and move away from a homogenous view of disability; and (3) the emphasis each of theories place on the State to play a role in ensuring that marginalisation and disadvantage are placed within a broader understanding of substantive equality. Such an understanding of marginalisation and disadvantage encourages activity by the State to create opportunities and potential for persons with disabilities including their active participation in policies and programmes that relate to their lives.

This chapter has three objectives. These objectives are: (1) to outline the problem statement of this thesis (2) to define the definitions and key concepts used throughout the research and (3) to present the three theories to underpin the investigation this thesis will undertake. Section 2.2 discusses how discrimination experienced by persons with disabilities in a development context impacts on their enjoyment of human rights and increases their susceptibility to poverty and inequality. The key concepts and definitions for this research are discussed in section 2.3. Section 2.4 through section 2.6 presents the justification for the three theories underpinning this research. Finally, section 2.7 presents the conceptual framework and map that forms the basis for the comparative analysis undertaken in this thesis.

While the substantive discussion in this chapter is focused on the key aspects of each of the theories, they must be understood in conjunction with the social model of disability, the CRPD and lessons learnt from gender mainstreaming. These dimensions are included in the theoretical discussions, demonstrating throughout this chapter the similarities and connections with the presented theories and the social model of disability, which heavily influenced the development of the CRPD. Links between the three theories and gender mainstreaming are also highlighted. While mainstreaming disability, as a thematic issue in bilateral agencies’ policies and programmes is a relatively new

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7 See CRPD, preamble para (e) which recognises the ‘attitudinal and environmental barriers that hinders full and effective participation’. See also para (k), which recognises that despite previous undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world. Specific articles include; CRPD Article 1 which recognises how persons with a range of impairments which in interaction with various barriers may hinder their full and effective participant in society on an equal basis with others; CRPD Article 9 which discusses the elimination of barriers to accessibility; CRPD Article 30 which requires States to take actions on removing barriers to persons with disabilities enjoyment of cultural materials
phenomenon, mainstreaming has been a part of the development discourse for many years from a gender perspective. In order to effectively conceptualise and operationalise disability mainstreaming recent research and policy documents recommend that gender-mainstreaming experiences should be examined. This is discussed in more detail in chapter six. However, in the context of the theoretical focus of this chapter, gender mainstreaming is a critical dimension.

2.2 Disability and discrimination in a development context

The ‘World Report on Disability’ indicates that over one billion people, or approximately fifteen per cent of the world’s population, are living with some form of disability. The report presents evidence of the barriers faced by persons with disabilities in accessing basic services and in participating in economic and social activities. A number of UN reports have also acknowledged the vulnerable situation that millions of persons with disabilities live in. For example, it has been recognised that the majority of people with disabilities who are poor live in developing countries and face exclusion and isolation from their community. From a development perspective, there is some evidence to

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10 While there is no accurate data on the exact number persons with disabilities living in poverty in developing countries, there are a number of estimates. For example, Braithwaite, J., D. Mont ‘Disability and Poverty: A Survey of World Bank Poverty Assessments and Implications’ (February 2008) World Bank SP discussion paper 0805, 6-7 discuss the different metrics available for measuring numbers of persons with disabilities living in poverty. See, United Nations General Assembly ‘A life of dignity for all: accelerating progress towards the Millennium Development Goals and advancing the United Nations development agenda beyond 2015’ (2013) A/68/202 which recognises that persons with disabilities are part of the 1 billion persons who live in extreme poverty. See also United Nations General Assembly ‘Realizing the Millennium Development Goals for Persons with Disabilities through the implementation of the World Programme of Action concerning disabled persons and the Convention on the Rights of Persons with Disabilities’ (2009) A/64/180. This highlights how twenty-eight MDG country reports referenced persons with disabilities as vulnerable or marginalised
suggest that there is a link between poverty and disability.\textsuperscript{12} It is argued by Rust and Metts that a contributor to the poverty experienced by persons with disabilities is “societal factors such as prejudice and discrimination” highlighting that these factors need to be addressed in the fight against poverty rather than solely focusing on economic factors.\textsuperscript{13}

The discrimination faced by persons with disabilities impacts negatively on the enjoyment of their human rights. One of the main principles of the CRPD is stated in Article 3. This principle is non-discrimination and it applies across all of the articles in the CRPD including Article 32 on International Cooperation. Therefore Article 32 and its provision on international development programmes are underpinned by an “overarching” theory of non-discrimination.\textsuperscript{14}

The discrimination faced by persons with disabilities is multi-faceted and can vary depending on the social, economic, cultural and political circumstances they may live in and due to range of individual attributes they may have. For example, a World Health Organisation (WHO) Report found that people with mental health issues tend to be excluded from development agenda despite the fact the people with mental health issues experience discrimination and stigmatisation.\textsuperscript{15}

Different identifying characteristics such as gender and age can contribute to incidences of discrimination experience by persons with disabilities that may not

\textsuperscript{12} Policymakers and researchers for many years have suggested there is a casual link between disability and poverty in a development context. Early researchers in this area, see Elwan ‘Poverty and Disability – A Survey of the Literature’ (1999) Social Protection Discussion Paper No. 9932; Dudzik, Elwan and Metts ‘Disability Policies, Statistics, and Strategies in Latin America and the Caribbean: A Review’ (2002) describe how “the frequency with which an untreated impairment starts or accelerates the collapse of a family already in a fragile economic base.” See also DFID, ‘Disability, poverty and development’ (2000) 4, which references this bi-directional link between poverty and disability in its policy paper. However while there is a general acceptance that poverty and disability are linked in developing countries, a recent paper found that the actual evidence base to link disability and poverty is small and requires more attention to build a strong base for linking poverty and disability to ensure that commitments on poverty reduction and other disability rights issues are met, see Groce, N., Kett, M., Lang, R., Trani, J. ‘Disability and poverty: the need for a more nuanced understanding of implications for development policy and practice- a critical review of the literature in low and middle-income countries’ (2011) Third World Quarterly, 32(8):1493-1513


\textsuperscript{15} World Health Organisation ‘Mental health and development: targeting people with mental health conditions as a vulnerable group’ (2010) 7
be solely attributable to having an impairment. For example, studies have shown how women with disabilities are adversely affected due to discrimination based on having dual identities both of which are vulnerable to discrimination in the development context.\textsuperscript{16}

In order to respond to the multi-faceted discrimination faced by persons with disabilities, legal and policy responses constructed by States must consider the diversity that exists among persons with disabilities. The responses must also be able to respond to the different social, economic and cultural contexts where people with disabilities live. The investigation in this thesis looks at how States respond through the mechanism of development aid to the discrimination faced by persons with disabilities.

\section*{2.3 Definitions and concepts}
Before discussing the different theories and the aspects they bring to answering the research questions proposed in this thesis, this section outlines and defines the key concepts and terminology used in the theoretical discussion.

\subsection*{2.3.1 International cooperation}
Article 32 (1) of the CRPD provides the understanding of the role of international cooperation for this thesis. The CRPD asserts that international cooperation has a role in support of national efforts for the realization of the purposes and the objective of the CRPD.\textsuperscript{17} In terms of defining international cooperation, there are a number of definitions all with the common theme of States cooperating together on a range of areas, including financial and cash transfers.\textsuperscript{18} The role of international cooperation is discussed in detail in chapter

\\[\text{\textsuperscript{16}}\text{UNenable ‘Rights of Special Groups with Disabilities’, International Norms and Standards relating to disability’ available online at: http://www.un.org/esa/socdev/enable/comp001.html}
\\[\text{The UN reports which states that ‘the combination of male preference in many cultures and the universal devaluation of disability can be deadly for disabled females’; see also Human Rights Watch ‘As if We Weren’t Human – Discrimination and Violence Against Women with Disabilities in Northern Uganda’ (2010). The Human Rights Watch report highlights the discrimination, stigma and violence towards women with disabilities}
\\[\text{\textsuperscript{17}}\text{CRPD, Article 32}
\\[\text{\textsuperscript{18}}\text{United Nations, ‘The United Nations Charter’ (1945). The Charter states as one of its purposes to ‘achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, an in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion’; The Organisation Economic Cooperation and Development takes the definition of international}
four, which also highlights the key themes that emerged during the CRPD negotiation (see chapter four section 4.4.1). For the purposes of this thesis, international cooperation is defined as actions and measures taken by bilateral agencies (on behalf of their governments) through their international development assistance programmes to advance the rights and equal opportunities of persons with disabilities.

2.3.2 Development

For the purposes of this research, development is not confined to the traditional economic neo-liberal understanding; rather it is grounded in a human development approach. A human development approach asserts that the purpose of development is to improve lives by expanding the range of things a person can be and do, such as to be healthy and well nourished, to be knowledgeable and to participate in community life. Viewed through this lens development becomes about a process of removing the obstacles that prevent people from achieving these choices, or freedoms as Sen would describe them. As discussed in Section 2.5.1 the sentiments behind this perspective on development are also echoed in the argument for a rights-based approach to disability. In the preamble to the CRPD, it is recognised that disabled people continue to face barriers in their participation as equal members of society. Removal of these barriers (be they legal, political, socio economic) is considered paramount so that disabled people can fully enjoy their fundamental freedoms and become active contributors to society. Along with barrier removal, the recognition that disabled people have individual autonomy and independence, including the freedom to make their own choices is clearly stated in the CRPD. Additionally, Article 3 (General principles) states the guiding principles, which form the basis of the implementation of the CRPD. These include non-discrimination, full and effective participation and inclusion in society, respect for difference and acceptance of people with disabilities as part of human diversity and humanity

cooperation from the United Nations statistical reports on National Accounts (2008), it defines it as ‘current international co-operation consists of current transfers in cash or in kind between the governments of different countries or between governments and international organisations’. See https://stats.oecd.org/glossary/detail.asp?ID=2999 (Accessed 13/03/14)
20 CRPD, preamble (k)
and equality of opportunity.\textsuperscript{21}

Therefore, development for the purposes of this thesis is not solely focused on economic indicators but also on the social, economic and political environment, which is required to ensure persons with disabilities, can enjoy their human rights and fundamental freedoms.

\textbf{2.3.3 Disability}

A universally accepted definition of disability remains elusive.\textsuperscript{22} For the purposes of this thesis, the approach adopted by the CRPD on defining disability is proposed. It states “persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with other.”\textsuperscript{23} While the role of impairments that individuals may have is recognised within the CRPD definition, it also emphasises how socially constructed barriers interact with individual impairment thereby hindering participation in society by persons with disabilities. Furthermore disability is framed within a human rights perspective. This perspective recognises the role that discrimination plays in hindering effective participation of disabled people, particularly when different identities exist; for example women and children with disabilities.\textsuperscript{24}

\textsuperscript{21} CRPD, preamble (n)

\textsuperscript{22} Disability studies are considered a relatively new academic subject with most of the research to-date written from a sociological perspective. Its initial development was situated as specialist focus with the majority of literature focusing on the debate between the two dominant conceptual models, that of the social model and the medical model of disability. See Thomas, C ‘How is disability understood? An examination of sociological approaches’(2004) Disability & Society, Vol. 19, No 6. Thomas states that the contrasting approaches of the medical and social model of disability “suggest that there is no unitary sociology of disability, but rather sociologies of disability that continue to offer quite different perspectives on the nature of disability”. See also Stephen Smith ‘Social justice and disability: competing interpretations of the medical and social models’ in Kristjana Kristiansen, Simo Vehmas, and Tom Shakespeare (eds) \textit{Arguing about Disability: Philosophical Perspectives}. (Routledge 2010). Smith argues that while the focus on the social and medical model established important parameters for understanding competing interpretations of disability, they are now probably more accurately presented as “archetypes” of various discourses concerning disability.

\textsuperscript{23} CRPD, Article 1

\textsuperscript{24} See CRPD preamble (p) (q) and (r) which recognises the aggravated circumstances a person with a disability might face due to different identities, it also recognises the particular vulnerability of women with disabilities to violence and abuse.
2.3.4 Mainstreaming: the twin-track approach

The term mainstreaming is a contested concept, lacking clarity and open to a variety of interpretations.\textsuperscript{25} Even within the disability and inclusive development discourse, the end goal varies from ensuring inclusion of persons with disabilities to achieving equality for persons with disabilities, and can also suffer from confusion.\textsuperscript{26} The focus of this thesis is on how bilateral agencies mainstream disability. Therefore, the definition used for mainstreaming is the twin-track approach. Similarities can be drawn between this approach to mainstreaming disability and also the gender mainstreaming definition.\textsuperscript{27} It has featured predominantly in the literature to-date and, as outlined later in chapter four, features as part of the mechanisms for inclusive international cooperation.\textsuperscript{28} Diagram 2.1 visualises the twin-track as an approach that recognises the dual needs of:

1. integrating disability-sensitive measures into the design, implementation, monitoring and evaluation of all policies and programmes; and

2. providing disability-specific initiatives to support the empowerment of persons with disabilities.

With respect to the CRPD and mainstreaming, it is interesting to note that


\textsuperscript{27} Albert, Bill, Dube, AK, Riis-Hansen, Cecille, Trine, ‘Has Disability Been Mainstreamed into Development Cooperation?’ (2005) 6. Albert highlights that mainstreaming is a contested term, however from a definitional perspective they suggested reworking the UN definition of gender mainstreaming. This report was produced as part of the Disability Knowledge and Research Programme funded by DFID and is available online at http://hpod.org/pdf/Mainstreamed.pdf > accessed 10 March 2014

mainstreaming is only explicitly referenced once throughout the entirety of its text; in paragraph (g) of the preamble as an integral part of sustainable development. Article 32 on international cooperation does not explicitly reference mainstreaming disability in its text. However, during the negotiations for the CRPD mainstreaming was recognised as a means to ensuring inclusive development for persons with disabilities.\textsuperscript{29}

**Diagram 2.1: Twin-track approach to mainstreaming disability** \textsuperscript{30}

Despite its lack of appearance in the overall text of the CRPD, it is important to highlight Article 4 of the CRPD in relation to mainstreaming. The provisions of Article 4 (General obligations) contribute to mainstreaming disability in laws and policies. For example Article 4.1 (a) and (b) which require State Parties to the CRPD to modify and adapt their laws in line with promoting the rights of persons with disabilities. This is not just applicable to disability laws but to all mainstream law and policy. Additionally, while the CRPD is specific to the rights of persons with disabilities, it is equally applicable to ensuring all planning and design in mainstream law and policy areas such as health, education etc. are inclusive of persons with disabilities.

\textsuperscript{29} Ad Hoc Committee Unofficial Daily Summaries from 3\textsuperscript{rd} session, Volume 4, # 8 (June 2004); Session Volume 5, # 5 (August 2004); 7\textsuperscript{th} Session, Volume 8, #14

\textsuperscript{30} DFID, ‘Disability, poverty and development’ (2000)
2.3.5 Responsive State

A key concept discussed in this thesis is the role of a Responsive State. Fineman states that the obligation of a Responsive State is to structure conditions in which individuals can aspire meaningfully to realise their individual capabilities as fully as possible. This means that in order to facilitate real equality for persons with disabilities the State must play a robust role in enabling its disabled citizens to participate on an equal basis. Disability-specific laws and policies are not sufficient on their own but must be accompanied by proactive enabling measures. With respect to the role of bilateral agencies as State actors and also with respect to States who have signed or ratified the CRPD (either Donor States or Recipient States), section 2.6 discusses this dual requirement. For the purposes of this thesis, the concept of the Responsive State is investigated in a number of ways. First of all, measures taken by the States to promote the rights and equal opportunities of persons with disabilities is explored. The primary method for this exploration is existence of law and policy, and mechanisms for policy coherence. Secondly, the role of political and agency leadership in advancing the rights of persons with disabilities through international development is reviewed.

2.4 Intersectionality: looking through a wider lens

This section is broken down into a number of different subsections. Section 2.4.1 explores the challenges that can emerge from using a dominant identity approach i.e. disability, but also recognises that there is a need to create visibility on issues facing persons with disabilities and discusses the challenges therein. Section

32 Policy coherence is not a new idea in disability policy and can be found under different guises, for example the European Union has for years supported the Open Method of Coordination between member states on employment and social inclusion. See Priestly ‘The Europeanisation of disability policy’ presentation made on the progress of the Open Method Coordination and Disability <http://www.york.ac.uk/inst/spru/seminars/2011Priestley.pdf> accessed 10 September 2013. Also, the CRPD suggests a role for policy coherence for example Article 4 para (d) of the CRPD asks States ‘to refrain from engaging in any act or practice that is inconsistent with the Convention.’ The use of the word ‘engaging’ suggests that the Convention is asking States to take into consideration its future actions across all issues and to ensure they are consistent with the CRPD. Also the process by which the States ratify the Convention assumes a role for coherence as laws and policies are brought into adherence with the principles contained in the Convention.
2.4.2 introduces intersectionality and discusses the potential it has for exposing the factors (not solely based on the grounds of membership of the disability category), which contribute to the discrimination faced by persons with disabilities. Sections 2.4.3 and 2.4.4 discuss the vision presented in the CRPD for equality for persons with disabilities. Here, the use of intersectionality to help conceptualise disability discrimination more from a holistic perspective which views disability as a constant and part of the human condition is explored. Intersectionality theory highlights how viewing disability solely through a single identity approach can have the consequences of seeing disability discrimination as isolated and discrete. Sections 2.4.5 and 2.4.6 discuss intersectionality in the context of the social model of disability and the CRPD.

2.4.1 Should disability be the only lens used for analysis?

First and foremost it is important to point out that this thesis is not suggesting a replacement of the category of disability or a dismantlement of it as a thematic issue in development and human rights narratives. Global campaigns, for example including persons with disabilities in the Millennium Development Goals (MDGs) and more recently the negotiations for the replacement of the MDGs, have demonstrated that at present there is no natural reflex action within mainstream development policy to include disability. Therefore, the need for its visibility as a thematic issue continues to be required. However, an issue that emerges in creating this visibility is how to ensure it is done in such a way that it does not contribute to further siloing and specialisation of disability. The different identities that persons with disabilities may have must be recognised. Furthermore, the incidences of discrimination experienced by persons with disabilities, which can be caused by other grounds (such as membership of race, gender) and different contexts (social, economic, cultural and political) must be captured.

The need for visibility is not just unique to disability. For example, the origins of

33 See discussion on Satz in section 2.4.5
34 United Nations Department of Economic and Social Affairs, ‘Disability and the Millennium Development Goals: A Review of the MDG Process and Strategies for Inclusion of Disability Issues in Millennium Development Goal Efforts’ (2011) 3-13. See also chapter 1, chapter 6 and chapter 9 in Grabham,E,et al., Intersectionality and Beyond, Law, power and the politics of location’ (Oxon: Routledge-Cavendish 2011)
Women in Development (WID) stemmed from the need to have women’s issues placed on the development agenda overtly in their own right. This was achieved through a range of policies and various mechanisms within institutions where the visibility of women-specific issues was increased.\(^{35}\) This is similarly happening with responses to disability. The CRPD was developed to meet the demands of academics, experts and the international disability community all of whom recognised that the human rights of persons with disabilities needed explicit recognition.\(^{36}\) This is not only the case for a human rights focus on disability. In mainstream development efforts the policy discourse to-date has focused on increasing the visibility of disability and responding to the specific needs of disability. No less than five General Assembly Resolutions have addressed the need for disability to be included in the Millennium Development Goals.\(^{37}\) As with the demand for initial recognition such as in the case of WID, and now in the case of a disability specific instrument (i.e. the CRPD) an important challenge remains. In order to develop effective international policy responses a balance must be struck between the issues, which are specific to disability, and the universal issues which also relate to disability.

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\(^{35}\) Razavi and Miller, ‘From WID to GAD: Conceptual Shifts in the Women and Development Discourse’ (1995) Occasional Paper 1, UN Research Institute for Social Development. See also Esther Boserup Women’s Role in Economic Development, New York: St Martin’s Press cited in Verloo ‘Another Velvet Revolution Gender Mainstreaming and the Politics of Implementation’ (2001) IWM Working Paper No 5/2001 While Women in Development (WID) was recognised as successful in getting women’s issues onto the development agenda, and in creating the impetus to grow the necessary institutional structures that had the knowledge to integrate women into development, it also faced much criticism. In particular there were questions on the adequacy of focusing solely on women, where these interventions perpetuated a continued isolation of women from the broader development agenda.

\(^{36}\) Quinn, Degener, Bruce et al, ‘Human rights and Disability: The current use and future potential of United Nations Human Rights Instruments in the context of disability’ (OHCHR 2002). This report stressed the importance of the need for explicit reference to disability in a binding convention to ensure the visibility of disability issues, by providing a clear focus for the issues of disability within the UN system. It would mean that human rights norms could be tailored specifically for the particular circumstances faced by disabled people. Precise obligations would be clear, and focused in one place. Such a convention would underpin and not undermine existing human rights law. It should facilitate the mainstreaming of disability into the human rights system.

The balance between specificity and universalism is a delicate one. If it was to tip solely to a disability focus some academics claim this would lead to a number of limitations when it comes to developing policy responses. These limitations include:

(a) the essentialising of disability with the potential for an unintended consequence of further stereotyping;  

(b) a dominant discourse that renders invisible experiences of marginalised members of the specific social category (this is particularly true in the case of people with mental health and intellectual disabilities);  

(c) a policy response which ends up being fragmented and disjointed;  

(d) a lack of coherence from a policy perspective on the appropriate balance between where to allocate support for specific needs and where to support mainstream efforts.

If the balance was to tip to a broader more universalist focus, the risk is that disability would be lost among other issues that are of equal concern to development and human rights, for example, women-specific matters and issues facing people living with HIV/AIDS.

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38 Martha Minnow, ‘Making all the Difference: Inclusion Exclusion and American Law’ (1990)
41 For example the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) while having obligations for achieving equality between men and women and prohibiting discrimination against women, does not explicitly make reference to women with disabilities. This creates a visibility issue for women with disabilities and leaves the situation of women with disabilities invisible to most state parties. Even when the CEDAW committee asked for information to be included on women with disabilities, it could not ensure that countries take action to address the situation of women with disabilities or refer them specifically in their reports. See Arnade and Haefner, ‘Gendering the Draft Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities’ background legal paper prepared for Disabled People International (2006). See also UNAIDS, WHO and OHCHR Policy Brief ‘Disability and HIV’ (2009) which discusses actions needed to increase the participation of persons with disabilities in the HIV response
This research examines the potential for developing an approach to understanding the discrimination faced by persons with disabilities from an intersectional perspective. It focuses on where disability intersects with multiple axes such as gender and race, and also within different contexts, including economic, political and cultural contexts. Each of these areas and contexts of which have the propensity to create and reinforce disadvantage and marginalisation for people with disabilities. A central argument in this thesis argues that using an intersectional form of analysis in these instances has the potential to expose the institutional factors and the societal norms that create opportunities for discrimination against persons with disabilities to prevail. Using intersectionality theory could also provide the opportunity to help relocate development work in the area of disability discrimination to a much broader understanding of the factors causing disability discrimination and one less blinkered or siloed to the intersection of different identities and the discrimination they face.\textsuperscript{42}

Moving beyond the sole focus on disability and applying an intersectional approach, provides the opportunity to explore the intersection of disability with a number of identities. Moser describes how for a person having a number of identities (for example, a woman with a disability) in particular contexts can cause an ‘unmasking of each other {identities}’ and that “particular contexts can bring forward one identity over another.”\textsuperscript{43} A singular focus on one identity when looking at disability could result in other aspects of identity being overlooked. Groce and Driedger illustrate this point with regard to women with disabilities accessing rehabilitative services in post conflict countries. They state that even with disability specific services the needs of disabled women were not considered. This lack of gender awareness arises when the focus is solely on disability. Groce and Driedger cite examples of health and rehabilitation services

\textsuperscript{42} UN Human Rights Council, ‘Report of the Special Rapporteur on violence against women, its causes and consequences’ Rashida Manjoo, Addendum: Mission to Italy, 15 June 2012, A/HRC/20/16/Add.2. The report discusses how if identities are not adequately catered for, a siloed approach to services develop

\textsuperscript{43} Moser, ‘Sociotechnical Practices and Difference: On the Interfaces between Disability, Gender and Class’, Science Technology Human values (2006); 31; 537. Moser describes her experience of interviewing men who acquired post accidents and she outlines how her interaction with them identified her status as a women, while with them, their status as a man and then a disabled men was witnessed.
developed post conflict catering more for male veterans then the needs of disabled women because the location of rehabilitation centres were in urban locations. This meant that disabled women needed to travel long distances and leave behind their family and support networks. This is not only the case for gender and disability. The intersection of HIV/AIDS and disability is an aspect to developing responses and policies in a development context. Literature that exists with regards to HIV/AIDS and disability highlights how these intersecting identities have similar risk factors. For example, Groce found that many of the risk factors for HIV/AIDS (poverty illiteracy, stigma and marginalisation) are identical to those of disability. The stigma issues associated with disability and living with HIV/AIDS are compounded when these two identities intersect. Myroslava Tataryn discusses the difficulties with respect to HIV/AIDS and disability. In particular, she explores how the disabled community after a long battle to move away from the medical model, might view an alignment with the HIV/AIDS community as a slip back to the medical model. She also recognises that both groups fear how a dual-identity could stigmatise their own situation. There is resistance within the disability community against people living with HIV/AIDS claiming a disability identity, particularly those with a positive HIV status. In addition, people living with HIV/AIDS may be reluctant to be defined as disabled as they fear they may then be perceived as sick, dependent etc.

In concluding this section, it is worthwhile linking this discussion of a move beyond a single or even a dual or ‘additive lens’ focus to one of the lessons learnt from gender mainstreaming. In discussing mainstreaming as a transformative strategy, Beveridge and Nott suggest that it only makes sense as a politics of difference. While they accept that gender is important as an organising category, they contend that sometime in the future it must be recognised there is a need to

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46 Tataryn, ‘Bridging the gap: a call for cooperation between HIV/AIDs activists and the global disability movement’ 2004 (Paper presented at the inaugural meeting of the Canadian Disability Studies Association)
47 Discussed in more detail in Section 2.4.3
focus on the real lives of people. Such a focus calls for an analysis of their inequality and in that respect, it is not logical to look solely through a gender lens.\textsuperscript{48} Again, this has particular resonance from a disability perspective. As Albert contends disability equality is a contested concept, so also is disability.\textsuperscript{49} The majority view now held of disability is from the viewpoint of a social construct, placing responsibility on how society, through its policies and structures, disables people. The CRPD, UN agencies, bilateral agencies and the global disability community advocate this viewpoint.\textsuperscript{50} While the social model or social construct viewpoint of disability has its merits, particularly in politicising the disability community, its capacity to reflect the diversity within the disability community has been questioned.\textsuperscript{51} Within this majority viewpoint of what disability means there is potential to focus on barrier removal and social change and not reflect the diversity that individuals with disabilities may have. The experience of women with disabilities within the wider disability movement demonstrates the failure of the social model to address issues faced by persons with mental health issues or intellectual disabilities.\textsuperscript{52}

\textbf{2.4.2 Intersectionality; an interdisciplinary approach to overcome a single lens view?}

Intersectionality is a relatively new research paradigm. While some suggest that it has yet to gain traction at an operational level its potential to broaden analysis to a more nuanced contextual understanding of how persons with disabilities interact with their environment in low-income countries and in particular the

\textsuperscript{49} Bill Albert, A.K. Dube, Trine Cecilie Riis-Hansen, ‘Has Disability Been Mainstreamed into Development Cooperation?’ (2005) This report was produced as part of the Disability Knowledge and Research Programme funded by DFID and is available online at http://hpod.org/pdf/Mainstreamed.pdf > accessed 10 March 2014
\textsuperscript{50} See CRPD, preamble para (e) which recognises the ‘attitudinal and environmental barriers that hinders full and effective participation’; para (k) which recognises that despite previous undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world; Article 1 which recognises how persons with a range of impairments which in interaction with various barriers may hinder their full and effective participant in society on an equal basis with others; Article 9 which discusses the elimination of barriers to accessibility; Article 30 which requires States to take actions on removing barriers to persons with disabilities enjoyment of cultural materials
\textsuperscript{51} Lang, ‘Development and Critique of the Social Model of Disability’ (2001). See also chapter five sections 5.2.1, 5.3.1 and 5.4.1 for discussion of the agencies conceptualisation of disability
\textsuperscript{52} See generally Thomas, C. ‘How is disability understood? An examination of sociological approaches’ (2004) Disability & Society, (19) 6
intersection of disability and other identities such as gender is an important part of this research. Intersectionality had its origins in the legal field. Crenshaw, one of its original theorists, developed the thinking in response to black women’s experience in employment. She claimed that a single axis framework that is dominant in antidiscrimination law in the US erases black women in the conceptualisation, identification and mediation of race and sex discrimination.

From the outset, it is important in terms of understanding intersectionality, to briefly describe where it fits with regard to other types of discrimination such as multiple and compound discrimination which all address discrimination based on combined identities. Makkonen differentiates between three situations of discrimination. The first is multiple discrimination, which he describes as a situation where a person can experience discrimination on one ground in one situation, and on another ground in another situation. The next is compound discrimination, which differs from multiple discrimination as it describes a situation where a person suffers discrimination on the basis of two or more grounds at the same time, and where one ground adds to discrimination on another ground. Lastly, Makkonen argues that, “intersectional discrimination refers to a situation where several grounds operate and interact with each other at the same time in such a way that they are inseparable.”

The rationale for choosing this theory for the purposes of this thesis is first set out from a general theoretical perspective. This is followed by more specifically focusing on how using an intersectionality approach can potentially expose the factors which contribute to the discrimination faced by persons with disabilities; factors that are not captured through traditional anti-discrimination measures. First and foremost as a research paradigm intersectionality has emerged as an interdisciplinary approach. Therefore has applicability to both social science and law and in particular international law, which is the focus of this thesis. From a social science perspective, it has become a prominent theory for a number of

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54 Rita Kaur Dhamoon, ‘Considerations on Mainstreaming Intersectionality’ (2011) Political Research Quarterly vol. 64 no. 1 230-243
55 See Timo Makkonen, ‘Multiple, Compound and Intersectional Discrimination: Bringing the experiences of the most marginalized to the fore’ (2002) Institute for Human Rights, Åbo Akademi University 1-5.
reasons:

- how it considers the interaction of such categories (for example, disability, gender, race) as organising structures of society;

- how it recognises that these key components influence political access, equality and potential for any form of justice\(^{56}\);

- as a way to analyse the intertwining of social and cultural categories:\(^{57}\)

- as a mechanism for moving beyond a single category perspective to a more complex understanding of difference and power, which understands that one voice does not represent all, and that the voices of those who are marginalised must be recognised; \(^{58}\) and

- as recognising that the context in which we situate ourselves is vital, in particular taking into account the historical, social and political context and the experience of the individual. \(^{59}\)

Each of these reasons have some form of relevance to the lived experience of persons with disabilities in developing countries. In essence, applying an intersectional approach moves away from directly focusing on the individual, to a much broader focus on context (be that economic, political or social). This approach is useful in investigating how inequalities are produced on the institutional scale through structures, processes and techniques of governance.\(^{60}\)

Many of the points illustrated above have resonance with existing disability theory. The social model already situates the exclusion of persons with disabilities as an inadequate response by society. The need for the voice of

\(^{56}\) Hancock, ‘When multiplication doesn’t equal quick addition: Examining Intersectionality as a Research Paradigm’ (2007) Perspectives on Politics, vol. 5 pg. 63-79

\(^{57}\) Knudsen, Susanne, *Intersectionality - A Theoretical Inspiration in the Analysis of Minority Cultures and Identities in Textbooks* (Oxford Blackwell Publishing 2006) Knudsen describes it is where the relationship between gender, race, ethnicity and disability are examined

\(^{58}\) Grillo (cited in Dhamoon) See Rita Kaur Dhamoon Political Research Quarterly 2011 64: 230 originally published online 22 September 2010) describes an important element of intersectionality is the move away from a uni-dimensional viewpoint such as gender or race to a more complex understanding of difference and power. This move to a more complex understanding it could be argued resonates with the social model of disability


\(^{60}\) Grabham,E.,et al, ‘Intersectionality and Beyond, Law, power and the politics of location” (Oxon: Routledge-Cavendish 2011)
people with disabilities to be included in all aspects of life is found, threaded through the CRPD.\textsuperscript{61}

The second reason for choosing intersectionality stems from the fact that it is gaining acceptance within the international legal discourse. This is discussed in more detail later in this section (see section 2.4.7). Therefore, on the basis that intersectionality has shown resonance with both the legal and social science disciplines, both of which inform this thesis, it is proposed as one of the main theories upon which to construct a theory for mainstreaming disability in development and on which to conduct this piece of research.

### 2.4.3 Unpacking equality for people with disabilities in mainstreaming

Currently, there is no universally accepted definition of mainstreaming disability in development. However, in the absence of an official definition, the UN and other commentators have suggested using the gender mainstreaming definition for disability mainstreaming in a similar manner.\textsuperscript{62} Gender equality has been described as the ultimate goal of gender mainstreaming by the United Nations.\textsuperscript{63} In accepting this premise, mainstreaming disability in development must be similarly viewed: the end goal is to work towards the achievement of equality for persons with disabilities in developing countries. This aim is echoed in the Convention on the Rights of Persons with Disabilities.\textsuperscript{64} In order to achieve the goal of equality, the challenge is to devise a set of policies for mainstreaming disability, which support this goal. These policies must also be responsive to the factors, which contribute to the inequalities, and the discrimination experienced by persons with disabilities.

\textsuperscript{61} CRPD, Article 4(3); Article 29; Article 32(1); Article 33(3)
\textsuperscript{62} Bill, Albert and Carol Miller ‘Mainstreaming Disability in Development; lessons from gender mainstreaming’ (2005). This report was produced as part of the Disability Knowledge and Research Programme funded by DFID and is available online at: http://r4d.dfid.gov.uk/PDF/Outputs/Disability/RedPov_gender.pdf > accessed 10 March 2014
\textsuperscript{63} United Nations Economic and Social Council; Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally, and inequality is not perpetuated. The ultimate goal of mainstreaming is to achieve gender equality. (July 1997)
\textsuperscript{64} CRPD preamble (g)
It is important to point out that, as with gender, the concept of disability equality remains contested and unexplored within the disability community. \(^65\) As it remains contested, it is important then to turn to the CRPD, which gives universal guidance on constructing a model of equality for persons with disabilities. The general principles of the CRPD recognise the importance of measures that promote non-discrimination and equality of opportunity, while also respecting difference as part of the human condition. \(^66\) These principles are intended to cut across all of the articles of the CRPD and therefore are applicable to how they are implemented, including the implementation of Article 32 on International Cooperation.

How this respect for difference is interpreted is an important consideration in developing policies that promote equality of opportunity for persons with disabilities. Oddny Arnadottoir contends that the CRPD has recognised that the formal model of equality has had limited success for persons with disabilities. \(^67\)

She highlights that preamble (k) of the CRPD stated that,

> “despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world.” \(^68\)

Arnadottoir suggests that this signifies a recognition that previous approaches or models of equality (such as sameness, difference) have not succeeded in achieving equality for disabled people. \(^69\) The CRPD, she claims, positions disability within the substantive disadvantage model. This approach she posits is

\(^{65}\) See Bill Albert and Carol Miller, ‘Mainstreaming Disability in Development; lessons from gender mainstreaming’ (2005). This report was produced as part of the Disability Knowledge and Research Programme funded by DFID and is available online at: <http://r4d.dfid.gov.uk/PDF/Outputs/Disability/RedPov_gender.pdf > accessed 10 March 2014

\(^{66}\) See CRPD, Article 3 which outlines the principles of the Convention including equality of opportunity, equality between men and women and respect for difference and acceptance of persons with disabilities as part of human diversity and humanity.


\(^{68}\) See CRPD, preamble (k)

contextual and focuses on social structures of power and disadvantage and aims more clearly at the equality of results, therefore making a more profound call for change.

This approach to equality seems to resonate broadly with intersectionality and also with the vulnerability theory of Martha Fineman: where discrimination is not based on the limiting category of identity rather it focuses on the social, political and economic contexts that perpetuate discrimination. Within this approach, mechanisms such as positive obligations and reasonable accommodation are not seen as exceptions but more as necessary elements to eradicate discriminatory practices and unequal social structure. In essence, what Arnadottir is arguing is that to achieve equality for persons with disabilities a series of measures may be needed, which may treat persons with disabilities differently to other groups. Such an approach reflects the diversity of the disability community vis-a-vis other groups. Understanding the diversity that exists within disability and the multiple levels of discrimination faced by persons with disabilities is critically important for developing effective mainstreaming approaches.

2.4.4 Capturing discrimination of people with disabilities at the crossroads

Crenshaw’s illustrative example of a number of “cross roads” where two or more axes meet to create a situation where discrimination and marginalisation can occur is helpful. It is useful in that it moves disability away from focusing solely on solving or managing the problem of disability to a much broader focus.\(^{70}\) This broader focus includes the wider environment and helps to identify what is described in this metaphor as “traffic” – the specific acts and policies that create burdens for people with disabilities. This approach makes two main contributions: (1) unpacking the laws and policies that prevent people with disabilities having equal participation in society and, (2) identifying the policies

\(^{70}\) Crenshaw, ‘Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color’ (1991) Stanford Law Review, Vol. 43, No. 6 1241-1299. See also Dhamoon, Political Research Quarterly (2011) 64: 230. She references the road metaphor specifically served to describe the way in which a minority group navigates a main crossing, whereby the racism road crosses with the streets of colonialism and patriarchy, and “crashes” occur at the intersections. Where the roads intersect, there is a double, triple, multiple, and many-layered blanket of oppression.
which undermine the rights of people with disabilities as promoted by the CRPD. This process of identifying the policies that undermine the rights of persons with disabilities suggests a strong harmonisation or policy coherence role that intersectionality can have in mainstreaming disability in development.

Minnow calls how we currently respond to discrimination and its resulting legal and policy responses as the “dilemma of difference”. She explains it in question format –

“when does treating people differently emphasise their differences and stigmatise or hinder them on the basis and when does treating people the same become insensitive to their difference and likely to stigmatise or hinder them on that basis?”\(^7\)

Terzi illustrates a similar point with regard to education for children with disabilities. She describes it as,

“The seemingly unavoidable choice between, on the one hand, identifying children’s differences in order to provide for them differentially, with the risk of labelling and dividing, and, on the other hand, accentuating ‘sameness’ and offering common provision, with the risk of not making available what is relevant to, and needed by, individual children.”\(^7\)

The answer to this question on how to respond to discrimination is central to how a mainstreaming policy on disability should be conceptualized. The focus must be on the specific needs of persons with disabilities but not so much as to contribute to the segregation and specialisation of disability. It should also promote the expansion of capabilities and enjoyments of fundamental rights and freedoms. Authors from disability literature, such as Shakespeare and Watson, concur with this. They argue that the very nature of having disabled people identify as members of a minority group for legal protection “...demands that they be considered as a separate political and social constituency.”\(^7\) Disability, once again, becomes the defining characteristic and policy responses are dominated by this characteristic. This defining characteristic and viewpoint of


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being a separate political and social constituency has the potential to lead to a specialisation of persons with disabilities. This in turn creates a dependency situation where persons with disabilities are viewed as passive participants in their own lives surrounded by a system of administrators and “gatekeepers.” 74

This passivity or dependency could have a potential negative impact on persons with disabilities exercising their own agency and claiming their rights. Also the specialisation results in policies and laws being developed to respond solely to disability and preventing the development of a universalist approach to disability. BickenBach et al claim that a universalist approach can help to demystify disability and this notion of ‘specialness’ by recognising “that all people have needs that vary in predictable ways over the course of their life span.”75

As Minnow outlines the requirement to claim membership within a particular group for protection will continue as long as anti-discrimination laws and resulting policies view people within a unitary category such as disability. Without analysing in-depth the debate between universalism and particularism, it would be useful to cite Thompson and Hogget at this point in the review of intersectonality. They argue that at “a very abstract level, the choice of either universalism or particularism, equality or difference is misconceived.” 76 They claim that any justifiable universalism or egalitarianism must take particularity and difference into account and any legitimate particularism or policies of difference must employ some universal or egalitarian standard. This sentiment seems to be echoed within the CRPD with an overarching universalist approach to human rights for people with disabilities and a particularist approach in identifying diversity. For example, a particularist approach is taken in the case of women and children with disabilities.

The second issue with expecting people to claim membership of a protected group is the fragmentation of disability discrimination as discrete and isolated

74 Oliver , Critical Texts in Social Work and the Welfare State – The politics of disablement, (MacMillan Press 1990). See Chapter 6, which discusses disability and dependency and the growth of the professionalization of disability services and how power lies mainly with the disability service provider and staff then with persons with disabilities

75 Bickenbach, J., Chatterji, S., Badley, E. and Ustun, T, ‘Models of disablement, universalism and the international classification of impairments, disabilities and handicaps’ (1999) Social Science and Medicine, 48, 1173–1187

and the potential for policy responses to be specific to disability and isolated from mainstream policymaking. Satz claims that if we continue to conceptualise disability discrimination this way, disability will be conceptualised as fragmented, rather than as constant and part of the human condition.\textsuperscript{77} This fragmentation could lead to policy focus on particular aspects rather than taking an overall approach, thereby resulting in a lack of a coherent approach to policymaking. Lisa Waddington and Matthew Diller discuss how when it comes to policy making on disability

“numerous layers are developed in an ad hoc approach to policy development and disability and rarely do policy makers have the time or the inclination to take a step back and consider the coherence and logic of disability policy”.\textsuperscript{78}

They contend that this lack of coherent approach is particularly true when it comes to how governments develop policies on disability. They give the example of how newer policy instruments such as anti-discrimination laws based on the civil rights model of disability can therefore be undermined by policies based on the social welfare model of disability. The corollary is also true. The civil rights model can be seen as a threat to institutions that provide benefits to disabled people through their disability specific action. This fragmentation as discussed by Satz and the lack of coherence discussed by Waddington are contributing factors to the need for a more holistic approach to analysis and policymaking for developing responsive policies for people with disabilities.

The challenge for developing a policy to mainstream disability in development is two-fold. How can we move away from the defining characteristics, which create these categories and resulting specialist policy responses while also still catering for aspects of these characteristics that need support? In this respect, intersectionality has the potential to assist. Not only does it offer a potential framework for contextual analysis, it also ensures that particular groups (for


example, women with disabilities) are not excluded in policy and practice.\(^79\)

### 2.4.5 Using intersectionality to enhance the CRPD’s social model approach to disability

Additional to developing a more nuanced understanding of discrimination encountered by people with disabilities, intersectionality is also described as offering the opportunity to shine a light into what Phoenix and Pattynama describe as “the positioning that constitutes everyday life and the power relations that are central to it.”\(^80\) Grillo (cited in Dhamoon, 2011) describes an important element of intersectionality as the move away from a uni-dimensional to a complex understanding of difference and power.\(^81\) This viewpoint, as outlined at the beginning of this section, has resonance with the social model of disability. Social model activists have engaged in constructing a model to situate the responsibility for creating disability with society. Oliver and Barnes who take a Marxist viewpoint would see power relations as central to the continued passiveness of people with disabilities. The social model has been successful in highlighting how systems and structures can further disable people. This success has resulted in it being one of the foundations on which the CRPD was negotiated. However, the social model is not without its critics. Academics such as Shakespeare and Morris have criticised it for not recognising that the diversity that exists within disability is not adequately addressed in social model theory. They have also drawn attention to the fact that bodily impairment and therefore the need for any medical intervention are ignored within this model.\(^82\)

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\(^79\) Riley, J, ‘Some reflections on gender mainstreaming and intersectionality’ (2004), Development Bulletin, no. 64, 82-86. Riley claims that not only does intersectionality offer potential as a framework for contextual analysis that may improve development outcomes for women but it also ensures that particular groups of women are not excluded in policy and practice.


\(^81\) Grillo cited in Rita Kaur Dhamoon Political Research Quarterly 2011 64: 230

\(^82\) Barnes and Mercer, *Implementing the Social Model of Disability: Theory and Research* (Leeds The Disability Press 2004). Barnes argues that his thinking on the social model has advanced from its early days and suggests that the model does recognise the reality of impairment and pain, but in the context of lack of access to services that could assist with pain management etc. He also rebuts the notion that the social model does not acknowledge diversity stating that it is possible to expand the model to include difference, however like with the social model itself there needs to be full implementation of it to see results and this he argues has not happened. See generally: Morris, J, *Pride Against Prejudice* (The Women’s Press, London 1991); Shakespeare, T. *Disability Rights and Wrongs* (Routledge 2006)
Also, from a development perspective, the social model and its relevance outside the Western world has been questioned. For example, Miles cites that “at least 70% of global disability is experienced in countries and contexts upon which western ethics and philosophy impinge only peripherally.” 83 Lang also, in his critique of the social model, calls into question the notion of individual empowerment espoused by this model. He claims this notion presupposes that rights are exercised and that decisions are made in accordance with the preferences and wishes of the individual. He also questions how it can run contrary to accepted social customs and practices found within many developing countries where decisions are usually made in consultation with the wider family and kinship networks. 84

In that respect, using the main sentiments of the social model in line with intersectional analysis could (a) help to overcome the limitations of the social model which could prove problematic in its use within developing countries and (b) ensure that policies for mainstreaming disability in development are responsive to different contexts and environments and adhere to sentiments of the CRPD.

Based on the discussion above combining aspects of the social model of disability with elements of intersectional analysis would form a rounded analysis for developing policies responses to disability and development. Such an analysis would enable the diversity of both disability and development to be reflected, and would overcome the limitations of the social model. Shakespeare has already engaged with this idea. He calls an interactional understanding of disability; this interactional model of disability recognises the role an individual’s impairment plays and allows for the different levels of experience by a disabled person. These levels range from medical through to the psychological to the environmental, economic and political. 85

85 Shakespeare T, Disability Rights and Wrongs. (Routledge 2006). See generally Chapter 4, ‘Disability: a complex interaction’
To further illustrate how this could work, the following points are taken from a paper by the Ontario Commission on Human Rights. This paper focuses on the advantage of using an Intersectional Approach and the two points below are linked with the main sentiments of the social model to demonstrate where similarities and synergies exist between the two concepts.86

First of all, the Intersectional Approach takes into account the historical, social and political context and recognises the unique experience of the individual based on the intersection of all relevant grounds. This holds true for disabled people who historically were kept invisible within society and disenfranchised from political participation and decision-making. From a social and political context, disabled people continue to remain on the margins of the market place and the spaces where decisions are made. This is the case whether the decisions are about their own lives or in terms of deciding who governs. The CRPD recognises this marginalisation of persons with disabilities and requires States who have ratified it to include persons with disabilities as active participants.

Secondly, an Intersectional Approach “recognises that groups often experience distinctive forms of stereotyping.”87 People with disabilities are recognised as one of the groups that face stereotyping and as a result face stigma. In particular, certain members of the disability community are more at risk of stigma. This particularly applies to people with mental health issues.88 As outlined in the previous paragraphs, using the single identity approach (as used in anti-discrimination legislation) in policy making could further reinforce these stereotypes.

With regard to the choice of intersectionality, the final paragraphs in this section discuss it as an emerging issue in both international law and domestic law.

87 Ibid
88 Human Rights Watch, ‘Like a Death Sentence: Abuses against Persons with Mental Disabilities in Ghana’ (2013). The report highlights the discrimination and stigma faced by persons with mental health difficulties in gaining access to basic shelter, food and healthcare
2.4.6 Intersectionality and the human rights of persons with disabilities

The final reason for choosing intersectionality as an important element of this theoretical framework is its emergence in the field of international law. Intersectionality is gaining acceptance within the international legal discourse. It was first discussed at the UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance that was held in Durban, South Africa, in 2001. Here, it was defined as recognising that:

“racism, racial discrimination, xenophobia and related intolerance occur on the grounds of race, colour, descent or national or ethnic origin and that victims can suffer multiple or aggravated forms of discrimination based on other related grounds such as sex, language, religion, political or other opinion, social origin, property, birth or other status.”

Its particular attraction as an approach as human rights evolve is that the focus is now increasingly on a contextualised approach to discrimination. Such a focus places less emphasis on individual characteristics and more on society’s response to a person. Therefore, intersectionality theory provides tools to overcome traditional policy responses that focus on a singular aspect of a person’s identity and instead focus on a wider number of factors as relevant to that person. International law now incorporates a recognition that discrimination can happen on multiple levels. The use of intersectionality facilitates such recognition and encourages analysis of human rights as they affect the whole person or the complex self rather than providing only a snapshot of identity frozen behind a single lens of gender, race or sexual orientation. However, it is important to note from the outset that there is concern that while this recognition exists in international law, the structures such as the treaty bodies and the United Nations

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structures continue to compartmentalise treaties. This serves to frustrate efforts to take an intersectional approach to human rights violations. For example, Johanna Bond highlights how the Office of the High Commissioner of Human Rights treats race and gender as separate problems with little crossover. Bond’s complaints focus on the minimal interaction between existing treaties on race and gender. This lack of interaction is also evident with respect to disability. The UN Special Rapporteur in reporting on implementation of the Standard Rules found that there was insufficient attention paid to gender and children with disabilities in disability policy and also pointed to the need for synergy between CEDAW and the CRC.  

There is a need, as suggested above by Bond and De Silva, to move to a place of common ground between treaties that recognises where intersecting identities can result in human rights violations. De Silva is currently progressing work in this area and suggests that the CRPD has the potential to enable the different human rights treaties affecting women and children with disabilities “to be implemented together within an interlocking web of the human rights framework” and that this “will provide the necessary safeguards against multiple and cross cutting forms of discrimination against women and children with disabilities.”

The CRPD could also be described as recognising how persons with disabilities experience multiple discrimination. It places placing greater emphasis on the concept of multiple discrimination than previous international law and policies on disability. Degener describes it as “the only Convention, which explicitly refers to multiple discrimination in the binding text.” The CRPD establishes a

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94 For example, previous measures such as the World Programme of Action on Disability made minimal references to diversity within disability, recognizing women and children with disability within the category of special groups rather than integrated throughout its actions. Also, the UN Standard Rules references women and children with disabilities at different junctures, however the CRPD explicitly references them throughout the text.
95 The CRPD being the youngest of the treaties has had the benefit of building on recent years commentary coming from UN treaty bodies on multiple discrimination for example General Comment on CEDAW no 18, which includes references to women with disabilities. See also
normative framework where people with disabilities are recognised as comprising of different identities. Each identity can compound the others and result in further potential discrimination and marginalisation. From a human rights perspective, the CRPD provides us with a normative framework calling for states to “prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.”\(^96\) In its preamble the diversity of people with disabilities is recognised (see preamble (i) and (p) through (s)). Furthermore, the reality that people with disabilities experience multiple or aggravated forms of discrimination, and that women with disabilities and children with disabilities face distinct forms of discrimination, in particular violence and abuse is also recognised. This recognition remains throughout the text of the CRPD and there are specific articles recognising the need of certain groups such as Article 6 (Women with disabilities) and Article 7 (Children with disabilities). Both of these articles in conjunction with principles of equality of opportunity and respect for difference, enunciated in the CRPD, have the potential to provide a universalist approach to equality. This approach facilitates the recognition of diversity within disability and of the particular groups (for example, women and children) who could be at increased risk of discrimination. These crosscutting articles and principles apply across all articles in the CRPD, including Article 32 on international cooperation. In practical terms; it will be interesting to track how discrimination based on multiple identities is captured in the UN reporting process on the Convention and subsequently dealt with within the corresponding commentary. The Convention has been described as being underpinned by an intersectional approach. However, it is not clear whether this is from a multiple approach with disability remaining the main lens and identities such as being a woman, or a child being added on or whether this is from an intersectional perspective.\(^97\) Degener supports the latter view. She suggests that the measures

\(^96\) CRPD, Article 2

\(^97\) De Silva ‘Mining the Intersections: Advancing the Rights of Women and Children with Disabilities within an interrelated web of Human Rights’, (2009) Pacific Rim Law and Policy Journal Association, Vol 18, No 1, 294. De Silva is currently progressing work in this area and suggests that the CRPD has the potential to enable the different human rights treaties affecting women and children with disabilities ‘to be implemented together within an interlocking web of
contained within the Convention to combat multiple discrimination are limited to
gender. This in turn limits the impact of the Conventions potential to promote an
intersectional approach that spans the life cycle approach of persons with
disabilities in development work and policies.98

2.5 The capability approach and disability

This section sets out the rationale for choosing aspects of Amaryta Sen’s work
for the purposes of this thesis. While the intersection of the capability approach
and disability is a new research area disability is recognised within the capability
literature and vice versa.99 The capability approach is gaining ground within the
disability discourse where it is seen as having a particular value for the disability
rights field.100 With respect to disability, the capability approach has been
welcomed by some academics as presenting a “wider spectrum of human
development” which results in “shifting the focus from the specificities of the
disabling situation to looking at establishing equality in terms of possibilities and
choices.”101 This shift away from the specificities of disability in turn enables a
repositioning of disability as part of the human condition. This repositioning
aligns with the analysis of other theorists. Of particular note here is Fireman’s
argument that the notion of vulnerability is universal (this is discussed later in
section 2.6). The relevant areas of Sen’s work for this research include: the
conceptualisation of the human development approach and its focus on person
centred development; (section 2.5.1); his positioning of disability in a justice

the human rights framework’ and that this ‘will provide the necessary safeguards against multiple
and cross cutting forms of discrimination against women and children with disabilities’.98

99 See Degener, Chapter 2 in Schiek and Lawson eds European Union Non-Discrimination Law
and Intersectionality (Ashgate Publishing 2011)

16, No.4, Mitra claims that although the capability approach has been used in international
development to analyse the link between disability, gender discrimination and poverty, its
usefulness in defining disability and formulating disability policy has not been considered.

100 The following articles explore the potential of the capability approach and disability; Dubois
J.L. and Trani, J. ‘Enlarging the Capability Paradigm to Address the Complexity of Disability’
(2009) ALTER-European Journal of Disability Research, 3(3): 2-28; see also Trani, J. and
Bakhshi, P, ‘Lack of a will or of a way? Taking a Capability Approach for Analysing Disability

Comparability, Defining Efficient Program’s’ (2006) 6 in Reboud, V. (ed.) Capabilities and
Public Policies. Paris: French Agency for Development. See also Trani JF, Bakhshi P, Bellanca
framework (section 2.5.2); and, most importantly for this research, Sen’s concept of agency and the effective participatory role of individuals “who act and bring about change” (section 2.5.3).

2.5.1 The human development approach

One of Sen’s central claims is that equality of freedom to pursue our ends cannot be generated by equality in the distribution of primary goods. He argues that one has to “examine interpersonal variations in the transformation of primary goods (and resources) into respective capabilities to pursue our ends and objectives.” He criticises the use of metrics such as income and consumption as measures of a persons’ well-being. His criticism centres on the inability of such metrics to take note of the diversity of human beings in converting primary goods into what people are able to be and do in their lives. Sen’s arguments have particular resonance for persons with disabilities who may be born with the same amount of primary goods or potential opportunities as everyone else but may face restrictions in realising them. Such restrictions are due to a number of factors both internal (physical limitations) and external (how society responds to these limitations for example discriminatory practices).

Sen’s criticism of the use of primary goods as a sole metric for development is helpful in constructing a theory of development, which is inclusive of persons with disabilities. It is helpful in two respects. First of all, the economic growth does not capture the totality of human experience nor is it a true measure of how

103 Sen, Inequality Reexamined (Harvard University. Press 1992) 8; Sen, Resources, Values and Development (Oxford: Basil Blackwell 1984); Sen, The Idea of Justice (Harvard University Press 2009). In the Idea of Justice, Sen sets out his interpretation of primary good as part of a continuing debate with the John Rawls definition of primary goods. Sen argues that Rawls definition of primary good (which is based on the holding of primary goods such as income and wealth) does not dispense with the fundamental diversity of human beings. Sen contends, “two persons holding the same bundle of primary goods can have very different freedoms to pursue their respective conceptions of the good”. He argues that judging equality cannot be assessed properly by solely focusing on the means of freedom without considering how factors such as gender, location etc. impact on how these freedoms are achieved. Therefore Sen’s focus on primary goods looks at how primary goods can be converted into actual achievements. See also Clarke, ‘The capability approach; Its development, critique and recent advances’, Global Poverty Research Group (2005)
105 Sen Amartya, Development As Freedom, (New York: Anchor Books, 2000) 74. Sen discusses his theory of well-being and his proposition that “account would have to be taken not only of the primary goods the person respectively holds but also of the relevant personal characteristics that govern the conversion of primary goods into that persons ability to promote her end.”
106 See footnote 102
well a person may actually be doing. On a broad scale, this has direct relevance for persons with disabilities as it is widely recognised that they generally do not reap the benefits of economic growth. For example, Oliver maintains that the economic structure and the industrialisation of western society have had a detrimental impact on the lives of people with disabilities. He claims that the rise of the factory system and industrial wages resulted in the separation of the home from the workplace and consequently increased the marginalisation of disabled people, because they were unable to meet the demands of capitalist society. While this might appear to be a politically driven statement against capitalism, there is no arguing with the fact that people with disabilities in both developed and developing countries are excluded from labour market and economic activities. This can be for a number of reasons; including discriminatory practices by employers, lack of education and skills among people with disabilities, and the fact that some people with disabilities may never contribute to society in what we understand as the paid employed. In addition to being excluded from mainstream economic activity, people with disabilities are among the most vulnerable in society at times of economic shocks. This has come to the forefront during the most recent global economic crisis and one of the primary reasons why Sen’s capability theory is of interest for this thesis. Rather than

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108 World Bank and World Health Organisation, ‘The World Report on Disability’ (2011) Chapter 8 on Work and Employment highlights the different participation rates of persons with disabilities in the labour market which varies between countries between 12.4% (South Africa) to 62.2% in Switzerland (see table on pg.238)


110 Groce, N. et al, ‘Working Paper 8: The Potential Impact of the Global Economic Downturn on Persons with Disabilities’ (2009), Inclusive Development Centre, University College London. The paper discusses how the global economic crisis of 2008 has the potential to minimise the impact of development aid which provide supports to persons with disabilities in the form of social protection programmes, sectoral supports in the areas of health and education and finally services to persons with disabilities which are delivered with the support of development aid.
solely focusing on development in terms of economic growth, it is argued in this thesis that development policies must seek to advance opportunities for people with disabilities. These opportunities must expand the range of activities (be they economic or non-economic) people with disabilities can do and simultaneously focus on removing obstacles that prevent achievement of their full potential.

Another dimension of Sen’s capability approach is the emphasis placed on capturing how well an individual may actually be doing at a more individualised level. Sen’s critique of the use of income as a measure for development highlights the additional difficulties faced by persons with disabilities and the requirement of supports in order to reach a level playing field between persons with and persons without disabilities. He argues,

“concentration on income distribution as the principal guide to distributional fairness prevents an understanding of the predicament of disability and its moral and political implications for social analysis.”

2.5.2 Responding to disability within a justice framework

Sen’s understanding that the deprivation of people with disabilities is not solely attributable to lack of monetary and material factors is helpful in thinking beyond individual factors and placing a focus on how law and policy responses can enable persons with disabilities to reach their potential. Firstly, he asserts that: “a person who is disabled may have a larger basket of primary goods and yet have less chance to lead a normal life (or to pursue her objectives) than an able-bodied persons with a similar basket of primary goods”.

This assertion is very important in highlighting that persons with disabilities are not starting from the same position as persons without disabilities. He suggests that the estimates put forward by advocates and academics claiming that people with disabilities live below the poverty line, for example, $1 or $2 dollars a day do not go far enough in explaining what he describes as “the full rigour of social deprivation” which combines “conversion handicap” and “earning handicap.”

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113 Ibid pg. 74. Sen states that the ‘focus on individuals opportunity to pursue his/her objectives – one must consider not only those primary good possessed but also relevant personal characteristics governing the conversion of primary good into an individual ability. He argues
He posits that people with disabilities are not just plagued by low income but also their freedom to live a good life by a range of restricting factors. These restricting factors (which could be environmental or due to location, or gender) impact on the freedom of persons with disabilities.’

Development policy responses for persons with disabilities in must assert that the purpose of development is to improve lives by expanding the range of things a person can be and do. This includes being healthy and well nourished and able participate in community life. In viewing development through this lens, an important aspect for future policies on mainstreaming disability then must about a process of removing the obstacles or barriers that prevent people with disabilities from achieving as Sen would describe them, these freedoms.

Sen’s sentiment finds broad resonance with the rights-based approach to disability as advocated within the Convention. Threaded through the Convention text is the recognition that disabled people continue to face barriers in their participation as equal members of society. Removal of these barriers, be they legal, political, cultural or socio economic, is paramount so that disabled people can fully enjoy their fundamental freedoms and become active contributors to society. Along with barrier removal, it is recognised throughout the CRPD is clear that disabled people have individual autonomy and independence including the freedom to make their own choices. This sentiment is evident through Article 3, which sets out the eight general principles guiding States and other actors on

that the standard measure of well being – income does not consider the impact of disability and suggests that a person with a severe disability need not really be judged more advantaged than an able bodied person just because they have a higher level of income because of what he calls ‘conversion handicap’, a disadvantage that a disabled person has in converting money into a good living. The problem with conversion arise with the fact that incomes of primary goods are defined independently of a persons own characteristics assets and resources, they do not capture what a person can do with the assets and resources he or she has. Sen argues that impairment of income earning ability (earning handicap) is reinforced and magnified by the conversion handicap difficulty in converting incomes and resources into good living.

See CRPD, preamble para (e) which recognises the ‘attitudinal and environmental barriers that hinders full and effective participation’; para (k) which recognises that despite previous undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world; Article 1 which recognises how persons with a range of impairments which in interaction with various barriers may hinder their full and effective participant in society on an equal basis with others; Article 9 which discusses the elimination of barriers to accessibility; Article 30 which requires States to take actions on removing barriers to persons with disabilities enjoyment of cultural materials.


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interpreting and implementing the CRPD. The eight general principles are as follows: (1) respect for the inherent dignity, autonomy, including the freedom to make one’s own decisions, and independence of persons; (2) non-discrimination; (3) full and effective participation and inclusion in society; (4) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; (5) equality of opportunity; (6) accessibility; (7) equality between men and women and (8) respect of the evolving capacities of children with disabilities and for the right of children with disabilities to preserve their identities.

The second aspect of Sen’s work, which has relevance for this thesis is his approach to positioning responses to disability within a justice perspective. This can help with repositioning disability from traditional perspectives while maintaining a focus on the need for prevention and alleviation of disability as an important policy issue. As with Fineman (see section 2.6) and proponents of intersectionality theory (see section 2.4), discussed in Sen also believes that a person cannot be reduced or assigned to one descriptive category, which has been the tradition for claiming rights under anti-discrimination measures. Sen argues that assignment to a particular category or group “would be a major denial of the freedom each person has on how to decide exactly how to see himself or herself” and that not only is it an “imposition of an external and arbitrary priority’, it is a “denial of an important liberty of the person who can decide their respective localities to different groups.”

This is helpful in reconceptualising disability away from traditional understandings. It offers potential from a policy development to identity disability within a human diversity perspective. Difference between people must be accounted for when addressing the demands of equality and how this must also relate to the diversity that exists within disability itself. The issue of being treated differently in order to achieve equality is recognised within the Convention. For example, Article 5 on Equality and Non-discrimination states “specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered

117 CRPD, Article 3
discrimination under the terms of the present Convention.”

Sen’s work on material disadvantage with regard to disability is important when considering how to develop a theory on mainstreaming disability that accounts for the differences experienced by people with disabilities. As previously discussed, Sen highlights how a comparator of primary goods as possessed by persons with disabilities and non-disabled persons is not an adequate measure of well being. Mitra suggests that he is making the case that disabled people may need different types and varying amounts of capability inputs in order to ensure that they can convert income and resources into a good life and to reach the same level of well-being as the non-disabled.\textsuperscript{119} If one is to accept this premise it could be possible to suggest that Sen’s notion of capability inputs are also to be found in the Convention within the concept of reasonable accommodation. Reasonable accommodation is conceptualised as modifications or adjustments needed for a person with a disability to participate equally with others. It is defined in the Convention as:

“necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.”\textsuperscript{120}

The concept of reasonable accommodation is typically used within employment law. Some of the bilateral agencies due to their own domestic laws have an obligation of reasonable accommodation for staff with disabilities.\textsuperscript{121} What is interesting from the definition of reasonable accommodation in the Convention is that it extends to enjoyment of all human rights and is not solely defined within an employment remit. This suggests that it could enable policymakers to consider a broader approach to including disability in development by considering what adaptions and accommodations existing programmes need so

\textsuperscript{120} CRPD, Article 2
that people with disabilities benefit from them. Linking the overall denial of opportunities and capabilities that Sen discusses, it is important to note that within the CRPD reasonable accommodation is not simply defined. It is also classified as a form of discrimination.\textsuperscript{122}

At a development policy level, reasonable accommodation could also have impact. As it forms part of what the CRPD classifies as discrimination and is placed within Article 3 which applies across all articles of the CRPD, Article 32 on international cooperation requires that State apply it to their international development programmes. Using what Mitra describes as capability inputs to mitigate or lessen the impact of the conversion handicap could help facilitate policy responses to recognise that modification, adjustments and resources are required to create access and inclusion for persons with disabilities. In turn, this requirement of reasonable accommodation frames these capability inputs as creating the potential for people with disabilities to become active contributors in their society and to realise their potential. This has already been achieved by bilateral agencies in terms of employment of persons with disabilities. The potential with the Convention is that similar achievements could be extended to the area of human rights.

The final aspect of Sen’s work that is relevant to mainstreaming disability are his thoughts on preventable disabilities. This impacts on how disability is conceptualised from a development perspective and how resulting policies are developed. Sen considers it a matter of justice to understand that many disabilities are preventable. He argues that much can be done not only to diminish the penalty of disability but also to reduce its incidence and in turn ameliorate the incidence of poverty that can arise from impairment.\textsuperscript{123} He claims that:

\begin{quote}
“an understanding of the moral and political demands of disability is important not only because it is such a widespread and impairing
\end{quote}

\textsuperscript{122} See under definitions section of the CRPD ‘Discrimination on the basis of disability’ means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation”.

\textsuperscript{123} Sen, \textit{The Idea of Justice} (Harvard University Press 2009) 259
feature of humanity, but also because many of the tragic consequences of disability can actually be substantially overcome with determined societal help and imaginative intervention.\(^\text{124}\)

Further it is claimed in the ‘World Report on Disability’ that the prevention of health conditions associated with disabilities is a development issue.\(^\text{125}\) Other authors concur with this. For example, Elwan links the incidence of impairment with increased risk of poverty and describes how impairment leads to financial collapse for many families in developing countries. She observes that “the frequency with which an untreated impairment starts or accelerates the collapse of a family already in a fragile economic base.” She highlights how the link between impairment and poverty creates a cycle of fragility, which presents major challenges for development actors.\(^\text{126}\)

Preventing preventable impairments therefore must be considered an important policy objective in international development. However whether it forms part of a mainstreaming policy on disability or is part of a wider public health policy is still widely debated. The World Report on Disability suggests that viewing disability as a human rights issue is not incompatible with prevention of health conditions. In addition, AusAID, one of the more recent bilateral agencies to develop a policy on disability makes reference to preventable disabilities (however, this has now has been re-located from its original placement in the ‘Development for All Strategy’ into AusAid’s health programming).\(^\text{127}\) The topic of preventing impairments can easily become polemical, as many disability rights advocates would view it in contradiction to the principles of the CRPD and ineffective to those who are living with a disability.\(^\text{128}\) Sen suggests

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\(^{125}\) World Health Organisation and World Bank ‘World Report on Disability’ (2011) 8
\(^{127}\) Reducing preventable impairments such as preventable blindness and road traffic accidents were identified as core elements of Australia Aid’s strategy, see AusAID ‘Development for All-Towards a disability inclusive Australian Aid programme 2009-2014’ (2009) 14; see also AusAID ‘Development for All Strategy Mid Term Review’ (2012) 25. The review gives a short synopsis of this change in policy, which was made by Ministerial Decision based on a letter sent by the Minister for Foreign Affairs to the Disability Discrimination Commissioner.
\(^{128}\) For example, the European Disability Forum states that “preventing impairments through vaccinations, eliminating diseases that cause impairment and improving birth practices does nothing to improve the human rights of disabled persons already living. It is much more about creating the optimum level of health and safety in a society, rather than about including a disability dimension into development. As the term ‘inclusion’ becomes more popular, there is a
that policies to deal with disability can have “a large domain, including the amelioration of the defects of handicap, on the one hand, and programmes to prevent the development of disabilities, on the other.” While he presents this balance in a logical manner, in order to develop effective policies there needs to be clear guidance from the standards and principles set forth by the CRPD. Such guidance would ensure that development policies adhere to the standards set by the CRPD.

2.5.3 Agency

One of the most important aspects of Sen’s work for this thesis and in developing a theory of mainstreaming disability in development is what he describes as agency. Agency is the effective participatory role of individuals “who act and bring about change.” This understanding of agency is critically important to developing a policy, which focuses on bringing about long-term change through a process of political dialogue. This process of political dialogue can take place on a number of levels. However, for the purpose of this thesis what is of interest is the political dialogue between bilateral agency and partner country and the involvement of people with disabilities in the policy processes of the respective agencies. On a number of occasions in the CRPD it is stressed in the Convention that persons with disabilities are central to decision making. The preamble states that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes. Article 4 (3) states that:

tendency for agencies to claim that they are including disabled people in relation to any project that mentions disability. For example, the World Bank list of projects on ‘Including Disabled People in development’ lists many projects that are basically about preventing impairment, and is not about inclusive development” (EDF, 2002:11)

131 In practice, there are many groups who use the concept of the participatory role of individuals particularly when it comes to policy-making. GIPA (Greater Involvement of People with HIV/AIDS), being one good example of the active involvement of people living with HIV/AIDS. Article 1 of the GIPA Declaration states that: ‘The success of our national, regional and global programmes to confront HIV/AIDS effectively requires the greater involvement of people living with HIV/AIDS... through an initiative to strengthen the capacity and coordination of networks of people living with HIV/AIDS... By ensuring their full involvement in our common response to HIV/AIDS at all - national, regional and global - levels, this initiative will, in particular, stimulate the creation of supportive political, legal and social environments’, see In The GIPA principle derives from a principle embedded in the ‘Paris AIDS Summit Declaration of 1994’. See http://data.unaids.org/pub/externaldocument/2007/theparisdeclaration_en.pdf, > accessed 10 September 2014
“in the development of legislation and policies to implement the Convention and in other decision-making processes concerning issues relating to persons with disabilities that State parties shall closely consult with and actively involve persons with disabilities.”

Further, the discussion of the social model throughout this chapter focuses on the need for persons with disabilities to become active participants in their own lives to bring about change. This was most evident during the negotiations of the Convention where the international disability community used the motto “Nothing about us, without us” to ensure that persons with disabilities were included in the treaty negotiations.

One of the important principles within this thesis and for developing a mainstreaming policy is the participation of people with disabilities as agents of their own change. This principle is echoed by critics of gender mainstreaming theory. Squires, responds to the weaknesses of mainstreaming strategies to-date, which include rhetorical entrapment found in the inclusion approach, or the cementing of identity led strategies found in the reversal approach. She argues for a more dynamic approach which is best placed to respond sensitively to diversity. She describes it as a transformative model predicated on the basis of inclusive deliberation. This model, she suggests revolves around the “transformation rather then simply the aggregation of preferences.” From a disability perspective this is particularly worthwhile. Real policy reform for people with disabilities will not come about through a set of demands which are routed on a list of individual demands related to impairments. Rather, reform will come through a change in how society and its institutional structures include people with disabilities. History shows us that the disability community and sector have traditionally been impairment led. Trani argues that this is what has

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132 CRPD, Article 4
133 The United Nations narrative adopted the ‘Nothing About Us, Without Us’ motto in 2004 and made it the focus of the International Day of Observance on Persons with Disabilities. It described nothing about us, without us as relying on the principle of participation. Throughout the treaty negotiations, the international disability community concluded their statements with this motto.
134 Squires, ‘Is Mainstreaming Transformative? Theorizing Mainstreaming in the Context of Diversity and Deliberation’ (2005) Social Politics: International Studies in Gender, State and Society - Volume 12, Number 3, Fall, 368. Squires describes the different approaches as inclusion which seeks gender neutrality, the strategy of reversal seeks recognition for a specifically female gendered identity and the strategy of displacement which seeks to deconstruct those discursive regimes that engender the subject
led to a uniform inadequate provision of services.\textsuperscript{135} In examining mainstreaming approaches to disability, consideration must be given to lists of individual impairment led demands, which could be drawn up by a service provider or disability advocate, and question what their place is within a general call for mainstreaming disability that asks for equal opportunities for all.

With regard to deliberative democracy Squires discusses the “notion that people will modify their perceptions of what society should do in the course of discussing it with others.”\textsuperscript{136} She claims that this notion forms the basis of deliberative democracy, a claim that was demonstrated during the ad hoc negotiations on the CRPD where intensive discussions between state and non-state actors pushed the boundaries on existing perceptions of disability. Squires posits that a model of mainstreaming that is deliberative rather than bureaucratic or consultative and that aims to “denaturalise” and politicise norms rather than pursue neutral policy is what we should aspire to. Further, she states that this model is sensitive to citizen’s perspectives without reinforcing identity claims and it allows for deliberations within civil society to translate to the formal decision making without becoming rhetorically entrapped.\textsuperscript{137}

2.5.4 Operationalising agency

To operationalise these agents of change and participation in a real way in order to bring about changes for people with disabilities requires that some issues be considered. In acting as agents of change or participating in a process of deliberations presupposes that people are able to do so and have the ways and means to participate. Quinn highlights the difficulty for marginalized groups, particularly people with disabilities, arguing that they are necessarily more concerned with the aspect of their mere survival and as a result are less likely to have their voices heard.\textsuperscript{138} He asserts that the open ended political marketplace


\textsuperscript{137} Ibid

\textsuperscript{138} Arnadottir and Quinn, ‘Resisting the Temptation of Elegance: Can the Convention on the Rights of Persons with Disabilities Socialise States to Right Behaviour?’ in Quinn and
where groups vie for resources impacts on the potential of all vulnerable groups to be heard due to the nature of their fundamental struggle to simply survive. He suggests that this has particular relevance within a development context and where the formation of effective civil society groups is difficult in poorer countries. He asks whether the Convention can correct the political marketplace whose default position is to either ignore or marginalise the claims of persons with disabilities. He describes a deficiency of using human rights, which leaves the overall process unchanged, and questions can the Convention bring about a transformation in this process. He envisages such as transformation as one that enables disability issues as issues of justice and rights. Situating disability issues as issues of justice and rights is key to the overall success of mainstreaming disability in that it can be he describes as an “annoying add on.”

The second issue is with respect to agency and the aspect of capacity for people with disabilities. Nussbaum in particular comes under criticism from Stein, who claims that her approach falls short as a universal theory because it excludes certain individuals, such as people with intellectual disabilities. Nussbaum’s capabilities list is intended as a grand floor or minimal threshold below which is just a human life as opposed to a good human life. However, meeting the requirements of the capabilities list present difficulties in its application to all people with disabilities. In particular, the difficulty lies with the use of the capabilities that Nussbaum identifies; such as practical reason, bodily health, and control over one’s environment. The question must be asked as to how this list relates to people with intellectual disabilities and those with mental health difficulties, as well as others who are deemed by society as not capable of


139 Stein, Michael, ‘Disability Human Rights,’ (2007) 95 California Law Review, 75. Stein describes the list “as erecting barriers to social participation similar to the practice of prediciating human development on economic viability”. Stein claims by setting central capabilities Nussbaum fails to acknowledge the full humanity and equality of individual functioning below what she describes as her idealized norm.


controlling their own lives and environment. While Nussbaum and Sen have similarities in their approaches, the difference with Sen is that he does not elaborate a list such as Nussbaum did. Mitra claims Sen “voluntarily left the capability approach incomplete to allow for plurality’ to cater for the difference in functioning of people.”

However, the fact remains that for people with disabilities to actively engage in public life or in policy there needs to be a re-configuration of how we understand people to be liberal subjects. In addition the traditional requirement of having the ability to make autonomous decisions needs to change. There is a need to recognise that some people with disabilities require a range of supports in order to participate in what Squires describes as the transformative model of mainstreaming. From a capabilities approach, there has been some work on this area. Trani, in a recent paper, has suggested a way forward for ensuring that the voices of persons with significant disabilities are heard. He suggests that in order to include people with significant disabilities, there needs to be a shift away from an individual approach to an approach that recognises other contributors to the well-being of persons with disabilities, such the communities of support they may have. This notion of a wider support group has particular relevance from a development perspective. As Lang points out that it is rare in developing countries that decisions are made without consulting the wider family or kinship.

2.6 The role of the Responsive State – Fineman’s vulnerability theory

This final section sets forth the justification of choosing Martha Fineman’s vulnerability theory as the final pillar of this theoretical framework. The central

point of discussion suggests that Fineman’s vision of a responsive state to its citizens has useful elements for mainstreaming disability. In one element of her theory, Fineman unpacks how policies and structures disadvantage some groups over others. This enables equality of opportunity to be viewed from a substantive viewpoint and therefore empowers the participation of what Fineman describes as “vulnerable subjects.”

Firstly, section 2.6.1 sets out to allay fears of the negative connotations the term vulnerable may conjure when discussing disability. Vulnerability as part of the human condition is discussed section 2.6.2. How it is not solely attributable to the human condition but also caused by societal, economic and environmental factors is also explored. The substantive element of Fineman’s theory relevant to this thesis – the role of the responsive state- is discussed in section 2.6.3.

2.6.1 Overcoming the negative conations of vulnerability

Before discussing the merits of Fineman’s theory, it is important to recognise that the terms ‘vulnerable’ and ‘disability’ remain problematic. Read together they can further compound society’s predominant medical or tragic views on disability, which are largely driven from a charity perspective. The aim of this thesis is not suggest that persons with disabilities should be classified as vulnerable, helpless or dependent citizens. However one must be cognisant that in many circumstances within a development context persons with disabilities may find themselves in vulnerable situations; for example in post conflict situations and also during and immediately after natural disasters. The potential problem lies where this connection between disability and vulnerability further compounds the dependency view of disability. For example, Stone draws parallels between the disability and development charity. She suggests that the sharing of common language between disability charities and aid agencies such

145 Shakespeare T, ‘Cultural Representation of Disabled People: dustbins for disavowal’ (1994) Disability and Society, Vol.9, No.3. Shakespeare claims that disability charities have objectified people with disabilities by engendering a sense of pity and sympathy for their plight and giving non-disabled people a sense of superiority or making themselves feel good when donating money.

as ‘the client’ or ‘benefactors’, all of which are passive terms, conjure up images of helplessness and inability.\textsuperscript{147} This negative connection is further reiterated by disability activists who claim that money given by aid agencies to projects which remain paternalistic, medically based and controlled by non-disabled people perpetuate the charity view of disability.\textsuperscript{148}

Notwithstanding this however, it is important to also highlight that the term vulnerability features in the development discourse. There is no disputing the fact that policymakers and lawmakers continue to describe persons with disabilities as vulnerable or classify them within vulnerable groups or populations. This is particularly the case with regard to poverty, emergencies caused by climate change and economic shocks.\textsuperscript{149} In addition, some mainstream international development organisations frequently cite people with disabilities as a vulnerable population who are marginalised and excluded from equal participation in society. As do some disability organisations working on behalf of persons with disabilities.\textsuperscript{150} It is important to note that the term vulnerability has gained recent currency in the development discourse in the context of natural disasters, climate change and conflict. For example, the narrative for the new development framework that will replace the MDGs makes reference to the vulnerability of persons with disabilities to climate and poverty.\textsuperscript{151} Fineman refers to events, which can cause vulnerability and are outside human control, such as natural disasters, as “largely developmental in nature.” These events have particular relevance to persons with disabilities living in developing countries,

\textsuperscript{147} Stone, E, \textit{Disability and Development: Learning from action and research on disability and development}, (The Disability Press Leeds 1999)
\textsuperscript{149} See for example the Report of the Secretary-General ‘Realizing the Millennium Development Goals for Persons with Disabilities through the implementation of the World Programme of Actions Concerning Disabled Persons and the Convention on the Rights of Persons with Disabilities’ which cites that out of a desk review carried out on MDG country reports twenty eight of the reports mentioned disability in reference to ‘vulnerable’ or ‘marginalized’ groups. See World Bank, ‘Social Analysis and Disability; a guidance note: incorporating disability-inclusive development into Bank supported projects’ (2007). See also World Bank, The Report of the Online Forum on Disabled and other Vulnerable People in Natural Disasters (2006)
\textsuperscript{150} Handicap International ‘Understanding vulnerability of Afghans with a Disability, Livelihood, Employment, Income’ (2005)
whom for the most part are left out of humanitarian responses.\footnote{International Disability Rights Monitor ‘Disability and Early Tsunami Relief Efforts in India, Indonesia and Thailand’ (2005). See also Baird, J., et al. ‘A study of humanitarian financing for older people and people with disabilities, 2010-2011’ (2012) London: HelpAge International and Handicap International. The study points out that of the 6003 projects analysed, those 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}

In establishing that vulnerability has a place in development language and analysis the valid points made above regarding the negative connotation of this language must be remembered. What is required is an understanding of vulnerability and disability that moves away from the negative and helpless victim perspective.\footnote{Fineman recognises the negative connotations of the term vulnerability, but seeks to reclaim and reconceptualise the term freed from its limited and negative connotations.} This understanding must balance the need to understand how all human beings require supports at different junctures in life and how in the case of persons with disabilities this support may well be for life. However, vulnerability needs to be something that is part of the mainstream rather than viewed in an isolated specialist way.

There are a number of interesting aspects to Fineman’s vulnerability theory that could overcome these issues and be helpful in contributing to a theory on mainstreaming disability. The following subsections discuss these aspects.

\subsection*{2.6.2 Vulnerability as a part of the human condition}

Fineman’s notion of vulnerability as an enduring aspect of the human condition has similarities with the emergence of the life course approach to disability. This approach is becoming more prominent in policy making and focuses on “examining the ways in which disabled lives are understood, organised and governed within societies” focusing from birth to death.\footnote{Priestly, Mark Disability A Life Course Approach, (Cambridge: Polity Press 2003)} Not only does this approach offer the opportunity to look at disability from an holistic viewpoint (for example, the range of supports a person with a disability might need throughout their lives); it also highlights how disability can span a non-disabled person’s life cycle. In terms of creating pathways to situate disability on the continuum of life, what is interesting about Fineman and the term vulnerability is that she is reclaiming the term vulnerable as a “universal, inevitable enduring aspect of the human condition that must be at the heart of our concept of social
and state responsibility”. Fineman situates the concept of vulnerability not in the body alone but as the “product of economic, institutional factors that broaden the response past individual impairments to responses by society and the state.” By placing the responsibility for creating vulnerability with the State and its institutions, Fineman aligns her theory with the sentiments behind the social model of disability discussed earlier in this chapter. However, the fact that Fineman also recognises that vulnerability is part of the human condition, also goes some way towards accepting that some impairments cannot be legitimately dealt with solely by the social model approach and instead require a mixture of supports.

Fineman describes constancy as being a defining factor of vulnerability, in that “human vulnerability arises from the constant threat to ourselves of harm, injury or misfortune.” This has particular relevance for people living in developing countries where an individual’s potential to acquire a disability at any moment is always present. For example, poverty can increase the risk of disability; similarly, inadequate maternal healthcare. This risk is also present where children not receive adequate nutrition and where individuals acquire injuries and impairments as a result of conflict and war and natural disasters.

2.6.3 The Responsive State

The second aspect of Fineman’s work of interest in this thesis is her thinking about the role of the State; in particular how she develops the notion of a responsive state. One of the most interesting aspects of vulnerability theory when approaching it from a disability perspective is its view of the role of the state. Its role is extended beyond formal equality measures which, as discussed in earlier sections of this chapter, have had limited success for people with disabilities. Instead, vulnerability theory investigates the causes behind systemic reasons for disadvantage and exclusion. This aligns with the CRPD, wherein it is

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156 Ibid
157 Ibid
158 World Bank and World Health Organisation ’World Report on Disability, (2011) 1- 10. The report describes how poverty may increase the risk of disability low birth weight, malnutrition, lack of clean water or adequate sanitation, unsafe work and living conditions, and injuries
recognised that disability requires State action. While calling on States to take measures to prevent discrimination, the CRPD also obliges States to take pro-active measures to address the exclusion of disabled people. The vulnerability theory similarly calls for measures to counteract structures that cause discrimination and exclusion. It contends that the experience of poverty and exclusion faced by people, including people with disabilities, are not merely unfortunate circumstances beyond the control of the State but are in fact produced and reproduced by society and its institutions. Fineman’s theory recognises that the State (and its actors) through policies, (be they presumed neutral or intentional) create vulnerability for certain groups of the population. From a disability perspective, this recognition is vital for policy makers in particular when it comes to decisions about resource allocation and mainstreaming disability.

Baden and Goetz in discussing the role bureaucracy plays in allocating resources claim that it (in terms of gender mainstreaming) it “strips away the political information on women’s interest and reduces it to a set of needs or gaps amenable to administrative decisions about the allocation or resources.” The stripping away of the interests of the constituent group (in that case gender), including in the allocation of resources to meet needs, may not result in supports that enable participation in society for persons with disabilities. To the contrary, this stripping away may indeed result in supports that continue to perpetuate the exclusion of people with disabilities. Quinn, in commenting on how disability has been approached from a social policy perspective, seems to concur with Fineman and Baden and Goetz on this point. He highlights an important point regarding allocation of resources and the role of the State in bureaucratic decision-making. He contends that government’s approach disability as purely a welfare matter. It is based on limited needs where compensation is made for their absence from mainstream society and has contributed to the invisibility and

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160 The CRPD clearly outlines the role of the State in Article 4, its general obligations where it asks states “to adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention and goes further and asks state to refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention”.

161 Baden and Goetz, ‘Who needs (sex) when you have (gender)?’ Conflicting discourses on gender at Beijing’ (1997) Feminist Review 56, Summer: pg.3 -25
marginalisation of people with disabilities. This method of allocation of resources by the State contributes to the segregation of persons with disabilities from the mainstream. Further it disincentivises mainstream structures to be responsive and inclusive of disability and has applicability across “developed” and “developing countries.” In particular it has relevance to developing countries who may be at the early stages of developing State institutions where decisions regarding the allocation of resources into mainstream education or healthcare can be encouraged through development aid. This aid is influenced by the principles of the Convention.

Fineman in her analysis of the State makes reference to the view of the State as authoritarian. She argues that State limitations with regard to the private sphere or free market is one of the challenges in advocating for increased state involvement. Interestingly, in the context of disability it has been argued that the CRPD challenges the public-private dichotomy. Mégret views the CRPD “as delving deeper into the private sphere than any other international human rights instrument.” He describes the CRPD as an opportunity to move beyond traditional dichotomies, which exist with regard to human rights. In interpreting Fineman’s vision of the State as being a monitor or guarantor of an equal society, it is important theoretical framework proposed in this thesis links with the emergence of disability rights norms (particularly through the CRPD) and the role the State has to in play in ensuring that one group is not advantaged over others. Fineman describes vulnerability theory as an analysis which does not focus on discrimination against certain individuals or groups. Rather the need for States to “ensure that the institutions and structures within its control do not inappropriately benefit or disadvantage certain members of society.” In practical terms with regard to disability it is useful to link this analysis of how states and institutions can either directly or indirectly benefit or disadvantage members of society with the role policy coherence by the State could play particularly in the area of human rights and equality. This could have particular

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relevance for developing countries that have ratified the Convention, ensuring that laws and policies are coherent on disability rights. Similarly, a policy coherence role has relevance for aid agencies. It can ensure that their international cooperation programmes are coherent to inclusive practices and do not undermine the rights of people with disabilities.

Fineman argues that while the prevailing ideology surrounding non-state intervention is of a withering away of the state where there is no longer an efficient State role to be played. She suggests that instead of being withered away the state has “been withdrawn or prevented by entrenched interests from fulfilling one of its traditional roles in the social contract – to act as the principal monitor or guarantor of an equal society.” She asserts “we must think beyond current ideological constraints and consider the possibility of an active State in non-authoritarian terms.” This re-conceptualisation of the role of the State requires that we imagine responsive structures whereby state involvement actually empowers a vulnerable subject. This has particular relevance for persons with disabilities. The involvement by the State of its citizens who are marginalised is a central theme, which we can see reflected in the obligations of the CRPD. The text of the CRPD states that there is an obligation to ensure the full participation of people with disabilities in all spheres of life, including the development of national and international laws, policies and programmes.

The role of the State as a donor of development aid is critically important when developing a theory for mainstreaming. Fineman recognises that many of the institutions providing resources to give resilience to mitigate against vulnerability are brought into legal existence through state mechanisms. This is particularly true in the case of bilateral agencies who implement the State’s overseas aid programme. For the most part represents the State’s vision for equality and human rights for those living in poor countries who are at risk or vulnerable to human rights violations. This could be suggested establishes a role by the government and its bilateral agencies to develop responsive aid

165 Ibid
166 Ibid
programmes, which do not create structures that disadvantage people with disabilities.

What is also interesting about Fineman’s interpretation of the State, is that she theorises that it should not be purely recognised in the terms of a nation state. Instead it should be viewed as “an organised and official set of institutions that together hold coercive power” and that such an “institution” could be “locally, nationally, transnationally or internationally organized.”\textsuperscript{168} It is recognised that number of actors have emerged at a policy level in the area of disability and inclusive development where, for example, the UN would claim that in order to fully include persons with disabilities in the development agenda, the concept of a “no gap policy” should be recognised.\textsuperscript{169} Therefore implying that governments, intergovernmental organisations and non-state actors such as non-governmental organisations (NGOs) all have a role to play in mainstreaming disability in development. It is also important to link this to how the delivery of development aid has changed over the years. This linkage has the potential to widen the set of actors that can be held accountable for mainstreaming disability in development aid. The traditional method of delivery of development aid is from State to State usually through the mechanism of development aid. Additionally States also give to regional and multilateral institutions such as the UN and the European Union. Over recent years, a number of different actors are emerging as key players in development aid. These include philanthropic organisations founded by wealthy individuals, the rise of Corporate Social Responsibility and also emerging economies such as Brazil, India and China, all of whom have differing visions of development. In this respect, Fineman’s broadened vision of what constitutes a State helps to expand the number of potential actors that work for inclusive development.

This approach of widening the understanding of State from that of a nation state vis a vis a government to a number of actors that operate at different levels is of particular relevance when it comes to creating the momentum for implementing

\textsuperscript{168} Ibid \\
\textsuperscript{169} The no-gap policy is a concept, which illustrates that no entity, whether it is part of the United Nations system, a Government ministry or a non-governmental organisation (NGO), can achieve the goal of equality for persons with disabilities on its own. Rather, an interconnected network of actors is required to reach this goal.
and monitoring the CRPD; in particular the implementation and monitoring of Article 32 of the CRPD. Not only then, does Fineman’s broadened notion of the State have the potential to include a number of actors, it could also potentially allow for widening the monitoring measures to include non-state actors when reporting under the CRPD. This has particular relevance to Article 33 of the CRPD which provides for what could be described as a holistic approach to monitoring, one that is inclusive of State, human rights bodies and civil society (particularly disabled peoples organisations). Fineman’s wider definition of what we traditionally understand as the State could allow us to hold not just the State but those who are acting on behalf of the State accountable under the obligations of the CRPD. This has particular relevance to development aid and policies; the focus of Article 32’s is to ensure inclusive development. In linking this wider understanding of the State and its actors, Article 32 of the CRPD requires that States ensure their development programmes are accessible and inclusive of persons with disabilities. Within this understanding a wider range of actors constituted by the State and in receipt of funding by the State to carry out international development programmes could be included and held accountable under Article 32. For example, the majority of bilateral agencies through a variety of funding mechanisms to civil society rely on non-governmental organisations to develop and coordinate services for people with disabilities. Many of these NGOs and civil society members operate in an unregulated manner in the absence of any universal guidelines for inclusive development programming.  

Another aspect of note with the vulnerability theory is how it investigates the ways in which the state engages with its vulnerable subjects. From a development perspective, it is interesting to consider how bilateral agencies engage through the medium of development aid with the “vulnerable subject” in the recipient country. This engagement could come directly through the form of the development programmes it directly delivers or indirectly through the negotiations that take place during bilateral discussions where the focus is on

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170 The Istanbul Principles for Civil Society Organisations (CSO’s) Development Effectiveness are in existence as a universal set of guidelines and offer a number of pointers for civil society development practice, however these are not binding and the rational behind them is that the can be adapted by CSOs to their own frameworks.
broader sectoral issues. In this respect, it is logical to question how actions taken by the State under the remit of its overseas development assistance ensure that it is being responsive and empowering a vulnerable subject rather than disempowering or not complying with international human rights principles. A report by the OHCHR\textsuperscript{171} on international cooperation illustrates this point with respect to disability. It found that there is a risk of repackaging previous development cooperation efforts on disability to be now described as aligning with the Convention when actually they are in contradiction of the principles of the Convention. The examples the report provided range from how development aid funding was being used to fund segregated schools and also in some cases to build institutions, for example, residential institutions. These are all are in contradiction of the CRPD and also could be argued contribute to the disempowerment of people with disabilities.

The final element useful for this thesis is Fineman’s interpretation of equality. In particular, it discusses Fineman’s view of the “State” as an “equal guarantor” and emphasises its linkages with the normative framework of the CRPD. In order to facilitate real equality for disabled people the state must play a robust role in enabling its disabled citizens to participate on an equal basis, not merely with disability-specific laws and policies, but also with proactive enabling measures. The emergence of the rights-based approach to disability provides a normative framework, which requires states to “prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.”\textsuperscript{172} Satz suggests that Fineman’s interpretation of equality, of that beyond identity based towards a more substantive understanding of equality, which is underpinned by a State guarantee are helpful elements in bringing about systemic change for disabled people.\textsuperscript{173} The focus of vulnerability analysis moves away from an identity focus to establishing how States and their institutions can disadvantage. The “oppression Olympics” is described as the scenario where groups compete for the

\textsuperscript{172} CRPD, Article 5 (2)
mantle of the “most oppressed” in order to gain the attention and political support of dominant groups as they pursue policy remedies, leaving the overall system of stratification unchanged’.174 This has particular relevance in the context of disability for a number of reasons. First of all, it can be said that disability has emerged later in the development discourse as yet another group of people to be catered for. Therefore this leads to the perception from a policy maker’s perspective of an addition to an already long list of groups that require support in times of limited resources. Secondly, as discussed in earlier sections of this chapter, the shift away from an identity focus more to a focus on societal structures and norms aligns with the philosophy of the social model of disability. This again places the responsibility with the State and its actions.

2.7 Conceptual model for mainstreaming disability in development aid

A number of existing theories and frameworks have been reviewed in this chapter. The objective has been to develop a theoretical framework to undertake a comparative analysis of bilateral agencies and their approach to mainstreaming disability. The discussion of the respective theories was based on how they can enhance the principles of equality and discrimination enunciated in the Convention in a development context. For example, using an intersectional approach rather than a single lens or a multiple lens approach in order to formulate holistic responses to the discrimination faced by persons with disabilities. Key criticisms of gender mainstreaming in development policies were also highlighted which has a much longer historical basis than disability. The analysis in this chapter has provided a starting point to work from in assessing the current status of bilateral agencies’ approach to mainstreaming disability.

The framework presented in the diagram below draws the key elements discussed in this chapter. By combining the different aspects of the theories

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174 Dhamoon, ‘Considerations on Mainstreaming Intersectionality’ (2011) Political Research Quarterly vol. 64 no. 1 230-243. Elizabeth Martinez cited in Dhamoon aptly calls this the ‘Oppression Olympics, whereby ‘groups compete for the mantle of ‘most oppressed’ to gain the attention and political support of dominant groups as they pursue policy remedies, leaving the overall system of stratification unchanged.’
discussed, the intention is to situate the analysis of this research within the disciplines of both law and social science. The objective is an holistic understanding of the various factors at play when assessing the progress made by bilateral agencies in meeting their obligations under Article 32 of the CRPD.

Diagram 2.2: Framework for Analysis

2.7.1 Three elements underpinning this research study

This final section outlines the three elements distilled from the theories discussed in this chapter which are critical to assessing the nature and quality of disability mainstreaming. These include the Responsive State; recognition of diversity and the active participation of persons with disabilities.

2.7.1.1 A Responsive State

First of all, a normative framework for realisation of the rights of persons with disabilities is created by the CRPD. It obliges States to take actions to ensure that the rights and fundamental freedoms for people with disabilities are promoted, protected and fulfilled. The CRPD, using a rights perspective, provides guidance in difficult areas that remain in responding to disability. For example, issues such as legal capacity, the right to live in the community, the right to bodily integrity
are reframed with a disability rights perspective and States are now accountable to upholding the rights of persons with disabilities. This extends to both the Donor State and also the State in receipt of development aid. From a development perspective, the CRPD gives important guidance in areas such as health and prevention, which are important to the development discourse but have remained debated within the disability discourse. They along with other issues can now be approached in a manner that keeps people with disabilities rights and dignities intact. The CRPD can also be helpful in guiding a way through a range of issues and help with formulating a number of key elements for a mainstreaming policy on disability.

Secondly, while the CRPD does not ascribe to naming theories, links can be drawn with the freedoms mentioned in its text to Sen’s notion of freedom and expansion of opportunities. In order to overcome the “difference dilemma” discussed earlier in this chapter, the CRPD requires that all mainstream policies must recognise the rights of persons with disabilities. Where appropriate these policies must the need to have disability-specific measures. These disability-specific measures must adhere to promoting and respecting the rights of persons with disabilities. A mainstreaming policy on disability in this respect could then allow for difference and variations between people with disabilities but do so within a rights-based framework that ensures their rights and dignity are protected at all times.

Thirdly, the CRPD and its conceptualisation of the denial of reasonable accommodation as discriminatory could be helpful in leveraging resources for mainstreaming disability in development. This leverage could be targeted towards how mainstream systems need to accommodate and adjust for people with disabilities. For example, ensuring that schools built with development aid funding are equipped with the necessary resources to be inclusive of children with disabilities. Linked with this also is the notion of policy coherence and the need for monitoring that can be drawn from both Fineman and the Convention. Fineman’s perspective focuses on the responsibility of the State to ensure it does not disadvantage people through policies pursued for other means. Article 4 of the Convention requires that States do not undertake any actions that act in contradiction to the principles of the Convention. Taking this dual approach
would therefore ensure a mainstreaming policy on disability would question how other policies may undermine its goals and asks questions about allocation of resources and priority-setting.

Broadening this out creates an obligation for bilateral agencies to first of all consider how their policies protect and respect the rights of persons with disabilities. In exploring how this achieved, it gives this thesis the basis to ask questions and seek evidence as to the mechanisms bilateral agencies currently have in place. It also provides tools to holistically identify that gaps that may exist in the bilateral agency in complying with the CRPD and in particular the obligations of Article 32. Finally, as outlined in the diagram 2.2 and discussed further in chapter four, the CRPD not only creates obligation for Donor States but also for low-income States who are equally responsible for implementing the Convention upon ratification.

2.7.1.2 Recognition of diversity within disability

How equality of persons with disabilities is achieved while recognising the diversity that exists within disability and the different accommodations that maybe needed is central to developing an effective mainstreaming policy. If responses are based solely on a conceptualisation of disability that is not cognisant of what the CRPD states as the respect for difference as part of human diversity, and is also viewed through a singular lens dominated by disability, then the potential for narrow policy responses is a possibility. A policy response situated in such a narrow conceptualisation of disability will do little to change the overarching problems of the systemic discrimination, that people with disabilities face. Examining how bilateral agencies conceptualise their disability policy and disability itself is an important point in unpacking how their policies measure up to the Convention’s principles. It is also important in linking it with one of the main criticisms of gender mainstreaming: that of not recognising diversity or the limits of category-based or identity-based responses. Both Fineman and intersectionality theory highlight these limitations.

2.7.1.3 Active participation of persons with disabilities

The final aspect for exploration in this thesis is how each bilateral agency engages with persons with disabilities. As discussed earlier in this chapter, critics
of mainstreaming theory have put forward the role of deliberative democracy to ensure participation in decision-making and ultimately bring about long-term change. Equally, Sen discusses the need for agency and Fineman talks about the need for the State to engage with its vulnerable subjects. All of the theories reviewed point to the need for involving those who most marginalised; in this case persons with disabilities. At the core of the CRPD is a call for the inclusion of persons with disabilities as active participants in all aspects of policies and laws targeted at disability. Therefore examining, how bilateral agencies facilitate the engagement of persons with disabilities in the development, implementation and monitoring of their commitments to mainstreaming disability can highlight where the bilateral agencies are making progress towards complying with one of the main tenets of the CRPD.
Chapter Three: Methodology

3.1 Introduction

The inclusion of people with disabilities in international cooperation is not a new phenomenon. As discussed in chapter four, international cooperation has played an important role in sharing knowledge and expertise on disability for many years. The imperative for this role stemmed originally from the United Nations. Broadly defined, international cooperation covers a wide range of activities between States. Some of the activities include transfers of financial support and technical expertise through development aid and international development programmes. For the purposes of this thesis, the research carried out focuses on the area of international development programmes and how Donor States, in particular their bilateral agencies, mainstream disability in the policies that guide their international development work.

As highlighted in the chapter one, the aim of this study is to understand the meaning and implications of Article 32 of the Convention on the Rights of Persons with Disabilities (CRPD) for the efforts of bilateral agencies to mainstream disability into their development efforts. The sub-questions comprise the following:

- What have been the efforts of bilateral agencies to mainstream disability in development to-date?
- What have been the achievements of these efforts and what were the challenges?
- What are the gaps and what future steps do bilateral agencies need to take to act in coherence with Article 32 of the Convention?

The rationale behind these sub-questions stems from a number of factors. First of all, it is important to gain a sense of the experience to-date of agencies in mainstreaming disability. The literature review for this thesis highlighted that while agencies on paper give commitment to mainstreaming disability how this commitment has operationalised has been questioned. In particular, the continued
dominance of a disability specific approach and the non-alignment of development policies with the intentions of the CRPD has been queried. Therefore an exploration into the experience of agencies mainstreaming disability to-date is important to create a baseline for this thesis.

Secondly, as part of this exploration, it is important to gauge from the individual agencies what have been the challenges and achievements in mainstreaming disability. While mainstreaming disability in development, as a thematic issue remains a relatively new area, there is already a body of experience that exists within the gender and HIV/AIDS field. Situating the experience of mainstreaming disability, its achievements and challenges within the wider lessons of thematic mainstreaming (e.g. gender and HIV/AIDS) could help to

- avoid some of the pitfalls other themes have encountered in their experience of mainstreaming
- identify innovative methods to get around system blockages and
- establish broader linkages of disability with equality and human rights areas and not just through a specific disability lens.

Thirdly, this research is underpinned by the CRPD. Because States who have signed/ratified it have given a commitment to adhere to the CRPD, the following question must be asked: given where we are at with mainstreaming disability what future steps do bilateral agencies need to take to act in coherence with Article 32 of the CRPD.

The purpose of this methodology chapter is to describe and justify the methods used to conduct research to answer the research questions. The chapter is broken down into the following sections: in section 3.1 the purpose and timing of this research is explored, in section 3.2 the criteria used for selecting the bilateral agencies is outlined. The research methodology and research methods used are

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described in section 3.3, the analysis plan for data collected is presented in section 3.4 and section 3.5 discusses the triangulation of data.

3.1 This research – its timing and purpose

3.1.1 Timing – why now?

The research undertaken for this thesis is important at this juncture in time for a number of reasons. These include, the adoption of the CRPD and Article 32 on International Cooperation, the need for critical thinking on mainstreaming disability as a theme for international development and, the need for a set of principles that provide guidance to future policy reform, as international development moves into a new era of global commitments. To date, the principles have previously rendered disability invisible.\(^{176}\)

Firstly, Article 32 of the CRPD provides us with a timely opportunity to ask State Parties and their respective bilateral agencies what actions have they taken to mainstream disability as a theme in their international development policies. As discussed later in chapter four prior to the adoption of the CRPD, previous commitments made by governments and their respective bilateral agencies to mainstream disability were mainly of a voluntary (soft law) nature; they were quasi legal and not legally binding. Bilateral agencies, out of a combined influence of domestic law, strong advocacy efforts by disability activists and pre-existing international commitments such as the UN Standard Rules, took steps to include disability in their international development programmes.\(^{177}\) However, while this inclusion was a step forward, its voluntary nature meant that each agency had varying degrees of inclusion and no agency received sanctions or


\(^{177}\) See chapter four, section 4.2.2
penalties for not including persons with disabilities. The adoption of the CRPD sparked global reform on law and policy. States Parties who have signed or ratified the CRPD must now assess how compliant their own laws and policies are with the CRPD and set in motion a programme of reform to ensure that they are compliant. Article 32, discussed in more detail in chapter four, requires that States, particularly Donor States, take measures to ensure that their international development programmes are accessible and inclusive to persons with disabilities. This means that Donor States and the mechanisms they use to implement overseas policies (i.e. bilateral agencies) must now examine how they measure up to Article 32 and the overall principles of the CRPD, which has been described as both a human rights treaty and a development tool. This process of examination means that each State must now take stock of their actions to-date and make plans for reform of existing policies for mainstreaming persons with disabilities in their international development programmes. The aim of this thesis is to make some contribution towards this reform.

Secondly, it is now an important time to build a body of critical thinking on mainstreaming disability in order to provide practical support to what the drafters of the CRPD had in mind for Article 32 and to contribute to future developments in this area. The literature review conducted for the purposes of this thesis highlighted that bilateral agencies for many years have had policy commitments to mainstreaming disability. However, the review also found that there has been very little analysis on how successful mainstreaming disability has been in practice, and as an academic topic it remains a relatively new and under researched area. This is not only true for academia but also within the general development discourse. The literature review found that there is a minimal amount of material available that could be described as analytic or evaluative as to how bilateral agencies have mainstreamed disability thus far. Where

\[178\] There was no evidence of sanctions within the literature review carried out for this thesis or during the interviews conducted for this research.

\[179\] United Nations Economic and Social Council, ‘Mainstreaming Disability in the development agenda’ (2008) 6 E/CN.5/2008/6. This report discusses how from a historical perspective human rights and development were separate, however the Convention is intended as a human rights instrument with an explicit social development dimension. Along with clarifying that human rights apply to persons with disabilities, it also highlights pragmatic and action-oriented measures to be undertaken by States parties in support of development programmes that are inclusive of, and accessible to persons with disabilities.
evaluations did exist, they were usually internal to the agency; either carried out by self-reporting processes or by consultants commissioned to undertake research.180 For the most part they gave an account of how the agency was supporting disability specific work rather than engaging with the wider portfolio of the agency.181 Where literature outside internal evaluations and progress reports was found, it could be broadly categorised as being descriptive in nature, or for mapping purposes.182 Or it was part of policy briefings and internal reports published by the UN to describe the work carried out on including disability as a theme in development.183 The number of studies the literature review did find can be broadly described as providing observations or reflections on mainstreaming strategies and also of an inventory nature. The studies list and describe existing policies rather than providing any real comparisons or analysis of lessons learnt. For example, the report by the World Bank on ‘Disability and International Cooperation and Development’ states from the outset that it does not “[assess] the merits or impact of policies and practices, it only provides mapping”.184 Also, in terms of material on previous comparative research on bilateral agencies, independent material (outside the agencies own evaluations)

180 See chapter five section 5.2.5, section 5.3.5 and section 5.4.5 which outline the different types of internal evaluations that have been carried out by each of the agencies selected for this research
182 See the series of mapping reports on the following countries Luxembourg, Belgium, Germany, Netherlands, Sweden, Slovakia, France, United Kingdom, Italy and Austria, which were published as part of the Make Development Inclusive – Mainstreaming Disability in development cooperation project Reports available at: http://www.make-development-inclusive.org/toolslist.php?nb=3&spk=en > accessed 10 September 2013
183 The United Nations has published a number of reports on mainstreaming disability these reports are mainly descriptive or placing mainstreaming disability in the context of UN work. The reports include; United Nations Economic and Social Council, ‘Mainstreaming Disability in the development agenda’ (2008) E/CN.5/2008/6; United Nations Department of Economic and Social Affairs ‘Selected examples: best practices at international, regional, sub regional and national levels for including persons with disabilities in development efforts’ (2011) 1. This was prepared in advance of United Nations High Level Meeting on Disability and Development to demonstrates examples and case studies, however the process to select the criteria appeared to be self nominating and the report itself recognised that there was no common criteria that could be used for selecting examples
was limited; in fact only one study with a comprehensive approach was found. This was the research project funded by the UK bilateral agency (DFID) that featured a comparison of agencies but was described by the authors as not having enough time or resources to be in-depth.185 In light of this absence of literature, the objective of this thesis is to contribute to a growing body of knowledge on mainstreaming disability as a thematic issue in development.

The final reason for the timing of this thesis is that 2013 saw the beginning of negotiations between governments for a new development framework to replace the Millennium Development Goals (MDGs) after 2015. It has been widely recognised that the omission of persons with disabilities (while not intentional) was an oversight by the original MDGs. As a result, persons with disabilities were not explicitly included in any of the MDG goals or targets.186 This thesis, while its focus is on bilateral agencies will raise issues that are particularly pertinent to the future development framework. The issues include incorporating the rights of persons with disabilities within a wider equality framework and the balance between universal and specific provision of support.187

185 See report by Bill Albert, A.K. Dube, Trine Cecilie Riis-Hansen ‘Has Disability Been Mainstreamed into Development Cooperation?’ (2005) 14. This report was part of the Disability, Knowledge and Research project funded by DFID and the study focused on DFID, USAID and NORAD and their mainstreaming of disability as a policy issue, where the authors discuss that their process to gain an understanding of how the different agencies mainstream disability required an in-depth investigation, which time and resources did not permit. The report is available online at http://hpod.org/pdf/Mainstreamed.pdf (Accessed 13/3/14)


187 For example, in terms of ‘post 2015 development framework and the forthcoming opportunities to ensure the inclusion of persons with disabilities, see the following reports; United Nations ‘A New Global Partnership: Eradicate Poverty and Transform Economics through Sustainable Development’ (2013). This report addresses disability in the context of the discrimination faced by persons with disabilities and the need for data on disability. See the United Nation System Task Team Report to the Secretary General, ‘Realising the future we want for all’ (2012). This report addresses disability within the context of reducing inequalities for inclusive and sustainable development. See also United Nations, ‘The Future We Want’ (2012)
3.1.2 Purpose

The overall purpose of this thesis is to consider what measures Article 32 of the Convention on the Rights of People with Disabilities asks States and their relevant actors (i.e. bilateral agencies) to take to ensure that disability is mainstreamed as a thematic issue in international development programmes. As outlined above, the issue of mainstreaming disability as a thematic issue in international development has been discussed prior to the adoption of the CRPD. A number of bilateral agencies already had policies and infrastructure for mainstreaming or including persons with disabilities in place. In this respect, before a discussion on the implications of Article 32 for bilateral agencies and their future policies on mainstreaming disability as a theme, it is important to investigate how bilateral agencies have implemented their mainstreaming policies on disability to-date. In particular it is necessary to highlight areas of good practice as well as areas where improvement is needed in order to meet the standards which the CRPD, and particularly Article 32, require of States. By undertaking this examination of current practice and making recommendations for future reform, this research hopes will contribute to the emerging discourse on including persons with disabilities as beneficiaries of international development. Its primary contribution lies in its recommendation of a series of measures that bilateral agencies can take to act in coherence with the CRPD and improve the lives of persons with disabilities living in developing countries.

3.2 Selecting the agency – establishing the criteria

For the purposes of this research three Donor States and their respective bilateral agencies were selected. The Australian Agency of International Development (AusAid), the United States Agency for International Development (USAID) and Finland’s Ministry of Foreign Affairs (MFA). As discussed earlier, the absence of any common criteria and the different sizes and nature of bilateral agencies provided obstacles to establishing universal benchmarks for

outcome document from the Rio + 20 process contains five specific references to disability see paragraph 9; paragraph 43; paragraph 58(k)); (paragraph 135) and finally (paragraph 229)

188 Finland’s Ministry for Foreign Affairs has the main responsibility for bilateral aid and international development assistance.
comparison. In order to select the agencies for this research, a number of criteria were developed reflective of the theoretical framework. The next section discusses the criteria.

3.2.1 Bilateral agency (Donor State) commitment to progressing the rights of persons with disabilities.

In terms of assessing the State’s openness or response to progressing equality of persons with disabilities, the first criterion focused on how they responded to disability domestically and internationally. At a domestic level this meant that the agency had demonstrated a commitment to disability based on equality and human rights. Each of the agencies claims they have a committed approach to disability based on non-discrimination, equality and human rights. The MFA in Finland explains that its concern for the status of disabled people is in the context of “poverty reduction and human rights.” AusAid cites as its main concern the need to improve the quality of the lives of disabled people by promoting and improving access to the same opportunities for participation, contribution, decision-making, and social and economic well being as other people. USAID’s understanding of disability is grounded in the principle of non-discrimination and its objective is to “to avoid discrimination against people with disabilities in programs which USAID funds.” Each of the agencies signal

189 Albert, Bill, Dube, AK, Riis-Hansen, Cecille, Trine ‘Has Disability Been Mainstreamed into Development Cooperation’(2005). This report was part of the Disability, Knowledge and Research project funded by DFID and it highlights how comparing agencies policies on disability is problematic due to differences in size, organizational structure, work practices as well as institutional and political culture. See also Razavi, Shahra, Miller, Carol, ‘Gender Mainstreaming: A study of efforts by the United Nations Development Programme, the World Bank and the International Labour Organisation to Institutionalize Gender Issues’ (1995), UNDP programme, Occasional Paper 4.
190 Each of the donor countries selected has domestic disability legislation. Australia and the US legislative focus are on anti-discrimination with the Disability Discrimination Act (Australia) and the Americans with Disabilities Act respectively. The Finnish focus is on access to services and barrier free architecture. For example, Finland has the Services and Assistance for the Disabled Act (1987). Additional to the domestic focus, one country in particular the US uses their disability legislation, as a standard in their international development activities if the country they are working in does not have a similar law.
193 USAID ‘Disability Policy’ (1997) 2
achieving equal opportunities and human rights for people with disabilities as core principles to their work and understanding of disability. However, for the purposes of this thesis, what is of particular interest is how each agency conceptualises equality for persons, and how they ensure that the different identities that persons with disabilities might have are recognised, for example, women with disabilities.194

At international level, the criterion of commitment to progressing the rights of persons with disabilities was measured by whether the country where the agency resided had either ratified or signed the CRPD. Finland and the United States became signatories to the CRPD in 2007 and 2009 and Australia became one of the first major western Donor States to ratify it in 2008.195 The rationale behind the mixture of signatory/ratification of the CRPD as criteria is two-fold. Firstly, it demonstrated that each of the Donor States had a commitment to progressing the rights of persons with disabilities. By signing/ratifying the CRPD, there was now a requirement to ensure that international development programmes operating under the auspices of the State progressed the rights of persons with disabilities. Secondly, using the mixed approach gave the opportunity to explore what, if any, impact the CRPD had on the States’ policy supporting international development programmes. It also provided the opportunity to discuss differences that exist between Donor States who have not yet ratified the CRPD and States in receipt of international development assistance that had.

3.2.2 Policy statement and institutional experience

The literature review conducted highlights the range of policies that exist across a number of agencies. While a number of agencies have published material on including persons with disabilities, the status of the material within the agency was unclear. The terminology used varied from ‘discussion paper’, ‘focus paper’, position paper, plan of action and finally an issues paper and a ‘how to note’.196

194 This is explored in detail in chapter seven using the data collected from key informant interviews and a review of agency literature
195 Australia ratified the CRPD (2008)
196 See for example, the German Development Cooperation Agency (BMZ) produced a discussion document entitled ‘Disability and Development Policy – a contribution to promoting the rights of persons with disabilities in German Development Cooperation’ (2006). The
This variance in terminology was also highlighted by Albert, he found that what an agency described as a policy, on closer examination turned out not to be what is traditionally understood as a policy.\textsuperscript{197}

In terms of looking at institutional experience, the selection criterion used focused on the existence of a policy and tangible evidence by each bilateral agency of a commitment to the inclusion of persons with disabilities in their international development programmes. This evidence had to go beyond an official publication of commitments and explanation of concepts of disability and equality. Instead, it needed to demonstrate that the agency had a developed infrastructure, institutional knowledge and a system of evaluation, which had captured lessons learned to date. Referrals by peers in the area as an agency showing leadership in the area were also considered. In terms of policy commitments, all three agencies selected have an overarching aim of including disability in their development policy in one of three ways. Demonstrated through (1) a stated policy specific to disability (in the case USAID and AusAID) (2) the existence of a mainstreaming policy (USAID and MFA), or (3) a crosscutting policy that includes disability as a theme (MFA).\textsuperscript{198} In addition to

document contextualized disability within poverty reduction and the MDGs and described as its purpose to giving a brief outline to date of activities taken by German Development Cooperation with respect to disability and to provide ‘impulses’ for further cooperation in this area in the future. See the Austrian Development Agency (ADA) ‘Focus: Persons with Disabilities in Austrian Development Cooperation’ (2007). This focus paper highlights Austria’s approach and activities to including persons with disabilities in its development cooperation. See the Swedish Development Agency (SIDA) ‘Children and Adults with Disabilities’ (2005) and SIDA ‘Human Rights for Persons with Disabilities’ (2009). See the Norwegian Agency for Development Cooperation (NORAD) ‘Planning and Monitoring for the Inclusion of Disability Issues in Mainstream Development Activities’ (2002). See the Department for International Development (DFID) ‘Disability, Poverty and Development’ (2000). This policy paper outlines the links between poverty and disability; DFID ‘How to Note: Working on Disability in Country Programmes’ (2007) which gives concrete guidelines to DFID’s country offices on how to include disability.

\textsuperscript{197} Albert, Bill, Dube, AK, Riis-Hansen, Cecille, Trine ‘Has Disability Been Mainstreamed into Development Cooperation’ (2005) 14. This report was produced as part of the Disability Knowledge and Research Programme funded by DFID and is available online at: http://hpod.org/pdf/Mainstreamed.pdf (Accessed 10/3/2014)

their stated policy objectives, each agency has spent a considerable period of time implementing their policy ranging from twenty years to just under ten years inferring that during this period there was time for changes and lessons learnt. The length of the time-span enabled this researcher to track the policy from its origins and identify changes and trends so that common themes between the agencies can be extrapolated. For example, USAID began with a policy paper and has subsequently developed binding directives. An investigation into how this change in policy came about could provide useful information to a donor agency that is considering how to include disability in its work. In the case of Australia, AusAid is building on the disability specific work it has carried out in order to develop this into a broader policy. Focusing on development for all and the inclusion of disability as a theme in AusAIDs overall aid effectiveness policy. Each of the three agencies has an infrastructure in place to implement its policy commitments and a number of published evaluation reports that demonstrate the successes and challenges each agency faced in mainstreaming disability. Finally, in terms of peer review each of the agencies selected has been identified in their own right in a number of reports as either leaders in the area of disability and development or recognized as implementing best practice.199

3.2.3 The existence of a relationship with the disability community

The final criterion for selection of agencies was evidence of including the voice of the disability community. An area of particular interest to this research is the relationship each of the donor agencies has with the disability community in its domestic community, and also through its overseas’ work. As discussed in chapter two, one of the main elements of this research is how the voices of persons with disabilities is included in the planning, design and evaluation of all policies relevant to their lives. The literature review highlighted that in practice

199 For example see the World Health Organisation and the World Bank ‘World Report on Disability’ (2011) 264 recognizes AusAID’s Development for All Strategy as a best practice model for inclusive development. Janet Lord et al ‘Disability and International Cooperation and Development: A review of policies and practices’ (2010) World Bank, Social Protection Discussion Paper No.1003 also cites AusAID’s policy “as the most detailed”. Also all three agencies are invited on a continuous basis by organisations such as the United Nations to present how they have mainstreamed disability into their policy and practice.
the agencies had a number of different approaches to this. For example, AusAID in the development of its policy consulted widely with the disability community through a lengthy consultative process. Finland and the MFA operate a partnership approach with the disability community and the US operates under a competitive basis where disability organisations apply to work on disability issues.

### 3.3 Choosing a research methodology

The methodology chosen for this research is the socio-legal approach. This means that the research does not exclusively assess the legal aspects of disability and development but also looks at the social aspects to gain an understanding of how disability as a theme is constructed and responded to. The reason for this is that the area of focus for this research encompasses two different disciplines law and social science, through the subjects of international law and development. Not only do both these disciplines face tensions methodologically in the academic world but also in the real world. Banakar and Travers present the academic challenges but also the reasons why socio-legal research is important. They discuss how laws are introduced to the legislature to change society by enabling or restricting certain types of actions, regulating social institutions and coordinating groups and individual behaviour in an effective and rational manner. They suggest that sociology looks beyond the law with a curiosity about social life and a mission to attempt to explain and understand it. Outside academia, these differences are illuminated by the discourse between human rights and development, which is at the core of this thesis. Alston and Robinson discuss the challenges between connecting human rights and development and the resistance, which traditionally existed between development practitioners and international lawyers. In particular, Robinson highlights one of the criticisms levelled at human rights from a development perspective. She discusses how the sense of urgency of law was always under criticism for (1) not taking into account the social and cultural causes of underdevelopment and (2) understanding that development is generational.

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Robinson claims that nowadays this criticism is less founded due to human rights organisations. They have moved from naming and shaming to participating and supporting programmes of reforms, many of which are initiated by government.

While the difficulties and tensions may exist between the two disciplines, a number of factors contributed to the choice of a socio-legal approach for this thesis. The first was that while the CRPD is a legal instrument it has also been described as having a social development mandate. This is particularly the case, with the demands it makes of society and its structures to change and adapt to include persons with disabilities. Therefore a socio-legal approach is logical to cover both aspects. As discussed chapter four, the CRPD now places a legal obligation on States to create a society that is inclusive and accessible for persons with disabilities. These are the set of rules it brings to bear on all governments. However, while the CRPD brings with it a set of rules that can be invoked to bring about change and enforce rational behaviour, there is also a real need to understand how behaviour and the social structures thus far have contributed to the exclusion of persons with disabilities from the mainstream. This is of particular importance to people with disabilities in developing countries where they face stigma and prejudice, which in many cases put their lives at risk. The need to respond to this lies both within law but also within society and in how its responses to including persons with disabilities are constructed. The CRPD makes a connection between law and sociology in a number of ways. First of all, the CRPD was heavily influenced by the social model of disability, which focuses on the social construction of disability. Secondly, within its specific articles e.g. Article 8, the CRPD recognises the need to understand how disability is socially responded to, not just legally. Therefore opening up what Banakar and Travars describe as a “communicative link” between two different disciplines.

The second factor for choosing this type of methodology stemmed from the fact that in international law there is no legal right to development. Therefore taking a purely doctrinal view of the international law in the absence of case law would

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202 Yeo, ‘Chronic Poverty and Disability’ (2011) 8, Yeo discusses the stigma faced by persons with disabilities and how it prevents them from getting access to basic health care services

203 See footnote 111 which discusses the references to barriers in the CRPD

limit this research to a very narrow perspective. It would also have the potential for this thesis to become mired in the debate on the right to development. However, the general commentary of UN committees on international cooperation and the texts of the treaty negotiations discussed in chapter four give some opportunity to attempt to seek out and discover principles that the Convention drafters were aiming for when developing Article 32. Following on from this, the third reason for choosing this methodology focused on taking an external view of the law; what Chynoweth describes it as “research about law rather than research in law.”205 This was an important factor for the research, as it meant the law could be looked at from the perspective of achieving social goals and creating a culture of compliance, which is of course the obligation placed on each State once they have signed or ratified the CRPD. Finally, the fourth reason for using this methodology stemmed from the fact that sociology allows for and encourages the borrowing of ideas and concepts from other disciplines to attempt to develop new paradigms.206 The research carried out for this thesis borrows from a number of concepts and elements of different theories and disciplines (as outlined in chapter two), and argues for a particular approach to mainstreaming persons with disabilities in international development programmes.

3.3.1 Research methods

The research methods used in this study were mainly qualitative. The primary reason for choosing qualitative methods was to reflect the complexity of disability and development and the range of different stakeholders that are involved in this area. As the literature review highlighted mainstreaming disability as a theme in development is not the sole responsibility of just one actor.207 Similarly, gender-mainstreaming literature has also demonstrated that there is a need for a number of actors combined to advance gender mainstreaming. For example, True recognises the role a number of key actors

207 For example, the United Nations describes the need for an interconnected network of actors for mainstreaming disability. It calls it the ‘no gap’ policy which means that no entity, whether it be part of the United Nations system, a government ministry or a non-governmental organization can achieve the goal of equality of persons with disabilities
have played in advancing gender mainstreaming.\textsuperscript{208} She claimed that gender mainstreaming did not progress solely on the actions of one entity. Instead, its advancements are attributable to a number of actors including the state through governance policies and feminist organisations pushing the boundaries on what they can achieve. Woodward’s notion of a “velvet triangle” is a useful visualisation for scoping out the different actors involved in mainstreaming.\textsuperscript{209} From a legal standpoint, Article 32 of the CRPD provides for the interplay of a number of stakeholders involved in implementing its provisions.\textsuperscript{210} These stakeholders included persons with disabilities and their representative groups, the State through the adoption of proactive measures and policies (in this case through bilateral agencies) and non-state actors particularly civil society and business through the role of supporting and implementing the CRPD. In order to capture the multitude of different actors, qualitative methodology seemed a natural choice to “document the perspective and interactions among multiple stakeholders” in the investigation on how bilateral agencies mainstream disability.\textsuperscript{211} 

The methods described in more detail below consisted of the following: (1) a documentary analysis of statutory material, academic commentary, and secondary materials such as policy reports, documentation from NGOs/DPOs and evaluations to provide basis for comparative questions; (2) a set of semi structured interviews with key informants.

### 3.3.2 Documentary analysis

In advance of the key informant interviews, a documentary analysis was completed with three objectives in mind. The first objective was to gain an insight into the context in which each bilateral agency operated. The second

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\textsuperscript{208} True, ‘Mainstreaming Gender in Global Public Policy’ (2003) International Feminist Journal of Politics identifies Vol. 5 3, True discusses three enabling factors that has put gender mainstreaming on the global policy making agenda they are: discursive change; transnational networking of women’s group; gender policy entrepreneurs,


\textsuperscript{210} CRPD Article 32.1 recognises that States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities.

\textsuperscript{211} Health Serv Res. ‘Qualitative Methods: What are They and Why Use Them?’ (1999) Dec; 34(5 Pt 2): 1101-18.
The objective was to get a sense of where mainstreaming disability fits within international law (particularly the fact that the CRPD was a relatively new instrument). In order to contribute to advancing the discussion on mainstreaming, it was important to distill the key lessons learnt from mainstreaming in other areas such as gender. This was the third objective. The documentary analysis included reviewing the following material (which are included in the bibliography):

(a) key statutory human rights instruments on disability rights in the domestic donor countries along with regional and international instruments and political statements/intentions on disability and development;  

(b) all relevant agency literature including policy documents and reports related to mainstreaming disability of the selected agencies; 

(c) policy documents, reports and general commentaries published by international organisations such as the United Nations and the World Bank related to disability mainstreaming, and where available commentary and reference to the three bilateral agencies; 

(d) material from disability organisations and DPOs funded by bilateral agencies which also included respective progress/monitoring and evaluation reports; 

(e) key texts on lessons learnt from mainstreaming gender; and 

(f) material produced by domestic DPOs and NGOs advocating for the inclusion of persons with disabilities in development.

212 For example in 2010, the Finnish government launched a new Disability Action Plan assigning disability inclusion and that applying it to all its Ministries, including Foreign Affairs. 

213 These included respective progress/monitoring and evaluation reports, where possible independent evaluations were gathered e.g. USAID prepare biannual report on the implementation of their disability policy. In particular the documentary analysis for the bilateral agency was in-depth giving the opportunity to explore in more detail the rationale behind the measures that agency had employed for mainstreaming disability. For example, while the agencies were asked about the background to the development of their policies, most of this material had been gathered in advance from reports and therefore questions focused on what was rationale behind the changes in policy approach rather than just listing the approaches. This was particularly relevant for Australia, who had changed from having a general approach to disability to developing a more specified approach.
The review of the material listed in (a) to (f) informed the content of the questions for the agency staff and the external key informants.

### 3.3.3 Semi-structured interviews with key informants

The primary method of research used in this thesis involved face-to-face semi-structured interviews with twenty-five key informants across three different jurisdictions during 2011. See Box 3.1 for details of coding of key informants applied throughout this study. The criteria for selecting the appropriate key informants are discussed below. The key informant interviews were broken down into different groupings; those ‘internal’ to the agency and those who were ‘external’. The substantive interviews (lasting on average one hundred minutes each) were carried out with policy officials directly engaging with mainstreaming disability across the three bilateral agencies.

#### Box 3.1 Coding for key informants

<table>
<thead>
<tr>
<th>Agency A</th>
<th>USAID</th>
<th>Agency B</th>
<th>Finland</th>
</tr>
</thead>
<tbody>
<tr>
<td>Code</td>
<td>Interviewee</td>
<td>Code</td>
<td>Interviewee</td>
</tr>
<tr>
<td>AI1</td>
<td>Policy official</td>
<td>BI1</td>
<td>Policy Official</td>
</tr>
<tr>
<td>AI2</td>
<td>Policy official</td>
<td>BI2</td>
<td>Policy Official</td>
</tr>
<tr>
<td>AI3</td>
<td>Policy official</td>
<td>BI3</td>
<td>Policy Official</td>
</tr>
<tr>
<td>AI4</td>
<td>Policy official</td>
<td>BI4</td>
<td>Policy Official</td>
</tr>
<tr>
<td>AE5</td>
<td>External Informant</td>
<td>BE5</td>
<td>External Informant</td>
</tr>
<tr>
<td>AE6</td>
<td>External Informant</td>
<td>BE6</td>
<td>External Informant</td>
</tr>
<tr>
<td>AE7</td>
<td>External Informant</td>
<td>BE7</td>
<td>External Informant</td>
</tr>
<tr>
<td>AE8</td>
<td>External Informant</td>
<td>BE8</td>
<td>External Informant</td>
</tr>
<tr>
<td>AE9</td>
<td>External informant</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Agency C</th>
<th>AusAID</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Code</td>
<td>Interviewee</td>
<td>Code</td>
</tr>
<tr>
<td>CI1</td>
<td>Policy Official</td>
<td>D1</td>
</tr>
<tr>
<td>CI2</td>
<td>Policy Official</td>
<td>D2</td>
</tr>
<tr>
<td>CE3</td>
<td>External Informant</td>
<td>D3</td>
</tr>
<tr>
<td>CE4</td>
<td>External Informant</td>
<td></td>
</tr>
<tr>
<td>CE5</td>
<td>External Informant</td>
<td></td>
</tr>
</tbody>
</table>

*I denotes internal key informants/policy official, E denotes external

214 This thesis makes a distinction between those who work internally with the agency or within the wider policy circle e.g. senior government and policy officials and those who are ‘external’ to the agency that could reflect back and give an outside perspective on the agency.
In addition to the policy officials focused on mainstreaming disability as a thematic issue, there were also a number of interviews with policy officials working on mainstreaming thematic areas of gender and HIV/AIDS. The purpose of these interviews was twofold. First of all to gauge where disability mainstreaming as a theme fared against other mainstreaming themes in the agency, for example, gender and HIV/AIDS. Secondly, to capture if there was any overlap or crossover between the themes of disability, gender and HIV/AIDS that could demonstrate levels of intersection. The final grouping then within the ‘internal’ group was senior government and policy officials that had direct involvement with the agency’s policy. The ‘external’ group consisted of key informants who had working relationships with the agency but from an external viewpoint.

The decision to interview key informants for this research was based on a number of reasons. Firstly, because key informant interviews take place with people who have an in-depth knowledge of what is going on within a community, and can therefore provide a unique set of insights. The ‘community’ that currently exists on disability and development, while involving a range of actors, remains relatively small. It consists for the most part of officials working in the disability specific side of policy development in bilateral agencies or within a wider human rights and equality portfolio, specialist service providers that implement development programmes and projects (project implementers), and Disabled Peoples Organisations (DPOs). While these range of actors were the predominant feature of this research, to capture the other thematic areas of mainstreaming such as gender and HIV/AIDS a number of key informants working in these areas, at bilateral level were also selected. Secondly, the reason for choosing key informants as a method is to connect with those who have played a substantial role in the development of /or the operationalising of mainstreaming efforts on disability. In this regard key informants for the most part were selected on the basis of length of time and experience of working in disability and development. For example, key informants interviewed in Finland

215 University College Los Angelus, Center for Health Policy Research, Section 4, Key Informant Interviews http://www.healthpolicy.ucla.edu/healthdata/tw_cba23.pdf > accessed 15 September 2013
had publications in this area and the informants interviewed in the US and Australia held high-ranking government positions. The final reason for choosing this method stemmed from the need to ensure a consistent knowledge base or what some call human capital ensuring that the potential interviewee has the right competencies and skills. While the development discourse is discussing mainstreaming disability in development, it continues to remains an area on the margins of mainstream development with specific knowledge possessed by a few key individuals. Casting a net too wide for potential interviewees could present this research with the problem of knowledge that is general rather than experiential. Therefore, the voices of key informants working in the area of disability and development area brings with it a wealth of knowledge and experience that can give context to this research.

It is important to note that using the key informant approach can also have some disadvantages. The two main disadvantages relate to the selection of the most appropriate informants and in avoiding bias. The method has also problems with respect to key informants only divulging information that is politically acceptable. This might be a particular issue for policy officials from bilateral agencies who work within policy frameworks and might be less enthusiastic to question them.²¹⁶ In an attempt to avoid this, the research questions have been framed less from a political perspective and more from a practical basis. This is aimed at understanding the choices and decision-making processes made by bilateral agencies with regard to mainstreaming disability.

In selecting key informants for this study, a number of issues were considered. Tremblay highlights the following characteristics of an ‘ideal’ key informant: having a role in the community which should expose them to the kind of information being sought by the researcher; knowledge, while not only having access to the information the informant has meaningful understanding of the information. There is a willingness to communicate their knowledge to the researcher and this communication must be in a manner that is understandable to the interviewer. Finally impartiality where key informants should be objective

and unbiased, any bias should be identified to the interviewer.\textsuperscript{217} With respect to this thesis and elaborating on Trembly’s criteria, the following criteria were applied to selecting prospective key informants. First of all, their ‘role in the community’; the key informants selected were from a representative group of State and non-state actors in the bilateral agency’s country. The identification process for these key informants drew from

(1) policy officials in the bilateral agency engaged in the area of mainstreaming disability either in the capacity of a specific focal point, or working on disability within a broader equality/human rights portfolio;
(2) senior policy/government representatives with knowledge on disability and development;
(3) project implementers of the agency’s international development programmes which consisted of a mixture of domestic disabled people organisations (DPO’s) working in partnership with projects in developing countries and mainstream development organisations;\textsuperscript{218}
(4) representatives from domestic DPOs with an advocacy focus on disability and development; and\textsuperscript{219}
(5) representatives with expertise in human rights and persons with disabilities.

Tremblay's second criterion of knowledge was also applied to the identification process for the key informants. Where feasible, key informant selection was based on their knowledge and expertise in the area of mainstreaming disability in development. Three different methods were used to identify the key informants for this thesis. They were (a) referrals from actors already involved in this field; (b) scanning of relevant literature in each country highlighting key actors in the

\textsuperscript{217} March –Adelard Tremblay in Field Research: a Sourcebook and Field Manual cited in The key informant technique, Family Practice (1996); 13: 92-97 pg. 92
\textsuperscript{218} A DPO for the purposes of this research is defined as an organisation whose governance is led by a majority of disabled people. Disabled people's organizations are those controlled by a majority (51%) at the board and membership levels. Disabled Peoples' International (DPI) considers the role of organizations of disabled people to be the most fundamental issue for the disabled person's movement, see Henry Enns, ‘The Role of Organizations of Disabled People: A Disabled Peoples International Discussion Paper, http://www.independentliving.org/docs5/RoleofOrgDisPeople.html > accessed 17 March 2014
\textsuperscript{219} ibid
development of /operationalising of policy and evaluation of policy; and (c) names of individuals/organisations taken from international disability and development networks such as the Global Partnership on Disability and Development (GPDD).\textsuperscript{220} Finally, the third criterion of willingness was applied. All interview participants were invited to participate in advance of interviews and given due time to consider their participation (on average two-three between invitation and interview). The key informants were also given an information sheet outlining the details of the research project. The aim of this was to give them an overview the types of questions they were going to be asked during the interview process. It also clarified that interview participants will be assured confidentiality. Ethical approval was also sought and approved for the study (see Appendix A for the study’s Information Sheet).

\textbf{3.3.4 Questionnaire design}

This section sets out the key elements that underpinned the questionnaire design for the key informant interviews. As the primary purpose of this thesis is a comparative analysis between agencies, the policy officials interviewed were asked the same set of questions in order to highlight where common approaches occurred between agencies and also where differences lay. The questionnaires designed for thematic advisers and external key informants are also discussed below.

\textbf{3.3.4.1 Questionnaire for bilateral agency policy officials engaged with disability}

Interviews were conducted with officials from the USAID Disability team and AUSAID Disability Inclusive team and in the case of Finland; participants interviewed were from Global Social Policy and an external consulting company, which provides support to the Finnish government on social development issues (including disability).

The questionnaire for the bilateral agencies, see Appendix B was designed with two objectives in mind. Firstly, to establish a base line as to where each bilateral

\textsuperscript{220} For example the Global Partnership on Disability and Developed facilitates a network of bilateral agencies to learn and share experiences.
agency was at with regard mainstreaming disability as a theme. Informed by the documentary analysis conducted on each agency, a series of questions was devised to explore the agency’s approach to mainstreaming and the infrastructure it had in place to operationalise it. The specific objectives behind the opening set of questions were as follows:

(1) to identify what were the pathways that led to the development of the policy in each donor agency, including if the agencies used an evidenced-based approach;
(2) to identify what is focus of the agency’s policy, what was the policy setting out to achieve and try to identify if its focus was on mainstream issues or issues specific to disability;
(3) to understand the status of the policy within the agency; and
(4) to see how the policy responded to the diversity that exists within the disability community.

Linked with these was a further set of questions which focused on how the agency operationalises its policy. The objective of these additional questions was to understand what structures the agency has in place to support mainstreaming disability. Questions were asked to ascertain if there were specific personnel working on disability, and if there was a budget line for disability? In addition questions focused on how the agency measures its success, and the mechanisms it employed to monitor and evaluate the implementation of its policy, for example does it use disaggregated data?

The second objective of the questionnaire was to explore with each agency how they fared across the three elements distilled from the theories reviewed for this thesis. Drawing together these elements, provided a basis for comparing agencies on a more in-depth level. The first element was the need for a Responsive State, which fulfilled its obligations under the CRPD in particular in the area of international development programmes. To address this, a set of questions were devised to get a sense of whether the agency was working to promote the rights of people with disabilities through its international cooperation. The second element was how the agency conceptualised disability, for example was it
primarily through a disability lens, or was there recognition of the interaction of disability with other themes such as gender and HIV/AIDS. Did any of the agencies demonstrate knowledge as to how wider contextual factors can contribute to discrimination and increase vulnerability of persons with disabilities in developing countries. Exploring this in-depth, the question focused on the inclusion of women and children with disabilities in the agency’s work. A set of questions were also put to other advisers working on the themes of gender and HIV/AIDS to investigate if disability was included as part of their work. The third element is the fundamental need for the voices of persons with disabilities to be included in each agency’s work. The related questions addressed the agency’s relationship with the disability community.

Firstly, the questions focused on the measures that the agency took to ensure that the voices of people with disabilities are included in all aspects of policy development and programme planning. Secondly, the question was asked about how each agency works with DPOs, in particular does the agency have a relationship with the DPOs as implementers. If it does is, is through a competitive process (as in the case of the US), or a partnership process as in the case of Finland and Australia (partnership framework)?

3.3.4.2 Questionnaire for thematic advisers on gender and HIV/AIDS

As discussed in chapter two, the lessons of gender mainstreaming and the intersection of disability with other themes such as gender and HIV/AIDS were important areas to explore as part of the research for this thesis. Based on this a set of uniform questions was designed for the purposes of interviewing staff working in the same agency on gender and HIV/AIDS. The objectives of these questions were (1) to get a sense of where mainstreaming disability lay in comparison to the agency’s approach to mainstreaming gender and HIV/AIDS,

221 The Convention, critics of mainstreaming and Sen and Fineman in their respective theories discussed in chapter two, all speak about consulting, dialoguing and involving the intended group of policies to ensure effective policies. The CRPD through Article 32 asks that measures taken by States to ensure inclusive and accessible programmes be carried out in partnership with people with disabilities/or their representative organisations. Additionally, Article 4(3) obliges States to consult and actively involve people with disabilities and their representative organisations in development of laws and policies that effect people with disabilities.
and (2) to explore if disability featured as a theme in the agency’s approach to gender and HIV/AIDS mainstreaming.222

3.3.4.3 Questionnaire for external key informants

The final set of questions was devised for key informants that were external to the agency. The objectives behind these questions were two-fold. The first objective was to check in with key informants who were familiar with the agency’s work and who could provide a different perspective to the agency’s response to questions. Secondly, to explore the informants’ views and opinions on the Convention on the Rights of Persons with Disabilities and its potential for mainstreaming disability.

3.4 Data analysis

The plan for analysing the data is visualised below in diagram 3.1. The data collected from the interviews (in total twenty-five) went through a three-phase coding analysis.

Diagram 3.1: Data analysis plan:

222 There was variance in policy approach and infrastructure. For example in USAID the gender team undertakes a gender analysis as part of gender mainstreaming, where the USAID does not currently do so. In Finland, there is a HIV/AIDS adviser but there isn’t one for disability
The first stage, the open coding phase, involved a line-by-line reading of each interview transcript (twenty five in total) with the purpose of identifying the key concepts or ideas that emerged from the transcripts. This process was participant (interviewee) led so the criteria for applying codes was anywhere in the interview transcripts there was reference to. From this process, twenty-three codes emerged from the interview, out of this a number of key codes emerged these included: Operationalisation of Policy, Agency Policy Approach, Mainstreaming, Cross-cutting, Disability Rights, Consulting with the disability community, Working with the disability community, Mechanisms to measure success, Political Support and Policy Coherence.

The second phase of coding involved taking the twenty-three codes and re-organising them into parent codes with sub-codes. This re-organisation of codes into categories helped build the picture of how each agency is mainstreaming disability, which answered the first part of the research question. During this phase the original twenty-three codes were reorganised into seven codes. These were as follows; Challenges, Crosscutting, Disability Rights, Mainstreaming, Policy Approach, Policy Implementation and Political Government support. This process or re-organising codes brought together data, which helped build a picture of the agency’s current practice of mainstreaming disability. Both the Policy Approach and Policy Implementation codes gave rich data on the mainstreaming experiences of the agencies. For example, Policy Approach included the sub codes of status of policy, twin-track approach, disability-specific and mainstreaming. Each of these sub-codes enabled a discussion on what emphasis the agency took with respect to mainstreaming disability. This enabled an analysis of what proportion of the data highlighted these areas. It was found that the majority of references fell within the code of disability-specific measures, which reflected findings in the literature review.

223 The second phase included some renaming of codes (Operationalisation changed to Policy Implementation as it presented a better description as to how each agency was implemented its policy), also consulting with the disability community and working with the disability community were merged under a new code of ‘Processes for Gathering input from the disability community.

224 Office of the High Commissioner for Human Rights ‘Thematic study on the role of international cooperation to support national efforts for the realization of the purposes and objectives of the Convention on the Rights of Persons with Disabilities’ (2010) A/HRC/16/38, identified that submissions made to the study focused predominantly on disability-specific
Challenges also gave important data on challenges to mainstreaming disability identified by the agency staff and the external key informants discussed in chapter five, section 5.5. In particular, the challenges identified by external key informants were important as they highlighted problems that the agencies did not. For example, policy officials discussed how they mainstreamed disability. However, external key informants highlighted “how no-one knew what this looked like”, “no-one knew how to measure it or what it meant in a specific context.” The analysis of these three codes (Policy Approach, Policy Implementation and Challenges) also enabled the research to be located in the context of gender mainstreaming typologies to give a sense of where disability mainstreaming (see chapter six section 6.2) was at, and also gauge the development of disability mainstreaming to-date against the other thematic focus of the agencies e.g. gender and HIV/AIDS mainstreaming.

Finally, the data from these parent codes of Policy Approach and Policy Implementation in addition to the findings of literature review of agency policies and evaluations formed the basis for chapter five and chapter six, which discuss in detail each agency’s approach. The data also provided the categories for cross comparison across each agency in the following six areas:

(1) Policy Approach to Mainstreaming Disability (which included discussion on policy status)
(2) Infrastructure for Implementation
(3) Project Implementers
(4) Evidence of Data Systems; data collection and systems for monitoring impact
(5) Processes for ensuring internal and external policy coherence; and
(6) Processes for Gathering Input from the Disability Community

The third stage of the data analysis linked the data back with key elements of the theoretical framework (see diagram 2.2 in chapter two) and formed the basis for cooperation and there was less information related to the mainstreaming of disability into other areas of international cooperation. See also a report by the United Nations Development Group, ‘Including the Rights of Persons with Disabilities in United Nations Programming at Country Level – ‘A guidance note for United Nations country teams and implementing partners’ (2011)
the discussion in chapter seven. It also answered the third part of the research question. The conceptual model for this research is based on a combination of theories, all of which have a number of commonalities. These include their approach to understanding marginalization and disadvantage, placing it within a broader understanding of equality, encouraging activity by the State to create opportunities and potential for people with disabilities, and finally, calling for the active participation of those who are most marginalized through processes which include their voice. Each of these elements for comparison built on the lessons learnt from gender mainstreaming as discussed in chapter six section 6.2.

As Intersectionality is a key element of the theoretical framework, underpinning this thesis, the Crosscutting code was further investigated and broken down to check how each agency recognised diversity. The category was further subdivided into the following: (1) a disability lens, this is where policy officials and key informants discuss crosscutting elements and diversity from a disability perspective and, with reference to the diversity that exists within disability e.g. women and children with disabilities; (2) a multiple lens, which included data discussing the interaction of disability with other thematic areas such as gender and HIV/AIDS; and (3) overarching themes where data included multiple themes (e.g. disability, gender and HIV/AIDS).

As the Responsive State is another key element of the theoretical framework for this thesis, the code of disability rights was changed and merged with Political and Agency Leadership in order to enable an holistic discussion on actions taken by States to progress the rights of persons with disabilities. This discussion was applicable not only to Donor States who had responsibility for mainstreaming disability but also States in receipt of donor support (particularly those who had signed/ratified the CRPD).

Finally, the third element of the theoretical framework – the active participation of persons with disabilities - is discussed. It focuses on the code named processes for gathering input from the disability community. The findings of this code are discussed in chapter six, which highlights the different processes where agencies include the voices of persons with disabilities. Chapter seven further develops
this element focusing on how the bilateral agencies support the voice of persons with disabilities to hold their State to account.

3.5 Triangulation of data

The process for triangulating the data for this research involved two steps. First of all, the key informants interviewed represented a diverse range of stakeholders. This was to ensure that the discussion on mainstreaming did not represent only the voices of agency staff but also others who had either worked with the agency or had provided commentary on the agency’s performance. Where possible, policy material, evaluations and peer reviews were used to support the views.

The second step involved cross-referencing, as relevant the findings from this research with findings from gender mainstreaming (see chapter six, section 6.2). The rationale for this was to anchor the findings of this thesis on disability mainstreaming, an emerging research topic against the established discourse of gender mainstreaming in development.
Chapter Four: International Cooperation and Disability in International Law

4.1 Introduction

This chapter traces the evolution of international cooperation and disability in international law and policy. International cooperation has featured in human rights treaties from as early as the UN Charter (1945), and continues to play a role in creating conditions of well being and safety for nations and their peoples in the treaties of later years.\(^{225}\) For the purposes of this thesis, it is important to highlight two points to provide a context in which international cooperation will be discussed. First of all, the focus of this thesis is to explore how bilateral agencies mainstream disability as a thematic issue in development cooperation. Development aid and development cooperation forms only a small part of a broader definition of international cooperation, which can encompass a range of other areas such as humanitarian responses, peace operations and international security (see definition in chapter two, section 2.3.1). For the purposes of this chapter to give a broader context to Article 32 and the thinking behind its development, the term international cooperation is understood in its broadest sense encompassing actions/activities related to cooperating on broad based disability issues to specific measures that could be categorised under disability and development initiatives. Secondly, it is important to point out that the purpose of this thesis is not to make the case that the CRPD creates new obligations on State’s to financially support less developed States in implementing human rights treaties. The CRPD does not create any new rights, but instead clarifies existing human rights obligations on countries within a disability context.\(^{226}\) The CRPD clearly in line with other human rights treaties, states that the implementation of the CRPD continues to be the responsibility of the ratifying State, and in line with existing jurisprudence tells us that any role that international cooperation may play is purely complementary in achieving this aim.

\(^{225}\) United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI, Article 55 and 56

The chapter is broken down into four different sections. Section 4.2 focusing on the instruments and policies prior to the adoption of the CRPD; traces the development of disability policy and international cooperation. These instruments for the most part were disability specific and non-binding (soft law). To give a basis for the substantive section of this chapter, which focuses on Article 32 of the CRPD, section 4.3 outlines the general references to international cooperation in human rights treaties prior to the CRPD. It highlights the existing jurisprudence on international cooperation (particularly the relevant general comments from the Committee on Economic Social and Cultural Rights and the Committee on the Rights of the Child) that are relevant for discussing the thinking behind the development of Article 32. It also focuses on the role of international cooperation in the implementation of the Convention on the Rights of the Child (CRC), in particular Article 23 paragraph four of the CRC, which has direct references to disability. Section 4.4, which is the substantive section, focuses on the development of Article 32 of the CRPD. It first of all gives a brief overview of the key themes that emerged during the Ad-Hoc negotiations on Article 32.227 Secondly it unpacks paragraph (a) of Article 32, which is directly relevant to bilateral agencies. Finally, using the State Parties reports to the Committee on the Rights of Persons with Disabilities and the Committees Concluding Observations, it highlights the various different activities that States have undertaken to operationalise Article 32. As the CRPD and the jurisprudence on Article 32 is in its infancy, the final section of this chapter draws together the different aspects discussed in this chapter in section 4.5 and discusses some concluding remarks and key issues to consider.

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227 See Appendix C for a detailed narrative on Article 32 negotiations, which highlights the debate that took place between States on the need for a specific article on international Cooperation.
4.2 Early references to disability and international cooperation

The first set of United Nations (UN) instruments which relate to the rights of persons with disabilities are the UN Declaration on the Rights of Mentally Retarded Persons and the Declaration on the Rights of Disabled Persons (DRDP), both were adopted in the 1970s. Both instruments made reference to the variance between countries in their stages of development and also the impact of limited resources on development. For example, the DRDP highlighted the awareness “that certain countries, at their present stage of development, can devote only limited efforts to this end”. However, neither instrument had any specific reference to international cooperation and its role in supporting the achievement of human rights for persons with disabilities. The DRDP did however call for national and international action to ensure that it (the declaration) would be used as a common basis, and frame of reference for the protection of the rights of persons with disabilities.

These initial instruments were followed by a number of UN supported activities that took place during the 1980s, which increased visibility of disability in the international discourse. In 1981, the UN declared the International Year of the Disabled and the International Decade of Disabled Persons followed from 1982 to 1991. During the International Decade, a number of initiatives were carried out to raise awareness of disability on the international agenda; one of these initiatives was the adoption of the World Programme of Action (WPA) concerning disabled persons. The WPA was structured into three-core area’s prevention, rehabilitation and equalisation of opportunities for people with disabilities. Its main focus was targeted at national level to bring about equality for persons with disabilities through a number of measures including socio-

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229 UN General Assembly, Declaration on the Rights of Disabled Persons, 9 December 1975, A/RES/30/3447(XXX) Preamble
230 UN General Assembly, International Year of Disabled Persons, 16 December 1976, A/RES/31/123
economic development, use of technologies as a support for persons with disabilities and the use of legislation to prevent discrimination. It also had an international cooperation focus requesting governments to cooperate internationally with each other, and with the UN and NGOs.

4.2.1 World programme of action: Disability and development

The World Programme of Action (WPA) was the first instrument to explicitly reference the status of people with disabilities in developing countries; in particular it acknowledged the link between disability and poverty. It also considered disability vis-á-vis the new international economic order and recommended that particular efforts be made to integrate people with disabilities into the development process.232 In terms of its implementation it suggested a role for international cooperation in technical and economic cooperation through interregional assistance and regional and bilateral assistance. The WPA recognised the difficulties faced by developing countries in meeting the needs of persons with disabilities and other disadvantaged citizens, and they requested that in line with the International Development Strategy for the Third UN decade “the flow of resources to developing countries should be substantially increased.” 233 In terms of interregional assistance, they called for action by bilateral agencies and governments to work together to serve the needs of persons with disabilities in the three core areas of prevention; rehabilitation and equalisation of opportunities. With respect to regional and bilateral assistance, the WPA called for collaboration at a regional level on the identified core areas, and at bilateral level it asked donor countries to find means within both their bilateral and multilateral programmes to deliver on the three core areas.

The WPA reported on a number of occasions to the Secretary General of the UN on its implementation. All of these reports reference progress made on the three core issues of the WPA, highlight the development of a rights-based approach to development, and a recognition of the need for inclusive development and collaboration by intergovernmental agencies to further the rights of persons with

232 Ibid
233 Ibid
disabilities. From a disability and development perspective, the reports recognised the social and economic cost of segregating and excluding persons with disabilities and the substantial adverse effects it had on development processes. Areas identified across the reports where gaps were included, data collection, mainstreaming of disability as a thematic issue in development activities, and the need for specifically targeted approaches to meet the needs of persons with disabilities.

The early instruments such as the WPA reflected the approaches to disability that were prevalent during the 1970s and 1980s, which had a predominant focus of rehabilitation and prevention. At the same time as these instruments developed, the World Health Organization had a similar emphasis on the medical model with the publication of the International Classification of Impairment, Disabilities and Handicap (ICIDH) a system of classification of disability and impairments. Within the disability movement at that time there was growing concern about an overtly medical model focusing on disabilities. Academics such as Oliver and Barnes called for a social model understanding of disability and human rights approach to disability.

With the adoption of ‘The United Nations Standard Rules’ following the WPA, a change of approach reflecting the acknowledgement of disability as a human rights issue emerged. The rationale for adopting the UN Standard Rules was (a) to give emphasis that every aspect of societal development and organisation must be made accessible to all, and (b) the need for technical and economic cooperation as a crucial part of social policies in the field of disability.

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236 The International Classification of Functioning, Disability and Health replaced the ICIDH as a more holistic approach to measuring health and disability at both individual and population levels. All 191 WHO Member States in the Fifty-fourth World Health Assembly officially endorsed it on 22 May 2001, see World Health Organisation ‘International Classification of Functioning, Disability and Health’, 2001, WHA54.21
237 See generally Oliver ‘The Politics of Disablement’ (Basingstoke Macmillians 1990); Barnes and Barton Disability studies today. (Polity Press, Cambridge, 2002)
238 The UN Standard Rules succeeded the WPA, however the WPA implementation continues to be reported on today. The most recent report on the WPA was published in Report of the Secretary-General, ‘Keeping the promise: realizing the Millennium Development Goals for persons with disabilities towards 2015 and beyond’ 2010, A/65/173
Therefore expanding on the previous medical model approach prevalent in earlier instruments to a broader social policy focus placing an emphasis on the inclusion of persons with disabilities as stakeholders.

4.2.2 United Nations standard rules and the equalization of opportunities for persons with disabilities

The UN Standard Rules are an instrument for policy-making and provide a basis for technical and economic cooperation among States, the UN and other international organisations. The UN Standard Rules are considered an important antecedent to Article 32 (International cooperation) of the CRPD.

The Standard Rules in their preamble highlight how the causes and consequences of disability vary depending on the results of different socio-economic circumstances, and the different provisions that States make for the well being of their citizens. Thereby recognising the collaborative role States play in progressing equal opportunities for persons with disabilities and also recognising the variance in States approaches to including disability due to differences in resources. The UN Standard Rules include as part of their implementation measures a specific rule for technical and economic cooperation (Rule twenty-one) and International Cooperation (Rule twenty-two). These articles signalled the first time for an explicit role of international cooperation among governments on disability issues. Rule twenty-one recognised that both industrialised and developing countries have the responsibility to cooperate and take measures for the improvement of the lives of persons with disabilities in developing countries. At the time of the adoption of the UN Standard Rules, the UN Special Rapporteur Leandro Despouy was highlighting disability and human rights as an important part of the development process. Rule twenty-two asserted that States should actively participate in international cooperation concerning policies for the equalisation of opportunities for persons with disabilities. These policies

build on the core areas as identified by the WPA for international cooperation, and include a wide range of issues faced by persons with disabilities, for example, employment, policy making, income maintenance and social security and education.

Rule twenty-one focused on the role of individual States and outlined a list of measures to be taken by them under the guise of cooperation. These included; (a) integrating measures to achieve the equalisation of opportunities for people with disabilities into general development programmes; (b) these measures must be integrated into all forms of technical and economic cooperation, bilateral and multilateral, governmental and non-governmental and disability must be raised with all counterparts; and (c) disability must be considered when planning and reviewing programmes of technical and economic support. It also outlined what the priority areas for cooperation should include. These were the development of human resources of people with disabilities, the initiation of employment-generating activities for people with disabilities and the development and dissemination of technology and knowledge. Finally, it also encouraged States to support the formation and strengthening of disabled persons organisations and take measures to improve awareness of staff in technical and economic agencies.

Rule twenty-two had a specific focus on international cooperation and collaboration at international level. It asked for the UN and its specialised agencies to participate in the development of disability policy and also ensure that disability becomes part of their own policy development. From a State perspective, it encouraged States to share standards, education and technical expertise on disability issues with a view to raising competencies on a wide range of areas. The UN Standard Rules continue to apply as a soft law document, however with the adoption of the CRPD the inclusion of disability within international cooperation and development is now required as a legal norm.
4.3 International cooperation and human rights treaties

Before discussing in detail the development and the intention behind Article 32 for States Parties, it is worthwhile to outline previous references to international cooperation in international law, which for the most part do not explicitly reference disability, but are applicable to persons with disabilities. The majority of references to international cooperation can be found in the UN Charter, the International Covenant on Economic Social and Cultural Rights (CESCR), and the UN Convention on the Rights of the Child (CRC). The earlier human rights treaties reference international cooperation as having a role in creating well-being and stability, and in the realisation of economic and social rights. For example, the UN charter 1945 identified the role of international cooperation as “solving international problems of an economic, social, cultural, of humanitarian character.” Furthermore, Article 55 and Article 56 of the UN Charter highlight the role of international cooperation in the creation of well being of people and conditions of stability, which are necessary for peaceful and friendly relations among nations. The Universal Declaration of Human Rights (UDHR), which followed the UN Charter, expanded the role of international cooperation and linked it to individuals right to progressing their own development. Article 22 referenced international cooperation as a means to progress “the economic, social and cultural rights” that are “indispensable for his dignity and the freedom of his personality.” Article 28 of the UDHR echoed the sentiments of the UN Charter declaring that everyone is entitled to a social and international order in which the rights are realised.

The ICESCR also makes a number of references to international cooperation and again makes specific links to economic, social and cultural rights. Article 2 of the

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243 Ibid Article 55 listed among the activities of the United Nations to promote ‘(a) higher standards of living, full employment, and conditions of economic and social progress and development (b) solutions of international economic, social, health, and related problems; and international cultural and educational cooperation…”
244 The ‘his’ here referring to members of society
ICESCR obliges States to take steps to progressively achieve social, economic and cultural rights, through use of their own resources and also through “international assistance and co-operation”. Thereby establishing a role for international cooperation for countries that had maximised their own resources. Also Article 11 (Right to an adequate standard of living) references the essential importance of international cooperation.246

As the thematic treaties emerged the role of international cooperation continued to feature. In particular, the CRC gives significant attention to international cooperation. Not only does it feature a multitude of references throughout the treaty text, there is also a body of jurisprudence developed on it. The CRC text includes a number of examples where international cooperation is referenced and in many cases it combines it with developing countries. For example, its preamble recognises the “importance of international cooperation for improving the living conditions of children in every country in particular in developing countries.” 247 The CRC also references the role of international cooperation in a range of articles including, Articles 4, 17, 22, 23 (4), 24 (4) and Article 28 (3). 248

All of these articles focus on the different ways international cooperation can improve the lives of children, for example, health and education. Article 23 (4) explicitly highlights the role of international cooperation in improving the lives of children with disabilities. It references the role of international cooperation in

“the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services” 249

In addition, it also makes references to including children with disabilities in developing countries.250 It also suggests a role of international cooperation as a

247 CRC Article 23 (4)
248 CRC Article 4, Article 17, Article 22, Article 23 (4), Article 24 (4) and Article 28 (3)
249 CRC Article 23 (4)
facilitator of exchange of information and expertise, and highlights a range of areas relevant to the lives of children with disabilities with a view to enable States to widen their expertise in the areas of rehabilitation, education and vocational services. The article emphasises the areas of rehabilitation and vocational services reflecting the dominance of the medical model of disability at that time, and similar views can be found of the other disability specific instruments that emerged around this time (see earlier section 4.2.1. which discusses the WPA).

4.3.1 UN Committee commentary on international cooperation

The majority of general commentary by UN committees on international cooperation comes from the Committee on Economic Social and Cultural Rights (CESCR) and the Committee on the Rights of the Child (CRC Committee). An examination of committee commentary on these treaties and their interpretation of the role of international cooperation provide signposts for understanding what Article 32 expects of States Parties. One of the key themes from the general commentaries is that the main responsibility for implementing human rights treaties lies with the ratifying country. In affirming that responsibility lies domestically for implementation, the CRC Committee did however advise that international cooperation had a role in contributing to the overall global implementation of the CRC. The CRC Committee’s general comment 5 outlines this clearly, by establishing a role for States in not only for the implementation of the CRC in their own jurisdiction, but also their role in contributing to the global implementation of the CRC through international cooperation.251 Thereby, not only identifying States Parties responsibilities for implementing the CRC in their own jurisdiction, but also recognises a responsibility to global community for its implementation. This role of global implementation featured strongly throughout the CRPD negotiations on Article 32.252 Furthermore, paragraph 7 of the general

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251 UN Committee on the Rights of the Child (CRC), General comment no. 5 (2003), General measures of implementation of the Convention on the Rights of the Child, 27 November 2003, CRC/GC/2003/5 4, 42, 44(6)
252 Section 4.3.1 below discusses the debate that took place on International Cooperation in the CRPD treaty negotiations, while the eventual outcome (in line with international law norms on the role of international cooperation did on a number of occasions highlight the international cooperation should be a global effort. For example Mexico in its submissions stressed the need to
comment 5 of the CRC committee further re-iterates the responsibility for countries who do not fulfil their obligations under the CRC to show not only have they used their maximum resources to the fullest extent, but also that they have sought assistance through international cooperation. Meaning that the onus on State Parties for not fulfilling their obligations rests not only with using their own resources to the maximum extent, but also that some attempt at seeking international cooperation to assist the implementation of economic and social rights must be demonstrated.

In addition to the CRC establishing this global implementation role, the CESCR commentary provides some useful guidance on protecting and respecting human rights as part of the framework of international cooperation. CESCR general comment no 2 asked agencies (referring here to UN agencies) to make conscious decisions when engaging in projects to avoid projects that may go against the principles of the Convention. Therefore, it could be said the CESCR Committee established the need for a consciousness on human rights among States cooperating internationally. Furthermore, the CESCR Committee recommended the agencies should act as advocates that not only promote economic growth projects, but also support where possible projects that enhance the enjoyment of human rights. It is worth pointing out that at this time in the development narrative, human rights and human development were emerging as indicators for measuring development. For example, the first Human Development Report (HDR) was published at this time and the HDR signified a

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253 This responsibility of the State to demonstrate international assistance has been sought to help with the implementation of rights is also referenced in UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant), 12 May 1999, para 17. It states ‘a State claiming that it is unable to carry out its obligation for reasons beyond its control therefore has the burden of proving that this is the case and that it has unsuccessfully sought to obtain international support to ensure the availability and accessibility of the necessary food.’

254 UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 2: International technical assistance measures (Art. 22 of the Covenant), 2 February 1990, E/1990/23, para 6 and 7
move towards person centred development rather than a sole focus on measuring development in terms of economic growth.255

In more specific terms the commentaries from the CESC R Committee and the CRC Committee provide further guidance on the implementation of specific rights. CESC R Committee general comments 12 through 15 reference the role of international cooperation in implementing the right to food, education, health and water.256 Thereby signifying a role for international cooperation in the implementation of specific rights. General comment 9 of the CRC Committee provides further advice on how international cooperation can advance the rights of children with disabilities and highlights some important areas in relation to the implementation of the CRPD.257 This includes adopting a rights based approach to international development assistance by using the CRC as a framework, targeting of international aid specifically to children, and finally an expectation by the CRC Committee on individual State Parties to be able to identify on a yearly basis the amount spent on international support for implementing children’s rights.258

Finally, CRC Committee general comment 9 further clarifies the role of international cooperation for improving the lives of children with disabilities.259

As stated above, the CRC Article 23 para 4 states particular competencies where

255 United Nations Development Programme, ‘Concept and Measurement of Human Development’ (UNDP 1990). The first Human Development Report signalled a move away from solely measuring growth in economic terms and instead focused on what it described as ‘people being the wealth of the nation’
257 UN Committee on the Rights of the Child (CRC), General comment no. 9 (2007), The rights of children with disabilities 27 February 2007, CRC/C/GC/9 para 16
258 UN Committee on the Rights of the Child (CRC), General comment no. 5 (2003), General measures of implementation of the Convention on the Rights of the Child, 27 November 2003, CRC/GC/2003/5. It suggests a substantive allocation of aid to be targeted towards measures for improving the lives of children and also advises State Parties to provide and to use appropriate technical assistance in the process of implementing the Convention (e.g. working with UNICEF) and also recommends that the UN and related agencies mainstream children’s rights throughout their work (see para 63 and 64 respectively)
259 UN Committee on the Rights of the Child (CRC), General comment no. 9 (2007), The rights of children with disabilities 27 February 2007, CRC/C/GC/9
information and expertise should be exchanged to improve the lives of children with disabilities. General comment 9 makes specific recommendations to bilateral agencies to pay particular attention to children with disabilities, their survival and development. Building on general comment 5 practical recommendations, it recommends that agencies develop and implement special programmes aimed at including children with disabilities in society, allocating budgets and reporting on results. Finally, it calls for particular attention for developing countries that need assistance in setting up programmes that protect and promote the rights of children with disabilities.

The commentaries from CRC and CESCRR Committees discussed in this section have established a number of areas in which international cooperation can support the realisation of human rights. The CESCRR Committee provides useful commentary on the need for consciousness of the impact on human rights when implementing international cooperation projects. The CRC Committee’s commentary in particular is quite instructive in recommending that donor countries (and their bilateral agencies) take the necessary steps ensure that children with disabilities benefit from international cooperation and donor aid. What is important about the CRC commentary is that it was developed during an era where the prominent model on disability focused on medical and rehabilitative interventions and this is clearly evidenced in the treaty text. However in stating that it is also worth recognising that these areas of intervention outlined in the CRC remain in the CRPD but are now firmly placed within a rights-based context. The next section traces how this thinking developed through the negotiations on the CRPD and also discusses how it has translated into practice by reviewing State Parties report and recent commentary by the Committee on the Rights of Persons with Disabilities on Article 32.

260 Ibid
261 Ibid para 22, which calls for technical and asks the international community to come up with new ways of financial assistance for developing countries who are having difficulty in mobilising the resources.
262 UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 2: International technical assistance measures (Art. 22 of the Covenant), 2 February 1990, E/1990/23, para 7, which states, ‘that development cooperation activities do not automatically contribute to the promotion of respect for economic, social and cultural rights. Many activities undertaken in the name of ‘development’ have subsequently been recognized as ill-conceived and even counter-productive in human rights terms.’
263 See CRPD Article 25, Article 26
4.4 The Convention and Article 32: Establishing a legal basis for inclusive development

4.4.1 The Convention negotiations on the role of international cooperation

In order to understand what Article 32 of the CRPD requires States to do with respect to inclusive development for persons with disabilities, it is important to trace back to the discussions that took place during the treaty negotiations. Appendix C gives a detailed narrative based on the daily summaries recorded by NGOs on the various positions that State Parties took with respect to the role of international cooperation in promoting the rights of persons with disabilities.264 The daily summaries also highlight interventions by NGOs. This section briefly summarises three key themes that emerged during the negotiations on Article 32 and highlights how they were (a) focused on ensuring that CRPD did not create any new obligations on State Parties to give financial aid, this was largely reflective of the mainstream development debate which Vandenhole describes “as the disproportionate emphasis” on extra territorial obligations on States Parties to fulfill (i.e. to provide development assistance through the transfers of financial assistance) (b) promoted the role of international cooperation not just for the purposes of financial transfers, but also as a two-way sharing (North-South, South-North) of knowledge, technologies and (c) focused on the role of inclusion and accessibility for achieving the rights of persons with disabilities.

(a) The first theme that emerged was international cooperation and its role in fulfilling States obligations under international law. The draft text prepared by the Working Group established by the Ad Hoc Committee did not contain a specific provision on international cooperation.265 The Chair of the Working Group highlighted this was due to lack of time rather than its controversial

264 During the Ad Hoc negotiations a number of NGOs which included Landmine Survivors Network and Rehabilitation provided a service which recorded the proceedings from the 2nd Ad Hoc Committee meeting – 8th meeting, the daily summaries from each meeting can be found under each meeting at http://www.un.org/esa/socdev/enable/rights/adhoccom.htm
nature. However, Vandenhole argues to the contrary and suggests that the fact it was omitted from the original working group text was due to the political sensitivity of international cooperation. State Parties such as Mexico, Vietnam and China from early on in the negotiations called for a separate article on international cooperation, while State Parties from the North were adamant that such an article was not relevant in an international treaty promoting the rights of persons with disabilities. They provided a variety of reasons for this position, which included the suggestion that international cooperation is not a right of individuals and as such it should not be in a separate article within a Convention that lists the rights of individuals. Also, they were very insistent on clarifying that the main responsibility for fulfilling obligations to an international convention lay with the individual State and international cooperation must not be linked in any way to a States failure to implement the obligations of the convention.

State Parties from the South took a different perspective and emphasised the shared responsibility in international cooperation, because State parties are all at different levels of development. After protracted discussion between the State Parties an article on international cooperation was included. Its placement in the text ended up near to the administrative articles of the CRPD. The Chair during the negotiations had highlighted that in addition to being a human rights convention, the CRPD is also a social framework for assisting

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266 During the original working group meeting, a discussion did however take place between States and NGOs on the importance of international cooperation in helping to achieve equal opportunities for persons with disabilities and the discussion was recorded as an Annex to the draft Working Group text. The key points summarised in the Annex section of the text highlighted the support for some aspects of international cooperation, however there was consensus that it was not to be used as a condition for leveraging development aid and that implementing the goals of the Convention was the primary responsibility of each State. The Working Group concluded that the phrasing of the provision on international cooperation and disability should be balanced to avoid any misunderstandings regarding States responsibility to implement the Convention. See United Nations, Report of the Working Group to the Ad Hoc Committee (2004) A/AC.265/2004/WG/1, see Annex II for the summary of the discussions held on international cooperation http://www.un.org/esa/socdev/enable/rights/ahcwgreportax2.htm


268 Ad Hoc Committee Unofficial Daily Summaries from 3rd session, Volume 4, #8 (June 2004); 4th Session Volume 5, #5 (August 2004)

269 Ibid


271 Ad Hoc Committee Unofficial Daily Summaries from 3rd session, Volume 4, # 8 (June 2004); 4th Session Volume 5, # 5 (August 2004); 7th Session, Volume 8, #14 (February 2006)
persons with disabilities to operate more effectively in society through adjustments that society must make. These adjustments are clearly outlined in the individual articles of the CRPD. The Chair of the drafting committees sentiments link back to the role of international cooperation as highlighted in the CRC Committee commentary on international cooperation, which is discussed in section 4.3.1 of this chapter. However, one difference to be highlighted is that unlike the CRC, the CRPD does not have any specific reference to developing countries in Article 32, instead it references international development programmes, and references to developing countries are found in the preamble.

(b) The second theme that emerged from the negotiations was the need for a broadening of the meaning of the term international cooperation. Many of State Parties during the negotiations were keen to highlight that international cooperation does not always equate to financial transfers, nor is it a one-way transfer e.g. from North to South. State Parties from the South asserted that cooperation must be understood in its broadest sense and include North-South cooperation, South to North and also South to South. Examples were given on how this type of international cooperation could potentially harmonise standards on accessibility thereby reducing barriers, regulate non state actors, and help in the removal of structural barriers like intellectual property and copyright law.

(c) The third theme that emerged from the Ad Hoc negotiations was with respect to the role of international cooperation in creating accessible and inclusive development programmes. Both State Parties and NGOs in their interventions put forward the need for international cooperation to ensure development standards that could be universally applicable in areas such as accessibility and universal design. Many of the interventions stressed the need for international

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272 See section 4.2.1 in this chapter
273 See CRPD preamble (l) which recognises the importance of international cooperation for improving the living conditions of persons with disabilities in every country, particularly developing countries; (y) which makes reference to the CRPD addressing the profound social disadvantage experienced by persons with disabilities in both developed and developing countries
274 Ad Hoc Committee Unofficial Daily Summaries from 3rd session, Volume 4, # 8 (June 2004); for statement made by People with Disabilities Australia
cooperation to be channelled toward inclusive projects that lead to barrier free societies. The requirement for inclusion and accessibility found its way into the text of Article 32 and is discussed in more detail in section 4.4.3

4.4.2 The CRPD’s general references to international cooperation

International cooperation features in the CRPD in a number of places. In addition to its specific reference in Article 32 there was also success in including universal references to international cooperation, mirroring existing obligations in the IESCR and the CRC. For example, the preamble (paragraph 1) recognises its role with respect all countries and in particular to developing countries. Article 4 on general obligations (paragraph two), also similar to the CRC and IESCR re-afﬁrms each State’s responsibility for progressing the rights of people with disabilities to the fullest extent of their resources, and acknowledges that for some States this might happen within a framework of international cooperation. Along with the specific references, broader themed articles related to the mainstream development narrative also appear throughout the CRPD’s text. Keyess suggests that the CRPD provides for a series of development-focused measures that are inclusive of persons with disabilities and are also reflective of general development themes. Others have described the CRPD as a having a social development mandate. The connection to the broader based development narrative is important, particularly in the areas of risk and humanitarian (Article 11), social security, poverty reduction programmes (Article 28), and data and statistics (Article 33). However, while these articles are relevant to development, it is important to realise that all of the articles in the CRPD are applicable and of equal importance to achieving the rights of persons with disabilities in developing countries, and therefore have equal significance in implementation. As discussed earlier, the CRC Committee’s general comment

275 See CRPD, preamble, para (1), which “recognises the importance of international cooperation for improving the lives of persons with disabilities in every country, including developing countries”
276 Ibid
advised that the CRC be seen as a framework for development interventions. Similarly then the articles of the CRPD should be viewed as a framework for implementing disability inclusive development cooperation influencing how development aid is shaped.

4.4.3 The CRPD and specific reference to international cooperation: Article 32

The final positioning of the specific article changed from Article 24 (bis) in the draft text to Article 32 (International Cooperation) in the Ad Hoc negotiations. Within the overall structure of the treaty it is considered part of specific obligations and not part of the general obligations.279 The inclusion of Article 32 in the CRPD is recognised as the first-time a stand-alone provision has appeared on international cooperation in an international treaty.280 Before discussing Article 32 in more detail, it is worth noting a few points. First, as an article entitled international cooperation, whose focus is on providing a range of assistance including technical and economic assistance (both of which are traditionally associated with developing countries), there is no direct reference to developing countries in the articles text (see Box 4.1 below for full text of Article 32).281 Instead there is a reference to “international development” programmes.

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281 Vandenhole would argue that was the final compromise in the treaty negotiations
1. States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will 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, in particular organizations of persons with disabilities. Such measures could include, inter alia:
   (a) Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;
   (b) Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;
   (c) Facilitating cooperation in research and access to scientific and technical knowledge;
   (d) Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.

2. The provisions of this article are without prejudice to the obligations of each State Party to fulfill its obligations under the present Convention.

Second, what is also interesting about Article 32 is that it does not explicitly reference mainstreaming, nor does it explicitly ask for disability to be mainstreamed in international development programmes. However, it is safe to assume the role of mainstreaming disability as means to ensure inclusive development is implied in Article 32 as it featured significantly throughout the negotiations of the CRPD. In addition, the text makes reference to mainstreaming in the preamble para (g) and it is generally accepted that the CRPD recognises that as part of mainstreaming, a twin-track approach is needed. Additionally mainstreaming has been frequently cited in UN reports as a measure to ensure equality for persons with disabilities in development.

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282 Ad Hoc Committee Unofficial Daily Summaries from 3rd session, Volume 4, # 8 (June 2004) and 4th session 4th Session Volume 5, # 5 (August 2004), where various State Parties including China, New Zealand and Canada on the need for disability to be mainstreamed in development.
283 CRPD Preamble (g); see also chapter two section 2.3 on mainstreaming
The purpose and scope of Article 32 is wide-ranging and covers a number of actors. Included in its list of actors, Article 32 identifies State Parties, international and regional organisations, and notably it specifically recognises the role of civil society and in particular organisation of persons with disabilities. The scope of Article 32 ranges from covering international development programmes, cooperation by intergovernmental agencies, and establishes State-to-State’s role in providing technical and economic assistance. It sets out a range of measures including, inclusive and accessible international development programmes, facilitation and support of capacity building emphasising the exchange of information, experiences and training programs, and it highlights the need for cooperation in research and the use of accessible and assistive technologies. These aspects featured throughout the negotiations of Article 32 building on existing commitments already in place in international law for exchanging information and expertise. Much of the activities outlined under Article 32 (1) are expected to be achievable by the collaboration of a range of actors including intergovernmental organisations multilateral and bilateral aid agencies and organisations representing persons with disabilities. Similar to the CRC the role of UN agencies is highlighted.

For the purposes of this thesis, the relevant aspect of Article 32 is para (a) “ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities”, as this has been recognised as a key element for successful mainstreaming. This

285 See the CRC, Article 23(4)
286 There is already promising developments on collaboration with UN agencies on including persons with disabilities in their development remit. For example, the UN established an Inter Agency Support Group (IASG) whose role it is to ensure consistency across the different agencies of the UN with respect to the implementation of the CRPD. The reason for the establishment of the IASG stemmed from the ‘recognition of the commitment to the internationally agreed development goals and the importance of inclusion of persons with disabilities in the work of the United Nations’ including mainstream development initiative such as the Millennium Development Goals. The ISAG drafted a common strategy and action plan reflecting Article 32 and 38 of the CRPD constituting the basis for concerted and coordinated work of the United Nations systems related to persons with disabilities and support the States parties as they ratify and implement the Convention.’
287 A number of UN reports prepared for the High Level Meeting on Disability and submissions from regional consultations have all highlighted accessibility as key to mainstreaming disability in the post 2015 agenda, for preparation documents, see UN General Assembly, ‘The way forward: a disability-inclusive development agenda towards 2015 and beyond’, (2013), A/65/95; United Nations General Assembly, ‘Realization of the Millennium Development Goals and internationally agreed development goals for persons with disabilities: a disability-inclusive
provision clearly places an obligation on the relevant parties responsible for implementing international development programmes to ensure inclusivity and accessibility. While Article 32 (a) is relevant to all actors (as outlined above) this thesis is focusing on States responsibilities and therefore is particularly interested in how States Parties through their bilateral agencies implement this provision. As State Parties traditionally devolve the role of international development to an entity such as a bilateral agency, Article 32 therefore establishes a requirement on bilateral agencies acting on behalf of the State to ensure their development interventions are inclusive and accessible to persons with disabilities.288

In starting to examine what Article 32(a) requires States to do it is important to establish an understanding of the terminology used, ‘inclusive’ and ‘accessibile’. Both terms are broad and could potentially include in their remit the majority of development interventions taken on behalf of a State. However, broad concepts have the potential for a variety of interpretations resulting in immeasurable outcomes posing a danger for monitoring the implementation of Article 32. Therefore establishing some broad parameters for a universal understanding would be useful. For the term “accessible”, this would appear to be a simpler task as the Convention clearly outlines it understanding of accessibility and also universal design in Article 9.289 Indeed, a revisit to the treaty negotiations on this provision can give a more in-depth understanding of the thinking behind its inclusion. Barriers to participation in development for persons with disabilities repeated itself consistently throughout the Ad Hoc negotiations. The inclusion of the term accessibility in a development context was to ensure that when implementing international development programmes (such as building schools, health clinics etc.) that barriers and obstacles, which prevent persons with disabilities equal participation were not created. As outlined earlier this was influenced by NGOs and DPOs who because of their work in frontline development were witnesses, to how aid had contributed to creating barriers for disabled peoples participation in their community, and also barriers to being able

289 The CRPD cites accessibility as part of its general principles (see Article 3) and also Article 9.
to benefit from development interventions.\textsuperscript{290} Counteracting barriers at country level is vital for including persons with disabilities in the development process. However, development does not happen in isolation and as the CRPD is a source of international human rights law, Article 32 (a) could play a strong pro-active role, particularly in the area of standards of accessibility. For example, universal standards can be helpful in setting guidelines and can be used as comparators across how different agencies work, particularly if they are linked under Article 9 of the CRPD.\textsuperscript{291}

Deciphering what “inclusive” or what the process of inclusion means is more complex. However, the OHCHR has provided some guidance with respect to its meaning in Article 32. It describes it on one hand as ensuring that people with disabilities and their representative organisations are not excluded from the various stages of development, so in essence a system of checks and balances to ensure inclusion.\textsuperscript{292} On the other hand, it views it from a more pro-active perspective by consulting with disabilities and ensuring their meaningful participation.\textsuperscript{293} So inclusion therefore is ensuring that persons with disabilities are actively involved in all aspects of development planning, designing, monitoring and evaluation, a point, which is also found, echoed in Article 4 of the CRPD. While inclusion in the development processes are vitally important, so also is the inclusion of the diversity that exists within the disability community. To enhance Article 32’s meaning of inclusion, Article 3 provides guidance on how to achieve this; it provides a set of principles to support Article 32’s requirement of inclusive development programmes. These principles include non-discrimination, equality of opportunity and respect for difference. They provide overarching goals for achieving inclusive development, and as

\textsuperscript{290} See daily summaries of the Ad-Hoc Discussions, 3\textsuperscript{rd} session, Volume 4, # 8 (June 2004) and 4\textsuperscript{th} session, Volume 5, # 5 (August 2004)
\textsuperscript{291} Keyess, ‘The Convention on the Rights of Persons with Disabilities; why it’s needed?’ Disability and Development Bulletin. (2009), Special Issue, No.73
\textsuperscript{292} Office of the High Commissioner for Human Rights, ‘Thematic Study to enhance Study to enhance awareness of the role played by international cooperation in support of national efforts for the realization of the purpose and objectives of the Convention on the Rights of Persons with Disabilities’ (2010)
\textsuperscript{293} Ibid
discussed in the chapter five, many of these principles already form the basis for existing polices by bilateral agencies.\textsuperscript{294}

In summation then, Article 32 calls for a multifaceted approach to inclusive development. The authors of Article 32 by not linking it specifically to developing countries ensure that international cooperation is understood among all States and not just developing ones. In broad terms, Article 32 recognises the broad measures to be taken under the guise of international cooperation, for example, sharing information and expertise on disability. In more specific terms and linked to international cooperation’s role in developing countries, Article 32 requires that specific measures must be implemented using accessible and inclusive approaches which acknowledge the differences that exists among people with disabilities and the need for specific supports, while also ensuring their inclusion in all development efforts.

At the time of writing this thesis, the jurisprudence surrounding Article 32 remains in its infancy, how it will be interpreted and implemented by State parties and their donor agencies, and how this relates to mainstreaming disability is evolving. What we do know from initial commentary on the CRPD and development is that it has been described as having an inclusive development mandate, as many of its provisions act as the trigger for social integration of persons with disabilities within their societies.\textsuperscript{295} The specificity that had been argued for during the drafting debate on Article 32 complements this mandate and succeeds in outlining a road map with a set of measures that States can undertake to ensure that their international cooperation efforts are inclusive and accessible to persons with disabilities. To expand on this, the next section focuses on the development of the Committee on the Rights of Persons with Disabilities commentary on Article 32 to-date and reviews the reports submitted by States Parties that have ratified the CRPD. It also highlights concluding

\textsuperscript{294} See Article 3 of the CRPD which establishes the General Principles of the Convention which include non-discrimination; full and effective participation and inclusion in society, equality of opportunity, and equality between men and women

observations published by the Committee on the Rights of Persons with Disabilities, and relevant reports published by UN agencies/bilateral agencies, which further elaborate on Article 32.

4.4.4 State Parties’ reports submitted to the Committee on the Rights of Persons with Disabilities on Article 32

The process, which culminates in a States Parties’ submission of a report to the Committee on the Rights of Persons with Disabilities, gives countries the opportunity to conduct a review of the measures they are taking to meet a specific right, monitor the progress they have made, highlight the shortcomings and plan appropriate policy and legal responses. Article 35 outlines the reporting responsibilities of State parties who have ratified the CRPD. It sets out the requirement that States must submit a report on their implementation of the CRPD within two years of ratifying and thereafter at regular intervals. In formulating these reports, the Committee on the Rights of Persons with Disabilities adopted guidelines/criteria for States to include in their initial reports.

The guidelines provide the lists of measures to be taken under each article and this is helpful in providing clarification on what each article is asking States to do. In terms of measures taken to implement Article 32 a lengthy list for States to report is set out as follows:

(a) steps taken to guarantee their International Cooperation programme is accessible and inclusive by persons with disabilities;
(b) steps taken to guarantee that donor funds are properly used by recipient States in reaching persons with disabilities;
(c) details of programmes and projects which specifically target persons with disabilities and the percentage of the total budget allocated to them;
(d) any affirmative-action measures taken towards the inclusion of the most

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296 Office of the United Nations High Commissioner for Human Rights ‘An introduction to the core human rights treaties and the treaty bodies’ Factsheet No.30
297 CRPD Article 35 of the Convention establishes a four yearly reporting cycle for States.
vulnerable groups among persons with disability, such as women, children, etc;
(e) the degree of participation of persons with disabilities in the design, development and evaluation of programmes and projects;
(f) the degree of mainstreamed action towards persons with disabilities in the general programmes and projects developed;
(g) steps taken towards facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices; and
(h) linkages between policies and programmes targeting the Millennium Development Goals (MDGs) which take into account the rights of persons with disabilities and steps taken on the development, progress, and effectiveness of programmes for the exchange of technical know-how and expertise for the assistance of persons with disabilities.299

The reporting requirements for States (and their bilateral agencies) on international cooperation are comprehensive on a number of fronts. They ask States to capture their disability-specific work, actions they have taken to promote accessibility and inclusion, and as stated earlier there efforts at mainstreaming disability. While mainstreaming is not explicitly referenced in the article itself it now appears as a measure of implementing Article 32. The guidelines also make reference to the different identities people with disabilities may have suggesting that there is recognition of intersecting identities.

The reports submitted to the Committee on the Rights of Persons with Disabilities so far details the activities of State Parties on a wide range of measures, and the majority of the reports reference bilateral donor agencies as the main implementers of these measures. The reports first and foremost highlight the variety of different approaches taken by States in implementing inclusive development measures. These approaches range from recognising disability within a vulnerabilities framework, in particular post conflict and humanitarian (Denmark), having inclusivity and freedom from barriers as a focus (Austria) and recognising disability as a rights-based issue in the framework of

299 Ibid, see guidelines for reporting on Article 32 implementation p.19
bilateral and regional dialogues regarding human rights (Germany and Sweden).

The measures outlined in the State reports cover a wide range of areas from, State to State activity, sharing information and expertise, capacity building of both organisations representing persons with disabilities and also professional staff working in disability services (rehabilitation etc.). In terms of disability-specific measures, a number of activities were outlined. First with respect to primary focus of Article 32 (a) accessibility and inclusion, the Australian government highlighted how they had published the Development for All strategy which aims to “integrate disability within existing programmes, and to support disability specific activities that enable social and economic participation of persons with disabilities”. The German report highlighted the disability specific schemes as operated by GTZ (German Development Cooperation Agency) and outlined how in response to the Haiti disaster, the emergency housing it financed were in line with disability access guidelines. The Czech report highlighted how they implemented specific projects in several partner countries, focused on the support of persons with various types of disability, in particular their inclusion in society and in the labour market reflecting traditional approaches to disability inclusion. In addition, the Czech report pays attention to children and youth with disabilities. Examples of bilateral support highlighted included projects in Ethiopia (support of community rehab for young people), Cambodia (focusing on community support for children) and Kosovo (support of social inclusion of visually disabled persons). New Zealand in its report also


highlighted the principle of inclusion and accessibility. Finally, Sweden highlighted how it was using assistive technology to promote access.

Some of the reports had highlighted measures that were taken to build the capacity of persons with disabilities in a number of areas including self-representation and rights awareness. Germany provided support for self-representation organisations and their active participation in the drafting of national poverty reduction strategies in Cambodia, Vietnam and Tanzania. The UK government in its report highlighted the financial support it gave to the Disability Rights Fund (DRF) to increase the profile and engagement of DPOs in the global south and Eastern Europe (as did Australia). New Zealand highlighted the support it gave to the Cook Islands to build a network of disability advocates. In terms of actively involving persons with disabilities in design and implementation, Germany highlighted how it included persons with disabilities in the design of post earthquake housing. Finally, Sweden highlighted how it had supported the capacity development of disability organisations, in particular Disability Rights Promotion International (DRPI) and the International Disability Alliance (IDA).

In reporting on international cooperation in broader terms, the reports also highlighted the range of activities that States were undertaking through exchange of information and best practices. Reports from Croatia and Hungary highlighted how funding under the framework of international cooperation supported the integration of persons with disabilities into the labour market. The UK reported how it encouraged other governments to sign, ratify and implement the CRPD as part of its wider work on promoting human rights. Korea reported on

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its continued financial support to multilateral agencies, for example the UN Economic and Social Commission for Asia and the Pacific (UNESCAP). Peru reported how it had taken actions with Ecuador to develop a common agenda on disability within the framework of the Bi-national Good Neighbour Agreement. 306 Finally, China highlighted how it had also signed an intergovernmental cooperative agreement with Germany and disability featured as an important part of it. 307

The reports also give an insight into how countries in receipt of support under international cooperation programmes were implementing measures to progress the rights of persons with disabilities. For example, NZAID has provided significant funding to the Cook Islands on disability-specific projects including the establishment of a Disability Action Team (DAT). Kenya one of the first African countries to submit their report highlighted that the immense international cooperation they received has been geared towards improving the lives of people with disabilities. 308 It also outlined activities supported by the Kenyan government in the areas of education and housing. It also highlighted the role the EU, philanthropic organisations and international disability organisations under the guise of international cooperation. Paraguay similar to Kenya outlined the volume of international cooperation it received towards its work on disability. 309 The focus of the development programmes being implemented suggested opening up employment opportunities for persons with disabilities and also a range of interventions on prevention of disability, early detection and rehabilitation (supported by the Japan International Cooperation Agency).

The reports submitted to-date provides a useful overview of the range of activities implemented by State Parties and their bilateral agencies in implementing Article 32. What is evident is that the measures detailed in the State reports remain mainly in the realm of disability-specific activities. Some are notably focused on building capacity on claiming rights or advocating for rights (UK, Cook Islands). Others demonstrate there is State-to-State sharing of knowledge and expertise. However, while these are valuable contributions, the reports show little evidence that measures have been taken to mainstream disability in wider development interventions, or any real sign of processes put in place to include persons with disabilities as active participants in development.

Finally, with respect to concluding observations on Article 32, so far, the Committee on the Rights of Persons with Disabilities has issued three concluding observations on Tunisia, Spain and Peru. 310 With respect to international cooperation, the Committee welcomed Spain’s effort to strengthen its international cooperation for disability inclusive development. 311 The Committee, in considering Tunisia’s report, encouraged the Tunisian government to ensure that all international cooperation carried out is fully inclusive of persons with disabilities and promotes their active participation. 312 The Committee’s comments therefore highlighted inclusive development and the need for broader international cooperation to be fully inclusive of persons with disabilities.

4.5 Concluding remarks

As stated earlier in this chapter, Article 32 and its operationalisation remains in its infancy. So also does the CRPD and what its implementation means in real terms for persons with disabilities. This chapter has shown the important role

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310 To-date, the Committee on the Rights of Persons with Disabilities has issued seven concluding comments on States reports submitted by Spain, Tunisia, Peru, China, Argentina, Hungary and Paraguay. Reports submitted and concluding observations on State reports can be found at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=4&DocTypeID=29 (Accessed 16/3/14)

311 UN Committee on the Rights of Persons with Disabilities ‘Concluding observations of the Committee on the Rights of Persons with Disabilities: Spain’ CRPD/C/ESP/CO/1, 6, para 10

312 UN Committee on the Rights of Persons with Disabilities ‘Concluding observations of the Committee on the Rights of Persons with Disabilities: Tunisia’ CRPD/C/TUN/CO/1, 6, para 40
international cooperation has played in furthering the rights of persons with disabilities in both developed and developing countries. While, the dominant focus for international cooperation in the early years may have been from a medical or rehabilitative perspective, it has evolved over the years to promote the rights of persons with disabilities. Article 32 stresses the need for the inclusion of persons with disabilities in all aspects of the development process, and the implementation of accessible and inclusive international development programmes as vital components in furthering the rights of persons with disabilities. In terms of its implementation, there are a number of areas that need to be highlighted for future consideration. First of all, as with all of the CRPD’s articles, and as part of the process to ratify all treaties, a period of harmonisation is required to ensure that policy frameworks are brought into line with the CRPD’s principles. With respect to Article 32, the thematic study by the OHCHR highlighted some concerns in this area. Its overall finding was:

“International cooperation does not appear to have consistently applied a “twin-track” approach as cooperation focuses overwhelmingly on disability-specific projects and less on mainstreaming disability rights into broader international cooperation”313

From this study, it would seem that the scope of work being carried out remains within the disability-specific realm and this would seem also to be the case from the analysis of the State reports submitted to-date. Also, with regard to the role of international cooperation in respecting and protecting the rights of persons with disabilities, the report stated there was a fear of repackaging of measures taken under the guise of international cooperation to be now described as aligning with the CRPD when actually they were in contradiction to the principles of the CRPD. This was particularly the case for using international cooperation/development aid to build institutions or to support domestic laws, which are in

313 Office of the High Commissioner for Human Rights, ‘Thematic Study to enhance Study to enhance awareness of the role played by international cooperation in support of national efforts for the realization of the purpose and objectives of the Convention on the Rights of Persons with Disabilities’ (2010). The High Commissioner for Human Rights was asked to prepare a study on the role of played by international cooperation in support for national efforts for the realization of the purpose and objectives of CRPD. The Consultation was wide ranging across State parties, Disability Organisations, and National Human Rights Institutions. The process included a request for submissions to listed organisations and also an open request on the OHCHR website. The results were 43 responses from States; 8 from IGOs and regional; 15 responses from HRIs and 11 from Civil Society (including disability organisations)
contradiction to the principles of the CRPD. This statement mirroring back to the
general commentaries of the CESCRT establishes a need for a policy coherence role for the different actors involved in implementing international cooperation to ensure that the rights of persons with disabilities are being respected. The report however did highlight positive findings in (a) how the CRPD had expanded the understanding of international cooperation to include the role of research, technology, and sharing of experiences between States; and (b) a clear role not only for States but also international governmental organisations, civil society actors (particularly DPOs) as implementers of international cooperation.

The next issue is with regard to unpacking the concepts of accessibility and inclusion, which has been explored in section 4.4.3. This is where the theoretical framework guiding this thesis can be helpful. As stated earlier, accessibility could be considered the easier of the concepts, as a body of knowledge exists on accessibility and while this may have a western bias, the underlying principle of barrier free and universal design are recognised at an international level. However, inclusion and what it means in different cultures, socio-economic environments requires a much more nuanced understanding. Inclusion also apart from meaning the inclusion of individuals also relates to taking part in processes and decision-making. So therefore for the purposes of this thesis, intersectionalitity outlined in chapter two is suggested to broaden the understanding of what measures need to be taken to ensure that international cooperation is fully inclusive of all persons with disabilities. Linked with that is the inclusive processes established by the different actors in international cooperation to include the voice of persons with disabilities in the development process (see chapter two section 2.5.4)

The final issue for consideration and which leads into the subsequent chapters and analysis in this thesis is the role of duty bearers under Article 32. The OHCHR report described the role of international cooperation as set out by the CRPD as to provide positive outcomes for people with disabilities. As discussed earlier (see sections 4.2 and 4.3) the CRPD and previous treaties confirm that the
duty of ratifying treaties lies with domestic States, however there is recognition that international cooperation can play a part in global implementation. How this operates is that while there is no legal duty on States to give financial aid through international cooperation, in practice, for many years States have done so. However, the duty to fulfil the obligations under the CRPD lies with the individuals States be they developed or developing countries. Instead then, international cooperation plays a role in supporting States with limited resources progress the rights of persons with disabilities but does not replace the State’s responsibility as duty bearer. As discussed earlier, international cooperation and international development programmes are usually implemented by State appointed actors such as bilateral agencies. Article 32 then, it could be argued is applicable to these agencies.

The analysis set out in chapter five and chapter six addresses what steps bilateral agencies have taken to include persons with disabilities and focuses on the three agencies selected for this research.
Chapter Five: Agency policy and infrastructure

5.1 Introduction

The purpose of this chapter is to answer the first part of this thesis’s research question: which is what have been the efforts of bilateral agencies to mainstream disability in development to-date? The focus therefore of this chapter is to give an intragency view of how the United States Agency for International Development (USAID), AusAID and the Ministry for Foreign Affairs in Finland (MFA) describe their approach to disability mainstreaming. By using policy material and data collected from key informant interviews (conducted internally and externally) a baseline of information is established. This builds a picture of how each agency describes, in its own words, its approach to disability mainstreaming. From the outset, it is important to point out that investigation into donor agencies and their policies on mainstreaming poses many challenges. Such challenges have been recognised by previous research. For example Albert and critics of gender mainstreaming state that the size of the agency, its raison d’etre for development, the business of how it does development and the culture in which it does so varies significantly from donor country to donor country.315

Keeping this point in mind, the aim of this chapter is to provide a starting point for the discussion in chapter six and seven by presenting the official policy of the agencies and the opinions, views and understandings of key informants on mainstreaming disability as a theme in their development work.316

The chapter is divided into a number of sections. Section 5.2, 5.3 and 5.4 present a narrative on each agency based on a documentary analysis of official policy documents and key informant interviews with policy officials. The intent of these sections is to give a sense of how the agency officially describes its approach to mainstreaming disability. This is achieved by highlighting the relevant policy documents, official communication materials (e.g. annual reports, evaluation

316 For list of internal and external key informants please refer to Box 3.1 in Chapter 3
reports) and quotes from internal key informant interviews. Section 5.5 presents the views of key informants external to the agency on the agency’s approach to mainstreaming and summarises the key challenges in mainstreaming disability. The final section, section 5.6 highlights some initial findings based on the interviews.

5.2 United States Agency for International Development (USAID)

5.2.1 Introduction to agency frame of reference and its conceptualisation of disability

USAID, established in 1961, states its approach to assistance to foreign countries as two-fold: (1) furthering America’s interests (in terms of creating markets and trade partners) and (2) improving the lives of persons living in developing countries (including persons with disabilities). USAID’s disability policy (discussed in more detail below) gives a definition of disability, which it defines it as “as a physical or cognitive impairment that affects a major life function.” While the definition focuses on impairments an individual may have, the agency describes itself as “working proactively to remove barriers that may limit the full participation of people with disabilities”; a conceptual alignment with the social model of disability. In terms of its overall rationale for including persons with disabilities in its programmes, it highlights legal, social and economic reasons, including: discrimination on the basis of disability is illegal in the US and in many countries overseas; disability rights are human rights and the exclusion of persons with disabilities results in economic losses for the country where they live and for the global community.

317 USAID, ‘Who we are’ http://www.usaid.gov/who-we-are> accessed 8 September 2013
318 USAID ‘Disability Policy’ (1997) 2. The policy describes the definition it uses for disability as consistent with the definition of the US Rehabilitation Act
319 Ibid
5.2.2 USAID’s Disability Policy

USAID’s ‘Disability Policy’ states how disability is conceptualised and the policy is supported by an additional two policy directives that were adopted in later years entitled ‘AAPD 04-17’ and ‘AAPD 05-07’. The 1997 policy has been described by the World Bank as grounded in the principle of non-discrimination reflecting US disability rights laws such as the ‘Americans with Disabilities Act’. The policy itself describes USAID’s approach to mainstreaming disability as

‘to avoid discrimination against persons with disabilities in program’s which USAID funds and to stimulate an engagement of host country counterparts, governments, implementing organisations and other donors in promoting a climate of non discrimination against and equal opportunity for persons with disabilities.’

Therefore it is reasonable to claim that USAID’s approach is underpinned by the principle of non-discrimination. Key informant AI2 re-iterated this by stating “the first element of outlining what we do, or try to do is to make sure that there is not discrimination within the international development assistance programme.” From the outset, it appears that USAID’s approach to mainstreaming was to focus on integrating disability into USAID’s existing programme framework. The original impetus for developing the 1997 policy came from criticisms claiming that the US government and USAID did not have an adequate approach to including persons with disabilities in their programmes. USAIDs initial consideration of disability as a policy issue was

323 Among its objectives, the 1997 policy lists the following; promoting the equalization of opportunities for persons with disabilities through its foreign assistance; increasing awareness about disability issues within USAID programs and in host countries; engagement with other U.S. government agencies, host country counterparts, governments, implementing organizations and other donors in fostering a climate of non-discrimination against persons with disabilities; and support to international advocacy for persons with disabilities, see USAIDs Disability Policy, http://pdf.dec.org/pdf_docs/PDABQ631.pdf > accessed 10 September 2013
324 United States General Accounting Office, ‘Foreign Assistance: Assistance to Disabled Persons in Developing Countries’ (1991) 26. This report published by Congressional Requesters found that “the agency (USAID) does not assign a specific priority to helping disabled persons through its development programs. In addition, they explained that USAID does not document
set against a backdrop of management reforms and cuts, and happened within existing staff and financial allocations of the organisation; thereby, in the first instances, bringing no new additional budget lines or personnel to support the implementation of the policy.\textsuperscript{325} This approach of integrating disability into existing programmes continues to remain the focus of USAID’s approach to mainstreaming disability. Key informant AI1 commented how USAID includes disability in its programming stating “as a percentage of all the programmes maybe twenty per cent are stand alone and eight per cent are adding on to an already existing programme”. However, they further commented that this approach to including disability is supported by the USAID disability team with financial support:

“It’s integrated but it’s almost stand alone in that we are having to provide the money, and it probably wouldn’t happen unless we put money in for the activity.”

While the 1997 policy set out broad goals, its status within the agency was initially at a guideline level before it became an official policy. What is interesting about the development of USAID’s disability policy is that despite any additional financial or resource allocation, the agency from early on was clear about the need to report on activities under the plan and these plans were made publically available. USAID’s Disability Team published its first report in 1998, which described its work as predominantly awareness raising both inside and outside the agency.\textsuperscript{326} Considering the team had limited resources invested in it by the agency, its activities were broad ranging, however the report stated that the majority of USAID missions had failed to report at all on disability. One of

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\textsuperscript{325} The General notice that accompanied the USAID ‘Disability Policy’ (1997) stated that the policy did not represent a new initiative. Instead it described the importance of considering the concerns of persons with disabilities in on-going and future programmes implemented by the US government. The Disability Policy highlighted a section to support an agency wide coordination and responsiveness to the policy by establishing an Agency Team for Disability Programming (ADTP) responsible for a whole range of actions including taking measures to raise awareness on disability in the organization; liaising with disability organisations, producing activity reports, lessons learnt, identifying windows of opportunities for highlighting disability and compiling a periodic report to senior agency staff. Despite this list of activities, the policy stated that no new budgetary resources would be required.

\textsuperscript{326} USAID, ‘First Annual Report on Implementation of the USAID Disability Policy’ (1998), see the section on status of disability within USAID. The report outlined the challenge of the agency in creating inclusion for persons with disabilities.
the recommendations from the first report signalled the need for an improvement of the mission’s involvement with disability, as a goal. The second implementation report, issued two years later in 2000, highlighted some improvement in the engagement of the policy agency wide (with twenty eight out of seventy four missions reporting activity on disability). However, it highlighted the need for a home for the Disability Policy, an elevation in its status, expanded programme support and a potential funding programme to promote the policy. Along with internal reports by the agency the National Council on Disability (NCD), a federal watchdog responsible for monitoring how government policy is implemented had published a number of reports on the US government and foreign policy. Included in these reports was one on USAID and the implementation of its disability policy. Messages from both the internal USAID reports and external NCD reports prompted USAID towards a strengthening of its policy. Key informant A12 commented:

“After a number of years I think getting feedback from reports like the NCDs report, and our own analysis that we were doing every other year of what’s working and what’s not working and who is doing what, led us to start to look at ways in which perhaps elements of the policy could be strengthened.”

5.2.2.1 Strengthening of original policy; the adoption of policy directives AAPD 04-17 and AAPD 05-07

In 2004, USAID introduced two new policy directives with a view to supporting the 1997 policy and to take steps towards further mainstreaming of disability into the agency’s work. Key informant A11 commented, “the newer policies were developed to give the 1997 policy more teeth” or in other words as a means to

327 ibid
329 National Council on Disability, ‘Foreign Policy and Disability: Legislative Strategies and Civil Rights Protections To Ensure Inclusion of Persons with Disabilities’ (2003) 20 – 27. The NCD commenting on the 1997 policy stated that it “creates no measurable goals or timelines, nor does it require the creation of any disability specific programs by USAID’s central office or Misions abroad.” The report also highlighted further difficulties with the policy in that it there was no systematic approach across the missions and work of the agency to include disability. Also the internal implementation reports conducted by USAID (2003) stated that the goal of the disability policy “must be to institutionalize inclusive behaviours and systems and that individual advocacy and random goodwill are not proving to be adequate to insure inclusion of persons with disabilities.”
strengthen the existing policy. The internal reports had acknowledged that despite the broad aims of the 1997 policy to ensure the consideration of disability in all aspects of USAID’s work, it was not happening to the level it needed to be. Key informant AI2 commented in terms of operationalising the policy it became evident that “if there wasn’t some language about disability it didn’t happen.” They further commented, with respect to disability “if it is not stated in a request for proposals even if we have a policy, then it is not likely to be addressed”. The aim of the newer policy objectives therefore was to provide language on disability to ensure that disability was considered in all aspects of procurement (AAPD 04-17) and also in construction (AAPD 05-07).

The ‘Acquisitions and Assistance Policy Directive’ (AAPD 04-17) describes its purpose “to require contracting officers (COs) and agreement officers (AOs) to include a provision supporting USAID’s Disability Policy in all solicitations and resulting awards for contracts, grants, and cooperative agreements”. In practice this means that all requests for applications and subsequent contracts and grants must contain a provision (which is described in the Directive as an affirmative statement) to comply “to the extent practicable” and “within the scope of the award” to the intent of the 1997 Disability Policy. Thereby, ensuring that disability is considered across all areas of work.

The second policy directive ‘Standards for Accessibility for the Disabled in Contracts, Grants, and Cooperative Agreements’ (AAPD 05-07) describes as its purpose “to require contracting officers (COs) and agreement officers (AOs) to include a provision in all solicitations and resulting awards for contracts, grant, and cooperative agreements involving construction or renovation of structures, facilities or buildings”. This provision was described as an affirmative

330 USAID, ‘Third Report on the Implementation of the USAID Disability Policy’ (2003) 13 which recommends that Contracts, Cooperative Agreements, and Grants should include language that stipulates that people with disabilities are part of the target development community and that activities should be designed to accommodate their inclusion
331 Ibid
332 Ibid
334 USAID, AAPD 05-07 ‘Supporting USAID’s Standards for Accessibility for the Disabled in Contracts, Grants, and Cooperative Agreements.’ (2005) Key informant no AI1 commented that
statement that both contractors and recipients will comply to USAID’s policy on ‘Standards for Accessibility for the Disabled’. This policy directive could be described as operationalising the disability policy in the area of construction and accessibility, requesting that it is complied with. The AAPD 05-07 directive makes reference to accessibility standards in the country where the proposed build will happen. It states that if the recipient country’s standards are equivalent to or higher than the Americans with Disabilities Act, then their accessibility standards can be applied. However, if they are not, the standard to be used is that established in the American with Disabilities Act. This point is of particular interest with Article 32 and its requirement of accessibility of international development programmes and also the other accessibility provisions within the CRPD. Many of the countries that USAID works in have ratified the CRPD, yet the US has not yet. Therefore, this raises the question that if a recipient country has ratified the CRPD, does this mean that the recipient country applies the universal standard of the CRPD? AAPD 05-07 has already made reference to the possibility of higher standards of accessibility existing in recipient countries and may therefore need to be revised now to include Article 9 (Accessibility) of CRPD as a standard.

Finally, then in terms of compliance across the agency to the policy and in particular the policy directives; a documentary review of each policy has been completed. The review highlighted language such as ‘required to’ or ‘affirmative statement’, which could be read as a positive requirement to include language supportive of the disability policy. A number of key informants also commented on their applicability and binding nature across the agency. Key informant AI1 made the following comments regarding the binding nature of the

when a lot of USAID money started flowing into Afghanistan and Iraq for reconstruction the politicians, US Congress had interest in putting in language asking about aid policies. They commented that this was kind of the catalyst of developing the one policy directive on enforcement of construction and reconstruction activities.

335 USAID, AAPD 05-07, Section 1 para (a) and (b)
336 USAID AAPD 05-07, Section 1 para (c) states that “the contractor will comply with the host country or regional standards for accessibility in construction when such standards result in at least substantially equivalent accessibility and usability as the standard provided in the Americans with Disabilities Act (ADA) of 1990 and the Architectural Barriers Act (ABA) Accessibility Guidelines of July 2004. Where there are no host country or regional standards for universal access or where the host country or regional standards fail to meet the ADA/ABA threshold, the standard prescribed in the ADA and the ABA must be used.”
337 USAID ‘AAPD 04-17’ and ‘AAPD 05-07’
policies.

“Both of the policy directives are binding in that, for example, the one that states any solicitations for grants or contracts needs to have standard language that talks about the disability policy, and also how we wanted to address the inclusion of people with disabilities, so that part of it is binding”.

They further clarified their position on the binding aspect as follows: “I think that what is not binding and I don’t know that binding is necessarily the right word for it, is that it doesn’t state how people are supposed to do that”. Later in the interview they stated,

“So you have it that it has to go in there {referring to the language} and people see it, but are people putting it in and how is it being addressed, how is it being looked at, and how is it being evaluated, there’s nothing that speaks to it on that side”.

Their final comment suggests that while there is a focus on the inclusion of language on disability, there is no clarity or guidance on what inclusion or modification could look like. This point was also raised by external key informants, and is outlined in the section below (see section 5.5).

5.2.3 Infrastructure for implementation – disability focal point, role of mission and budget support

USAID’s disability policy is supported by a disability focal point (also described as disability team), which comprises of a team of three people based in USAID Headquarters, Washington DC in the DCHA/DG Bureau.338 The role of the team in Washington DC is to advocate agency wide for the disability policy, identify where there are barriers to its implementation and provide technical assistance and support to reduce the barriers.339 Key informant AI2 described in broad

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338 USAID’s Bureau for Democracy, Conflict and. Humanitarian Assistance (DCHA)/ Office of Democracy and Governance (DG) Within the team key informant AI1 explained how there is a post entitled Coordinator of Disability and Inclusive Development, and a person with a disability holds this post. The other two posts, focus on working with the disability fund, with one post specific to the day to day work on the disability fund. The second post focuses more on the internal changes and mechanism for compliance within the agency.

339 The disability team’s role over the years has been described in as laying the cornerstone of success, see USAID ‘Fourth Report on the Implementation of USAID’s Disability Policy’(2005).
terms how the team had a role in advising and raising awareness of disability within the agency’s other departments and bureaus; for example, within the Office of US Foreign Assistance (OFDA) and also the Department of State where a special adviser on International Disability Rights was appointed in 2010. The range of measures the team support includes: technical assistance and support to USAID missions; developing and promoting the internal e-learning course on disability; managing the Disability Fund; ensuring overall inclusive development; and compliance with the existing policy directives. In terms of describing the role of the team, key informant AI2 commented how the focus is:

“Working on the policy side to strengthen the policy bills to make sure they are all speaking towards how we are going to meet the objectives of what we are trying to do which is essentially the non-discrimination and equal access and inclusion in everything that we are doing.”

Key informant AI2 further commented “[US] AID is a very decentralised organisation so the establishment of development objectives and country strategies and plans are carried out in the field”. Therefore, one of the key ways to promote the inclusion of persons with disabilities in this decentralised structure is working with the US missions in each country to support the development of disability actions plans and the appointment of a focal point. Neither the disability plan or focal point are mandatory. They are initiated at mission level rather than head office and rely on what key informant AI1 describes as “having a cadre of people at that level who have the capacity and the knowledge to be able to advocate it or champion the issue”. Supporting this “cadre” of people and USAID mission offices in disability inclusive

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This report highlights in detail the role of the DC based team particularly in the areas of legislative action in supporting USAID disability programming, adoption of accessibility standards, adoption of disability clause to agreements and contracts, professional staff recruitment and development (see pg. 1-2) Also, see various implementation reports of USAID Disability Policy which outline the evolution of the disability team in USAID from its early years where the coordinator was .8FTE (FTE = Full time equivalent) to (see 2nd and 3rd implementation reports) as to the development of the current team whose role is explained in more detail in the 5th implementation report as conducting training for staff members on how to better integrate people with disabilities into all of USAID’s programs, projects, and activities; providing technical assistance USAID missions, bureaus, and offices based in Washington, D.C., coordination with international disability leaders, has produced technical notes, tools, and other resources on accessibility standards, inclusive practices, language, and other disability-related topics; improved capacity of DPO’s and Disability Leaders, improved donor coordination

340 Ibid, see previous footnote 333 which describes the team’s activities in more detail

341 USAID, ‘Checklist for Inclusion; Disability Assessment Tool/Guide and Background on USAID and Inclusive Development’ (2009)
development is one of the team’s key focuses. Key informant AI1 commented that the team works to ensure “there is a flow down from Washington to the people in the field who try to do training, and provide that type of information, tools and resources that we put together”. For example, to support the development of plans, the disability team produced a template to support the Missions.\(^{342}\) The variety of disability action plans developed at mission level is captured in the regular implementation reports of its USAIDs policy.\(^{343}\) Key informant AI2 described how the content and measures outlined in plans varied greatly due to the different starting points of each mission. They commented “I think there are different standards and I would agree that perhaps the standard that we would expect, there are not too many missions that are at that standard.” In terms of this variety of standards, key informant AI1 further commented how some Missions can be “a real driver… looking to have a mission wide plan and taking a concerted effort….showing this is what we’d like to do and here’s our own time and investment that we’ve made”. Other missions however, might be at a more basic level with their disability plans, as key informant AI2 commented, “when they’re starting from zero, just getting people to even go by and do an audit of the space, and see if people can get in, or if there’s a ramp out front that they can pull out so people can get in the front door” is a start.

In terms of budget support, USAID gives support to specific budget lines on disability which total approximately $28 million dollars per year. The budget is allocated across a number of budget lines such as the Patrick Leahy War Victims Fund, which key informant AI1 described as developing from providing immediate response to care needs (in its early years) to designing and implementing a variety of disability programmes that accommodate the needs of persons with disabilities. Incorporated into this fund is the wheelchair fund which focuses on products and servicing of wheelchairs. There is also the

\(^{342}\) USAID, ‘Promoting Disability Inclusion in USAID missions’ (2009). This is a guidance note issued by the Disability Team to promote the inclusion of disability into missions, one of the key elements of it was a disability action plan which covered the following areas (1) increase knowledge and capacity of staff and partners on inclusive development (2) Perform an access review of conditions relating to programmatic and environmental accessibility (3) Modify conditions (programmatic/environmental) to increase accessibility; and (4) Facilitate relationships with Disabled Peoples Organizations (DPOs).

\(^{343}\) Each implementation report published by USAID on its Disability policy dedicates a section to the mission offices and their work on disability.
Disability Fund which was originally announced by Congress in 2005 ($2.5 million as a starting amount). Since then over $20 million supporting sixty projects in forty-eight countries has been awarded through this fund. Key informant AI1 described how the Fund offers the opportunity through seed money for USAID missions to consider disability in their work. They commented, “the Fund compliments USAIDs broader commitment to including people with disabilities in development programs and to empowering people with disabilities to advocate for their own rights.” While these funds represent an investment in disability within the agency, key informant, AI2 commented, “I would always argue that while twenty-eight million dollars is a lot, [US] AID’s development assistance budget is about twelve billion dollars and that’s what we are trying to influence is the twelve billion.”

5.2.4 Project implementers

In terms of project implementation USAID operates a procurement system that is based on open competition. Within this system, USAID works with a range of stakeholders including contractors and grantees. This system of procurement has led to a number of large development organisations securing funding and either directly delivering projects themselves or sub-granting out to other smaller organisations.344 Key informant AI1 commented how USAID requires a very strong standard of transparency and oversight from the organisations it funds. This unsurprisingly, creates obstacles for DPOs that generally fit within the smaller or mid sized organisations to compete effectively for USAID funding. However, some of the mainstream project implementers such as the American Institute for Research (AIR) and the International Foundation for Electoral Systems (IFES) include disability in their work. The approach taken by IFES is to mainstream disability in its work; for example through a democracy programme. In the case of AIR, they provide a sub grant to DPOs. Key informant AE6 commented “in every project I’ve ever designed at ground level in disability, we have given a significant portion of that to local DPOs.”

344 Examples of these organisations in receipt of grants include PACT who focuses on delivering support and also building capacity and technical skills for sustainable development. The amounts of funding to these organisations are substantial (e.g. in 2011, PACT received $134 million)
However, it is important to point out that USAID has worked with disability organisations such as Mobility International USA (MIUSA) and the United States International Council on Disability (USICD) both of whom feature capacity building in their work.\textsuperscript{345}

5.2.5 Evidence of data systems: Data collection and systems for monitoring impact

USAID uses a number of different methods for data collection and monitoring of impact. Some of these methods are general to the agency and some are disability-specific. For general reporting, key informant AI\textsuperscript{2} described how the disability team must feed into an agency wide report that is mandatory. They commented that it “is called a performance plan and report, PPR, that is done once a year at the end of the fiscal year and that is agency wide reporting back to Congress”. As part of the PPR, key informant AI\textsuperscript{2} described how a series of questions on disability has been included under inclusive development:

“we’ve been able to include it as a key issue in the standard reporting …inclusive development, participation of people with disabilities and a description that reads for the people that are doing the report in every mission and office.” \textsuperscript{346}

The purpose of this reporting requirement is that it allows the US government to respond to a congressional reporting requirement relating directly to reducing the barriers and increasing the numbers of people with disabilities participating in all development programmes and activities. A second general standard reporting requirement used is that with any grant or cooperative agreement or contract that is given there is a mandatory reporting requirement and those are generally quarterly or semi annually.

\textsuperscript{345} For example, USAID funded a MIUSA project called ‘Building an Inclusive Development Community’ which focused on building the capacity of DPOs to engage with development actors, see http://www.miusa.org/idd/bide/index_html (Accessed 16/3/14)

\textsuperscript{346} An example of these questions include ‘Does your mission or office have a disability inclusion plan that’s distributed to stakeholders?’ ‘Describe ways in which your office has removed barriers to participation?’ ‘Please describe what people with disabilities have been included in the planning, the implementation and the evaluation’ ‘Does the mission engage in activities to improve the goal of increasing the capacity of disabled people in the organisation?’
From a disability-specific perspective, there were a number of mechanisms identified that were used for measuring impact. Firstly, one of the overall methods is the production of biennial reports on the implementation of USAID’s Disability Policy. In total five biennial reports have been published thus far, the First Report (1998), Second Report (2000), Third Report (2003), Fourth Report (2004) and Fifth Report (2008). The reports in general comprise of details of mission reports, reports from the Washington DC based disability team and also other Bureaus within the Agency that engage with disability issues on the progress they have made. Each report includes a set of recommendations to be followed up on and checks back in on the status of the previous report’s recommendations. The second measurement identified was the completion rate of the e-learning course on disability. Despite it being a rudimentary measurement, it highlights the take up in the agency of disability as an issue for learning. Even though USAID staff are not obligated to take it, key informant AI1 highlighted how completing the course is a factor for consideration when applying for funding through the Disability Fund.

Finally, with regard to measuring impact within USAID’s decentralized structure, and in particular in the field and with the missions, two indicators were identified; missions reporting on disability activity, and the investment by missions with their money to implement their disability work. Key informant AI1 commented on how the process of missions submitting reports on their level of activity on disability was an indicator, however, not without its challenges for validity: “there is a challenge that mission reporting can be a bit of a challenge as some under report and some over report so it is a measure but in terms of who is

347 The early reports (1998) and (2000) could be described as focusing on raising awareness of disability within the different structures of USAID and also focus on establishing the necessary structures to underpin the Disability policy. The Third report (2003) while recognizing the progress was made asked for this progress recognized that there “is still limited understanding of the USAID Disability Policy and, in many cases, inclusive efforts are not by USAID design, but rather by the policies and purposes of our partner NGOs”. The 2003 report called for progress to be made by including language that stipulates people with disabilities are part of the development community. The latest reports to be published 2004 and 2008, report on the progress made from the low levels reported in the earlier reports on engaging with disability, the later reports indicate that approximately seventy-five per cent, who reported, described some activity related to disability. The recommendations made from these reports included the continued replication and systemization of the successes, which have worked to-date. In terms of programme criteria it was recommended to systemize the inclusion of persons with disabilities into programme criteria. Finally then, the need to keep working in partnership with the disability community was highlighted as a priority recommendation.
actually filling out, the accuracy can vary and that’s with most sub-reporting anyway.”

In terms of the second indicator of financial support, key informant AI2 commented that “if you have missions that are putting forward their own funding for programmes, I would say that is impact.” They further commented that signs of missions utilizing their own funding for disability rather than requesting through the Disability Fund demonstrated that disability was being included from the outset.

5.2.6 Processes in place for ensuring internal and external policy coherence

With regard to policy coherence, there are a number of aspects where the disability team and the various stakeholders it works with strive to ensure that the disability policy, including the additional policy directives, are implemented in a coherent manner across the agency. From the outset, it is important to point out a comment by key informant AI2 who described the team’s authority with respect to policy coherence and enforcement as more awareness raising rather than policing. They commented, “I would say there’s really no authority back here for us to enforce things, so we’re not a policy organisation, we’re a programme”. Key informant AI1 further commented, “enforcement is really tricky I think you really bring awareness and attention to it as the first point and give instruction of how to make it better I think are really constructive steps.”

From an internal perspective, key informant AI2 commented how a focus of their work in ensuring coherence with the policy was:

“working on the policy side to strengthen the policy bills to make sure they are all speaking towards how we are going to meet the objectives of what we are trying to do which is essentially the non-discrimination and equal access and inclusion in everything that we are doing.”

This not only relates to disability but also to the general work of the agency across all departments and bureaus. With respect to the additional policy directives discussed earlier in this section, monitoring their coherence appears to
be split between the disability team and the missions. The missions seem to have primary responsibility for the implementation of directive AAPD 05-07. The disability team keeping a watchful eye over the inclusion of disability language in the RFAs.\textsuperscript{348}

Finally then in terms of the external coherence of USAID to domestic and international disability law, the United States has signed the Convention on the Rights of Persons with Disabilities but has not ratified it. Key informant AI2 commented how the disability team’s role was not so much about policy coherence with the Convention but rather informing colleagues on the Convention and ensuring they were aware of it particularly in countries who had ratified the Convention.

**5.2.7 Processes for gathering input from the disability community**

Key informant AI2 commented that USAID through the disability team and other fora did have interaction with the disability community. They commented that there was “interaction to a certain extent” with NGOs and DPOs. With respect to DPOs, key informant AI1 further commented, “we engage and stay close to the DPO community to understand what they are identifying as the most important needs and what we’re doing.” Examples given of input from the DPO community to USAID included the development of the first disability awareness e-learning course. Key informant AI1 commented, “when the first course was developed, MIUSA was a key part of that but there was also a lot of testing where the DPOs came in and went through the content and really commented.”

\textsuperscript{348} The most recent initiative being used to ensure compliance with the policy directives is the development of an online compliance form. The compliance form will be a new method of online monitoring developed by the disability team on how the USAID disability policy and directives are being implemented in places where USAID works. The form allows individuals to feedback to the Washington DC based team where they see incidences of non-compliance with USAID’s Disability Policy. Once inputted online, the information can be sent directly by email to the Disability Team.
5.3 Ministry for Foreign Affairs of Finland (MFA)

5.3.1 Introduction to agency frame of reference and its conceptualisation of disability

The Finnish Ministry of Foreign Affairs (MFA) has primary responsibility for Finland’s development cooperation programme policy approach.\textsuperscript{349} The Finnish government describes the aim of its foreign policy as “to strengthen international stability, security, peace, justice and sustainable development as well as promote the rule of law, democracy and human rights.”\textsuperscript{350} The Ministry does not have a specific policy on including disability in its development cooperation nor does it include a definition of disability. However an evaluation report conducted in 2003 gives some indication of the agency’s understanding of disability, which recognises the World Health Organisation International Classification on Functioning, Disability and Health.\textsuperscript{351} In terms of its conceptualisation within the agency, disability is recognised as a theme within what the Ministry describes as its Crosscutting Objectives or Crosscutting Themes (CCT’s). The intention behind the CCTs is that they are of “such importance for achieving sustainable development that they cannot be overlooked. Therefore, they need to be considered in relation to all initiatives and activities.”\textsuperscript{352}

5.3.2 Crosscutting Themes (CCTs)

CCTs have been a feature of Finland’s development policy since the mid 2000s and disability has been included as a group within them. The original inclusion of disability in the 2004 policy was in the context of the work the MFA undertook to promote the rights of groups that are easily marginalized. This focus continued in the 2007 policy ‘Towards a Sustainable and Just World

\textsuperscript{349} Unlike some countries, which have a specific development cooperation agency, in Finland foreign affairs and development cooperation are not separated. The MFA houses development cooperation work, trade and human rights together.

\textsuperscript{350} Government of Finland ‘Programme of Prime Minister Jyrki Katainen’s Government’ (2011) 24

\textsuperscript{351} Ministry for Foreign Affairs of Finland, ‘Label Us Able: A pro-active evaluation of Finnish Development Cooperation from the disability perspective’ (2003) 15. The report does not describe the agency’s conceptualisation of disability as the WHO ICF approach, however it recognises its standing as an international standard.

\textsuperscript{352} Ministry for Foreign Affairs of Finland, ‘Evaluation: The Crosscutting Themes in Finnish Development’ (2008) 35
Community’. The most recent policy includes disability within groups facing inequality. While there is a change in focus from marginalised (2007) to persons with disabilities now being referenced as part of reducing inequality, persons with disabilities still remain as one of the cross cutting objectives. In terms of approach, the CCTs are applicable across Finland’s development cooperation programmes. Key informant BI3 described them as a means to include those who are most marginalized:

“There is a line of crosscutting issues where a person is under the threat of marginalisation because of being a women, a children, or persons with disabilities, ethnic minorities and indigenous peoples, so mainstreaming people with disabilities is one of those.”

Key informant BI2 in explaining the Ministry’s approach to mainstreaming disability described that the “first step was to include it {disability} across the crosscutting themes.” This approach of including disability within the broader group of development themes such as HIV/AIDS and children was influenced by a number of internal reports. These reports are discussed below. The findings of these reports highlighted that the prevailing approach to including persons with disabilities in Finnish Development cooperation was that of a disability-specific focus

Key informant BI2 described an overarching approach for evaluation of its programmes by MFA as follows:

“From time to time, the MFA undertakes a meta-analysis of the projects it implements. In 2000, it undertook such an evaluation of its work on disability. A report entitled ‘Label us Able’ was published and made significant remarks which promoted a management response from the Ministry and development of a new policy.”

353 Ministry for Foreign Affairs of Finland ‘Development Policy Programme – ‘Towards a Sustainable and Just World Community’ (2007) 16. Disability is included in the context of the promotion of the rights of groups that are easily excluded, particularly children, people with disabilities, indigenous people and ethnic minorities, and the promotion of equal opportunities for participation
354 Ministry for Foreign Affairs of Finland, ‘Finland’s Development Policy Programme; Government Decision in Principle’ (2012)
355 Ministry for Foreign Affairs of Finland, ‘Evaluation Report of the Crosscutting Themes in the Finnish Development’ (2008) 35. The report discusses that a change in policy emphasis on crosscutting themes is due to changes in political and institutional choice, therefore cross-cutting themes can be subject to change; see also presentation at the UN Commission for Social Development, 50th session ‘Mainstreaming the Disability Dimension in Development Cooperation Case Finland – Lessons Learned.’(2012)
The ‘Label us Able’ report found that since 1991, the Finnish government had targeted a total of €62 million to disability specific cooperation. This amounted to five percent of the total funding for Finnish development cooperation. The majority of this funding was channelled through Finnish NGOs, which is different from the overall Finnish development cooperation where only seven percent goes via Finnish NGOs (the majority being bilateral and multilateral cooperation). Furthermore, it was found that Finland had seldom included the disability perspective in multilateral cooperation the total amounting to only four percent.

The report concluded that the majority of Finnish development cooperation was disability-specific and undertaken by small to medium sized NGOs. ‘The Label us Able’ report and the subsequent Government Audit report in 2008, which again found that measures to include disability remained in the realm of disability prompted a management response. The response came in the form of a decision to include disability as a crosscutting theme.

The Ministry takes its approach to crosscutting issues based on the ‘Guidance Directive on the Cross Cutting Themes’, which was originally published in 2009 and updated in 2012. The purpose of the Guidance Directive is to formally establish the applicability of the crosscutting objectives across the agency’s work. In other words to mainstream them across the agency. Key informant BI2 explained how disability is included throughout MFA’s priority channels of work, its multilateral, bilateral relationships and its partnerships with civil society.

357 Ibid
359 See The Guidance Directive derived from Finland’s existing commitments to human rights treaties, the objectives of the cross-cutting themes are as follows; promotion of the rights and status of women and girls as well as social and gender equality, promotion of the rights of easily marginalized groups, especially children and persons with disabilities, and thirdly HIV/AIDS as a health and social challenge. Persons with disabilities are identified within the crosscutting objectives as part of ‘easily marginalised groups’.
From the multilateral side, the MFA has been supporting the United Nations in its efforts to mainstream disability.\textsuperscript{361} The MFA works also with other international agencies on disability such as the World Bank where they have supported the inclusion of disability aspects into Poverty Reduction Strategy. Outside the UN system, MFA's multilateral funding supports the work of the Global Partnership on Disability and development through its sector development funding. Additional to these funding commitments, key informant BI1 commented, “that there would also be efforts to include disability in as many speeches as possible made by Finland government officials at multilateral activities.”

The main focus of the MFAs work on disability from a bilateral perspective is through inclusive education. BI2 explained, “there is quite a long cooperation in this area with partner countries which started from the work of NGOs most of was disability-specific work concentrating on specific impairments.” The official gave the example of a school for the deaf in Zambia, which made gradual moves towards mainstreaming.

In terms of its status, the guidance note is described as a binding principle and reasons must be given for any deviation from it.\textsuperscript{362} For including persons with disabilities into Finland’s development cooperation, this means that disability as a thematic issue must be: (a) mainstreamed in all sectors; (b) universal provisions must be complemented with targeted approaches where needed and; (c) disability must be included in political dialogue (See Box 5.1).\textsuperscript{363}

\textsuperscript{361} This started with a secondment of an MFA official to work with the UN on developing the first disability mainstream manual at the UN. It continues today through its multi funds disability specific projects such as the United Nations Special Rapporteur on Disability.
\textsuperscript{362} Ministry for Foreign Affairs of Finland ‘Cross-cutting objectives in the Development Policy Programme of the Government of Finland; Guidelines’ (2012)
\textsuperscript{363} Ibid
### Box 5.1: MFA’s three-track strategy for integrating disability

1. Mainstream disability in all sectors and accommodate people with disabilities in line with the Human Rights Based Approach.\(^{364}\)

2. Complement universal and equal provisions with targeted, additional support and services to equalise access and opportunities for people with disabilities and to empower them.

3. Include disability in policy dialogue, country negotiations and multilateral cooperation and all information dissemination.

Key informant BI1 described the three-track approach to mainstreaming in more detail. They commented that “the twin track approach (namely (1) and (2) referenced above) had been designed by the women’s movement” and the third track was agreed for the purposes of “collective empowerment, the space where long term change could come about”\(^{366}\). Key informant BI1 further commented on the particular merit of having disability included in political dialogue in developing countries:

> “It is clear not only to have this twin-track approach to disability, but also to have this political dialogue which also in developing countries can provide enormous space for those champions of disability who want to promote disability. There is a political process.”

The third-track is an interesting concept as it creates an opportunity for raising issues relevant to persons with disabilities disability in political dialogue. As key informant BI2 commented, “it is extremely important for those of us working with the bilateral and multilateral side of things to have engagement with the DPOs, that is the political pressure, the technical advice.”

### 5.3.3 Infrastructure for implementation

The Ministry does not have a formally established focal point or dedicated staff person on disability. Key informant BI1 commented, “we don’t have a full time disability adviser.” Rather than being a dedicated focal point, key informant BI2

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\(^{364}\) Ibid

\(^{365}\) Ibid

\(^{366}\) Key informant BI1 highlighted that the rational for the third track approach was taken from the women’s movement with regard to gender.
described the current structure as operating within a team approach with shared responsibilities across a number of advisers. They commented, “disability is five percent of a social advisers role and there is also an outsourced expert”. In addition, they commented that disability forms part of the role of the human rights adviser in the political department and advisers within the civil society section. Therefore, the responsibility for disability falls across the desks of all advisers in the Ministry; as the crosscutting themes are applicable across all areas. Key informant BI2 further commented, “we have a few champions {for disability} in the Finnish government like the Minister for Foreign Affairs.”

The Ministry does not have a specific budget line for disability. Key informant BI2 explained that we {the MFA} “ do not have budgets for any themes or sectors, we have budgets for countries or for UN organisations and it is within these budgets that we should then mainstream disability.” There is in place however, a system to track how much the Ministry spends on disability. Key informant BI2 commented, “we have the markers where you are expected to say if the work is disability-specific and from there we know that about two and a half percent of our monetary funding is spent on disability but the majority of that is support we provide to DPOs.” Further to the support to DPOs, the disability-specific spend by the Ministry described by key informants BI1 and BI2 was attributable to a number of areas at bilateral and multilateral levels, for example, inclusive education through bilateral funding. These included support on the multilateral side to the UN Special Rapporteur on Disability, the Secretariat for the African Decade on Disability and support to the Global Partnership on Disability and Development. Key informant BI1 described how the funding to the disability side of their work is predictable and the disability-specific work in bilateral programmes like inclusive education is also predictable. However, outside this disability-specific work it was hard to identify where the Ministry’s budgets impacted on disability. One of the reasons causing this difficulty according to key informant BI4 was “because it’s not always earmarked, particularly when you integrate of course, the line is a little blurred.” This fact was also evidenced by internal reports undertaken by the agency. They
found that the reporting of the majority of money being spent by Finland was on
disability-specific work.\footnote{See Ministry for Foreign Affairs, Finland ‘Label us Able’ (2003) 42 Chapter 8 ‘Co-operation
via Finnish NGOs’. The report discusses the support the MFA gives to Finnish NGOs (including
DPOs), it describes how ‘development co-operation via Finnish non-governmental organisations
(NGOs) has been the main aid instrument used in disability issues. It has covered around seventy
percent of Finland’s disability specific development co-operation for the past ten years.’ The
report goes on to further describe how between 1991 and 1998 to the annual support for all
development co-operation via NGOs was in the range of EUR twenty – twenty-five million. Thus
about one-tenth of the Finnish development co-operation funded via Finnish NGOs has been used
for projects addressing disability issues. Some ten per cent of all Finnish development co-operation
is channelled through Finnish NGOs, which leads to the conclusion that about one per
cent of all Finnish development co-operation goes to disability specific projects via Finnish
NGOs.}

5.3.4 Project Implementers

As discussed in the previous section, the majority of Finland’s spend on
disability goes towards disability-specific. Historically the Ministry has relied on
Finnish disability organisations and DPOs to implement disability projects
funded by the Ministry. Key informant BI3 highlighted how, “the civil society
unit is the unit where DPOs get their funding and that is extremely important.”
The bigger picture as key informant BI3 described is that within the Finnish
government there is a strong commitment to human rights and to a society of all
which includes people with disabilities. Therefore, it is natural that the MFA has
to find some way to promote disability in Finland’s development policy and
cooperation. However, key informant BI2 commented that:

“bureaucracy can be slow to achieve this and an easier way to do it, is to
outsourcer this difficult field of work {disability projects and
programmes} to people who are very motivated and very competent.”

This thinking appears to have formed the logic behind the management decision
of MFA deciding “to pay generously to the Finnish DPOs in order for them to
get through to disability work more easily”, as reported by key informant BI1. In
2009, the MFA concretised this approach and entered into a partnership
agreement with Finnish Disabled Peoples International Development Association
(FIDIDA).\footnote{FIDIDA describes itself as an association of six Finnish disabled peoples organization, which
coordinates and collaborates among its member organisations on issues concerning disability and
development. The membership organisations represent those with mobility impairments; people}
“With FIDIDA we have a framework partnership agreement which is for many years and there is a lot of creditability in that, also the individual members of FIDIDA have large long term projects so they have been given multi-year commitments.”

This partnership approach to development cooperation signifies a large part of how the MFA implements its development assistance: through established partnerships with civil society actors. Key informant BI3 describes civil society actors as “an essential and integral element of Finnish development cooperation in its entirety.” Key informant BI3 commented further on this,

“within Finnish development cooperation, this partnership status is considered very important, as it establishes a framework agreement to which the MFA provides financial support funds and the organisation has the responsibility to implement.”

In addition to the partnership agreement with FIDIDA, the Ministry also gives funding through other sources for project implementation. Key informant BI2 with respect to this arrangement commented, “we don’t want to outsource all the disability programmes to FIDIDA because that would mean a huge decease of information within the Ministry.” Therefore, other funding is also given to disability organisations that are outside the FIDIDA membership (through open competition) and also through the Ministry’s special foundation programme to an organisation called Abilis. Abilis describes itself as a “development fund founded by people with disabilities in Finland to support activities for empowering disabled persons in the South.” Abilis is one of three foundations with this status. The other two foundation focus on human rights and the environment respectively. Abilis operates as brokers awarding small grants to

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with hearing impairments; people with intellectual and developmental disabilities; people with visual impairments. This agreement was entered into on the basis of FIDIDA winning an open competition of applications to become a partner organisation in 2009.

369 Ministry for Foreign Affairs Finland, ‘Guidelines for Civil Society in Development Policy’, (2010) 17-19. The guidelines describe the importance of civil society in meeting, the goals set by the international disability community.

grassroots/self-help disabled people’s organisations in the global south and currently has over 280 projects in forty-three countries.  

5.3.5 Evidence of Data Systems: Data collection and systems for Monitoring Impact

The Ministry’s main emphasis on data collection focused on how much money was allocated to expenditure on disability projects. Key informant BI1 commented, “we have the markers where you are expected to say if the work is disability specific and they can draw that and from there we know that about two and a half a percent of our monetary funding is spent on disability.” This system did not appear to be extended to focusing on data on how many persons with disabilities benefited from programmes funded by the MFA.

In terms of monitoring impact, key informant BI1 outlined the main system that the Ministry had in place for evaluation and how this has included persons with disabilities thus far. In general terms they commented, “we have the regular evaluation cycle in all activities, all the interventions that are funded by Finland. So every project has to be evaluated and that brings some knowledge to us.” They further explained how sometimes there were meta evaluations carried out. Key informant BI1 described this process as follows: “we produce what we call Meta Evaluations which are sort of pooling together evidence from several evaluations”. Disability has been included in meta evaluations of crosscutting themes and a specific report on evaluating ‘Finnish Development Cooperation from a Disability Perspective’.  

5.3.6 Processes in place for ensuring internal and external policy coherence

In terms of internal coherence and ensuring compliance (with mainstreaming the CCTs) the MFA has a system of guidelines and a system of checkpoints. They

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371 Ministry for Foreign Affairs Finland, ‘Guidelines for Civil Society in Development Policy’, (2010) 22, gives details about the special foundations that are funded by the Ministry, the foundations are described as “operating in sectors important to development policy”

appear to cut across the Ministry’s work to ensure that all desk advisers, consultants and contractors include the CCTs in their work. Key informant BI1 commented, “we have these guidelines that Finnish consultants must adhere to ensure the consideration of persons with disabilities {as part of the CCT’s} when planning, designing projects.” They further explained how the guidelines are in all the manuals for Finnish consultants, desk officers and there will eventually be an electronic system. It was being developed at the time of interview. It appeared from the interviews that these guidelines had a policy coherence role as they set out a list of points to check against the crosscutting objectives and within that, persons with disabilities.

Key informant BI1 described how the questions contained in the guidelines are aimed at creating a consciousness about disability at various stages during the project cycle. The first check is that staff must consider that the minimum requirement for all activities is that they do not result in direct or indirect discrimination. In a sense it could be described as a ‘do no harm’ imperative. Staff and external contractors with responsibility for planning and implementing projects must ensure that they do not contribute either directly or indirectly to the discrimination of persons with disabilities. The second check, which is to be completed at project identification stage asks staff and contractors to assess how relevant the intervention is in relation to the equal rights of persons with disabilities. Guidance is provided in the list of checkpoints on the issue of relevance. The relevance assessment places projects with human rights and disability components as high, and projects without any human development or social development as low. The third check is driven by data and information. There is a guideline sheet listing the information needed. This demonstrates to the agency that some research has gone into the project identification stage to show that disability has been considered. The fourth and fifth checks relate to

373 The relevance index describes projects that are not targeting social or human development as low in disability relevance. If the project aims at improving well-being of all people; aims at improving essential services for people in general; has likely health effects; has likely effects on employment opportunities income and asset distribution; may have an indirect impact on people with disabilities then the project is considered to have medium disability relevance. Finally, if the project deals with human rights and discrimination; involves health, education and social sectors including infrastructure; deals with prevention of diseases or accidents; has high impact on employment or income and assets distribution; has a group of people with disabilities or a disability component, then it is considered to have high disability relevance.
considering the impact of the project on persons with disabilities and any adaptations that might need to be made.

While the guidelines seem comprehensive in addressing the whole project cycle, a number of key informants identified that this system was not without its problems. First and foremost, key informant BI2 raised the point that “the system is based on the idea that the responsibility is by each sector themselves.” They imply that there was no overall coordination of checking to see if persons with disabilities (and the CCTs) were included in the different processes. Another issue arose with projects getting through the project system without making reference to disability and how there was no system to flag this. Key informant BI2 commented,

“what we want to do and what we need to do is to make sure that in our system we have checkpoints where the desk officer or the consultant, who may not have fulfilled the different levels of information, that they would not get an okay for their work before they have submitted it.”

They observed further that the new electronic system being developed will ensure projects are checked at each level, as outlined above, and that it has “certain gates where you can get through only if you have done certain measures.”

Additional to the system of checkpoints the MFA also has a Quality Assurance Board. Part of the role of the Board is to check the coherence of projects with its cross cutting objectives. However one policy official commented that as there are a variety of people around the table representing different portfolios, disability is not being systematically addressed. The members of the Quality Assurance Board rely on the expertise of advisers for second opinions when needed and there is a system check that for every project over €200,000 an adviser gives a second opinion. Key informant BI2 highlighted a weakness with this system.

“When we have to give the second opinion, hundreds of thousands of euros have been spent for the identification and planning so it would be kind of socially almost impossible for us to stop the whole thing {project on the basis disability wasn’t included} and go back to the drawing board.”
Key informant BI2 further commented,

“there is an argument that the quality check has to be done at the very beginning of the project cycle, at the identification…in the teams doing the planning we have to have expertise on the crosscutting objectives, including disability.”

In terms of external coherence with international law, key informant BI2 stated that Finland had not yet ratified the CRPD. However in terms of aligning with global policy on poverty reduction such as the MDGs, key informant BI2 remarked “we have been lobbying in order for the MDG to put more focus on disability.”

5.3.7 Processes for gathering input from the disability community

A number of key informants highlighted how the Ministry is ‘open to’ regular communication with the disability community. Key informant BI2 recalled “as long as I can remember we have had informal or more formal sort of meetings organised by us or by FIDIDA also for the larger community of partners who are involved in disability”. More recently, the meetings have been formalised; primarily as a result of FIDIDA’s partnership agreement with the Ministry but also because of the introduction of scheduled coordination meeting with civil society including the disability community. Key informant BI3 commented:

“We usually have twice a year joint meetings in the presence of the Minister and also the Director General of the Department and our unit, and then the organisations, so two or three persons from each organisation meet with us, and we discuss a lot of the general issues, but then we have special meetings with certain groups of experts within the organisations.”
5.4 Australian Agency for International Development (AusAID)

5.4.1 Introduction to agency frame of reference and its conceptualisation of disability

The Australian Agency for International Development (AusAID) manages Australia’s development cooperation policies and programmes. It aims to assist developing countries reduce poverty and achieve sustainable development, in line with Australian national interest. The main focus of AusAID’s work is with the governments of neighbouring countries to help them improve the way they deliver economic and community services. AusAID has a specific disability policy, which is discussed in more detail below. In terms of its conceptualisation of disability, AusAID as one of the latest bilateral agencies to develop a policy on disability has developed it in line with the social model of disability and the CRPD. AusAID recognises the various barriers that persons with disabilities face and the double disadvantage facing persons with disabilities living in developing countries, and this is reflected in its disability policy.

5.4.2 Policy approach

AusAID’s main policy instrument for mainstreaming persons with disabilities in their work is the ‘Development for All Strategy’ (DFA strategy), which was developed in 2008. The strategy has been recognised by the World Bank, the World Health organisation and the United Nations Department of Economic and Social Affairs as a model of good practice for inclusive policy development. It has won awards in Australia for the multi stakeholder consultation process undertaken to develop the strategy. In addition to the specifics measures

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375 AusAID, ‘Development for All Strategy’ (2008). The strategy states “we are concerned that people with disability in developing countries are doubly disadvantaged—first by poverty and then by social and economic exclusion. Overcoming the obstacles facing people with disability is often challenging. Indeed, in Australia we are still learning. Physical, cultural and economic barriers to social participation are not easily broken down. Beliefs and attitudes that marginalise or ignore peoples’ diverse needs and skills are difficult to change.”

376 AusAID took a very novel approach to the development of its strategy on disability inclusive development. From the outset, it appointed a Disability Taskforce to undertake the consultation process, which in the end took place in over 20 countries and had over 500 submissions. The
outlined in the DFA strategy, disability is now also embedded in the new Australia development policy ‘Making a Real Difference’ as one of its ten objectives. Key informant CI1 described how the inclusion of disability as one of AusAID’s objectives in its mainstream policy had increased it visibility in the agency. They commented, “that’s really elevated our status and we've really noticed it even from June there is now a lot more focus on disability”. Key informant CE4 commented how in their view disability, as a result of the consultation process and the inclusion of disability in overall AusAid policy, was now embedded in AusAid meaning “you are going to have something going on of a positive nature forever.”

Prior to the adoption of the DFA strategy, AusAID had a number of activities that focused on disability, however key informant CI1 highlighted how there was a lack of an overall comprehensive strategy “we were doing something here and there on disability but there wasn’t a comprehensive approach.” Out of the three agencies featured in this research, AusAID’s DFA strategy is the first bilateral agency policy to be developed after the adoption of the Convention on the Rights of Persons with Disabilities and after Australia’s ratification of the Convention. Once the Convention was adopted there was a drive to build on the existing work. Key informant CI2 observed, “the signing of the CRPD really fell into focus and the arguments for Australia to do this for its aid programme”. They further commented, “we were one of the first developed countries to sign, so I think that as well gave us quite a lot of momentum to develop the specific policy for the aid agency.” The strategy document describes how its consultation process itself was based on a document, which was developed internally and asked a number of key questions about how AusAID could improve its approach to including persons with disabilities. The strategy in that sense could be said to reflect the voices of disability community as key stakeholders and as one interview participant commented, the core outcomes as they appear in strategy were in response to what was communicated during the consultation process. It has been recognised by the World Bank, see footnote, and World Report on Disability and the United Nations.

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377 AusAID, ‘An Effective Aid Programme for Australia -Making a Real Difference- Delivering Real Results’ (2012) 2, 30. The policy includes enhancing the lives of persons with disabilities, as one of AusAid’s top 10 development objectives. Also disability is referenced as part of AusAID’s approach to promoting opportunities for all
378 Key informants described how prior to the adoption of the Convention, a lot of AusAID’s work focused on prevention of blindness
379 Australia ratified the Convention in July 2008
380 Along with the influence of the Convention an additional number of factors could be suggested led to the decision for AusAID to undertake this process. First and foremost, there was
implementation is guided by the CRPD and to ensure this, the principles upon which the strategy was developed are in line with the rights based approach of the CRPD.\textsuperscript{381} The principles are discussed in the next paragraph.

The focus of the ‘Development for All’ strategy is to support the practical approaches that are needed to ensure that the AusAid aid programme is meeting the needs and priorities of persons with disabilities. In terms of the status of the strategy within the agency, key informant CI1 described it as “strictly speaking, non-binding, but that it did hold equal weight to existing AusAID policies and thematic areas.” Key informant CI1 further explained why its titled a strategy rather than what some agencies would describe as a policy; “I think it’s more a strategy so it’s more – this is what we are going to do to improve the quality of life for people with disabilities.” Key informant CI2 commented how the strategy, therefore, was developed to support practical development outcomes. To do this, it sets out approaches to guide the Australia Aid programme, which are intended to move disability beyond a policy driven issue to one that becomes embedded and effectively changes the systems of how Australia delivers its development aid programs. Key informant CI2 further commented that the strategy’s purpose is to improve lives but also to filter disability beyond disability policies and into the mainstream. “It’s about making people’s lives better……and you can see the idea that disability implications are in the mainstream of all policy not only development policy but policy in developing countries.”

From an agency perspective, key informant CI2 explained how the strategy, while focusing on disability was really about bringing organisational change, especially in how AusAID does its work.\textsuperscript{382} They commented, “the key was

\textsuperscript{381} AusAID, ‘Development for All Strategy’ (2008) 2
\textsuperscript{382} See comments by Bruce Davis former AusAID Director General at the first meeting of the Reference Group on Disability (June 2009) where he stated that how ‘he looked forward to discussing how the aid program needed to change so that disability was reflected much more
looking at it as an agency-wide strategy rather than a specific policy….it was really a strategy about organisational change. What we were doing was changing the way AusAID worked.”

While the vision behind the strategy was one of bringing overall change to AusAID and how it works from a disability perspective, the strategy’s principle objective was defined as “supporting measures to improve the quality of lives of persons with disabilities through accessing the same opportunities for participation, contribution, decision making, and social and economic well-being as others.” The strategy is guided by six principles, which include:

1. an emphasis on an active central role by persons with disabilities focusing in particular on the promotion and enablement of active participation of persons with disabilities;
2. a recognition and respect for rights of persons with disabilities;
3. a respect and understanding of diversity, in particular the recognition that the lived experiences of people with disabilities are diverse and may vary depending on context;
4. a recognition of the interaction of gender and disability in particular the multiple forms of discrimination faced by men and women with disabilities;
5. an emphasis on children with disabilities; and
6. support to people and partnerships which highlighted the combined commitment, influence and experience of Disabled Peoples Organisations, civil society and wider actors.

The six principles are interesting for a number of reasons. First and foremost, in contrast to USAID and MFA, AusAID is first agency to name a set of overall

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383 AusAID, ‘Development For All’ (2008)
384 Ibid pg. 11
principles to guide its work on disability. Secondly, the principles signify how the narrative on disability has developed over many years by incorporating specific references to the protection and respect of the rights of persons with disabilities. While the strategy references the social model on disability, the guidelines demonstrate that AusAID is cognizant of the need to incorporate various other factors, which impact on the lives of persons with disabilities. These factors include intersecting identities and in the case of gender and children; multiple discrimination. Finally, the strategy gives concrete recognition to actively including and seeking the participation of persons with disabilities.

A number of core outcomes and enabling outcomes form the basis of the strategy. In terms of the approach to implementing the outcomes outlined in the strategy, key informant CE4 described how the consultation process AusAID undertook upheld the strategy principles. While recognising the importance of mainstreaming, participants at consultation meetings also recognised the importance of a disability targeted or specific approach. CE4 commented,

“in terms of the targeted approach… it’s a key part of our strategy and it was certainly a strong message that came out of the consultation that as well as mainstreaming disability is part of all that we do, there is a need for some targeted support in particular capacity building of DPOs.”

The twin-track approach is re-iterated in both the DFA strategy and the Mid-Term Review.

385 See AusAID, ‘Development for All’ (2008) 10. The strategy states “we believe disability is exacerbated by attitudinal, environmental and social barriers, which prevent people accessing services and opportunities and participating like others in society. Alleviating these barriers can promote and enable participation, inclusion and equality.”
386 ibid, see guiding principles pg.11 which references gender and children with disabilities
387 AusAID, “Development Companion for All”(2008) 29 which discusses that while the majority of submissions to the consultation process cited the need for both mainstreaming and disability specific approaches, most advocated a ‘twin-track’ approach which sees both mainstreaming and disability specific initiatives as complementary and mutually reinforcing. Also the submission identified how in some cases disability specific interventions might be required before mainstreaming would be possible
388 See AusAID, ‘Development for All’ (2008). See also Kelly and Wapling ‘Development for All Strategy Mid-Term Review’ (2012) 8. The review states that “the strategy aims to work through a twin track approach; that is supporting is supporting disability-specific activities that reduce barriers to participation while also integrating disability into all AusAID’s processes, systems programmes and policies.”
The core outcomes of the strategy, three in total, focus on a number of measures to improve the lives of persons with disabilities. The measures include improving quality of life for persons with disabilities; reducing preventable impairments, with an initial focus on blindness and road safety. Finally, the third outcome is for AusAID to model good practice and become an effective leader regarding disability and development on a global level. This measure includes supporting persons with disabilities in developing their own leadership potential and skills as the first level of action. Combined with the three core outcomes, the strategy also includes two enabling outcomes. These are capacity building within AusAID regarding disability and development, and an improved understanding of disability and development through developing strategic capacity building. Both sets of outcomes provide AusAID with the opportunity to influence the mainstreaming of disability in development issues on two levels. Level one focus is on issues such as education and infrastructure. The second level facilitates AusAID to focus on disability-specific work such as capacity building of DPOs and building leaderships on inclusive development issues. For the purposes of sustainability of disability in development, AusAID also recognises the importance of building internal expertise alongside working at a macro level in building strategic partnerships.

Core outcome one drives the majority of AusAID’s actions on disability. It includes a number of activities that provide comprehensive support to national governments; enable inclusive education and accessible infrastructure across all country programmes; and supporting disability specific initiatives including capacity development support to DPOs. This support enables DPOs to build

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389 The original inclusion of prevention as core objective two was a sensitive issue particularly from a disability advocacy perspective (see Chapter Two for discussion on this). The DFA strategy had recognized this by stating it was aware of the potentially damaging impact such an outcome might have in the current climate where disability is regarded as impairment when what it seeks is to respect diversity. However during the consultation process, it had come up as an issue during discussions with DPOs and persons with disabilities in partner countries and it also remained a significant public health issue in the programme countries AusAID worked in. So the objective was included referencing a targeted approach in areas such as malaria, landmines, leprosy and accidents. Since the publication of the strategy, a key informant highlighted how objective two has now moved to health sector programming in AusAID.

390 The DFA strategy describes it as the strategies principal outcome, see pg.16
effective leaders to bring about national change in their own countries.\textsuperscript{391} The explicit emphasis the strategy places on partnerships with national governments is interesting. While USAID and the MFA work with partner governments neither of their disability policies explicitly state the importance of support to partnerships nor present any detailed plans on disability.\textsuperscript{392} In terms of its support to governments, the strategy itself describes how AusAID focuses on supporting partner countries “showing evidence of strong national commitments underway to address the priorities of persons with disabilities” suggesting that AusAID may have a preference to work with countries that are already taking positive steps for persons with disabilities.\textsuperscript{393} At a conceptual level Kirsten Pratt (former Director of the Disability Inclusive Team in AusAID) describes a triangular diagram between AusAID, partner countries and disabled persons organisations, with interaction between all actors being multi-directional. From an AusAID perspective, arrows pointing towards DPOs and Partner Governments signify the support AusAID gives to (a) DPOs in the form of funding and technical assistance to support them to live their lives as envisaged by the Convention and also to drive work around the Convention e.g. advocacy; and (b) partner governments to assist them and support their efforts towards inclusive national development. There is also an arrow pointing from DPOs to partner governments, this indicates that AusAID envisages that as a result of its support, that DPOs will be drivers of inclusive development in their own countries and that partner governments will be responsive to that.

\textsuperscript{391} AusAID, ‘Development for All’ (2008) 14 – 20. The strategy outlines how AusAID perceives education and infrastructure are the foundation for economic growth and self-reliance and act as a springboard for increased access and opportunities into other areas. The commitments AusAID undertakes in education is to “to help get all children into school, including those with disability, and to support staff at all levels of the education system to improve access to quality education opportunities.” In terms of infrastructure the DFA strategy gives the commitment that where Australia’s aid program “has a role in the planning and/or construction of new roads, buildings, facilities and transport, including in the recovery from natural disasters or post-conflict situations, that they will work with partners, including people with disability, to ensure that, where possible, these are accessible for people with disability.” It also gave a commitment to building on existing efforts in infrastructure, including leveraging partnerships with multilateral agencies to improve access to essential infrastructure and services. These include education and health facilities, water supply and sanitation, transportation and energy.

\textsuperscript{392} MFA speaks of political dialogue (see earlier 5.3.2)

\textsuperscript{393} AusAID, ‘Development for All Strategy’ (2008) 14
One of the most interesting features of the strategy is the emphasis on the different actors involved in development in particular the role of partner governments. Key informant CI2 commented that:

“NGOs and Disabled Persons Organisations are important for service delivery and building a consciousness among persons with disabilities about rights. However there is also a need for government involvement to bring about the necessary legal change and enforcement mechanisms otherwise the donorees life goes back to what it used to be.”

### 5.4.3 Infrastructure for implementing strategy – disability focal point and budget support

AusAID’s strategy is supported in a number of ways. Firstly, by a dedicated disability team at their headquarters in Canberra. Secondly with support of a Disability Reference Group drawn from experts in the field of disability inclusive development, and thirdly through a contractual agreement for technical advice from a disability and development organisation. Key informant CI1 commented, “we have a team of six in Canberra”. They further commented
that the team comprises of a “director, two members focusing on partnerships, two focusing on internal support and one person focusing on results and performance assessment frameworks.” The portfolio of work managed by the team includes internal and external aspects. Key informant CI1 described the internal work as “providing technical advice, providing training, supporting the disability network.” The described the external aspects “focusing on our partnerships with the Pacific Disability Forum, the Disability Rights Fund and also stake holder management with organisations such as the Australian Disability and Development Coalition.” Additional support is provided to AusAID through a Disability Reference Group, the composition of which key informant CI1 describes, “half of the members have disabilities and they are high profile people.” 394 External expertise is contracted in through an arrangement with CBM Australia to provide technical expertise and support.395

AusAID has a specific budget line for disability. It was established in 2010, two years after the DFA strategy was published. Key informant CI1 commented “we did not get a budget measure until 2010, so up until then we were still doing something through existing money and the mainstream programme.” Since the original allocation of funding in 2010, key informant CI1 further commented, “we have a budget measure which is going up every year…between 2008 and 2015 there will be about AUS $140,000,000.”396 They further concluded, “having a specific budget has really enabled us to do more.” In terms of managing the budget, key informant CI1 commented that the management of the budget is centralised and remains with the disability team. They explained “some of the funding we give to posts to manage….but at the moment it’s {budget} is more centralized.” 397 While there is a specific budget line for disability, key informant CI1 commented how “if you look at what is happening agency wide

395 CBM Australia provides a range of technical assistance including communication and strategic advice to AusAID and in particular the disability team. In a sense this is quite novel as usually agencies relationship with implementing partners is one of delivery of aid programme, this relationship with CBM Australia spans both. The agreement that governs CBM’s technical advice is entitled ‘Improving the Quality of Life of People with Disabilities: Building Understanding and Technical Capacity for Disability Inclusive Development’
396 Aus $70,000,000 of the $140,000,000 will be for Avoidable Blindness
397 AusAIDs post are similar to USAIDs mission offices described earlier
there is a lot more.” Disability is incorporated into other budgets in the agency. Key informant CI1 commented, “through the NGO scheme, training fellowships, scholarships…and then some specific inclusive education programmes are being funded from the education budget.” They further remarked, “working out how much for these budgets was allocated towards disability would probably double what we’ve got {the disability team}.” However working out exactly how much goes towards disability was described as “quite challenging.”

In terms of the strategy implementation, AusAID is taking what is described as a considered approach, making a deliberate decision not to try and achieve everything at once. The strategy describes how a sequenced approach to each outcome will be followed, by building on existing efforts and opportunities.398 Key informant CI2 also made reference to this considered approach and described how in the beginning the work of AusAID is concentrated on a number of programme countries and that it will eventually replicate its work across others.399 They commented:

“We are really focusing on four countries, there’s Papau New Guinea and Samoa, and East Timor and Cambodia. East Timor and Cambodia we’ve been doing support probably from 2008/2009 and that’s been mainly support around developing legislation and policy.”

Along with the programme countries, key informant CI2 described how AusAID is also providing support to the Pacific Island Forum Secretariat. It achieves this by bringing together Pacific governments and supporting them to develop and implement a Pacific Regional Disability Strategy.400 In terms of achieving the other measures under core outcome one of the strategy (education and disability specific supports), key informant CI1 described how the disability section provides support for disability services that were not covered by other programmes. They commented:

398 Ibid pg. 12
399 See Wapling, ‘Development for All Strategy Mid-Term Review Report (2012) 7. The review describes how the strategy was originally designed to start with focus on the two sectors of education and infrastructure with two focus countries, Samoa and Cambodia, however due to the interest generated by the strategy and the political will, it was then extended to four countries
400 See Pacific Islands Forum Secretariat, ‘Pacific Regional Strategy on Disability 2010 - 2015
“There’ll be some sort of intervention or support that can be taken up by
the mainstreaming health and education programmes, and then from
our section {disability section} we might provide some additional
funding for disability services that aren’t covered from other
programmes.”

5.4.4 Project implementers

Along with its direct work with partner governments, AusAID also works with a
range of implementers to deliver its aid, direct country to country through
multilateral aid and through civil society. The most recent policy recognises the
important role that civil society, particularly NGOs play as partners in the
development and implementation of aid. In budget terms the agency provides
$488.4 million or eleven point two percent of Official Development Assistance
to NGOs. As with USAID and the MFA, there are a number of mechanisms in
which AusAid supports civil society to implement programmes and projects and
disability has featured in a number of them. AusAID supports the AusAID NGO
Cooperation Programme (ANCP) which key informant CI1 described as funding
to “Australian NGOs who manage in some cases to partner with a local NGO or
DPO but the money is channeled to an Australian NGO.” The process to become
an accredited organisation in the ANCP is competitive and organisations must
demonstrate how they can meet the rigorous demands set down. Key informant
CI1 further commented how through the ANCP programme “some NGOs are
identifying projects either which are disability specific or which incorporate
persons with disabilities within them.” However they noted, “we’re not really
getting good reporting what’s happening there”. Along with the ANCP
programme there is a range of other programmes to support civil society. One in
particular, the Australian Human Rights Grants scheme was highlighted by key
informant CI1 “as having a number of proposals which support DPOs in their

401 AusAID, ‘An Effective Aid Program for Australia Making a real difference—Delivering real
results’ (2011) 55. The strategy highlights the role of civil society organisations in delivering aid
from Australia “civil society organisations enables us to benefit from these organisations’ grass
roots networks, niche areas of specialisation, and presence on the ground. These organisations are
connected with local communities, and are able to engage on policy issues and deliver assistance
directly to those people who need it most.

402 AusAID, ‘AusAID-NGO Cooperation Programme (ANCP) Annual Program Performance
Report 2011’(2012). In particular see the section on ANCP Development Activities; promoting
opportunities for all, which describes a range of disability specific supports. See also the section
on Strategic Partnerships which describes the partnership with CBM Australia (a development
and disability organisation)
work”. Over the years, there have been a growing number of projects visibly engaged with disability through this scheme, which appear to timeline with the adoption of the Convention and the growth of disability and human rights work.\footnote{See Human Rights Small Grants Scheme 2007-2008 which gave details on two projects in Laos and Mongolia; Human Rights Small Grants Scheme 2008-2009 which details three projects, one of which had a specific focus on the Convention; see Human Rights Small Grants Scheme 2009-2010 which details five projects, two of which explicitly focused on the Convention on the Rights of Persons with Disabilities.}

5.4.5 Evidence of data systems: Data collection and systems for monitoring impact

In terms of data collection, key informant CI1 described how as part of the Development for All strategy they use mapping to develop services and as part of the data collection for reporting on achievements. In relation to gathering of information, key informant CI1 described it as “ad hoc so we do the mapping exercise prior to putting out the achievements report and that we way get a lot of information about what is happening in different programmes.” With regard to developing the strategy then they also highlighted how mapping was used: “we are doing a mapping of services in the Pacific at the moment with the hope that we can then develop a programme to better support disability services.”\footnote{AUSAID and Pacific Disability Forum, ‘Mapping of the disability policy and program frameworks in the Pacific’ (2012) – a report on mapping work completed by the Pacific Disability Forum (PDF) working with the Pacific Islands Forum Secretariat (PIFS).}

In terms of monitoring impact of the Development for All Strategy, AUSAID has a specific performance assessment framework. They have published a progress report marking two years into the strategy.\footnote{AUSAID, ‘Towards a disability-inclusive Australian Aid program 2009 -2014: Achievement highlights – the first two years’ (2010). In 2011, AUSAID produced a progress report marking two years into its strategy. This report outlined the range of activities it had been supporting since the beginning of the strategy. These measures ranged from supporting persons with disabilities and DPOs to have a central role in their lives and their community, partners governments taking measures to create inclusion for persons with disabilities, and creating accessible environments.} More recently, AUSAID published a mid-term review of the strategy, which included wide consultations and a call for submissions to give feedback on the implementation of the strategy thus far.\footnote{See Kelly and Wapling, ‘Development for All Strategy Mid-Term Review Report’ (2012) 54. The review found that the Strategy has provided “the basis for considerable change within AUSAID and the very fact of AUSAID having an explicit public policy statement about disability is having an effect in itself. AUSAID programs have been influenced by the Strategy.” The review}
AusAID overall, one of the most recent mainstream successes is the inclusion of disability as one of the ten development objectives of Australia’s new aid policy ‘Making a Real Difference’. The new aid policy signified the first policy in over fifteen years. Its five overall goals and ten objectives include an objective to enhance the lives of persons with disabilities. With the adoption of this policy, there is now potential that disability as one of its ten objectives will translate into the results framework that has been developed. Key informant CI1 commented,

“the real potential now is it {disability} being elevated, once it’s in the results framework, a lot of the quality and implementation reports will be modified with the new aid policy so I think things are going to get better in terms of the amount of reporting we get.”

**5.4.6 Processes in place for ensuring internal and external policy coherence**

In terms of measures to make sure that the agency is adhering to its commitment on disability, key informant CI1 described the main mechanism used as the peer review system of checking if disability is included in proposals for new programme development. They explained, “whenever a new programme is developed there is a process of peer review to get people around the table to comment.” They further explained, “we {the disability team} get a lot of requests to look at proposals at the beginning…and that’s our chance to say well that doesn’t really include disability enough.” They identified this peer review process as the opportunity to highlight when proposals are not “fitting with the development of all strategy.” In terms of external coherence with international law, key informant CI1 commented, “the DFA strategy is based around the Convention”. See chapter seven for more detailed discussion on this. Also, with regard to global poverty reduction strategies such as the MDGs, key informant CI1 commented AusAID has a focus on:

“ensuring that the MDGs do include people with disabilities and also the post 2015 framework…it’s a strong argument that we give people why

goes on to make a series of recommendation on the implementation of the strategy which include enhancing the disability inclusive development work in areas of education, health and infrastructure
to include people with disabilities in the aid programme so that countries can meet their MDG targets.”

5.4.7 Processes for gathering input from the disability community

As mentioned in the earlier section, AusAID has received accolades both domestically in Australia and internationally on the measures it put in place to ensure that input from persons with disabilities featured in the development of its policy. As part of the development of its strategy, AusAID undertook a widespread consultation which key informant CI2 described as “quite exceptional in that it put people with disability, their family and their carers at the centre of the process.” Key informant CI1 commented “we did around twenty consultation in twenty countries and also consultations in Australia.” From the outset, organisations representative of persons with disabilities were involved in the process.

5.5 Implementing mainstreaming policy: view of external key informants

The previous sections built a picture of how each of the agencies featured in this research describe how they mainstream disability. As stated in the introductory section, the information presented was gathered from interviews with key informants who were internal to the agency and also from a literature review of policy documents, evaluations and progress reports. This section focuses on the views from interviews with key informants who are external to the agency. As discussed in chapter three, the purpose of these interviews was to check in with key informants who were familiar with the agency’s work and who could provide a different perspective to the agency’s response to questions. The interviews with external key informants in particular highlighted the challenges faced by the agencies (in the view of the external informants) as they mainstream disability. The following paragraphs highlight some of the key issues raised. Many of the issues raised were quite similar to issues, which are raised, in the
next chapter where mainstreaming disability is discussed in the context of gender mainstreaming, its typologies and lessons learnt. See chapter six, section 6.2.

First and foremost, the lack of clarity, the applicability of mainstreaming across the totality of the agencies’ work and the issues of mainstreaming in traditional areas such as social protection and education were raised. When discussing what mainstreaming means or looks like with respect to disability, lack of clarity about what it means was raised by a number of informants. For example, key informant AE5 commented, “the challenge is that no-one knows what it looks like, how you fund for it, how do you plan for it, how do you get people to really understand the concept?” Key informant AE8 commented with respect to their respective agency, “they sort of throw it out there (meaning the term mainstreaming) and nobody really knows what it means.” These points align with commentary on gender mainstreaming theory, for example with Woodward who talks about conceptual confusion with mainstreaming. Along with the lack of clarity on mainstreaming the issue of whether there is a need to mainstream disability throughout the agency’s whole portfolio of work was raised. Key informant BI4 raised the point, “it’s not always necessary or the projects may be so small or focused in such a way that even the mainstreaming aspect has to explained.” Examples were given of forestry and the question of the relevance of mainstreaming disability in this context was raised; is it applicable? Key informant BI4 further commented regarding mainstreaming disability: “it’s a bit different from the gender equality because everywhere you have men and women and also children but disability and HIV could be a little bit more context specific.”

This issue of applicability or mainstreaming disability within a specific context, while a practical approach it could result in a project reaching a stage where disability has not been included. Key informant BI4 further commented, “it’s

407 Woodward, ‘European gender mainstreaming; promises and pitfalls of transformative policy’ (2003) Review of Policy Research 20 (1). Woodward discusses this claiming that ‘there is widespread misunderstanding and confusion over the meaning of mainstreaming and related concepts’ and mainstreaming can find it can be described as ‘a process or method and sometimes a strategy’.
very poorly reflected of course later at the stage when you get to the evaluation of the projects and disability is not included."

A key informant raised the issue of applicability of mainstreaming disability across all of the agency’s work; that is how mainstreaming disability fares in areas that are outside the traditional areas related to disability such as social protection or inclusive education. Some key informants raised the point that if the context is specific just to disability, it implies that disability is kept in its traditional areas and can result in minimal or no reference to disability in other contexts such as governance, political participation etc. Key informant AE5 commented that the agency claims that it is mainstreaming disability, however “no-one knows what that means in a specific context.” They further illustrated this point by remarking, “you have a main publication that every project implementer has to read on elections …and you have absolutely no reference to disability, to inclusion.”

In terms of the practical side of mainstreaming, a key issue, which arose during a number of interviews, was that mainstreaming disability was difficult to demonstrate in budget allocations and that monitoring its impact was problematic. Key informant AE5 commented how disability disappears within the mainstream budget “when we look at the project level or sector support, budget support, disability has disappeared”. Key informant AE5 further highlighted how, even when there is specific funding for disability projects “they {the agency} doesn’t have the ability to even add that up.” With respect to monitoring the impact of mainstreaming key informant AE5 highlighted a prevailing problem with donors; “they {donors} can sit around and say they don’t know how to monitor and evaluate a mainstream programme but no-one is taking the instance to look into it.”

With respect to implementation by each agency of their respective policies, a number of key issues were raised. First of all, across each of the agencies, key informants in each jurisdiction raised concerns that while each of the agencies had staff engaged with working on disability, the shared fear was what happens if staff leaves? Will there be a loss of knowledge? Key informant AE9
commented, “you have people who are committed to the cause, if you did not have these particular people it might be different and that’s a little scary because when people move on or if they go someplace else you might lose that.” Similarly key informant CE2 commented, “our donor agency like most government departments is constantly changing staff so that is a challenge.”

Secondly, a number of issues arose among key informants with respect to the agencies’ approach to implementing their policies, in particular the enforcement mechanisms available to them, resources and how the policy operated within a decentralized structure. With respect to the Ministry for Foreign Affairs a number of issues arose. Key informant BE5 raised, “the Ministry has not been able to transform from policy level into action.” They further commented, “so far for the policy to work the resources are definitely not there.” In terms of the policy reaching outside the headquarters they commented “the fact is we do not have any human resources in the embassies working on cross-cutting objectives”. Key informant BE7 commented with respect to the lack of a focal point on disability: “there is a staff person with five percent of his time, but he needs to be pushing all the time otherwise there is no visibility of disability.”

Key informant AE5 commented on the implementation of the policy directives of USAID, “you have to show that you will not discriminate against people with disabilities but it does not say show us how in this particular proposal, how this programme has been modified for people with disabilities.” They commented, “it doesn’t go the extra step to ask how and as such opens up loopholes.” Similar to Finland, key informants also raised issues with regard to awareness and knowledge about policy implementation outside the agency’s headquarters. Key informant AE9 commented,

“we went to several different countries…and the embassy and mission personnel. There are just a few people that are an exception that know about disability but across the board there just isn’t a lot of knowledge.”

Key informant AE6 remarked that a focal point with knowledge and competence was needed at each mission. They observed that it would be helpful,
“if each mission had a bona fide disability expert, not just someone who has taken the USAID online training course but someone who understands inclusive education etc.”

Key informant AE8 commented on how working with the decentralised structure of missions they had come up against problems with USAID missions not prioritising disability and therefore limiting access to the Disability Fund. They stated, “we are the ones who tell the mission that the fund exists.”

A third issue that arose was with regard to programming and the prevalence of specific programmes on persons with disabilities. In terms of Finland where disability is one of the crosscutting issues, key informant BE5 commented on the lack of focus on disability, they stated, “there are not enough development projects and there is not enough happening in the concrete development work.”

With respect to programming within USAID, key informants raised the point that there seemed much more of a focus on stand-alone projects. Key informant AE6 commented, “my concern is that there are a lot of stand alone activities going on that do not have a lot of money.” They further commented:

“USAID has provided a lot of funding and they have used packets of money sent over to the mission to develop a programme on disability or used funding to incorporate disability….nobody understands what that means and how things like reasonable accommodation can be used to make their programmes more inclusive.”

The final issue that came up in the key informant interviews was with respect to the various agencies’ and the inclusion of persons with disabilities and their representative organisations in the agencies’ development of policies and plans. A number of key informants discussed how they took measures to ensure the voices of persons with disabilities were included in their policies and plans. For example, key informant AE7 commented, “in each and every application coming with this office we look at the participation of persons with disabilities”

However, the commitment to real consultation is not without its challenges and a number of key informants identified them. First of all in terms of who are the representatives to be consulted, a question was raised: is it persons with
disabilities and DPOs in the donor country or in the recipient country? Key informant AE5 commented on the importance of including DPOs in the partner country the agency worked in:

“I think what might be more important for them is to build the relationship with the local DPOs because they’re the ones that can tell you as they’re planning projects, they are the ones who need to be consulted because they know the reality of the ground, their priorities, they know where the realities are.”

Secondly, an issue arose about ensuring representation of the diversity that exists within the disability community. For example, key informant CE3 commented, “What I would say was a weakness is that we didn't really consult specifically with children or sufficiently I think with young people.” The final challenge was raised by key informant CE2 who commented “once an agency opens itself up for input, it raises expectations for its commitments to be delivered.”

5.6 Concluding remarks

This chapter set out to establish a baseline of information, which builds a picture of how each agency describes in its own words its approach to mainstreaming disability. It also included reflection from external key informants who engaged with the respective agencies. This concluding section highlights a number of areas which help to give a sense of where each agency is with regard to mainstreaming disability, it also provides the basis for the comparative discussion in chapter six, where each of these agencies are discussed in more detail.

Firstly, the interviews and review of agency documentation gave a picture of how each agency conceptualised disability and also some sense of the overall frame of the agency’s work. Each of the agencies appeared to conceptualise...
disability in line with the social model of disability. References to their work on
disability focused on barrier removal: For example, USAID highlighted its
approach as “working proactively to remove barriers that may limit the full
participation of people with disabilities.” Similarly, AusAID, in recognising that
persons with disabilities are doubly disadvantaged in a development context,
described their approach as removing barriers so that persons with disabilities
could participate in their society. Finally, the Ministry for Foreign Affairs
contextualised their approach to mainstreaming disability by including persons
with disabilities as part of their crosscutting themes.

The interviews and literature review also gave a picture of the different
infrastructures that agencies had in place to support their commitment to
mainstreaming disability. This is discussed in more detail in the next chapter,
where the agencies are compared and contrasted. However, it is worth
highlighting in the concluding remarks of this chapter some of the commonalities
between the agencies:

• each agency had staff directly engaged in mainstreaming disability either
  through specific teams, or a focal person;
• each agency employed a range of supports to promote the inclusion of
disability throughout the agency’s work;
• each of the agencies utilised a number of mechanisms for internal and
  external policy coherence (however potential to enforce and sanction non
  compliance with policy seemed minimal or non existent); and
• each of the agencies worked with a number of different actors to
  implement their commitments to mainstream disability. For example,
  USAID and Finland channel the majority of their funding support for
disability through NGOs, (while Finland has a focus on bilateral
  cooperation through its education) while AusAID has a focus on
government-to-government and also NGOs.

Along with the internal key informant interviews, a number of interviews were
conducted with external key informants who provided observations and opinions
on the agencies and their approach to mainstreaming disability. Many of the viewpoints raised in these interviews were in line with issues raised in gender mainstreaming literature (discussed in more detail in chapter Six, section 6.2). The key issues that arose during these interviews included:

- the lack of clarity on the concept of mainstreaming;
- the applicability of mainstreaming across the totality of the agency’s work;
- the context specific nature of mainstreaming disability (for example, in areas such as social protection and education) and as a result the potential for mainstreaming disability in other contexts, such as governance and political participation can be minimal;
- the sustainability of the supports in each agency (particularly staffing and institutional knowledge) and;
- the lack of enforcement mechanisms to implement the policy commitments, particularly in the decentralised structure of the agency.
Chapter Six: Comparing agency approaches

6.1 Introduction

Chapter five presented a narrative on each agency that was based on key informant interviews and a review of agency policy documents and other internal material. As outlined in section 5.1, the intention with the narrative was to build a picture of how each agency conducts the business of mainstreaming disability. The second part of the research question regarding the challenges and achievements of bilateral agencies in mainstreaming disability is the focus of this chapter. The two-fold rationale behind this question was discussed in chapter three. Firstly, the question seeks to gauge from the individual agencies the differences and similarities that each had with respect to mainstreaming disability. Building on this, the second aspect is to place the experiences of agencies within the context of gender mainstreaming so that the challenges and progress could be discussed against established experience. This chapter is divided into two sections reflecting the comparative nature of this study and to realise the objectives stated above. Section 6.2 draws out the similarities and differences between the three agencies across a number of headings. These headings emerged from the interview data and broadly follow the headings assigned to the individual agency discussion in chapter five. The focus of section 6.3 is the agencies’ approach of mainstreaming disability in the context of gender mainstreaming. Conclusions with respect to the progress made and the challenges that exist for mainstreaming disability in the context of gender mainstreaming are presented in section 6.4.

6.2 Difference and similarities among agencies: policy approach and implementation

This section highlights the commonalities and differences among the agencies that were investigated in this research. Table 6.1 provides an overview of each agency across a range of headings. The headings, which emerged from the interview data, largely fit within the descriptors of policy approach and policy
implementation. Similar headings can also be found in studies comparing gender mainstreaming in agencies and institutions.  

Table 6.1: Overview of each agency across a range of headings

<table>
<thead>
<tr>
<th>Components</th>
<th>Activities</th>
<th>USAID</th>
<th>AUSAID</th>
<th>Ministry for Foreign Affairs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Twin-track strategy</td>
<td>Mainstreaming</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Disability Specific Activities</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Infrastructure for Implementation</td>
<td>Focal points</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Budget</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Project Implementation</td>
<td>Large Development Organisations</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Disability Organisations</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Disabled Persons Organisation</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gathering input from Disability Community</td>
<td>Formal Mechanisms</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Informal Mechanisms</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Data Systems</td>
<td>Data Collection</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Monitoring Impact</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Policy Coherence</td>
<td>Mechanisms to cohere with agency's commitment to disability</td>
<td>X (internal)</td>
<td>X (internal)</td>
<td>X (internal)</td>
</tr>
<tr>
<td></td>
<td>Mechanisms in place to cohere with external policy e.g. CRPD</td>
<td>X (internal)</td>
<td>X (internal)</td>
<td>X (internal)</td>
</tr>
</tbody>
</table>

The purpose of Table 6.1 is to give a visual representation of the agencies across the codes that emerged from the data. The substantive detail is discussed in the sections below. The table shows that each of the agencies has taken action under the different headings. For example, it highlights how each agency has employed the twin-track approach as a policy approach and that each agency implements its programmes through a variety of implementers. The implementers include development organisations, disability specific organisations and disabled people’s organisations (DPOs). It also shows that agencies have taken different measures in relation to ‘gathering input from the disability community’ and ‘data systems’. The table also highlights where gaps exist in areas such as data collection. However, it is important to point out that while the ‘x’ indicates that each agency had taken action under a specific heading it does not mean that the actions across each agency were implemented to the same extent nor does it cast judgment on the efficacy of the systems used by the agencies. These issues are discussed in more detail in the following paragraphs.

Moser & Moser, ‘Gender mainstreaming since Beijing: A review of success and limitations in international institutions’ (2005) Gender & Development, 13:2, 11-22. Moser and Moser found a number of components emerged which formed the basis of a gender mainstreaming policy. These components were a dual strategy of mainstreaming gender combined with targeted actions, gender analysis, a combined approach to mainstreaming responsibilities where all staff share responsibility but are supported by gender specialists; gender training; support to women’s decision making and empowerment and monitoring and evaluation
6.2.1 Differences

6.2.1.1 Policy approach to mainstreaming disability: the twin-track strategy

While all of the agencies cited among their objectives the promotion of equal opportunities or enhancing the lives of persons with disabilities, the data collected from the interviews highlighted that the agencies achieved these objectives through policies that differed in approach. All three of the agencies researched recognised that mainstreaming disability was important in order to achieve equality for persons with disabilities.\(^\text{411}\) Also each of the agencies adopted the twin-track approach to mainstreaming disability. However, their approaches to achieving this differed between two of the agencies (USAID and AusAID).\(^\text{412}\) They adopted a specific policy or strategy on disability as part of their mainstreaming approach. In contrast, one of the agencies (MFA) incorporated disability within an overarching theme of reducing inequality and incorporating a third track, which focused on political dialogue.

As discussed in chapter five both USAID and AusAID as part of their mainstreaming approach include a disability specific policy and strategy. These policy and strategy documents set forth each agency’s vision and commitment for including disability within its operation. AusAID also has included the aim of enhancing the lives of persons with disabilities in its overall aid policy. In terms of how USAID and AusAID include disability in their work, they have similar strategies. USAID’s approach primarily focuses on integrating or adding disability into its existing frameworks. This became apparent when a number of internal and external key informants discussed how USAID mainstreams disability. They described it as the “integration of disability” into existing programmes or, how the approach “adds (disability) on” to existing programmes or “building onto something that before didn’t exist.”\(^\text{413}\) As highlighted in chapter five, section 5.2.3, the objective of the Disability Fund, which is available to USAID missions, is described as providing small funding to develop

\(^{411}\) See Chapter 3, section 3.3.1 and 3.2.2
\(^{412}\) Ibid
\(^{413}\) Chapter 5, section 5.2
a taste for disability. Its funding allocation practice to date would seem to support this: eighty per cent funding to existing programmes and twenty per cent to standalone programmes. However, how this operates in terms of bringing about an overall changer in mind-set for including disability as part of programmes is uncertain. Key informant AI1 commented that disability inclusion, “probably wouldn’t happen unless we put money in for the activity.”

From an AusAID perspective in the ‘Development for All Strategy’ document there is minimal amount references to mainstreaming disability. Key informant CE5 suggested that one of the reasons for this was that they did not want disability to be considered “just another issue to be mainstreamed.” However, a number of key informants pointed out that the strategy was developed to bring about a change in the way that the entire agency, AusAID did its work. The strategy established the vision that disability would become a crucial element of the agencies overall work. This has been somewhat achieved to date with disability featuring in the core development objectives of AusAID general policy on aid effectiveness. Similar to USAID, AusAID referenced mainstreaming with regard to integrating or adding a disability dimension into already existent programmes. For example, key informant CI1 highlighted how AusAID “might provide some additional funding for disability services that are not covered from other programmes.”

Similar to USAID, the majority of AusAID’s focus was on disability specific activities which were outlined in chapter five. Key informant CE4 highlighted that during the consultation process, while persons with disabilities and DPOs agreed that mainstreaming was important, there was also recognition that there was a need for disability specific support. Unlike USAID and AusAID, the Ministry of Foreign Affairs in Finland does not have a specific disability policy. Instead it includes disability under the heading of reducing inequality within its crosscutting objectives, which are applicable or described as mainstreamed across the agencies work. However, as described earlier, while Finland’s focus was inequalities, their focus on disability within that was from a disability-specific perspective.
6.2.1.2 Policy implementation

Chapter Five (Sections 5.2.3 and 5.3.3 and 5.4.3) highlighted the infrastructure of each agency for implementing its approach to mainstreaming disability. As indicated from table 6.1, both USAID and AusAID had specific focal points at Head Quarters level with mid to good-sized teams. They also had some representation of disability at field level in mission offices (USAID) and at regional level (AusAID). The Ministry for Foreign Affairs did not have a specific focal point on disability. Instead disability was spread across a number of policy officials, which included the areas of social policy and human rights, and was also outsourced to external experts in social policy. From USAID and AusAID perspectives, the focus of the work of the different focal points or teams centred on a number of areas. The areas included ensuring compliance with their respective policy and strategy (as in the case of USAID), managing budgets and programmes (USAID and AusAID), training and information dissemination (USAID and AusAID) and working with external partners as implementers. Working with external partners, an approach adopted by all the agencies, in particular the Ministry for Foreign Affairs, which has a long tradition of outsourcing its disability work. The merit of deciding to have a focal point was discussed with each agency and also with the external key informants. In explaining a possible rationale for not having a focal point, key informant BI1 commented that one of the dangers of having a specific focal point on disability is that it acted as a disincentive for others to include it in their work. They commented, “when there is too much disability expertise in the house the others don’t need to bother so.” They also further commented on the challenge for agencies and their staff in working on a number of thematic issues: “some of my colleagues, they really get fed up with repeating a big list so it doesn't make sense because there are millions of issues.”

This issue of lists of thematic issues for example, gender, disability, HIV/AIDS was referenced across the majority of internal key informant interviews as a challenge. The role of identity-led interest groups was identified as a particular challenge to mainstreaming thematic groups. Key informant BI2 commented on the role of interest groups “who think that this {disability} is the only important
thing in the world”, indicating the issue of identity politics and the challenge for agencies to respond to the influence of identity led interest groups. The argument for a universal approach was put forward by a small number of key informants. For example key informant BI1 commented:

“Repeating a big list always. So it doesn’t make sense because you know there are millions of themes you can single out if you go this way. So it is much more important …that we try to promote generally a more…comprehensive social quality for projects.”

However the majority of key informants interviewed across all three agencies highlighted the merit in having a specific focal point to keep disability from being a forgotten theme. For example, key informant AE5 commented “I think having a full time disability coordinator has made real and significant change.” They further commented on the need to keep disability visible: “if you do not have one individual who can go to senior people and raise their hands every time, it just gets forgotten.”

Similarly, in terms of budgets, both USAID and AusAID had specific budget lines for disability, while also accessing mainstream budgets for disability inclusion; for example AusAID and its scholarship fund and Human Rights Grants. The MFA in Finland again differed from USAID and AusAID in their budgeting, as the MFA’s structure did not follow traditional thematic budget lines. However there was specific funding for a variety of projects at NGO level and also at multilateral level.414 A common theme between each of the agencies and budgets was that the expenditure on disability-specific projects was only a fraction of overall agency spend and there was difficulty in assessing where disability featured in the agency’s mainstream budget across all agencies. Finally, in terms of other measures the agencies took to build internal capacity, each of them used a number of similar tools. These tools included: internal training programmes, some which took place face to face and others online.

414 See Finland Development Assistance Committee (DAC), ‘Peer Review’ (OECD 2012) 47. The review describes how the Ministry’s budget is one of the most centralised budgets of most DAC members with seventy-four per cent being managed directly by the Ministry and going to European Development Fund, multilateral organisations, NGO’s, humanitarian aid and country and region specific co-operation. The remaining twenty-six includes Finland’s contribution to the EU’s Development Co-operation Instrument.
(USAID and AusAID); a set of guidelines, checklists and templates for promoting disability inclusion, particularly as each agency worked within a decentralized setting and with external contractors for project implementation (USAID, AusAID and the MFA); dissemination of resources and information (USAID, AusAID and the MFA); and finally, buy in of expertise to build internal capacity to implement commitments to mainstreaming disability (AusAID and MFA).

6.2.1.3 Project Implementers

Chapter Five (Sections 5.2.4, 5.3.4 and 5.4.4) highlighted how each of the agencies worked with project implementers. A similar issue that arose across each of the agencies interviewed was their reliance on civil society, in particular on NGOs through the delivery of programmes and projects to implement their commitments on mainstreaming disability. It is important to point out that this is not just unique to disability as most donor agencies work through NGOs. The reliance on NGOs varied across the agencies, for example the Ministry for Foreign Affairs in Finland depended strongly on NGOs where AusAID while working through NGOs as implementers also recognised the important role government had to play in implementing its commitments. Please refer to the implementation structure for AusAID, chapter five, section 5.4.2. Each of the agencies also had different systems of working with NGOs. Within the NGO working relationship they had different approaches as how to include disability organisations and DPOs as project implementers. These different approaches ranged from disability organisations managing programme implementation as in the case of the MFA and AusAID, to DPOs being recipients of grants through the USAID system and also AusAID’s capacity building grants. As discussed in chapter five, section 5.2.4, USAID mainly operates an open procurement or solicitation for funding and grants. This results in NGOs needing robust systems in place to absorb large amounts of funding and also the necessary capacity to deliver. In addition, this results in major challenges for small to medium sized disability organisations in successfully competing for funding. Key informant AE2 highlighted this issue: “we can not say we are only going to pick a DPO”, so therefore the DPO must compete against larger organisations who have teams of grant writers employed and who are well versed in development language.
Project implementation then by USAID comes through large-scale organisations described by key informant AE6 “as organisational capacity builders”. These organisations either sub-grant out to DPOs or work directly with disability organisations to implement projects.

While MFA and AusAID, similar to USAID, operate open competition for funding for project implementation, they also have additional layers to their relationships with project implementers that appear to be inclusive of disability organisations. First of all, both the MFA and AusAID have partnership agreements with agencies for programme implementation. These agreements are secured through a competitive process and the programmes are delivered over a number of years rather than being a once off project. Disability organisations have been successful in both the MFA and AusAID in securing these agreements. Further to these agreements, both the MFA and AusAID have a particular focus of channelling funding to DPOs in the South. For example, Finland has the Abilis Foundation, which sub-grants out to DPOs and AusAID provides capacity building grants to DPOs such as the Pacific Disability Forum.415

The variance of approaches by the agencies on project implementation highlighted an important issue for agencies to consider with regard to the inclusion of both disability organisations and DPOs in implementing development programmes. As discussed in chapter two (section 2.5.3), the range of actors implementing development is constantly changing and includes within its remit a host of government, private foundation and civil society actors (including disability organisations and DPOs). In addition to this changing range of actors, the emergence of the Convention with its emphasis on participation of persons with disabilities, and also the emergence of development approaches emphasising participatory approaches points towards the conclusion that disability organisations and DPOs should have a strong role to play in project

415 See Abilis
implementation. However, difference in opinion emerged across the key informants interviewed on this matter. Key informant AI1 questioned, “what added value do DPOs bring to project implementation? ” and pointed out that “sometimes allocating funding to small organisations without mechanisms to absorb it can descend into chaos.” The issue of capacity also emerged during the interviews. A number of key informants highlighted the need for procedures and protocols, to be in place in DPOs; the fact that many DPOs did not have systems in place was identified as a gap. For example, key informant BE5 commented, “much of our time was spent building systems for administration and that development work had not yet started.”

From the other perspective, key informant BI2 commented how disability organisations had the experience and the passion to implement programmes much more than a bureaucratic agency and also had stronger connections to grassroots levels. However, despite the recognition that DPOs had the experience and expertise, the question of the appropriateness of Western DPOs undertaking development interventions was raised. For example, key informant CE4 highlighted how through the consultation it undertook to develop its policy; one of the key issues that emerged was that the funding should be channeled directly to the organisations in the developing country rather than an NGO or a DPO based in the donor country. Each of these different perspectives raise interesting and very valid questions with respect to the role of DPOs and disability organisations for implementing programmes whose end goals are to improve the lives of persons with disabilities.

6.2.1.4 Process for gathering input from the disability community

Chapter five (sections 5.2.7, 5.3.7 and 5.4.7) described how each agency engaged with the disability community. Differences emerged in how the agencies went about gathering input or consulting with the disability community. With regard to the MFA, the key informant interviews identified a mixture of approaches by the Ministry to gathering input from the disability community. These approaches included the openness of the MFA officials to talk with the disability community,
both formally and informally, and also the potential for structured meetings to take place a number of times a year. With regard to USAID, a policy official identified that while the structures for funding were set, there was an open door policy for disability organisations to talk with them. Further to the open door policy, USAID engaged opinions of disability organisations in the development of the content of its internal disability-training programme. Finally, AusAID’s approach to gathering input differed significantly to both USAID and the MFA. AusAID’s approach to gathering input has a number of aspects to it. Firstly the consultation process set about involving the disability community in developing its strategy. While, as some interview participants commented, AusAID would now probably give people with disabilities more of a leadership role, for its time the approach was unique. The process for input gathering also did not stop once the consultation process concluded. AusAID continues to have structured input from the community through the Disability Reference Group and also through the involvement of the disability community in the review and monitoring of the strategy. Finally, one particular point that distinguishes AusAID’s approach to the other agencies is its active engagement with disability organisations in partner countries. Unlike the MFA and USAID who work through DPOs in the North in the case of Finland and missions in the case of USAID, AusAID took a decision early on to work directly with DPOs in developing countries. Key informant CE4 and CE3 pointed out that this was not at the exclusion of Australian DPOs but rather it had emerged during the consultation process that DPOs in programme countries did not want to work through an intermediary.

6.2.2 Commonalities
A number of commonalities emerged during the key informant interviews that reflect the headings covered under the policy implementation section. These commonalities are discussed in further detail below and relate mainly to shared difficulties shared by the agencies in tracking how their commitments to mainstreaming disability are met.
6.2.2.1 Evidence of data Systems: Data collection and systems for monitoring impact

Chapter Five (sections 5.2.5, 5.3.5 and 5.4.5) described how each agency set about collecting data on disability and the systems they had for monitoring the impact of their respective policies. Firstly, in terms of data collection across each agency the majority of key informants interviewed cited difficulties with disaggregating data on disability at a programme level and also at a structural level, for example in terms of budgets. When asked if in preparation for programmes was there evidence gathered in advance, key informants discussed how this was minimally done. Key informant CI1 commented, “we did draw on some of the data and some of the evidence but that probably wasn’t you know hugely comprehensive evidence based research process.” Secondly, in terms of collecting data on their disability-specific spend each of the agencies could estimate how much they spend on an annual basis, as in the case of USAID and AusAID, they had specific budget lines, and in the case of Finland they had markers which identified the disability spend. However, in terms of capturing where disability was included in mainstream budgets, this created difficulties for all of the agencies. Key informant CI1 commented how they had attempted it and found it “quite challenging to get it all worked out”; they query whether it was possible to work it out accurately or not.

“It would be probably double what we've got for our budget measure when you look at the assistance projects, what’s been funded through the NGO scheme, there’s a lot of training fellowships, scholarships or money going to conferences on disability and then some specific inclusive education programmes being funded from the education budget. When you look at what is happening agency wide there is a lot more.”

Thirdly, data collection proved problematic for each of the agencies. Key informant AE5 pointed out how disaggregation of data on disability is extremely difficult: they commented, “it’s not like looking around the room and saying male and female sex.” It was evident during the key informant interviews that none of the agencies had a robust system for collection of disaggregated data on disability.

416 See chapter five which describe the reports in more detail
In addition to shared difficulties faced by agencies with collection of data, there were similarities across the agencies with their struggle to monitor impact. Both AusAID and USAID produce reports which detail progress on the implementation of their specific policy.\footnote{417} As the newer of the policies, the ‘Development for All Strategy’ sets out a performance assessment framework for monitoring the impact of its work and AusAID also engages in a series of mapping exercises. Key informant CI1 stated, “we do the mapping exercise prior to putting out the achievements report and that way we get a lot of information about what is happening in different programmes.” They also published their achievements and progress. Through a two-year report card, qualitative detail on the programmes and project AusAID supported was compiled and presented. In addition as part of its strategy, external consultants carried out a midterm evaluation of the strategy.\footnote{418} USAID in their reporting on their progress on implementing the USAID policy also produce regular reports. However, these reports are a synthesis of self-reporting reports from missions and other bureaus within USAID and as discussed in chapter five have variances in their accuracy. Finland does not have regular reporting on disability and reporting overall on the impact of their policy commitments to disability is at a minimum.

\subsection*{6.2.2.2 Processes in place for ensuring internal and external policy coherence}

Each agency described the status of their policy as ranging from binding in the case of USAID, to holding the same weight as other thematic development themes (such as gender) in the case of AusAID, and finally as applicable across the agency’s work in the case of the MFA. A common issue among the agencies was the total absence of mechanisms and sanctions for non-compliance or non-coherence with the policy or strategy. Internal compliance across the agencies was pursued through a range of awareness-raising mechanisms, which included training or information sharing or monitoring by disability focal staff of policies and programmes for inclusion of disability. Further to the awareness raising, agency staff also played a role in peer reviewing or checking that disability was

\footnote{417} Ibid
\footnote{418} Wapling & Kelly, ‘AusAid Development for All Strategy Mid Term Review Report’ (2012)
included in programme proposals. In the case of AusAID and the MFA, staff provided reminders or prompts upon reviewing proposals. In the case of USAID, there was a reliance on both staff and external project implementers to highlight where disability language was not included in their procurement system. However, this system of peer review across each agency did not appear formalised and in some cases (see chapter five sections 5.2.5 and 5.3.5) happened too late when projects had reached a stage of no return and had to be implemented.419 With respect to compliance and the impact of the policy in the agency, a number of key informant comments were particularly informative. Key informant AI2 commented, “we don’t have a policing role” indicating that their approach was as described earlier through mechanisms of information and awareness. They also commented that there has been no evidence to-date of their agency looking for money back on non-compliance with the disability policy whereas this has happened with respect to other policies.420 Furthermore, key informant CE3’s comment was particularly telling in regard to the issue of compliance without any penalties. They commented “gender mainstreaming was approached with a stick like approach, we are approaching disability from a carrot perspective.” While a persuasive approach is needed and each of the agencies appears to take this approach with their policies, the difference with respect to disability is that unlike gender mainstreaming, disability mainstreaming is supported by the CRPD.

Finally, in terms of external policy coherence, each of the agencies referenced the CRPD as either being at the heart of how their policy was developed (AusAID), or as a standard for programming as in the case of USAID who has not yet ratified the Convention yet worked in countries where it had been ratified.

419 Key informant no BI4 commented how in Finland if a project went over €200,000
420 Key informant AI2 commented on Inspector General of USAID.
6.3 Mainstreaming disability - integrative, agenda setting or transformative?

Gender mainstreaming has over twenty years of experience at international and bilateral agency donor level. Disability mainstreaming remains a newer theme within international development. However, it has gained momentum over recent years particularly in light of the adoption of the CRPD. As stated in chapter one however, despite the level of activity over the past ten years from an institutional perspective, there is a lack of assessment of the key gaps between policy and operational issues. Information on best practices and documented successes of mainstreaming disability are also lacking. This lack of evidence as to how mainstreaming takes place is not exclusive to disability. It has also been an issue for gender mainstreaming. Researchers have found that evaluating the success or otherwise of gender mainstreaming is not without difficulties due to issues such as conceptual confusion, and variance in understanding of what the outcome of gender mainstreaming should be. Nevertheless, in the absence of literature on mainstreaming disability in development and the lack of any type categorisation of actions taken to-date by bilateral agencies on mainstreaming disability, gender mainstreaming provides a context to discuss progress and gaps. Both chapter five and earlier sections of this chapter provided an inter and intra agency view of the three agencies. Chapter five provided a detailed analysis of each agency’s approach to mainstreaming disability. The first section of this chapter drew out the agencies’ experiences, their similarities and their differences across a range of headings that emerged during the data analysis stage. This final section places the data collected through this research in the context of gender mainstreaming.

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422 United Nations Economic and Social Council, ‘Mainstreaming in the Development Agenda’ (2009) 3, E/CN.5.2010/6. The report found that “there has not been extensive experience in mainstreaming disability and so there has been little opportunity to evaluate best practices or share information on implementation”
424 See Albert and Miller ‘Mainstreaming Disability in Development: Lessons from Gender Mainstreaming’ (2005) 4. Albert and Miller suggest that “even though gender mainstreaming only became a widely adopted strategy from the mid-1990s, there is both a wealth of experience in its practical application and a substantial critical literature which is useful to the discussion on mainstreaming disability” This report was produced as part of the Disability Knowledge and Research Programme funded by DFID and is available online at: http://r4d.dfid.gov.uk/PDF/Outputs/Disability/RedPov_gender.pdf > accessed 10 March 2014
literature in order to facilitate a discussion about the progress made and challenges encountered in mainstreaming disability. In particular, it aims to classify the measures taken by the three agencies on mainstreaming disability to-date within an existing typology of mainstreaming (described below) and, by doing this give an overall sense of how each agency has conceptualised mainstreaming disability.

In broad terms, the discourse on gender mainstreaming has identified a variety of different typologies for mainstreaming; namely integrationist, agenda setting and transformative, all of which view mainstreaming outcomes as inclusion, reversal or displacement. These models to conceptualise gender mainstreaming are an attempt to understand the variety of strategies and mechanisms used by agencies and governments to mainstream, and also to highlight that the different typologies are not mutually exclusive. As Squires explains “it is not necessarily about pitting these explanations against each other but rather to understand that one could reasonably suggest they are all relevant and useful analytically to understand mainstreaming”. The different typologies are referenced in the chapter two and explained in more detail below.

Squires describe the integrationist approach as entailing a focus on gender experts and the bureaucratic creations of evidence-based knowledge in policy making. The gender experts usually aim to integrate a gender perspective into existing policy frames without questioning them. Its impact is then measured by the degree to which mainstreaming practices are “embedded within organizational practices, through the adoption of mainstreaming structures and

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425 There are a variety of authors who have conceptualized these typologies for example see; Squires, Gender in Political Theory (Polity Press 1999), Squires suggests there is three analytically distinct ways of conceptualizing mainstreaming informed by three theoretical frameworks of inclusion, reversal and displacement; Rees ‘Reflections on the uneven development of gender mainstreaming in Europe’ 2005 International Feminist Journal of Politics, Volume 7, Issue 4. Rees describes the three typologies as “tinkering, tailoring and transformation”; Jahan, The Elusive Agenda – Mainstreaming Women in Development’ (Zed Books 1995). Jahan broadly defines gender mainstreaming within two approaches; the integrationist or agenda setting (transformative approach) or the expert led or participative-democratic approach


instruments, such as mainstreaming units, gender disaggregated stats and gender impact assessments.” 428 The second approach is the agenda setting approach, which focuses on the politics of presence and the recognition of marginalised voices. Its measurement is gauged against how a range of individuals and organisations are invited to participate in policy formulation. Finally, the transformative approach places a focus on the presence and empowerment of disadvantaged groups via consultation with civil society organizations. Such an approach is thought to facilitate a rethinking of existing policy paradigms from a gendered perspective and is described by Squires as complex in terms of measuring impact.429

From the data gathered for this research, it is possible to look across the interview narratives and documentary analysis of each agency to gauge where disability mainstreaming currently lies within Squires analytical framework of mainstreaming. The data that emerged provides evidence to justify the placement of disability mainstreaming either within one dominant approach or relevant to all of the three approaches. Squires claims that most mainstreaming efforts would lie across the three approaches.430

First of all, from an integrationist approach, the first review of the interview narratives identified codes that fit neatly into this approach. In addition the codes could also easily relate to what Squires and other gender mainstreaming academic describe as a set of mainstreaming mechanisms or instruments e.g. gender analysis, data disaggregation. In the first round of coding which in total had twenty-two codes, 343 references were attributed to the code Operationalisation of Policy. The descriptor for this broad code was ‘any references in the interview narratives that discussed measures, activities and tools to implement disability mainstreaming. The initial review of the data highlighted some codes that have particular relevance to mainstreaming techniques (as

429 Ibid
Hafner and Pollack would describe it). These included evidence of data on disability, mechanisms to measure results, policy coherence disability proofing. The second round of coding then categorised the original twenty-two codes into the manageable number of seven. Operationalisation of Policy was renamed policy implementation and it remained the code with the highest set of references attributed to it. Chapter five and earlier sections of this chapter discussed the majority of actions that the agencies are currently taking to mainstream disability. As previously noted, the actions included the establishment of focal points, policy guidelines and a variety of tools, which included information resources and training. These actions signal that each agency placed an emphasis (to varying extents) in establishing an infrastructure and a set of mechanisms to ensure that disability was mainstreamed in the agency’s work. These mechanisms reflect an integrationist approach taken by agencies; as understood by Squires and others; to mainstreaming disability.\footnote{Evidence to further support the agencies taking an integrationist approach included comments from key informants who used a number of phrases to describe how they mainstream disability and these ranged from ‘adding on’ to ‘building onto’ or ‘filling gaps’ (see Chapter 5, section 5.2.1, 5.3.1 and 5.4.1).}

In terms of the integrationist approach, Squires and Daly while recognising that policies and techniques are important, question how these aspects change the overall way that the agency does its business. For example, Daly describes the business of mainstreaming (from an integrationist perspective) as “a set of techniques of policy praxis which can be implemented without a significant engagement with the transformative potential of the analytic frame.”\footnote{Daly, ‘Gender mainstreaming in theory and practice’(2005) Soc Pol, 12 (3): 433-450.} Squires describes the challenges or weakness of this approach as de-limiting the potential of mainstreaming due to the compromise needed to ensure that the mainstreaming tools fit easily within existing policy processes.\footnote{Ibid at footnote 448, pg. 374} This has particular relevance for the experience of the agencies researched in this thesis. In addition, it features as one of the main challenges in the implementation of the agency’s mainstreaming commitments to disability. While there was no doubt that the agencies that on paper have made commitments to mainstream disability, the issue of whether it has become a core part of the agency’s work or, what Daly describes as becoming a real disruption of the business as usual for the agency, is
questionable. The evidence gathered from the data collected for this research would not suggest a disruption of business as usual for any of the agencies featured in this research.\textsuperscript{434} The external key informants in chapter five, section 5.5 appears to support this view. For example, they discussed a number of challenges to mainstreaming disability. (See list of challenges on page 181). The research data also pointed to two additional areas that raise further questions about how far the agencies go to engage with disability issues. First of all a factor common across each of the agencies interviewed was the issue of outsourcing.\textsuperscript{435} The majority of the programmes on disability to project implementers whose main feedback loop to the agency was of a financial nature. They were expected to justify how the money was spent rather than provide any qualitative data on how the lives of persons with disabilities had been improved or lessons learnt through their work.\textsuperscript{436} This issue raises the question as to how do lessons learnt about what works and what does not work get fed back into the agency, and how does the agency respond to legal and policy changes? Aside from the project implementer work on disability, in terms of actual government-to-government work (with the exception of AusAID) and agency to multilateral (with the exception of Finland), the data also showed that approaches to mainstream disability outside the civil society project implementers were incremental.

A second issue that arose was the absence of any formalised internal processes, which could hold the agency to account for not fulfilling their own policy commitment to mainstreaming disability. This could change in the coming years with the Convention and its requirements to report under Article 32. However, at present the issue of non-compliance is dealt with through measures such as training and awareness-raising. Therefore any consequences for not including disability in programmes are not created and little or no incentive to mainstream disability across the agency’s portfolio is provided.

\textsuperscript{434} AusAID would argue that their whole process for developing the disability strategy was about changing the way AusAID did business and that the recent inclusion of disability in its overall strategy meant that it was now embedded remains to be tested in the coming years.
\textsuperscript{435} See earlier discussion about project implementers in section 5.2.4, 5.3.4 and 5.4.4
\textsuperscript{436} Except for Australia
However, as discussed earlier, while the agencies had more similarities than differences, they were not homogenous in their approach to mainstreaming disability. A mixture of methods were identified as supporting mainstreaming disability. Therefore, categorising all of the agencies’ actions within a purely bureaucratic or integrationist approach does not give a true picture of the agencies approaches to mainstreaming disability. The data from this research also pointed to measures that fit within an agenda-setting model of mainstreaming.\textsuperscript{437} Agenda-setting has been described as focusing on particular organisations that represent the views of persons with disabilities and also ensuring that the voices of persons with disabilities are included in the policy process; that they had a voice at the table.

In the first round of coding there were a number of codes that included references to how the agencies included persons with disabilities in the implementation of its commitments to mainstream disability.\textsuperscript{438} The second round of categorising codes resulted in two codes: one called Processes for Gathering Input and Project Implementers. The majority of references from the interview narratives citing where people with disabilities and their representative groups were consulted with or were involved in policy designs and monitoring and project implementation fit within these two codes. The first code is important to reference when discussing if there was evidence of an agenda-setting approach to mainstreaming disability is the code Process for Gathering Inputs code. This code included ninety-five references where key informants gave details about how each agency included persons with disabilities and/or their representative organisations in the different stages of the policy process. In terms of what the data revealed it was clear that in the development of their approach to mainstreaming disability, each of the agencies were to some extent externally

\textsuperscript{437}Squires, Judith, \textit{The New Politics of Gender Equality}, (Palgrave, Macmillan 2007). The agenda setting or transformative approach is also known as the participatory/democratic model. Participative-democratic (or agenda setting) approach focuses on the presence and empowerment of disadvantaged groups via consultation with civil society organizations thought to facilitate a rethinking of existing policy paradigms from a gendered perspective. The agenda setting approach allows for a broadening out of the range of actors involved in the policy-making process.

\textsuperscript{438}For example, the initial round of coding had working with the disability community, consulting with the disability and working with civil society, as the line were blurred with these codes, for example, the disability community is part of civil society. Therefore changes were made to reflect this.
influenced by the organisations representative of persons with disabilities.\textsuperscript{439} This was previously presented in sections 5.2.2, 5.3.2 and 5.4.2 of chapter five. Secondly, as discussed in chapter five, the data demonstrated that each of the agencies had a variety of mechanisms, both informal and formal, to consult with the disability community. These ranged from informally stating, “our door was always open” (as in the case of USAID) to “yearly meetings” as in the case of Finland. Out of the three agencies AusAID emerged as the agency that has made the most significant progress in opening up its policies and processes to include persons with disabilities and their representative organisations. Its decision to do so has been widely recognised as a model of good practice.\textsuperscript{440} For example, key informant CE4 described it as quite exceptional in that “it put people with disability, their family and their carers, at the centre of the process.” Therefore it is argued that AusAID engaged with an agenda-setting approach. AusAID’s inclusion of the voice of persons with disabilities and their representative organisations did not cease after the consultation. In its strategy it defined a role for further consultation in terms of the mid term review of the strategy. This took place in 2012. In comparing the agencies, an important point to note with respect to AusAID’s leadership in this area vis-a-vis USAID and the Ministry for Foreign Affairs is that the CRPD was ratified by Australia in 2008. The fact that Australia ratified the CRPD could go some way towards explaining why AusAID engaged in such a participatory process.

The second code relevant code under the heading of agenda setting is the Project Implementers code, which included all references to project implementers. What emerged when reviewing the data in this code was that the three agencies worked with organisations representing persons with disabilities in a variety of ways with some placing a strong emphasis on it. Two agencies in particular (AusAID and the Ministry for Foreign Affairs) placed an emphasis on working with DPOs and organisations working for persons with disabilities as project implementers. The

\textsuperscript{439} For example the National Council on Disability in the US and the Australian Coalition on Disability and Development, both organisations were recognised by their respective agencies (USAID and AusAID) as playing a part in the process, which led to the adoption of policy commitments to mainstream disability. Similarly the presence of a parliamentarian with a disability in Finland was recognised as influencing the development of the Finnish approach.

\textsuperscript{440} While USAID and MFA do not have any formalized approach to gathering input from the disability community nevertheless do engage with the disability community at different junctures.
Ministry for Foreign Affairs in Finland in particular channeled the majority of its NGO funding to organisations led by or working on behalf of persons with disabilities. AusAID also worked with DPOs in the partner countries. However, USAID, while remaining open to collaboration with DPOs and organisations working for persons with disabilities, did not place as strong an emphasis on it.

The agenda-setting approach has the potential to open up the policy dialogue seems to more of a democratic approach then the expert-led integrationist approach. However, it is not without its challenges. Squires et al, for example, raised a number of concerns. One of their concerns was the tendency of the agenda-setting model to reify group identities. In doing so Fraser suggests this imposes a “single drastically simplified group identity which denies the complexity of peoples lives, the multiplicity of their identifications and the cross pulls of their various affiliations.” A point similar to this was presented in chapter two of this thesis. In chapter two, the argument that for effective mainstreaming the focus needs to be from a holistic perspective, which captures incidences of discrimination, that are unique and contextual and not solely through a disability lens was put forward. This issue with agenda setting, which Fraser raises, can be seen in the data collected for this research.

Firstly, the data revealed a code, named Disability Specific. As discussed earlier, as part of the mainstreaming approach the twin-track strategy provides for support for disability specific measures. However, what the data revealed was that the majority of measures undertaken by the agencies were disability-specific. Secondly, with respect to what Fraser describes above as the failure of the agenda-setting approach to recognise the multiplicity of identifications and cross affiliations a persons with a disability may have, the data highlighted that there was little crossover between disability and other thematic issues such as gender and people living with HIV/AIDS. This is discussed in more detail in chapter seven, which details how each agency had limited activities which focused on the relationship between disability and gender, and also from within disability a limited focus on women with disabilities. The final issue that arose within the

441 Fraser, ‘Re-thinking Recognition, New Left Review’ (2000)
data and which also finds resonance within criticisms of agenda-setting is who constitutes the most representative voice. Authors in the gender literature have discussed the fragmentation of the women’s movement; and similarly, the disability movement has been recognised as fragmented. While there was a consensus across key informant interviews that including the voice of persons with disabilities was very important at policy and programmes level, there were some comments from key informants that would point to this problem of fragmentation and indeed raise the issue of whom has the right to claim the representative voice. One particular example arose during interviews with key informants in Australia. While AusAID has received many accolades for opening up their policy process to include the voices of persons with disabilities its approach to the consultations was not without criticism. The Australian disability community had played an influential role in bringing about the political will for the development of the strategy. Key informant CE3 described how the decision to start the process in partner countries and end it in Australia with disability organisations reflecting back on the process created tensions. They commented,

“our first port of call was to go out to the countries and to wherever possible start our conversations in those countries with the people with disability and their groups and organisations and we finished it in Australia.”

They further commented that this decision caused “tension because some of the people with disability organisations here in Australia feel they’ve not been as much a part of it as they would have liked to.” This experience of AusAID raises an important question for consideration by agencies as they open up their policy processes, where is their space for the voice of DPOs in developing countries so as to ensure representation of their actual experience?

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6.4 Concluding remarks: Mainstreaming disability – the success and challenges

In this chapter and in chapter five a picture of the three agencies – AusAID, USAID, MFA – has been built using the data collected from key informant interviews and policy materials. The purpose of this chapter is to answer the question, what have been the challenges and achievements of bilateral agencies in mainstreaming disability? To answer this question, the discussions on the experiences of agencies to-date was framed within the typology approach put forward by Squires. This approach provided a benchmark for mainstreaming disability against the experiences of gender mainstreaming. Thereby providing context to the discussion on mainstreaming disability. What is clear from the discussion in this chapter is that each of the three agencies featured in this study employs a combination of both the integrationist approach and the agenda-setting approach to mainstreaming disability. Within both of these approaches, the agencies have had some successes but also continue to face a number of challenges. Firstly, in overall terms with regard to the successes and gains made by the agencies, the research data points to the fact that each of the agencies has an infrastructure (to varying extents) in place to support their commitment to mainstreaming disability. There is also a set of tools and mechanisms to mainstream disability and each of the agencies have a number of successful processes to include the voices of persons with disabilities and their representative organisations.

However, a challenge that exists is that despite having these tools and infrastructures in place, the question as to what extent they are engaging with the overall frame of how the agency is doing its wider development work remains unanswered. For example, it is not just under the auspices of the agencies’ civil society work, which has been the pre-dominant focus to-date. Also as highlighted in chapter five, the tools and measures described by each of the agencies appears to place more of an emphasis on raising awareness of disability as an issue for inclusion or mainstreaming through providing training and resources. Yet when it came to programming, while each of the agencies had some form of process to check if disability is included in programme proposals, none of these processes
appeared to be formalised. Rather they happened through a peer review process and relied on individuals (from both inside and outside the agency) to identify when disability was not included. The data also pointed to the fact that none of the agencies use formalised mechanisms such as impact assessments or disability analysis linked to allocation of funding or programme approval. Also the similarities that were discussed among agencies in section 6.1.2 highlighted how each of the agencies grappled with monitoring the impact of their commitments to including disability. It also highlighted how none of the agencies had penalties in place for not including disability in the overall business of the agency. All of these issues have resonance with what has been previously highlighted in gender mainstreaming literature. This suggests that mainstreaming disability has had similar experiences to what has been recorded in the gender literature with regard to challenges to implementing mainstreaming. However, unlike gender mainstreaming, disability has not yet progressed beyond the infrastructure and tools into the use of analysis or impact assessment.

As discussed earlier, the trend in gender mainstreaming is now moving toward a realisation that while tools and structures comprise one part of mainstreaming, what is also needed is a social justice perspective. A social justice perspective moves beyond mainstreaming purely from a utilitarian perspective and instead focuses on recognising diversity and the inclusion of the voices of persons whom mainstreaming policies are targeted at. In assessing where mainstreaming disability fits with this thinking on mainstreaming, the data from this research points to progress in particular with one of the agencies. AusAID, who took action to include the voices of persons with disabilities in the development and also the ongoing monitoring of their policy made the greatest progress to date. However, whether any of the agencies are engaging with a transformative approach as suggested by Squires and others, is discussed in the next chapter, where the focus is on the key elements of the theory supporting the research in this thesis.

443 See earlier footnote in chapter 3, footnote 175
Chapter Seven: The agencies and the three elements for mainstreaming

7.1 Introduction

Chapter five and six presented a narrative on the range of measures each agency takes to mainstream disability and highlighted the similarities and differences between the agencies. Chapter six concluded that each of the agencies have much more in common than they have in differences when it comes to mainstreaming disability. Where these commonalities exist coalesce around the mechanisms used by the agencies to implement disability mainstreaming, and the common challenges that exist with their implementation as identified by key informants. Chapter six concluded by benchmarking the experience of mainstreaming against the different typologies of gender mainstreaming.

This chapter addresses the final research question, what future steps need to be taken by bilateral agencies to act in coherence with Article 32 of the CRPD? It seeks to answer this question by focusing on how each agency fared across the key components of the theoretical framework underlying this thesis. As discussed in chapter two, the conceptual model for this research is based on a combination of theories. The theories have a number of commonalities, which can make a contribution to enhancing measures to mainstream disability in development policy. These include; their approach to understanding marginalisation and disadvantage, placing it within a broader understanding of equality; how they encourage a more responsive State to take measures to create opportunities and potential for people with disabilities; and finally, how they place an emphasis on the active participation of those who are most marginalised in the planning, development and monitoring of policies.

The conceptual model (see Diagram 7.1), discussed in greater detail in chapter two forms the basis for investigating how each agency fared across the three key elements of this research. These elements are: (1) how responsive both the Donor State (where the bilateral agency resides) and the Recipient State in receipt of
donor aid are to progressing the rights of persons with disabilities; (2) how bilateral agencies recognise the diversity of disability and its intersection with other thematic areas such as gender and HIV/AIDS; (3) and how each agency recognises and includes the voices of persons with disabilities in its planning, policy development, monitoring and evaluation. The first and second elements are discussed in more detail in section 7.2 and section 7.3. Section 7.4 highlights a case study, which focuses on the active inclusion and participation of persons with disabilities, reflecting the third element of this research’s theoretical framework. Section 7.5 provides concluding remarks.

Diagram 7.1: Framework for Analysis

Diagram showing the relationships between CRPD Obligations, Donor State, Development Aid, Donor Recipient Country, Mainstreaming Disability, Engaged responsive state, Active participation of persons with disabilities, and Recognition of diversity.

7.2 The role of the responsive State

The first element discussed is the Responsive State. Fineman’s concept a ‘Responsive State’ is described as a State that acts in the capacity of guarantor of equality and recognises that societal institutions play a significant role in maintaining and extending inequality. Fineman argues there is an obligation on a State to ensure access to societal institutions and also to ensure that the
opportunities they provide are accessible to all.\textsuperscript{444} Thereby implying that actions taken on behalf of the State must be cognisant of how their impact can create disadvantage for different groups in society. As discussed in chapter two, for the purposes of this thesis Fineman’s concept of the ‘Responsive State’ is applied to exploring how Donor States and their respective bilateral agencies implement international development to create opportunities and potential for persons with disabilities in developing countries. The conceptual map (Diagram 7.1) shows as discussed in chapter two: the concept of Responsive State should not solely focus on the Donor State but should also focus on the Recipient State. While the focus of this thesis is primarily on obligations of the Donor State under Article 32, both the Donor and Recipient State have duties and responsibilities for promoting the rights of persons with disabilities under the CRPD. These obligations are discussed in more detail in chapter four, section 4.3. With respect to the Responsive State and its relevance for international cooperation, the following section based on the data gathered from the key informant interviews is structured around two key areas. Firstly, the role of law and policy, in particular the role of the CRPD in supporting the rights of persons with disabilities is discussed in section 7.2.1. Section 7.2.2 discusses the subject of political and agency leadership from two perspectives. The perspective of the governments of both Donor State and Recipient State; and the bilateral agency in advancing the rights of persons with disabilities in international cooperation.

\textbf{7.2.1 Law and policy}

The role of law and policy in particular the CRPD was discussed from a number of perspectives during the key informant interviews. These perspectives are highlighted here and discussed in more detail below. They are: (1) the role of domestic law and policy and its influence on international co-operation in Donor States prior to the Convention; (2) how the Convention thus far has impacted on the interventions taken by government under the guise of international cooperation; (3) and the need for both Donor and Recipient States to have strong laws to advance the rights of persons with disabilities along with strong monitoring mechanisms to hold States responsible for implementing the

Convention. Points one and two are discussed below and point three is illustrated by the case study on the Disability Rights Fund discussed in section 7.4.

7.2.1.1 Donor commitments to international cooperation pre-dating the convention

A number of key informants highlighted the role their State’s domestic law and policy had with respect to the inclusion of disability in their development work. For example, key informant BI1 highlighted the connection with Finland’s own domestic human rights policy and Finland’s international cooperation. They stated “within the Finnish Government generally there is a strong commitment to human rights, to a society for all which includes people with disabilities.” Therefore, suggesting the Finnish government policy was already pre-disposed towards inclusion and equality for persons with disabilities and this extended to Finnish international cooperation.445 Similarly, the United States had a number of domestic laws that shaped its early initiatives for including persons with disabilities in its international cooperation. These laws focused on the extension of existing legal protections in the United States to jurisdictions outside the United States where the government has overseas programmes, for example, where US embassies and USAID mission offices reside.446 Key informant AE5

445 See the Governments of Finland’s report to the Parliament on Human Rights (2009) 31. The report states that in its development cooperation, Finland will support the right of persons with disabilities to participate, particularly in political decision-making. The implementation of the rights of persons with disabilities in Finland’s development policy and cooperation will be strengthened; also as discussed in chapter five, human rights and development work closely together not only from the viewpoint that they are housed in the same department but also because both Finland’s human rights policy and is development policy view both development and human rights as intertwined.

446 The National Council on Disability issued a series of reports on United States (US) foreign policy criticizing the limited view taken by the US government in promoting the rights of persons with disabilities outside the jurisdiction of the US. See National Council on Disability, ‘Foreign Policy and Disability’ (1996). This report argued that US programmes abroad did not conform to the letter of spirit of US disability rights law; see also National Council on Disability, ‘Foreign Policy and Disability: Legislative Strategies and Civil Society Protections to ensure the inclusion of people with disabilities’ (2003) 2. This report found that despite the Foreign Assistance Act assertion that a principle goal of US foreign policy shall be to promote the observance of internationally recognised human rights by all countries, persons with disabilities and their rights had long been ignored. See also ‘Examining the Accessibility of Overseas Facilities and Programs funded by the United States’ (2012). This report issued a set of recommendations to various divisions of the US administration to advance accessibility and inclusion of persons with disabilities in overseas work carried out in the name of the US government.
highlighted the applicability of these laws overseas in the area of accessibility. They commented with respect to US embassies:

“They are entirely accessible, you would walk in to think that you are walking in to USAID State Department Headquarters. They maybe more accessible because they are seen as a bit of US so they have to fall in with the ADA.”

Finland and the US are both good examples to demonstrate that prior to the Convention there was a commitment and responsiveness by States to include persons with disabilities in international cooperation. There was also some realisation by Finland and the US that the State had a role to bring about improvement in the rights of persons with disabilities in developing countries. However, whether this realisation translated into the incorporation of disability as a foreign policy issue was questionable. Within the US it took a considerable amount of advocacy by US disability organisations to raise it as a foreign policy issue, suggesting that disability is not typically considered in this policy area. However, with the ratification of the Convention, the process of harmonising laws and policies provides the opportunity for the State to ensure that this process is applied to all law and policy including foreign policy.

7.2.1.2 The Convention and its impact on international cooperation policy

As discussed in chapter four, the adoption of the CRPD in 2006 initiated global and policy reform across all areas of policy including governments’ development policies. In that respect, it is not surprising that the CRPD featured significantly during the interview with key informants. During the interviews, key informants outlined the changes the CRPD brought to their work and in particular how it created a space for discussing disability inclusive development within a rights-based context. While Australia is the only State Party to have ratified the CRPD, key informants in USAID and MFA also made reference to the impact of the CRPD on their work. With respect to Australia and AusAID, the CRPD featured across all interviews and the majority of key informants from Australia described

447 Referring here to the Americans with Disabilities Act
the CRPD as front and centre to Australia’s ‘Development for All’ strategy. Key informant CI2 commented, “the Convention is at the heart of the Australia’s Development for All strategy.” In addition to the CRPD influencing international cooperation policy, the majority of key informants also highlighted a number of positive outcomes resulting from the adoption of the CRPD, which contribute to building a Responsive State.

Firstly, it’s potential to galvanise States to work together on policy cooperation in development. Key informant D2 commented, “the CRPD had a key role to play in galvanising States to cooperate on policy development and not just solely focusing on financial support.” Financial support while important is not the only measure needed for inclusive development. As outlined earlier in chapter four, the aspect of cooperation on non-financial issues featured strongly in the treaty negotiations, and also became part of the final text of Article 32.\textsuperscript{448} In particular, cooperation between States is vital in ensuring that benchmarks established by the Convention are adhered to. Therefore suggesting there is a need for a strong policy coherence role by States to ensure that international cooperation does not have a negative impact of the rights of persons with disabilities e.g. donor aid being used to renovate/extend or build new institutions.

Secondly, the opportunity to encourage stronger sharing of lessons learnt by countries such as the US, Finland and Australia. Each of whom has many decades of experience in developing laws and policies to support the rights of persons with disabilities.\textsuperscript{449} Examples of how States can coordinate on areas of policy competence are already in existence with the Open Method of Coordination in the European Union.

The final point raised by the key informants on this topic was how the CRPD could provide a benchmark for progressing the rights of persons with disabilities.

\textsuperscript{448} See chapter 4, section 4.4
\textsuperscript{449} A number of key informant highlighted how the disability movement/activists in Northern countries could share lessons learnt (good and bad) in progressing the rights of persons with disabilities
in low-income countries. For example, a number of key informants highlighted how they encouraged the countries they were working in to use the CRPD as a benchmark or a standard for progressing the rights of persons with disabilities.

While the majority of key informants discussed the CRPD and its implications for their international development work in a positive way; a number of key informants commenting on Australia’s experience, were candid in describing the challenges faced at the outset of expressing the right-based approach the CRPD espouses. These challenges ranged from a perception of entitlement that might arise from using rights (particularly in a development context), to the fact that Australia ratifies many treaties and why should the CRPD be any different. Key informant CI1 commented “they {referring here to Australian government} do not base their development framework or programming around other treaties.” These comments represent the dichotomy that exists between development and human rights, as discussed earlier in chapter three.

However, a point repeating at this juncture is from chapter four. Chapter four highlighted how UN general commentary has provided guidance on this issue of international treaties for development purposes. Despite the original resistance to a rights-based approach, key informant CI2 highlighted how in the end there was an understanding of its importance. They stated:

“some of the things around the rights agenda, once we got that part of it, once I got it in my head that took a while to get a full grasp on the significance of convention and the rights of people with disabilities and it’s implementation.”

The challenge in using a rights-based approach was not just unique to Australia’s experience. Key informant BI1 also raised a similar point from a Finnish perspective. They commented, “we have this human rights based approach, but

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450 This point of benchmark or standard was discussed in chapter four with respect to the General Commentary
451 One key informant commented how they (AusAID) didn’t quite grasp the whole notion of human right’s, as it’s understood in creating rights bearers. They saw it more as the entitlement thing rather than an issue of rights bearers.
452 Discussed earlier in the chapter 3, section 3.4
453 See the discussion in chapter four on the commentary from the Committee on the Rights of the Child which highlights the role of the CRC in influencing development policy and frameworks
in that, we have the risk that it will become legalistic.” They further commented, “sometimes human rights can happen at a very abstract level.” This point was echoed by a number of other key informants. For example with respect to the CRPD filtering down to agencies and institutions, a number of key informants commented there was a need for education and awareness about it. Key informant AE7 highlighted this issue: “the election manager or body doesn’t even know that the country has signed or ratified the CRPD; they don’t even know what it is.” Furthermore, AE7 and other key informants explained how this lack of awareness of the CRPD created difficulties for those who worked at the coalface of development. In particular, project implementers who referred to the CRPD as leverage for their work on disability inclusive development.

7.2.1.3 CRPD ratification between donor and aid recipient States and potential for variance in implementing the rights of persons with disabilities

The rapid ratification of the CRPD among developing countries raises a number of important points for consideration. As started earlier, Australia is the only country selected for this thesis that has ratified the CRPD. While USAID and the MFA are supportive in their international cooperation activities of the CRPD, this raises an important point for consideration in terms of standards. Many of the countries that US and Finland provide development support have already ratified the Convention. In theory if these countries have completed the necessary processes for aligning their laws with the CRPD, it could be suggested they have a higher standard of protection for the rights of persons with disabilities than the Donor State.\(^{454}\) Key informants AE7 and AE8 highlighted this potential difficulty. They commented with respect to their role as a project implementer working on the ground in developing countries “we can’t refer to US law which lots of countries look to as a role model because US law is not in compliance with the CRPD.” This comment raises the question of which

\(^{454}\) See CRPD (Article 4) which asks States to take pro-active measures to (a) adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention and (b) to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities
standards a bilateral agency should use when implementing development programmes, particularly when the agencies own government have not ratified the Convention. The earlier section highlighted in particular how advocates in the US pushed for the extension of US law into areas of employment and accessibility. However, as the US is yet to ratify the CRPD this raises two important points on its development programmes. Firstly, the appropriateness of using its own standards as they are not technically compliant with the CRPD, and secondly the possibility that using their standards could end up promoting lower standards in areas such as accessibility (as set out by the CRPD).

The issue becomes more compounded when States that are in receipt of aid and have ratified the CRPD do not have adequate standards in place for the protection of the rights of persons with disabilities. As discussed in chapter two, with respect to international cooperation and the concept of a Responsive State the onus for progressing rights for persons with disabilities does not solely focus on States who are Donors of development aid. As the CRPD is a global instrument, its implementation is applicable to all countries including developing countries. Therefore it also places responsibility on developing countries to develop law and policy to improve the lives of persons with disabilities.

However, some key informants raised a concern that just because a country had ratified the CRPD, this did not mean the rights of persons with disabilities were upheld or the appropriate policies for inclusion were in place. Key informant D2 highlighted how a number of the developing countries they had worked with had ratified the Convention very quickly. However, in their opinion they did not have adequate policies in place to promote the rights of persons with disabilities. Key informant D2 gave their personal experience of living in Sudan, who had ratified the CRPD. They commented while there might have been some laws on disability, the government did not know from a policy perspective how to actualise the laws. Key informant AI3 raised a similar point:

455 The issue of standards of accessibility with respect to USAID are discussed in chapter five
“human rights violations of persons with disabilities and the non-implementation of the CRPD is to do with the fact that in many cases in developing countries both civil society and government did not know what to do.”

These comments point to a key challenge with respect to ratifying international law: its translation into the local laws and policies and the real ownership by the State of the commitments. Key informant CI2 commented, “if you don’t get the body of local law correctly…particularly about the rights of people with disability and then some capacity for enforcement, well then the donorees life goes back to what it used to be.” They further commented, “you have to change the law, the implementation, the long term strategy of the country.”

The rapid ratification of the CRPD and other human rights treaties and the difficulties they face in implementation is not unique to law. Gender mainstreaming literature also highlighted this issue with regard to the rapid ownership of governments of gender mainstreaming as a policy. For example, True suggests that the development of gender mainstreaming was not centred in nationally based policies but instead had involved the transnational processes. The same argument can be made for the momentum that gathered from an international perspective on progressing the rights of persons with disabilities through international cooperation. While True’s comments may resonate with the rapid adoption of the CRPD at national level, they are also relevant to the slow implementation of the CRPD by some countries. In this respect how development aid can help support the CRPD implementation is an important issue and is discussed further below.

As discussed in the chapter two, the issue of how the State engages with vulnerable subjects is an important aspect of vulnerability theory. This has relevance for how Donor States can work effectively with partner countries to create law and policy that promotes inclusive responses to persons with disabilities. In this respect it is worth highlighting some comments from key

informants who provided examples as to how development aid can be used to support inclusive law and policy in developing countries. The role of international cooperation supporting rights is important so that the CRPD can be implemented at a national level. Thereby creating accessible and inclusive social services for persons with disabilities. Key informant CE5 raised the point that as a donor country they encouraged the governments they worked with to ratify and implement the CRPD. Key informant AI3 described the nature of the work they {referring here to Donor State} supported, which included; giving technical assistance to developing inclusive law, and giving support to partner countries to build their policies on the rights of persons with disabilities. They commented:

“What we are interested in doing is influencing the development of government policies looking at ways of helping policy makers and legislators and civil society to really understand what good laws look like.”

The data from this research suggests that AusAID takes a similar approach, with their focus on government-to-government support at a partner country level with a particular focus of building capacity on developing inclusive policies. For example key informant CI2 commented:

“When the Australian government built a school in Indonesia, with the Indonesian government…they are all accessible for people with disabilities. And that has become Indonesian government policy. That is better. We built 2,000 schools {referring here to the Australian government}. They build 10,000 schools {referring here to the Indonesian government}. So it’s much better to have it in their policy than ours and of course that is also what the treaty requires you to do.”

This raises an important limitation with respect to development aid, in that a Donor State works with partner country for a defined duration and only at a limited scale. Whereas the government in receipt of aid can from the outset put in place accessible and inclusive structures, therefore providing greater sustainability.

While implementation of CRPD was considered central by many of the key informants, it is important to point out that it was not evident from any of the interviews with key informants or policy officials that engaging with the
Convention was a pre-requisite for receipt of development aid. However one key informant did highlight that in terms of committing development support, it was important to look at States who had signed the CRPD and wanted to move towards ratification.

7.2.2 Political and agency leadership

The interview guide for this research did not ask a direct question about leadership at either a political or agency level. However, during the data analysis there was a number of references that were coded to political, and agency support. These references are useful to highlight in the context of discussing what constitutes action by a Responsive State. These short paragraphs highlight a number of references from the interviews, which demonstrate how governments of Donor States took a pro-active role in progressing the rights of persons with disabilities in international cooperation. It also highlights examples where government-to-government support is taking place and provides some example of cooperation between States.

As outlined in chapter five, the governments of bilateral agencies featured in this research took a pro-active role in ensuring that persons with disabilities were included as part of their international cooperation. A number of key informant interviewees in Australia commented that without the support of a particular political leader, there would not be a strategy on disability. Similarly in the United States without the support of the President and Secretary of State there would not be a position in the US State Department with the responsibility for International Disability Rights. Some key informants highlighted how this role has played a pivotal part in ensuring disability is visible in all US embassies throughout the world, and particularly within developing countries. The need for this support at a political/ agency leadership level was highlighted by a number of key informants. Key informant CE4 commented as a result of the political imperative taken by the Australian government to include disability in its aid programme “it would now be difficult to remove it.”

457 For example the Special Adviser while visiting countries always ensures to have the local embassy involved in organizing the meetings etc.
458 A key informant highlighted how a perception that can sometimes happen with political support for a thematic issue such as disability is that ‘once the “power set” goes this dies’ is now
highlights the need for a sustainable approach to including disability in agency policy, rather than having it as a theme or a special focus for a particular number of years. In terms of internal leadership a number of key informants across each of the agencies commented there was engagement from senior leadership in a number of ways. In USAID, key informants pointed out that both the Administrator and Deputy Administrator had connection with disability from a personal perspective. In Finland, key informants described the Minister for Foreign Affairs as supportive of disability. Finally, from the perspective of AusAID key informants highlighted that while the leadership might have initiated at political level, the commitment to carry through the process of reform was supported by senior leadership within AusAID.

7.3 Disability – its conceptual understanding and its intersection with development themes of gender and HIV/AIDS

The literature reviewed for this thesis discussed how depending on what lens or theme a policy focuses on, for example, disability or gender, there is potential for persons with more than one defining characteristic or identity to fall through the gaps. This issue was highlighted by both the gender literature on mainstreaming and also within the disability and development literature discussed chapter two. For example Beveridge and Nott discussed how gender mainstreaming as a transformative strategy only made sense as a politics of difference. They stated while gender has an importance as an organising category, it will have to be eventually recognised that an analysis focused on the real lives of people is more logical than looking solely through a gender lens. Similarly, Groce et al cited in chapter two, highlighted how using a dominant lens of disability can exclude women with disabilities from rehabilitation services. It was for these reasons that intersectionality and its focus on exploring in depth how the different aspects of an individual in conjunction with the broader environment can prevent people with disabilities from reaching their full potential was chosen as a theory for this

harder to see happening because of the political support given by the Australian government at the time.

459 See Chapter Two, see section on intersectionality
thesis. As discussed in the chapter two, one of the central arguments of this thesis is the need to respond to the discrimination faced by persons with disabilities from a holistic perspective. This means recognising the discrimination faced by persons with disabilities can be attributed to a number of factors and not solely because of their impairment. These factors include; interaction with other identities such as gender, and the social, economic and political context. The key informant interviews explored this further and asked how diversity and intersecting themes were addressed by each of the agencies.

The initial pass of data from nineteen out of twenty-five interviews highlighted 197 references, which were coded to crosscutting issues. Interestingly the word diversity only featured in one key informant interview and this was with regard to diversity within the disability community, for example, different impairment type. The second phase of analysis of data guided by the discussion in the theoretical framework further categorised the initial codes into the following discussion points: (a) disability lens, key informants discussed crosscutting and diversity from a disability perspective and references to the diversity that exists within disability e.g. women and children with disabilities; (b) multiple lens, key informants discussing the interaction of disability with other thematic areas such as gender and HIV/AIDS; and (c) overarching themes where data included multiple themes (e.g. disability, gender and HIV/AIDS). These points are discussed in more detail in the following sections.

7.3.1 Capturing diversity of impairment and identity

The data collected highlighted two aspects of diversity related to disability that emerged during the interviews. The first focused on the range of impairments that persons with disabilities may have. The second focused on the different identities persons with disabilities may have, for example, women and children with disabilities and if the agencies were responsive to this. From the perspective of different impairments, the data highlighted that there was not much reference

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460 The first round of analysis coded references to crosscutting which included the following terms or words; diversity, gender, women and children with disabilities, multiple, identities, disabled women and men

461 A word search across all interview narratives found that diversity was referenced once with regard to the diversity of impairment that exists within the disability community.
to different types of impairments within the overall disability category. The literature review highlighted that the agencies’ policies do not overtly distinguish between different impairments. Rather, the focus in the literature review and the interviews seemed to suggest that ‘disability’ was used as an overarching term. This was further evidenced by comments from key informant AJ1 who stated with respect to USAID that they “did not distinguish between different disabilities.” However, key informant AE5 commented with respect to USAID “they have some programmes on women with disabilities, programmes for deaf blind and some for people with psycho social disabilities”. They further remarked, “most of their programmes are for people with physical disabilities” and “that support was needed to target other disabilities.”

This issue of focusing on specific impairment types, for example, physical disability also arose with key informants in Finland. These informants commented there was a need to recognise the diversity of the range of impairments that exist within the disability community. In particular, the fact that many people with different impairments are not targeted as part of development policy programmes, nor are they adequately represented by the DPOs or organisations supporting persons with disabilities. Key informant BE5 commented, “if you look at the member organisations of who I work for, all disabilities are not represented.” Key informant AE5 also raised this issue, “unfortunately umbrella organisations aren’t really crosscutting themselves, and they often leave out, deaf or deaf-blind”. These comments highlight the challenges that bilateral agencies face in ensuring inclusion of all persons with disabilities. The current approach for some of the agencies seems to view disability as a homogenous category or with a dominant impairment category, for example, in the case of USAID and its focus on physical disabilities. Taking this singular approach has been recognised as leaving out some of the most marginalised people with disabilities, for example, people with psychosocial and intellectual disabilities. However, one the other hand listing every impairment

462 Additionally, USAID's 1997 policy paper highlighted that ‘the concerns of people with physical and cognitive disabilities should be considered in the variety of USAID programs’.

463 Two of the agencies reviewed had a specific thematic focus on gender and HIV/AIDS (USAID and AusAID), and the Ministry for Foreign Affairs (Finland) included gender and HIV/AIDS within its crosscutting objectives.
is not appropriate for a number of reasons. Firstly, it further re-enforces the medical model approach to disability. Secondly an endless list of impairments to cater for would make the task of inclusion appear extremely onerous to bilateral agencies. Therein lies the challenge and it is potentially where an intersectional analysis and Sen’s capability approach focusing on the factors external to a person with a disability e.g. social, economic and political context rather than internal or individual attributes can be helpful.

The second perspective that emerged from the data focused on the different identities persons with a disability may have. Along with the range of different impairments that a person may have, persons with disabilities can also have a number of different identities. In terms of recognising different identities of persons with disabilities, the interview data revealed there was recognition among most of the key informants on the different identities persons with disabilities may have. The literature review highlighted how all three agencies had some form of focus on different identities that persons with disability have. Two of the agencies in particular had an emphasis on women with disabilities. During the interviews a number of key informants highlighted measures they took to include women with disabilities, some which had a broader gender context (as in recognising the different experiences of men and with disabilities). Some also gave examples of targeted and positive actions measure taken to ensure women with disabilities were included.

With respect to targeted approach and recognition as to how gender and disability interact, key informant BE6 commented “when we meet women representatives we discuss how to consider a project where women with disabilities could play a key role.” They further commented “we have special meetings with women with disabilities so that we can discuss issues without male leaders.” Key informants in Australia also described “women and children

464 AusAID, ‘Development for All – Towards a disability-inclusive Australian aid program 2009 – 2014’, 11, 19, 27 where women with disabilities and children are listed as part of guiding principles; pg. 19, disability-specific initiatives which references support for women with disabilities, which gives a commitment to include women with disabilities will be encouraged to be part of the development process; which references how children and women with disabilities are included in the performance framework. See USAID/General Notice PPC 09/12/97
with disabilities as a core principle of its {AusAID}s strategy.”465 Like Finland, Australia also focused on inclusion of women with disabilities. Key informant CE3 commented, “they {AusAID} look for quotas in some of the things they support”. They gave the example of AusAID supporting a specific disability forum and also supporting women’s leadership forums. Finally, USAID did not explicitly name women or children with disabilities, key informant AI1 commented “big picture, we are not targeting specific cohorts within the larger group of persons with disabilities.” Key informant AE7 however, did point out they were {USAID} taking measures to ensure that women with disabilities were included in the election process. They commented, “when we are training poll workers with disabilities we try and make sure some percentage of those are women with disabilities.”

7.3.2 Disability and its intersection with development themes of gender and HIV/AIDS

As outlined in chapter three, the level of interaction between disability and other thematic groups in development; gender and HIV/AIDS was investigated in this thesis. A review of the individual agency’s key policy documents, and a series of questions put to advisers who work on mainstreaming gender and HIV/AIDS revealed there was some interaction. The review of key policies highlighted broad references to disability within the key gender policy documents.466 References were also found in key HIV/AIDs documents.467 The majority of

465 AusAID, ‘Development for All – Towards a disability-inclusive Australian aid program 2009 – 2014’, 11, 19, 27. The strategy has women with disabilities and children listed as part of guiding principles. It also has disability-specific initiatives which references support for women with disabilities, which gives a commitment to include women with disabilities will be encouraged to be part of the development process; which references how children and women with disabilities are included in the performance framework.

466 In terms of gender and disability: see USAID, ‘Policy on Gender Equality and Female Empowerment’ (2012) 2. Disability is referenced in a number of contexts, which include the recognition that people with disabilities are marginalised, the need to pursue an inclusive approach to foster gender equality that it is inclusive of disability status and the need to include disability as part of gender analysis. See also AusAID, ‘Promoting Opportunities for All – Gender Equality and Empowerment (2012) 3.9. Women with disabilities are recognised as not sharing in development progress and the specific needs of girls with disabilities as priorities in the education sector. See Ministry for Foreign Affairs Finland, ‘Strategy and Action Plan for Promoting Gender Equality in Finland's Policy for Developing Countries 2003-2007’ 11, 13, 15. This policy includes a number of references to disability including the recognition of multiple discrimination that a women with a disability may meet.

467 In terms of HIV and Disability; see USAID’s ‘Gender Based Violence and HIV - A Program Guide for Integrating Gender Based- Violence Prevention and Response in PEPFAR Programme’ 23. The document references abuse of women with disabilities. See also AusAID, ‘Intensifying
references featured in the gender policy documents, and were made in the a number of contexts which include: persons with disabilities experiencing multiple discrimination; increased susceptibility to abuse and violence and poverty; and finally some references to the impact disability has with regard to the need for caring and support for women.\textsuperscript{468}

The interview data also revealed in each of the agencies there was some coordination or interaction of disability across the thematic areas of gender and HIV/AIDS. For the most part it seemed this was at an awareness-raising and information sharing level. Key informant AI3 described the collaboration with the AIDs office and the Global Women’s office on disability:

“We are working with the AIDS office and with the Global Women’s office, basically working with them on the work they are doing and looking for opportunities to integrate disability into that.”

Key informant AI4 described how strategies from USAID Office of Women in Development on gender-based violence and the national action plan on women and security, were now including references to persons with disabilities and in particular women with disabilities. Similarly, key informant AI3 commented how the theme of International Disability Day had also included panels on HIV/AIDS and gender-based violence. At a practical level key informant CI1 highlighted how there was interaction between disability and other areas such as child protection. They also outlined how there was a future plan for sharing information, and a potential disability and gender focal point network.\textsuperscript{469}

\begin{footnotesize}
\textsuperscript{468} The Response: Halting the spread of HIV’ (2009) 13, 24. Disability is included as a crosscutting issue and commitment is given to consider people with disability in HIV service delivery. There is also recognition of the role of law and how people living with HIV sometimes find protection under disability law. The Ministry for Foreign Affairs Finland policy on HIV as a development issue had no specific reference to disability, however it is included in a meta analysis (study of how MFA implements its HIV response). See ‘Evaluation – meta analysis of Development Cooperation on HIV/AIDs (2009) 9, 47. The report makes reference to disability as a cross cutting issue of MFA also disabled people along with other minority groups were recognised as being traditionally less prioritized in the HIV response see pg. 29
\textsuperscript{469} Ibid
\end{footnotesize}
While the literature review and the data gathered from key informant interviews identified progress in the area of disability interacting with gender and HIV/AIDs. How far this interaction and the inclusion of disability within the advisers work goes was further questioned. The advisers highlighted a number of areas. Firstly, at a practical level key informant BI1 and BI2 highlighted how advisers responsible for overseeing the crosscutting objectives made sure to keep disability in mind. BI1 commented:

“When we are in a team whenever one of us is involved in a project, we try to make sure that all the crosscutting themes are covered, so in that sense you know, it might not be directly related to HIV/AIDS as such but it would be in the back of my mind as one.”

With respect to how advisers on thematic issues had included disability, key informant BI1 further commented, “the women’s advisors on women’s affairs have been good at getting disability in their work.” Similarly, key informant CE3 discussed how there was a light bulb effect with gender advisers about the twin-track approach to disability. They observed,

“when you train gender advisers on disability, almost without any doubt they usually go I now understand. When you explain the twin-track they then go oh God I understand why we’ve had so much trouble with gender mainstreaming.”

From a gender adviser perspective, key informant AI4 commented there was activity on the interaction of disability and gender and some cross-fertilization between the themes. However, it was limited. They remarked, “I would say at this moment in time it is more through the disability theme but that there has been a fair amount of communication and coordination”. This suggests that it may not have taken root as a natural reflex within the work of gender. Key informant AI4 elaborated further:

“Trying to make attention to gender issues to the issues of people with disabilities, and in particular women with disabilities, this is reflected in the various policies and strategies that we put forward and we are additionally trying to reach out and engage women with disabilities when we are looking at issues around women’s inclusion to decision-making.”
They commented this was not without it’s challenges. In particular trying to find experts from the disability community that were not just experts in disability, but also in wider areas such as humanitarian response and leadership was difficult.

In terms of HIV/AIDS and its interaction with disability the same questions were put to the advisers responsible for mainstreaming HIV/AIDS. Key informant BI4 described how the interaction between disability and HIV/AIDS is at a minimal level with some of the activity taking place at a multilateral level. They pointed out that they also make efforts to ensure disability is included during the internal project cycles within the Ministry in a number of areas. These areas include sexual and reproductive health. BI4 commented, “I try to remember the situation of people with disability and their sexual and reproductive health and rights and HIV.”

It would seem from the interviews with the thematic advisers, disability features in their work to some extent. There is some interaction with respect to HIV/AIDS, and the interaction with gender appears to be at a greater degree. However, it has limitations. A noteworthy point from the interviews was the practical challenges raised by advisers with respect to working with a number of crosscutting themes were similar to the theoretical challenges discussed in chapter two. In particular, the impact of the dominance of certain identities and the gaps, which can happen when approaching a crosscutting issue such as disability, solely within its own lens. These issues were emphasised across a number of interviews. A number of key informants discussed the issue of working with multiple identities and the challenge of how to respond at a policy level. Key informant BI4 highlighted an issue relating to the dominance of one identity over others particularly in their context of mainstreaming crosscutting objectives. They commented:

“The fact is gender equality is the crosscutting objective that has been mentioned most often in evaluation reports, maybe about thirty five percent of all the reports, whereas the others are mentioned much less often and almost not at all.”
They further commented that HIV might have been mentioned in two reports and
disability in one, therefore signifying an imbalance between the crosscutting
objectives in terms of giving them all the same weight. A second aspect that
emerged was the competing interests between thematic areas and the notion of an
endless list to be catered for. Key informant BI2 commented:

“there is a feeling among the advisors who are in charge of these
crosscutting objectives, a kind of a despair that we are not succeeding
in mainstreaming the one issue that we have a responsibility for
enough.”

Key informant AI4 further commented on this issue:

“the challenge is you always want to figure out how to make sure to
give these issues their due without having it become a laundry list of
the things you want to cover, and that’s a constant struggle.”

In addition to the issue of an endless list of identities and related issues, a number
of key informants identified the tensions that exist between dealing with a
number of thematic issues. Key informant CE4 commented in terms of the
development of Australia’s response to including disability “there were those
who doubted why go in to disability, another crosscutting issue.” Key informant
BI2 also commented, “it is almost that they cannot afford to add yet another
aspect to their lobbying that they are doing because they have to put all their
energy into one.” This difficulty was further re-iterated by a key informant CE3
who stated “an agency might say to us we can't do disability this year we're
doing gender this year, and then children and in 2014 we'll do disability.” They
further remarked, “they see gender, disability and children all as separate and
different”.

All of these issues point to the limitations discussed in chapter two of a single
lens approach, therefore suggesting there is a role for an intersectional approach.
An intersectional approach which identifies where incidences of discrimination
happen, for example, where identities intersect; but also works to provide
solutions using an holistic approach rather than retreating to an individual
thematic approach.
Finally, with respect to evidence from the interview data that resembles an approach by the agencies close to intersectionality. It is worth noting that a small number of key informants made reference to overarching aspects of their work, which focused on the disability, gender and HIV/AIDS. Both AusAID and the MFA highlighted social inclusion and development. Key informant BI2 commented,

“building a comprehensive social policy broad enough to cover all thematic focus with its emphasis on people development rather than economic development is a way to move forward and could benefit persons with disabilities”

7.4 Agency for persons with disabilities

Section 7.2 discussed the different measures taken by States to progress the rights of persons with disabilities, and Section 7.3 described how each agency approaches disability and its interaction with other development themes. This final section addresses the third element of the theoretical framework, the active participation of persons with disabilities. Chapter six highlighted the range of measures that each agency took to include the voices of persons with disabilities at different stages of the implementation of their mainstreaming policy. The case study discussed below develops this further and highlights measures taken by a number of agencies working collaboratively to empower persons with disabilities to claim their rights.

As discussed in the chapter four and also highlighted by Fineman and Sen in chapter two, there is a need to hold a State to account for its commitments. The third element of this research focuses on how persons with disabilities can be active participants in bringing about changes in law and policy. To do this, they need to be conscious of their rights and know the mechanism they can use to claim them from the relevant duty bearers. As discussed in Section 7.2, the requirement of the State to be accountable to the commitments it has made to the CRPD is applicable to both the Donor State and the Recipient State. From the Donor State perspectives it is where persons with disabilities and their representative organisations hold their own State accountable to ensuring that the
CRPD is implemented. In addition, from an international perspective it means ensuring that their States foreign policy and international cooperation is inclusive of persons with disabilities. From the Recipient State perspective, it is how persons with disabilities and their representative organisations are supported to hold their State accountable to commitments made upon ratifying the CRPD. The case study below highlights an innovative approach that bilateral agencies along with other partners are taking to support persons with disabilities in developing countries claim their rights.

7.4.1 Case Study: The Disability Rights Fund

The Disability Rights Fund (DRF) states its main vision is to build the capacity of Disabled Persons Organisations (DPOs) to be full and equal participants in the achievements of rights for the world’s one billion people with disabilities. To achieve this, the DRF through a partnership between funders and the disability community, supports Disabled Peoples Organisations (DPOs) in developing countries to take a leadership role in advocating for the human rights of persons with disabilities at a local and national level. All of DRF’s actions take place within the context of the CRPD. The DRF was founded in 2007 with funding from private foundations. Key informant D2 described the funders as admiring the “collective and unified activism that was witnessed during the negotiations for the CRPD.” Up until then, disability rights had remained under the radar of the human rights movement. Key informant D1 commented there was a general sense of enthusiasm among private donors that the process, which led to the CRPD and the active engagement of people with disabilities and their representative organisations, signalled the emergence of a new human rights movement. While the original funding came from a private foundation, a pool

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470 See generally the Disability Rights Fund website at http://www.disabilityrightsfund.org/about.html! > accessed 16 March 2014. The countries of focus for the DRF since its establishment have been developing countries, for a full list of countries where funds have been allocated to, see exhibit 4.3, pg.12, DRF Evaluation Report, April 2013.

471 Ibid

472 During the latter half of the CRPD negotiations, a number of private philanthropy organisations attended the final Ad Hoc Sessions to observe the proceedings and the interaction of the international disability community with the United Nations
of donors, which includes traditional bilateral agencies DFID and AusAid along with other private foundations now support the fund.  

The DRF has been chosen as a case study for a number of reasons, all of which illuminate key areas of the theoretical framework, underpinning this thesis. These are discussed under headings in more detail below. By choosing the DRF as a case study, the aim is to give an insight how through support from the DRF, persons with disabilities are becoming active participants in the implementation and monitoring of the Convention. Finally, the case study reflects the data collected from a key informant interviews and the literature review where it was referenced as a good model of practice.

This thesis is influenced by a number of theories, all of which have the commonality of recognising the need for those who are most marginalised to become agents of their own change through engagement with policy and legal processes. As discussed in chapter two, the common threads between Sen, Fineman, Intersectionality and the principles of the CRPD lie with the emphasis they place on the need for the participatory role of persons with disabilities; in all areas that effect their lives. As previously discussed developing the enablers for this participation has its challenges, such as the continuing struggle highlighted by Quinn that persons with disabilities face for their mere survival, never mind their participation in civil society or the political marketplace. Also Sen highlights the concept of adaptive preferences, where persons with disabilities make do with what they have rather then demanding a better life for themselves and their families from their governments. In considering these aspects, this case study is structured as a discussion under the two key areas listed below and concludes with some areas for further consideration.

The key areas of the DRF’s work chosen from discussion are: (a) the support it provides for building capacity of DPOs to hold their governments accountable

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473 Both AusAID and DFID contribute a significant amount to the fund, $1,500,000 and $687,000 respectively, see External Evaluation of the Disability Rights Fund, published April 2013

thereby creating a demand from the indigenous disability movement for change and; (b) how it is innovative in providing ways to directly fund DPOs who traditionally do not succeed in accessing funds for advocacy and rights awareness.

7.4.1.1 Capacity building of DPOs to hold their government responsible for implementing the Convention

A review of the key literature on the DRF and interviews with key informants suggest the focus of the Fund’s work is closely aligned to building agency or empowering individuals to hold their government responsible. The DRF’s internal literature in explaining their theory of change states that:

‘A diverse and empowered DPO movement will be better equipped to hold States and other duty bearers to account in the processes of ratification, implementation, and monitoring of the CRPD, and will ultimately lead to the fulfillment of the full spectrum of rights articulated in the CRPD for all persons with disabilities.’

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In translating this assumption into action, the DRF focuses on advocacy grants, which are streamed through two channels, a small grants scheme and a national coalition-building scheme. Both of these focus on the CRPD. The small grants scheme focuses on raising awareness on the Convention and is targeted at marginalised groups of persons with disabilities, what the DRF describes as emerging voices, and voices that have not featured before. For example: rural DPOs, women and children with disabilities, and young people with disabilities. These small grants are targeted at persons with disabilities and DPOs to build their own rights knowledge and advocacy skills. However, raising awareness does not just focus on persons with disabilities. Once capacity on rights is built, there is also a focus on people with disabilities raising awareness in their own community with local officials and local government. Key informant D2 explains:

“once awareness is raised among persons with disabilities themselves, and local and government officials on the CRPD, people with disabilities can now have the confidence to ask, what are you going to

475 Disability Rights Fund Monitoring and Evaluation System, Working Document
do to ensure the CRPD is implemented? This in turn creates demand for change by persons with disabilities.”

The second funding stream, the national coalition focuses on a collaboration of DPOs working together, or DPOs working with other human rights organisations. This work happens at a national level on areas such as shadow reporting and monitoring the CRPD. Key informant D2 further commented, “we are not so concerned with each specific individual organisation, what we want to see is a cohort of grantees that together can strategise, advocate and advance rights.” They further commented,

“we do not fund individual organisations so much, what we are interested in is a country strategy to build the disability movement in each country which can effect legislative and policy changes.”

This seems to suggest that the DRF has had some success in moving away from an organisational basis (which comprises of most development interventions provided by service providers) and instead focuses on building a disability movement capable of advocating for inclusion and also for claiming rights. The DRF’s portfolio of grants demonstrates this further with a variety of projects focused on bringing together DPOs to actively participate in the processes for monitoring and advancing rights.476

In attempting to understand what change the DRF envisages for advancing the rights persons with disabilities, a review of the logical framework and monitoring and evaluation process gives some indication. The primary focus of the DRF is to support the implementation and monitoring of the CRPD. The logical framework describes its output statement as “the rights of persons with disabilities, as outlined in the CRPD, are advanced in DRF target countries by

476 For example, a review of one of their internal documents on national level changes in legislation, policies and programmes highlighted the initial baseline and the subsequent changes in particular highlighting the involvement of DRF grantees. For example, one of the points of a review report highlighted how six local district assemblies in Ghana were creating long term development plans inclusive of women with disabilities with the involvement of a DRF grantee.476 See Disability Rights Fund, ‘One in Seven, How One Billion People are Redefining the Global Movement for Human Rights.’ A progress report of the Disability Rights Fund first years’ (2013)
the enhanced participation of the disability movement.” The outputs expected by the DRF are as follows: (1) harmonisation of legislation, policy and programme in line with the CRPD; (2) the participation of persons with disabilities in international and national human rights monitoring; (3) the DPO movement in target countries responding to the diversity of persons with disabilities; and (4) DPOs and other organisations having the capacity to advocate on the rights of persons with disabilities.

The measurement system it has adopted has three key areas: (1) impact which focuses on the changes in the rights and lives of persons with disabilities; (2) structures which focus on the functioning architecture for CRPD implementation and (3) processes which look at the participation of the disability rights movement in human rights and monitoring. Each of these three areas gives an insight into the different processes, which takes place at country level as a result of the DRF investment. The most recent external independent evaluation report and internal progress report highlight how each of these areas have progressed with the DRF’s support.

Relating the DRF’s work to the theoretical framework underpinning this thesis the expected outputs of the DRF’s work align closely with chapter two discussion on the need for persons with disabilities to be actively involved in policy and decision making. In particular, it aligns with Fineman’s concept of a Responsive State, which strives to unpack how State actions cause disadvantage to certain groups. It also relates to Sen’s concept of agency. In these areas, the DRF’s outputs highlight how advocacy by persons with disabilities can make

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478 For example, in terms of output (1) As of March 2012, 26 laws changes had been achieved, and four were underway – exceeding the milestone of 13 local level changes. Examples were given how DPO’s in Nicaragua were successful in developing and promoting a draft Disability Act, which included a provision that part of the Nicaragua national budget be directed to the eradication of architectural barriers and the construction of accessible infrastructure. For output (2) a number of alternative/shadow reports were submitted to the Committee on the Rights of Persons with Disabilities by DPOs supported by the DRF; output (3) number of grants awarded to new organisations representing groups of PWDs not previously active in the public realm e.g. grants were given to groups representing persons with disabilities who were not traditionally included e.g. people with psycho-social disabilities, albinos, output (4) there was an increase in number of partnerships/strategic alliances and also there was an increase in the growing knowledge of rights of persons with disabilities (see pg. 22 – 26, External evaluation of the Disability Rights Fund, Final evaluation report published by Universalia, April 2013)
States aware of the commitments they have made to progressing disability rights under the CRPD. They can also participate in the process to bring about the necessary changes for inclusion. The second aspect of where it relates to the theoretical framework is building an empowered disability movement that can hold the State accountable through monitoring.

7.4.1.2 Innovative way to fund of DPOs to be catalysts for change in inclusive development

Since its establishment, the DRF has allocated over 353 grants to organisations in twenty countries totalling USD $7,900,068.479 All of this funding support has gone directly to DPOs. In its direct supports to DPOs the Fund is unique for a number of reasons. Firstly, it is an interesting model for donor collaboration and coordination. Secondly, it is an innovative way to fund DPOs who traditionally do not succeed in accessing donor funds, which is discussed in more detail below. As the Fund had initial private foundation support, it gave the opportunity to test its feasibility as a concept, before attracting traditional bilateral donors to invest their support. DFID was the first bilateral donor to come on board. Once the Fund had demonstrated its competence to manage reporting and achieve outcomes, further investment was forthcoming from DFID and AusAid. DFID describes the objective behind supporting the DRF as:

“to promote engagement with national Disabled People’s Organisations working to ensure implementation and monitoring of the UN Convention on the rights of persons with disabilities in the most cost effective way for DFID.”480

The UK shadow report to the Committee on the Rights of Persons with Disabilities further described it as a specific support, which aims to ensure that disabled people can participate effectively in the ratification and implementation processes of the Convention.481 AusAid describes its support to the Fund as enabling it to expand its global reach to build capacity for DPOs.

479 See page 19, Development for All Strategy, Capacity development support for Disabled Peoples organisations, see also the UK’s shadow report
481 UK’s shadow report to the CRPD committee on Article 32
Secondly, the Fund describes its theory of change as direct grant making to DPOs that will build the ability and capacity of persons with disabilities to actively participate in CRPD implementation and monitoring. The fact that the Fund has made a strategic decision to fund DPOs directly provides an innovative approach to channel funding into advocacy and gives support to small sized organisations that would of previous had difficulty in in accessing traditional development aid. In practice DPOs find it hard to compete for grants allocated by bilateral donor agencies. As key informant D3 commented “government donors cannot give direct grants to many DPOs because of their size.” Other key informants interviewed highlighted how factors such as: the small size of DPOs; their limited capacity for managing funds; and the demands of donors for competitive applications had resulted in DPOs finding it difficult to obtain financial support for this type of work.

Hiyaso claims these issues are caused by the neo-liberalistic approach of international cooperation, which focuses on efficiency and quick measurable. Thereby, hindering many DPOs at grassroots level who find difficulty with producing quantifiable outcomes in short timeframes from competing.\(^{482}\) This is particularly true for project portfolios that the DRF places a focus on. As key informant D2 commented, the DRF “does not fund service provision”. Therefore quantifiable outcomes such as numbers of children with disability attending school are not an outcome of their work. Instead, they commented, “our outcomes ask how are you changing policies in area of education so that school is inclusive of all”. This type of an investment from donor agencies requires an understanding that the investments return might be many years later.\(^{483}\)

The second unique aspect is the Fund through its deliberate decision to allocate grants only to DPOs has found that it has improved that status of persons with

\(^{482}\) Hiyaso, Katsui, ‘Disability NGOs and International Perspectives – Political, Economical and International Explanation for the need of directly applicable aid and advice’ (2002) (Working Paper presented at ISTR Fifth International Conference)


4. The DRF manual recognises that change is influenced by a variety of external factors making it difficult to construct a causal chain linking advocacy efforts with change and to attribute this change to specific interventions. As such, focusing only on the results of advocacy work can be inadequate for assessing the value of advocacy efforts, particularly where the emphasis is on the development of civil society and its ability to hold decision makers accountable
disabilities within their community. Key informant D2 commented on direct grant allocation to DPOs, “it makes sure that people with disabilities are the ones leading it, and it also gives power where power has not been.”

By using the Disability Rights Fund in this case study; it has attempted to highlight the key areas of this thesis’ theoretical framework. In terms of concluding remarks, there are a number of points to highlight. Firstly, the DRF through its work is forging a link between human rights and development with many of its grantees situated at grassroots/district level advocating that development funding is inclusive of persons with disabilities. This dichotomy between human rights and development was briefly touched on in chapter three and was also evident during the key informants interviews as discussed earlier in this chapter. Secondly, the DRF focuses on building an empowered disability movement in many of the world’s poorest countries (rather than a traditional focus of service provision to meet basic needs) that can contribute to legislative and policy reform and also hold duty bearers, in this case their own States to account. This approach as discussed earlier finds sentiment with Fineman and Sen, and also the principles of the CRPD, in particular Article 4 and also Article 33.1 on monitoring the Convention. Thirdly, the DRF while holding States accountable through an empowered disability movement also provides support to partnerships between State and DPOs in problem solving and working together positively to improve outcomes for persons with disabilities. This issue of partnership/working together is featured throughout the Convention and is also highlighted earlier Chapter three. As human rights organisations move towards working with States in problem solving rather than working against States to bring about change.

Finally, chapter two discussed the balancing act policy makers face when it comes to deciding allocation of resources based on universal versus the specific. While, universal human rights treaties such as the IESCR and the ICCPR cover persons with disabilities, the very fact that the Convention was created

484 For example, one of the points of a review report highlighted how 6 local district assemblies in Ghana were creating long term development plans inclusive of women with disabilities with the involvement of a DRF grantee.
emphasises there was a specific need for the clarification of the rights of persons with disabilities. Following from that an argument can be made that interventions focusing on building the capacity of DPOs are justified. However, as discussed in chapter three, attention needs to be paid to how a single lens focus has the potential to further silo disability as a specific issue away from the mainstream. In addressing this concern, it is worth pointing out the number of mechanisms the DRF has in place to ensure that disability does not become siloed. Key informant DI2 described the different measures as: (1) ensuring that the diversity of disability is recognised, particularly in the case of women and children with disabilities; and (2) there is a bridge between the disability rights community and the mainstream human rights community. For example, the consultants who designed the DRF’s structure made sure to include bridge builders from the human rights community into the governance of the Fund.

7.5 Concluding remarks

This chapter discussed the agencies’ different approaches to mainstreaming disability in relations to the key elements of this research. The key elements are: (a) the role of Responsive State; (b) the need for recognition of diversity among persons with disabilities; (c) and the need for a participatory role for persons with disabilities in planning, monitoring and evaluation of law and policy. Each of these elements can enhance mainstreaming disability in a development context. This final section presents a number of concluding remarks with respect to the agencies and how they fared against the theoretical framework.

Firstly, with respect to the role of a Responsive State a number of issues emerged which are relevant to the future implementation of Article 32. These issues relate to: (1) the Donor State and its requirement under Article 32 to ensure its international policies and programmes promote and respect the rights of persons with disabilities; (2) the State in receipt of development aid and its responsibility for implementing the CRPD; (3) and persons with disabilities and their role in holding State Parties accountable to commitments.
From the perspective of the Responsive Donor State, two important aspects of the data are worth highlighting. This chapter has shown that the Donor States have placed an emphasis on including disability as a thematic issue in international development. However, what is not so evident is whether it is considered part of their foreign policy, which in most countries provides the overarching principles and guidance to their international cooperation. Each of the States followed different pathways to include disability in their international cooperation. Whether this inclusion manages to go upstream to the State’s foreign policy, and therefore become part of all government-to-government interaction remains in question. As discussed earlier each of the agencies worked with partner governments. However, this was mainly from a disability perspective (AusAID) and in some cases a human rights perspective (USAID). Overall there was no evidence from the data to show that government-to-government action had gone beyond the disability context. This is an important point with respect to the implementation of Article 32 and mainstreaming disability. As government-to-government actions solely focused on service provision and meeting the basic needs of persons with disabilities will have limited success in bringing about progress for the rights of persons with disabilities unless the actions extend beyond disability specific measures.

The second issue is with regard to Donor States being responsive and taking pro-active measures to ensure their international cooperation does not contribute to policies and structures that negatively impact on the rights of persons. As discussed in chapter four, this requires conscious actions by Donor States to ensure that the financial assistance and other forms of cooperation they support, are allocated away from projects and processes that further disadvantage and exclude persons with disabilities. Instead, the focus should place a strong emphasis on allocating assistance towards projects that enhance the rights of persons with disabilities. The interview data highlighted that AusAID and USAID were to some extent taking pro-active measures to promote and respect the rights of persons with disabilities. They achieved this through supporting countries to develop progressive laws and policies. AusAID in particular, placed an emphasis on working with partner countries beyond just providing financial assistance for service provision. In addition to service provision they placed an
emphasis on providing support in developing laws and policies that are inclusive of persons with disabilities. This is an important example of how government-to-government actions can look beyond services and instead focus on supporting partner countries build inclusive societies for persons with disabilities.

However, as noted earlier in chapter six the lack of monitoring and follow up by agencies on the implementation of development programmes can cause difficulties. Particularly in following up if the programmes are protecting and promoting the rights of persons with disabilities. The potential difficulties can arise where agencies’ development programmes are not aligned to the CRPD’s principles and they are not aware of this. Therefore, in terms of implementing Article 32, in addition to the need for consciousness by the State, there is also a role for policy coherence to ensure that all measures taken under international cooperation align with the CRPD. In particular, they should align with the provisions of Article 32 that requires that international development programmes are accessible and inclusive to persons with disabilities.

Finally, with regard to the Responsive State, the Recipient State’s implementation of the CRPD and how Donor States can support this is important to highlight. Firstly, the earlier discussion in this chapter highlighted that transnational processes (such as treaties) are not centred in nationally based policies. Therefore this causes potential difficulties in ownership of the process of reform at a national level. The data gathered from a number of key informants demonstrated how States in receipt of aid had ratified the CPRD, yet in many cases they had no evidence of supporting domestic legislation and policy to implement it. Therefore creating a need for information sharing and lessons learnt. As discussed above and highlighted through the data, there is a definite role for Donor States through international cooperation to share lessons learnt with respect to their own experiences of policy and legal reform in creating inclusive societies.

However, this must extend beyond learning and sharing and the Recipient State must build on the commitments it has made to the CRPD, by taking conscious actions to ensure that persons with disabilities are included in the development of
its own societal institutions and structures. Many of these structures and societal institutions will receive support from donor aid. Therefore, a consciousness between the Donor State and Recipient State on ensuring aid supports inclusion rather than exclusion would be a positive step in improving the lives of persons with disabilities. However, the impetus for Recipient State to place persons with disabilities as an integral part of their own development plans will not happen solely because of a commitment to the CRPD. It also requires a strong disability movement to hold the State to account.

As discussed in chapter two, each of the theories had commonalities in how they envisaged marginalised persons becoming agents of their own change. The suggested processes for achieving this included; persons with disabilities actively participating in policy development and decision-making, and holding their own governments to account to implement the CRPD. The data collected for this research showed that the agencies in line with the principles of the CRPD had a number of mechanisms to facilitate persons with disabilities and DPOs involvement in policy development and evaluation (see chapter six 6.1.1.4). However, this represents just one aspect where persons with disabilities voices need to be heard. The second aspect is with respect to holding States to account in implementing the CRPD. The Disability Rights Fund case study discussed earlier demonstrated how Donor States are taking positive measures by investing in building the capacity of DPOs to create a momentum for change at a national level. This has potential to help promote national ownership of the CRPD by building a strong disability movement that can hold their government to account. The movement can also work in partnership with their government to implement the Convention. All of these points are found in Article 32, which provides the basis for DPOs, civil society and States to work together on inclusive development.

The final element of the theoretical framework measures how each of the agencies performance against the need for recognition of diversity, and how disability interacted with other thematic groups such as gender. The rationale for this as discussed in chapter two and chapter three was to explore how the agencies conceptualised disability. Questions explored whether disability
mainstreaming came through a disability lens or was there any evidence to show that it was considered part of other thematic areas. Recognising intersecting identities and diversity has become an important aspect of new thinking on how to enhance mainstreaming outcomes. The data from this research pointed to some level of recognition by the agencies that persons with disabilities have a variety of identities, and it also it highlighted that there was some level of interaction between disability and other thematic areas. However, the data also highlighted how this interaction remained at an information level and came through “the disability corridor”. This suggests that measures taken by each of the agencies was routed within the disability lens or it was additive; such as adding disability into seminars and networks on other thematic areas. This finding would appear to be in line with the discussion in chapter two, section 2.4.7, where Degener described the Convention as limited in its approach to recognising intersectional discrimination. This raises issues for further consideration for implementing Article 32. In particular it raises issues for the implementation of inclusive international development programmes that are responsive to incidences of discrimination, which are not captured by the traditional anti-discrimination categories.

485 See Squires discussed in chapter six
486 See Chapter two discussion
Chapter Eight: Conclusion

8.1 Introduction
The CRPD and Article 32 on International Cooperation have brought changes to the legal and policy context in which bilateral agencies mainstream disability. Prior to the CRPD mainstreaming disability in international development policies occurred without a legal basis and primarily from a disability specific perspective. In answering the overall research question what does Article 32 of the Convention on the Rights of Persons with Disabilities mean for bilateral agencies mainstreaming of disability; this study explored to what extent each of the bilateral agencies has mainstreamed disability thus far. In addition, it also explored how each agency has conceptualised its approach to mainstreaming disability and the levels of support and resources they allocate to support mainstreaming. By doing this, the thesis provides an assessment of each agency, and highlights the agencies’ successes and challenges in mainstreaming disability. Secondly, the study explored how each agency engaged with the three elements identified by the theoretical framework of this thesis. These elements are: the role of Responsive State; the need for recognition of difference; and the need for participatory approaches to include persons with disabilities. By discussing mainstreaming disability under these themes, the aim of this thesis was to contribute to a deeper understanding of mainstreaming disability in development.

8.2 Summary of empirical findings
This section draws together the findings from the overall research question and the sub-questions. As discussed in chapter three, the order for answering these question was designed to; (1) describe the efforts by bilateral agencies to mainstream disability in development thus far; (2) discuss their successes and challenges; and (3) identify gaps and future steps that bilateral agencies need to take to act in coherence with Article 32 of the Convention. The main empirical findings answering these questions are covered in chapter five, chapter six and chapter seven. Chapter five utilising interview data from key informants (internal and external) and policy material from the respective agencies presented a
baseline of information, and builds a picture of how each agency approaches mainstreaming disability. Chapter six presented an assessment of disability mainstreaming and identified the differences and commonalities between agencies. It also highlighted the success and challenges the agencies encountered in the context of lessons learnt from gender mainstreaming. Chapter seven assessed the agencies against the key components of the theoretical framework underpinning this research.

Chapter five presented a descriptive narrative of how each agency described its approach to mainstreaming disability. The literature review of the agencies’ policies and interviews with the internal key informants demonstrated a willingness and commitment by each agency to mainstream disability. The key findings highlighted that each of the agencies conceptualised disability in line with the social model of disability, and in the spirit of the CRPD, with a focus on barrier removal so that persons with disabilities can realise their human rights and achieve their full potential. The interviews also highlighted the range of mechanisms and supports that each agency had in place to operationalise its mainstreaming approach, these included:

- staff directly engaged in mainstreaming disability;
- a range of supports to promote the inclusion of disability throughout the agencies work;
- a number of mechanisms for internal and external policy coherence; and
- a number of different actors they worked with to implement their commitments to mainstream disability.

While the main focus of this chapter was the narrative of each agency, key informants external to the agency presented their views and opinions on the agencies’ approaches to mainstreaming. The key findings from these interviews pointed to the following challenges:

- lack of clarity on the concept of mainstreaming and its applicability across the totality of the agencies work;
• the context specific nature of mainstreaming disability and how this can result in its relevance to other contexts such as governance and political participation being minimal;
• the sustainability of the supports in each agency; and
• the lack of enforcement mechanisms to implement the policy commitments, particularly in the decentralised structure of the agency.

Chapter six’s presentation of findings and discussion demonstrated the experience of mainstreaming disability for the most part has been similar to gender mainstreaming and faces many of the same difficulties in its implementation. One of the key commonalities between both seems to be the failure to significantly disrupt the overall business of the agency. The findings discussed in chapter six pointed to the fact that each of the agencies, through policy statements and dedicated resources (both human and financial) has created opportunities for the inclusion of disability in their international development work. While the approach by each agency to do so was not universal, each agency had adopted a non-discrimination approach with a focus primarily through a disability lens, with disability specific focal points and a range of disability-specific interventions. This finding of failure to disrupt the overall business of the agency is supported by a number of internationally published policy documents, and has also been found by gender literature (particularly in the context of Women in Development).

Chapter six findings delved deeper and discussed how the agency engages with mainstreaming disability. The findings pointed to the failure of disability in any systematic way to go beyond its designated focal point to de-centralised structures such as embassies and mission offices or to extend beyond those who are specifically tasked with the brief of disability. In terms of project implementation the area where the majority of actions under the guise of disability mainstreaming took place. The findings pointed to outsourcing of disability to NGOs with minimal feedback loops into the agency. This raised the question as to how entrepreneurial or innovative approaches could be captured and replicated by the agency. The same was also true for capturing actions by the
agency that went against the principles of the Convention. The findings also pointed to the absence of any formalised internal processes, which could hold the agency and its other areas of work to account for not fulfilling their own policy commitment to mainstreaming disability. These findings suggested that the main responsibility for mainstreaming disability lies within the remit of disability focal staff tasked with creating the case for including disability. Yet, these staff have minimal or no powers to sanction or penalise non-compliance. Finally, in comparing disability mainstreaming with gender mainstreaming and how it evolved. The analysis showed mainstreaming disability has not made any significant headway in moving beyond an information sharing and awareness-raising level; whereas gender mainstreaming has evolved and includes processes such as gender analysis.

Chapter seven’s empirical findings were discussed in the context of the theoretical framework and its different elements. These elements focused on internal procedures, such as how agencies undertook measures to progress the rights and equal opportunities of persons with disabilities, and also how open the agencies were to participation by persons with disabilities in policy processes. The elements of the framework also focused on the responsiveness of the Donor State and State in receipt of aid to ensure the rights of persons with disabilities were respected, or at the very least were not negatively impacted. In terms of the theoretical framework the findings showed a mixture of success and also challenges. With respect to the inclusion of the voice of persons with disabilities, the findings highlighted a number of examples where bilateral agencies had some success with consultations, and also where agencies had supported the participation of persons with disabilities in holding their States accountable to their commitments to the CRPD. The findings also highlighted that some of the agencies had successes in engaging with the diversity of difference among persons with disabilities. For example AusAID highlighted women and children with disabilities as important to their policy, and project implementers in Finland described how they specifically targeted women with disabilities. However, the findings also pointed to the fact this seemed to be primarily through a disability lens and there was minimal interaction between disability and other thematic issues. The findings also pointed to other challenges. In particular, how Donor
States ensure that international development programmes adhere to the CRPD and its right-based approach. The findings highlighted that while there was positive measures taken by Donor States in providing support to improve laws and policies in the State they give aid to; there was no evidence to show that the agencies had any mechanisms to ensure policy coherence with the CRPD or any set of minimal standards to measure their development interventions against.

8.3 Policy implications for implementation of Article 32

The findings highlighted above point to a number of areas relevant for the future implementation of Article 32 by Donor States and their respective bilateral agencies. First and foremost, the discussion in chapter six and seven demonstrate mainstreaming disability in bilateral agencies policies’ is one part of a wider series of policy measures that needs to happen to ensure persons with disabilities are beneficiaries and also contributors to development. Chapter sevens’ discussion highlighted how there also needs to be governments willing and able to take proactive measures to build foundations for an inclusive society. It also highlighted the need for the voices of persons with disabilities to be included in all processes to achieve this, including holding States accountable. Based on these findings this section proposes three areas to contribute to the future implementation of Article 32.

First of all, this thesis has shown mainstreaming disability for the most part has not reached beyond the disability specific lens approach. In addition, what was also clear from the interview with the agencies was how each of them faced a challenge in responding to the list of thematic issues (including disability) that were presented as development priorities. The interviews did not allude to any of the newer thematic issues emerging in the development discourse. These new issues include climate change, ageing and older populations, and most recently the lesbian, gay and bisexual community and the human rights violations they face in many developing countries. While this list of thematic groups and their specific demands for mainstreaming and inclusion in international development continues to grow, it does so against a backdrop of shrinking aid budgets. For
example, the Organisation for Economic Cooperation and Development (OECD) reported that in 2012, there was a -4.0% drop in official development assistance (ODA) and that since 2010 (when aid reached its peak), ODA has fallen by -6.0% in real terms.487 This decrease in aid has directly impacted on bilateral agencies as they are now coming under increased pressure to prove themselves in terms of efficiency and value for money. Therefore the possibility of allocating resources towards creating separate departments for different thematic groups may not be deemed the most effective use of government money. Furthermore, it is also important to highlight that the current negotiations for a new development framework highlight disability within the context extreme poverty and inequalities, therefore going for an overarching approach that includes disability rather than a singular focus.488 This new framework once agreed will influence Donor States and bilateral agencies for the coming fifteen to twenty years.

In terms of the implications of this for Article 32 and how it interacts with future development policy and programmes, one of elements running throughout this thesis, is that of recognising incidences of discrimination that are not captured or responded to by a either a single lens or categorical approach. As discussed in chapter two, Satz asserted that if we continue to conceptualise disability discrimination from single lens perspective, then disability will be understood as fragmented rather than as a constant and part of the human condition. To this end, the research in this thesis has attempted to demonstrate the limitation of a single lens approach to mainstreaming disability. The findings show that where disability interacts with other thematic issues it is primarily through a disability lens. However, it must be pointed out this research did not comprehensively investigate the other thematic groups within the agencies. Therefore a further, more thorough, investigation would be needed to prove this. One of the recommendations from this thesis is the need for further research on the potential of bilateral agencies to use an overarching theme for mainstreaming policy such as ‘diversity’ or ‘human rights’ rather than a singular categorical approach such

as disability. This has the potential to enable thematic areas and groups to work strategically together on processes, for example, joint collection of data, impact assessment. All of which support their inclusion in international development. It can also enable effective responses to incidences of discrimination, which do not fit within a single lens approach, but instead focus on wider contributing factors such as the social, economic and political context. A potential role Article 32 could play in this respect to this wider equality or human rights approach policy approach is to ensure disability, as a theme is included.

Secondly, this thesis has re-iterated claims made by the UN and others; the responsibility for mainstreaming disability is not the sole responsibility of any one agency. The second element running through this thesis is the role of a Responsive State, in particular its responsibility to create structural conditions in which individuals can aspire to meaningfully realise their individual capabilities as fully as possible. To achieve this as discussed in chapter two, Fineman argues there is an obligation on States to ensure access to societal institutions and opportunities they provide are accessible to all. This research measured the actions taken by Donor States and their bilateral agencies as required by Article 32. This research showed there have been some successes in terms of development aid contributing to the building foundations for inclusive societies for persons with disabilities. For example, the Australian governments work with partner countries in inclusive education and infrastructure.

However, there were also limitations, which are important to consider for the future policy development supporting Article 32. The first limitation highlighted minimal interaction between bilateral agencies’ commitments to mainstreaming disability and the States overall foreign policy. While the CRPD and Article 32 may be specific disability instruments, they also have a role to play with broader foreign policy particularly with the mechanisms that promote human rights in bilateral State discussions. In addition, linking Article 32 with wider foreign policy issues also establishes a wider role for its implementation beyond disability proofing how development aid is implemented.

The second limitation was the lack of global guidelines or standards to ensure the
CRPD does not remain at an abstract level. The CRPD can provide guidance on how institutions funded by the State, with development objectives (for example, bilateral agencies), can promote and respect the rights of persons with disabilities. Yet such guidance is currently lacking. Establishing guidance and standards suggests a policy coherence role for Article 32. The final limitation is Article 32’s relationship with States who are in receipt of development aid. With regard to Fineman’s concept of a Responsive State, this thesis discussed the need for the State in receipt of development aid to take pro-active measures from the outset to progress the rights of persons with disabilities. While the actual obligation to do this does not come from development aid itself, it does come from the fact that the Recipient State has signed or ratified the CRPD thereby committing itself to fulfilling, respecting and promoting the rights of persons with disabilities. Therefore Article 32, and more widely the CRPD itself, could provide the State with a framework for implementation that could be supported through development aid.

Finally, with respect to the third element of the theoretical framework, this thesis has presented both bilateral agencies and State Parties have built the foundations for including the voices of persons with disabilities in policy processes and processes which hold duty bearers to account. Article 32 and its future implementation could further shape this progress by encouraging bilateral agencies and State Parties to include the voices of persons with disabilities, beyond the input stage in policy process to the evaluation and monitoring stage.

8.4 Research Limitations

Including people with disabilities in international cooperation is not a new phenomenon. However, while strategies exist to include people with disabilities in development aid policy and programmes, it has remained a relatively unexplored subject in the academic sphere. Outside academia, research on the effectiveness of donor policies on disability is practically non-existent. Reports published to date have been more of a descriptive nature or mapping exercise. The limited number of studies available can be described as being reflective of mainstreaming strategies and of an inventory nature, which list and describe
existing policies. In addition to the lack of existing literature, there is a lack of theorising on disability and development as a subject area particularly from a rights perspective. A working paper published by University College London’s Disability Inclusive Development Centre has focused on developing a conceptual framework of disability and international development. However, most models or methodologies to date have been based on health and medical models of disability. For example, the World Health Organisation’s work on disability focuses on areas such as healthcare and community based rehabilitation. The absence of a body of literature with existing conceptual frameworks has meant this research has drawn on a number of other subject areas such as sociology (gender mainstreaming) and rights-based approach (CRPD) to construct a theoretical framework.

Lastly, this study is a small qualitative study using a sample of bilateral agencies. These do not include some of the leading agencies such as the Department for International Development (DFID) and the Swedish International Development Agency (SIDA), who are also recognised as having many years of experience in mainstreaming disability in their policies and programmes. In addition to this, the short time gap between the adoption of the Convention and the undertaking of this study meant that it was a short period to fully establish changes that may have occurred in the agencies approach to mainstreaming disability as a result of the CRPD Therefore, there were a number of questions that arose from this study, which could form part of a future research agenda in this area. Some of these questions include:

1. How have bilateral agencies adopted the main principles of the CRPD (for example, non-discrimination) into their efforts to include persons with disabilities in their international development policies and programmes?

2. Has the rights-based approach enunciated in the CRPD translated into

490 See http://www.who.int/disabilities/en/ for general description of WHO’s work on disability
programmes and measures undertaken by bilateral agencies to promote and respect the rights of persons with disabilities?

3. How has State-to-State cooperation on disability changed since the adoption of the CRPD?
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APPENDIX A: Participant Information Sheet

Title: Mainstreaming Disability in Development Aid
Contact Name: Mary Keogh (Ph.D. Student)
Address: Centre for Disability Law and Policy
Email: m.keogh2@nuigalway.ie
Ph.: + 353 1 87 6426852

General Information:
You have been asked to participate in the fieldwork component of a Ph.D. research project. You may want to know what this research is about before you decide to participate in the interview. Please take a couple of minutes to read the information below before you decide to participate. If you have any questions or queries, please feel free to contact me at the above details.

Background to my PhD research:
I am undertaking this research as part of a Ph.D. funded by the Higher Education Authority of Ireland. I am based in the Centre for Disability Law and Policy at National University of Ireland Galway. The purpose of my research project is to explore what extent disability is mainstreamed in donor agencies policies and practices with a particular focus on anti-poverty policies and programmes

What does participation involve?
Participation involves a face-to-face interview giving your views and experiences in disability and development. During the interview, questions will be asked and tape-recorded regarding your experience about being an actor in the field of disability

Why have I asked to interview you?
I have asked to interview you based on your experience/or your organisations role in disability and development issues, which will assist me in understanding the issues that I am researching.
How will the information that I share be used?
The information that you provide will be treated confidentially unless you expressly agree to have it published. In advance of the interview I will give you a consent form where you can decide to opt out of being named in my research. You can do this by selecting the option “I am not in agreement to use my name in this study”. By choosing this option, your name or any other identifiable trait will be not be referenced in my thesis. You will be described using a generic title such as ‘interviewee’.

In the case you wish to be named in the research as a key informant, any quotes or information given by you during the interview process to be included in my thesis will be sent to you for review in advance of finalising my thesis. If upon reviewing your quote and at that stage decide that you wish to remain anonymous, your confidentiality will be maintained and the information will be recorded in a manner that ensures that you will not be identified (see above paragraph). The information that you provide will assist in informing my research. At all times, during my fieldwork it will be kept in password protected files. Once my study has completed it will be stored in a locked filing cabinet in the Centre for Disability Law and Policy for 5 years. I will hold a key along with my Principal Investigator.

Can I change my mind about participating?
You can decide to withdraw from participating in the interview whenever you wish to do so. You can do this before the interview or at any stage during the interview.

Why should I participate in the interview?
The research seeks to contribute to research on the area of mainstreaming disability in development aid policy and programmes. Your contribution as someone with experience in the area is greatly appreciated.

Who can I contact for more information or if I have further questions:
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APPENDIX B: Bilateral Agency Questionnaire

A. Policy development, mainstreaming policy focus and status within the agency

Context for questions: The impetus for USAID’s policy on disability started back in the early nineties. In 1991, the General Accounting Office undertook an investigation of the inclusion of disability into US foreign assistance programming and found that disability inclusion remained ‘sporadic’ and concluded that USAID “does not generally attempt to target the disabled in bilateral assistance programs”. Following this, the National Council on Disability published a report entitled “Foreign Policy and Disability and concluded that “the United States does not have a comprehensive foreign policy on disability” and that “neither the spirit nor the letter of the U.S. disability rights laws is incorporated into their activities of the principal foreign policy agencies.”

In 1997, noting NCD’s recommendation, the NCD report and recommendations, issued USAID Disability Policy Paper, a non-binding guidance note. The 1997 policy paper operates under the principle of non discrimination with the stated objective to “[t]o avoid discrimination against persons with disabilities in programs which USAID funds and to stimulate an engagement of host country counterparts, governments, implementing organizations and other donors in promoting a climate of non-discrimination against and equal opportunity for persons with disabilities”. Furthermore, the USAID policy aims “to promote the inclusion of persons with disabilities both within USAID programs and in host countries where USAID has programs”. In 2003/2004, USAID further institutionalized its commitment when it passed two policy directives mandating that all new construction and major renovations be made accessible and that that

491 The questions remained the same for each agency, however each agency had a different context in which its policy evolved, so the contextual piece changed on each questionnaire.
all requests or solicitations for funding clearly state how the programs promote and support the 1997 policy.

Q. The US has over 15 years experience in including disability in its development cooperation, how did this start? And how has it evolved during this period?

Q. USAID’s disability policy states that USAID will not discriminate against people with disabilities and will work to ensure the inclusion of people with disabilities. Additional to this policy statement, USAID also has two policy directives mandating that all new construction and major renovation be made accessible.

Can you outline the measures USAID takes to prevent discrimination against persons with disabilities in your work? What was the specific intention behind the additional two policies? Can you outline how these interact together? Are the policy directives binding? How are they enforced?

Q. In developing USAID’s policy on mainstreaming disability, did you undertake any (a) data collection (b) evidence-based research (c) a needs assessment or consultation with key stakeholders (e.g. disability community) before the policy was developed?

Q. USAID in its Disability Policy states a number of objectives, they are as follows a) to enhance the attainment of United States foreign assistance program goals by promoting the participation and equalization of opportunities of individuals with disabilities in USAID policy, country and sector strategies, activity designs and implementation; (b) to increase awareness of issues of people with disabilities both within USAID programs and in host countries; (c) to engage other U.S. government agencies, host country counterparts, governments, implementing organizations and other donors in fostering a climate of non-discrimination against people with disabilities; and (d) to support international advocacy for people with disabilities.
Can you explain in detail the different policy objectives? Where does the responsibility lie with their implementation e.g. is it within USAID’s disability team or is it through USAID mission offices?

Q. How do you establish if USAID’s mainstreaming (non-discrimination approach) has led to satisfactory results? How do you identify if there is a need for a targeted approach? In what areas do you find the need for a targeted component?

Q. What measures do you take to ensure the inclusion of the most vulnerable groups among persons with a disability, particularly women with disabilities?

B. Operationalization of Policy

Q. Article 32 of the CRPD requires that all development policy and programmes are inclusive and accessible. What measures do you take to guarantee that this is being achieved?

Q. Do you have specific personnel working on disability or does all staff engage with disability through aspects of their work? Is there focal points in USAID country missions?

Q. USAID country missions appear to play a key role in implementing the disability policy? Are all missions instructed to do so? Is there a standard applied across all missions?

Q. Do you have an annual specific budget line on disability? Or is disability funded on a project-by-project basis? Is the Disability Fund granted by Congress on a yearly basis additional funding to USAID’s funding stream?

Q. How do you measure the successes of your mainstreaming policy? Do you undertake regular evaluations and monitoring of your policy? Do you employ
any planning and/or monitoring tools for disability inclusion in the work you do? Do you disaggregate disability in your data collection?

Q. Has your analysis or evaluations to date of your mainstreaming policy identified success factors in your work? Has it identified any gaps?

Q. Can you provide any examples of good practice you have developed through your mainstreaming work?

C. Partnership with the Disability Community

Context for Questions: USAID in its disability policy recognises the need to consult with persons with disabilities not just in areas specific to disability. For example, the policy lists non-traditional areas such as development of basic infrastructure, urban and rural communities. The policy states also that from time to time USAID may also encourage relevant policy dialogue with host governments. Additional to the commitment to consultation, the USAID Disability Policy also recognises the important role played by NGOs in the indigenous countries as service providers and states that it will encourage the effective partnership relations between US Private Voluntary Organisations (PVO’s) and indigenous NGOs.

Q. What measures do you take to ensure that the voice of people with disabilities are included in all aspects of policy development and programme planning? Can you outline the measures?

Q. The Disability Policy states that where appropriate USAID may also encourage relevant policy dialogue with host governments? Can you explain this in more detail? Is disability included in bilateral discussion between USAID and governments?

Q. USAID works with local indigenous NGOs to provide services and actively promotes partnerships between these NGOs and PVOs based in the US. Can you explain how this works?
Q. Is there any formal decision with regard to the role of NGO’s/PVO’s as implementing the work of USAID. If so, was there an identified need for it?

Q. What investment does the USAID make to ensure that quality and standards are adhered to in implementing this area of work?

Q. What measures do you take to ensure that lessons learnt through NGO’s/PVOs managing these areas of work are fed back to USAID?

D. USAID’s work in Policy Coherence in Poverty and Human Rights

Q. Does USAID have a system to ensure that disability is included/considered across all priority areas of work? Do you have a mechanism to check this (e.g. disability proofing)

Q. How does your mainstreaming policy on disability interact with the USAIDs priority areas of poverty reduction?

(a) Is there an understanding of the relevance of disability within the poverty analysis work undertaken by USAID?

(b) Is disability incorporated into all aspects of USAID work on poverty reduction?

(c) In your statistics and monitoring of achieving USAID poverty reduction objectives is disability included?

Q. How does the USAID work to promote the rights of people with disabilities, particularly through its international cooperation? How are you ensuring that your mainstreaming policy meets the standards set down by the CRPD?

492 Article 32 has a rights-based approach. International cooperation is envisaged in the Article to provide positive outcomes for people with disabilities. The process leading to these outcomes should also respect human rights so that a participatory approach must be taken where people with disabilities and their representative organisations are included at all levels of the process

493 Broadly speaking, Article 3 sets out the general principles or standards set by the Convention, they include, respect for dignity, non-discrimination, full and effective participation, respect for
APPENDIX C: Article 32 Daily Summaries

In the early stages of drafting the CRPD, Mexico asserted the necessity of including a separate article in the text and prepared a draft article, which it based on consultations with other State Parties, and existing international law on the international cooperation (IC). The article was divided into three different sections; (1) IC with and between States; (2) IC between States and regional and international organisations; and (3) IC among civil society and the private sector. In a sense, Mexico’s proposal was a re-iteration of existing provisions for IC contained in both the World Programme of Action and the UN Standard Rules. It also recognized the existing international provisions on international cooperation within the Convention on the Rights of the Child and the International Covenant on Economic and Social Rights. 494

Although there was general consensus among State Parties that it was valid to make some reference to the role of international cooperation, this consensus did not extend to the need for a separate article on IC. The idea of a separate article on international cooperation faced opposition from many quarters. In particular the European Union emphasised that as in the case of all human rights instruments, implementation and fulfillment of the obligations was a matter for individual State Parties and in no way must be conditional of receiving international aid or assistance. The EU argued a separate would be a departure from the basic framework of previous treaties by interfering with States’ obligations and there was a fear that State parties would be able to cite the article as an excuse for not implementing the Convention. The issue of the implementation of the Convention as a sole responsibility of each State Party

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494 See the full text of Mexico’s proposed article on International Cooperation http://www.un.org/esa/socdev/enable/rights/ahc3intlcoop.htm#mexico

difference, equality of opportunity, accessibility and equality between men and women (General principles of the CRPD
was highlighted by a number of States (Australia, Canada, Norway) mirroring the general debate within development and human rights discourse.495

In addition the EU argued that since international cooperation is not a right of individuals, it should not be in a separate article within a Convention that lists the rights of individuals.496 Serbia and Montenegro supported this view and stated while in their opinion IC is significant for countries in transition, this Convention is for the human rights of individuals and therefore the most appropriate reference or placement of IC would be within the General Obligations of the Treaty. The European Union went further in its opposition to a specific article and stated that lack of IC should not be used as a reason to explain why discrimination against persons with disabilities occurs; this was solely the responsibility of the State to ensure that people with disabilities are protected. State Parties such as Norway, Australia, Jordan and Canada supported the EU and made the case IC should not be in any programmatic way. Japan, in agreement with the EU and other States such as Australia, stated that IC should not be a prerequisite for implementing the Convention. Rather it viewed its role more as facilitating implementation through a range of measures. Finally, the Economic and Social Commission for Asia and the Pacific (ESCAP), the development wing of the UN, supported the emphasis on international technical cooperation in ensuring the full enjoyment of the rights of persons with disabilities. However, it felt it might be more appropriate and more effective to include the detailed steps for implementation of technical cooperation in an Annex or perhaps separate documents such as implementation guidelines, recommendations instead of inclusion within the Convention’s text.

While State Parties mostly of northern origin opposed the separate article, many States in the Southern region and civil society representatives supported its

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495 See Daily summaries of negotiations of Ad Hoc Committee, comments made by State Parties 3rd and 4th sessions of the Ad Hoc Committee, 2004; Volume 4, #8 (June 2004); Volume 5, #5 (August 2004)

inclusion. The Special Rapporteur on Disability supported its inclusion for a number of reasons: (1) the Convention deals with the responsibilities of States toward persons with disabilities, and if IC is not addressed, States will not take responsibility under the pretext that no article requires it; (2) the Convention is a global instrument; it cannot ignore the differences in the cultures, economics, politics and social affairs among countries. Bridging these gaps requires the highest degree of cooperation; and (3) the Convention cannot be implemented without international cooperation and the commitments should include measures beyond simply the financial ones that can be provided by wealthy countries. 497

Thailand supported the inclusion of the article ‘as a mechanism to implement the Convention’ as did China who described it as ‘important to the realization of the goal of the Convention.’ 498 China highlighted the role international cooperation could play in capacity building of countries to be able to implement the Convention. 499 Trinidad and Tobago supported Mexico’s initiative to include a separate and specific article on international cooperation, which they asserted “raises international cooperation to the normative level.” 500 Trinidad and Tobago argued that social development is key to this Convention and therefore IC is fundamental to its goals. They further stated that different countries are at different levels of development; therefore, leaving out IC would result in a good Convention that is not practical. They suggested that without IC, countries with lower levels of development would be at a disadvantage in implementing the provision of the Convention due to limited resources. 501

India while supportive of the idea of a separate article advocated for using the text of the Convention on the Rights of the Child, which focuses on a narrow approach to IC. Focusing on the areas of preventive health care and of medical,

497 See the UN Special Rapporteur on Disability interventions on international cooperation in the daily summaries 3rd session 2004, 7th session, February 2006, Volume 4, #8 (June 2004); Volume 8, #14
498 See daily summaries 3rd session for intervention by Thailand, June 2004 Volume 4, #8 (June 2004)
499 See daily summaries 3rd session for intervention by China, June 2004 Volume 4, #8 (June 2004);
500 See daily summaries 4th session for intervention by Trinidad and Tobago, August 2004 Volume 4, #8 (June 2004);
501 Ibid
psychological and functional treatment of people with disabilities, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling State Parties to improve their capacity and in particular take into consideration the needs of developing countries. Both the World Programme of Action and the UN Standard Rules already covered all of these areas. Yemen were also in support of an article on IC asked that IC contributions could earmark a portion for persons with disabilities, suggesting a ring fencing of funding.

States in support of this separate article were keen to point out that IC should not be traditionally understood as financial transfers from rich countries to poor countries. Costa Rica highlighted that cooperation must be understood in its broadest sense – North-South Cooperation, South to North and also South-to-South. This was supported by Namibia who also advocated for South-to-South IC and gave the example of how its government borrowed Braille ballots from Ghana to ensure that blind persons could vote.\textsuperscript{502} Also a point was made that IC is not limited to north to south transfers, but also between developed states, in the harmonisation of standards on accessibility, on the regulation of non state actors, and in the removal of structural barriers like intellectual property and copyright law, telecommunications, insurance and civil aviation.\textsuperscript{503} For example, the European Union for many years has implemented coordination mechanisms in areas such as social protection and employment for persons with disabilities. Cuba felt that IC has a potential role to play in encouraging implementation in countries with lesser degrees of development. The Philippines outlined that the very fact States had come together to discuss the need for the Convention demonstrated that IC was already in motion and should be included in the draft text.

Another key reason put forth for a separate article was the role of IC in developing standards that could be universally applicable in areas such as accessibility and universal design. Brazil strongly supported the notion of a

\textsuperscript{502} Daily summaries (2005) 7th session for intervention by Thailand, 2005, Volume 8, #14
\textsuperscript{503} Daily summaries (2004) 3\textsuperscript{rd} session for statement made by People with Disabilities Australia, Volume 8, #14
It stressed that all international cooperation should be channelled toward inclusive projects. It argued that development aid must never lead to the creation of new barriers, it put forward the rationale that there is no point in building anything that will need to be rebuilt or adapted in order to make it accessible for persons with disabilities.

During the negotiations, NGOs were given the opportunity to give their views on what turned out to be a contentious debate at many junctures. The importance of the NGOs intervention highlighted the practical issues they faced at the coalface of development. Landmines Survivors advocated that given the absence of an explicit disability perspective in the UN Millennium Development Goals (MDGs) the inclusion of IC, with its development sphere, will help ensure that the MDGs serve the rights of persons with disabilities. Furthermore Handicap International highlighted how having an article on IC, which included provisions for States to share knowledge could mean that wasting of unnecessary resources could be avoided. They gave the example of how billions are spent by international organisations on reconstruction projects in post conflict countries that create rather than remove barriers to access, suggesting that IC could play the role in ensuring these barriers do not arise. Rehabilitation International (RI) elaborate this idea further and suggested that a strong text was needed, one that makes existing development cooperation consistent with the needs of people with disabilities. RI felt that international cooperation in all of its forms can and must play an important role in creating conditions which will best support an improved quality of life for people with disabilities.

The International Disability Caucus (IDC) proposed draft language to help with moving the debate on. Their suggestion had similar sentiments to Mexico’s proposal, but was more specific in suggested measures to be taken. For example, additional to the inclusion of measures covering technical cooperation and information sharing, they highlighted poverty as an issue. Their proposed text explicitly referenced the connection between poverty and disability asking for “resources which are dedicated to eradicate the extreme poverty that face people

504 Daily summaries (2005) 7th session for intervention by Brazil, Volume 8, #14
with disabilities, their exclusion and the difficulties they face to access to basic services.”

The negotiations on the need for a separate article continued at the third session of the Ad hoc. At this juncture, both China and Vietnam developed proposals for consideration and the majority of the session focused on discussing what was now a wide range of texts for a potential article on international cooperation. 506 The Chinese and Vietnamese texts had interesting aspects to them. The Vietnamese text highlighting the role of national laws to protect people with disabilities; increasing public awareness on disability and strengthening the capacity of persons with disabilities to enjoy their rights under the Convention. The Chinese text took a much broader stance focusing on the traditional role of international cooperation in sharing of expertise, technical and economic assistance. China’s text interestingly had a specific reference to the role of mainstreaming disabilities into cooperation frameworks. Mainstreaming up until then had not appeared in any of the proposals. However both of the proposed texts came under similar criticism as did the Mexican proposal in that they were too programmatic and take the Convention away from what it described as a ‘principled approached into the realm of programmatic action’. 507

The negotiations continued with the various State Parties re-iterating their support as in the previous session. The EU had taken the lead on arguing against the separate article in the previous session and maintained that position but now seemed open to a provision regarding international sharing of information, exchange of experience and best practice, in order to assist implementation. Therefore taking a similar approach to the UN Standard Rules, which viewed International Cooperation as an implementation measure. At the session Mexico thanked the supporters of its article and commented that its intention was to

505 See the International Disability Caucus ‘Updated contribution on the draft text of a comprehensive and integral International Convention on Protection and Promotion of the Rights of Persons with Disabilities’ 12
507 See the daily summaries for Canada’s intervention at Ad Hoc Negotiations, third session Volume 4, #8 (June 2004);
provide a common understanding of what international cooperation would mean in the framework of this convention, ‘and avoid misunderstandings and confusion.’ Mexico argued that ‘a general or limited reference to international cooperation, as is found in other human rights treaties, would not make clear what States and other actors should do in relation to this treaty. It argued that international cooperation must be a complement to national efforts, and implementation of the treaty should not be contingent upon the level of international cooperation. They reiterated that ‘the nature of this treaty opens the way to providing innovative means for international cooperation involving different actors, so that it meets the specific needs of persons with disabilities.’

The final sessions under the guidance of the Chair observed that after extensive discussion many delegates believed there should be a specific provision regarding IC, with some States favoring a specific article. The Chair felt that an action plan would probably result from this Convention, and this should deal with some IC issues. The placement of this article was currently Article 24(bis) and after the facilitator held a series of informal consultations a draft article was prepared. The facilitator highlighted the role of the draft article as seeking to recognise the importance of international cooperation and the commitment of states to take certain measures.

The draft text was summarised by the Chair as having a general obligation to promote IC and take appropriate measures. These measures covered: (1) exchange of information on best practices to implement the Convention; (2) increasing public awareness on disability; (3) ensuring the IC programmes are inclusive to persons with disabilities; (4) encouraging the role of technical and economic assistance to developing countries; (5) promoting research and accessible technologies; (6) conducting training and awareness raising; and (7) supporting and develop capacity building for the full implementation of the

308 The role of the facilitator was to work with State Parties on gaining consensus on purpose and to be included in article
309 See the full text of facilitators article
In January 2006, discussion on the text continued, the draft article now appearing as Article 32 on international cooperation. The EU once again reiterated its original concerns about the need for a specific article and was supported by Serbia who described the text of para (d) as ambitious and controversial. However the Chair recommended that the use of language not derogate from States obligations to implement the Convention's provisions. The EU also highlighted its concerns about the use of international development programmes in the text as it felt this was understood primarily as North-South transfers.

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510 See the daily summaries for the Chairs intervention on the draft article at Ad hoc Negotiations, 6th session (August) 2005.
511 The paragraph Serbia referred to was para (d) of the text which stated ‘encouraging the provision of technical cooperation and economic assistance to developing countries, including transfer of technology’
512 See the daily summaries for the EU intervention on the draft article at Ad Hoc negotiations, 7th session, 2005