CHAPTeR 16: The Right to non-discrimination And equality foR woMeN wiTh diSaBiLiTieS

UN Convention on the Rights of Persons with Disabilities

Preamble:
q. Recognizing that women and girls with disabilities are often at greater risk, both within and outside the home of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation,
s. Emphasizing the need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities.

Article 3, General Principles:
The principles of the present Convention shall be…
g. Equality between men and women;

Article 6, Women with disabilities:
1. States Parties recognize that women and girls with disabilities are subject to multiple discriminations, and in this regard shall take measures to ensure the full and equal enjoyment by them of all their human rights and fundamental freedoms.
2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

Article 16, Freedom from exploitation, violence and abuse:
1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.
2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive...
5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.
OBJECTIVES

The background information and exercises contained in this chapter will enable participants to work towards the following objectives:

- Explore the right to equality and freedom from sex discrimination for women and girls with disabilities
- Explain the importance of these concepts for women and girls with disabilities
- Understand the interrelation between non-discrimination and equality and other human rights
- Identify ways in which the rights of women with disabilities to freedom from sex discrimination have been promoted or denied
- Understand the provisions on gender equality and non-discrimination in the UN Convention on the Rights of Persons with Disabilities (CRPD).

“Discrimination starts at home, in the early years of the life of a disabled woman. This discrimination brings with it a reluctance on the part of families, or rather, decision-makers within the families, to make tangible and intangible resources available to disabled women, thus further undermining their life chances.”

L. Abu-Habib

GETTING STARTED: THINKING ABOUT EQUALITY AND NON-DISCRIMINATION

Throughout the world, women with disabilities are subject to two-tiered discrimination, based on their gender and disability. They are denied jobs, excluded from schools, are considered unworthy of marriage or partnership, and are even barred from certain religious practices. Women and girls with disabilities are often the last to receive the necessary support to enable them to overcome poverty and lead productive and fulfilling lives (e.g., education, employment, appropriate general health care services). They are at higher risk for abuse and violence, which can, in turn, aggravate existing disabilities or create secondary disabilities, such as psychosocial trauma.

The susceptibility of women with disabilities to discrimination is a global phenomenon, but how a society or culture understands and addresses this issue varies greatly. Women with disabilities in the developing world experience a triple bind:

- They are discriminated against because they are women;
- They are discriminated against because they have disabilities;
- They are discriminated against because they are from the developing world where they are more likely to be poor, where opportunities and accessibility for girls and women with disabilities are extremely restricted and where prejudice against this group is pervasive.

The rights of women and girls to non-discrimination and equality are interrelated with all other human rights issues. When treated in a discriminatory or unequal manner, women and girls cannot fully enjoy their other rights. For example, a disabled girl who receives an inferior education in relation to boys will be treated unequally throughout her work life. The lack

1 Abu-Habib, L. Gender and Disability: Women’s Experiences in the Middle East (Oxfam, UK, 1997).
of access to general health care by women with disabilities, including reproductive health, impacts not only their right to health but also their right to information and potentially their rights in relation to family and parenthood. These examples demonstrate how human rights are indivisible, interdependent, and interconnected.

EXERCISE 16.1: The Far-Reaching Effects of Discrimination

Objective: To understand the multiple effects of discrimination experienced by women and girls with disabilities

Time: 60 minutes

Materials: Copies of an Effects Cascade, paper and markers

Optional: Paper cut into circles or paper plates and markers

1. Brainstorm:
Ask participants to brainstorm ways in which women or girls with disabilities experience discrimination or unequal treatment. List these, combining similar examples. Keep this list for use in Exercise 16.2.

2. Analyze:
Divide participants into pairs or small groups and ask each pair to choose one example of discrimination to analyze. Give these instructions and illustrate how to use the Effects Cascade:

• Step 1: Identify the problem. Write down the problem in the circle at the top of the cascade.
• Step 2: Think of three results of that problem in the lives of women and girls with disabilities and write these in the three circles below the big circle.
• Step 3: For each of the three results, think of two additional effects that may follow. If you identify more responses, add extra circles.

Example: If the problem is that women and girls with disabilities do not receive an equal education, three results might be:

• They cannot read or write;
• They cannot earn an adequate living;
• They are excluded from others in their age group.

From the effect “They cannot read or write,” three results might be:

• They cannot receive written information;
• They cannot read instructions on medications;
• They cannot communicate by letter or email.

Alternative: If time permits, use a positive cascade using what would result if the right were enjoyed (e.g., “Disabled women and girls receive an equal education”).

3. Report:
Ask each pair to present its Effects Cascade. At the end of each presentation, ask the whole group for additional ideas about other effects. Add these to the diagram. Keep all the diagrams mounted at the front of the room.

4. Discuss:
Emphasize that just as these effects of discrimination are far reaching, they also involve
violations of human rights that have multiple effects. Review each chart and ask participants to identify what human rights might be violated in each chart, besides the general rights to equality and freedom from discrimination.

**Example:** On the effects of “Women and girls with disabilities do not receive an equal education,” you might write:
- “They cannot read or write” = Right to Education;
- “They cannot earn an adequate living” = Right to an Adequate Standard of Living;
- “They are excluded from others in their age group” = Right to Association and Right to Participate in the Community.

5. **Conclude:**
Conclude by emphasizing the inter-relatedness of rights. Illustrate how this works both positively as well as negatively. Take any one of the issues analyzed and do a positive Effects Cascade, showing how the realization of one right affirms other human rights.

**Example:** If “Women and girls with disabilities receive an equal education,” the effects might be:
- “They can read and write” = Right to Education;
- “They can earn an adequate living” = Right to an Adequate Standard of Living;
- “They participate in their age group” = Right to Association and Right to Participate in the Community.
WHAT DOES INTERNATIONAL LAW HAVE TO SAY ABOUT THE RIGHTS OF WOMEN AND GIRLS WITH DISABILITIES?

International human rights law clearly establishes the right of all human beings to non-discrimination and equality. The Universal Declaration of Human Rights (UDHR) protects women and girls with disabilities against discrimination on account of their sex, as does the International Covenant on Civil and Political Rights (ICCPR).²

The most important specialized international human rights treaty addressing the rights of women is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).³ While CEDAW does not specifically address the rights of women and girls with disabilities, it applies to all women and establishes important rights and obligations relating to non-discrimination in public and private spheres. The CEDAW Committee, the body that monitors implementation of CEDAW, issued a General Comment (General Recommendation No. 18 (Disabled women)⁴ calling on States to include information on women and girls with disabilities in their reports to the Committee). The Convention on the Rights of Persons with Disabilities (CRPD) adopts a dual approach in addressing the rights of women and girls with disabilities. These may be characterized as a more general or “broad brush” approach and a more specific or “thin brush” approach.

General “Broad Brush” Approach to Gender Discrimination

The “broad brush” approach establishes general principles of equality and non-discrimination that apply to the whole of the CRPD. Equality and non-discrimination form the cornerstone upon which all human rights are constructed. At its core, recognition of human rights means accepting the notion that all human beings have equal worth and are entitled to respect for their human dignity. Thus, although the precise language differs, nearly every contemporary international human rights instrument contains a provision, usually placed at the beginning, stating that it should be applied on the basis of equality and without discrimination.

In Article 3(g), the CRPD provides that “equality between men and women” is a general principle underlying the entire treaty. This means that even if a certain provision is silent on the issue of gender equality, the principle of equality still informs the application of a treaty provision. In this way, gender equality applies across the entire CRPD.

States have both affirmative and negative duties to respect, protect and fulfill the provisions of the Convention. The State should always take care to respect women’s equality in relation to men. For example, in addressing CRPD Article 13 on access to justice, the state must not do anything that favors men and further widens disparities in power between men and women in society. On the contrary, any solutions to problems identified by the Convention should protect the gains that women have already made in society and advance (or fulfill) their future goals for improving their position in society even further.

Article 6 of CRPD is somewhat unusual in that it explicitly recognizes that states have the duty to address the “multiple discriminations” facing women with disabilities. It declares that States Parties shall take all appropriate measures to ensure the full development, advancement, and empowerment of women for the purpose of guaranteeing them the exercise and enjoyment of their human rights.

² See http://www.ohchr.org/english/law/ccpr.htm
³ See http://www.un.org/womenwatch/daw/cedaw/cedaw.htm
⁴ See http://www1.umn.edu/humanrts/gencomm/generl18.htm
Specific or “Thin Brush” Approach to Gender Discrimination

As a complement to a general “broad brush” equality/nondiscrimination provision, many international human rights instruments also feature very specific provisions focusing on specific issues of particular interest to certain affected populations. The CRPD adopts a “thin brush” approach with respect to exploitation, violence, and abuse.

In addressing violence, the CRPD directs the state to move far beyond the duty to respect, and gives specific instructions on how to protect and fulfill. Significantly, in so doing, the Convention breaks down the artificial divide between the public sphere and the private (family) sphere (sometimes referred to as the “public/private split”) by recognizing specific state obligations in each sector.

In the public sector:

States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.

In the private sector:

States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse.

Further advancing the state’s duty to protect and fulfill, with regard to violence and abuse, CRPD (art. 16, para 5) declares: “States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.”

EXERCISE 16.2 The Roots of Discrimination

Objective: To analyze causes of discrimination experienced by women and girls with disabilities

Time: 60 minutes

Materials: Copies of a Fishbone Diagram, paper and markers

1. Introduce:
Reintroduce the list of examples of discrimination used in Exercise 16.1. Explain that while the first exercise looked at the effects of discrimination, this one will analyze its causes.

2. Analyze:
Divide participants into pairs or groups and ask each to choose an example of discrimination to analyze. These may be the same groups and topics as Exercise 16.1, or both may be new. Give each pair copies of a fishbone diagram, chart paper and markers. Explain that their task
is to break the problem down, into manageable parts. Give these instructions and introduce the fish-bone diagram, explaining that it pushes you to consider all possible causes of the problem. Illustrate how to use the diagram using a simple problem.

- **Step 1:** Identify the problem. Write down the problem in a single sentence or phrase.

- **Step 2:** What are the major factors involved? Draw lines of the spine of each factor and label it. These may involve many factions such as people, systems, equipment, external forces, attitudes, customs and cultural traditions.

- **Step 3:** Identify possible causes for each factor you consider in Step 2. Show these as smaller lines coming off the “bones” of the fish. For a large or complex problem, it may be best to break these “bones” down into sub-causes. Show these as lines coming off each cause line.

- **Step 4:** Analyze your diagram. Depending on the complexity and importance of the problem, what are some things you could do to address the problem.

**Alternative:** Create an outline with the problem as the heading and factors and sub-causes as sub-headings.

3. **Report:** Ask each pair to present their diagram. At the end of each presentation, ask the whole group for additional ideas about other causes or how to address the problem.

4. **Summarize:** Ask participants what common causes they observed in these different analyses. List these and discuss how these principal sources of discrimination might be addressed.
EXERCISE 16.3: How Does the CRPD Affirm the Rights of Women and Girls to Non-discrimination and Sex Equality?

Objective: To review and understand the human rights of women and girls affirmed by the CRPD

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk

1. Review:
Divide the participants into small groups. Ask each group to work together to discuss the “broad brush” and “thin brush” approaches to nondiscrimination and sex equality undertaken by the CRPD.

2. Give examples:
Ask for examples of how the rights of women and girls with disabilities could be enjoyed and make a difference in their lives.

3. List:
List 3-5 examples vertically on a big piece of paper. Make three columns across the top labeled, “respect, protect, fulfill.” Fill in the chart with examples.

4. Discuss:
How can the sex equality and nondiscrimination provisions of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision-makers?

SPECIFIC FORMS OF SEX DISCRIMINATION AND INEQUALITY EXPERIENCED BY WOMEN AND GIRLS WITH DISABILITIES

Violence
Women with disabilities face high rates of violence, both at the hands of family members and of personal assistants. Caregivers can include attendants, interpreters, homemakers, drivers, doctors, nurses, teachers, social workers, psychiatrists, therapists, counselors, and workers in hospitals and other institutions. This large number of people and the intimate physical and emotional contact involved in the care they provide greatly increase the risk of abuse to persons with disabilities. Furthermore because they must often depend on caregivers, women with disabilities face even more difficulty than other women to pursue a remedy for abuse. Surveys conducted in Europe, North America, and Australia have shown that over half of all women with disabilities in those countries have experienced physical abuse, compared to one-third of women without disabilities. In the United States, research has shown children with disabilities to be almost twice as likely to experience sexual abuse as children without disabilities.
Forms of Violence Against Women and Girls with Disabilities

Violence against women with disabilities can take many forms, which can occur at the same time. It occurs not only as deliberate maltreatment and abuse, but also in the more passive form of neglect:

- **Neglect** - denial of food, lack of or inappropriate personal or medical care;
- **Physical abuse** - assault, rough or inappropriate handling, inappropriate personal or medical care, overuse of restraint, inappropriate behavior modification, overmedication, confinement;
- **Psychological abuse** - verbal abuse, intimidation, social isolation, emotional deprivation, denial of the right to make personal decisions, threat of having her children taken away;
- **Sexual abuse** - denial of a woman’s sexuality, denial of sexual information/education (e.g., about birth control and childbirth), verbal harassment, unwanted sexual touching, assault, forced abortion or sterilization.5

Access to Rehabilitation Services

Rehabilitation services are not available to the vast majority of persons with disabilities who may benefit from them and services that do exist are very often inaccessible or unavailable to women and girls. In many war-affected countries, rehabilitation services are available only to men. In developing countries, women and girls with disabilities are far less likely to have access to orthotic and prosthetic services for a variety of reasons including lack of information, inability to travel alone for services, and lack of financial resources. (For more on the right to habilitation and rehabilitation, see Chapter 9, page 127).

Access to Essential Health Care

Women and girls with disabilities also face major barriers related to their right to basic health care. Obstacles in accessing general health care for women and girls with disabilities include discrimination and bias, lack of information, lack of transportation, and lack of respect for autonomy and privacy. In one U.S. study, 31% of disabled women were refused health care by doctors because of their disability.6 The WHO reports that few schools of medicine, nursing, public health, dentistry, pharmacy, allied health professional or schools of social work offer any disability-related training or coursework and those that do are very narrowly focused on clinical and rehabilitation care.7

Right to Reproductive Health Care

Women with mental and physical disabilities must fight to participate in decisions about their health care. In many cases health workers persistently refuse of to advise disabled women and girls on appropriate family planning services and methods. All too frequently decisions are made for them, without their consultation or consent, leading to a variety of human rights abuses, including forced abortion, sterilization, and psychiatric drugging.8 When seeking

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8 United States State Department Human Rights Report (February 2000).
reproductive health care, disabled women often face abusive treatment at the hands of physicians who do not understand their particular circumstances. A study in the USA, for example, showed that women with disabilities were significantly less likely to receive pelvic exams than non-disabled women.⁹

**Right to Marry and Form a Family**

Disabled women also face limitations on their rights to marry and found a family, and they often lose custody of their children. Women with disabilities may be regarded as unfit for parenting or be falsely informed that having a child would be unsafe or unwise because of their disability. In 1997, the Government of Japan acknowledged that some 16,500 women with disabilities were sterilized, without their consent, between 1949 and 1992 in order to prevent “against birth of defective descendants.”¹⁰ The Government rejected calls by the disability community for compensation on the basis that the procedures were legal according to the domestic law at the time. In some countries, it is also almost impossible for disabled women to adopt children.

**Education and Literacy**

The combination of discrimination on the basis of both gender and disability results in low literacy for women and girls with disabilities and poor rates of school attendance. In the U.S., women with disabilities are five times more likely than women without disabilities to have fewer than eight years of schooling. In many countries, schools are inaccessible or too far away or may exclude girls with disabilities (as well as boys) from attendance. Imagining that their girl will have little opportunities in life, parents may see little reason to send her to school. For girls with disabilities who do not attend school, information on reproductive health is even more limited, leading to the unsurprising result in the U.S. that young women with disabilities are significantly more likely to be mothers three to five years after leaving school than non-disabled young women. Studies also show that students with disabilities experience higher rates of sexual harassment in schools and that girls with disabilities face higher rates than boys with disabilities.¹¹

**Workplace Discrimination**

The labor market does not adequately accommodate women with disabilities, nor are there sufficient laws to prevent and punish harassment, either sexual harassment or harassment on the basis of disability. According the United Nations only one quarter of women with disabilities worldwide are in the workforce. They are twice as unlikely to find work as men with disabilities.¹² Workplace harassment of employees with disabilities also is commonplace, and biases can be particularly severe with regard to people with “hidden disabilities,” such as mental disabilities. Pervasive ignorance frequently leads potential employers to reject women with disabilities because they mistakenly assume that the women will not be able to fulfill job requirements or that reasonable accommodations will be extensive and costly. The unemployment rate for women with disabilities in developing countries is virtually 100%.¹³

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Adequate Standard of Living
In countries where women are most valued for their productive and reproductive capacities, a woman with a disability will face even greater discrimination. Typically, she will be allocated the smallest amounts of food and other resources. As a result, the survival rate of girl children with disabilities is lower than that of boys. Few developing countries offer educational opportunities for girls with disabilities, and when opportunities for education exist in schools for children with disabilities, boys usually receive them. Women and girls with a disability living in urban slums face particularly extreme circumstances, lacking adequate shelter, clean water, and sanitation and exposure to high levels of gender-based violence and environmental pollution.

EXERCISE 16.4: Decision-making in the Family and Beyond

Objective: To identify decision-making power in the family and beyond
Time: 90 minutes
Materials: Chart paper and markers or blackboard and chalk

1. Brainstorm:
Ask the full group to call out answers to the following question: What decisions are made in the typical family? Participants offer out their ideas without comment. Record their responses without comment.

2. Discuss:
Ask the group to comment on any differences in the decisions that men and women make. Add any of the following that are not included in the list:
- Whom to live with and according to what arrangement
- Whether to marry
- Whom to marry
- When to marry
- Whether to bear children
- When to begin bearing children and how many children to bear
- Whether to retain one’s own nationality and citizenship in marriage
- Whether to adopt children and how many to adopt
- Whether to raise another persons’ child outside of adoption
- Whether and when to divorce, and on what conditions
- Whether to own and control personal property, borrow money, or to open a business
- Whether to apply for paid employment, and what type of employment to enter.

3. Distribute & Analyze:
Distribute Article 6 and Article 3(g) of the CRPD and point out that it provides for women with disabilities to have equal rights and responsibilities on the basis of non-discrimination. In small groups or in pairs, ask participants to discuss the following questions and report back to the full group:
- What do the provisions in CRPD mean?
- Should there be recognition that women with disabilities may have different needs from men?
- How are these provisions followed or not followed in your community? In your family?
“It makes me feel proud that I belong to this worldwide group of disabled women. It also reminds me of when I was a little lonesome girl and very unhappy with my progressive disability and sad perspectives. But now I am no more lonesome and unhappy. We are now powerful, smart, effective leaders of our own movement. We have now knowledge and power and connection and hope to offer to each other. In a way, we do that whenever we meet a young disabled girl or woman and offer her a new way of facing the discrimination, with new knowledge and resources and a whole world of other strong disabled women connected and supporting each other”.

Dinah Radtke
Women’s Committee Chairperson
Disabled People International, 1999

Women with disabilities are not only taking active and leading voices in disability movements all over the world, they are also creating autonomous organizations and committees focused on the concerns of women with disabilities. These efforts are not without struggle. Issues crucial to women with disabilities are still seen as a small part of the struggle for independent living in most national and international disability organizations. Yet the community of women with disabilities has articulated on issues that affect it in an increasingly sophisticated manner. Women with disabilities have created goals that were included in diverse resolutions from the 1995 UN Women’s Conference “Platform for Action” to individual country and organizational plans for addressing long-standing discrimination against women with disabilities. The efforts of women with disabilities coming together to mobilize around human rights issues is a significant aspect of global disability rights advocacy. (See text box).

1995 International Symposium on Issues of Women with Disabilities, preceding the UN Fourth World Conference and NGO Forum on Women in Beijing, China, coordinated by Mobility International USA (MIUSA).

1995 Disabled Women’s Caucus at the NGO Forum and the UN Fourth World Conference on Women, in Beijing, China, coordinated by an international caucus of women leaders with disabilities, calling themselves “Women’s International Linkage on Disability”.

1997 Mobility International USA (MIUSA) coordinated the International Women’s Institute on Leadership and Disability, bringing together 35 women with disabilities from around the world for an intensive two-week leadership training program in the USA.

1997 The International Forum on Issues of Women with Disabilities, coordinated by the World Institute on Disability and Rehabilitation International, with support from the US Departments of Education and Health and Social Services.
1998 MIUSA International Symposium on Microcredit for Women with Disabilities, held in Eugene, Oregon, USA.

2000 MIUSA Global Options for Women with Disabilities in Leadership and Employment, held in Eugene, Oregon, USA.

2006 UN adopts Convention on the Rights of Persons with Disabilities. The efforts of the Women’s Caucus secured a provision on women with disabilities in the Convention and other provisions on gender.

EXERCISE 16.5 Making a Commitment

Objective: To emphasize and examine that the human rights of women and girls with disabilities involve both rights and responsibilities.

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk

1. Action:
   - Ask if after learning about the human right of women and girls with disabilities, the group members are ready to think about taking concrete action.
   - Acknowledge that, although there is still much planning and information gathering to do, commitment to creating change is very important.
   - Explain that you would like to ask each participant to name one individual action, however small, that she or he is willing and able to take in the next month to promote the right of women and girls with disabilities to non-discrimination and equality.
   - Record the commitments on chart or board to distribute a summary of actions to all participants after the training.


USEFUL RESOURCES ON GENDER AND DISABILITY

- Disabled Women in Sport:
  http://www.feminist.org/sports/disability.html
- Disabled Women on the Web:
  http://www.disabilityhistory.org/dwa/
- International List for Women with Disabilities and Women Allies (D-Wild):
  http://groups.yahoo.com/group/d-wild/
- Organizations and Committees Concerned with Issues Affecting Women with Disabilities:
  http://www.dpi.org/en/resources/topics/women/02-11-05_orgs.htm