

# The Diffusion of Disability Rights in Europe

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## ABSTRACT

This article examines the spread of disability rights across European countries. Existing theoretical explanations of rights diffusion are unable to account for the pattern of adoption of disability equality norms across Europe over the last twenty years. The article argues top-down explanations need to be complemented by agent-centered approaches to convincingly account for the case of disability rights in Europe. Engagement with social movement theory that takes domestic activists and the meanings they attribute to rights seriously offers a better understanding of how and why we might see the rise of rights in one case and their rejection in another.

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## I. INTRODUCTION

The emergence and diffusion of disability rights in Europe has been astonishingly rapid.<sup>1</sup> Twenty years ago only two states, Sweden and Germany, included disability as a specifically-enumerated ground meriting equality protections in their Constitution and not a single European state had national legislation outlining measures to combat discrimination based on disability. Today, more than thirty European countries have wide-ranging disability equality protections in place and the European Union (EU) has signed and ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD).<sup>2</sup> It is the first time in its history that the EU has become a party to an international human rights treaty.

Just as surprising as the overall *rate* of diffusion is the *international path* of diffusion. Existing theories of diffusion in the international relations literature—that focus on mechanisms of coercion, persuasion, learning, and emulation—tend to assume that diffusion is a process that is largely driven by Western, liberal democratic states and that states with more recent experience of authoritarian regimes will seek to emulate their policies and norms. These explanations tend to expect the early emergence of rights norms to be almost exclusively within liberal democratic states and then predict their spread to other countries.<sup>3</sup> However, the empirical data compiled here shows the early emergence of disability rights in places which existing explanations of diffusion in International Relations (IR) and Europeanization scholarship would fail to predict, such as Hungary, Cyprus, and Malta. Also surprising is the failure of this norm to be fully adopted in some jurisdictions, for example Denmark, despite strong top-down pressure from the European Union and the United Nations. These trends are quite remarkable and go against the conventional wisdom about the process of diffusion.

The main theoretical contribution of this article is to highlight the limitations of IR explanations of international norm diffusion, and argue for an

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1. Diffusion refers to the process through which rights spread across time and space, see Tanja A. Börzel & Thomas Risse, *The Transformative Power of Europe: The European Union and the Diffusion of Ideas*, in *THE TRANSFORMATIVE POWER OF EUROPE*, KFG Working Papers (Kolleg-Forscherguppe ed., 2009), available at [http://www.polsoz.fu-berlin.de/en/v/trans-formeurope/publications/working\\_paper/WP\\_01\\_Juni\\_Boerzel\\_Risse.pdf?1367706571](http://www.polsoz.fu-berlin.de/en/v/trans-formeurope/publications/working_paper/WP_01_Juni_Boerzel_Risse.pdf?1367706571); Tanja A. Börzel & Thomas Risse, *From Europeanisation to Diffusion: Introduction*, 35 *WEST EUR. POL.* 1 (2012); Fabrizio Gilardi, *Transnational Diffusion: Norms, Ideas and Policies*, in *HANDBOOK OF INTERNATIONAL RELATIONS* 453 (Walter Carlsnaes, Thomas Risse & Beth Simmons eds., 2012); Ryan Goodman & Derek Jinks, *How to Influence States: Socialization and International Human Rights Law*, 54 *DUKE L. J.* 621 (2004); Thomas Peggam, *Diffusion Across Political Systems: The Global Spread of National Human Rights Institutions*, 32(3) *HUM. RTS. Q.* 729 (2010).
  2. Convention on the Rights of Persons with Disabilities, adopted 24 Jan. 2007, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 (13 Dec. 2006).
  3. Ann E. Towns, *Norms and Social Hierarchies: Understanding International Policy Diffusion "From Below,"* 66 *INT'L ORG.* 179 (2012).

approach that combines understandings of the transnational mechanisms of diffusion with social movement theory on framing processes. Structure-emphasizing explanations that focus solely on the international level underestimate the influence of domestic political and institutional structures. They also tend to neglect the meaning-making activity of agents beyond policy elites in mediating the way that rights norms are understood within different jurisdictions. It is possible to gain a better understanding of the conditions under which the adoption of a particular norm occur by bringing in explanations that focus on these factors, specifically an understanding of what certain norms mean for domestic audiences.

The emergence and spread of disability rights serves as a useful case to explore and develop theoretical explanations of diffusion. The term “disability rights” covers a broad range of protections and entitlements to ensure equality and respect for people with disabilities. The focus is on measures to tackle discrimination against persons with disabilities. In many ways, disability can be seen as an “unlikely case”<sup>4</sup> for theories of rights diffusion because of the complexity associated with achieving disability equality. This complexity exists for a number of reasons. The first concerns the nature of exclusion based on disability. Disability discrimination can stem from prejudicial attitudes; notions about what persons with a particular impairment can and cannot achieve. However, disability discrimination can also be considered different from other forms of discrimination, such as racism, in that the experience of disability discrimination is often context dependent. Exclusion can result from the interaction between an impairment of an individual and the existence of barriers—aspects of the physical or social environment—that prohibit meaningful involvement in society by persons with disabilities.<sup>5</sup>

A second reason disability equality is difficult to achieve concerns the nature of measures needed to remedy the problem of exclusion. The concept of “reasonable accommodation” or “reasonable adjustments” as a remedy is an important complement to traditional approaches of combating discrimination. This generally requires investment by lawmakers, employers, service-providers, etc. to alter the environmental barriers that act as mechanisms of exclusion. This can include, for example, building a ramp into a building that is only accessible by stairs so that wheelchair users can access it or providing software in the workplace to accommodate employees with visual or auditory impairments.

A third reason achieving disability equality can be difficult concerns the nature of the population with disabilities. The definition of who is disabled

4. Harry Eckstein, *Case Study and Theory in Political Science*, in *HANDBOOK OF POLITICAL SCIENCE* 79, 94 (Fred I. Greenstein & Nelson W. Polsby eds., 1975).
5. See MICHAEL OLIVER, *SOCIAL WORK WITH DISABLED PEOPLE* (1983); MICHAEL OLIVER, *THE POLITICS OF DISABILITY* (1990); TOM SHAKESPEARE, *DISABILITY RIGHTS AND WRONGS* (2006); HUMAN RIGHTS AND DISABILITY: THE CURRENT USE AND FUTURE POTENTIAL OF UNITED NATIONS HUMAN RIGHTS INSTRUMENTS IN THE CONTEXT OF DISABILITY (Gerard Quinn & Theresia Degener eds., 2002).

varies greatly across time and place. The population is highly heterogeneous in terms of their impairments and hence the types of barriers they face; for example, the steps taken to accommodate someone in a wheelchair may not necessarily help someone who is visually impaired or a psychiatric survivor. In addition, the population is constantly shifting and many persons with disabilities do not self-identify as disabled. This all means that mobilizing a disability constituency to express grievances and demand rights can be particularly difficult.<sup>6</sup>

Studying rights diffusion in a way that gives due weight to both structural and agent-centered factors is a complex undertaking. This research relies on different forms of evidence and analysis. This first involves tracing the origin and adoption of disability equality protections across European countries based on data from the Comparative Constitutions Project,<sup>7</sup> the Disability Rights Education and Defense Fund (DREDF) list of international laws,<sup>8</sup> data from the Global Disability Rights Library,<sup>9</sup> information from DOTCOM, the database of the Academic Network of European Disability (ANED) experts,<sup>10</sup> the country reports of the European Network of Legal Experts in the Non-Discrimination Field, and secondary sources on national legislation in Europe. The next step entailed looking at secondary sources to construct a socio-historical account of the reasons underpinning the adoption or limited adoption of disability rights in two case studies, Denmark and Cyprus, which represent outliers when considering existing theory on international diffusion. The case studies explore the domestic political environment that has mediated the adoption of rights as well as the meaning frames put forth by disability rights advocates to offer an inter-subjective understanding of the significance of adoption (or non-adoption) of these measures for the activists and policy elites.

This article proceeds as follows. The first section reviews the existing literature on norm diffusion, highlighting some weaknesses with the conventional wisdom, and makes the case for complementing these approaches with an account of the mediating role that domestic political institutions and the meaning frames adopted by civil society actors play in accounting for how and why rights travel. The second section introduces the case of disability rights and presents the original empirical data on how these rights have diffused across Europe. This is followed by two case studies which illustrate how complementing international-level focused explanations with

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6. DAVID M. ENGEL & FRANK W. MUNGER, *RIGHTS OF INCLUSION: LAW AND IDENTITY IN THE LIFE STORIES OF AMERICANS WITH DISABILITIES* (2003).

7. CONSTITUTE, *available at* <https://www.constituteproject.org/>.

8. Disability Rights Education & Defense Fund, *available at* <http://dredf.org/legal-advocacy/international-disability-rights/international-laws/>.

9. The Global Disability Rights Library, *available at* <http://www.widernet.org/portals/index.php?PortalID=18>.

10. DOTCOM, *available at* <http://www.disability-europe.net/dotcom>.

an understanding of domestic political structures and the interpretive processes of social movement organizations can help to account for some of the “outliers” in terms of disability rights diffusion. The final section offers some concluding thoughts and suggestions for future research in terms of further developing understandings of the conditions under which disability rights will be incorporated into national policy.

## II. EXPLAINING THE SPREAD OF RIGHTS

Scholars interested in international policy and norm diffusion have offered a range of explanations that can generally be categorized under one of four headings: coercion, persuasion, learning, and emulation. The first two mechanisms tend to focus on “push factors”—how actors that are external to a state use various forms of pressure to prompt the adoption of rights. The latter two mechanisms tend to focus on “pull factors”—state elites look to rights adoption as a way of addressing a problem or as a way of signaling adherence to a particular identity. This article offers a brief overview of these approaches but there is much recent scholarly work outlining these mechanisms in greater detail.<sup>11</sup> This section then identifies several weaknesses with existing theoretical approaches.

First, a dominant set of explanations for diffusion processes focuses on *coercion* in the international system.<sup>12</sup> This mechanism argues that diffusion happens through the imposition of policy change and suggests that states that are economically dominant can pressure weaker states to adopt particular policies and norms that are similar to their own. As Thomas Pegram argues, conditionality is one form of external pressure put on policy elites and “refers to the use of coercion through specific conditions attached to the distribution of benefits to recipient countries.”<sup>13</sup> In the case of Europe in particular, conditionality criteria have been shown to have a powerful influence on norm adoption within countries seeking to accede to the European Union.<sup>14</sup> EU conditionality requires that candidate states accept the *acquis communautaire* (the existing body of EU legislation) and broader political goals, such as the respect of general democratic principles and respect of minorities.

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11. See Börzel & Risse, *The Transformative Power of Europe*, *supra* note 1; Börzel & Risse, *From Europeanisation to Diffusion: Introduction*, *supra* note 1; Gilardi, & Pegram, *supra* note 1.
  12. Beth A. Simmons *et al.*, *Introduction: The International Diffusion of Liberalism*, 60 INT’L ORG. 781 (2006).
  13. Pegram, *supra* note 1, at 747.
  14. Frank Schimmelfennig & Ulrich Sedelmeier, *Governance by Conditionality: EU Rule Transfer to Candidate Countries of Central and Eastern Europe*, 11 J. EUR. PUB. POL’Y 661 (2004).

Second, other scholars point to processes of *persuasion* or *socialization* to account for the adoption of new norms.<sup>15</sup> This mechanism focuses on policy change as induced by argumentation and ideational encouragement rather than material or military coercion. External actors promoting diffusion draw on shared understandings of what is appropriate for a state to do if it wishes to subscribe to a particular identity or to what the ideational context dictates. This mechanism suggests that political actors shift from the “logic of consequences” to the “logic of appropriateness.”<sup>16</sup> The logic of appropriateness means that “[a]ction involves evoking an identity or role . . . to a specific situation.”<sup>17</sup> Constructivist IR scholars working on norm diffusion argue that norm dynamics can follow a three-stage process: norm emergence, cascade, and internalization.<sup>18</sup> In the norm emergence phase norm entrepreneurs can put new rules of appropriate behavior in place with the support of institutional platforms. When a sufficient number of states have adopted this new norm, a tipping point or norm cascade is reached where socialization processes reward conformity and shame those states that are not in compliance. At the internationalization stage, norms may become so deeply accepted that they are understood as the only appropriate behavior.

Third, *learning* as a mechanism for change focuses on norm emergence within a state as the result of policymakers adopting new beliefs or gaining new knowledge about the ability of a policy to lead to a desired outcome. Empirical evidence suggests that policymakers are more likely to adopt a policy if it was successful elsewhere, which suggests that they learn from the experience of others. However, as Fabrizio Gilardi argues, a closer look reveals that learning can be imperfect, conditional on ideology, or of more benefit to individual policymakers than the state as a whole.<sup>19</sup>

Finally, the process of *emulation* or *mimicry*—automatic adoption of norms by policymakers without the reflection or analysis implied by the learning mechanism—has been identified as another mechanism of international diffusion that places emphasis on how changes in the external environment can lead to changes in state policy. However, this process is generally conceived to be more passive and shallow than the learning mechanism and consists of the “‘downloading’ of some new rules and institutional ‘software’”

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15. JAMES G. MARCH & JOHAN P. OLSEN, REDISCOVERING INSTITUTIONS: THE ORGANIZATIONAL BASIS OF POLITICS (1989); James G. March & Johan P. Olsen, *The Institutional Dynamics of International Political Orders*, 52 INT'L ORG. 943 (1998); Jeffrey T. Checkel, *International Institutions and Socialization in Europe: Introduction and Framework*, 59 INT'L ORG. 801 (2005); Martha Finnemore, *International Organization as Teachers of Norms: The United Nations Educational, Scientific and Cultural Organization and Science Policy*, 47 INT'L ORG. 565 (1993); Goodman & Jinks, *supra* note 1.

16. Checkel, *supra* note 15.

17. March & Olsen, *supra* note 15, at 951.

18. Martha Finnemore and Kathryn Sikkink, *International Norm Dynamics and Political Change*, 52 INT'L ORG. 887, 895 (1998).

19. Gilardi, *supra* note 1.

rather than the process of acquiring and “incorporating new norms and new understandings into one’s belief systems” through active engagement.<sup>20</sup>

These theoretical explanations and the broad range of empirical studies testing them show that rights diffusion has a prominent place in our understandings of international and European politics. However, recent research has shown that they also suffer from some important shortcomings. First, a common critique emerging against these approaches is that they place a disproportionate emphasis on structural features of the international or EU system—be it material rank, military power, or “logics of appropriateness” and shared understandings of state identity. Their top-down perspective tends to narrow the focus onto international organizations as the driver of domestic change, ignoring other potential domestic causes.<sup>21</sup> These structure-emphasizing explanations tend to have difficulty accounting for variation in the take-up of rights across countries.<sup>22</sup> Often, they also fail to offer convincing accounts of norm dynamism—explanations of why rights and their influence on institutions and behavior change over time in the absence of major shifts in structural features.

Second, even where these explanations do account for the role of agents, they tend to place external actors and state policy elites at the center of analysis. The interactions conceptualized in the coercion mechanism and the persuasion process seems to take place between these two sets of actors. Learning and emulation explanations focus almost exclusively on state elites responding to cues within the international environment and hence also tend to neglect the potential influence of other actors. The ways in which these mechanisms have been conceptualized and operationalized, means that the role of other agents within the domestic setting has been generally overlooked.<sup>23</sup>

Third, a weakness in the international relations literature on diffusion, as identified by Ann Towns, is the inability to account for diffusion that goes against the expectation that rights norms will emerge in liberal democratic states and then diffuse to other parts of the world.<sup>24</sup> Drawing on research on the spread of sex quota measures for national assemblies she argues that

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20. Börzel & Risse, *From Europeanisation to Diffusion: Introduction*, *supra* note 1, at 8.
  21. Simon Bulmer & Martin Burch, *The Europeanization of the UK Government: From Quiet Revolution to Explicit Step-Change?*, 83 *PUB. ADMIN.* 861 (2005); Claudio M. Radaelli & Romain Pasquier, *Conceptual Issues*, in *HANDBOOK OF EUROPEANIZATION: NEW RESEARCH AGENDAS* (Paolo Graziano & Maarten P. Vink eds., 2006).
  22. The literature on Europeanization offers a useful way forward here. See e.g. Börzel & Risse, *From Europeanisation to Diffusion: Introduction*, *supra* note 1; Schimmelfennig & Sedelmeier, *supra* note 14; *TRANSFORMING EUROPE: EUROPEANIZATION AND DOMESTIC CHANGE* (Maria Green Cowles et al. eds., 2001); R. DANIEL KELEMEN, *EUROLEGALISM: THE TRANSFORMATION OF LAW AND REGULATION IN THE EUROPEAN UNION* (2011). See also BETH A. SIMMONS, *MOBILIZING FOR HUMAN RIGHTS: INTERNATIONAL LAW IN DOMESTIC POLITICS* (2009).
  23. *But see* SIMMONS, *MOBILIZING FOR HUMAN RIGHTS*, *supra* note 22.
  24. Towns, *supra* note 3.

diffusion scholars expect new “liberal” policies, such as equality protections, to be adopted first among the states that form the Western core of international society and then to spread to other parts of the world.<sup>25</sup> In the words of Towns, at the heart of these theories lies the assumption that “the poor and weak and peripheral copy the rich and strong and central.”<sup>26</sup> Scholars interested in Europeanization processes make similar assumptions about the pattern of diffusion from Western Europe to Eastern and South-Eastern Europe.

In order to address these shortcomings, this article uses the case of disability rights to develop our theoretical understandings of the processes of norm emergence and norm diffusion. It focuses specifically on domestic political environments and unpacking the meanings of norms for domestic audiences. Bringing theoretical explanations of diffusion together with work on framing processes in social movement studies offers a way forward in terms of addressing the shortcomings of diffusion theory. Social movement scholars pay due attention to the fact that agents rarely respond to events and stimuli in an automatic fashion because ideas and situations are subject to varying interpretations. The same policy, event, or trend may be defined differently depending on the attached meanings, often defined by how a policy, event, or trend is framed. Doug McAdam and David Snow assert that within the context of social movements:

Framing . . . refers to the signifying work or meaning construction engaged in by movement adherents (e.g., leaders, activists, and rank-and-file participants) and other actors (e.g., adversaries, institutional elites, media, countermovements) relevant to the interests of movements and the challenges they mount in pursuit of those interests.<sup>27</sup>

Building on the concept of Erving Goffman that a frame is a “schemata of interpretation,”<sup>28</sup> the seminal work of David Snow and his co-authors developed understandings of framing processes in relation to the activity of social movements.<sup>29</sup> Snow and Scott Byrd argue that the framing perspective views actors not merely as promoters of existing ideas and meanings but as “signifying agents actively engaged in producing and maintaining meaning for constituents, antagonists, and bystanders.”<sup>30</sup> A framing perspective resonates with the constructivist principle in international relations that meanings are not inherent to objects, events, or experiences but are medi-

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25. *Id.*

26. *Id.* at 181.

27. Doug McAdam & David A. Snow, *Interpretive Factors: Framing Processes*, in READINGS ON SOCIAL MOVEMENTS: ORIGINS, DYNAMICS AND OUTCOMES 317 (Doug McAdam & David A. Snow eds., 2010).

28. ERVING GOFFMAN, *FRAME ANALYSIS* (1974).

29. David A. Snow & Scott C. Byrd, *Ideology, Framing Processes, and Islamic Terrorist Movements*, 12 MOBILIZATION: INT’L J. 119 (2007).

30. *Id.* at 123.



ated by processes of interpretation. Similarly, socio-legal scholars who are interested in the “vernacularization” of international rights have shown that domestic political structures and cultures matter in how rights norms are understood on the ground.<sup>31</sup>

Applied to rights diffusion, the concept of framing presents rights as socially constructed. This involves problematizing the meanings associated with rights and suggesting that those meanings are subjectively defined, contestable, and continually negotiated. This builds on recent work that seeks to highlight the inter-subjective understanding of norms. Towns argues:

Diffusion scholarship . . . rarely examines norms in terms of the behavior standards’ actual meanings to the actors involved. This is unfortunate. The meanings and interpretations of norms are interesting and important to study in their own right. But the meanings of norms also have consequences for where and how new policies emerge and spread. . . . If we take the role of norms seriously in world politics, we must then take the meaning of norms seriously and pay better attention to intersubjective knowledge and ideas.<sup>32</sup>

This article argues that the monolithic use and application of the concept of rights norms to account for diffusion is of questionable analytic utility because it ignores interpretive variation of what rights are and what they mean among and within domestic settings. In addition to enhancing our understanding of cross-national and historical differences in the framing and diffusion of disability rights, this article makes two important theoretical contributions. First, it builds on the work of Towns to provide a corrective to the assumption that diffusion occurs in an almost automatic process from advanced liberal democracies to emerging ones.<sup>33</sup> Second, it suggests that structures and agents at the domestic level may in some cases matter more than international prompts in accounting for the rise or rejection of rights in any single setting.

### III. DISABILITY RIGHTS IN EUROPE

It is only within the last twenty years that disability has come to be seen as an equality or human rights issue. For most of the preceding period, as a subject of law and policy, disability was generally considered to be a social security, welfare, health, or charity issue rather than a human rights or citizenship one.<sup>34</sup> The assumption underpinning this approach was that people

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31. SALLY ENGLE MERRY, *HUMAN RIGHTS AND GENDER VIOLENCE: TRANSLATING INTERNATIONAL LAW INTO LOCAL JUSTICE* (2006).

32. Towns, *supra* note 3, at 187.

33. *Id.*

34. Theresia Degener, *Disability as a Subject of International Human Rights Law and Comparative Discrimination Law*, in *THE HUMAN RIGHTS OF PERSONS WITH INTELLECTUAL DISABILITIES* 151 (Stanley S. Herr *et al.* eds., 2003); LISA VANHALA, *MAKING RIGHTS A REALITY? DISABILITY RIGHTS ACTIVISTS AND LEGAL MOBILIZATION* (2011).

with disabilities, if seen as legitimate recipients of services at all, should be segregated and excluded from mainstream society and provided with separate schools, workplaces, and housed in separate institutions because they could not function in “normal” society.

Changes in international and domestic law have begun to transform the understanding of disability from a medical problem to one that is defined by the complex interaction between the impairment of an individual and the sociopolitical environment has begun to be reflected in changes in international and domestic law. Disability studies scholars refer to this transformation as the shift from the medical or charity model of disability to the social or human rights model. This paradigm shift has resulted in attempts to open up employment, education, housing, transportation, and other service for people with disabilities. Theresia Degener writes:

A key element of this new concept is the recognition that exclusion and segregation of people with disabilities do not logically follow from impairments but rather from political choices based on false assumptions about disability. Inaccessibility problems do not so much result from mobility, visual, or hearing impairments but rather are a corollary of a political decision to build steps but not ramps, to provide information in printed letter version only or to exclude sign language or other forms of communication.<sup>35</sup>

With the paradigm shift from the medical to the social model of disability the legal paradigm has shifted from welfare or social security law towards anti-discrimination or equality law. These types of laws aim to challenge segregation and exclusion as forms of discrimination against people with disabilities.

In considering the integration of disability rights in law, much current focus has been placed on international law and the recent Convention on the Rights of Persons with Disabilities in particular.<sup>36</sup> However, it is important to note that until 2008 when the Treaty was ratified it was only national and European law that existed as a potential source of equality protection for Europeans with disabilities. This research focuses on constitutional guarantees of equality based on grounds of disability and national anti-discrimination legislation. The laws surveyed here differ to a great extent with respect to scope, the concept of discrimination and whether the law is specifically concerned with disability discrimination or whether it is a more general piece of anti-discrimination legislation that includes disability as a protected ground. However, these laws all share an equality-focus rather than laws that foster social welfare provisions. As Degener writes:

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35. Degener, *supra* note 34, at 151.

36. Michael Ashley Stein *at al.*, *The Law and Politics of US Participation in the UN Convention on the Rights of Persons with Disabilities*, in 2 EUR. Y.B. DISABILITY L. 29 (Gerard Quinn & Lisa Waddington eds., 2010); THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES: EUROPEAN AND SCANDINAVIAN PERSPECTIVES (Gerard Quinn & Oddný Mjöll Arnardóttir eds., 2009).

[I]t is important to notice that disability discrimination law is truly a new development in disability policy around the world. These laws legally manifest the shift in paradigm from the medical model to the social model of disability. To legally treat disability as a discrimination category implies the recognition that persons with disabilities are persons with rights, not problems.<sup>37</sup>

This research looked at laws from thirty-three countries and sought to identify the first piece of disability equality legislation in each country, the year of its adoption, and whether the legislation was disability specific or a piece of legislation that covers a number of protected grounds. The study is restricted to federal statutes and did not consider regional or local statutes, and it also left out all anti-discrimination legislation which does not explicitly mention disability as a protected ground.

Over the last twenty years, all of the countries surveyed adopted at least some minimal form of protections against disability discrimination, though there are important variations in terms of scope, detail, and the enforcement and monitoring mechanisms contained within these laws. All of these statutes cover employment-related discrimination. Some laws are comprehensive pieces of equality legislation including protections in the fields of education, transport, and accommodation in addition to employment. This includes, for example, statutes adopted by states where disability rights norms first emerged, such as the UK Disability Discrimination Act adopted in 1995,<sup>38</sup> the Hungarian Equalization Opportunity Law 1998,<sup>39</sup> and the Cypriot People with Disabilities Law 2000.<sup>40</sup> Others are a part of labor laws and hence cover only this field of activity and are only minimally concerned with disability equality, and yet others are statutes passed in response to the requirement to implement European equality legislation. The latter includes legislation in Latvia, Denmark, Luxembourg, Poland, and FYR Macedonia.

How can one account for this pattern of diffusion (or rather lack of a clear pattern)? In many ways the adoption of European legislation is the most obvious explanation of the emergence of this norm in some states. In 1997, an anti-discrimination provision was constitutionalized in Article 13 of the EU Amsterdam Treaty, which states:

Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European

37. Degener, *supra* note 34, at 163.

38. Disability Discrimination Act 1995 (UK), available at <http://www.legislation.gov.uk/ukpga/1995/50/> contents.

39. Equalization Opportunity Law 1998, Act XXVI of 1998 (Hungary), available at [http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=34535.255663](http://njt.hu/cgi_bin/njt_doc.cgi?docid=34535.255663).

40. People With Disabilities Law 2000, Law No. 127(I) of 2000 (Cyprus), available at <http://www.cyprus.gov.cy/portal/portal.nsf/gwp.getGroup?OpenForm&access=0&SectionId=citizen&CategoryId=Persons%20with%20Disabilities&SelectionId=Laws%20and%20resolutions%20regarding%20persons%20with%20disabilities&print=0&lang=en>.

TABLE 1. *Adoption of disability equality measures in national legislation, 1995–2012*

<i>Year</i>	<i>State</i>	<i>Provision</i>	<i>Disability Specific?</i>
1995	United Kingdom	Disability Discrimination Act	Y
1998	Hungary	Equalization Opportunity Law	Y
1998	Ireland	Employment Equality Act	N
1999	Sweden	Law on a ban on discrimination against disabled persons in working life	Y
2000	Cyprus	People with Disabilities Law	Y
2000	Malta	Equal Opportunities (Persons with Disability) Act	Y
2002	Germany	Disability Equality Act	Y
2002	Latvia	Labour Protection Law	N
2003	Bulgaria	Law on Integration of Disabled People	Y
2003	Italy	Legislative Decree Providing for Equal Treatment	N
2003	Lithuania	Equal Treatment Law	N
2003	Netherlands	Act on Equal Treatment on Grounds of Disability or Chronic illness	Y
2003	Spain	Law on Equal Opportunities, Non-Discrimination and Universal Accessibility of People with Disability	Y
2004	Finland	Non-discrimination Act	N
2004	Portugal	Disability Act	Y
2004	Slovakia	Antidiscrimination Act	N
2004	Denmark	Act on Prohibition against Discrimination in the Labour Market	N
2005	France	Law for Equal Rights and Opportunities, Participation and Citizenship of Disabled Persons	Y
2005	Greece	Law on the application of the principle of equal treatment regardless of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation	N
2005	Turkey	Law on Persons with Disabilities	Y
2006	Austria	Federal Act on the Equalization of Persons with Disabilities	Y
2006	Luxembourg	National Labour Act	N
2006	Romania	Law on the protection and promotion of rights of persons with disabilities	Y
2006	Serbia	The Law on Prevention of Discrimination against Persons with Disabilities	Y
2006	Liechtenstein	The Act on Equality of People with Disabilities	Y
2007	Belgium	Federal General Antidiscrimination Law	N
2008	Croatia	Anti-discrimination Act	N
2008	Estonia	Equal Treatment Act	N
2009	Czech Republic	General Act on Equal Treatment and Protection against Discrimination	N
2009	Norway	Law on Discrimination and Accessibility	Y
2010	Poland	Act on the Implementation of Certain Provisions of the European Union in the Field of Equal Treatment	N
2010	Slovenia	Equalisation of Opportunities for Persons with Disabilities Act	Y
2012	FYR Macedonia	Labour Law	N

Notes: Table compiled by author from the Academic Network of European (ANED) Experts Database (DOTCOM)

Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.<sup>41</sup>

The general principles of Article 13 are not themselves legally binding: to give the provision legal effect, the Council of the European Union approved a directive proposing minimum standards of legal protection against discrimination throughout the EU. The directive (known as the Equal Treatment Framework Directive) protects individuals against discrimination based on religion, belief, disability, age, or sexual orientation and came into force in 2003.<sup>42</sup> Because EU legislation has supremacy over domestic law and direct effect within national settings, it is unsurprising that a large number of states adopted relevant provisions within national legislation in the period 2002 to 2004.

It is also unsurprising that a wave of adoptions followed from the 2006 adoption and entry into force in 2008 of the CRPD. The UN Treaty takes an explicitly rights-based approach to disability and was the most rapidly negotiated human rights treaty to date. In 2010 the European Union ratified the CRPD. It is the first time in its history that the EU has become a party to an international human rights Treaty.<sup>43</sup> The CRPD was ratified shortly after the European Commission published the European Disability Strategy 2010–2020,<sup>44</sup> which sets out a detailed program of action to empower people with disabilities.

Thus there is evidence to suggest that international influence helps to account for the spread of disability rights. However, in several important ways the spread of disability rights goes against the existing explanations of norm diffusion presented above which all tend to assume a top-down process of rights diffusion: the idea that norms travel from established democracies to newly emerging ones via mechanisms that privilege domestic policy elites in the decision to adopt a norm. Although these theories point to different factors that are exogenous to the states to account for adoption—ranging from external material incentives to the influence of transnational norm entrepreneurs—they nonetheless share an emphasis on the role of external factors (whether structures or agents) as cues for domestic policy elites to act. These explanations also lead us to expect a certain degree of homogeneity in which certain “types” of states will adopt disability rights norms.

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41. Treaty of Amsterdam Amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts, art. 13, 2 Oct. 1997, 1997 O.J. (C340) 1, 37 I.L.M. 253, available at <http://old.eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:1997:340:FULL:EN:PDF>.
  42. E.U. Council Directive 2000/78/EC of 27 Nov. 2000, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:en:HTML>.
  43. Jarlath Clifford, *The UN Disability Convention and its Impact on European Equality Law*, 6 EQUAL RTS. REV. 11 (2011).
  44. European Disability Strategy 2010–2020, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0636:FIN:EN:PDF>.

Several cases from Table 2 present an empirical puzzle for existing theoretical explanations. For instance, it is surprising that Hungary, Cyprus, and Malta are among the early adopters of disability rights. These states all adopted disability-specific rights-based protections long before they acceded to the EU and before the Equal Treatment Framework Directive was enacted. These are not states that, according to existing theory, one would expect to be at the forefront of disability rights norm emergence. At the other end of the spectrum, Denmark constitutes an intriguing case in its differentiation from its Northern European neighbors, Germany, the United Kingdom, Finland, and Sweden. Denmark was a late-comer to disability equality legislation and when it did adopt legislation it adopted only minimal provisions in order to meet the criteria as laid out by European legislation.

#### IV. CASE STUDIES

In order to contribute to our theoretical understandings of how diffusion works this research takes an inductive approach in two case studies of disability rights outliers. These case studies offer some insights that can help to develop diffusion theory in terms of understanding the interactions between international influences, domestic political environments, and what rights mean to activists and other audiences. The first case study analyzes Denmark, a country one might expect to be an early adopter of disability rights norms but which has been a relative laggard. The second case study is of Cyprus, which based on conventional wisdom, one would expect to be slow in the uptake of disability rights norms but has in fact been in front of the pack.

##### A. Denmark: A Disability Rights Laggard?

Denmark has appeared to be a relative laggard when compared to its Northern European neighbors Sweden, Finland, and the United Kingdom in the adoption of a non-discrimination approach to disability.<sup>45</sup> Sweden and Finland adopted disability-specific provisions in their Constitutions in 1974 and 1995 respectively, signaling a commitment at the highest levels of law to disability equality. The United Kingdom was the first European country to adopt a specific piece of comprehensive legislation banning discrimination based on disability in 1995. Equality policy is not a foreign concept in Denmark; the country has nine laws about equal treatment. Six of these

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45. Bjorn Hvinden, *Nordic Disability Policies in a Changing Europe: Is There Still a Distinct Nordic Model?*, 38 *SOC. POL'Y & ADMIN.* 170 (2004); Rachel Hurst, *Choice and Empowerment—Lessons from Europe*, 10 *DISABILITY & SOCIETY* 529 (1995).

concern equal treatment of women and men, signaling an important and long-standing commitment to gender equality. In light of this the late adoption and minimal legislative protections against discrimination on grounds of disability is unexpected.

It was only in December 2004 that Denmark introduced the first piece of legislation explicitly protecting persons with disabilities from discrimination. However, rather than the legislation signifying a more widespread shift in terms of understanding disability through a rights-based lens, the act was largely compelled from above and consisted of the national implementation of the Equal Treatment Framework Directive.<sup>46</sup> The legislation went no further than the minimum provisions that would ensure that Denmark be in compliance with the directive, as it covers only discrimination in employment. In addition, Denmark missed the original date by which member states were required to transpose the directive. What accounts for this minimal approach to disability equality in a state that has been a global leader in the adoption of other types of equality provisions, such as gender?

This research finds that two inter-linked factors are particularly important in accounting for the late turn to a rights-based model of disability policy in Denmark: the traditional collective, consensus-based approach to social policymaking; and, different interpretations among the disability movement in Denmark in terms of what the social model of disability means for policy and the processes of policymaking.

In 1934, the Danish Council of Organizations of People with Disabilities (DCOPD), now known as Disabled Peoples Organizations Denmark (DPOD) was formed by four organizations of people with disabilities in order to establish a unified organization that could negotiate with the government. Speaking with one voice was seen as crucial in the emerging social democratic system, and DCOPD was accepted as spokesperson for the interests of people with disabilities and was represented on a number of committees established by parliament through the 1940s and 1950s.<sup>47</sup>

From the 1960s onwards, DCOPD was involved in the preparation of all disability-relevant legislation, and the Committee of Social Reform was even chaired by the head of DCOPD from 1965 to 1972. In 1980, the Danish Disability Council was established and it included representatives from the labor, social welfare, health, and education departments as well as from counties, municipalities, and representatives from disability civil society organizations. Throughout this period, social provisions for people

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46. Mara V. Liisberg, *Implementation of Article 33 CRPD in Denmark: The Sails Are up, but Where is the Wind?*, in *ARTICLE 33 OF THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES—NATIONAL STRUCTURES FOR THE IMPLEMENTATION AND MONITORING OF THE CONVENTION* 69 (Gauthier de Beco ed., 2013).

47. Steen Bengtsson, *A Truly European Type of Disability Struggle: Disability Policy in Denmark and the EU in the 1990s*, 2 *EUR. J. SOC. SEC.* 363 (2000).

with disabilities reflected a wide access to policymaking processes, with a steady increase (to almost a doubling in real terms) of the disability benefit for citizens as well as government funding of DCOPD and other organizations of people with disabilities to support its political activities.<sup>48</sup> Throughout this period, organizations of people with disabilities had remarkable and unprecedented influence in policymaking.

Steen Bengtsson in tracing the history of disability policy in Denmark argues that “the social model” of disability was discussed by organizations of people with disabilities throughout the 1960s, 1970s, and 1980s.<sup>49</sup> Activists and policymakers alike saw the development of the corporatist approach to disability policy—what he coins the “negotiation society”<sup>50</sup>—as an expression of the principles underlying the social model: inclusion and voice in policymaking. The entitlements of people with disabilities in Denmark came about through a process of compromise in which conflict over interests had been institutionalized and organizations of people with disabilities, and the DCOPD in particular, had negotiated with state bodies.<sup>51</sup>

Resistance to adopting an anti-discrimination approach to disability issues underpinned the Danish disability policy climate throughout the 1990s and early 2000s. After the passage of the Americans with Disabilities Act in 1990 there was some debate among civil society organizations regarding formal rights and anti-discrimination legislation. DCOPD took an explicit line of favoring the continual development of corporatist structures and an eschewing of the rights-model to disability. The same line was then taken by the major political parties.<sup>52</sup> A similar approach was implemented in the debate on the Amsterdam Treaty in the late 1990s. The Danish Disability Council strongly argued that legislation that establishes rights is irreconcilable with methods of cooperation that can result in the implementation of concrete measures for people with disabilities. Bengtsson writes:

In the council’s view, this legislation is more an expression of American society with its extreme individualism, its division into widely different subcultures without mutual ties and its lack of communal solidarity, and hence less appropriate for European societies.<sup>53</sup>

In debates at the European level, the Danish Disability Council argued that its domestic model was the best way of securing integration, especially for the more disadvantaged groups. The United States model by contrast is one in which people with disabilities must use anti-discrimination provisions and fight for their enforcement on an individual basis in courtrooms.

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48. *Id.* at 365.

49. Bengtsson, *supra* note 47.

50. *Id.* at 363.

51. *Id.* at 375.

52. *Id.* at 371.

53. *Id.* at 374.



Nevertheless, the resulting European legislation took an explicit rights-based approach that drew on the experience of the United States. Beyond simply prohibiting direct discrimination, the directive restricts indirect discrimination and includes a reasonable accommodation requirement. The directive also includes a consideration of enforcement mechanisms as it requires member states to grant associations such as disability NGOs standing to bring legal cases on behalf of or in support of disabled individuals and reverses the burden of proof in that once a plaintiff has established the facts, it is for the defendant to prove that there has been no violation of the principle of equal treatment.<sup>54</sup> These provisions go against what the Danish consensus between the major disability organizations and policymakers was at the time regarding disability policy, resulting in Denmark's relatively late and minimal adoption of a disability rights approach in domestic legislation. Mara Liisberg writes:

The introduction of a ban against discrimination on the grounds of disability was not driven by a home-grown movement for stronger protection against discrimination . . . the Danish disability movement did not at this time agree on a rights-based approach to equal treatment of persons with disabilities. Some members of the disability organisations were strongly in favour of anti-discrimination legislation while others preferred the traditional Danish approach of relying on individual compensation and consensus rather than individual rights.<sup>55</sup>

The situation among the Danish disability movement has nonetheless begun to change in the last decade. In April 2006, the DPOD formulated a policy paper stating that Denmark needed a general ban against discrimination on the grounds of disabilities. Liisberg argues that the active participation of the leadership of DPOD in the negotiations of the CRPD was a strong driver for this radical shift.<sup>56</sup> More recently, the chair of DPOD, articulated an explicit anti-discrimination discourse in a recent interview:

The only anti-discrimination legislation that we have in place is what we've been forced to have by the European Union. That's predominantly in relation to discrimination in the workplace. But if you go out and face discrimination when you want to go into a restaurant and they won't let you take your guide dog, you have nowhere to go. If they don't want you in there with your wheelchair, you have nowhere to go. No sanctions, nothing (Disability Now, 2011).<sup>57</sup>

This case study unpacks why a country we might expect to be a leader in the emergence of disability rights norms has been a late and reluctant adopter. The domestic corporatist political structures and the wide access

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54. KELEMEN, *supra* note 22, at 221.

55. Liisberg, *supra* note 46, at 75.

56. *Id.*

57. Disability Now, *Interview with Stig Langvad, Chair of Danske Handicaporganisationer* (2011), available at <http://www.disabilitynow.org.uk/article/denmark-80-years-united>.

granted to the leading disability organizations was seen as an expression of the principles of voice and inclusion articulated in the social model. The consensus approach to policymaking and an aversion to what leading disability activists saw as an “American style,” individualistic approach to disability led to strong resistance to a disability rights model through the 1990s and early 2000s when most of Denmark’s neighbors had already adopted legislation that emulated the model of the Americans with Disabilities Act. This research confirms that domestic, political, and institutional structures can play an important role in mediating the way that rights are understood, not only by policymakers, but also in the way they are framed by civil society organizations. The idea that participation in the CRPD negotiation process encouraged shifts in the way rights were understood among Danish disability organizations offers a compelling area of future research in terms of understanding how and why rights frames can change on the ground over time, and the influence of international prompts in these processes.<sup>58</sup>

## **B. Cyprus: A Disability Rights Leader?**

Cyprus is a state with a troubled political history that is marked by social divisions. It continues to work toward establishing a strong democratic tradition. The Country has been an unlikely leader in adopting disability equality norms in domestic legislation. The liberation of the state from colonial rule in 1960 and the subsequent political tensions between Greek-Cypriot and Turkish-Cypriot communities in Cyprus, culminated in the 1974 invasion of Cyprus by Turkish troops, has meant that equality norms have not been at the forefront of political discourse. Yet Cyprus adopted a relatively broad piece of disability specific legislation in 2000, the Persons with Disabilities Act, which provides for the general protection of disabled people and includes the safeguards for equal rights and equal opportunities and promotion of their social and economic integration.

This preceded the adoption of similar legislation in other Eastern and South Eastern European states by many years, and even states like Germany and the Netherlands adopted similar provisions in domestic legislation later than Cyprus. Furthermore, Cyprus cannot be considered a non-discrimination leader across other types of equality norms; disability was the only ground for protection from discrimination covered by national legislation prior to the country’s transposition of the non-discrimination acquis required for accession to the European Union. Thus in both a comparative context and one that takes the country’s political historical in terms of non-discrimination

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58. Liisberg, *supra* note 46.

norms seriously the early adoption of a human rights approach in disability equality legislation in Cyprus is puzzling.

The Cypriot Persons with Disabilities Act is a framework law that was adopted in 2000.<sup>59</sup> It takes an explicitly rights-based approach to disability and provides a long list of rights including provision of personal support; accessibility in the built environment, information, and communication; integration in education and establishment of personal and family life and participation in cultural, social, sports, religious, and entertainment activities. The law was amended in 2004 in order to transpose some of the relevant provisions of the Employment Equality Directive concerning the prohibition of both direct and indirect discrimination, and again in 2007 to bring the law in line with the Directive's provisions on positive action and reasonable accommodation.<sup>60</sup> However, it is important to note that many elements of the Cypriot disability law clearly predated and go far beyond the scope of standards set by the EU directive. In addition to these domestic measures, the Cypriot government promoted the notion of a human rights approach to disability at the international level. For example, the representative of Cyprus to the United Nations in 1999 extolled the tenets of inclusive education saying:

The aforesaid policy based on the principle of equalization of opportunities that aims mainly at the removal of physical and social barriers, the elimination of discrimination, and the introduction of positive measures in the field in favour of people with disabilities.<sup>61</sup>

What accounts for this relatively novel approach to disability equality in a state that is a global laggard in the adoption of other types of equality provisions and has been beset by ethnic tensions that might otherwise pre-occupy legislators?

This case study finds that identity politics between domestic civil society organizations is particularly important in accounting for the relatively early turn to a rights-based model of disability policy in Cyprus: the timing coincides with the reconciliation between civil society organizations that advocate for people with disabilities after a long period of deep divide. The emergence through the 1980s and 1990s of a new shared understanding among groups of what the social model means for policy and a growing willingness to embrace a collective disability identity rather than a single-impairment one led to a strong push for domestic legislation in the late 1990s.

The disability movement emerged in 1966 when the Pancyprian Organization for the Rehabilitation of Disabled People (PORDP) was founded,

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59. People with Disabilities Act, *supra* note 40.

60. Stavros K. Parlalis, *Legal Framework Against Disability Discrimination at Work in Cyprus*, 32 *EQUALITY, DIVERSITY & INCLUSION: INT'L J.* 426 (2013).

61. Anastasia Liasidou, *Politics of Inclusive Education Policy-Making: The Case of Cyprus*, 12 *INT'L J. INCLUSIVE EDU.* 229, 233 (2008).

largely by non-disabled people seeking to represent people with different types of impairments. The group sought to identify people with disabilities and began to advocate on behalf of them. The group liaised directly with the president of Cyprus, Archbishop Makarios, and sought to secure his support for their activities. The organization had a relatively high degree of access when compared to many other disability organizations at the time, even in countries like Canada or the UK, that are generally considered to be the countries where disability equality norms first emerged.<sup>62</sup>

The rhetoric around disability began to change in the 1980s with a shift away from the medical and charity model to a social model understanding of disability. At a 1979 PORDP Conference, a disabled activist suggested that initiatives guided by pity and charity hurt disabled people's dignity and at another point suggested that "it is time that the State, the Church, political parties, organisations and individuals support disabled people in their struggle to remove the barriers which cause disability."<sup>63</sup> Simoni Symeonidou argues that:

These ideas mark the transition to a socially oriented rhetoric where disabled people had the leading role. Indeed, in the years that followed, disabled activists formed their own organisations and they influenced the development of piecemeal legislation, until the idea of a general legislative framework matured.<sup>64</sup>

The 1980s saw the emergence of numerous single-impairment organizations. Symeonidou writes that the structures of these groups were sharply juxtaposed against the PORDP in that they were led mainly by people with disabilities.<sup>65</sup> One activist asserts:

"Our intention was to take our fate in our hands. We still believe in that principle today. We were the first organization to say: 'We don't want non-disabled people'. That meant no more patronizing, no more manipulating. We wanted to take our fate in our hands."<sup>66</sup> This translated into organizational practice in terms of the targets of advocacy and the preferred source of financial benefits not only for individual disabled people but also for the organizations themselves. Another activist argued that the changes in philosophy caused conflict within the organization:

The conflict was necessary so that a change in thinking and policy was achieved. Inevitably, we reached this point. There was a conflict in philosophy. What prevailed was that the organization should follow a specific policy by minimising charity and spending its energy towards the state. So, we turned towards the state.<sup>67</sup>

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62. VANHALA, *supra* note 34.

63. Simoni Symeonidou, *Trapped in our Past: The Price we Have to pay for our Cultural Disability Inheritance*, 13 INT'L J. INCLUSIVE EDU. INT'L J. INCLUSIVE EDU. 565, 574 (2009).

64. *Id.* at 574.

65. Simoni Symeonidou, *The Experience of Disability Activism Through the Development of the Disability Movement: How do Disabled Activists Find Their way in Politics?*, 11 SCANDINAVIAN J. DISABILITY RES. 17 (2009).

66. *Id.* at 25.

67. *Id.*

In 1984 a competing umbrella organization to the PORDP, the Confederation of Organizations of Disabled People of Cyprus (CODPC), run by disabled people, emerged and sought to bring together all newly founded single impairment organizations.<sup>68</sup> For many years, the divisions between the PORDP and CODPC were profound but eventually a number of organizations left the former to join the latter feeling that the former was reluctant to give up its privileged access to the state but the latter was a better representative of people with disabilities as it was founded and run by disabled people. In 1999 disabled people finally agreed to be represented by a single organization. The CODPC was renamed the Cyprus Confederation of Organizations of Disabled People (CCODP) and PORDP agreed to join the organization.<sup>69</sup> This new organization was better able to advocate for legislation which was adopted a year later in July 2000. The proximity of this rapprochement and the adoption of legislation strengthens the emerging hypothesis that domestic disability group politics matter in helping to explain diffusion patterns.

This is not to argue that top-down influences or other forms of international diffusion do not matter here. Clearly the EU provisions on disability in the Employment Directive have helped to shape the nature of disability equality in Cyprus through transformed understandings of the concept of reasonable accommodation and the use of positive measures to ameliorate disadvantage. However, it is also indisputable that disability equality as a concept emerged in Cyprus before the country acceded to the EU and before the EU developed the Employment Directive. Another explanation put forward concerns the status of Cyprus as a former colony of Britain. Helen Phtiaka has argued that Cyprus has traditionally followed British ideas and legislation when it comes to the education of children with disabilities.<sup>70</sup> Symeonidou traces how legislation on educating children with disabilities in Cyprus has often followed the British model but also points out that it would be a mistake to assume an automatic relationship between British policy and Cypriot practice particularly because there has often been decades between the adoption of relevant legislation.<sup>71</sup>

Finally, this case study shows that, like in Denmark, disability NGOs, particularly the peak organizations, have a long experience of interacting with government actors. This relationship has been further strengthened in recent years. In 2006 a law came into force that established the CCODP as the official social partner of the state in all matters pertaining to disability. The legislation requires that all governmental departments dealing with disability consult the organization which also was granted an annual sum

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68. Susan Peters *et al.*, *Resistance, Transformation and the Politics of Hope: Imagining a way Forward for the Disabled People's Movement*, 24 *DISABILITY & SOCIETY* 543 (2009).

69. Symeonidou, *The Experience of Disability Activism*, *supra* note 65, at 27.

70. Helen Phtiaka, *The Power to Exclude: Facing the Challenge of Inclusive Education in Cyprus*, 40 *INT'L J. CONTEMP. SOCIO'Y* 139 (2003).

71. Symeonidou, *Trapped in our Past*, *supra* note 63.

of money for its operational expenses.<sup>72</sup> However, this close access cannot account for the timing of adoption nor the breadth of scope of the domestic disability non-discrimination legislation, suggesting that state-civil society relations have mattered less here as a determining factor in the diffusion of norms than in the Danish case.

As a final point, it is important not to overstate the case for Cyprus being considered a leader in disability rights—particularly in terms of the legal interpretation of disability equality norms and the day-to-day experiences of people with disabilities. First, while the Cypriot Constitution seemed a promising early avenue in terms of equality protection, its interpretation has been very restrictive. Article 28 of Cyprus's Constitution of 1960 guarantees the enjoyment of all constitutional rights and liberties without direct or indirect discrimination on the grounds of community, race, religion, language, sex, political, or other conviction, national or social descent, birth, color, wealth, social class, or any other ground whatsoever. However, the Constitution does not specifically enumerate disability as a grounds meriting protection and in practice this provision of the Cypriot Constitution has been interpreted by the courts in a restrictive sense to mean that measures taken in favor of vulnerable groups are a violation of the Constitution's equality principle. Second, more generally, the way in which disability rights have been translated in practice in legal and judicial circles has not been without its shortcomings, largely due to low levels of awareness of human rights understandings of disability and associated concepts of reasonable accommodation, indirect discrimination, and the reversal of the burden of proof.

The European Network of Legal Experts in the non-discrimination field also noted reluctance among the judiciary to give priority to the laws transposing EU anti-discrimination legislation.<sup>73</sup> Another emerging issue, a legacy of civil society politics a decade earlier, is the use of equality provisions to scale back provisions that protected only some elements of the community. For example, in 2009 a decision of the Cypriot equality body found a law granting priority in employment for blind persons as discriminatory against persons with other forms of disability and requested its reversal.<sup>74</sup> In summary, norm diffusion is often just the starting point for social change, but an important one nonetheless.

## V. CONCLUSION

This research has traced the rapid spread of disability rights across Europe over the last twenty years. All thirty-three European countries examined have

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72. CORINA DEMETRIOU, EUROPEAN NETWORK OF LEGAL EXPERTS IN THE NON-DISCRIMINATION FIELD, REPORT ON MEASURES TO COMBAT DISCRIMINATION: COUNTRY REPORT 2013, CYPRUS 109 (2014), available at <http://www.non-discrimination.net/countries/cyprus>.

73. *Id.*

74. *Id.* at 175.

adopted at least some form of disability equality protections though there is extensive variation in the scope and coverage of these laws. The research has shown this process has not been a straightforward one of diffusion of the norm from Western European states to Eastern and South-Eastern states. Instead there have been some important early adopters among the latter and some laggards among the former.

This suggests that our theories of diffusion require some refinement to account for important outliers. Unsurprisingly IR theories of diffusion place a great degree of emphasis on cues at the international level—whether coercive incentives or disincentives from other states or international organizations, or transnational norm entrepreneurs who seek to persuade policymakers to adopt a norm. Recent research has begun to address this weakness. Beth Simmons writes:

Rights stakeholders around the world have actively made decisions about when and how to employ the norms contained in human rights treaties to influence practices on the ground in their countries. Sometimes they have done this with outside help, but the locals are the ones who carry the ball and take the risks. They also make decisions about what is culturally appropriate in their society.<sup>75</sup>

This research suggests that social movement agents and the meanings they attribute to rights and the way this plays out in the politics between social movement groups at the domestic level may in some cases matter more than international prompts in accounting for the rise or rejection of rights in any single setting. The case studies here have shown that the way that disability activists on the ground interpret the principles of the “social model of disability” can have profound implications for whether a rights norm is adopted in a particular state. This is not to argue that international norms cannot penetrate domestic societies, it simply suggests that there are conditions linked to social movement politics under which rights emergence within a particular jurisdiction is more or less likely.

More generally, this research attests to the importance of studying norms in both their international as well as their domestic contexts to account for patterns of diffusion. If norms are standards of behavior for states we need to understand why, and how they work at multiple levels of analysis. This will inherently involve looking at the content of the norm from the perspective of actors at all of these levels.

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75. SIMMONS, *MOBILIZING FOR HUMAN RIGHTS*, *supra* note 22, at 371.