

OCTOBER 28TH, 29TH AND 30TH, 2015
PARIS, INALCO

INTERNATIONAL
CONFERENCE

GUARANTEEING PERSONS IN VULNERABLE SITUATIONS THE CAPACITY TO ENJOY AND EXERCISE THEIR CIVIL AND POLITICAL RIGHTS

*The United Nations Convention on the Rights
of Persons with Disabilities - focus
on Article 12: A legal turning point
in care and support relationships?*

French/English simultaneous interpretation
and simultaneous transcription provided

ACCREDITED
FOR ON-GOING
PROFESSIONAL
TRAINING

Avec le soutien de la
Caisse nationale de
solidarité pour l'autonomie



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COLLECTIF
CONTRAST

consentement capacité contrainte santé mentale

RÉPUBLIQUE FRANÇAISE

LE DÉFENSEUR
DES DROITS



“Legal capacity is indispensable for the exercise of civil, political, economic, social and cultural rights. (...)

Support in the exercise of legal capacity must respect the rights, will and preferences of persons with disabilities and should never amount to substitute decision-making.”

GENERAL COMMENT No. 1 OF THE UN COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES (2014)



Conference organised

by COLLECTIF CONTRAST

Benoît Eyraud et Livia Velpry (Head Scientific Advisors),
Jean-Philippe Cobbaut, Karine Lefevre, Julie Minoc,
Delphine Moreau, Anne Saris, Sébastien Saetta, Anne Toppani.

Advance registration required, free of charge

<https://contrastcollectif.wordpress.com>

BACKGROUND AND LEAD QUESTIONS

Democratic societies are based on the principle of all citizens having **equal rights to exercise civil and political capacity** and to decide and to act independently for themselves.

In a number of cases when people are in vulnerable situations, this ideal of equal autonomy is put to the test, which may lead family members and professionals to intervene on behalf of another person, sometimes acting in their stead. Traditional legal systems provide that this type of intervention must be in the person's best interests, which constitutes a paradigm in regulating care and support. With the UN Convention on the Rights of Persons with Disabilities (CRPD), this paradigm has changed.

Article 12, dealing with **legal capacity**, offers a new outlook and new legal rules applicable to persons in vulnerable situations. This Article has established that a person's "**own choices and preferences**" should be the legal basis for an entire series of decisions or actions taken in many fields (health care, employment, personal and family life, personal property, transportation, food, standard of living, participation in social life, etc.), rather than a person's "best interests" or "needs". Article 12 recommends that supported decision-making systems be mainstreamed so as to prevent decisions about people's lives from being made by others and to prevent the use of compulsion or force.

Article 12 itself and the General Comment on Article 12 issued by the UN Committee on the Rights of Persons with Disabilities have been **highly debated** among academics and international activists and are not yet familiar to many stakeholders in France. In order to contribute to the debate in the French context, Collectif Contrast, a French inter-disciplinary research organization specialized in sociology, law and philosophy, would like to spearhead a **collaborative approach** among relevant stakeholders. The objective is to provide a **platform for information and exchange** on the impact of Article 12 of the Convention, from the standpoint of its symbolic importance and above all, the difficulties and stakes involved in full implementation.

Three main focal areas have been chosen as a structure for this approach. The first consists in identifying the dilemmas and difficulties encountered by stakeholders in health care and support relationships. The second will analyze the tools and instruments used to assess situations involving persons in a vulnerable position, and particularly those used to qualify the legal capacity of persons with disabilities. The third point will focus on the stakes and challenges involved in action taken by the public authorities.

As a first stage in this collective approach, an International Conference will be held in Paris on October 28, 29 and 30, 2015, providing a platform for information and exchange among academic researchers (sociologists, Legal specialists, Philosophers), persons with disabilities and their representatives, professionals working in the field and members of civil society. This event is aimed at drawing on the experience of international researchers, sharing the expectations of the various institutions for which the implementation of the Convention is relevant and of those persons actually in vulnerable situations, and giving a complex account of the issues and difficulties encountered by professionals in the field and at the level of public policy.

This Conference is designed for a wide variety of stakeholders interested in the implementation of the Convention: users of social or **medical-social services, managers of care and social support facilities, service providers, psychiatrists, geriatric and general practitioners, nurses, health and social workers, court-appointed legal guardians, family member guardians, judges, lawyers, researchers and concerned citizens, among others.**

This collaborative initiative is supported both by official bodies in charge of **monitoring the implementation of the Convention** and by a **Steering Committee** composed of representatives from public-sector institutions and scientific advisors who will provide guidance with governance and dissemination of the results of this project.

WEDNESDAY, OCTOBER 28TH

1:30 PM: ARRIVAL AND WELCOME COFFEE

2:00 – 3:00 PM: OPENING PRESENTATIONS

Denys Robiliard, Member of the French Parliament
Patrick Gohet, French National Human Rights Defender, Deputy Director for the fight against discrimination and the promotion of equality,
Annelisa Cotone, Policy officer, European Commission, Directorate-General for Employment, Social Affairs and Inclusion.

2:40 PM: INTRODUCTION TO THE SOCIAL AND LEGAL ISSUES INVOLVED IN THE IMPLEMENTATION OF ARTICLE 12

Benoit Eyraud, Sociologist (University of Lyon 2, Max Weber Center),
Anne Saris, Professor of Law (University of Quebec in Montreal)

3:00 – 5:30 PM: GUARANTEEING LEGAL CAPACITY: EXPERIENCE-BASED FEEDBACK TO PUT ARTICLE 12 ON THE AGENDA

->Gabor Gombos, Ex-user and former member of the UN Committee on the Rights of Persons with Disabilities (Hungary), Adjunct Professor of Law (Centre for Disability Law and Policy, National University of Ireland, Galway and Nalsar University of Law, Hyderabad, India):

Why we need a change of outlook regarding the capacity of persons in vulnerable situations to exercise their civil and political rights

->Amita Dhanda, Professor of Law (Nalsar University of Law, Hyderabad, India):

Article 12, a new legal paradigm guaranteeing the capacity to act and decide

3:45 PM : PAUSE

->Paul APPELBAUM, Professor of Psychiatry (Columbia University, New York, USA):

Assessing the capacity to consent and decide: origin and relevance of specialized screening tools

Moderator: Jean-Philippe Cobbaut, Philosopher (Center for Medical Ethics, Catholic Institute of Lille, France),
Key Discussants: Anne Saris, Professor of Law (University of Quebec in Montreal, Canada) and
Fabrice Gzil, Philosopher (Mederic Alzheimer Foundation, Paris, France)

5:30 – 6:30 PM: PERSPECTIVES OF MENTAL HEALTH SERVICE USERS AND PROFESSIONALS (ROUNDTABLE DISCUSSION)

Chair : Anne CARON DEGLISE, Magistrate

Philippe Guerard, mental health service user, Chair of Advocacy-France; Pierre Bouttier, Court-appointed representative, Chair of National Association of court-appointed representatives and personnel for the legal protection of adults – ANDP; Gilles Devers, Attorney; Christian Saout, French Collective Group of non-profit health organizations – CISS; Emilie Pecqueur, French Guardianship Judge, Chair of the National Association of Trial Judges; Thierry Najman, Psychiatrist, Psychiatric Hospital of Moisselles

6:30 PM: COCKTAIL RECEPTION

THURSDAY, OCTOBER 29TH

9:00 - 10:00 AM:

CAPACITY TO EXERCISE CIVIL AND POLITICAL RIGHTS: A PRINCIPLE YET TO BE GRASPED BY CIVIL SOCIETY

->Jean-Paul Delevoye, President of the French Economic, Social and Environmental Council (CESE):

The challenges and stakes involved for civil society in acceptance and implementation of the Convention

Presentation and discussion: Anne Caron-Deglise, Magistrate (Court of Appeals of Versailles) and Eymeric Guilleumou, Attorney and Chair of the French National Brain Injury Association

10:30 AM - 12:30 PM:

LEGAL CAPACITY - A FUNDAMENTAL RIGHT?

->Marie Gaille, Director of Research in Philosophy (Science-History-Philosophy Research Group - SPHERE, French National Scientific Research Center - CNRS, Paris, France):

Which capacities are at stake in vulnerable situations? The complex connection between law and ethics.

->Ingrid Maria, University Lecturer in Private Law (University of Grenoble, France):

**Enjoying and/or exercising rights in vulnerable situations:
revisiting civil law concepts in light of the UN Convention**

10:45 AM: PAUSE

->Pierre-Yves Baudot, Political Scientist (Sociological Research Center for law and criminal institutions - CESDIP, CNRS, Guyancourt, France):

What State action does to fundamental rights: the case of disabilities

Moderator: Jean-François Ravaud, Sociologist (INSERM, CERME3, Paris, France)

Wayne MARTIN, philosophe, Essex Autonomy Project

Liora ISRAEL, sociologue, (CMH, EHES)

2:00 - 6:00PM: WORKSHOPS

FRIDAY, OCTOBER 30TH

9:00 AM – 1:00PM: WORKSHOPS

2:00 PM: ROUNDTABLE DISCUSSION: [REPRESENTATIVES OF USERS, FAMILIES AND INSTITUTIONS](#)

Président de séance : **Philippe MIET, General Delegate, CFHE**

Brigitte Lamarre, Board Member of French National Union of Family Associations (UNAF),
Disability and Family Carer Officer

Marie-Hélène Isern-Real, Attorney, Member of the Scientific Committee of the International
Federation of Elderly Persons Associations (FIAPA)

Jolijn Santegoeds, Co-Chair of the World Network of (Ex)Users and Survivors of Psychiatry (ENUSP)
Jean Canneva, honorary chairman (UNAFAM)

3:00 PM: REPORTS FROM WORKSHOPS

->Alice Casagrande, Professor of Ethics and Management (University of Paris IX Dauphine, France),
Director of Training and Community Life (French Federation of Hospital and Personal Assistance
Institutions – FEHAP, Paris, France),

Axe 1 : The dilemmas and practices of professionals providing care and support

->Fabrice Gzil , Philosopher (Mederic Alzheimer Foundation),

Axe 2 : Assessing capacities: expertise, tools and scope

->Christian Laval, Sociologist and Chief Editor of Rhizome bulletin (Observatory for mental health and
support practices for persons in poverty and hardship), Researcher (Max Weber Center, Lyon, France),
Axe 3 : A legal turning point in how we intervene in other people's lives: a challenge for public policy

(Discussion with the audience)

3:45 PM: PAUSE

4: 15 PM: FEEDBACK FROM INTERNATIONAL GUESTS

5:00 PM: ROUNDTABLE: [MONITORING THE IMPLEMENTATION OF THE UN CRPD IN FRANCE](#)

Présidente de séance : **Nicole Maestracci, Constitutional Court**

Presentations from the French National Human Rights Defender, French National Human Rights
Consultative Committee (CNCDH), French National Council for Persons with Disabilities (CFHE) and
French Inter-ministerial Disability Committee (CIH)

5:45 PM: [CONCLUSIONS AND SETTING IN MOTION A COLLABORATIVE APPROACH](#)

Jean-Philippe Cobbaut, Philosopher (French Medical Ethics Center, Catholic Institute of Lille, France)
Livia Velpry, Sociologist (University of Paris VIII, Cermes 3)

LIST OF WORKSHOPS

(A) WORKSHOPS ON THEME 1:

Dilemmas faced and practices used by professionals providing care and support

A1: Supported decision-making: a new profession?

A2: Innovative support practices (simultaneous translation provided)

A3: Legal Capacity and Participation

A4: The use of compulsion, intervening in other people's lives and the risk of abuse (simultaneous translation provided)

(B) WORKSHOPS ON THEME 2:

Assessing capacities: Expertise, tools and scope

B1: Forced decisions, shared decisions in the psychiatric and geriatric fields: Comparative approaches

B2: Personal decisions or institutional requirements: examples of choices of where to live

B3: - Review of the epistemological challenges in assessing capacities in situ

B4: Making or breaking capacities: "experiential" versus "expert" knowledge

(C) WORKSHOPS ON THEME 3:

A legal turning point in how we intervene in other people's lives: a challenge for public policy

C1: - Legal reforms impacting capacity and incapacity: national and international prospects (simultaneous translation provided)

C2: "Histoires de droits" - Let's talk about your rights - French educational tool kit to promote and respect the rights of persons living with mental health problems

C3: Enforcement of fundamental rights: the role of the judge, activists and the State (simultaneous translation provided)

C4: Accessing rights and regulating complaints

PRACTICAL INFORMATION

-> CONFERENCE SITE:

INALCO UNIVERSITY
(GROUND FLOOR AUDITORIUM),
65 RUE DES GRANDS MOULINS,
75013 PARIS, FRANCE

-> TRANSPORT:

SUBWAY: Metro Line 14,
Station: Bibliothèque François Mitterrand
RER C, Station: Bibliothèque François Mitterrand
BUS Line 83, Station: Olympiades
Line 89, Station: Bibliothèque François Mitterrand
Lines 27, 62, 64, 132, N31, Station: Patay-Tolbiac
TRAMWAY Line T3a, Station: Avenue de France

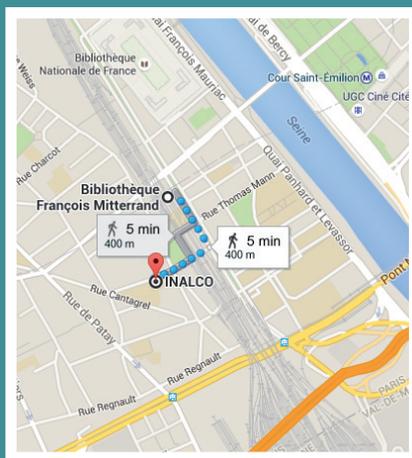
Please contact for further information:

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Advance registration required,
free of charge via:

<https://contrastcollectif.wordpress.com/>

Anne Toppani: 01 76 53 36 15



STEERING COMMITTEE MEMBERS

Olivier Doron, Philosopher (SPHERE), Fabrice Gzil, Philosopher (FMA), Nicolas Henckes, Sociologist (CERMES3), Hervé Hudebine, Political Scientist (LABERS), Catherine Le Gales, Economist (CERMES3), Richard Gaillard, Sociologist (University of Angers), Françoise Leborgne-Uguen, Sociologist (UBO), Alice Le Goff, Philosopher (CERLUS), Ingrid Maria, Legal specialist (CRI), Marie Mercat-Bruns, Legal specialist (LISE), Gilles Raoul-Cormeil, Legal specialist (University of Caen), Jean-François Ravaud (CERMES3), Bertrand Ravon (CMW), Muriel Rebourg, Legal specialist (University of Brest), Pierre Vidal-Naquet, Sociologist (CERPE-CMW), Benoit Verdon, Clinical Psychologist (University of Paris V), Florence Weber, Sociologist (ENS-CMH)

Pierre Bouttier (Association Nationale des Délégués et Personnels des services Mandataires à la Protection juridique des Majeurs-ANDP), Agnès Brousse (Union Nationale des Associations Familiales-UNAF), Aude Caria (Psycom – CHS Ste Anne), Anne Caron-Déglise (Magistrate), Alice Casagrande (Fédération des Etablissements Hospitaliers et d'Aide à la Personne Privés Non Lucratifs – FEHAP), Hadeel Chamson (Fédération Nationale des Associations Tutélaires – FNAT), Gilles Devers (Attorney), Olivier Drunat (Assistance Publique – Hôpitaux de Paris – AP-HP), Philippe Guerard, Bernard Meile, Claude Ethuin, Claude Deutsch (Advocacy-France), Alain Koskas (Fédération Internationale des Associations de Personnes Âgées – FIAPA), Julien Kourowski (Direction régionale de la jeunesse des sports et de la cohésion sociale – DRJSCS Nord-Pas de Calais), Clémence Lacour (Fédération Nationale Avenir et Qualité de Vie des Personnes Âgées – FNAQPA), Christian Laval (Rédacteur en chef de Rhizome, Médecins du Monde), Karine Lefeuvre (Ecole des Hautes Etudes en Santé Publique – EHESP), Philippe Miet (Conseil Français des Personnes Handicapées pour les Questions Européennes – CFHE), Ana Marques (EPS Ville-Evrard), Christian Muller (Association Nationale des Commissions Médicales d'Etablissement – ANCME), Thierry Najman (Praticien Hospitalier, CHS Moisselles, Collectif des 39), Emilie Pecqueur (Association Nationale des Juges d'Instance – ANJI), Sylvie Perdiolle (Institut des Hautes Etudes pour la Justice – IHEJ), Mireille Prestini (Caisse Nationale de Solidarité pour l'Autonomie – CNSA), Séverine Ragon (Union Nationale des Associations de Parents d'Enfants Inadaptés – UNAPEI), Laurence Rambour (Fédération des Associations de Protection de l'Enfant – CNAPE), Patricia Scherer et Marie Gauthier (Fédération nationale des associations gestionnaires au service des personnes handicapées et fragiles – FEGAPEI), Aurélie Tinland (Equipe Mouvement et action pour le rétablissement social, AP-HM), Stéphanie Wooley (European Network of (Ex)Users and Survivors of Psychiatry – ENUSP)



la Personne
en Médecine



The theme of this Conference addresses the objectives and concerns of the French Committee in charge of monitoring implementation of the UN CRPD, chaired by the French National Human Rights Defender and composed of the CNCDH, CNCPH, CFHE and CIH.

The organizing team wishes to thank Céline Lefebvre and Regina Mattei, from EHESP, and Jeudimidi for their participation in the development of this document, as well as Stéphanie Wooley for her volunteer linguistic and translation assistance, and Ariane Bréhier, Cindy Hémerly and Christiane Gérard-Mellon for their so precious logistic assistance.