

REPORT

“PREPARATORY MEETING ON THE INTERNATIONAL CONFERENCE ON DISABILITY RIGHTS”

TO EXPAND NETWORKS FOR THE DISABILITY RIGHTS TRIBUNAL IN THE ASIA-PACIFIC

SUPPORTED BY
THE TOKYO ADVOCACY LAW OFFICE OF JAPAN

ORGANIZED BY
DISABLED PEOPLES' INTERNATIONAL ASIA PACIFIC

FUNDED BY
THE TOYOTA FOUNDATION

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ACRONYMS

| | |
|---------|--|
| ASEAN | Association of South East Asian Nations |
| APCDF | The Foundation of Asia-Pacific Development Center on Disability |
| BMF | Biwako Millennium Framework |
| DRTAP | Disability Rights Tribunal Asia Pacific |
| DPO | Disabled Peoples' Organizations |
| DPI/ AP | Disabled Peoples' International Asia Pacific |
| IL | Independent Living |
| ILO | International Labor Organization |
| JICA | Japan International Cooperation Agency |
| MDGs | Millennium Development Goals |
| NGO | Non-governmental Organization |
| OHCHR | Office of the High Commissioner for Human Rights |
| TALO | Tokyo Advocacy Law Office |
| UNCRPD | United Nations Convention on the Rights of Persons with Disability |
| UNESCAP | United Nations Economic and Social Commission of Asia and the Pacific |

ACKNOWLEDGMENTS

Disabled Peoples' International Asia Pacific (DPI/AP) and the Tokyo Advocacy Law Office (TALO) would like to thank Thammasat University and its staff and volunteer students for their assistance during the Meeting.

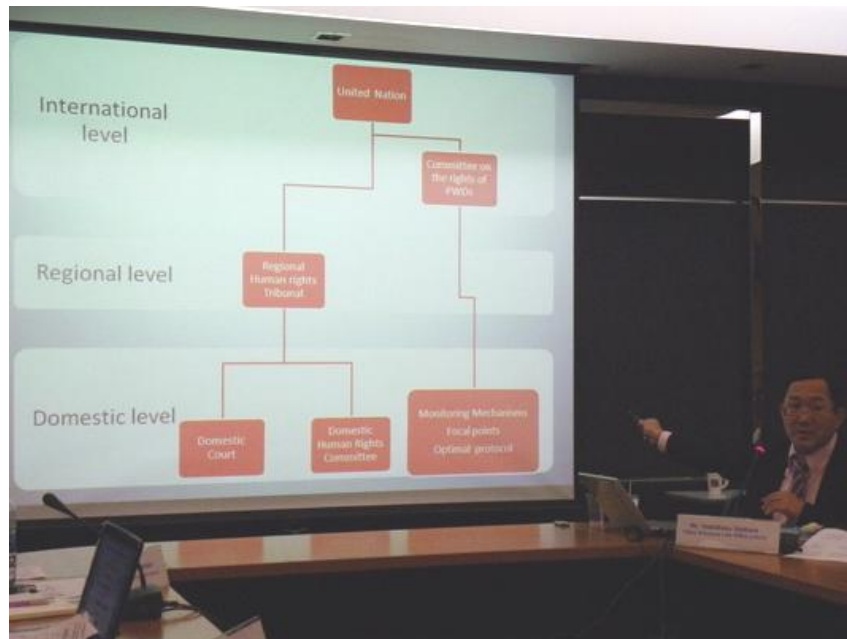
DPI/AP and TALO would also like to thank all language and sign language interpreters for their skills in making this meeting accessible to persons of all linguistic backgrounds and impairments.

BACKGROUND

The law is a powerful tool to ensuring that the rights of people everywhere are protected. This is especially true for persons with disabilities, given that the OHCHR recently announced that persons with disabilities are often the most marginalized of minority groups.

However, many governments of the Asia-Pacific are yet to create tolerant societies and establish effective legal institutions to ensure the rights of persons with disabilities are protected. In many countries of the Asia-Pacific, the UNCRPD has not been ratified. Even in cases where such human rights tools are ratified by governments they may not be implemented or monitored effectively. In other cases, national Human Rights Commissions have not been established. A lack of protection through legislation and human rights institutions leads directly to discrimination with impunity.

With 80% of the world's 650 million persons with disabilities living in the Asia Pacific region, a legal safeguard must be established. Therefore, the motivation for the establishment of the Disability Rights Tribunal Asia-Pacific (DRTAP) is to provide a **regional legal safeguard** for protecting the rights of persons with disabilities. When national human rights institutions have been exhausted, DRTAP will provide recommendations through a committee to governments regarding discrimination cases against persons with disabilities.

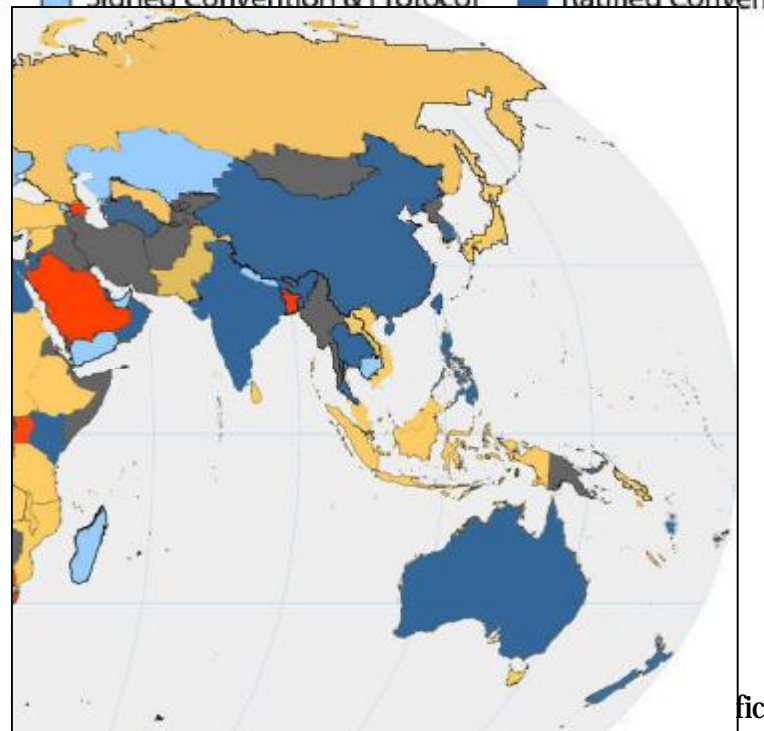


Mr. Ikehara of the Tokyo Advocacy Law Office (TALO) explaining that the DRTAP acts as a regional legal safeguard for persons with disabilities.

The map below illustrates the countries of the Asia-Pacific that have not yet signed nor ratified the UNCRPD. DTRAP aims to protect the rights of persons with disabilities in the countries where laws are not enforced and where institutions are not strong enough to protect the human rights of people with disabilities.



- Not Signed
- Signed Convention
- Signed Convention & Protocol
- Ratified Convention
- Ratified Convention & Protocol



Reference: <http://www.un.org/disabilities/>

This is the second meeting between advocates and experts in the field of human rights and disability to discuss the establishment of DRTAP. This second meeting built on the discussions and interest of the first meeting held in Tokyo, Japan, in July 2009.

The first meeting in Tokyo was the first steps to strengthening the DRTAP initiative. The purposes of the DRTAP as discussed at the first meeting are as follows:

- Promoting and protecting the human rights and fundamental freedoms of persons with disabilities in Asia-Pacific.
- To contribute to the realization of the purposes of the UNCRPD in order to promote full participation and equalization of Opportunity of persons with disabilities in the Region
- To uphold international human rights standards as prescribed by International Bill of Human Rights and thematic human rights conventions.
- To promote a rights based approach to disability, poverty and development
- To enhance regional cooperation with a view to complementing national and international efforts on disability rights and supports the elaboration of the CRPD, international bill of human rights and thematic human rights conventions
- To increase the visibility of persons with disabilities both within the UN Human rights system and in society more generally
- To encourage existing human rights monitoring bodies to pay attention to disability issues when they review compliance of governments with the other core human rights conventions

The values of DRTAP as outlined in the first Meeting in Tokyo include:

- Respect for:
 - The International Bill of Human Rights and Thematic Human Rights Convention.
 - The independence and equality of persons with disabilities
 - The rights of persons with cross disabilities
 - The fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice
 - The diverse cultures, languages and religions of persons with disabilities
 - The participation of persons with disabilities

- DRTAP should monitor any situation of violation of disability rights.
- DRTAP should be able to advise the Government, the Parliament and any other competent body on specific violations, on issues related to legislation and its compliance with international human rights instruments, and on the implementation of these instruments.
- DRTAP should relate to regional and international organizations.
- DRTAP should have a mandate to educate and inform people of the Asia-Pacific of disability as a human rights issue.

The mandate and functions of DRTAP as discussed in the first Meeting could include:

- To develop a long-term strategy for the promotion and protection of disability rights and fundamental freedoms
- To promote public awareness of disabilities rights among stakeholders related to disabilities
- To facilitate capacity building for the effective implementation of CRPD
- To develop, together with civil society, DPOs CRPD, International Bill of Human Rights and thematic human rights conventions
- To collaborate on and engage in dialogue and consultation with other stakeholders, including civil society organizations and DPOs
- To consult, as may be appropriate, with other relevant institutions and entities concerned with promotion and protection of Disability rights
- To submit an annual report on disability rights issues, observations, recommendations or other reports if deemed necessary to government in Asia Pacific Region.

The second meeting held in Bangkok, “The Preparatory Meeting for the International Conference on Disability Rights,” built on the outcomes of the first meeting outlined above.

A third and fourth preparatory meeting will follow prior to the International Conference, held in Seoul, South Korea, and Sydney, Australia.

DATES AND VENUE

Monday 11 – Tuesday 12 January 2010

Thammasat University, Tha Prachan Campus, Faculty of Social Administration

Address: 2 Prachan Road, Bangkok 10200 Thailand

Telephone: +66-0-2613-3333, Website: <http://www.tu.ac.th>

MEETING OBJECTIVES

1. To define the aims and objectives of DTRAP (adding to the progress made at the first meeting in Japan);
2. To clearly identify supporters and stakeholders of DRTAP
3. To discuss how DRTAP could better protect the rights of persons with disabilities discriminated against in the Asia-Pacific by analyzing cases of discrimination from the past few years.

PRESENTERS

Presenters provided a unique insight and perspective into further legislative developments that need to be made in the area of anti-discrimination and equal opportunity for persons with disabilities. Their expertise and experience from working in the field of human rights in Asia-Pacific provided and valuable insight into the achievements and challenges of establishing DRTAP.

All participants and presenters possess the common value of anti-discrimination and equal opportunity. Presenters and facilitators represented international organizations, NGOs and academic institutions in Japan and Thailand, and include:

| Name | Position and Organization | Presentation(s) |
|---------------------------|--|--|
| Mr. Yoshikazu Ikehara | Senior Attorney, Tokyo Advocacy Law Office, Japan | <ol style="list-style-type: none"> 1. Case of institutionalization of a person with a developmental disability 2. Case of no bathrooms for wheelchair users in intermediate range trains 3. Case of dismissal of a conductor with a mental disability |
| Mr. Wiriya Namsiripongpan | Professor, Thammasat University, Thailand | <ol style="list-style-type: none"> 1. Disability discrimination and disability litigation cases in Thailand |
| Ms Nanda Krairiksh | Director, Social Development Division of UNESCAP | <ol style="list-style-type: none"> 1. United Nations Asian and Pacific Decade of Disabled Persons: Achievements and Challenges |
| Ms Aiko Akiyama | Social Affairs Officer, Social Development Division of UNESCAP | <ol style="list-style-type: none"> 1. Disability Law in the Asia-Pacific and challenges in ensuring non-discrimination of people with disabilities |
| Ms. Emanuela Pozzan | Sub-regional Coordinator for Disability, ILO | <ol style="list-style-type: none"> 1. Achieving equal employment opportunities for people with disabilities through legislation |

PARTICIPANTS

The voice of participants was also an integral part to reaching the aims of the meeting. Participants include representatives from; grass-roots disability centers, such as IL centers; policy level disability and human rights NGOs; academics and government.

| Name | Organization | Contact Details |
|--------------------------|---|--|
| Professor Ryosuke Matsui | Faculty of Social Policy and Administration Hosei University, Japan | |
| Mr Samran Wansuk | The Redemptorist Foundation for People with Disabilities, Thailand | www.mahatai.org |
| Mr Akiie Ninomiya | APCD Foundation, Thailand | www.apcdfoundation.org |
| Ms. Duangnarumol Dokruk | APCD Foundation, Thailand | www.apcdfoundation.org |
| Mr. Katsuji Onoda | APCD Foundation/ JICA, Thailand | www.apcdfoundation.org |
| Ms. Patchara Pornsri | APCD Foundation, Thailand | www.apcdfoundation.org |
| Mr. Bkom Limpiphhatn | APCD Foundation/ JICA, Thailand | www.apcdfoundation.org |
| Ms. Pinpawee Pulsawad | APCD Foundation, Thailand | www.apcdfoundation.org |
| Mr. Ryuhei Sano | APCD Foundation, Thailand | www.apcdfoundation.org |
| Ms. Siripen Areenukul | APCD Foundation, Thailand | www.apcdfoundation.org |
| Ms. Nongluck Kisorawong | APCD Foundation, Thailand | www.apcdfoundation.org |
| Mr. Arnon Sriboonroj | Council of Disabled People of Thailand | www.cdpt.or.th |
| Ms. Bhakabailin nai-nade | Council of Disabled People of Thailand | www.cdpt.or.th |
| Mr. Supon Booresut | National Office for Empowerment of Persons with Disability (NEP) , Thailand | www.nep.go.th |
| Mr. Siripong Sriarkha | National Office for Empowerment of Persons with Disability (NEP) , Thailand | www.nep.go.th |

| | | |
|--|--|--|
| Mr. Phairoj Charoenwilasiri | National Association of the Deaf in Thailand | |
| Ms. Porntiwa Lungnumthip | National Association of the Deaf in Thailand | |
| Mr. Santi Rungnasuan | Phutthamonthon Independent Living Center, Thailand | |
| Mr. Udom Onnelean | Phutthamonthon Independent Living Center, Thailand | |
| Dr. Pitch Pongsawat | Department of Government Faculty of Political Sciences, Chulalongkorn University, Thailand | www.polsci.chula.ac.th |
| Mr. Somchai Phonum represented by Ms. Phomprapa Bunruang | Association for the Mentally Ill, Thailand | |
| Mr Somchai Rungslip | APCD Foundation, Thailand | www.apcdfoundation.org |
| Mr. Peerapong Jarusarn | Thailand Association of the Blind, Thailand | www.tabod.com |
| Ms Sunee Saisupatpon | National Office for Empowerment of Persons with Disability (NEP) , Thailand | www.nep.go.th |
| Mr. Chaiyaphon Phupharat | Association of the Physically Handicapped of Thailand | www.apht-th.org |
| Mr. Suphod Phongsai | Association of the Physically Handicapped of Thailand | www.apht-th.org |
| Ms. Jirat Wachirasereedai | APCD Foundation, Thailand | www.apcdfoundation.org |
| Ms. Pinpaka Ngamsom | Prachatai Newspaper, Thailand | www.prachatai.com |
| Mr. Yingcheep Aschanont | iLAW, Thailand | www.ilaw.or.th |
| Mr Winai Kengsuwan | National Office for Empowerment of Persons with Disability (NEP) | www.nep.go.th |

MEETING OUTCOMES

The outcomes of the meeting were reached through a participatory approach to development, emphasizing the motto central to the disability movement, “Nothing About Us Without Us.” Participants and presenters with and without disabilities from civil society, international organizations, academia and the public sector from Thailand and Japan had the opportunity to raise their voice on the issue of anti-discrimination and equal opportunity.

The outcomes of the meeting are as follows:

- The aims and objectives of DTRAP were explored and discussed. DRTAP was confirmed as being a regional legal safeguard for the Asia-Pacific, where national institutions and legislation are not enforced or developed.
- Past discrimination cases were analyzed and it was reiterated that the establishment of DRTAP can create outcomes which better protect and promote the rights of persons with disabilities.
- The supporters of DTRAP at the end of the Meeting were identified as:
 1. Disabled Peoples’ International Asia Pacific (DPI/AP)
 2. The Foundation of Asia-Pacific Development Center on Disability (APCD)
 3. The Japan International Cooperation Agency (JICA) through APCD
 4. Tokyo Advocacy Law Office (TALO)
 5. United Nations Economic and Social Commission of Asia and the Pacific (UNESCAP)

“The UN supports the establishment of the DRTAP...DRTAP resonates with the aims of the United Nations.. Together, we can make it happen.”

Ms Nanda, Director, Social Development Division (SDD), UNESCAP

SUMMARY OF THE MEETING

- The unique characteristics of DRTAP include:
 1. Disability discrimination specifically will be the focus, rather than other Human Rights Bodies (such as ASEAN) whereby people with disabilities are not a focal issue
 2. People at the grass-roots level will be involved and people with disabilities will also make up the committee that will lead DRTAP.
- Function of DRTAP: judicial or quasi-judicial function on disability rights
- Authority of DRTAP: an authority created by a statute or an agreement; or based on a regional treaty at the final stage
- Position of DRTAP: outside the usual judicial hierarchy; or above each domestic judiciary, similar to European Human Rights Court
- Composition of DRTAP: not of judges but of people from multi-disciplines, such as persons with disabilities, lawyers and others.
- Jurisdiction of DRTAP: Asia and the Pacific
- Tentative Definition of DRTAP: DRTAP is a quasi-judicial body which adjudicates on cases involved with disability rights and is composed of persons with disabilities, lawyers and representatives of the general public.
- DRTAP will fill the gap where national protection is weak.
- DRTAP has the potential to act as a monitoring system or a watchdog for the human rights of persons with disabilities.
- DRTAP will involve a committee which will pass down recommendations to local courts
- Advantage is that people with disabilities will be involved in the process
- Participants raised the issue of the treaties and conventions which need to form the foundation of DRTAP. Another treaty may be established to act as the foundation of DRTAP.
- DRTAP decisions through a committee can overwrite decisions by the National Human Rights Commissions only if the regional treaty has been signed.

- However, there may be a conflict between decisions of DRTAP and National Human Rights Commissions. The issues behind DRTAP challenging the dignity of domestic Human Rights Commissions were also raised.
 - This needs to be further discussed at the third and fourth meeting.
- Participants and presenters also raised the important issue of training attorneys in Asia-Pacific countries (a project which the ILO is conducting in Africa) rather than establishing the DRTAP. This way capacity is built rather than another institution formed at the regional level.
- Although DRTAP is an independent body working independent from domestic institutions, the relationship between DRTAP and other bodies also need to be explored, namely; Governments; National Human Rights Commissions; ASEAN Human Rights Body; Labor Unions and Labor Courts; and Supreme Courts.
- Funding for DRTAP has been identified as coming from governments and international organizations, such as the United Nations.
- TALO and UNESCAP decided on the use of the UN Convention Center in Bangkok for the venue of the international conference in October 2010.
- The Third Decade of Disabled People can work alongside the establishment of DRTAP as both aims for the same value; that of anti-discrimination and equal opportunity for persons with disabilities
- There is a lack of enforcement and monitoring of legislation in Asia-Pacific and, for this reason, we must look towards DRTAP to act as a regional legal safeguard to protect the rights of persons with disabilities. Only when national human rights institutions and legislation has been exhausted does DRTAP step in.
- DRTAP also has the potential to create one definition of disability for the entire Asia-Pacific region. There are many different definitions of disability across the many culturally, religiously and politically diverse nations of the Asia-Pacific, leading to different statistics and protection under the law.
- The issue of whether DRTAP should be sub-regional and then expand in scope in the future was also raised, and this will be discussed at the next Meeting.
- The next meeting will also feature a breakdown of the stakeholders for DRTAP

The strategy for DRTAP is not yet confirmed, and the process of consultation across different countries is an important one. The first and second meetings in Japan and Thailand have already taken place. However, the process of determining a strategy for establishing DRTAP is not yet complete. Therefore, the next two meetings will take place in Seoul, South Korea, and Sydney, Australia.

For further information on these Meetings please contact TALO:

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PHOTOS



Participants of the DRTAP Meeting, Bangkok 11-12 January 2010



Senior Attorney of Law, Mr Yoshikazu Ikehara of the Tokyo Advocacy Law Office of Japan presenting on the establishment of the DRTAP



Participants with hearing impairments contributing to the Meeting through sign language interpreters



Professor Wiriya Namsiripongpan of Thammasat University providing an insight into discrimination against persons with disability in Thailand



Ms Nanda Krairiksh, Director of the Social Development Division of the United Nations ESCAP presenting on the challenges in advancing human rights in Asia-Pacific



Ms Aiko Akiyama of United Nations ESCAP presenting on disability law in the Asia-Pacific and the gaps that need to be filled by DRTAP



Ms Emanuela Pozzan from ILO presenting on cases of disability discrimination in employment in Asia-Pacific



Professor Ryosuke Matsui of Hosei University, Japan, providing his reasons for the establishment of DRTAP.



Meeting Facilitators, Mr. Wansao Chaiyakul and Ms. Maria Karagiozakis



Participants of the DRTAP Meeting, Closing Session, 12 January 2010

PROGRAM

| Monday 11 January 2010 | | | |
|------------------------|--|---|-------------------------------|
| TIME | MODULE | SPEAKER | FACILITATOR |
| 08.00-09.00 | Registration (60 min) | | |
| 09.00-09.45 | <p><i>OPENING SESSION</i></p> <ul style="list-style-type: none"> • Introduction of Participants (5 min) • Welcome remark (10 min) • Explanation of basic conception of DRTAP and Introduction of background and objectives of local meeting (30 min) | <p>Sureeporn Yupa on behalf of Ms Saowalak Thongkuay, DPI AP</p> <p>Yoshikazu Ikehara; Attorney, TALO</p> | Maria Karagiozakis, DPI AP |
| 9.45-10.15 | <p>Presentation</p> <p>“A Case of Institutionalization of a person with a developmental disability”</p> | Yoshikazu Ikehara; Attorney, TALO | Maria Karagiozakis, DPI AP |
| 10.15-11.00 | Discussion of Presentation | Presenters and Participants | Maria Karagiozakis, DPI AP |
| 11.00-11.15 | Coffee Break | | |
| 11.15-11.35 | <p>Presentation</p> <p>“A Case of no bathrooms for wheelchair users in intermediate range trains”</p> | Yoshikazu Ikehara; Attorney, TALO | Maria Karagiozakis, DPI AP |
| 11.35-12.00 | Discussion of Presentation | Participants and Presenters | Maria Karagiozakis, DPI AP |

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|-------------|--|---|-------------------------------|
| 12.00-13.00 | Lunch Break | | |
| 13.00-13.20 | Presentation “A Case of dismissal of a conductor with a mental disability” | Yoshikazu Ikehara; Attorney, TALO | Maria Karagiozakis, DPI AP |
| 13.20-14.00 | Discussion of Presentation | Participants and Presenters | Maria Karagiozakis, DPI AP |
| 14.00-14.20 | Presentation “Disability discrimination and disability rights litigation case: Thailand” | Professor Wiriya Namsiripongpan, Thammasat University | Wansao Chaiyakul, DPI AP |
| 14.20-15.00 | Discussion of Presentation | Participants and Presenters | Maria Karagiozakis, DPI AP |
| 15.00-15.15 | Coffee break | | |
| 15.15-15.35 | Presentation “Disability discrimination and disability rights litigation case: Thailand” | Professor Wiriya Namsiripongpan, Thammasat University | Wansao Chaiyakul, DPI AP |
| 15.35-16.00 | Discussion of Presentation | Participants and Presenters | Maria Karagiozakis, DPI AP |
| | | | |
| 16.15-16.50 | Question and Answer session | Participants and Presenters | Maria Karagiozakis, DPI AP |
| 16.50-17.00 | Summary of the day | Maria Karagiozakis DPI AP | Wansao Chaiyakul, DPI AP |
| 17.00 | Reception for all presenters and participants | Dome Restaurant in Thammasat University | |

| Tuesday 12 January 2010 | | | |
|--------------------------------|---|--|-------------------------------|
| TIME | MODULE | SPEAKER | FACILITATOR |
| 09.00-09.15 | Summary of previous day's learning | 2 Participants | Maria Karagiozakis, DPI AP |
| 09.15-09.35 | Presentation “United Nations Asian and Pacific Decade of Disabled Persons: Achievements and Challenges” | Nanda Krairiksh Director Social Development Division (SDD) UNESCAP | Wansao Chaiyakul, DPI AP |
| 09.35-09.55 | Presentation “Disability Law in Asia and the Pacific: challenges in ensuring non-discrimination for people with disabilities” | Aiko Akiyama Social Affairs Officer Social Development Division (SDD) UNESCAP | Maria Karagiozakis, DPI AP |
| 09.55-10.15 | Discussion of Presentation (20 min) | Participants and Presenters | Maria Karagiozakis, DPI AP |
| 10.35-11.00 | Presentation “Achieving Equal Employment Opportunities for People with Disabilities through Legislation” | Emanuela Pozzan Sub-Regional Coordinator for Disability International Labour Organization (ILO) | Maria Karagiozakis, DPI AP |
| 11.00-11.15 | Coffee Break | | |
| 11.15-11.35 | Discussion of Presentations | Participants and Presenters | Maria Karagiozakis, DPI AP |

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|-------------|--|---|---------------------------------------|
| 11.35-12.30 | <p>DRT AP Discussion</p> <ul style="list-style-type: none"> • Exploring strategies for establishing DRTAP • The challenges and advantages of establishing a human rights disability court in Asia-Pacific. | Participants and Presenters | <p>Maria Karagiozakis, DPI AP</p> |
| 12.30-13.30 | Lunch Break | | |
| 13.30-15.30 | <p>Aims and Objectives of DRTAP</p> <p>Discussion Continued</p> | <p>Professor Matsui, Hosei University, Japan</p> <p>Participants and Presenters</p> | <p>Maria Karagiozakis, DPI AP</p> |
| 15.30-15.45 | Coffee Break | | |
| 15.45-16.00 | <p>Evaluation</p> <ul style="list-style-type: none"> • Questionnaire | Participants | <p>Wansao Chaiyakul, DPI AP</p> |
| 16.00-17.00 | <p>Closing Session</p> <ul style="list-style-type: none"> • Closing Remarks by Professor Ryo Matsui, Hosei University • Closing Remarks by Maria Karagiozakis, DPI/AP • Group Photo | 2 Participants | <p>Wansao Chaiyakul, DPI AP</p> |