



Disability Rights, Gender, and Development

A Resource Tool for Action

This publication was developed by Rangita de Silva de Alwis, Director of International Human Rights Policy at the Wellesley Centers for Women, in collaboration with the Secretariat for the Convention on the Rights of Persons with Disabilities of the Department of Economic and Social Affairs/United Nations and the United Nations Population Fund.

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Secretariat for the Convention on the Rights of Persons with Disabilities
of the Department of Economic and Social Affairs/United Nations

United Nations Population Fund

Wellesley Centers for Women

The Wellesley Centers for Women

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Author:

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Introduction

As part of its global strategy to promote the Convention on the Rights of Persons with Disabilities (CRPD) in development activities and to mainstream disability in all aspects of its work, the United Nations Population Fund (UNFPA); the Secretariat for the Convention on the Rights of Persons with Disabilities (SCRPD/DESA) and the Wellesley Centers for Women (WCW) at Wellesley College have developed a unique compilation of resource materials on innovative approaches to promote the human rights of persons with disabilities, especially women and children in inclusive people-centered development.

Disability Rights, Gender, and Development: A Resource Tool for Action provides valuable insights on the theory and practice of human rights-based approaches to development and contributes to this body of knowledge by designing innovative approaches to the implementation of the CRPD in gender and child sensitive development activities. Building on existing experience in other human rights conventions, with a focus on the linkages among the CRPD, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC), the resource manual is designed to provide an intersectional analysis of the different treaties and build capacity among all stake holders to use the normative frameworks of the different conventions within a holistic framework of interrelated rights. The first draft of these materials was developed for a pilot training program by the author in August 2008 for DESA staff members on the “Human Rights Based Approaches to Development in the Context of Disability Rights”.

The three overarching goals of the resource manual are to:

- Increase the knowledge base to support and guide global efforts on inclusive development in line with the Convention on the Rights of Persons with Disabilities
- Strengthen the knowledge base to respond to the growing needs to support the implementation of the Convention through a human rights-based approach to development.
- Incorporate the gender perspective in ANY disability action: law/policy making, and programming to promote the rights of persons with disabilities.

A hallmark of the new Convention on the Rights of Persons with Disabilities (2006) is its distinctive focus on an integrated approach to human rights and development and the promotion of the rights of persons with disabilities in all aspects of development. CRPD specifically include the reproductive rights of persons with disabilities as addressed in Article 23 and rights to sexual and reproductive health in Article 25. This is consonant with the new target on universal access to reproductive health by 2015 of Millennium

Development Goal 5: improving maternal health, reproductive rights and sexual and reproductive health which cover a state of physical, mental and social wellbeing are not only critical to the advancement of disability, gender and development, but also a key interface among them.

The work of the United Nations to pursue the goal of “full participation of persons with disabilities in all aspects of society and development” is rooted in two main policy instruments: World Programme of Action concerning Disabled Persons (1982) and the Standard Rules on Equalization of Opportunities for Persons with Disabilities (1993) which are both powerful tools to promote equality and empowerment of persons with disabilities.

A series of international development conferences and summits in the 1990s and their respective five-year reviews and follow-ups are of significant importance to persons with disabilities and their communities worldwide, particularly on issues such as poverty eradication, income generation, physical accessibility, advancement of women, adequate and accessible shelter as well as critical development issues recently addressed by the international community in environmental or food crisis.

In view of the urgent need to promote the disability rights-development discourse at local, national regional and international levels and mainstream disability in all aspects of implementation, monitoring and evaluation of the internationally agreed development goals such as the MDGs, this resource is envisaged to contribute to promoting the disability perspective in development and provide a basis for future activities and programmes.

It is hoped that this resource will contribute to practical action to effect positive changes on the ground- for persons with disabilities and their communities around the world.

Secretariat for the Convention on the Rights of Persons with Disabilities
(SCRPD/DESA)

United Nations Population Fund (UNFPA)

A Road Map to the Disability Rights, Gender, and Development: Resource Tool

This resource tool builds a normative framework to examine the intersections of disability rights and gender in the human rights based approach to development. Through case studies, good practices and analyses the research tool makes recommendation and illustrates effective tools for the implementation of gender and disability sensitive laws, policies and development initiatives. The selected areas of discussion and analysis include: equality and non- discrimination; violence against women with disabilities; traditional and customary practices that violate the rights of women and children with disabilities; sexual and reproductive health and rights of women and youth with disabilities; access to employment; and inclusive education. The tool is intended to educate, raise awareness and mobilize and galvanize groups around the twin goals of disability and gender sensitivity in development.

Disability rights cannot be guaranteed in a context that does not affirm the equality of all women. Given that women with disabilities are some of the most marginalized segments of a community, a recognition of the multiple identities of women and children with disabilities and how that can construct their experiences of multiple forms of discrimination will help shape better development programmes and rights-based laws and policies.

Using the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of Discrimination against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD) together enables a more comprehensive human rights-based approach that takes into account specific vulnerabilities based on age, gender, and disability that result in violence and discrimination against women and children and women and children with disabilities. The three treaties also bring comparative strengths to the overall pursuit of all women's and children's rights. In combining the mandates of all three treaties, supported by the overall framework of the Universal Declaration of Human Rights, a powerful rights framework emerges to vindicate the rights of women and children within the private and public spheres.

This resource tool for the first time examines the connection between gender and disability in development and analyzes how gender, disability and development converge and intersect. On the other hand, the CRPD complements and intersects with the CEDAW and the CRC and a gender perspective must be integrated into all aspects of disability rights. In turn, disability rights perspectives must inform the landscape of lawmaking for women and children in order to effectively transform the CRPD into concrete action in the domestic sphere.

The resource tool is divided into three modules and each module includes case studies and concrete action steps to guide human rights practice and the development agenda on the ground. The resource modules will be useful tools to UN country offices, government agencies, civil society organizations and academic institutions as background materials for education or training workshops for the development of new

legislative, policy or programmatic initiatives on behalf of women and children with disabilities. A preliminary draft of this resource tool was used for a successful training program conducted by the author for the United Nations Secretariat for the Convention on the Rights of Persons with Disabilities (SCRPD/DESA).

Module One: This module examines the fundamental principles of the human rights-based approach and the domestic human rights framework and examines how they apply in the field of disability rights. This module also explores the cross cutting nature of the human rights treaties that guarantee the rights of women and children and how these human rights values can be incorporated into national laws. A recommended action plan sets out a check list on how these treaties can be integrated into laws, policies and programmes.

Module Two: This module builds a framework to advance the rights of women and children with disabilities and makes the critical call for a gender analysis to be integrated into the development and implementation of all disability laws policies and programmes. Similarly, an argument is made for a disability rights perspective to inform all areas of laws, policies and programmes that affect women' and children's lives. Using case studies to illustrate the multiple identities of women with disabilities and the multiple grounds of discrimination against women and children with disabilities, this module examines the mutually reinforcing framework of women's, children's and disability rights in selected areas and provides recommendations for law, policy and programme reform in these intersecting areas. A shared form of analysis that joins gender and disability rights analysis can help identify the gaps in the legal system that can be filled through the congruence of the CEDAW, CRC and CRPD.

Module Three: The final module explores the relationship between Human Rights and the Millennium Development Goals (MDGs) and the connection between disability and the MDGs with a special focus on the rights of women with disabilities and their rights to reproductive health. This module develops a plan of action for the participation of all persons with disabilities, including women and children with disabilities in all areas of development in their communities.

Appendix 1: This chart maps some cross cutting areas of the CEDAW, CRC and CRPD.

Appendix 2: This chart identifies some of the intersecting areas of the CEDAW/CRC/ICESCR treaty body Concluding Observations to the most recent Asian country reports.

Appendix 3: This chart compares and contrasts some of the core provisions of the current disability laws in the Asian region.

Appendix 4: This chart examines other international human rights norms that mention the rights of persons with disabilities.

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Disability Rights, Gender, and Development: A Resource Tool for Action

Module One:

Locating the Convention on the Rights of Persons with Disabilities within the Human Rights Framework

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Introduction

The human rights-based approach (HRBA) has become one of the most critical and oft-used frameworks for assessing and addressing human rights issues around the world. This module examines the HRBA in two parts: the first identifies key elements and stakeholders in the HRBA, detailing the roles and functions of each component within the context of treaties and United Nations bodies; the second enumerates how HRBA should be incorporated into lawmaking, with the assistance of concrete case studies, recommendations, and checklists to provide guidance.

Summary of the Human Rights–Based Approach

The Historical Underpinnings

Since the 1980s, the rights-based approach has been reflected in the work of major international organizations. In 1987, the United Nations Children’s Fund (UNICEF) published *Adjustment with a Human Face*, the first major opposition to the micro-oriented approach of the 1970s and the 1980s. In 1990, the United Nations Development Programme (UNDP) published its *Human Development Report* which argued that development is about how people fare and not just about production of goods and economic solutions. The argument was that development then is not just about poverty eradication but in opportunities to go to school and the capacity for participation in development policies and processes.

The rise of a rights-based approach to development was revitalized at the World Conference on Human Rights in Vienna in 1993 and the United Nations Social Summit Meeting in Copenhagen in 1995, where the principles of the indivisibility of human rights and the right to development were accepted unanimously.

The International Conference on Population and Development (ICPD) in Cairo 1994 organized by the United Nations Population Fund (UNFPA) and the United Nations Secretariat also established the rights-based approach in the context of population and development. It laid the foundation for mainstreaming women's right in the subsequent international forums and international development planning, including the Fourth World Conference on Women in Beijing in 1995 and the Millennium Summit in 2000. The ICPD made it clear that the protection and promotion of the rights of women is not simply an end in itself, but also a critical step towards eradicating poverty and promoting development.

What is the Human Rights–Based Approach?

“In order to claim rights, one must first be recognized as an actor in the legal system.”

-Jürgen Habermas

The human rights-based approach “means describing situations not in terms of human needs, or areas of development, but in terms of the obligation to respond to the rights of individuals. This empowers people to demand justice as a right, not as a charity.”

-Mary Robinson, Former High Commissioner for Human Rights

The United Nations Office of the High Commissioner for Human Rights (OHCHR) states, “a rights-based approach integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development.”

The HRBA puts the international human rights entitlements and claims of the people and the corresponding obligations of the State at the centre of the national development debate, and it clarifies the purpose of capacity development. The rights-based approach to development identifies claim-holders and corresponding duty-holders. The approach seeks to make duty-holders accountable to claim-holders, both in terms of protecting, promoting, and advancing these rights and in terms of preventing the violation of those rights.

In the process of United Nations reform that was launched in 1997, the Secretary-General called on all entities of the United Nations system to mainstream human rights into their various activities and programmes within the framework of their respective mandates.

In 2003, the United Nations endorsed a “Common Understanding of a Human Rights-Based Approach to Development Cooperation.” This agreement lays out the requirements that underlie the application of a human rights-based approach to development programming. They are:

- All programmes should further the realisation of human rights as laid down in the Universal Declaration of Human Rights and other international human rights instruments;
- Human rights standards and principles should guide all development cooperation and programming in all sectors and in all phases of the programming process, and;
- Development cooperation should contribute to the development of the capacities of duty-bearers to meet their obligations and/or rights-holders to claim their rights.

The Common Understanding further identified the core principles that inform human rights; these are:

- **Universality and Inalienability:** Article 1 of the Universal Declaration of Human Rights states: “All human beings are born free and equal in dignity and rights.” These rights apply to all people equally.

- **Indivisibility:** The promotion of one right may not justify the violation of another right. Consequently, there is no hierarchy among rights. The realization of one right often depends, wholly or in part, upon the realization of others. For instance, realization of the right to health may depend, in certain circumstances, on realization of the right to education or of the right to information.
- **Inter-dependence and Inter-relatedness:** The promotion of specific human rights must be part of a comprehensive effort to realize human rights in a holistic way.

At the operational level, the core principles that follow from a rights-based approach have been identified as:

- **Equality and Non-Discrimination:** All individuals are equal as human beings and by virtue of the inherent dignity of each human person. All human beings are entitled to their human rights without discrimination of any kind, such as race, colour, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies.
- **Participation and Inclusion:** Particular attention must be paid to the empowerment of vulnerable groups so that they can claim their own rights.
- **Accountability and the Rule of Law:** Rights can only be upheld if there are mechanisms to enforce the duty-bearers' obligation to meet the claims of right-holders. These mechanisms must be in accordance with the rules and procedures provided by law.

A human rights-based approach to programming takes these principles as a guide in the design, development, implementation, and assessment of programmes.

Some **practical advantages** of the rights-based approach is that it can help ensure that development programming is more:

- Sustainable: the holistic approach addresses the root causes of development failure and seeks to create a sense of ownership.
- Legitimate: the HRBA anchors development in the international human rights.
- Equitable: the HRBA pays special attention to the most vulnerable groups including minorities and persons with disabilities.
- Effective: by involving the community and using participatory approaches it can help reduce resistance to change and create a sense of ownership.

Applying the HRBA in the Context of Disability

A rights-based approach argues that children, women and persons with disabilities are not objects of charity but subjects of rights

Empowerment: A human rights-based approach to disability aims to empower persons with disabilities to make their own choices, advocate for themselves, and exercise control over their lives.

Enforceability and Remedies: A rights-based approach to disability means that persons with disabilities should be able to enforce their rights at the national and international levels.

Indivisibility: A rights-based approach to disabilities must protect both the civil and political rights as well as economic, social, and cultural rights of persons with disabilities.

Participation: A rights-based approach to disabilities provides that persons with disabilities must be consulted and participate in the process of making decisions that affect their lives.

Basic Elements of the Human Rights System:

- (a) **Constitutional and legislative frameworks:** The Constitutional framework must reflect international human rights guarantees.
- (b) **Effective institutions to promote and protect human rights:** These institutions include central and local levels, governments, parliaments, the administration of justice, constitutional courts, and an independent human rights body, such as a national human rights institution and/or ombudsperson.
- (c) **Procedures and processes ensuring effective implementation of human rights:** This includes redress mechanisms for individuals whose rights have been violated, and decision-making processes.
- (d) **Programmes and policies for human rights education:** This includes human rights education in schools, universities and professional education institutions, human rights training for law enforcement officials, judicial officials and other relevant professionals, as well as awareness-raising campaigns for the public at large.
- (e) **Strong civil society networks:** This includes a vibrant democratic civil society with the full and equal participation of men and women, persons with disabilities, an active and independent media and human rights defender communities.

Characteristics of Each of the Basic Essential Elements

A. The legal framework

1. The national human rights framework requires that international human rights guarantees are enshrined in the Constitution of the country and in relevant domestic laws, ensuring the supremacy and primacy of international human rights norms and standards in the legal framework of the country.

2. The ratification by a State of the core human rights treaties obliges the State Party to effective implementation and monitoring procedures and mechanisms, and to establish remedies and redress procedures to enable individuals to claim their rights through independent judicial and quasi-judicial procedures.

B. Institutions

1. *The government:* The government has the primary responsibility for implementing the human rights obligations of the State.

2. *The court system:* The existence or establishment of an independent judiciary, charged with the monitoring of laws in compliance with international human rights treaties, is necessary. These institutions must act on proper legal processes and rule on legal remedies in the case of violation of human rights.

4. *Human rights institutions:* National human rights institutions (NHRIs), are usually national human rights commissions or ombudspersons.

C. Human rights promotion and protection through national development policies and legal mechanisms

1. *Redress for human rights violations:* These procedures allow all individuals to claim their human rights and obtain redress and compensation for any violations thereof. The justiciability of human rights in courts and the provision of legal aid when individuals cannot afford to claim their rights will help to broaden access to justice to persons with disabilities.

2. *Participatory decision-making processes:* Decision-making processes must include meaningful participation and representation of marginalized groups, such as women, the poor, minorities, and persons with disabilities.

3. *Cooperation with international human rights mechanisms:* This includes United Nations treaty bodies and special procedures and international and regional human rights organizations including multilateral agencies.

D. Human rights awareness-raising

A strong human rights framework presupposes a programme of human rights education, as well as human rights sensitization campaigns so that the public is aware of their rights and of avenues to claim their rights and seek remedies. These programmes should be tailored to schools, higher educational and technical educational institutions, professional organizations, civil associations, and community level organizations.

E. Civil society

A free, active and independent human rights-sensitive civil society with full and equal participation of men and women is integral to the national human rights protection system. This includes free and independent media and human rights defenders communities including women's rights groups and disability rights groups.

What are the Human Rights Treaty Bodies?

This part examines the overall human rights framework with a special focus on the Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Elimination of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) and the treaty bodies that monitor these Conventions.

The treaty bodies consist of independent experts who are nominated and elected by States Parties to the different treaties. The treaty bodies play an important role in monitoring the implementation of the eight main international human rights treaties. By ratifying a treaty, the States Parties assume the responsibility to implement the treaty and submit periodic reports to the treaty body on the progress made on the implementation of the treaty at the national level. Each treaty body has different monitoring mechanisms and the States Parties reporting takes place in general every two to five years, depending on the treaty body. The treaty body examines the reports of States Parties along with information from other sources, including shadow reports from civil society organizations and United Nations agencies. The treaty body examines the report at a constructive dialogue with the delegation from the reporting State. The treaty body then adopts concluding "observations/comments," in which the treaty body makes specific recommendations to States Parties for future action. The States Parties are expected to implement the recommendations of the treaty bodies and report on those measures in their next report to the treaty bodies.

The Committee against Torture, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of Persons with Disabilities may undertake inquiries when they receive information on violations of the human rights enshrined in the respective treaties. Several treaties including the CRPD have also established individual complaint procedures under which individuals who claim to be victims of a violation by a State Party may submit complaints to the treaty body. Certain criteria must be fulfilled before a complaint can be examined by any of these procedures.

The **eight Committees/treaty bodies** monitoring the implementation of the **eight core human rights treaties** which set legal standards for States Parties for the promotion and protection of human rights are:

- Committee on Economic, Social and Cultural Rights (CESCR)

- (monitoring implementation of the International Convention on Economic, Social and Cultural Rights (ICESCR))
- Human Rights Committee (HRC)
(monitoring implementation of the International Convention on Civil and Political Rights (ICCPR))
- Committee on the Elimination of Racial Discrimination (CERD)
(monitoring implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD))
- Committee on the Elimination of Discrimination Against Women (CEDAW)
(monitoring implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW))
- Committee Against Torture (CAT)
(monitoring implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) (CAT))
- Committee on the Rights of the Child (CRC)
(monitoring implementation of the Convention on the Rights of the Child (CRC))
- Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)
(monitoring implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families)
- Committee on the Rights of Persons with Disabilities (CRPD)
(monitoring implementation of the Conventions on the Rights of Persons with Disabilities (CRPD))

What are the Human Rights Guarantees that Protect Women and Children with Disabilities?

The eight core human rights treaties are: the International Convention on Civil and Political Rights (ICCPR), the International Convention on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Convention on the Rights of Persons with Disabilities (CRPD).

Harmonizing the Implementation of the CRPD, CEDAW and CRC

Introduction to the CRPD

The Convention on the Rights of Persons with Disabilities and its Optional Protocol was adopted in December 2006 and is the first legally binding treaty that holds governments accountable to the rights of persons with disabilities. The Convention marks a “paradigm shift” in moving away from traditional attitudes of “protection” and

“welfare” to considering persons with disabilities as rights bearers who are capable of claiming those rights. The Convention is intended as a human rights instrument with an explicit, social development dimension.

The Optional Protocol is a separate document that will enable individuals to seek redress for treaty violations on exhausting remedies available under their domestic laws. It requires its own ratification. As of November 25, 2008, 41 countries have ratified the Convention and 25 countries have ratified its Optional Protocol.

Preceding the groundbreaking Convention on the Rights of Persons with Disabilities, two historic events marked the trail that led to the Convention. These two landmark initiatives are discussed in brief below.

The World Programme of Action Concerning Disabled Persons 1982

A major hallmark of the International Year of Disabled Persons was the formulation of the World Programme of Action concerning Disabled Persons (WPA), adopted by the General Assembly on 3 December 1982. A cardinal theme of the WPA is “Equalization of opportunities” and it remains the overarching theme for the achievement of full participation of persons with disabilities in all aspects of social and economic life.

Standard Rules on the Equalization of Opportunities for Persons with Disabilities 1993

One of the landmark outcomes of the Decade of Disabled Persons was the adoption of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities by the General Assembly on 20 December 1993 (resolution 48/96 annex). Although not a legally binding instrument, the Standard Rules represent a strong moral and political commitment of governments to take action to attain equalization of opportunities for persons with disabilities. The Standard Rules are a powerful tool to guide policy-making and provides an important basis for technical and economic cooperation.

The Standard Rules for the Equalization of Opportunities of Persons with Disabilities also created the appointment of a Special Rapporteur to monitor the implementation of the Rules.

The CRPD provides a number of entry points for the analysis of women’s, children’s and disability rights within a holistic human rights framework. Apart from Articles 6 and 7 which address the specific rights of women and children with disabilities, Articles 8, 16 and 24 address issues of stereotypes, violence and the need for broadened access to education for children with disabilities.

THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)

Provisions that Address Women and Children with Disabilities

Preamble

(c) Reaffirming the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination,

(d) Recalling the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

...

(p) Concerned about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status,

(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,

(r) Recognizing that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child,

(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 discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all 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 7–Children with Disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children

2. In all actions concerning children with disabilities, the best interest of the child shall be a primary consideration

3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

Article 8 requires States to “combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life.”

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.

3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.

4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.

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.

Article 23–Respect for Home and the Family

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:

- a. The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
- b. The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;
- c. Persons with disabilities, including children, retain their fertility on an equal basis with others.

2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.

3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.

4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

Article 24 is a right that addresses access to education for children and adults with disabilities and enshrines safeguards against the exclusion of children with disabilities from free and compulsory education and guarantees that education for persons with disabilities especially children who are “blind, deaf or deafblind” is conducted in an environment that maximizes “academic and social development”.

Article 25–Health

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

(a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;

(b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;

(c) Provide these health services as close as possible to people’s own communities,

including in rural areas;

(d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;

(e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;

(f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

Examining the CEDAW

The overarching principles of non-discrimination in the CEDAW, including the emphasis on the equality of women both in the public and private spheres; and the guarantee of “temporary special measures” or affirmative action policies for women have special significance for women with disabilities.

Moreover, the CEDAW contains several provisions specific to women with disabilities.

THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

Provisions that Address Women with Disabilities

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where

appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 5

States Parties shall take all appropriate measures:

(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(b) To ensure that family education includes a proper understanding of maternity as a

social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

General Recommendation 18 of the CEDAW recommends that States Parties to the CEDAW take measures to address the equal access of women with disabilities to education, employment, health services, and social services and ensure the participation of women with disabilities in all areas of political, social and cultural life.

General Recommendation 19 of the CEDAW concerns violence against women. Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.

General Recommendation 24 of the CEDAW analyzes the right to health in the context of women with disabilities and also acknowledges that cultural or traditional practices carry a high risk of causing discrimination.

CEDAW General Recommendation 18–Rights of Women with Disabilities, 1991

The Committee on the Elimination of Discrimination against Women,

Taking into consideration particularly article 3 of the Convention on the Elimination of All Forms of Discrimination against Women,

Having considered more than 60 periodic reports of States Parties, and having recognized that they provide scarce information on disabled women,

Concerned about the situation of disabled women, who suffer from a double discrimination linked to their special living conditions,

Recalling paragraph 296 of the Nairobi Forward-looking Strategies for the Advancement of Women, in which disabled women are considered as a vulnerable group under the heading “areas of special concern”,

Affirming its support for the World Programme of Action concerning Disabled Persons (1982),

Recommends that States Parties provide information on disabled women in their

periodic reports, and on measures taken to deal with their particular situation, including special measures to ensure that they have equal access to education and employment, health services and social security, and to ensure that they can participate in all areas of social and cultural life.

CEDAW General Recommendation 24–Women and Health 1999

Introduction

1. The Committee on the Elimination of Discrimination against Women, affirming that access to health care, including reproductive health is a basic right under the Convention on the Elimination of Discrimination against Women, determined at its 20th session, pursuant to article 21, to elaborate a general recommendation on article 12 of the Convention.

Background

...

6. While biological differences between women and men may lead to differences in health status, there are societal factors which are determinative of the health status of women and men and which can vary among women themselves. For that reason, special attention should be given to the health needs and rights of women belonging to vulnerable and disadvantaged groups, such as migrant women, refugee and internally displaced women, the girl child and older women, women in prostitution, indigenous women and women with physical or mental disabilities. ...

12. States Parties should report on their understanding of how policies and measures on *health care* address the health rights of women from the perspective of women's needs and interests and how it addresses distinctive features and factors which differ for women in comparison to men, such as:

- (a) Biological factors which differ for women in comparison with men, such as their menstrual cycle and their reproductive function and menopause. Another example is the higher risk of exposure to sexually transmitted diseases which women face;
- (b) Socio-economic factors that vary for women in general and some groups of women in particular. For example, unequal power relationships between women and men in the home and workplace may negatively affect women's nutrition and health. They may also be exposed to different forms of violence which can affect their health. Girl children and adolescent girls are often vulnerable to sexual

abuse by older men and family members, placing them at risk of physical and psychological harm and unwanted and early pregnancy. Some cultural or traditional practices such as female genital mutilation also carry a high risk of death and disability;

- (c) Psychosocial factors which vary between women and men include depression in general and post-partum depression in particular as well as other psychological conditions, such as those that lead to eating disorders such as anorexia and bulimia;
- (d) While lack of respect for the confidentiality of patients will affect both men and women, it may deter women from seeking advice and treatment and thereby adversely affect their health and well-being. Women will be less willing, for that reason, to seek medical care for diseases of the genital tract, for contraception or for incomplete abortion and in cases where they have suffered sexual or physical violence. ...

Article 12 (1)

24. The Committee is concerned about the conditions of health care services for older women, not only because women often live longer than men and are more likely than men to suffer from disabling and degenerative chronic diseases, such as osteoporosis and dementia, but because they often have the responsibility for their ageing spouses. Therefore, States Parties should take appropriate measures to ensure the access of older women to health services that address the handicaps and disabilities associated with ageing.

25. Women with disabilities, of all ages, often have difficulty with physical access to health services. Women with mental disabilities are particularly vulnerable, while there is limited understanding, in general, of the broad range of risks to mental health to which women are disproportionately susceptible as a result of gender discrimination, violence, poverty, armed conflict, dislocation and other forms of social deprivation. States Parties should take appropriate measures to ensure that health services are sensitive to the needs of women with disabilities and are respectful of their human rights and dignity.

The CEDAW Committee has also recommended that States Parties, in their reports to the Committee, report on the progress made in ensuring that women with disabilities enjoy their human rights in full. Apart from these specific provisions, four main values inherent in the CEDAW have specific relevance to women and girl children with disabilities.

The CEDAW is unique in that for the first time a human rights Convention addressed both public and private acts thereby dismantling the artificial construct between the two

spheres that had been reinforced by previous treaties and national laws in general.¹ The CRC too expands its reach to both spheres. Thus reading the CEDAW and the CRC with the CRPD will have greater resonance to address abuse, exploitation and discrimination against women and children that take place in the family as well by State and non-State actors.

Secondly, the CEDAW is revolutionary in that in Article 5 it strikes down traditional and cultural practices that affect women and girls.² This has particular significance in relation to the rights of children and women with disabilities as harmful traditional practices or even the mere threat of practices such as, *Sati* (widow burning), and *Devadasi* (the offering of women in sexual service to temples) and *Chaupadi* (where menstruating and lactating women are asked to sleep outside the home) practices in South Asia are often both a cause and consequence of mental, psychosocial and physical disabilities.

Thirdly, what is also unique about the CEDAW is that in several articles it covers women's civil and political rights as well as economic, social and cultural rights and sees these rights as indivisible. Once again, the CEDAW proves to be a radical statement of rights in that it breaks down the separation of civil and political rights and economic, social and cultural rights. CEDAW locates these rights as interdependent. The full realization of one right is dependant on the actualization of the other.

Finally, the call for affirmative action policies or temporary special measures in the CEDAW in Article 4 allow for preferential access to girls and women in education and work programmes and has a positive impact on the rights of children and women with disabilities. The anti-discrimination clause of the CRC complements the equality provision of the CEDAW. Implicit in Article 2 of the CRC is the concept of affirmative action, which focuses on achieving equality in result and impact, rather than eliminating inequality in a formal sense. Similarly, Article 5 of the CRPD builds on this notion and obliges governments to provide specific measures which are necessary to accelerate or achieve de facto equality of persons.

The International Conference on Population and Development Programme of Action

The Programme of Action agreed at the 1994 International Conference on Population and Development (ICPD) recommends to the international community a set of important population and development objectives and actions. A hallmark of the ICPD

¹ In Article 2 (e) the CEDAW dismantles the traditional public and private divide and covers discriminatory acts both in the public and private sphere "by any person, organization or enterprises." Article 5 also directs States Parties to take all steps to "modify the social and cultural patterns of conduct of men and women" and to take steps to eliminate "stereotyped roles for men and women." Traditionally, human rights were seen as tool that governed state action and acts in the public sphere. This provision suggests that both public and private acts both in the workplace, schools, public spaces and the family and home can be regulated by the CEDAW. The CEDAW can also be used against "enterprises" such as industries thereby broadening and extending the traditional ambit of a Convention to cover both state and "non-States Parties." Also, Article 5 of the CEDAW directs States Parties to take all steps to "modify the social and cultural patterns of conduct of men and women" and to take steps to eliminate "stereotyped roles for men and women." This Article clearly allows the modification of cultural and traditional conduct that reinforce patriarchy.

² Article 5 of the CEDAW obliges States Parties to "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either sex or on stereotyped roles for men and women..."

Programme of Action is its focus on gender equality, reproductive health and rights, and population and development. The ICPD Programme of Action includes goals in regard to education, especially for girls, and for the further reduction of infant, child and maternal mortality levels. It addresses issues relating to population, the environment, urbanization, prevention and fight against HIV/AIDS and technology among others. The ICPD links population issues, economic growth and sustainable development with gender equality and the advancement of women and girls' empowerment including their social, political, economic and cultural participation.

The ICPD Programme of Action specifically includes disability, and calls for further consideration of the needs of persons with disabilities in the area of reproductive health, including family planning and sexual health, HIV/AIDS, information, education and communication.

The ICPD Vision

The reproductive health portion of the ICPD Programme of Action calls for all states:

1. To ensure that comprehensive and factual information and a **full range** of reproductive health-care services, including family planning, are accessible, affordable, acceptable and convenient to all users (through the primary health care system by 2015;
2. To enable and support **responsible voluntary decisions** about child-bearing and method of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law and to have the information, education and means to do so; and
3. To meet **changing reproductive health needs** over the **life cycle** and to do so in ways sensitive to the diversity of circumstances of local communities.

UNFPA Mission

The UNFPA is guided by and promotes the principles of the ICPD Programme of Action. The UNFPA promotes the right of every woman, man and child to enjoy a life of health and equal opportunity. UNFPA supports countries in using population data for policies and programmes to reduce poverty and to ensure that every pregnancy is wanted, every birth is safe, every young person is free of HIV/AIDS, and every girl and woman is treated with dignity and respect.

Examining the CRC

The World Health Organization (WHO) has estimated that 10 percent of the world's children have a physical, sensory, intellectual or mental health impairment. Eighty percent of these children live in developing countries.

The Convention on the Rights of the Child (CRC) identifies four general principles that form the foundation for the realization of other rights.

- 1) **Non-discrimination**
- 2) **The best interest of the child**
- 3) **Survival and development**
- 4) **Respect for the views of the child**

The CRC was the first Convention to mention disability and enshrine the rights of children with disabilities.³ The anti-discrimination clause of Article 2 of the CRC clearly establishes the equal rights of all children, including children with disabilities. Article 23 of the CRC relates specifically to children with disabilities and advances the rights of children with mental or physical disabilities to participate actively in the community and to be given special care and to provide parents with the necessary support in the care of the child. Article 18 also ensures the child's effective access to education, training, health care services, rehabilitation services and preparation for employment and recreation.⁴ Paragraph 4 of Article 18 calls for international cooperation between States Parties in order to promote exchange in the field of prevention of disability and treatment of disability.⁵ A **Day of General Discussion in 1997** on the rights of the children with disabilities resulted in 14 recommendations that have guided the Committee's work over the past years. The **General Comment 9 on the Rights of Children with Disabilities** acknowledges the special vulnerability of children who are at risk of multiple discrimination based on a combination of factors and notes in particular the girl child with disabilities, indigenous girls with disabilities, children with disabilities living in rural areas⁶ and acknowledges that poverty is both a cause and consequence of disability.⁷

³ The CRC presents three distinct themes: First, that parents have primary responsibility to raise children; second, that the state has special responsibilities to children, to intervene and protect them and third that children as people have rights of their own and have rights as individuals in relation to the family and in relation to the state. More comprehensive than child protection, the human rights formulation underscores that the absence of rights exposes children to risks of abuse both by their parents and by government actors such as teachers, social workers, and judges.

⁴ See Article 23.

⁵ Art. 18 of the Additional Protocol to the American Convention on Human Rights (Protocol of San Salvador 1988) on the Protection of Handicapped (nothing specific on children); Art. 18, para 4 of the African Charter on the Human and People's Rights limited to: aged and disabled have the right to protection; Art. 13 of the African Charter on the Rights and Welfare of Children with provisions more or less similar to art. 23 CRC.

⁶ The General Comment calls among other things for National Plans of Action and policies; data and statistics; budget; coordination body: "focal point for disabilities"; international cooperation and technical assistance; independent monitoring of the situation of children with disabilities; street children; and better attention on children in armed conflict. See Committee on the Rights of the Child, General Comment No. 9, "The Rights of Children with Disabilities," (Forty-third session, 2007), U.N. Doc. CRC/C/GC/9 (2007).

⁷ Committee on the Rights of the Child, General Comment No. 9, "The Rights of Children with Disabilities," (Forty-third session, 2007), U.N. Doc. CRC/C/GC/9 (2007).

THE CONVENTION ON THE RIGHTS OF THE CHILD (CRC)

The Provisions that Address Children with Disabilities

Preamble:

Recognizing that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Article 4

In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to

know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

- (a) To diminish infant and child mortality;
- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
- (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
- (d) To ensure appropriate pre-natal and post-natal health care for mothers;
- (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
- (f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- (a) Provide for a minimum age or minimum ages for admission to employment;
- (b) Provide for appropriate regulation of the hours and conditions of employment;
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

The CRC continues to request information from States on the status of the rights of children with disabilities in their countries.

General Comment 9–The Rights of Children with Disabilities, 2006

I. Introduction

A. Why a General Comment on children with disabilities?

...

5. The Committee also notes that children with disabilities are still experiencing serious difficulties and facing barriers to the full enjoyment of the rights enshrined in the Convention. The Committee emphasizes that the barrier is not the disability itself but rather a combination of social, cultural, attitudinal and physical obstacles which children with disabilities encounter in their daily lives. The strategy for promoting their rights is therefore to take the necessary action to remove those barriers. Acknowledging the importance of articles 2 and 23 of the Convention, the Committee states from the outset that the implementation of the Convention with regards to children with disabilities should not be limited to these articles.

6. The present general comment is meant to provide guidance and assistance to States Parties in their efforts to implement the rights of children with disabilities, in a comprehensive manner which covers all the provisions of the Convention. Thus, the Committee will first make some observations related directly to articles 2 and 23, then it will elaborate on the necessity of paying particular attention to and including explicitly children with disabilities within the framework of general measures for the implementation of the Convention. Those observations will be followed by comments on the meaning and the implementation of the various articles of the Convention (clustered in accordance with the Committee's practice) for children with disabilities.

The CEDAW and CRC address issues of concern to children and women where the CRPD read alone is more general. For example, the CRPD does not focus on some of the specific risk factors and causes leading to disability, including, child marriage, malnutrition and inequality in health care, and trafficking in children that cause disability in children and place children with disabilities in even more vulnerable situations. These areas can be more effectively addressed through an interlocking analysis of the CEDAW, CRC and CRPD.

Suggested Action Plan on Harmonizing The CRPD and CRC

- Persons and children with disabilities must be included in the monitoring mechanisms and all development programmes.
- Undertake a comprehensive review of all legislation in order to ensure conformity with the CRPD. Pay special attention to laws focusing on children. Ensure that these laws apply to children with disabilities.
- Develop a national plan of action for children with disabilities
- Create a focal point for disability. Members must be drawn from relevant ministries and agencies and civil society organizations.
- Create independent monitoring mechanisms such as an Ombudspersons or Children's Commissioner.
- Ensure that funds are allocated for children with disabilities and their families.
- Conduct awareness raising and educational campaigns for the public to raise awareness of de facto and de jure discrimination of children with disabilities.
- Develop a system of community service for children with disabilities.
- Children with disabilities must have their voices heard in all planning processes.

Recommended Action to the Treaty Bodies and Special Procedures

General Recommendations/General Comments to Promote Intersectionality

Human rights treaty bodies periodically issue General Recommendations. These General Recommendations help as interpretive tools to guide States Parties to operationalize specific provisions of the treaties. Thus General Recommendations are important benchmarks to assess how States are fulfilling their obligations under the treaty. These Recommendations help bolster civil society organizations work to hold their government's accountable to the fulfillment of their obligations under the treaties.

General Recommendations by the CEDAW and General Comments by the CRC⁸ provide an important space for the committees to engage in intersectional analysis and can help catalyze collaboration between and across different agencies and different social movements. With this in mind, the future CRPD Committee and the existing

⁸ The Committee on the Rights of the Child publishes its interpretation of the content of human rights provisions, in the form of General Comments on thematic issues. So far there are ten General Comments.

treaty bodies of the CEDAW and CRC must be encouraged to adopt General Recommendations that recognizes the intersection of gender-based discrimination and other forms of discrimination such as those based on ability.

Harmonizing the Work of United Nations Special Procedures

The United Nations Special Procedures such as the Special Rapporteurs and the Secretary General's Special Representatives can be urged to gather information about the interfaces of human rights abuses and in promoting intersectional analysis. Joint reports from the Special Rapporteur can be made on issues that interface, for example when disability, gender and conflict converge. Similarly, the work of the Special Rapporteur on the Right to Food is extremely important in the context of the growing food crisis across the world. Special attention must be paid in the Rapporteur's report to women and children with disabilities who are most often the last in line for food and are vulnerable to malnutrition. In this context, the plight of women and children with disabilities is even greater and must be addressed by the different mandates of the United Nations Special Procedures.

Universal Periodic Review

In 2006, the United Nations General Assembly by Resolution 60/251 directed the Human Rights Council to undertake a Universal Periodic Review (UPR) of each States' human rights obligations and commitments in order to ensure "universality of coverage and equal treatment with respect to all States..."⁹

The UPR presents yet another opportunity for States Parties for critical self-assessment of their treaty obligations and for different stakeholders to hold States Parties accountable to those human rights guarantees. The UPR is an opportunity for OHCHR and the Human Rights Council too to ensure that the interfaces of the rights of women and children with disabilities under the CRPD, CEDAW, CRC and other human rights treaties are examined and advanced.

Treaty Body Reporting Procedures

Human Rights Reporting

Governments and civil society organizations in ratifying countries working on women and children with disabilities must report to all three treaty bodies—the CEDAW, CRC as well as the CRPD treaty bodies—on the cross-cutting and mutually reinforcing nature of the categories of rights of women and children with disabilities as reflected in the three treaties.

The CEDAW and CRC Committees have recommended that States Parties report on the progress made on the rights of women with disabilities. Despite this, few reports by States Parties or shadow reports avail themselves of this opportunity to focus on the

⁹ See Resolution 60/251.

double discrimination faced by women with disabilities. It is also important that disability rights advocacy groups identify and use the Concluding Observations/Comments made by the CEDAW and CRC to State Party reports as powerful entry points to mobilize attention on disability rights and to bolster their advocacy efforts and accountability on the part of all stakeholders. A discussion of the reporting requirements are set out below:

CRC

Article 44 of the Convention on the Rights of the Child requires that States Parties undertake to submit to the Committee reports on the measures they have adopted which give effect to the rights recognized by the Convention and on the progress made in the enjoyment of those rights. This is done within two years of ratification of the Convention by a State Party and thereafter every five years. States Parties are requested to provide relevant information pursuant to Article 4 of the Convention, including information on the measures taken to harmonize national law and policy with the provisions of the Convention.

CEDAW

Article 18 of the CEDAW requires each State Party to submit a report to the Committee within one year after the entry into force of CEDAW and every four years thereafter. The report should illustrate the legislative, judicial, administrative and other measures the State Party has taken to give effect to the provisions of CEDAW.

The guidelines for the report recommend that reports cover the period of time since the consideration of the last report by the Committee on the Elimination of Discrimination against Women. They should furthermore have regard for the deliberations of the Committee concerning the preceding report and include legal and other measures adopted to implement the Convention since the last report.

The State Party reports must reflect the initiatives, laws, policies, programmes and action plans initiated during the reporting period in compliance with the treaty obligations. The report must also point out the obstacles and challenges faced by the State in its compliance with the treaty. Adequate gender disaggregated data must support all submissions. The reporting function helps to facilitate the review of existing laws, policies and programmes in the country, monitoring and evaluation of such policies, public scrutiny of government policies, and public participation in gathering information and raising awareness of treaty body observations and comments of State Party reports.

Recognizing the importance of NGOs' firsthand knowledge of the country's situation, the various treaty bodies ask governments whether they have involved NGOs in preparing the government report. The treaty bodies have also invited direct input from NGOs—both from those that have consultative status with the United Nations Economic and Social Council (ECOSOC) and those that do not—in the form of independent or

shadow written reports and oral presentations to bring country's residents' concerns to national and international attention.

A "pre-sessional" working group discusses five State Party periodic reports scheduled for review at the following session with each group member serving as a "country rapporteur" for one of the reports. The country rapporteur is responsible for preparing a list of issues concerning the particular report. The list of issues is then sent to the State Party, which is required to provide written replies in advance of the session at which its report is scheduled for review. NGO input at this stage of the process is critical as it will ensure that issues of concern to NGOs find their way into the list of issues and will be the focus of the dialogue between the Committee and the State Party. To participate at this stage, NGOs are encouraged to submit written information directly to the country rapporteur and/or to the ICESCR Secretariat in advance of the pre-sessional group meetings. NGO representatives can make oral statements in person during the first morning of the pre-sessional working group meeting.^[4]

Given that the treaty bodies actively seek information from NGOs, NGOs can use this as an opportunity to advance their agenda nationally and internationally. In response, treaty bodies could address specific recommendations and observations on the intersectionalities of women and children with disabilities.

Individual Complaints under the Optional Protocol to the CEDAW Convention

State Party reporting is not the only enforcement mechanism under the CEDAW. The Convention has an Optional Protocol which provides for a right of complaint. Under the Optional Protocol, which entered into force in 2001, individual women and groups of women can submit complaints to the Committee alleging violations of the Convention provided that the State Party has ratified the Protocol. A person other than the victim can also submit a complaint on her behalf.

Complaints under the Optional Protocol are to be sent to the United Nations Division for the Advancement of Women. As of October 2001, there are 75 signatories and 44 States Parties to the Optional Protocol.

Enforcement through "Inquiries" under the Optional Protocol of the CEDAW

Another novel enforcement procedure under the Optional Protocol is the provision which allows the Committee to conduct an inquiry into allegations of "grave or systematic violations" of CEDAW rights by a State Party.

When the Committee receives information of such alleged violations, it can invite the State Party concerned to cooperate in the examination of the information and to submit relevant observations to the Committee.

[4] See Mara R. Bustelo, "Committee on the Elimination of Discrimination Against Women at the Crossroads," in Phillip Alston & James Crawford eds., *The Future of UN Human Rights Treaty Monitoring* (Cambridge: Cambridge University Press, 2000), 79-111.

Reporting Obligations Under the CRPD

In 2006, the United Nations General Assembly adopted the Convention on the Rights of Persons with Disabilities (CRPD). The treaty is unique in that it was informed by the engagement of the advocacy of persons with disabilities. The United Nations Standard Rules on the Equalization of Opportunity for Persons with Disabilities adopted in 1993 was the first international instrument to recognize the rights of persons with disabilities and served as a foundation for the drafting of the CRPD. The CRPD entered into force on April 2008 after its 20th ratification. The Optional Protocol came into operation 30 days later.

Monitoring the Convention

Article 33 explains that States must set up national focal points in order to monitor implementation of the Convention's precepts. States must also set up some sort of independent monitoring mechanisms—which usually takes the form of an independent national human rights institution. The full participation of civil society, in particular persons with disabilities and their representative organizations is essential in the national monitoring and implementation process. International monitoring is achieved via the Committee on the Rights of Persons with Disabilities and the Conference of States Parties.

The Conference of States Parties

States that have ratified the Convention will meet regularly in a Conference of States Parties to consider any matter relating to the implementation of the Convention. The first meeting of the Conference of States Parties took place six months after the Convention enters into force.

The Committee on the Rights of Persons with Disabilities will have an eventual membership of 18 experts, who will serve for four year terms in their individual capacities rather than as government representatives. (The term of six of the first Committee members will expire after two years). States Parties will provide reports to the Committee every two years after the Convention has entered into force. The reports will provide a comprehensive explanation on the progress made towards implementation of the Convention.

The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence and experience in the field of disability. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties from among their nationals at meetings of the Conference of States Parties. The initial election shall be held no later than six months after the date of entry into force of the present Convention.

What is Periodic Reporting?

Each State Party must submit to the Committee on the Rights of Persons with Disabilities an initial comprehensive report on measures taken to implement the Convention. Each State Party must submit its initial report within **two years** after the Convention enters into force for that State. The initial report should:

- establish the constitutional, legal and administrative framework for the implementation of the Convention;
- explain the policies and programmes adopted to implement each of the Convention's provisions;
- identify any progress made in the realization of the rights of persons with disabilities as a result of the ratification and implementation of the Convention.

Each State must submit subsequent reports at least every **four years** or whenever the **Committee requests one**. Subsequent reports should:

- respond to the concerns and other issues highlighted by the Committee in its **concluding observations** to previous reports;
- indicate progress made in the realization of the rights of persons with disabilities over the reporting period;
- highlight any obstacles that the government and other actors might have faced in implementing the Convention over the reporting period.

Obligations Under the Optional Protocol

The Optional Protocol to the Convention establishes an **individual communications** procedure that permits individuals and groups in a State Party to the Protocol to complain to the Committee on the Rights of Persons with Disabilities that the State has breached one of its obligations under the Convention. The complaint is known as a "communication". The Committee examines the complaint and the observations of the State, and on this basis formulates its views and recommendations, if any, forwards them to the State, and makes them public.

Can the CRPD Committee Undertake Inquiries?

The Optional Protocol also establishes an **inquiry procedure**. If the Committee receives reliable information indicating grave or systematic violations by a State Party to the Optional Protocol of any of the provisions of the Convention, the Committee may invite the State in question to respond to such information. After considering the State Party's observations and any other reliable information, the Committee may designate one or more of its members to conduct an inquiry and issue a report urgently. If the State agrees, the Committee may visit the country in question. After undertaking the inquiry, the Committee transmits its findings to the State which has six months to submit further observations. The Committee eventually summarizes its findings which it makes public. A State ratifying the Optional Protocol may "opt out" of the inquiry procedure.

What is the Role of Civil Society in the Monitoring Process?

Civil society has an important role to play in the monitoring process, both nationally and internationally. In relation to national monitoring, the Convention expressly stipulates that civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process (see Convention article 33.3). In relation to international monitoring, States Parties are invited to give due consideration to consulting with and actively involving persons with disabilities and their representative organizations when nominating experts for the treaty body (see Convention article 34.3). Further, experience from other international human rights treaty monitoring bodies highlights the critical role that civil society can play in the periodic reporting process, in supporting individuals in bringing individual communications, and in providing reliable information to the Committee on grave or systematic human rights violations as a basis for an inquiry.

Source: United Nations Enable, <http://www.un.org/disabilities/index.asp>.

Special Procedures Of The Human Rights Council

What are Special Procedures?

Special Procedures are mechanisms established by Human Rights Council to address either specific country situations or thematic issues. Special Procedures consist of an individual – called a Special Rapporteur, Special Representative or independent expert – or a “working group” usually composed of five independent experts. Special procedures mandate-holders are independent experts and are appointed by the Chairperson of the Human Rights Council or by the Secretary-General of the United Nations.

Special Procedures are charged with the mandate to examine, monitor, advise and report on human rights situations in specific countries or on major human rights themes worldwide.

How do special procedures mandate-holders function?

Country visits or fact-finding missions:

- Based on their assessment of the country-situation, mandate-holders will request an invitation from the government or respond to an invitation from a government.
- During such missions, the experts assess the general human rights situation in a given country as well as the specific institutional, legal, judicial, administrative, national human rights institution, NGOs, and victims of human rights violations and/or their families. They also meet with United Nations and other inter-governmental agencies, and the press.
- On the basis of their findings, they issue conclusions and make recommendations, through their public reports to the Human Rights Council and to the General Assembly where so mandated.

Communications to Governments:

- Mandate-holders can send communications to governments requesting clarification on a specific case, and request preventive or remedial measures based on international human rights standards.
- Special procedures mandate-holders can also make recommendations to governments on existing legislation and request governments to revise the legislation in light of human rights instruments.
- Mandate-holders can make an urgent appeal when it is feared that a human rights violation is ongoing or has a high risk of occurring.

Reports:

Each year, at the request of the Human Rights Council, the General Assembly or within the general framework of their mandates, Special procedures mandate-holders produce reports on their respective mandates.

2008 Special Procedures of the United Nations

Thematic Mandates

Independent Expert On The Effects Of Foreign Debt And Other Related International Financial Obligations Of States On The Full Enjoyment Of Human Rights, Particularly Economic, Social And Cultural Rights

Independent Expert On Human Rights And International Solidarity

Independent Expert On Minority Issues

Independent Expert On The Question Of Human Rights And Extreme Poverty

Special Rapporteur On Adequate Housing As A Component Of The Right To An Adequate Standard Of Living

Special Rapporteur On The Adverse Effects Of The Illicit Movement And Dumping Of Toxic And Dangerous Products And Wastes On The Enjoyment Of Human Rights

Special Rapporteur On Contemporary Forms Of Racism, Racial Discrimination, Xenophobia And Related Intolerance

Special Rapporteur On Contemporary Forms Of Slavery, Including Its Causes And Consequences

Special Rapporteur On Extrajudicial, Summary Or Arbitrary Executions

Special Rapporteur On Freedom Of Religion Or Belief

Special Rapporteur On The Human Rights Of Migrants

Special Representative Of The Secretary-General On The Issue Of Human Rights And Transnational Corporations And Other Business Enterprises

Special Rapporteur On The Independence Of Judges And Lawyers

Special Rapporteur On The Promotion And Protection Of The Right To Freedom Of Opinion And Expression

Special Rapporteur On The Right Of Everyone To The Enjoyment Of The Highest Attainable Standard Of Physical And Mental Health

Special Rapporteur On The Right To Food

Special Rapporteur On The Situation Of Human Rights And Fundamental Freedoms Of Indigenous People

Special Rapporteur On The Situation On Human Rights Defenders

Special Rapporteur On The Sale Of Children, Child Prostitution And Child Pornography

Special Rapporteur On Trafficking In Persons, Especially Women And Children

Special Rapporteur On Torture And Other Cruel, Inhuman Or Degrading Treatment Or Punishment

Special Rapporteur On Violence Against Women, Its Causes And Consequences

Representative Of The Secretary-General On The Human Rights Of Internally Displaced Persons

Working Group On People Of African Descent

Working Group On Enforced Or Involuntary Disappearances

Working Group On The Use Of Mercenaries As A Means Of Violating Human Rights And Impeding The Exercise Of The Right Of People To Self-Determination

Country Mandates

Independent Expert On Situation Of Human Rights In Burundi

Independent Expert Appointed By The Secretary-General On The Situation Of Human Rights In Haiti

Independent Expert On The Situation Of Human Rights In Somalia

Independent Expert On Technical Cooperation And Advisory Services In Liberia

Special Representative Of The Secretary-General For Human Rights In Cambodia

Special Rapporteur On The Situation Of Human Rights In The Democratic People's Republic Of Korea

Special Rapporteur On The Situation Of Human Rights In Myanmar

Special Rapporteur On The Situation Of Human Rights In The Palestinian Territories Occupied Since 1967

Special Rapporteur On The Situation Of Human Rights In The Sudan

Source: Office of the High Commissioner on Human Rights. "Special Procedures of the Human Rights Council."

<http://www2.ohchr.org/english/bodies/chr/special/index.htm>.

The two charts that follow identify the provisions relating to equality and non-discrimination and participation in some of the core human rights treaties. These treaties apply to all persons including women and children with disabilities.

Selected Provisions on Equality and Non-discrimination in International Human Rights Treaties

Convention	Provisions
International Covenant on Civil and Political Rights, 1966	<p>Article 2</p> <p>1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.</p> <p>...</p>

	<p>Article 3</p> <p>The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.</p> <p>Article 24</p> <p>1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.</p> <p>...</p> <p>Article 26</p> <p>All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.</p> <p>See also General Comments of the Human Rights Committee:</p> <p>General Comment No. 18 (1989): Non-discrimination</p> <p>General Comment No. 28 (2000): Equality of Rights between men and women</p>
<p>International Covenant on Economic, Social and Cultural Rights, 1966</p>	<p>Article 2</p> <p>...</p> <p>2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.</p> <p>...</p> <p>Article 3</p> <p>The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.</p> <p>See also General Comments of the Committee on Economic, Social, and Cultural Rights:</p> <p>General comment No. 16 (2005): The equal right of men and</p>

	<p>women to the enjoyment of all economic, social and cultural rights (art. 3)</p> <p>General comment No. 3 (1990): The nature of States Parties' obligations (art. 2.1).</p>
<p>International Convention on the Elimination of All Forms of Racial Discrimination, 1965</p>	<p>Article 2</p> <p>1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:</p> <p>(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;</p> <p>(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;</p> <p>(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;</p> <p>(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;</p> <p>(e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.</p> <p>2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.</p> <p>Article 5</p> <p>In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as</p>

	<p>to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:</p> <p>(a) The right to equal treatment before the tribunals and all other organs administering justice;</p> <p>(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;</p> <p>(c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the government as well as in the conduct of public affairs at any level and to have equal access to public service;</p> <p>(d) Other civil rights, in particular:</p> <p>(i) The right to freedom of movement and residence within the border of the State;</p> <p>(ii) The right to leave any country, including one's own, and to return to one's country;</p> <p>(iii) The right to nationality;</p> <p>(iv) The right to marriage and choice of spouse;</p> <p>(v) The right to own property alone as well as in association with others;</p> <p>(vi) The right to inherit;</p> <p>(vii) The right to freedom of thought, conscience and religion;</p> <p>(viii) The right to freedom of opinion and expression;</p> <p>(ix) The right to freedom of peaceful assembly and association;</p> <p>(e) Economic, social and cultural rights, in particular:</p> <p>(i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;</p> <p>(ii) The right to form and join trade unions;</p> <p>(iii) The right to housing;</p> <p>(iv) The right to public health, medical care, social security and social services;</p> <p>(v) The right to education and training;</p> <p>(vi) The right to equal participation in cultural activities;</p> <p>(f) The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks.</p>
<p>Convention on the Elimination of All Forms of Discrimination against Women, 1979</p>	<p>Article 2</p> <p>States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:</p>

	<p>(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;</p> <p>(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;</p> <p>(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;</p> <p>(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;</p> <p>(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;</p> <p>(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;</p> <p>(g) To repeal all national penal provisions which constitute discrimination against women.</p>
Convention on the Rights of the Child, 1989	<p>Article 2</p> <p>1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.</p> <p>2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.</p>
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990	<p>Article 1</p> <p>1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other</p>

	<p>opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.</p> <p>...</p> <p>Article 7</p> <p>States Parties undertake, in accordance with the international instruments concerning human rights, to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as to sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.</p>
<p>Convention on the Rights of Persons with Disabilities, 2008</p>	<p>Article 2-Definitions</p> <p>For the purposes of the present Convention: ... "Discrimination on the basis of disability" means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation; ...</p> <p>Article 3-General principles</p> <p>The principles of the present Convention shall be: Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;</p> <ol style="list-style-type: none"> Non-discrimination; Full and effective participation and inclusion in society; Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; Equality of opportunity; Accessibility; Equality between men and women; Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities. <p>Article 5-Equality and non-discrimination</p> <ol style="list-style-type: none"> States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.

	<p>3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.</p> <p>4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.</p>
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Selected Provisions on Participation in International Human Rights Treaties

Convention	Provisions
International Covenant on Civil and Political Rights, 1966	<p>Article 19</p> <p>1. Everyone shall have the right to hold opinions without interference.</p> <p>2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.</p> <p>3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:</p> <p>(a) For respect of the rights or reputations of others;</p> <p>(b) For the protection of national security or of public order (ordre public), or of public health or morals.</p> <p>Article 21</p> <p>The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.</p>

	<p>Article 22</p> <p>1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.</p> <p>...</p> <p>Article 25</p> <p>Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:</p> <p>(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;</p> <p>(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;</p> <p>(c) To have access, on general terms of equality, to public service in his country.</p> <p>See also: General comment No. 25 (1996): The right to participate in public affairs, voting rights and the right to equal access to public service (on art. 25 of the Covenant).</p>
International Covenant on Economic, Social and Cultural Rights, 1966	<p>Article 15</p> <p>1. The States Parties to the present Covenant recognize the right of everyone:</p> <p>(a) To take part in cultural life;</p> <p>...</p>
International Convention on the Elimination of All Forms of Racial Discrimination, 1965	<p>Article 5</p> <p>In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:</p> <p>...</p> <p>(c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the government as well as in the conduct of public affairs at any level and to have equal access to public service;</p> <p>(d) Other civil rights, in particular:</p> <p>...</p> <p>(viii) The right to freedom of opinion and expression;</p>

	<p>(ix) The right to freedom of peaceful assembly and association;</p> <p>(e) Economic, social and cultural rights, in particular: ... (ii) The right to form and join trade unions; ... (vi) The right to equal participation in cultural activities;</p> <p>(f) The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks.</p>
<p>Convention on the Elimination of All Forms of Discrimination against Women, 1979</p>	<p>Article 7</p> <p>States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:</p> <p>(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.</p> <p>Article 8</p> <p>States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their governments at the international level and to participate in the work of international organizations.</p>
<p>Convention on the Rights of the Child, 1989</p>	<p>Article 12</p> <p>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.</p> <p>Article 13</p>

	<p>1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice</p> <p>2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:</p> <p>(a) For respect of the rights or reputations of others; or (b) For the protection of national security or of public order (ordre public), or of public health or morals.</p> <p>Article 15</p> <p>1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.</p> <p>2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.</p> <p>Article 31</p> <p>1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.</p> <p>2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.</p>
<p>International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990</p>	<p>Article 13</p> <p>1. Migrant workers and members of their families shall have the right to hold opinions without interference.</p> <p>2. Migrant workers and members of their families shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice.</p>

	<p>3. The exercise of the right provided for in paragraph 2 of the present article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:</p> <ul style="list-style-type: none"> (a) For respect of the rights or reputation of others; (b) For the protection of the national security of the States concerned or of public order (ordre public) or of public health or morals; (c) For the purpose of preventing any propaganda for war; (d) For the purpose of preventing any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. <p>Article 40</p> <p>1. Migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests.</p> <p>2. No restrictions may be placed on the exercise of this right other than those that are prescribed by law and are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.</p> <p>Article 41</p> <p>1. Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.</p> <p>2. The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.</p>
<p>Convention on the Rights of Persons with Disabilities, 2006</p>	<p>Article 9-Accessibility</p> <p>1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall</p>

	<p>apply to, inter alia:</p> <ul style="list-style-type: none"> a. Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces; b. Information, communications and other services, including electronic services and emergency services. <p>2. States Parties shall also take appropriate measures to:</p> <ul style="list-style-type: none"> a. Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public; b. Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities; c. Provide training for stakeholders on accessibility issues facing persons with disabilities; d. Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms; e. Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public; f. Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information; g. Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet; h. Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost. <p>Article 13-Access to justice</p> <p>1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.</p> <p>2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.</p> <p>Article 19-Living independently and being included in the community</p> <p>States Parties to this Convention recognize the equal right of</p>
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all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

- a. Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;
- b. Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
- c. Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

Article 21-Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

- a. Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;
- b. Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;
- c. Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
- d. Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;
- e. Recognizing and promoting the use of sign languages.

Article 29-Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

- a. Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis

	<p>with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:</p> <ul style="list-style-type: none"> i. Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use; ii. Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate; iii. Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice; b. Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including: <ul style="list-style-type: none"> i. Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties; ii. Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels. <p>Article 30-Participation in cultural life, recreation, leisure and sport</p> <p>1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:</p> <ul style="list-style-type: none"> a. Enjoy access to cultural materials in accessible formats; b. Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats; c. Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance. <p>2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.</p> <p>3. States Parties shall take all appropriate steps, in accordance</p>
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	<p>with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.</p> <p>4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.</p> <p>5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:</p> <ul style="list-style-type: none"> a. To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels; b. To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources; c. To ensure that persons with disabilities have access to sporting, recreational and tourism venues; d. To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system; <p>To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.</p>
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DISABILITY RIGHTS LAWMAKING

International human rights law does not automatically form part of the national law of the ratifying State. International treaties in countries that follow the “monist” tradition are not self-executing. That is, they do not have the force of law without the passage of additional national legislation. These States incorporate treaties and norms into their domestic laws by specific “transformational” devices in order to give treaties domestic effect. As a signatory to a treaty, the State Party must bring its national laws into compliance with binding international legal standards. The Vienna Convention established that once a State ratifies a Convention, the State becomes a party to that Convention and has corresponding obligations under that treaty. Thus, drafting enabling legislation in compliance with the ratified treaty is one of the most powerful forms of translating international norms into domestic applications.

The charts below examine some of the constitutional and legislative provisions relating to persons with disabilities.

Constitution Making: Some Examples

Relevant Provisions of the Canadian Human Rights Act, 1985

3. (1) For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, **family status, disability** and conviction for which a pardon has been granted.

16. (1) It is not a discriminatory practice for a person to adopt or carry out a special program, plan or arrangement designed to prevent disadvantages that are likely to be suffered by, or to eliminate or **reduce disadvantages** that are suffered by, any group of individuals when those disadvantages would be based on or related to the prohibited grounds of discrimination, by improving opportunities respecting goods, services, facilities, accommodation or employment in relation to that group.

Relevant Provisions of the Canadian Charter

Section 15 (2)

Every individual is equal before the law and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination and, in particular, without discrimination based on race, national or ethnic origin, color, religion, sex, age, or mental or physical disability.

Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national origin, color, religion, sex, age or mental or physical disability.

Article 3 of the Constitution of the People's Republic of China states that:

“disabled people enjoy the same rights as other citizens in respect of political cultural and social aspects, as well as family life and that it is forbidden to discriminate against insult or harass disabled persons.”

Article 3 of the Basic Law of the Federal Republic of Germany states that:

“all persons shall be equal before the law and that no person shall be disfavored because of disability.”

Constitution of Fiji

Section 38.2 on Equality

A person must not be unfairly discriminated against, directly or indirectly, on the ground of his or her:

- a) actual or supposed personal characteristics of circumstances, including race, ethnic origin, color, place of origin, gender, sexual orientation, birth, primary language, economic status, age or disability; or

Constitution of South Africa

Bill of Rights:
Equality

The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, color, sexual orientation, age, disability, religion, religion, conscience, belief, culture, language and birth.

Constitution of Uganda

Equality and freedom of discrimination:

Without prejudice to clause: 1) of this article, a person shall not be discriminated against on the ground of sex, race, color, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion or disability.

Examples of Lawmaking

At least 40 countries have adopted legislation addressing the rights of persons with disabilities. Some of this legislation prohibits discrimination as its primary goal; other laws address the positive duty of the State and the community to ensure the rights of persons with disabilities.

The Indian Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act of 1995 supports positive action in favour of persons with disabilities through a quota system, reserving a certain number of places for persons with disabilities in the training and employment programmes of public and private sector entities. It also provides incentives to establishments that promote the employment of persons with disabilities and preferential treatment through tax concessions.

Concrete Examples Of Human Rights Lawmaking

Using the Human Rights Conventions in National Laws

As seen below, several new laws have enshrined international Conventions in their preambles. Thus, the spirit of the CRPD too can guide the interpretation of the laws and resolve any ambiguity or conflict in the law.

Relevant Provisions of the Norway Act relating to Gender Equality (the Gender Equality Act)

Title of the Act amended by the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527).

Section 1b. *(Incorporation of the United Nations Convention on the Elimination of All Forms of Discrimination against Women)*

The United Nations Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979 with the Optional Protocol of 6 October 1999 shall apply as Norwegian law. The Convention shall be published in the Norwegian Law Gazette in one original language and in a Norwegian translation.

Relevant Provisions of the Republic of the Philippines Anti-Violence Against Women and Their Children Act of 2004

SEC. 2. Declaration of Policy-It is hereby declared that the State values the dignity of women and children and guarantees full respect for human rights. The State also recognizes the need to protect the family and its members particularly women and children, from violence and threats to their personal safety and security.

Towards this end, the State shall exert efforts to address violence committed against women and children in keeping with the fundamental freedoms guaranteed under the Constitution and the Provisions of the *Universal Declaration of Human Rights, the Convention on the Elimination of all forms of discrimination Against Women, Convention on the Rights of the Child* and other international human rights instruments of which the Philippines is a party.

The box below provides a sketch of some innovative examples on equal protection litigation relating to persons with disabilities.

Litigation against Disability Based Discrimination: Some Cases

Right to Access

The Equality Unit of the Human Rights Commission of South Africa has brought several disability related cases before the Equality Courts.

One of the first cases addressed the lack of wheelchair access to the South African court buildings. As a result, the government agreed to ensure proper access for persons with disabilities to courts across the country.

In 2006, a case was filed challenging the lack of access by persons with disabilities to the Kageba Park police station. The police station was required to ensure accessibility and until the renovations were conducted the police officers were required to move to the ground floors. The police commissioners were also required to write letters of apology acknowledging their inappropriate attitude towards persons with disabilities.

Rights of Prisoners with Disabilities

In *Price v. United Kingdom* (2001), the European Court of Human Rights ruled that the rights of a woman with disabilities in detention had been violated. The plaintiff argued that she had been forced to sleep in her wheelchair and had been unable to use the bathroom during her time of confinement.

Disability and Education

Sudarson Subedi founded Nepal Disabled Human Rights Center in 2000 to ensure the government enforces existing laws relating to persons with disabilities.

In a case he filed before the Supreme Court, the Court ruled that persons with disabilities have the free and equal guarantee to education.

P.G.A. Tour, Inc. v. Martin, 532 U.S. 661, 121 S. Ct 1879 (2001).

The United States Supreme Court held that a professional golfer with a disability who had requested accommodation in the form of permission to ride a golf cart in the tournaments of the Professional Golfers Association (PGA) had to be accommodated. The Supreme Court held that providing Martin with a golf cart would not fundamentally alter the nature of the tournament.

Disability and Recreation

In Costa Rica, disability groups identified barriers to access in protected areas, trained park personnel and drafted accessibility plans. As a result of extensive research and participation, the Accessibility Protocol for Persons with Disabilities in Protected Wildlife areas was drafted.

Some Recommended Action Steps

- All persons with disabilities including women and children with disabilities must be included in the monitoring mechanisms and all development programmes.
- Undertake a comprehensive review of all legislation in order to ensure conformity with the CRPD. Pay special attention to laws focusing on children. Ensure that these laws apply to children with disabilities.
- Develop a national plan of action for women and children with disabilities.
- Create a focal point for disability. Members must be drawn from relevant ministries and agencies and civil society organizations.
- Create independent monitoring mechanisms such as an Ombudspersons or Children's Commissioner.
- Ensure that funds are allocated for children with disabilities and their families.
- Conduct awareness raising and educational campaigns for the public to raise awareness of de facto and de jure discrimination of children with disabilities.
- Develop a system of community service for children with disabilities.
- Women and children with disabilities must have their voices heard in all planning processes.

How the Convention Can Be Incorporated into National Law:

Constitution Making:

- Revise existing provisions in the Constitution or basic law and the protection granted to persons with disabilities including women and children with disabilities.
- Include a general guarantee of equality.
- Prohibit disability as a ground of discrimination.
- Include specific provisions on the rights of persons with disabilities.

Legislation:

National Law on Disability

Adopt a national law integrating the Convention. Ensure that the law is enforceable in court.

Ensure that all Laws are Consistent with the Convention

Review other legislation and amend them according to the Convention:

- Non-discrimination laws in different sectors such as employment, education, access to health care and justice.
- Prohibit disability-based discrimination and establish a broad framework of positive action to address disability in accordance with substantive equality.
- Ensure that the laws are informed by the views and opinions of persons with disabilities.

Engage Persons with Disabilities in the Legislative Process

Just as much as persons with disabilities were actively engaged in drafting the Convention, they should be actively engaged in drafting legislating and in all decisions engaging them.

How to Ensure the Voices of Persons with Disabilities are Heard?

- Public hearings.
- Written submissions to relevant parliamentary committees.
- Through parliamentary websites and other media.
- All negotiations and proceedings must be available in accessible formats.

Some Critical Elements of the Legislation

- Reference to the Convention on the Rights of Persons with Disabilities and other human rights Conventions including the CEDAW and CRC.
- A strong non-discrimination clause that outlaws discrimination on the basis of disability.
- Implementation of the law and corresponding enforcement mechanisms.

Defining Disability in the Legislation

The CRPD defines a person with disabilities as including “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis

with others.” The Convention provides a non-exhaustive list of disabilities to be addressed by law.

Reasonable Accommodation

The CRPD provides that a failure to afford a person reasonable accommodation amounts to discrimination on the basis of disability. Thus, any legislative definition of discrimination should include the denial of reasonable accommodation as an act of discrimination.

How Reasonable Accommodation is Provided in Different Countries

Spain, 2003 Law on Equality of Opportunities, Non-discrimination and Universal Accessibility of Persons with Disabilities defines reasonable adjustment as:

Paragraph 7.c

The measures of accommodating the physical, social and attitudinal environment to the specific needs of persons with disabilities which, in effective and practical form and without supposing a disproportionate burden, facilitate the accessibility or participation of a person with a disability in equal conditions as the rest of the citizenry.

The United Kingdoms Disability Discrimination Act of 1995 legislates the duty of employers to make adjustments.

This duty applies where any arrangement or any physical feature of premises of employer places the person with disabilities concerned at a substantial disadvantage in comparison with persons who are not disabled. In such a case, It is the duty of the employer to take such steps as it is reasonable, in all circumstances of the case, for him to have to take in order to prevent the arrangements or feature having that effect. Subscription 6 (3) specifies examples of steps an employer may have to take to comply with this duty.

Magna Carta for Disabled Persons of the Philippines:

Sec. 4.h: Reasonable accommodation includes:

- 1) improvement of existing facilities used by employees in order to render these readily accessible
- 2) modification of work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustments

“ a failure to make reasonable modifications in policies, practices or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of

the goods, facilities, services, privileges, advantages or accommodations.”

Special Measures

Legislation must provide for positive measures. Article 5(4) of the CRPD provides that equality recognizes that special support must be provided for persons with disabilities.

- Permanent measures: e.g. travel subsidies for persons with disabilities
- Temporary special measures: e.g. government should set targets or quotas for the employment of persons.
- If legislative provisions on special measures are being challenged in court, national laws must make it clear that special measures are lawful under equal rights in the Constitution.

Prohibition of Public and Private Discrimination against Persons with Disabilities

Persons with disabilities should be protected against discrimination in both the public and private sector. Prohibitions of discrimination must cover the public and private spheres and the formal, informal sectors.

Implementation and Remedies

- A national mechanism to monitor the implementation of the law and Convention should be established.
- A special independent statutory body must be established to conduct a review or an existing body such as an equality commission, national human rights commission or disability commission must be marked.

Checklist for Human Rights Lawmaking in the area of Disability Rights:

- The Constitution (the supreme law of the land) must embody the civil, political, economic, social and cultural rights of persons with disabilities including women and children.
- Ensure all existing legislation is reviewed for compatibility and consistency with the Convention
- All provisions in the Convention must be integrated into national laws (both existing and new laws).
- Make sure that persons with disabilities are intimately engaged in drafting laws and provisions affecting their lives.
- Ensure budgetary allocations are made for the implementation of the provisions of national laws translating the Convention into national laws.

- Raise awareness on the rights of persons with disabilities and the rights and remedies in the Convention and the national laws through: public information campaigns, media, alliances with disability rights groups and other civil society movements; schools and university curricular and programmatic changes.
- Ensure collaboration between ministries, departments and inter-agency institutions.
- Collaborate between federal, national, regional, state, provincial and local levels.
- Ensure that the Convention and Optional Protocol are translated into the local languages.
- Draft an action plan for the ratification of the Convention.
- Draft an action plan for the implementation of the Convention.
- Establish a focal point (existing or new) for drafting of the periodic reports.
- Build capacity within civil society organizations to monitor disability rights and hold duty bearers accountable to those rights.
- Ensure data collection for policy programming, lawmaking and reporting
- Ensure the engagement of persons and organizations with disabilities in all of the above activities.
- Ensure collaboration and participation between civil society organization and the disability rights movement.

Disability Rights, Gender, and Development: A Resource Tool for Action

Module Two: Tools for Promoting the Rights of Women and Children with Disabilities

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Introduction

Women with disabilities face discrimination on a daily basis in every country in the world. This includes discrimination in the enforcement of laws, denial of equal opportunity in education and employment, exclusion of women with disabilities in political representation, deprivation of reproductive rights, cultural and social norms that reinforce stereotypes, and physical, sexual and psychological violence to subordinate and ostracize women and children with disabilities.

While women and children with disabilities are more vulnerable to poverty, violence and social exclusion, women and children are more at risk than their male counterparts to develop disabilities because they are often last in line to access food, education and health care.¹ Women are also disproportionately concentrated as caregivers of family members with disabilities.² Furthermore, while men with disabilities are more commonly cared for by their wives, women with disabilities are more likely to be abused or deserted by their husbands.³ Consequently, such discrimination on the grounds of disability, gender, age, and minority status converges and intersects in the areas relating to gender-based violence, traditional practices, in war and crisis and in trafficking of women and children with disabilities.

Comprising three sections, this handbook uses the aforementioned issues in its first section as a starting point for its examination of the process of gender sensitizing and mainstreaming disability perspectives into legislation, policies, and programmes. Moving the discussion to a more localized context, the second section serves to guide handbook users through the process of drafting and enacting legislation sensitized to gender and disability. This section is then augmented by a checklist for gender and disability sensitive law and policy drafting.⁴

¹ See UNESCO, *Education for All Global Monitoring Report 2003/04: Gender and Education for All: The Leap to Equality*, http://portal.unesco.org/education/en/ev.php-URL_ID=23023&URL_DO=DO_TOPIC&URL_SECTION=201.html.

² A recent study done in Nicaragua shows that such caregiving can take up to ten hours a day. World Bank. *Disability and Development and the World Bank: A Briefing Summary*, 2 February 2005, http://sitesources.worldbank.org/Disability/Resources/overview/DD_and_WB_Briefing_Summary.pdf.

³ Gender and Women's Mental Health: http://www.who.int/mental_health/prevention/genderwomen/en/print.html. A study done in India shows that men with psycho social disabilities are more likely to be cared by their wives while women with similar disabilities are either deserted or abused by their husbands prior to separation.

⁴ Some of these arguments also appear in Rangita de Silva de Alwis, "Mining the Intersectionalities of the Rights of Women, Children and Persons with Disabilities," *Pacific Rim Law and Policy Journal* (University of Washington School of Law), forthcoming.

Vienna World Conference on Human Rights

In 1993, the Vienna World Conference on Human Rights established the centrality of women's rights to the international human rights regime. The Vienna Declaration and Programme of Action stated that:

- The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights.
- The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community.
- The human rights of women should form an integral part of the UN human rights activities, including the promotion of all human rights instruments relating to women.

Case Study: Inclusive Development in Nepal

Women participants in a community-based rehabilitation project in Nepal felt the program should be expanded to include all women:

“Till now this programme is only for persons with disabilities but it will be more prestigious if we include non-disabled persons to the programme. Because in this village there are not only disabled women who suffer but there are non-disabled women who suffer equally and are tortured or left by their husbands. Such women live in very poor financial conditions; besides this they have responsibilities of growing up their children. This type of program is especially useful with married women who have been left by their husbands. I think the programme should also be organized for them.”

Source: World Health Organization and Swedish Organizations of Disabled Persons International Aid Association. *Community-Based Rehabilitation as We Have Experienced It... Voices of Persons with Disabilities in Ghana, Guyana and Nepal*. Geneva: World Health Organization, 2002, 35.

A Women's Rights Perspective on Disability

Inclusive Equality

Women throughout the world face systematic gender-based discrimination in laws, policies and practices that deny them equal rights as human beings. In many countries in the world, women are regularly denied the right to life, security of person, full legal capacity, health care, education, employment, inheritance and freedom of movement. Women are deprived of full access to economic and political decision-making processes in their families, their communities, or national or international institutions. Crimes against women all too often go unpunished, perpetrating a culture of impunity for family members, state agents and others who discriminate against or commit violence against women.

In work life, women suffer unequal access to employment, services, benefits and retirement policies. The wage gap between men and women, labor market segregation and the glass ceiling are other factors that discriminate against women. The International Labour Organization (ILO) reports that women earn 20-30 percent less than men worldwide and are clustered in the lower rungs of the employment ladder and treated differently in terms of remuneration. Women workers are also vulnerable to gender-based violence, including sexual abuse because of their close proximity to – and often complete dependence on – their employers.

Women with disabilities often face a dual form of discrimination on the grounds of gender and disability both in the family and in public places. Laws, practices, programmes and policies rarely take into account this two-fold source of discrimination that women with disabilities are often subjected to. There is still an inadequate level of awareness of the multiple forms of discrimination against women with disabilities as they are often masked behind each of the constituent parts rather than the whole.

In order to secure equal treatment for women with disabilities it is not enough to outlaw discriminatory laws and policies. Positive or compensatory measures must address the legacy of discrimination that women with disabilities have long borne.

The recommended action steps below provide a list of questions using a gender and disability rights perspective to analyze laws policies and programmes that relate to women with disabilities.

Some Recommended Action Steps

- Has a law guaranteeing equal opportunities for persons with disabilities been drafted and/or adopted?
- Are affirmative action policies or other temporary measures such as a quota system mandated by law in order to guarantee substantive equality or equality of result for persons with disabilities?
- Is the establishment of a national machinery for the protection and promotion of persons with disabilities mandated by law?
- What is the official role of the national machinery? Does it have any adjudicatory or quasi-adjudicatory powers or is the role primarily advisory?
- Establish training programmes for persons with disabilities to access the National Human Rights Institution and/ or other redress mechanisms.
- Do persons with disabilities including women with disabilities have the same access as men, in law and in fact, to the political process, social services, health and medical care, education, labour, marriage, child care, ownership of property and inheritance and access to justice?
- Establish programmes for women and other persons with disabilities to participate in law and policy making and in the political process.

Affirmative Action to Achieve Substantive Equality

- What positive temporary special measures, or affirmative action policies have been adopted to achieve equality for persons with disabilities?

- Are quotas established in educational and employment fields where women with disabilities are underrepresented?
- Are there special measures adopted in access to health care, and education information on reproductive health?
- What enforcement mechanisms have been established to ensure that those quotas are met?
- Have effective programmes that can lead to the creation or the strengthening of such policies and mechanisms been developed?

Equal Access to Political Participation

- Is there a legislative provision for minimum quotas of women in Parliament and or in political parties?
- What percentage of elected officials are women? Are there women with disabilities among elected officials?
- What senior public offices are currently held by women? Are there women with disabilities among public officials?
- Do women with disabilities have equal opportunity to represent government at the International level?
- Have programmes to train women with disabilities to run for public office and to take leadership roles been created?
- Are women with disabilities included in leadership programmes?

Equal Access to Family

Some Recommended Action Steps

- Is birth registration mandatory by law?
- Does the law allow all women the right to choose to marry or remain unmarried, when to marry and whom to marry?
- Do all women have equal rights to divorce?
- Do women and men have equal access to property and equal rights to acquire, dispose and manage property acquired during the marriage?

- Do widows have a legal right to inherit land and other property if there is no will?
- In country's where this is a custom, is bride price and dowry prohibited?
- Does the law allow women and men the equal rights to choose the place of domicile of the family and religion of their children after marriage?
- At divorce, do women and men have equal rights in respect to property?
- If these laws are absent from the statute books, have programmes been created to make these changes?

Gender-based Violence and Traditional Practices as a Cause and Consequence of Disability

Negative gender unequal traditions, such as practices of son preference, female genital mutilation/cutting (FGM/C), discriminatory feeding practices, child marriage, dowry, the tradition of dedicating girls and women to a god or goddess who become temple prostitutes, the ethnic practice of forcing women to become prostitutes, the devaluing of a woman's education, unequal inheritance rights and lack of freedom of choice in marriage plague all women and girls including women and girls with disabilities.

UNFPA estimates that persons with disabilities are up to three times more likely to be victims of physical and sexual abuse and rape. Women and children with disabilities are more likely to be victims of violence than their male counterparts.

Violence and negative traditional practices against women can often result in disability while violence against women with disabilities can further exacerbate disabilities and target women and girls with disabilities.

The abandonment of special needs children; honor crimes;⁵ acid burnings;⁶ kitchen accidents and stove burnings that take place in the context of familial violence.⁷ these are all gender-related acts of violence, and they sacrifice women at the altar of family honor.

Secondly, traditional practices such as child marriage in many countries in Asia cause mental, physical and psychosocial disabilities among women and girl children. Child marriage can also result in early pregnancies, which can manifest in maternal mortality and disability.⁸

The specific use of children with disabilities as sex workers is another troubling phenomenon that leads to greater discrimination and disability. A recent UNICEF report shows that in Taiwan the number of children with mild developmental disabilities in sex work was six times higher than the number of children without disabilities.⁹

Just as women and children are more vulnerable to disabilities, women and children with disabilities are much more likely to be targets of violence, abuse, and exploitation.

⁵ The Human Rights Watch has defined honor crimes as "acts of violence, usually murder, committed by male members of the family against female members who are perceived to have brought dishonor to the family. These dishonorable acts include attempting to marry a person not approved by the family or clan, seeking a divorce, pre-marital or extramarital sex. Since these crimes are only perceived to be wrong the list is extensive and can cover acts of perceived immodesty or be a general cover up for a vendetta.

⁶ Acid violence involves throwing acid at a person's body to disfigure and scar the person for life. Acid attacks are primarily used against women. See *Violence against Women in Bangladesh*, 2002 Report by the Bangladesh National Women Lawyers Association.

⁷ AGHS Legal Aid Cell, *Annual Report on Violence against Women*, (Pakistan, 2003).

⁸ See Rangita de Silva de Alwis, *Child Marriage and the Law*, Legislative Reform Initiative Paper Series. (New York: UNICEF, January 2008).

⁹ Ibid

A study in Orissa reveals that 25 percent of women with intellectual disabilities have been raped and 6 percent of women with disabilities have been forcibly sterilized.¹⁰

Some Recommended Action Steps

- Do any laws, policies and programmes recognize the fact that pregnant women are especially vulnerable to violence against them?
- Do laws, policies and programmes recognize that trafficking in women, prostitution, and sexual assault against women take place in armed conflict and the occupation of territories?
- Are there policies that prevent compulsory sterilization or abortion covering women and foetus?
- Are there laws, policies and programmes that recognize that women with disabilities are at greater risk of gender-based violence and sexual exploitation?
- Are there gender and disability sensitivity training programmes for law enforcement officers and care givers?

¹⁰ United Nations, 2006. Fact Sheet: Some Facts about Persons with Disabilities.

Best Practices: Combating Violence against Women with Disabilities

“ In cooperation with the Women’s Shelters Secretariat we produced an information kit for use in the Women’s Shelters, about the accessibility needs of women with disabilities. We also organized a conference in Oslo in November 2000, attended by staff from local shelters all over Norway. This project was financed by the Health Ministry and the Ministry for Children and Family Affairs. We have also produced teaching aids for local courses at the Women’s Shelters. We see cooperation as very useful, as it is important to make the shelters accessible both physically and through staff training....”

Source: Network for Women with Disabilities in Norway, Kristin Madsen, Project Manager. Presented by Ms. Katri Koskinen, Finland, member of the Women’s Committee of the European Disability Forum. In Maria Lenor Belaza. *Discrimination against Women with Disabilities*. Strasbourg: Council of Europe Publishing, 2003.

General Recommendation No. 19, CEDAW (11th Session, 1992)

General Recommendations of the CEDAW help clarify the CEDAW provisions and act as an aid to interpretation of the treaty.

Violence against Women

1. Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.
2. In 1989, the Committee recommended that States should include in their reports information on violence and on measures introduced to deal with it (General recommendation 12, eighth session).
3. At its tenth session in 1991, it was decided to allocate part of the eleventh session to a discussion and study on article 6 and other articles of the Convention relating to violence towards women and the sexual harassment and exploitation of women. That subject was chosen in anticipation of the 1993 World Conference on Human Rights, convened by the General Assembly by its resolution 45/155 of 18 December 1990.
4. The Committee concluded that not all the reports of States parties adequately reflected the close connection between discrimination against women, gender-based violence, and violations of human rights and fundamental freedoms. The full implementation of the Convention required States to take positive measures to eliminate all forms of violence against women.
5. The Committee suggested to States parties that in reviewing their laws and policies, and in reporting under the Convention, they should have regard to the following

comments of the Committee concerning gender-based violence.

General Comments

6. The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.

7. Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include:

- (a) The right to life;
- (b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment;
- (c) The right to equal protection according to humanitarian norms in time of international or internal armed conflict;
- (d) The right to liberty and security of person;
- (e) The right to equal protection under the law;
- (f) The right to equality in the family;
- (g) The right to the highest standard attainable of physical and mental health;
- (h) The right to just and favourable conditions of work.

8. The Convention applies to violence perpetrated by public authorities. Such acts of violence may breach that State's obligations under general international human rights law and under other conventions, in addition to breaching this Convention.

9. It is emphasized, however, that discrimination under the Convention is not restricted to action by or on behalf of Governments (see articles 2(e), 2(f) and 5). For example, under article 2(e) the Convention calls on States parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise.

Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.

Comments on specific articles of the Convention

Articles 2 and 3

10. Articles 2 and 3 establish a comprehensive obligation to eliminate discrimination in all its forms in addition to the specific obligations under articles 5–16.

Articles 2(f), 5 and 10(c)

11. Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms. While this comment addresses mainly actual or threatened violence the underlying consequences of these forms of gender-based violence help to maintain women in subordinate roles and contribute to the low level of political participation and to their lower level of education, skills and work opportunities.

12. These attitudes also contribute to the propagation of pornography and the depiction and other commercial exploitation of women as sexual objects, rather than as individuals. This in turn contributes to gender-based violence.

Article 6

13. States parties are required by article 6 to take measures to suppress all forms of traffic in women and exploitation of the prostitution of women.

14. Poverty and unemployment increase opportunities for trafficking in women. In addition to established forms of trafficking there are new forms of sexual exploitation, such as sex tourism, the recruitment of domestic labour from developing countries to work in developed countries and organized marriages between women from developing countries and foreign nationals. These practices are incompatible with the equal enjoyment of rights by women and with respect for their rights and dignity. They put women at special risk of violence and abuse.

15. Poverty and unemployment force many women, including young girls, into prostitution. Prostitutes are especially vulnerable to violence because their status, which may be unlawful, tends to marginalize them. They need the equal protection of laws against rape and other forms of violence.

16. Wars, armed conflicts and the occupation of territories often lead to increased prostitution, trafficking in women and sexual assault of women, which require specific protective and punitive measures.

Article 11

17. Equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace.

18. Sexual harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demand, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.

Article 12

19. States parties are required by article 12 to take measures to ensure equal access to health care. Violence against women puts their health and lives at risk.

20. In some States there are traditional practices perpetuated by culture and tradition that are harmful to the health of women and children. These practices include dietary restrictions for pregnant women, preference for male children and female circumcision or genital mutilation.

Article 14

21. Rural women are at risk of gender-based violence because traditional attitudes regarding the subordinate role of women that persist in many rural communities. Girls from rural communities are at special risk of violence and sexual exploitation when they leave the rural community to seek employment in towns.

Article 16 (and article 5)

22. Compulsory sterilization or abortion adversely affects women's physical and mental health, and infringes the right of women to decide on the number and spacing of their

children.

23. Family violence is one of the most insidious forms of violence against women. It is prevalent in all societies. Within family relationships women of all ages are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetuated by traditional attitudes. Lack of economic independence forces many women to stay in violent relationships. The abrogation of their family responsibilities by men can be a form of violence, and coercion. These forms of violence put women's health at risk and impair their ability to participate in family life and public life on a basis of equality.

Specific recommendation

24. In light of these comments, the Committee on the Elimination of Discrimination against Women recommends that:

- (a) States parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act;
- (b) States parties should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity. Appropriate protective and support services should be provided for victims. Gender-sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the Convention;
- (c) States parties should encourage the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence;
- (d) Effective measures should be taken to ensure that the media respect and promote respect for women;
- (e) States parties in their reports should identify the nature and extent of attitudes, customs and practices that perpetuate violence against women and the kinds of violence that result. They should report on the measures that they have undertaken to overcome violence and the effect of those measures;
- (f) Effective measures should be taken to overcome these attitudes and practices. States should introduce education and public information programmes to help eliminate prejudices that hinder women's equality (recommendation No. 3, 1987);
- (g) Specific preventive and punitive measures are necessary to overcome trafficking and sexual exploitation;
- (h) States parties in their reports should describe the extent of all these problems and

the measures, including penal provisions, preventive and rehabilitation measures that have been taken to protect women engaged in prostitution or subject to trafficking and other forms of sexual exploitation. The effectiveness of these measures should also be described;

(i) Effective complaints procedures and remedies, including compensation, should be provided;

(j) States parties should include in their reports information on sexual harassment, and on measures to protect women from sexual harassment and other forms of violence of coercion in the workplace;

(k) States parties should establish or support services for victims of family violence, rape, sexual assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counselling;

(l) States parties should take measures to overcome such practices and should take account of the Committee's recommendation on female circumcision (recommendation No. 14) in reporting on health issues;

(m) States parties should ensure that measures are taken to prevent coercion in regard to fertility and reproduction, and to ensure that women are not forced to seek unsafe medical procedures such as illegal abortion because of lack of appropriate services in regard to fertility control;

(n) States parties in their reports should state the extent of these problems and should indicate the measures that have been taken and their effect;

(o) States parties should ensure that services for victims of violence are accessible to rural women and that where necessary special services are provided to isolated communities;

(p) Measures to protect them from violence should include training and employment opportunities and the monitoring of the employment conditions of domestic workers;

(q) States parties should report on the risks to rural women, the extent and nature of violence and abuse to which they are subject, their need for and access to support and other services and the effectiveness of measures to overcome violence;

(r) Measures that are necessary to overcome family violence should include:

(i) Criminal penalties where necessary and civil remedies in cases of domestic violence;

(ii) Legislation to remove the defence of honour in regard to the assault or murder of a female family member;

(iii) Services to ensure the safety and security of victims of family violence, including refuges, counselling and rehabilitation programmes;

(iv) Rehabilitation programmes for perpetrators of domestic violence;

- (v) Support services for families where incest or sexual abuse has occurred;
- (s) States parties should report on the extent of domestic violence and sexual abuse, and on the preventive, punitive and remedial measures that have been taken;
- (t) States parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including, inter alia:
 - (i) Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including inter alia violence and abuse in the family, sexual assault and sexual harassment in the workplace;
 - (ii) Preventive measures, including public information and education programmes to change attitudes concerning the roles and status of men and women;
 - (iii) Protective measures, including refuges, counselling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence;
- (u) States parties should report on all forms of gender-based violence, and such reports should include all available data on the incidence of each form of violence and on the effects of such violence on the women who are victims;
- (v) The reports of States parties should include information on the legal, preventive and protective measures that have been taken to overcome violence against women, and on the effectiveness of such measures.

Women, Disability and Health

Women with disabilities often face violations of the right to physical and mental health. In this section, too often neglected but high burden health issue such as sexual and reproductive health, mental health, and HIV/AIDS are discussed in the context of disability.

Disability and the Right to Sexual and Reproductive Health

The right to development and health, including sexual and reproductive health, is a basic human right. In September 1994, the **United Nations International Conference on Population and Development (ICPD)** brought together 179 countries to Cairo, Egypt. At this conference, participants adopted the Programme of Action that set priorities and time-bound goals to guide international and national-level policy making for the next 20 years. Specifically, the Programme of Action addresses a broad range of topics on population and development, including sexual and reproductive health and reproductive rights, women's empowerment, education, the environment, internal and global migration and the prevention and fight against HIV/AIDS.

The resulting consensus, agreed to by all 179 countries, signaled a radical change in the approach to population issues. Sexual and reproductive health and reproductive rights replaced the narrower, macro-oriented perspective of “fertility control”. The international community pledged to make gender equality and human rights, especially to attain universal access to reproductive health by 2015.

The ICPD made it clear that protection and promotion of the rights of women is not simply an end in itself, but also a critical step towards eradicating poverty and promoting development.

UNFPA: Access to Sexual and Reproductive Health

The International Conference on Population and Development (ICPD) in Cairo in 1994 called for universal access to reproductive health. Since ICPD, UNFPA works to ensure that rights to sexual and reproductive health in both physical and mental health are protected and promoted.

In 2007, a concrete step was taken with the addition of the target of universal access to reproductive health by 2015 in the **Millennium Development Goal** (MDG) 5 to improve maternal health. The achievement of the Goal and the Target depends on integrating persons with disabilities in its organizational policies and strategies.

UNFPA included persons with disabilities as a priority group in its Strategic Plan 2008–2011. UNFPA calls for bringing persons with disabilities into the mainstream and inclusion in policies and programmes to improve sexual and reproductive health, maternal health, HIV prevention and the fight against gender-based violence.

Promoting Maternal Health

The Safe Motherhood Initiative launched in 1987 by international agencies and key governments has three key parts for the reduction of maternal deaths and injuries – family planning, skilled care for deliveries, and access to emergency obstetric care for women with severe complications.

The Millennium Development Goals provided a solid basis on which to address this issue safe motherhood initiatives-averting maternal death and disability. UNFPA, WHO, UNICEF and the World Bank are now collaborating to promote maternal health and decrease child mortality. The overall goal is to address the healthcare system as a whole.

Source: Lynn Freedman, Wendy J. Graham, Ellen Brazier, Jeffrey M. Smith, Tim Ensor, Vincent Fauveau, Ellen Themmen, Sheena Currie, and Koki Agarwal. "Practical lessons from global safe motherhood initiatives: time for a new focus on implementation." *The Lancet* 370 (2007): 1383.

The WHO estimates that more than 30 women every minute are seriously injured or disabled during labor, thus rendering vast numbers of women in the developing world physically and socially disabled. For every woman who dies from complications of pregnancy, between 30 and 100 more live with painful and debilitating consequences. However, those 15-50 million women are generally invisible in development policy.

Sexual and reproductive health education can help reduce preventable forms of disability that arise from complications of labor and pregnancy. Maternal education during the antenatal period has also been shown to have positive links with children's immunization and care, thus, preventing disability in the newborn.

Disability is both a cause and a consequence of poor reproductive health and therefore it is essential that sexual and reproductive health education be mainstreamed. The belief that women with disabilities are neither sexually active nor capable for bearing children has been disproved consistently.

Some Recommended Action Steps

- Is there a law on sexual and reproductive health? What areas refer to the rights to sexual and reproductive health of women?
- What enforcement and monitoring mechanisms pertain to any law on sexual and reproductive health?
- Are there any policies put into place to address the high maternal mortality and morbidity and information on different forms of family planning?

- Are there any policies put into place to address the issues of HIV and AIDS and other sexually transmitted infections as one form of unequal power relations based on women and adolescent girls often being unable to refuse sex or insist on safe and responsible sex practices?
- Is information on sexual and reproductive health available to women and children with disabilities?
- Are there policies to ensure safe pregnancies, childbirth, post-partum periods in both physical and mental health for women with disabilities?
- Are there policies that ensure women's right to safe motherhood and emergency obstetric care to the same range, quality and standard of free or affordable care as provided to other persons?
- Are there laws that protect of women's health and safety in working conditions, including the safeguarding of the reproductive function, special protection from harmful types of work during pregnancy and with the provision of paid maternity leave?

Sexual and Reproductive Health of Persons with Disabilities

Persons with disabilities are as likely as persons without disabilities to be sexually active. Thus it is important for them to be educated about reproductive health and safeguards against unintended pregnancies; HIV/AIDS and sexually transmitted infections and sexual and gender-based violence.

The CRPD in Article 23 enshrines the rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children. Article 25 also ensures that persons with disabilities have the same range, quality and standard of free or affordable health care and programmes as provided to other persons including in the area of sexual and reproductive health and population-based public health programmes.

Recommended Resource: UNFPA Emerging Issues: Sexual and Reproductive Health of Persons with Disabilities

<http://www.unfpa.org/publications/detail.cfm?ID=354&filterListType=>

Conventions that have Special Relevance to Gender Equality and Sexual and Reproductive Health and Rights

The International Convention on Economic, Social and Cultural Rights, 1966

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

The Convention on the Elimination of Discrimination against Women (CEDAW) 1979

Article 12

- 1 States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation....

CEDAW General Recommendation No. 24 (20th session, 1999)

(Women and Health)

Access to health care, including reproductive health is a basic right under the CEDAW.

CEDAW General Recommendation No. 15 (ninth session, 1990)

Avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS)

The Convention on the Rights of the Child (CRC) 1989

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to

abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

The Convention on the Rights of Persons with Disabilities 2006

Article 23–Respect for home and the family

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:

- a. The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
- b. The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;
- c. Persons with disabilities, including children, retain their fertility on an equal basis with others.

2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.

3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.

4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is

necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

Article 25

Health

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

(a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;

See also:

- The United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (A/RES/48/96) 1993
- Rule 9 Family life and Personal integrity
- The United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (A/RES/46/421) 1991
- The International Conference on Population and Development (ICPD) Programme of Action (A/CONF.171/13) 1994
- The World Health Organization World Health Assembly Resolution (WHA) WHA58.23) 2005

Women and Mental Health

Poverty, gender inequality and human rights violations are strongly associated with mental health problems as both causes and consequences. Persons with disabilities are

often doubly vulnerable to mental health problems due to the stigma surrounding disability and barriers to accessing adequate health care. Women around the world are twice as likely to suffer from depression.¹¹

Mental health and sexual and reproductive health are closely interlinked. This includes mental health and psychological consequences due to miscarriage, stillbirth, obstetric fistula, unsafe abortion or complications stemming from pregnancy and childbirth, lack of support following childbirth, gender-based violence and HIV/AIDS. Mental health problems also include perinatal or other depression, anxiety disorders, suicide, substance abuse including alcohol and drug abuse, among others.

Recent studies show that severely abused women are ten times more likely to suffer from mental health problems than women without exposure to abuse.¹² Similarly, rape in times of war and other forms of abuse have resulted in physical, mental and psychosocial disabilities among those affected by war.

In emergency settings such as post-conflict situations or natural disasters, people, especially women, are more vulnerable to mental health problems. Post-conflict Cambodia is a case example that aptly embodies the intersections of conflict, disability, poverty, gender and mental health problems. Emerging from a civil war, Cambodia has one of the world's highest ratios of persons with disabilities. UNESCAP reports that "Cambodia's tragic and recent history of war has left it with the highest proportion of disabled people in the world."¹³ A legacy of the armed conflict is that a disproportionate number of households are headed by women and women with disabilities, especially mental disabilities are often the last in line for help. The births of children with disabilities are often not registered and both women and children with disabilities are at risk for abandonment by the men in the family. Apart from the general devaluation and subordination of women, the stigma attached to disability causes further isolation to women with disabilities and creates multiple grounds of discrimination in Cambodia. As a consequence of these challenges, many persons with disabilities continue to suffer from psychosocial difficulties.

Some Recommended Action Steps

- What are policies including health care protocols and hospital procedures to address the appropriate health services including both physical and mental health services for girls and women with disabilities?
- What are the appropriate legislative, judicial, administrative, budgetary, economic and other measures put in place to ensure the maximum extent of their available resources to ensure that women realize their rights to health care?

¹¹ See UNFPA *Emerging Issues: Mental, Sexual and Reproductive Health*
<http://www.unfpa.org/publications/detail.cfm?ID=365&filterListType=>

¹² WHO, "Gender and Mental Health," (Geneva: WHO, June 2002),
http://www.who.int/gender/other_health/en/genderMH.pdf.

¹³ United Nations Economic and Social Commission for Asia and the Pacific (UN ESCAP), *Pathfinders: Towards Full Participation and Equality Of Persons With Disabilities In The ESCAP Region*. (UNESCAP, Bangkok: 2002).

- Do women and men with disabilities have equal access to health care services? Does the health service integrate mental health and psychosocial care?
- What are the policies, programmes and services available for women seeking mental health care and for women with mental or intellectual disabilities?
- Establish services and programmes to identify health problems including problems related to reproductive health and mental health of girls and women with disabilities?
- Revise the curricula of sex or health education classes to include information on the rights of women and girls with disabilities?

Women and HIV/AIDS

HIV/AIDS threaten the security of women with disabilities and it is reported that an estimated 6.6 million Asians live with HIV/AIDS, a number second only to sub-Saharan Africa. The rapid spread of HIV/AIDS is fuelled by many factors, including weak laws and policies on gender discrimination and the unequal status of men and women, which force women into unprotected sex both with partners and as commercial sex workers. Across the world, HIV/AIDS rates were highest amongst the most marginalised groups. Because of discriminatory treatment and greater vulnerability, members of these groups often lack access to information and adequate health services. Disability is both a cause and a consequence of HIV/AIDS.

The direct link between women's rights abuses and the spread of HIV/AIDS is slowly gaining recognition. Women's unequal status results in violence, sexual abuse and trafficking. These acts of discrimination and violence are "conduits" for HIV infection. Women living with AIDS confront a double stigma and in many countries in the region, laws, policies, and programs to combat HIV/AIDS by protecting the rights of women and girls are negligible.

Some Recommended Action Steps

- What are the policies, laws and programmes put into place to combat HIV/AIDS? Are there any policies specific for women with disabilities?
- Are there policies on increasing public awareness of the risk of HIV infection and AIDS, especially concerning women and children with disabilities and its effects on them?
- Do these policies and programmes focus on the rights of women and children with disabilities in relation to their reproductive role and their vulnerability to HIV infection?
- Harmful traditional practices, such as female genital mutilation, as well as marital rape, may also expose girls and women to the risk of contracting HIV/AIDS and other sexually transmitted infection. What are the policies

effected to address harmful traditional practices with a special focus on women and girls with disabilities?

A Child Rights Perspective on Disability

The WHO estimates that 10 percent of the world's children are born or become disabled. Violence against children is often more severe in families with children with disabilities and in institutions for children with disabilities.¹⁴ UNICEF's current research indicates that violence against children with disabilities occurs at annual rates at least 1.7 times greater than their non-disabled peers in families, in custodial and institutional settings, in school and in travel to school.¹⁵ Studies show that children with disabilities are also vulnerable to physical, sexual, emotional and/or verbal abuse, and neglect in the private and public spheres. While a child with a disability living in a violent household is doubly vulnerable to violence, children in communities and homes where resources are scarce are often victims of neglect and often last in line for nutrition and care. Violence also takes place in educational, custodial, institutional and school settings and on the way to schools. Children with disabilities are also used in the harshest forms of child labor, and some communities maim and disable children for use in begging. UNICEF also notes that around the world, one-third of all street children are children with disabilities. At the same time, dangerous traditional practices of witchcraft and exorcism are used to rid the child of a disability and cause the disability to get worse. Children with disabilities are more susceptible to violence because they frequently lack full capacity to flee the site of violence, defend themselves, or find recourse for justice. Moreover, while these crimes are under-reported and rarely prosecuted, safe spaces such as domestic violence shelters are inaccessible to most women and children with disabilities.

The gendered aspect of disability often rears its ugly head in childhood. Data collected by UNESCO suggests that while 90 percent of children with disabilities in the developing world do not attend school, the girl child with disabilities is worse off than her male counterpart. The literacy rate for women with disabilities is estimated at 1 percent compared to 3 percent for all people with disabilities.¹⁶

Specific studies also show that 90 percent of girls and women with intellectual impairments experience sexual abuse at some point in their life.¹⁷ Children with

¹⁴ *Summary Report: Violence against Disabled Children: UN Secretary General's Report on Violence against Children: Thematic Group on Violence against Disabled Children; Findings and Recommendations*, (Convened by UNICEF at the United Nations, New York, July 28, 2005).

¹⁵ American Academy of Pediatrics. Assessment of Maltreatment of Children with Disabilities. *Pediatrics*, 108:2:508-52, 2002. In *Summary Report: Violence against Disabled Children: UN Secretary General's Report on Violence against Children; Thematic Group on Violence against Disabled Children: Findings and Recommendations*, (Convened by UNICEF at the United Nations, New York, July 28, 2005).

¹⁶ See UNESCO, *Education for All Global Monitoring Report 2003/04: Gender and Education for All: The Leap to Equality*, http://portal.unesco.org/education/en/ev.php-URL_ID=23023&URL_DO=DO_TOPIC&URL_SECTION=201.html.

¹⁷ *Ibid*

disabilities are unfortunately vulnerable to infanticide and mercy killings.¹⁸ In such cases the female child with disabilities is at a greater risk than a male child with disabilities.¹⁹

Given the general lack of awareness and sensitivity of the gendered nature of disability, awareness of the risk of violence, abuse, and exploitation of women and girls, and all children with disabilities face will help develop laws, policies, programs and facilities that help address these threats.

Achieving Inclusive Education for Children with Disabilities

Of the stated Millennium Development Goals, the achievement of Universal Primary Education by the year 2015 is one of the most important. The following section focuses on the challenges and opportunities that mark the right of all children to education which is one of the most valuable cornerstones on which the rights of persons with disabilities are built on.

The WHO estimates that approximately 40 million of the 115 million children out of school have disabilities. Thus the achievement of universal primary education is dependant on ensuring that children with disabilities are included in education.

UNESCO argues that while only two percent of children with disabilities are in school, a disproportionate number of girls are absent from school.²⁰ Therefore, it is critical to pay special attention to out-of-school children and adolescents and collect data on the numbers of out of school children and adolescents with disabilities in order to ensure that the specific needs of these children and youth are addressed.

¹⁸ Ibid

¹⁹ Ibid

²⁰ See www2.unesco.org/wef/countryreports/usa/rapport_2_h.html.

The Salamanca Statement on Inclusive Education

“Inclusive education” implies that “children and youth with special educational needs should be included in the educational arrangements made for the majority of children... The fundamental principle of the inclusive school is that all children should learn together, wherever possible, regardless of any difficulties or differences they may have. Inclusive schools must recognize and respond to the diverse needs of their students, accommodating both different styles and rates of learning and ensuring quality education to all through appropriate curricula, organizational arrangements, teaching strategies, resource use and partnerships with their communities. There should be a continuum of support and services to match the continuum of special needs encountered in every school.”

Source: UNESCO, *The Salamanca Statement and Framework for Action on Special Needs Education*. Adopted At The World Conference On Special Needs Education: Access And Quality, Salamanca, Spain, 7–10 June 1994.

http://www.unesco.org/education/pdf/SALAMA_E.PDF

World Bank: Some Features of Inclusive Education

The major features of an inclusive educational setting are:

- School environment which is accessible both physically and attitudinally.
- Availability of technical aids to allow students with disabilities to participate.
- Teachers trained to work with students with disabilities.
- Curricula adaptable enough to be individually tailored to students' needs.

Source: Ture Jonsson and Ronald Wiman. *Education, Poverty and Disability in Developing Countries*. A technical note prepared for the Poverty Reduction Sourcebook. World Bank, June 21, 2001.

<http://siteresources.worldbank.org/DISABILITY/Resources/280658-1172610312075/EducationPovJonsson.pdf>

Impediments to Inclusive Education

a) Stigma and Fear

In some cultures disability is considered shameful and something that stigmatizes the whole family. Some families deny girls who are disabled access to school because of fears of being stigmatized. Another factor that has led to the invisibility of women and girls with disabilities in schools is the real as well as perceived threat of violence and harassment against girls with disabilities in school as well as in travel to school. This might result in isolating girls with disabilities in homes or care giving institutions.

b) Gender Bias in Education

While gender bias compounded with disability bias succeeds in excluding girls who are disabled from education, very little has been done to address the education needs of the girl child with disabilities.

For example, the South African Development Community (SADC) notes that: "Despite the fact that the girl-child with disabilities deserves special attention, no country in the SADC has given the matter specific attention. Very little has been done to address the education needs of the girl-child with disabilities."²¹

²¹ Southern African Development Community (SADC). "Gender equality in education," *SADC Gender Monitor*, 1 February 1999.

Case Studies: Stigma and Prejudice to Challenges and Opportunities

From the Palestinian Territory: “The health and beauty of girls and women are a representation of family well-being, and a symbol of the good standing of the family. Female family members are not supposed to produce wealth independently; they are seen primarily as mothers, supporting the lead of fathers, brothers and ultimately their husbands. It is expected that all daughters will marry; a successfully arranged marriage is an enhancement of the family’s name and prestige. Because of the norms of female beauty and the role of women in the family, a disabled woman is seen as a failure on several counts. While disabled sons can be tolerated and often married, disabled daughters are merely a drain on already stretched resources; permanent family members with no hope of future marriage or social mobility. It is quite usual for a disabled woman to be hidden by her family.”

Source: Harilyn Rousso. *Education for All: A Gender and Disability Perspective*. World Bank, 2003.
The Baby Academy

Dina Abdel Wahab’s son, Ali was born with Down Syndrome. Dina knew that children with Down Syndrome must be integrated into learning environments with children without and with disabilities. Traditionally, families with down syndrome children were expected to keep them invisible at home. Public schools in crowded Cairo would not accept children with disabilities and private schools were highly competitive.

Dina decided to open her own school where Ali could attend. She started the Baby Academy a chain of preschools for children three months to five years of age. The school is tailored to the development needs of all children and the main goal of the school is to stimulate the children to achieve to their full potential. Twenty percent of the preschoolers have special needs. In a situation where less than four percent of Arab children have access to preschool education, the Baby Academy has become a leader in early childhood education. Since the Baby Academy is a private enterprise Dina has advocated for more inclusive education in Egypt’s public schools. The government now provides a website and hotline for parents with children with disabilities. The government has also campaigns to change the way society thinks of children with disabilities.

Source: [Http://www.pbs.org/opb/thenewheroes/meet/wahab_ss_6.html](http://www.pbs.org/opb/thenewheroes/meet/wahab_ss_6.html)

c) Violence against Women and Girls with Disabilities in Educational Institutions

While violence against women in educational institutions is an impediment to access to education for all girls, it is a greater problem for girls with disabilities. Studies reveal that girls who are disabled experience violence within the family, institutions, and community at higher rates than do their nondisabled peers.

Violence against women and girls in homes and institutions are also barriers to their access to education. Women and girls may be subject to the withholding of essential care and depending on the disability, they may be unable to defend themselves. They also may not be able to flee the site of violence or know how to report incidents of violence. Women and girls with disabilities are also not privy to the same information available to nondisabled women and girls needed to recognize and address violence, including sexual violence. Finally, the police and law enforcement community may not respond appropriately to reports of violence against women and girls with disabilities.

d) Sexual Harassment in Schools

Sexual harassment in school is recognized as a major problem for all girls. Girls with disabilities may experience sexual harassment due to gender and disability bias. Although there is some data from the United States to show this, there is very little done to address the fact that girls who are disabled may face higher rates of harassment than boys who are disabled or girls without disabilities.

Inaccessible toilets in schools and lack of proper help in the case of menstruating girls who are disabled may be another barrier to education.

Recommended Action Steps

- Is there legislation that mandates children with disabilities equal access to education?
- Is there legislation that creates special measures for the advancement of girl child to education?
- Are there incentives to broaden the girl child's access to education?
- Are there programmes that facilitate children with disabilities participation in sports or recreational activities?
- Is family life (reproductive and sexual health) education compulsory in schools?
- Is reproductive and sexual health education conducted for children with disabilities? For example, are there gender sensitive guidelines for the dissemination of these programmes?

- What kind of sexual harassment policies and anti-violence against girls policies have been enacted in educational institutions? Does this cover state/school provided travel to educational institutions? Are these policies monitored as regards the special vulnerabilities of girls with disabilities?

World Bank: Accessible Toilets in Schools

“Accessible toilets and latrines have to be large enough for wheelchair use. Although this will require more space than what would be needed for inaccessible facilities, the additional area required is minimal, about one spare meter in a toilet stall. This is insignificant in comparison to the costs of adding the toilet or latrine itself.”

Source: Edward Steinfeld. *Education for All: The Cost of Accessibility*. World Bank Education Note Series. World Bank, August 2005, 2.

e) Gender and Disability Bias in Curricula

Although studies have been conducted of gender bias in educational curricula, there is little analysis of the way in which women and girls with disabilities are stereotyped in educational materials. Gender and disability perspectives should be incorporated into training for teachers working with students who are disabled and into the curriculum and textbooks.

Case Study: The Importance of Female Role Models

The World Bank reports that a Save the Children, UK project in Nepal (as reported in Lansdown, in press) reveals that once some children who are disabled go to school they became role models for other children and their families. Parents of girls who are disabled also may serve as role models for other parents. A group called *Jan Madhyam*, or “of the people,” assists communities educate children with disabilities. One of the founders of the program is the mother of a daughter who is disabled and this has motivated parents to seek services for their own children who are disabled

Source: Harilyn Rousso. *Education for All: A Gender and Disability Perspective*. World Bank, 2003.

World Bank: Cost Effectiveness of Education for Children with Disabilities

The cost of educating a child with special educational needs may be higher than the cost of educating a child without such needs. For that reason, it has often been argued that limited resources are most effectively used on children without disabilities. However, this argument ignores the fact that education may be relatively more beneficial to children with disabilities than to other children. Any educated person is likely to be more economically productive than an uneducated one, but for a person with disabilities, education can be the difference between dependence and independence. A person with disabilities who does not receive an education will depend on her family and community for support, and this support is likely to be much more costly than her education would have been.

The economic benefits of education children with disabilities include:

- Reducing the costs associated with future dependence.
- Increased productivity, because the education of persons with disability allows them to contribute.
- Increasing tax revenue due to additional productivity.

Sources: James Lynch. *Provision for Children with Special Educational Needs in the Asia Region*. World Bank Technical Paper 261. Asia Technical Series. Washington: World Bank, 1994. http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/1994/12/01/000009265_3970311122906/Rendered/PDF/multi_page.pdf.

Ture Jonsson and Ronald Wiman. *Education, Poverty and Disability in Developing Countries*. A technical note prepared for the Poverty Reduction Sourcebook. World Bank, June 21, 2001. <http://siteresources.worldbank.org/DISABILITY/Resources/280658-1172610312075/EducationPovJonsson.pdf>

Model Programmes and Country Studies for the Education of Girls with Disabilities

Since girls with disabilities are disproportionately represented in the developing world, scholarships specifically designated for girls with disabilities to cover fees and transportation costs and incentives offered to families to send their girls with disabilities

to school could provide an important boost for school enrollment.

Consider how some of these programmes set up to enhance girls rights to education can help inform programs to expand the access to education for children with disabilities.

Community Schools in Rajasthan

Community schools like *Shiksha Karmi* in Rajasthan uses paraprofessional teachers, allow the community to select and supervise teachers and hire part time workers to escort girls to schools. The school also targeted students from scheduled castes and scheduled tribes.

Alternate School Programs in Madhya Pradesh, India

This is a similar model to the *Shiksha Karmi* school, but including a midday meal to address the needs of remote communities.

BRAC Schools in Bangladesh

BRAC is an NGO that has established informal primary education programs in Bangladesh in 1979 to provide education for girls. Seventy percent of its students are girls. Local women (with at least nine years of schooling) are teachers.

Community involvement is heavy in BRAC schools. Parents are engaged with BRAC staff to select a local teacher, establish a school calendar, and send their daughters to school.

Brazil

Bolsa Escola is one of the most successful anti-poverty programs in Brazil. Started in 1995, a federal program administered by local government made credit-card-based transfers to mothers of poor households contingent on children aged 6-15 maintaining 85 percent attendance. Participants must attend after-school activities and cannot work.

Food for Education Program in Bangladesh

Government designed program in which monthly food is transferred to poor households contingent on 85 percent attendance by primary school age children

Progres/Oportunidades, Mexico 1977

Federal program which allows for cash transfers to mothers in poor households, subject to school age children maintaining 85 percent attendance. Grants increase with grade and it is higher for girls in secondary school. Grants are terminated with non-compliance.

Program de Asignacion Familiar-Honduras 2000

Centrally implemented program for cash transfers to mothers.

Bono de Desarrollo Humano-Ecuador

National program targeted poor families linking cash transfers of \$15 to women.

Subsidio Unitario Familiar Chile 1981

This is a local-government implemented program that provides mothers in eligible families of school age children in school.

Scholarships for Girls

Scholarships for girls compensate families for both direct and indirect costs associated with girl's education.

School Midday Programs

The school midday program has contributed to increase in enrollment. An example of traditional families responding to financial incentives is the scholarship program for girls in Bangladesh.

Selected Country Studies

East Turkey has adopted an innovative approach to the education of girls. Although, in 1997, Turkish law was revised to make education compulsory for children 5-8 years of age, this law could not be enforced unless some practical steps were first taken to make education accessible to the girl child. Conscious of this, the ILO/IPEC Action Program for vocational training for rural and child domestic labour in East Turkey, cooperated with the Ministry of Education to offer girls the opportunity to enroll in a distance learning program provided by the Ministry of Education. Along with the partner organization, ILO /IPEC established study centers in target villages, so girl students could focus on their education without attending school.

In **Tunisia**, the high dropout rate of girls from schools has been acknowledged and schooling has been made mandatory from 6-16 years and sanctions have been made available for non-compliance. Equality of opportunities for children of both sexes in urban and rural areas has been made one of the parameters for educational planning in Tunisia.²²

In certain countries, informal education programs have been set in motion to cater to the needs of the working child. **Lebanon** is a case in point. Parallel to the formal educational

²² Concluding Observations of the Committee on the Elimination of Discrimination Against Women, Tunisia, 1995, paras. 218-277, U.N. Doc. A/50/38.

track a newly designed curriculum has put in place a vocational educational track for boys and girls over 12 years of age. Children can shift between the formal and informal tracks.

The **Cambodian** Development Goals provision on education shows the linkage between gender and children's education. These lines of action include: providing scholarships for girls to accelerate their retention in the education system; building safe and healthy dormitories for accommodation of girls studying away from home; building separate toilets for girls and boys at secondary and tertiary levels; expanding new approaches in community-based non-formal education to increase female literacy; implementing night-school programs in urban areas to encourage girls to attend school after work.

One of the most important reforms undertaken by the **Chilean** government is to initiate reforms to improve the quality, equity and efficiency of the country's educational system. This effort to comply with Articles 31 and 32 of the CRC is a laudable provision. The government also operates a family income support program through which families living below the poverty line receive incentives if they can demonstrate that young children are registered in school. This has significantly increased school registration. The government's Rural Basic Education Program also provides additional funding and targeted program for rural students and teachers. In 1996, the government initiated a new program which implemented new incentives for teacher professionalisms and developed a network to model and disseminate innovative teaching, learning and managerial practices at the secondary level.

Indonesia supports the right to education and supports access to education for all for the first six years of primary education and three years of lower secondary education. In 2003, a new law was passed guaranteeing the right to basic education from ages 7 to 15. However, neither primary nor secondary education is free and both are considered a shared responsibility between national and regional governments and the community. Direct and indirect costs associated with schooling are a huge impediment to the full realization of the child's right to an education.

The child's right to education is enshrined in the Indonesian Educational Act. No. 91-65 of 29 July 1991 concerning the educational system. Schooling is compulsory and free between the ages of 6 and 16 and administrative measures have been put in place to ensure the exercise of this right. A very good enforcement strategy is that various penalties can be used against any parent who attempts to prevent a son or daughter from attending school.

The **West Pakistan** Primary Education Ordinance 1962 and The Punjab Compulsory Primary Education Act of 1994 provide similar provisions on compulsory primary education in any district for a child residing within such area. Except in the case of a reasonable excuse, the child must attend a recognized school until the child has completed the primary education course. The only excuse for non-attendance is when the child is "unable to attend school because of sickness, infirmity or other unavoidable

cause; where the child is receiving instruction other than in a recognized school, which in the opinion of the competent authority is efficient; where there is no recognized school, which in the opinion of the competent authority is efficient; where there is no recognized school within a prescribed distance from the residence of the child; where a recognized school has been refused to the child and where the competent authority is satisfied that by reason of the child's mental incapacity, it is not desirable that the child should be compelled to pursue her studies further".

An extremely important provision in this ordinance is that it calls for a school attendance authority to ensure that every child be required to attend a school. Further, penalties are attached to the non-compliance of these provisions. Any parent who fails to comply with an order of the Authority shall on conviction be punishable with a fine. At the same time, any person who after receiving warning from the authority continues to employ a child required to attend school, with or without remuneration shall on conviction before a Magistrate be punishable with a fine.

The **Indian** National Charter for Children, 2003 reiterates that the State recognizes a child's access to free and compulsory education. What is most important about the charter is that it recognizes the special needs of disadvantaged communities. The Charter provides special incentives to children from disadvantaged social groups in order to secure the retention and participation of all children in schooling.

The Charter also enumerates that the education should be child-oriented and meaningful and sensitive to the healthy development of the girl child and to children of varied cultural backgrounds.

Ghana, in 1996, started its Free Compulsory and Universal Basic Education (FCUBE) program to serve as the focal point for all domestic and internationally funded initiatives to improve basic education. The aims of the FCUBE are to improve the quality of teaching and learning, access to basic education facilities, and management efficiency. A special focus of the program is the enrollment, retention and provision of various educational services to girls. International donors are helping Ghana to build new classroom facilities, conduct school feeding programs, provide training to teachers and educational administrators, and help families defray the cost of children's school fees and other expenses. As an incentive to teachers in rural areas and to supplement low salaries, the government has offered accelerated promotions and bicycles to teachers willing to work in rural areas. Ghana has also initiated a Needy Child Fund that helps up to fifty children in each of Ghana's 110 districts qualify for help with basic school needs, and programs on girls' education.

The Government of **Ethiopia** is also developing primary education, institutional development, and program management aimed at funding school feeding programs aimed at improving school children's nutrition, attendance and participation in school, and parental involvement in school activities.

Blueprint for Creating Disability and Gender-Aware Legislation

This checklist will be useful as a framework for legislative drafting

a) Analyze Law on the Books

What do the formal provisions state? Are there significant gaps addressing disability and gender-based discrimination in existing legislation?

Review Laws on the books and Laws in Practice: To strike down de jure or formal discrimination against disability rights and de facto discrimination where even when laws are formally equal, the law has a disproportionate impact on persons with disabilities. Special attention must be paid to the way in which these laws impact women with disabilities.

Use International Human Rights Norms as Lawmaking Guideline: Use the CRPD, CEDAW, CRC and the other core human rights legislation as good benchmarks for discerning the appropriateness of existing legislation.

Institutionalization of Legislative Review: Establish standing commissions or offices within the government apparatus to review all proposed or already enacted legislation from a disability rights and gender perspective.

b) Analyze Law in Practice

Even when formal laws have been changed, what barriers might exist regarding the implementation of legislation on behalf of women, children and men with disabilities? Are institutional and other frameworks adequate for ensuring *de facto* implementation of the law?

c) Bring a Gender Analysis to Disability Legislation and Mainstream a Disability Rights Perspective into Gender-based Legal Reform

An examination of many of the laws on disability show that a gender perspective is absent from those laws. For example, the Australian Act on the **Rights of Persons with Disabilities** has a whole section on Sexual Harassment that does not refer to women's vulnerability to sexual harassment. It is important that all laws that address the rights of persons with disabilities examine the impact of these laws on women.

d) Action Research on Discrimination and Violence against Women with Disabilities

Comprehensive, carefully documented research on violence against women with disabilities is needed to show whether women with disabilities are experiencing more violence than others, or whether they are reporting less often.

Research initiatives on the causes, consequences, costs of and remedies for violence against women with disabilities, its extent and linkages to other forms of oppression such as race, ethnicity, economic status, occupation, ability or other factors must be encouraged.

e) Resources and Budgets

Analyses of national budgetary allocations have shown that the amount and range of resources available for equalizing opportunities for women and children with disabilities is minimal.

f) Intersectionality/ Forms of Multiple Discrimination

It is important for laws and policies to reflect that many aspects of violence are complicated by the intersection of disability, gender oppression with factors such as race, ethnicity, age, caste, class, religion, culture, language, sexual orientation and immigrant or refugee status.

g) Broadening Alliances and Partnerships

Partnerships fostering information sharing and collaboration between and among entities concerned with ending violence against women, such as government agencies, NGO institutions, the private sector, academic and professional organizations, media and international agencies must be broadened to include disability rights groups and institutions working for persons with disabilities. National human rights mechanisms must be engaged in such initiatives on the rights of women and children with disabilities.

h) Plan of Action

An effective national plan of action on persons with disabilities requires a multi-layered approach in which many sectors bring together their strengths and commitments.

The best plans include components relating to legislative revision, government agencies and awareness building. They provide the mechanisms and resources for government and civil society to work together. This will become a blueprint to combat the social, economic and political and cultural power structures that discriminate against women with disabilities.

Case Study: Making Women and Girls with Disabilities More Visible

Lack of positive role models for women and girls with disabilities has rendered them invisible in the public eye. Programs must broaden the space for the inclusion of women and girls. A girls' parliament at the South African Parliament in Cape Town, a kick-off

event for the Girls Education Movement, gave a visible role to girls with disabilities.

Source: Harilyn Rousso. *Education for All: A Gender and Disability Perspective*. World Bank, 2003.

Best Practices: Building Bridges through Art

The Swedish organization Forum for Women and Disability has developed several cultural projects exploring the role art can play in combating discrimination and stereotypes against women with disabilities.

The first major project was a photo exhibition that portrayed women with disabilities; each a reflection of love, passion and beauty. Each portrait had its own poem and background music. *Mustea* is another project that brought women with disabilities with women without disabilities together in a musical performance. This was conceived both as a women's project and an integration project to create bonds and connections between different groups of women.

Source: Maria Lenor Belaza. *Discrimination against Women with Disabilities*. Strasbourg: Council of Europe Publishing, 2003.

i) Building Broad Support for Law

To ensure that laws are actually put into practice, training is essential for all sectors in handling cases, including the judiciary, police, and social service sectors. NGOs are often expected to monitor the implementation of laws but are underfunded and lack the necessary resources to do so. It is important to include the need for NGO monitoring of these laws into the laws themselves.

Broad support for the law can be built in following ways:

- Use the media, education and training to demystify stereotypes about women, men and children with disabilities.
- Humanize the message by putting a face to the issue: Center messages around real life stories of women and children with disabilities.
- Prepare statistics and gender-disaggregated data on persons with disabilities.
- Develop community support for the law through awareness raising campaigns.

- Convene Task Forces on gender and disability.

Task Forces are effective in demonstrating widespread support for a social cause. A task force for joint action cannot be dismissed as the viewpoint of just one organization.

Task forces are able to generate rapid-response tactics such as advocacy alerts, letters to the media, and community-based campaigns.

j. Passing Legislation

Study the Process: The process of passing legislation differs from country to country. Knowing how legislation is passed, who has authority to introduce new drafts is an important first step for being able to influence this process.

Form Critical Alliances: Form alliances with a broad group of disability rights, women's rights, children's rights and minority rights groups to improve the possibility of passing legislation.

Form Focal Points and Focus Groups: Experts and NGO representatives speak at parliamentary committee hearings and at media events.

Provide Access to Relevant Background Materials: Develop information packages including relevant international standards and distribute model laws from other countries to key decision-makers.

General Awareness Raising: Ensure public support of new legislation and build awareness on how to use the new laws.

k. Implementing Legislation

Institutional framework:

- Ensure that implementing institutions are set up to operationalize the laws.
- Ensure that officials are adequately trained and prepared.
- Ensure that accountability mechanisms are in place.
- Provide mechanisms for NGOs to monitor the accountability of the laws.

l. Budget:

- Ensure that implementing institutions have been granted sufficient budgetary allocations for the effective implementation of legislation.
- Create a disability rights budget similar to the Gender Budget and mainstream this budget to all agencies.

m. Monitoring and Evaluating the Implementation of Legislation

Data Collection: Data collection of persons with disabilities (disaggregated by age, gender and ethnicity) is vital to tracking progress and noting weaknesses in the implementation of legislation. This includes:

1. Collect both quantitative and qualitative data and quantitative data according to sex, age and ethnicity.
2. Ensure that all points of data collection disaggregate data according to sex.
3. Provide training to researchers and data collectors.
4. Ensure that adequate resources have been allocated for their purposes.

Mainstreaming Disability Rights Perspectives into all Laws

It is not enough to draft a stand-alone disability law. Disability rights perspectives must be mainstreamed into all areas of the legal system. The chart below examines the questions that must be raised in order to integrate disability rights perspectives into the different areas of the legal system.

CHECKLIST:

ENGENDERING DISABILITY RIGHTS LAWS AND MAINSTREAMING DISABILITY INTO THE LEGAL SYSTEM

A. HAS THE COUNTRY SIGNED THE CORE HUMAN RIGHTS TREATIES:

Convention on the Elimination of All Forms of Racial Discrimination, 1965

International Covenant on Civil and Political Rights, 1966

International Covenant on Economic, Social and Cultural Rights, 1966

Convention on the Elimination of All Forms of Discrimination against Women, 1979

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984

Convention on the Rights of the Child, 1989

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990

Convention on the Rights of Persons with Disabilities, 2006

International Convention for the Protection of All Persons from Enforced Disappearance, 2006

B. EQUAL OPPORTUNITIES FOR WOMEN WITH DISABILITIES

“LAW ON THE BOOKS”	“LAW IN PRACTICE”
<p>Has a law guaranteeing equal opportunities for men and women been drafted and/or adopted?</p> <p>Has a law/s guaranteeing equal opportunities for men, women and children with disabilities being drafted?</p> <p>Are affirmative action or other temporary measures for women with disabilities such as a quota system mandated by law in order to enhance equality in terms of political representation?</p>	<p>Are equal opportunities laws translated into comprehensive policies at a national and/or local level? (e.g. regulations and guidelines for ensuring equal opportunities, adopting a disability and gender mainstreaming approach, establishment of implementation and monitoring mechanisms for disability laws)?</p> <p>Does any gender mainstreaming policy function in practice? Does this cover laws for persons with disabilities? Can a similar disability mainstreaming process be established to ensure that disability issues are considered in all lawmaking efforts?</p>

<p>Is the establishment of any mechanisms or institutions for ensuring equality of opportunity for persons with disabilities (such as an ombudsperson) mandated by law?</p> <p>Is the establishment of national machinery for the protection and promotion of gender equality mandated by law? Does this machinery cover the rights of women with disabilities?</p> <p>What is the official role of the national machinery? Does it have any adjudicatory or quasi-adjudicatory powers or is the role primarily advisory?</p>	<p>Do institutions or machineries established by law have independent budgets and adequate resources to consider gender and disability issues?</p> <p>Is there any body (committee, advisor) at the parliamentary level dealing with equal opportunities for persons with disabilities and gender equality?</p> <p>Have public awareness initiatives been undertaken in order to educate the public about the need for equal opportunities law or other temporary measures to eliminate discrimination against persons with disabilities and women with disabilities specifically?</p>
C. CONSTITUTIONAL LAW	
"LAW ON THE BOOKS"	"LAW IN PRACTICE"
ENGENDERING EQUALITY AND DISCRIMINATION ON THE BASIS OF SEX	
<p>What provisions prohibit discrimination on the basis of sex?</p> <p>What provisions prohibit discrimination on the basis of ability?</p>	<p>Are there any examples of case law that understand sex to be included as a basis for non-discrimination?</p> <p>Are there any case law that understands disability to be included as a basis for non-discrimination?</p>
REFERENCE TO INTERNATIONAL LAW	
<p>Are there any references to international laws in the Constitution or any reference to the CRPD, CEDAW, CRC and other human rights conventions in national law?</p>	<p>Are there any examples where international law has been used in courts?</p>
POLITICAL RIGHTS	
<p>Are any restrictions placed on who may hold political office?</p>	<p>Are women and men equally represented in public office? If equal political and civil rights are guaranteed by law, what barriers might</p>

<p>Is the right of free association and forming of associations, including trade unions, explicitly guaranteed for persons with disabilities and for both men and women?</p> <p>Does constitutional law include any provisions on minimum participation of persons with disabilities and women with disabilities at any level of decision making</p>	<p>exist for greater political participation of women with disabilities?</p> <p>For example:</p> <ul style="list-style-type: none"> ▪ stereotypical attitudes towards women and women with disabilities in politics ▪ masculinity political culture ▪ lack of adequate personal resources <p>Have any public awareness or education campaigns been undertaken regarding gender and disability balance in decision-making bodies?</p>
CULTURAL, ECONOMIC AND SOCIAL RIGHTS	
<p>What provisions guarantee the freedom to literary, artistic, scientific, technical and other forms of creativity and entrepreneurship to persons with disability?</p> <p>What provisions guarantee the right to education, at all levels, regardless of disability?</p>	<p>Has there been any study undertaken by the government of legal, social, economic or cultural barriers for women with disabilities to fully enjoy their human rights?</p> <p>If non-discrimination on the basis of culture or tradition is a part of constitutional law, do any examples of case law exist where this has been used in defense of harmful traditional practices against women with disabilities?</p>
D. CIVIL LAW AND FAMILY LAW	
"LAW ON THE BOOKS"	"LAW IN PRACTICE"
PROVISIONS ON EQUALITY	
<p>Are equal rights of persons with disabilities to marriage explicitly mandated by law?</p> <p>Are equal rights and responsibilities of both parents with regards to childcare and child rearing of children with disabilities mandated by law?</p> <p>Do both men and women with disabilities have equal rights under the law to appeal to a court against an infringement or disputed right or</p>	<p>What data has been collected on the <i>de facto</i> division of rights and responsibilities within the home in a family with a child or adult with disabilities?</p>

interest?	
PROVISIONS REGULATING MARRIAGE AND SEXUAL RELATION	
<p>Does the law explicitly state that marriage is the result of the consent of both prospective spouses?</p> <p>What provisions exist regarding the rights to property of women with disabilities?</p> <p>Are provisions concerning inheritance in any way gender-specific?</p> <p>Are there any provisions regulating inheritance rights of persons with disabilities?</p> <p>Does age of consent to sexual relations differ for persons with disabilities?</p>	<p>Are there any accepted cultural or traditional practices that contravene laws related to equality in marriage (e.g. “bride trafficking,” forced marriage, ghost wives the practice of marrying disabled women to dead men and burying them with corpses)?</p> <p>What trends exist regarding <i>de facto</i> ownership of property and inheritance for persons with disabilities?</p>
PROVISIONS CONCERNING CITIZENSHIP AND BIRTH REGISTRATION	
<p>Are birth registration laws mandatory according to the CRC?</p> <p>Is there a law providing for the registration of the birth of a child with disabilities?</p>	<p>What are the citizenship rights available to children with disabilities? Do they have equal citizenship rights?</p>
PROVISIONS REGULATING DIVORCE AND CHILD CUSTODY	
<p>Do provisions exist that enable a husband and wife to file for divorce separately and individually?</p> <p>What provisions explicate the division of property after divorce? Can these be discriminatory towards women with disabilities?</p> <p>How is custody of a child and visitation rights of a parent with disabilities decided by the courts?</p> <p>What provisions outline legal obligations to pay maintenance to a divorced spouse with disabilities?</p>	<p>What practical barriers exist to equal treatment of a spouse with disabilities in divorce and custody cases (e.g. financial status, preferential treatment according to custom)?</p> <p>What trends exist in practice in terms of granting child custody, and determining alimony and child-support payments? Regarding court decisions on custody and support payments, is there any evidence of systematic discrimination against women or men with disabilities? Has any such discrimination been challenged in the courts? What was the outcome?</p>

What provisions outline legal obligations to pay child support in the event of divorce?	Despite legal provisions for the payment of alimony and child support, are regular payments common practice and easily enforceable? What barriers exist in terms of guaranteeing payment?
PROVISIONS CONCERNING COMMON-LAW RELATIONSHIPS	
<p>What are the rights and obligations of common-law (unregistered) couples:</p> <ul style="list-style-type: none"> a. towards each other b. towards their children c. concerning property rights upon separation? 	<p>Has any case law challenged discrimination against common-law relationships?</p> <p>What are the common trends regarding child custody and property upon dissolution of common-law relationships?</p> <p>What are public attitudes towards common-law relationships between couples with disabilities?</p>
E. CRIMINAL LAW	
"LAW ON THE BOOKS"	"LAW IN PRACTICE"
CRIMES AGAINST LIFE	
<p>Are any of the following considered crimes under national legislation:</p> <ul style="list-style-type: none"> ▪ foeticide ▪ infanticide ▪ child abandonment ▪ bride kidnapping <p>Are there any special provisions concerning the right to life and safety of women and girls with disabilities?</p>	<p>To what extent do custom, tradition and gender-based stereotypes play a role in a prosecution of the gender-related criminal offences against women and girls with disabilities?</p>
CRIMES IN CUSTODY COMMITTED AGAINST WOMEN WITH DISABILITIES	
Do any special sentencing provisions exist regarding women with disabilities?	In practice, are incarcerated women with disabilities treated with dignity according to international standards?

<p>What provisions exist regarding pregnant women who are convicted and incarcerated?</p> <p>What provisions exist regarding incarcerated women with disabilities?</p> <p>Are women with disabilities protected against custodial violence and sexual harassment?</p> <p>Is the death penalty legal? If yes, are persons with disabilities exempt from the death penalty?</p>	<p>Are their studies done of sexual harassment and custodial violence against women with disabilities?</p>
<p>GENDER-BASED VIOLENCE AGAINST WOMEN WITH DISABILITIES</p>	
<p>Is the notion of gender-based violence reflected in the national legislation?</p> <p>Are the following provided free of charge to women with disabilities who are victims of gender based violence</p> <ul style="list-style-type: none"> ▪ legal aid ▪ medical services to establish and certify injuries ▪ other medical and/or psychological counseling services ▪ interim shelter and/or support? <p>Is there a provision for an additional private prosecutor in public prosecution cases? If so, what is their role?</p> <p>Can an NGO participate in case on behalf of a victim with disabilities in the case of violent crime?</p> <p>Is there a victim compensation system?</p> <p>What legal guarantees exist for victim's rights and for the rights of victims with disabilities?</p> <p>Are their special provisions established to inform women who are victims of violence who are disabled about their rights and the</p>	<p>Is there an adequate understanding of the definition of gender-based violence by prosecutors, judges and law-enforcement officials? How is this understanding expanded to cover women with disabilities and their vulnerability to gender -based violence?</p> <p>What sort of support and shelter system for women with disabilities who are victims of domestic violence exists?</p> <p>What sensitivity training for law-enforcement, medical and courts systems exist?</p> <p>Is there shame, ostracism, disbelief and disrespect and other repercussions from family, the workplace or the community towards women with disabilities who report gender-based violence?</p> <p>Financial restrictions (e.g. no access to legal aid requirement for victims to cover medical expenses to certify injuries, etc.)?</p> <p>What statistics are available on the scale of the problem of violence against women with disabilities, the number of prosecutions, dismissal sentencing, etc? Are they gender specific? Are any problematic trends being addressed through legislative and/or</p>

process and outcome of criminal proceedings?	procedural amendments?
DOMESTIC VIOLENCE (<i>see also</i> GENDER-BASED VIOLENCE)	
<p>Do specific provisions (criminal and/or civil) regarding domestic violence exist?</p> <p>Does the law cover psychological abuse?</p> <p>Are domestic violence cases publicly prosecuted or does the victim have to file charges against the perpetrator to initiate criminal investigation?</p> <p>Are there any temporary measures available (civil and/or criminal) such as restraining orders which protect victims' rights to stay in their household without the perpetrator?</p> <p>What kind of preventive measures can the police use (restraining order, temporary arrest) in cases of domestic violence?</p> <p>Is there any governmental plan of action regarding domestic violence?</p> <p>Does a victim of violence have the right to refuse to testify?</p> <p>Do any legal provisions refer to the perpetrator's child custody and visitation rights in the case of conviction for domestic violence?</p>	<p>What statistics are available on domestic violence? Does any data exist concerning the scale of the problem, the number of domestic violence interventions, official refusal to intervene or to initiate a case, dismissal of cases, and sentencing?</p> <p>Are there any specific departments at the police station or the prosecutor's office dealing with domestic violence cases?</p> <p>What barriers exist that might deter victims of domestic violence from reporting offences (refer to list in previous section)?</p> <p>Is rehabilitation available for perpetrators for domestic violence?</p> <p>What trends exist in practice regarding child custody and visitation rights in the case of domestic violence convictions?</p>
RAPE AND OTHER SEXUAL ASSAULTS (<i>see also</i> GENDER-BASED VIOLENCE)	
<p>What provisions apply to rape?</p> <p>Are any provisions on rape disability specific?</p> <p>Does the law cover marital rape?</p> <p>Is rape publicly prosecuted or does the victim have to initiate the case?</p> <p>What provisions apply to incest?</p>	<p>Are law enforcement officers, prosecutors and judges adequately trained to handle sexual assault cases with appropriate sensitivity?</p> <p>What data exists on the prevalence of rape, incest and other sexual assaults against women and girls with disabilities?</p>

Do any legal provisions refer to the perpetrator's child custody and visitation rights in the case of conviction for incest?	
TRAFFICKING	
What provisions cover prostitution? Is sex work criminalized or regulated?	What data has been collected on trafficking of women and children with disabilities?
What provisions cover illicit trafficking in men, women and children with disabilities?	What provisions for rehabilitation are available for women and children with disabilities who are trafficked?
SEXUAL HARRASSMENT	
Is a legal definition of sexual harassment specified in the Labor Code, Equal Opportunities law or elsewhere?	
Are there special provisions established for women with disabilities who are sexually harassed in the workplace?	
F. LABOR LAW AND SOCIAL SECURITY LAW	
"LAW ON THE BOOKS"	"LAW IN PRACTICE"
LABOR LAW: ANTI-DISCRIMINATION PROVISIONS	
Are both men and women entitled by law to receive equal pay for work of equal value?	What implementation, monitoring and reporting mechanisms exist for anti-discrimination provisions?
Are there any special anti-discriminatory provisions in the Labor Code for women with disabilities?	Have any cases of gender-based discrimination been filed on behalf of women with disabilities? What was the outcome?
	Is data being collected to monitor the <i>de facto</i> situation and the effectiveness of legislation?
	How do salaries for men compare with salaries for women performing similar tasks in the

	<p>public and private sector?</p> <p>What is the common practice regarding hiring and dismissing women with disabilities?</p> <p>Do women with disabilities claim bias in hiring practices? What reasons do they state?</p> <p>What percentage of the total workforce are part-time workers? What percentage are full-time workers? What percentage of part-time and full-time workers overall are women with disabilities?</p>
LABOR LAW: "FAMILY FRIENDLY" PROVISIONS AND MEASURES	
<p>What provisions refer to employment leave (maternity, paternity, and other parental leave and childcare)? Do these provisions apply to women with disabilities?</p>	<p>Where parental leave is specified by law, to what extent do both women and men with disabilities take advantage of these provisions?</p> <p>In practice, what is the accessibility, both financially and geographically to child care and availability of childcare to families with disabilities?</p> <p>In the absence of state-sponsored childcare, do individual institutions offer free-of-charge or subsidized childcare options to their employees? What other means do parents with disabilities use to resolve childcare and work obligations?</p>
LABOR LAW: "PROTECTIONIST" LEGISLATION	
<p>Do any professions or workplaces legally exclude the possibility to hire women with disabilities?</p> <p>Are there any legal provisions ensuring special protection to women with disabilities?</p>	<p>If protective legislation does exist, do these provisions limit opportunities for women with disabilities? Are they subject to regular review in light of scientific and technology achievements, new industry standards and international practice?</p>
SOCIAL SECURITY LAW	
What provision exists regarding financial	In practice, do any barriers exist for women or

<p>support (regular or occasional) or social assistance to women with disabilities?</p> <ul style="list-style-type: none"> ▪ Women with disabilities on maternal leave ▪ What is the support available financial help and otherwise to care-givers of children and adults with disabilities? ▪ Women and men with disabilities who are unemployed ▪ Workers or employees seeking medical leave or leave for recuperation for work-related injuries or disabilities <p>What conditions are specified for regarding the eligibility of support to the above groups? Are any provisions gender-specific or discriminatory against women or men?</p> <p>What is the retirement age for women and for men? Is age of retirement mandatory? Is non-remunerated work and parental leave taken into consideration in the calculation for pensions?</p>	<p>for men with disabilities in terms of collecting or being eligible for social assistance?</p> <p>Has data been collected on differences in income or prevalence of poverty among men and women with disabilities?</p>
<p>G. LAW ON SEXUAL AND REPRODUCTIVE HEALTH</p>	
<p>“LAW ON THE BOOKS”</p>	<p>“LAW IN PRACTICE”</p>
<p>GENERAL</p>	
<p>Is affordable and accessible health care guaranteed to all, including women with disabilities according to the law?</p> <p>Is there a law on reproductive and/or sexual health? What areas refer to the sexual and reproductive health of women with disabilities?</p> <p>Does the law include any provisions on population control that would restrict a woman' with disabilities free choice in regards to family</p>	<p>In practice, is affordable, accessible and high quality care available to women with disabilities? What mechanisms are in place to ensure that it is?</p> <p>Has any research been conducted on gender-specific barriers to high-quality, accessible health care (e.g. financial barriers, lack or specialists in rural regions lack of attention by the public health system to health issues of women with disabilities)?</p>

<p>planning?</p> <p>Is education on sexual and reproductive health mandated by law for women and men with disabilities?</p>	<p>Are victims compensated for their claims?</p> <p>What enforcement and monitoring mechanism pertain to any law on sexual and reproductive health?</p> <p>What is included in the educational curricula on sexual and reproductive health of women and girls with disabilities? Are teachers adequately trained?</p>
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Disability Rights, Gender, and Development: A Resource Tool for Action

Module Three:

An Inclusive Approach to Gender, Disability, and Development

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INTRODUCTION

"While the focus since 9/11 in developed countries has been on state security and combating acts of terrorism, millions of other people on the planet have continued to be at daily risk from violence, disease, and abject poverty. Their insecurity stems from worry about where the next meal will come from how to acquire medicines from a dying child, how to avoid the criminal with a gun, how to manage the household as a ten year old AIDS orphan-theirs is the due comprehensive insecurity of the powerless."

-Mary Robinson, Former High Commissioner for Human Rights

Of the approximately 650 million persons with disabilities worldwide, an estimated 80 percent live in developing countries. Thus, persons and their families affected by disability constitute approximately a third of the world's population and are disproportionately represented among the world's poor in the developing world. Of the world's poorest people, one in five is a person with disabilities.¹ Given that persons with disabilities are more likely to live in poverty, it is important to ensure that they are integrated into all development activities in order to advance international development goals.

The CRPD is intended as a human rights instrument with a clear social development dimension.² Thus it is intended to be used as both a human rights and development tool. Not only does the Convention create a space for persons with disabilities to claim their rights and find redress when their rights are violated but it identifies areas where adaptations must be made for persons with disabilities to exercise their rights. The Convention also recommends concrete measures to be undertaken by the State in support of development programmes that include persons with disabilities which are also accessible to persons with disabilities.

The CRPD thus provides an important opportunity for both human rights and development practitioners to come together to coordinate activities that bring about a paradigm shift where disability must be mainstreamed into all aspects of programming.

Article 32 of the CRPD

Development programmes should be inclusive and accessible to persons with disabilities.

¹ United Nations, "Fact Sheet on Persons with Disabilities," United Nations Enable, <http://www.un.org/disabilities/default.asp?navid=34&pid=>

² Ibid.

Consequently, with the recent entry into force of the CRPD, the question of how to not only ensure the rights of persons with disabilities but how to incorporate them into processes of development has come to the fore. Fully addressing the needs of persons with disabilities in development policy must be further explored within a gender-sensitized lens, as women with disabilities are doubly likely to be overlooked and excluded.

Questions of development have historically centered on the economic processes underpinning growth, with the measurements of results and success limited to quantitative data. However, as such approaches have proven to be limited in the scope of their success, academics and activists have worked to create a model of development premised on the Human Rights-Based Approach (HRBA), with particular attention paid to what Amartya Sen and Martha Nussbaum have termed the 'capabilities approach.' This module, as the last section of this manual, builds on the HRBA and gender and disability-sensitized lawmaking processes detailed in the previous two modules. This module will summarize the primary approaches to development: the HRBA, the capabilities approach, and gender and development theories; and provide examples of good practice and policy on key issues, as well as checklists, in order to advance the rights of persons with disabilities at the cross section of these approaches.

What is the Relationship between Human Rights, the Millennium Declaration and the Millennium Development Goals?

The Millennium Development Goals (MDGs) are eight goals that were adopted by 189 nations and signed 147 heads of State and governments at the United Nations Millennium Summit in 2000. These goals that are to be achieved by 2015 respond to the world's main development challenges.

Human rights and the MDGs are interdependent and mutually reinforcing. The Goals, underpinned by international law, are part of a broader integrated framework of international human rights entitlements and obligations. Furthermore, the MDGs are important milestones for the realization of the often neglected economic and social rights.

In paragraphs 25 and 26 of the Millennium Declaration, Member States resolved to strengthen their capacity at the country level to implement the principles and practices of human rights, including minority rights, the rights of women, the rights of children and the rights of migrants. In the long run, building strong human rights institutions at the national level is what will ensure that human rights are protected and advanced in a sustained manner. Each country's emplacement or enhancement of a national protection system, reflecting international human rights norms, should therefore be a principal objective of the organization. These activities are especially important in countries emerging from conflict.

The integration of human rights into development, as reflected by the MDGs, reflects the importance of imbuing any development project with an awareness of human rights – an importance, the Nobel prize-winning economist, Amartya Sen capitalizes on in his conception of development as freedom.

MDGs and Their Relationship to Disability

650 million people live with disabilities. Unless such huge numbers of people are part of development policies and programmes, it will be impossible to attain any of the Millennium Development Goals

MDG1: Eradicate Extreme Poverty and Hunger

Extreme poverty among families with a family member with a disability may limit the amount and quality of food for them and their families. In house holds with limited resources it is often the woman or girl child with disabilities who is often the last fed or fed.

MDG2: Achieve Universal Primary Education

Poverty and prejudice bar families and communities from educating the girl child with disabilities. Where resources are scarce, the girl child with disabilities is often deprived of even a basic education.

MDG3: Promote Gender Equality and Empower Women

Women with disabilities face extreme discrimination compared to not only a person without disabilities but often from men with disabilities and often less preferred in programmes

MDG4: Reduce Child Mortality

Infanticide or the deliberate killing of infants with disabilities, especially girls with disabilities, is a huge problem in certain countries.

MDG5: Improve Maternal Health

There is very little information or services available for women with disabilities on maternal health or pregnancy-related information. Women with disabilities also have little access to maternal health related information and care.

MDG6: Combat HIV/AIDS, Malaria and Other Diseases

A disproportionate percentage of women with disabilities who became HIV positive tend to be unable to access proper clinical care.

MDG7: Ensure Environmental Sustainability

Deteriorating environments can have a significant and disproportionate impact on women with disabilities, especially pregnant women with disabilities, and this can be a cause disability.

MDG8: Develop a Global Partnerships for Development

Of the approximately 650 million persons with disabilities world wide, an estimated 80 percent live in developing countries. International partnerships are key to any sustainable development programme.

Humanitarian Response: Emergency preparedness and responsiveness

Conflicts and natural disasters can increase the number of persons with disabilities, and at the same time, increase vulnerability of women and children with disabilities. It is necessary to consolidate emergency preparedness and responsiveness in the context of disability-related development policies and programmes. Disability inclusive emergency preparedness, implementation of inclusive humanitarian response, and smooth transition to peace building, reconstruction and development with special attention to inclusion should be integral to development policies and programmes.

During the last decade alone, several unprecedented natural disasters around the world, especially in the Asian region resulted in major disasters leaving a trail of death and destructions in their wake. While persons with disabilities experience disasters differently disasters also impact differently on women and men with disabilities. Often women with disabilities face greater vulnerability than their male or non-disabled counterparts. Insensitivity to the disability perspective in disaster preparedness and disaster management policies and activities results in greater potential risks to the security of women with disabilities. Most often women with disabilities are last in line for rescue, food, shelter, medicine and services following a disaster. More over, since disasters often result in severe physical and psycho social disabilities, sensitivity to disability is even more critical in order to create the most effective and appropriate measure to address the needs of persons with disabilities during and post-disaster. The inclusive representation of women with disabilities in decision making is essential if interventions during disaster management are to take into consideration the special needs of all.

Recommendations for Action

- All policies and programmes on disaster management must recognize the gender based and disability based differences in coping with disasters.
- Policies and programmes on education and skills training in community preparedness must integrate a gender and disability perspective.
- Ensure that women and men with disabilities are represented in decision making processes relating to disaster management.
- Minimize risks by for all members of the community by putting into place security provisions that are gender-specific and disability-specific.
- For example, toilets and shelters must have accessible toilets, sign language personnel and security for women and girls with disabilities.
- The nexus between disaster management and development should help to evaluate risks of disasters, preventive action and disaster management plans that see how persons with disabilities following the disaster can be rehabilitated and reintegrated into the community.

The **United Nations Guiding Principles on Internal Displacement** address the needs of the internally displaced worldwide during times of natural or human-made disasters and guide the protective measures to their assistance during displacement, resettlement and reintegration. Although all principles of these guidelines have special relevance to persons with disabilities, certain principles provide special safeguards to persons with disabilities and are also important to the prevention of disability. The chart below analyses the specific references to persons with disabilities in the Guiding Principles.

Guiding Principles on Internal Displacement

SECTION I-GENERAL PRINCIPLES

Principle 4

1. These Principles shall be applied without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria.
2. Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and

assistance required by their condition and to treatment which takes into account their special needs.

SECTION III-PRINCIPLES RELATING TO PROTECTION DURING DISPLACEMENT

Principle 10

1. Every human being has the inherent right to life which shall be protected by law. No one shall be arbitrarily deprived of his or her life. Internally displaced persons shall be protected in particular against:

(a) Genocide;

(b) Murder;

(c) Summary or arbitrary executions; and

(d) Enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

2. Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances. Internally displaced persons shall be protected, in particular, against:

(a) Direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;

(b) Starvation as a method of combat;

(c) Their use to shield military objectives from attack or to shield, favour or impede military operations;

(d) Attacks against their camps or settlements; and

(e) The use of anti-personnel landmines.

Principle 11

1. Every human being has the right to dignity and physical, mental and moral integrity.

2. Internally displaced persons, whether or not their liberty has been restricted, shall be

protected in particular against:

- (a) Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;
- (b) Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children; and
- (c) Acts of violence intended to spread terror among internally displaced persons.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

Principle 15

Internally displaced persons have:

- (a) The right to seek safety in another part of the country;
- (b) The right to leave their country;
- (c) The right to seek asylum in another country; and
- (d) The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

Principle 18

1. All internally displaced persons have the right to an adequate standard of living.
2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:
 - (a) Essential food and potable water;
 - (b) Basic shelter and housing;
 - (c) Appropriate clothing; and
 - (d) Essential medical services and sanitation.
3. Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

Principle 19

1. All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.
2. Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for victims of sexual and other abuses.
3. Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.

CESCR on the Right to Water

CESCR General Comment No. 15 (2002) on the right to water obligates States Parties to guarantee the enjoyment of the right to water without discrimination on the ground of physical or mental disability, and enshrines the need to give special attention to those individuals and groups who have traditionally faced difficulties in exercising this right, including persons with disabilities.

Case Study: The MDGs and Sexual and Reproductive Health in the Context of Women with Disabilities

"The Millennium Development Goals, particularly the eradication of extreme poverty and hunger, cannot be achieved if questions of population and reproductive health are not squarely addressed. And that means stronger efforts to promote women's rights, and greater investment in education and health, including reproductive health and family planning."

--Kofi Annan, former United Nations Secretary-General

MDG 1: Eradicate Extreme Poverty and Hunger

Reproductive health problems disproportionately affect women and the poor including women with disabilities and families with children and other persons with disabilities. When women, including women with disabilities, have access to reproductive health

they are better able to maintain their own and their families' sustainable livelihood.

Elimination of extreme poverty and hunger also means broadening women's – including women with disabilities' – access to all economic opportunities including equal employment opportunities and wages, access to credit and agricultural land and other resources, inheritance and property rights.

Employment for all women and youth including women and youth with disabilities along with appropriate socio-economic policies will boost the development of the community. Universal access to reproductive health can bolster policies relating to educational and employment opportunities.

Many of the poorest countries are those in or emerging from conflict. Investing in persons who are disabled due to conflict or other reasons will be crucial to rehabilitation and reintegration of all persons including women and children with disabilities into peace building and development efforts.

Rapid population growth, on the other hand, can offset economic gains, and strain food and water supplies.

MDG 2: Achieve universal primary education

Ensuring educational opportunities for all children, including girls with disabilities is critical for poverty reduction and human development. It not only reduces the number of children in child labour but helps to break the intergenerational cycle of poverty and dependence that families with a member with disabilities usually face.

However, gender bias and disability bias keep girls and boys with disabilities out of school. Girls especially are used to fetch water and in the preparation of food for the family.

Families with fewer children, and children spaced further apart have a better chance of accessing education in families where resources are scarce. Preventing early pregnancy can help keep adolescent girls in school who may otherwise be forced to leave. Similarly, educational opportunities for all, including children and women with disabilities will help prevent child marriage and child labour.

MDG 3: Promote gender equality and empower women

Women's ability to decide freely the number and timing of children is key to their empowerment and expanded opportunities for work, education and social participation. It is also a way to prevent disabilities among children and women when giving birth. Gender equality also plays a pivotal role in poverty reduction and development goals, including improved child and maternal health and reduced HIV infection and gender-based violence.

Gender equality is the foundation for eliminating child marriage, enabling adolescent girls to delay pregnancy, ending violence against women. It must also cover women and girls with disabilities and ensure that women who disproportionately care for family members with disabilities are treated equally and provided opportunities for their empowerment so that the whole family benefits from the equal status of women in the family and thus helps to break the cycle of intergenerational poverty.

The education of girls with disabilities will help in poverty reduction, gender equality, labour force participation and reproductive health, including family planning and HIV prevention and their participation in public life.

MDG 4: Reduce child mortality

A continuum of care through pregnancy and early childhood can reduce disability to the child.

Family planning prevents unintended pregnancies which might result in neglected children prone to ill health. Also, in families where resources are scarce, children in large families may be deprived of nutrition, medical care and attention leading to disability and neglect. Screening pregnant women for HIV and other sexually transmitted infections and providing them with the appropriate medicine and treatment can prevent disability and death to the infant.

Empowering adolescent girls to delay pregnancy can prevent many newborn deaths. Babies born to adolescents face much higher mortality rates compared to women who have reached physical maturity.

MDG 5: Improve maternal health

UNFPA claims that reproductive health problems constitute the leading cause of ill health and death to women between the ages of 15 and 49. Thus better reproductive health can prevent disabilities among women and girls. Access to family planning which includes women with disabilities; access to pre and antenatal care; better care at all births etc. can prevent maternal mortality and reduce injuries and disabilities that may occur during pregnancy and delivery. Access to family planning can also reduce unintended pregnancies, unsafe abortions and maternal death and morbidity minimizing risks of disability to women and children. Maternal healthcare must be part of a holistic continuum of health services which includes a range of maternal, reproductive and child care services including mental health and psychosocial care that can reduce the incidences of disability among mothers and children.

MDG 6: Combat HIV/AIDS, malaria and other diseases

Education on reproductive health is critical in the fight against HIV / AIDS. Access to HIV / AIDS information and services must be made available women, men and children with disabilities so as to prevent infection of HIV and other sexually transmitted

infections among all populations.

Gender discrimination and disability discrimination fuels the AIDS epidemic, placing adolescent girls and women with disabilities are more vulnerable to HIV/AIDS both in and outside marriage. Similarly, gender-based violence threatens women's physical and mental health and security and places them at a higher risk of acquiring HIV.

MDG 7: Ensure environmental sustainability

Clean water, sanitation, food security, nutrition and health and timesaving devices in accessing all of the above are essential to preventing disabilities. It also helps women with disabilities who have reduced access to clean water, food security, nutrition etc. to obtain these essential building blocks for their physical and mental well-being. Women and girls with disabilities who have greater difficulty collecting water and firewood are the most affected by the lack of environmental sustainability.

The promotion of knowledge sustainable rural population growth, negative impacts of urbanization and increased knowledge on sustainable development to women, men and children with disabilities will help them become part of environmental sustainability.

It is also critical to pay attention to women and children with disabilities living in urban slums.

MDG 8: Develop a global partnership for development

Global partnerships are critical to securing adequate supplies of essential reproductive health commodities for poor countries — including contraceptives, equipment to promote maternal health; and testing kits and treatment for HIV and other sexually transmitted infections. Global partnerships are also crucial avenues to broadening the access to information and education on reproductive health for women with disabilities.

Disability–Sensitive Development Policies and Programmes

Each stage of a development policy must reflect an awareness of the rights of persons with disabilities. At the planning stages, measurable targets must be set, disability indicators defined and realistic goals and budgets determined. Additionally, participatory evaluations/impact assessment must be conducted. Disability mainstreaming must be conceptualized as a transformatory process that sensitizes and establishes institutional precedents and mechanisms to the needs of persons with disabilities and their affiliates.

Over time, disability analysis and training, monitoring and evaluation will create disability sensitivity at every institutional process. Just as much as gender analysis, gender mainstreaming and gender evaluations have now become rote, disability

analysis, disability consciousness-raising, disability mainstreaming, disability budgeting and disability evaluations must enter the lexicon and practice of development processes.

Learning from Gender-Centered Development Models

"...women's agency is important as a part of the agency of all people. Women's decisions and actions can have a profound impact on the policies the government decides to pursue and the lives that people can lead.... The effectiveness of public action and the expansion of social opportunities depend a great deal on the effective freedom of women to exercise their reasoned agency."

-Jean Dreze and Amartya Sen³

Since they comprise at least half the world's population, women's roles in economic, social, cultural and political life are critical to development. At the same time, women are negatively affected by development efforts that do not take into account the impact of those policies on women and gender relations.

Gender and development perspectives helped demystify the gender bias in institutions and development processes by providing an effective lens through which to view gender identity. These views see women as formed by their multiple identities of gender, ability, race, caste, class, and sexual identity. Gender and development perspectives will similarly help to unmask biases and assumptions about women with disabilities that do not reflect the reality of their lives. For instance, socially constructed roles, external conditions, forces such as developmental processes, family situations and health care affect people's roles in life more than just the condition of disability. At the same time, society often allocates different standards to women with disabilities that help shape their assumptions and their actual role in life. These standards are often based on long held biases than the actual capabilities of women with disabilities. Unfortunately, women and persons with disabilities continue to be judged according to the approximation to those assigned characteristics rather than their actual capabilities.

Just as much as socially constructed roles constrict women's equality and empowerment, these same constructions that have little to do with the capabilities of women impede the entry of women with disabilities into the development process.

In most countries, children and adults are socialized into the way they relate to persons with disabilities. This relationship might range from protection to stigmatization of persons with disabilities, sometimes re-creating relationships of subordination and discrimination against persons with disabilities.

Women with disabilities experience poverty differently than their male counterpart. Similarly, women with disabilities experience poverty differently from other men with disabilities. This recognition must inform all development programmes and policies that would address the needs of all women to food, water, sanitation, shelter, healthcare etc. It is important that gender centered models and gender mainstreaming inform

³ Jean Dreze and Amartya Sen. *India: Development and Participation*. 2nd ed. Oxford: Oxford University Press, 2002: 19.

development policies that engage persons with disabilities into the development process.

Disability and Gender-Sensitive Development Policy

Sensitizing development policy requires attention to be paid to not only to disability and gender as separate entities, but to recognizing their intersections as well, particularly in the cases of women with disabilities. For this, gender mainstreaming provides a useful mode of reconceptualizing development policy.

The importance of gender mainstreaming as a concept not only lies in its recognition of the critical roles that women play in developing economic, social, cultural, and political realms, but in its provision of a model upon which to build ideas of disability mainstreaming upon as well.

Gender Mainstreaming

The Economic and Social Council on Gender Mainstreaming

Gender mainstreaming was defined in July 1997 by the *Agreed Conclusions* of the Economic and Social Council as follows:

Mainstreaming a gender perspective in the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area at all levels. It is a strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally and inequality is not perpetuated. The ultimate goal of mainstreaming is to achieve gender equality.

The concept of gender mainstreaming effectively entered the lexicon of international public policy in September of 1995, when it featured in the Platform for Action of the Fourth World Conference on Women in Beijing, which defined the term broadly and committed the institutions of the UN system to the systematic incorporation of a gender perspective into policymaking. (Governments and other actors should promote an active and visible policy of mainstreaming a gender perspective in all policies and programmes

so that, before decisions are taken, an analysis is made of the effects on women and men, respectively.”⁴

The Beijing Platform of Action, which was endorsed by all United Nations member countries, identifies twelve critical areas for action: women and poverty; education and training of women; women and health; violence against women; women and armed conflict; women and the economy; women in decision making, institutional mechanisms for the advancement of women; human rights of women; women and the media; women and the environment; and the girl child.

The UNDP identifies mainstreaming as: “...taking into account of gender equality concerns in all policy, programme, administrative and financial activities, and in organizational procedures, thereby contributing to a profound organizational transformation.”

The Basic Principles of Mainstreaming Efforts

- Responsibility for implementing the mainstreaming strategy is system wide, and rests at the higher levels within agencies;
- Adequate accountability mechanisms for monitoring progress need to be established;
- Initial identification of issues and problems across all areas of activity should be such that differences and disparities between persons with and without disabilities can be diagnosed;
- Clear political will and allocation of adequate resources for mainstreaming – including additional financial and human resources, if necessary – are important for translation of the concept into practice;
- Disability mainstreaming requires that efforts be made to broaden the equitable participation of persons with disabilities at all levels of decision making;
- Mainstreaming does not replace the need for targeted, disability-specific policies and programmes, and positive legislation; nor does it do away with the need for disability units or focal points.

Source: Division for the Advancement of Women of the Department of Economic and Social Affairs

⁴ *Beijing Platform for Action*. (Beijing: Fourth World Conference on Women, 1995)
<http://www.un.org/womenwatch/daw/beijing/platform/index.html> (See paragraphs 79, 105, 123, 141, 189, 202, 229, 238, 252, 273).

The Link between Poverty, Gender and Disability

Persons with disabilities, especially women with disabilities, are largely absent from development processes and there is an urgent need for the integration of women with disabilities into the development process.

The nexus between poverty and disability has often been explored but much more has to be done to address it. While disability may result in poverty and disenfranchisement from the economic and social life of communities, poverty on the other hand may cause disability through malnutrition, poor health care and unsanitary living conditions. This cycle of disability and poverty results in increased rates of illiteracy, malnutrition, underemployment and unemployment.

The link between poverty, gender, and disability, however, can best be expressed by examining how the MDGs should be reached, as they exist at the centre of these three pandemic situations. The achievement of the MDGs is significantly affected by the status of women with disabilities given that they are among the world's most marginalized group. The MDGs cannot be achieved if persons with disabilities are not made part of the efforts to meet the goals.

Apart from representing a key target group under the MDGs, persons with disabilities are critical targets under each goal. Maternal health facilities around the world lack staff with knowledge of providing care to pregnant women with disabilities. The United Nations Educational, Scientific and Cultural Organization (UNESCO) estimates that 98 percent of children with disabilities in developing countries do not attend school.⁵

While girls with disabilities receive less care and nutrition, women are more likely to be caregivers for children and other family members with disabilities which further increase their vulnerability to poverty.

Breaking the cycle of poverty and disability and poverty is a critical step, and should be premised on stretching the boundaries of persons with disabilities economic potential. Even when persons with disabilities rely on social protection policies their potential to contribute to economic growth must be mainstreamed into disability policies. In order to break this pattern of exclusion, inclusive programmes and policies at all levels and affirmative action policies must be implemented to address the legacy of discrimination in a comprehensive manner.

⁵UNESCO, "Flagship on Education for All and the Right to Education for Persons with Disabilities: Towards Inclusion"

http://www.unesco.org/education/efa/known_sharing/flagship_initiative/disability_last_version.shtml.

Assessing Disability and Gender-Related Obstacles to Policymaking: Some Questions to Ask

Employment and Earnings

- Do women with disabilities have the right to own property, sign contracts and enter into financial transactions including ownership of bank accounts, savings or access to credit?
- Do women with disabilities have access to telephones, the internet, and other information sources?
- Are there laws and policies that mandate equal employment opportunities for women and men with disabilities?
- Are certain occupations or professions closed to women or men with disabilities by law or practice?
- Within the formal sector, are women with disabilities concentrated in employment in managerial and professional positions?
- Do women with disabilities have equal rights to contract under law?
- Do laws have an indirect effect on women entering into contracts?
- Do these laws and policies address gender stereotypes and disability stereotypes?
- Are training and employment opportunities available for women with disabilities?
- What is the mandatory retirement age for men and for women? Do these policies apply to women and men with disabilities?
- Are sufficient regulations put into place to protect women and men with disabilities from harmful chemicals, injuries at work that might affect the general health and reproductive health of both men and women employees?
- Have sexual harassment policies in the workplace been introduced? Do these policies pay attention to women with disabilities?
- Do workplace policies have a quota for women and men with disabilities?
- Are firms (public and private) penalized for not meeting these quotas?

- Is maternal/paternal leave considered employment for the purposes of calculating pensions or other benefits?

Education

- Persons with disabilities have different transport needs for purposes of attending school or engaging in economic activity. This includes safety in transportation. Are there disability-related restrictions on educational experience?
- Do educational materials and teacher training convey harmful stereotypes about disability?

Addressing Stereotypes based on Gender and Disability

- What legal and policy measures have been taken to change social and cultural patterns that lead to stereotyping or reinforcing the idea of inferiority of women with disabilities?
- What provisions have been taken in the legal system to address violence against women with disabilities, including rape, sexual violence, and marital rape?
- Are there provisions in the law that cover rehabilitation and reintegration of women and children with disabilities?

Health Care

- Are adequate healthcare services available for women with disabilities?
- Do women with disabilities have the resources to access healthcare, either for self or for children (money, transportation, information about healthcare providers, the right to determine when and where to seek health care)?
- Is there adequate reproductive health care for women and girls with disabilities?

Legal framework

- Does the legal framework discriminate on the basis of disability with respect to education, health, or employment, either directly or indirectly?
- Is there a high degree of occupational segregation based on ability; i.e., are most women with disabilities in different occupations?
- Are women with disabilities concentrated in lower-level occupations than their male counterparts?

- Are women with disabilities adequately represented in local, regional, and national levels of governance such that their needs, constraints, and interests are considered and incorporated into policy and programs?
- How are disability-related issues in rural areas different from those in urban areas, and how does this affect the design and implementation of programs in these locations?

Gender and Disability Analysis–What to Ask

Development practitioners must ask at least some of these questions when reviewing project documents, collaborating in project design activities, participating in project review meetings and debriefing project design, evaluation and backstopping missions.

- Who is the target (both direct and indirect) of the proposed policy, programme, or project?
- Have women with disabilities been consulted on “the problem” the intervention is to solve? How have they been involved in the development of “the solution”?
- What specific mechanisms can be proposed to encourage and enable women with disabilities to participate in the policy initiative or programme? How will the programme work with all persons so that it becomes more inclusive?

The Participation of Persons with Disabilities in Development of their Communities: Unclogging the Potential of Persons with Disabilities

Unless persons with disabilities are brought into the development mainstream, it will be impossible to cut poverty by half by 2015 as agreed by heads of State and government at the UN Millennium Summit in September 2000.

-The United Nations Secretary-General, 2005

World Bank: Cost of Unemployment Due to Disabilities

The World Bank has estimated that the cost of so many persons with disabilities being out of work is between US \$ 1.37 to 1.94 trillion.

Source: Robert L. Metts, *Disability Issues, Trends and Recommendations for the World Bank*. World Bank Washington: 2000.

U.S. Census: Wage Gap for Women with Disabilities

According to 1980 U.S. Census data, women with disabilities working full time earned only 56 percent as much as did men with disabilities with full time jobs.

Persons with disabilities are a huge untapped resource and should be seen as potential contributors to development.

The World Bank estimates that 82 percent of all persons with disabilities worldwide live below the poverty line. Many persons with disabilities are not active in the labour market. Persons who are marginalized from employment opportunities have to depend on passive assistance programmes or on charity or State-run programmes. This reinforces the cycle of poverty. Systematic steps must be taken to help persons with disabilities reach their potential through education, employment and participation in all aspects of public life.

As a major determinant of poverty, governments have an obligation to break the cycle of disability and poverty and disability issues must be made central to any poverty reduction strategy. It is argued that poverty for individuals with disabilities is not only about monetary poverty. The dimensions of poverty include “voicelessness” and “powerlessness” and these aspects are particularly compounded in the case of poverty among persons with disabilities.

The World Bank argues that access to employment is the most cost-effective way to reduce the poverty of children, youth and adults with disabilities, their families, and their communities. Socio-economic integration of persons with disabilities is not only about the reduction of social costs but also “*participation in economic growth.*”

Not only does participation in economic life enable persons with disabilities to work in order to meet their basic needs; participation in the work force also helps combat social isolation that persons with disabilities traditionally face; work opportunities also build work esteem and self confidence among all persons including persons with disabilities.

Checklist

- States must help broaden the access to employment of persons with disabilities.
- States must ensure that employment laws are in compliance with the CRPD and ILO Convention 159 on Vocational Rehabilitation and Employment of Disabled Persons. Targets can be put in place in forms of quotas. A review of all laws impacting persons with disabilities must ensure a gender sensitivity perspective.

- Remove barriers to participation in gainful employment. A review of such laws must ensure that barriers to employment of persons with disabilities be removed. No employment sector should bar persons with disabilities being hired.
- Create enabling policies that improve persons' with disabilities access to education, vocational and business skills, access to information, access to up to date skills and employment services, development, credit and transportation.
- Incentives and subsidies to employers must encourage employers to recruit persons with disabilities. These incentives can be in the form of grants for workplace adaptations etc.
- States must also develop and implement measures to address and combat stereotypes which lead to discrimination against persons with disabilities.
- Anti-discrimination and equal opportunity policies for persons in the job market must be accompanied by access to education, training, microcredit etc.

Creating Employment Opportunities for Persons with Disabilities

Developing country studies show that 80 to 90 percent of persons with disabilities of working age are unemployed. As the international communities rally around the MDGs as a comprehensive vision for development, this stands as a serious obstacle to achieving a number of goals including poverty reduction. The lack of employment opportunity is a critical determinant of poverty of persons with disabilities.

Although employers believe that employing persons with disabilities will raise labour costs, evidence shows that persons with disabilities have high attendance, performance and retention rates.⁶

Except in particular cases, many persons with disabilities can perform productive work. This is about sustainable development where the poor participate in their own development. Apart from there being a right and justice issue it is also the most productive way to reduce poverty among persons with disabilities and families with a person with disabilities.

Putting persons with disabilities into the labour market will have huge aggregate development benefits. Gains would also primarily be through the added productive capacity of future generations that had the benefit of education.

Access to other economic resources must complement access to the labour market. These may include the following areas:

⁶ *Id* at paragraph 12.

Access to Land, Property and Social Benefits

Women and sometimes men with disabilities are often excluded from land ownership by family members as well as by the State. On the other hand, women with disabilities might need greater assistance in land ownership and management and may not enjoy the full benefit of land ownership even when they have access to land. This dual exclusion has resulted in impoverishing women with disabilities.

Women with disabilities must not lose inheritance rights or ownership of land on marriage. Land ownership for women must also be considered in inheritance rights, land tenure rights and on marriage. Land is the primary asset for household survival in poor households. Landlessness, poverty and social status are correlated.

Studies find that secure land title correlates with agricultural productivity. Secure land rights also enhance credit and collateral to secure substantial loans.

Land reform must ensure gender equality in land ownership including women with disabilities. It is important to engender land policy and integrate land reforms into a broader approach to development. Similarly, women and children with disabilities must have access to all social security benefits that are available to other women and children including housing and educational allowances.

Recommended Action Steps

- Do women with disabilities have access to land, loans, mortgages, and other forms of financial credit?
- What are the social security benefits such as children's allowances, housing allowances, health insurance, and educational allowances are available to both men and women with disabilities?

Access to Microcredit and Microfinance

Microcredit has become a well-recognized approach to development. Despite the fact that microcredit is touted as providing "access for all" very few persons with disabilities have access to microfinance services. It is important to build a bridge between the microfinance and disability communities.

Mohammed Yunus, considered the father of microfinance, experimented with group lending where although credit was given to an individual, the repayment was a collective responsibility by the group to which the individual belonged. The Grameen Bank is one of the earliest institutions created to extend microcredit. In 2006, the membership with the bank had grown to 6.9 million. The Self-Employed Women's Association Bank in India (SEWA) and the Latin American ACCION International are successful progeny of the Grameen Bank.

Access to microcredit and microfinance for caregivers of family members who are disabled will provide them an opportunity to move away from isolation to better integrate into the social and economic development of their communities and to protect them selves and their families against economic downturns.

The self-help groups prevalent in India might be a model that might be instructive to families with persons with disabilities. The self-help groups in India are community-based and member managed associations of women from vulnerable groups who pool resources for financial and social services. Apart from pooling financial resources, self help women also pool health care services, family planning information, literacy training, food for work opportunities and mid day meal programmes.⁷ The nexus between self-help groups and commercial banks is shaped by a government mandate for lending in priority sectors with a special focus on vulnerable groups.

The “graduation model” that links safety nets and financial services might be another model that can be replicated in the area of women with disabilities. This model pioneered by the BRAC programme in Bangladesh, seeks to connect longer-term provisions of basic social protections to regular microfinance programmes in targeting the potential of the poorest in the community.

Recommended Resource:

The Role of Microcredit and Microfinance in the Eradication of Poverty. Report of the Secretary-General July 2008.

A/63/159

<http://daccessdds.un.org/doc/UNDOC/GEN/N08/434/02/PDF/N0843402.pdf?OpenElement>

ILO: Persons with Disabilities and Poverty Reduction Strategy

A comprehensive poverty reduction strategy for persons with disabilities should be located within a framework that seeks to reduce poverty of persons with disabilities by “unlocking their economic potential,” and not by re-distributive policies. Costs in terms of accessibility, technical devices, and workplace accommodations are to be seen as *investments* and not as unproductive social welfare expenditure. What is relevant to the majority of persons with disabilities is their potential to contribute to economic growth.

Source: ILO, “Disability And Poverty Reduction Strategies: How To Ensure That Access Of Persons With Disabilities To Decent And Productive Work Is Part Of The PRSP Process.”

⁷ See Website of the National Bank of Agriculture and Rural Development (<http://nabard.org/pdf/stmt1.pdf>).

Broadening Skill Training

Training in income generation tasks and new technologies are critical to equality and empowerment. Skill training in both traditional and non-traditional tasks must be made available to women with disabilities.

Case Study: Vocational Training in Nepal

“The most appreciated CBR initiatives were vocational training and loans. For some people loans were given for the purchase of animals such as ducks, goats and oxen so that they could make an income from the offspring.

The CBR programme offered skills training to others. After the training a loan was provided as a starting capital for tools and raw materials. Although satisfied with the assistance from the CBR programme interviewees complain that the variety of skills offered is too stereotyped (mainly tailoring and carpentry). They had other ideas.

‘It’s better if we get other vocational training like fabric painting, knitting and candle making. Yes and it’s good if we get the training of incense making because people can benefit from this type of small business. There is nobody who is in this business at the moment in this community.’

They also express a need for training in business management for the self-employed.”

Source: World Health Organization and Swedish Organizations of Disabled Persons International Aid Association. *Community-Based Rehabilitation as We Have Experienced It... Voices of Persons with Disabilities in Ghana, Guyana and Nepal*. Geneva: World Health Organization, 2002, 41.

ILO: Using Microcredit to Develop Entrepreneurship among Women with Disabilities

“Developing Entrepreneurship among Women with Disabilities”, was implemented in Ethiopia by the ILO in collaboration with the Ethiopian Federation of Persons with Disabilities (EFPD) and the Tigray Disabled Veterans Association (TDVA). The objective of the project was to develop entrepreneurship among women with disabilities in the city of Addis Ababa, and the rural Tigray Region in Ethiopia with a view to replicating these

models.

The project aimed to advance economic empowerment among women with disabilities and women with dependants who were disabled by providing training in micro-enterprise skills, and broadening access to vocational training, marketing skills, business opportunities and credit.

Prior to this project, there was no reliable information on women entrepreneurs with disabilities.

Women with disabilities from the Ethiopian Federation of Persons with Disabilities (EFPD) and the Tigray Disabled Veterans Association (TDVA) were enlisted to collect stories of 50 women, in Addis Ababa and Tigray Region. As peers, these women were able to obtain grassroots information that provided greater insight into the women participating in the project.

The project brought to fruit an innovative vision based on partnerships with local non-governmental organizations of persons with disabilities, micro-finance institutions, and national and local government authorities. The ultimate goal is the development of an effective strategy by which women with disabilities can meet their income-earning potential and escape from poverty.

Source: ILO Technical Cooperation Project: Developing Entrepreneurship among Women

The following is a checklist for the integration of disability perspectives into employment lawmaking. It is followed by a checklist for gender analysis of disability lawmaking.

Checklist for Integrating Disability Perspectives into Employment Lawmaking

Employment Legislation

- **Elimination of all forms of discrimination against persons with disabilities:** Anti-discrimination law should prohibit employers to discriminate on the basis of disability, recruitment, promotion, dismissal and training. This provision must be included in disability specific laws and the prohibition on the discrimination against persons with disabilities should be included in anti-discrimination legislation.

Good Practice:

Article 3 of the **Equal Employment Opportunity Act 1987 in Australia** defines discrimination with regard to disability as:

Discrimination by which a person with a physical or mental disability "...is, because of the disability, treated less favourably than a person without the disability..."

It also establishes an Equal Opportunity Program:

"...to ensure that appropriate action is taken by the [relevant] authority; to eliminate discrimination by it against and to promote equal opportunity..." for specified groups including persons with disabilities, in relation to employment matters."

Section 17 of the **Fiji Human Rights Act 1999** prohibits discrimination in employment as well as application for work on the ground of disability.

- The definition of disability must be in compliance with the CRPD.
- Ensure affordability of specialized training.
- Introduction of quota legislation: This scheme involves companies with a certain size to employ a specific percentage of persons with disabilities. If the quota is not fulfilled, employers are asked to make a certain contribution in to a fund to be used for the enhancement of accessibility of workers with disability.

Countries with quotas include: **France, Germany, Poland, Italy, China, Japan and Thailand.** In **India and Sri Lanka**, the quota applies only to the Public Sector.

- Provide for participation of all workers including persons with disabilities in workplace policy;
- Provide for vocational training.

Fiji makes a provision for vocational training and rehabilitation in the Constitution.

- Improve the collection of data.

In **Australia and Japan** information on the training available to persons with disabilities is gathered.

- **Enforcement Mechanisms:** These may be overseen by National Human Rights Institutions, Equality Commissions or National Councils in charge of disability

- rights. In Australia, the relevant authorities conduct a self-assessment through different agencies.
- Promote self-employment schemes.
 - Provide workers with disabilities access to trade unions.
 - Financial incentives to offset any costs associated with the employment of persons with disabilities. These can be in the form of tax reduction measures or subsidies for workplace adaptations.

Both **Japan and Australia** provide extensive financial incentives to the employer.

- Produce Action Plans under the Disability Discrimination Act.
- The National Human Rights Institutes must have oversight over disability legislation.

ILO: Lack of Enforcement of Anti-Discrimination Legislation in Thailand

Despite a disability specific law, in 2002, the **Thai Constitutional Court** upheld the decision of a government agency to bar a person with a disability from taking an examination to become a prosecutor, on the grounds that his “personality and body were in an inappropriate state.”

Source: ILO. Employment of People with Disabilities: The Impact of Legislation: Asia and the Pacific. Report of a Project Consultation. Bangkok: ILO InFocus Programme on Skills, Knowledge and Employability in the framework of a project and Ireland Aid, 17 January 2003.

A Gender Analysis of Legislative Provisions Dealing with Access to Employment for Persons with Disability

Employment opportunities for persons with disabilities are enhanced through:

Anti-discrimination laws

1. Quotas

A study of both these approaches reveals that there is no mention of gender discrimination among persons with disabilities. For example the following anti-discrimination policies in disability specific legislation make no reference to gender.

Anti-discrimination Laws

Australia Disability Discrimination Act 1992

It is deemed "...unlawful for an employer or a person acting or purporting to act on behalf of an employer to discriminate against a person on the grounds of the other person's disability or a disability of any of that other person's associates..." (Disability Discrimination Act 1992 Section 15.0 Discrimination in Employment).

The Act clarifies the circumstances when discrimination may be unlawful "...in the arrangements made for the purpose of determining who should be offered employment; or in determining who should be offered employment; or in the terms or conditions on which employment is offered."

(Neither, the second or the latter circumstance "...renders it unlawful for a person to discriminate against another person, on the ground of the other person's disability, in connection with employment to perform domestic duties on the premises on which the first-mentioned person resides." The second circumstance is not unlawful "...if taking into account the person's past training, qualifications and experience relevant to the particular employment and, if the person is already employed by the employer, the person's performance as an employee, and all other relevant factors that it is reasonable to take into account, the person because of his or her disability:

- (a) would be unable to carry out the inherent requirements of the particular employment; or
- (b) would, in order to carry out those requirements, require services or facilities that are not required by persons without the disability and the provision of which would impose an unjustifiable hardship on the employer".)

The Act further clarifies discrimination "...It is unlawful for an employer or a person acting or purporting to act on behalf of an employer to discriminate against an employee on the ground of the employee's disability or a disability of any of that employee's associates..." The circumstances when this particular type of discrimination may occur is firstly "...in the terms or conditions of employment that the employer affords the employee" or secondly, "...by denying the employee access, or limiting the employee's access, to opportunities for promotion, transfer or training, or to any other benefit associated with employment" or thirdly, "...by dismissing the employee; or fourthly "...by subjecting the employee to any other detriment." However, this is not unlawful "...if taking into account the person's past training, qualifications and experience relevant to the particular employment and, if the person is already employed by the employer, the person's performance as an employee, and all other relevant factors that it is reasonable to take into account, the person because of his or her disability:

- (a) would be unable to carry out the inherent requirements of the particular employment; or
- (b) would, in order to carry out those requirements, require services or facilities that are

not required by persons without the disability and the provision of which would impose an unjustifiable hardship on the employer.” (Op. Cit. Section 15.4 Discrimination in Employment).

Enforcement is through Disability Discrimination Commissioners appointed by the Human Rights and Equal Opportunity Commission to settle the Act by conciliation and if transgression proves difficult to rectify, refer the matter back to the Commission with an accompanying report.

China

Discrimination both direct and indirect is prohibited by the Act. With regard to direct discrimination it is stated, “...No discrimination shall be practised against disabled persons in recruitment, employment, granting of permanent employee status, promotion, determining technical or...”

India

There is a specific provision advocating non-discrimination in government employment: “No establishment shall dispense with or reduce in rank an employee who acquires a disability during his service...” Neither shall any “...promotion be denied to a person merely on the ground of his disability...” (The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 Non Discrimination Chapter VIII Section 47).

Mongolia

The last provision prohibits denial of employment to disabled or pygmy person “...if their physical state does not create a disturbance when engaged in labour or an inimical labour condition.” (Labour Law 1999, Article 111).

Sri Lanka

The Act states “...No person with a disability shall be discriminated against on the ground of such disability in recruitment for any employment or office...” (Protection of the Rights of Persons with Disabilities Act, No. 28 1996 Part V Section 23.1 Provisions for the protection and advancement of Persons with Disabilities). This is extended to include not only “...admission to any educational institution...” but any restrictions “...with regard to access to, or use of, any building or place which any other member of the public has access to or is entitled to use, whether on the payment of any fee or not.” (Protection of the Rights of Persons with Disabilities Act, No. 28 1996 Part V Section 23.2 Provisions for the protection and advancement of Persons with Disabilities). In the event of a contravention of the above provision, the provision can be enforced by a written petition to the High Court which may grant relief as it deems “...just and equitable in the circumstances.” (Protection of the Rights of Persons with Disabilities Act, No. 28 1996 Part V Section 24: Remedy for the contravention of the provisions of Section 23).

2. Employment Quotas

Although employment quotas have been introduced to promote employment opportunities for persons with disabilities, these are gender-neutral and no quotas have been made for women with disabilities in some of the countries studied.

Achieving Substantive Equality or Equality of Result in the Workplace: Quotas

In certain countries, companies over a certain size must employ a minimum number of persons with disabilities.

This applies to at least 20 employees in Germany and in Hungary, at least 25 employees in Austria and Poland, and 50 in Spain. In Germany 5 percent of employees must be persons with disabilities both in the private and public sectors. In France, there is a 6 percent quota in firms over 20 employees.

Countries' Quota Provisions

Cambodia

(Draft Law)

An employer, who employs more than a certain number of full-time employees, shall employ appropriate percentage of full time employees with disabilities (Article 38, Draft Law on the Rights of People with Disabilities). Employers are obliged by the Act to make a periodic declaration to the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation "...on the number of full time employees and full time employees with disabilities (Op. Cit. Article 39). In the event of non-fulfilment of the "appropriate percentage of full time disabled employees..." (Op. Cit. Article 38) the employer shall pay a contribution to the People with Disabilities' Fund." (Op. Cit. Article 40).

China

In respect of the employment quota the Act stipulates, "...State organs, nongovernmental organizations, enterprises, institutions and urban and rural collective economic organizations should employ a certain proportion of disabled persons in appropriate types of jobs and posts." With regard to the specific ratio, it is to be "...determined by the people's government of provinces, autonomous regions and municipalities directly under the Central Government and in line with the actual conditions..." (Law of the People's Republic of China on the Protection of Disabled Persons 1990 Article 30). The concerned governmental departments are vested

with the authority to determine "...the quota for recruiting and employing workers and staff members", this is limited by the proviso "...a certain proportion of the quota to disabled persons." (Op. Cit. Article 33).

India

The government is compelled by virtue of this instrument to firstly, identify posts that can be reserved for persons with disabilities, secondly reserve "not less than three percent" of vacancies for persons with disabilities (one per cent being reserved for persons suffering from "blindness or low vision; hearing impairment; locomotor disability or cerebral palsy)."

Japan

This Law established an employment quota for persons with physical disabilities. Since the 1997 revision "the quota rate for physically disabled persons" is to be replaced with "the quota rate of disabled persons" including persons with intellectual disabilities as well as persons with physical disabilities (140th Ordinary Session of the Diet, a partial revision of "Law for Employment Promotion etc of the Disabled" was approved (Promulgated April 8, 1997; Effective 1 July 1998). Cabinet Orders prescribes the employment quota rate for persons with disabilities (Law for Employment Promotion, etc... of the Disabled (Law No. 123, 1960) Article 14.2, Article 11 describes the procedure for enumerating the number of persons with disabilities working in a particular organisation and whether the number is within the quota).

The Japanese legislative employment quota for persons with disabilities is comprehensive including a formula to ensure the employment rate of persons with disabilities corresponds to the state of full-time employment and unemployment in the general market place. However, constant fluctuation in the employment quota would make stability impossible and thus it is to be revaluated every five years.

Mongolia

The Act promotes employment of persons with disabilities by providing that if "...an enterprise and /or establishment, [has]...50 or more employees [it] shall occupy three or more percent of the work and/or positions for the disabled or pygmy persons..." with the one proviso "...if such employment is not inimical to the specific nature of the work and industry." This is enforced by the payment of a monthly fee "appropriate to each count as if it were occupied..." by the enterprise/establishment. The fee is to be fixed by the government and "...concentrated in the central budget and be allocated to fund social security measures for disabled and pygmy persons" (Labour Law Act 1999 Article 111).

Thailand

The Rehabilitation of Disabled Persons Act A.D. 1991 authorizes the Minister to establish regulations prescribing...a quota system to require that private employers "employ

disabled persons at the ratio prescribed” and to hire a certain percentage of workers with disabilities. Ministerial Regulation 1 (B.E. 2537 (1994)) established a ratio of employees with disabilities to be hired by private companies (employers with more than 200 employees must hire at least one person with disabilities and for employees with more than 200 employees, they must hire one additional person with disabilities for every 100 additional employees and a financial allocation is to be made to the fund by employers who do not hire the stated number of persons with disabilities.

The laws of India, Mongolia and Thailand fix the quotas for employing persons with disabilities, while in China the employment quota is to be determined at Provincial level and in Japan the quota is based upon a formula, which ensures the employment rate for persons with disabilities reflects the rate for non-disabled persons. In most cases, the application of the employment quota applies to a certain size of enterprise. Additionally, the word “appropriate” is used in the legal instrument of Cambodia in reference to the percentage of full time employees with disabilities to be employed. The legislative instrument in India determines the quota not only for persons with disabilities but also for people with specific types of disabilities. The legal instrument in Mongolia adds the proviso “... such employment is not inimical to the specific nature of the work and industry.”

Source: Heinz-Dietrich Steinmeyer. *Legislation to Counter Discrimination against Persons with Disabilities*. 2nd edition. Strasbourg: Council of Europe Publishing, 2003.

Achieving Substantive Equality or Equality of Result in the Workplace: Financial Incentives

China

Incentive policies included in the Act include the implementation “...of a policy of tax reduction or exemption in relation to welfare enterprises and institutions for disabled persons and self-employed disabled workers in urban and rural areas...” as well as giving “...priority to disabled persons who apply for licenses as self-employed workers or entrepreneurs and give them preferential treatment in allotting work sites and loans, and in other ways.”

In addition, the concerned governmental departments are to “...encourage and assist disabled persons to obtain employment through voluntary organizations or to embark on self-employment ventures.” Article 31, Law of the People’s Republic of China on the Protection of Disabled Persons 1990

India

Incentives for small enterprises are provided for by the Act: include “appropriate governments and local authorities...by notification frame schemes in

favour of persons, for the preferential allotment of land at concessional rates for setting up businesses and establishment of factories by entrepreneurs with disabilities. Chapter VII, Section 43 "...governments and local authorities are obliged "within their economic capacity and development to provide incentives to employers in public and private sectors to ensure at least five per cent of their workforce is composed of people with disabilities." Chapter VI Section 32 The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995

Japan

The State and local public entities shall take measures "...to reduce the economic burden on employers hiring disabled persons, and to promote their hiring and continued employment..." by supplying "...grants to defray to improve facilities or equipment for employing disabled persons." Law for Employment Promotion of the Disabled (Law No. 123 1960) Article 15.3

Provision is also made in the Employment Countermeasures Law (Law No. 132, 1966) for allowances for adjustment training and a training allowance for employers. (Article 18)

Mongolia

Article 8 of the law covers education and vocational training for persons with disabilities. It states:

5. The State shall financially support higher education, college and vocational training for students with disabilities that have successfully passed entrance exams. Beneficiary shall come from very poor families, or from families with a member that has fully lost his/her working ability.

Article 9 of MSSLPWD is dedicated to employment of persons with disabilities. It states that:

1. The State shall give all manner of support to employ persons with disabilities and support the businesses and services run by persons with disabilities based on the person's working skills and education.
2. The State shall facilitate and support the enterprises and organizations employing persons with disabilities. A Committee of Government, Provincial/Municipal's Citizen Representatives can use State provincial budget resources to compensate business loss in connection with employing persons with disabilities or those run by the blind, deaf or/and people with physical disabilities. The Mongolian Social Security Law for People with Disabilities (MSSLPWD) State Social Welfare Law of Mongolia Article 25 7.

Reimbursement of transportation cost to return home for students with disabilities upon graduation.

Sri Lanka

The Social Security Board Scheme Act has a social security benefit scheme for people who are self employed which expressly includes self employed persons with a disability. The Ranaviru Act provides microfinance facilities for ex-combatants with disabilities and the Visually Handicapped Trust Fund Act also provides financial assistance.

Thailand

The Rehabilitation of Disabled Persons Act A.D. 1991 authorizes the Minister to establish regulations prescribing incentives to employers or owners of private companies, such as deducting “double the expenses” related to equipment purchases that facilitate employment of persons with disabilities, such as deducting double the expense from profits for tax purposes or entitlement to deductions for wages of workers with disabilities. In addition, by virtue of the Vocational Training Act 1996 private enterprises are entitled to a 50 per cent tax reduction of training expenses.

The Small and Medium Enterprise Promotion Act, February 2000 establishes a Board of SMSE development under the Office of SMSE that oversees fund for SMSE development and establishes a plan for SMSE development.

Subsidies as Incentives

In Spain, employers are given a subsidy of Euro 3,000 for concluding a permanent job contract and a grant of Euro 9000 for workplace adaptation. A Euro 3,300 subsidy is given if a person with disability who is a former trainee is given a permanent position in the workplace.

Certain countries in Europe (Austria, Belgium, Germany, Poland, Sweden, Portugal and Luxembourg) cover at least in part the costs of adapting workplaces to meet the needs of persons with disabilities.

The Spanish Royal Legislative Decree reduces 50 percent in the social security contribution for employers who provide training contracts for workers with disabilities. Companies that employ persons with disabilities in Spain also receive preferential treatment in bids for government contracts.

Sanctions as a Form of Penalty

In certain countries an equalization levy has to be paid in cases where this obligation to employ persons with disabilities is not met – amounting to a sanction for not fulfilling the duty. The receipts resulting from this equalization levy are placed in a promotion fund to be used solely for the structural measures in favour of persons with disabilities in the countries which reported.

**Source: Legislation to Counter Discrimination against Persons with Disabilities
Council of Europe Publishing, 2003.**

Comparing the CECDaw, CRC and CRPD

Selected Provisions on:	Convention on the Elimination of All Forms of Discrimination Against Women (1979)	Convention on the Rights of the Child (1989)	Convention on the Rights of Persons with Disabilities (2006)
Anti-Discrimination and Equality	<p>Preamble</p> <p>...</p> <p>Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,</p> <p>Article 2</p> <p>States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of</p>	<p>Article 2</p> <p>1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.</p> <p>2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.</p>	<p>Preamble</p> <p>...</p> <p>h. Recognizing also that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person,</p> <p>Article 3-General principles</p> <p>The principles of the present Convention shall be:</p> <p>a. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;</p> <p>b. Non-discrimination;</p> <p>c. Full and effective participation and inclusion in society;</p> <p>d. Respect for difference and acceptance of persons with</p>

	<p>eliminating discrimination against women and, to this end, undertake:</p> <p>(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;</p> <p>(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;</p> <p>(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;</p> <p>(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions</p>		<p>disabilities as part of human diversity and humanity;</p> <p>e. Equality of opportunity;</p> <p>f. Accessibility;</p> <p>g. Equality between men and women;</p> <p>h. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.</p> <p>Article 5-Equality and non-discrimination</p> <p>1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.</p> <p>2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.</p>
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	<p>shall act in conformity with this obligation;</p> <p>(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;</p> <p>(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;</p> <p>(g) To repeal all national penal provisions which constitute discrimination against women.</p>		<p>Article 6-Women with disabilities</p> <p>1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.</p> <p>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</p>
Affirmative Action/Temporary Special Measures	<p>Article 4</p> <p>1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or</p>	<i>Implicit in Article 2</i>	<p>Article 5-Equality and non-discrimination</p> <p>...</p> <p>3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.</p> <p>4. Specific measures which are necessary to accelerate or achieve</p>

	<p>separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.</p> <p>2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.</p>		<p>de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.</p>
Participation	<p>Preamble</p> <p>...</p> <p>Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,</p> <p>...</p> <p>Convinced that the full and</p>	<p>Article 12</p> <p>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner</p>	<p>Preamble</p> <p>...</p> <p>k. Recognizing that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others,</p> <p>...</p> <p>y. Convinced that a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities will make a significant contribution to redressing the profound social</p>

	<p>complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,</p> <p>Article 7</p> <p>States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:</p> <p>(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;</p> <p>(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;</p> <p>(c) To participate in non-governmental organizations</p>	<p>consistent with the procedural rules of national law.</p> <p>Article 13</p> <p>1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice</p> <p>2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:</p> <p>(a) For respect of the rights or reputations of others; or</p> <p>(b) For the protection of national security or of public order (ordre public), or of public health or morals.</p> <p>Article 31</p> <p>1. States Parties recognize the right of the child to rest and</p>	<p>disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries,</p> <p>Article 3-General principles</p> <p>The principles of the present Convention shall be:</p> <p>...</p> <p>c. Full and effective participation and inclusion in society;</p> <p>Article 4-General Obligations</p> <p>...</p> <p>3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.</p>
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	<p>and associations concerned with the public and political life of the country.</p> <p>Article 8</p> <p>States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.</p> <p>Article 13</p> <p>States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:</p> <p>(a) The right to family benefits;</p> <p>(b) The right to bank loans, mortgages and other forms of financial credit;</p> <p>(c) The right to participate in</p>	<p>leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.</p> <p>2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.</p>	<p>Article 29-Participation in political and public life</p> <p>States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:</p> <p>a. Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:</p> <p>i. Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;</p> <p>ii. Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public</p>
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	recreational activities, sports and all aspects of cultural life.		<p>functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;</p> <p>iii. Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;</p> <p>b. Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:</p> <p>i. Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;</p> <p>ii. Forming and joining organizations of persons with disabilities to represent persons</p>
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			<p>with disabilities at international, national, regional and local levels.</p> <p>Article 30-Participation in cultural life, recreation, leisure and sport</p> <p>1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:</p> <p>a. Enjoy access to cultural materials in accessible formats; Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;</p> <p>b. Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.</p> <p>2. States Parties shall take appropriate measures to enable</p>
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			<p>persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.</p> <p>3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.</p> <p>4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.</p> <p>5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:</p> <p>a. To encourage and promote the participation, to the fullest extent possible, of persons with</p>
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			<p>disabilities in mainstream sporting activities at all levels;</p> <p>b. To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;</p> <p>c. To ensure that persons with disabilities have access to sporting, recreational and tourism venues;</p> <p>d. To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;</p> <p>e. To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.</p>
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<p>Rights in Development</p>	<p>Preamble</p> <p>...</p> <p>Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,</p> <p>Article 14</p> <p>...</p> <p>2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:</p> <p>(a) To participate in the elaboration and implementation of development planning at all levels;</p> <p>...</p>		<p>Preamble</p> <p>...</p> <p>g. Emphasizing the importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development,</p> <p>...</p> <p>m. Recognizing the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty,</p>
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<p>Best Interest of the Child</p>	<p>Article 5</p> <p>States Parties shall take all appropriate measures:</p> <p>(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.</p> <p>(b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.</p> <p>Article 16</p> <p>1. States Parties shall take all appropriate measures to</p>	<p>Article 3</p> <p>1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.</p> <p>2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.</p> <p>3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as</p>	<p>Article 7-Children with disabilities</p> <p>1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.</p> <p>2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.</p> <p>3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.</p>
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	<p>eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:</p> <p>(a). The same right to enter into marriage;</p> <p>(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;</p> <p>(c) The same rights and responsibilities during marriage and at its dissolution;</p> <p>(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interest of the children shall be paramount;</p> <p>(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.</p>	<p>well as competent supervision.</p>	
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	<p>(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children or similar institutions where these concepts exist in national legislations; in all cases the interests of the children shall be paramount.</p> <p>(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation.</p> <p>(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.</p> <p>2. The betrothal and the marriage of a child shall have no legal effect and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official</p>		
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	registration of marriages in an official registry compulsory.		
Rights to Education	<p>Preamble</p> <p>Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,</p> <p>Article 10</p> <p>States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:</p> <p>(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education,</p>	<p>Article 28</p> <p>1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:</p> <p>(a) Make primary education compulsory and available free to all;</p> <p>(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;</p> <p>(c) Make higher education accessible to all on the basis of capacity by every appropriate means;</p> <p>(d) Make educational and</p>	<p>Article 24-Education</p> <p>1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:</p> <p>a. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;</p> <p>b. The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;</p> <p>c. Enabling persons with disabilities to participate effectively in a free society.</p>

	<p>as well as in all types of vocational training;</p> <p>(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;</p> <p>(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;</p> <p>(d) The same opportunities to benefit from scholarships and other study grants;</p> <p>(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap</p>	<p>vocational information and guidance available and accessible to all children;</p> <p>(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.</p> <p>2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.</p> <p>3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.</p> <p>Article 29</p>	<p>2. In realizing this right, States Parties shall ensure that:</p> <p>a. Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;</p> <p>b. Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;</p> <p>c. Reasonable accommodation of the individual's requirements is provided;</p> <p>d. Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;</p> <p>e. Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the</p>
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	<p>in education existing between men and women;</p> <p>(f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;</p> <p>(g) The same opportunities to participate actively in sports and physical education;</p> <p>(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.</p>	<p>1. States Parties agree that the education of the child shall be directed to:</p> <p>(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;</p> <p>(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;</p> <p>(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;</p> <p>(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious</p>	<p>goal of full inclusion.</p> <p>3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:</p> <p>a. Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;</p> <p>b. Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;</p> <p>c. Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and</p>
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		<p>groups and persons of indigenous origin;</p> <p>(e) The development of respect for the natural environment.</p> <p>2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.</p>	<p>social development.</p> <p>4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.</p> <p>5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.</p>
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<p>Right to Health</p>	<p>Article 12</p> <p>1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.</p> <p>2. Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.</p>	<p>Article 19</p> <p>1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.</p> <p>2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.</p>	<p>Article 25-Health</p> <p>States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:</p> <p>a. Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;</p> <p>b. Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and</p>
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		<p>Article 24</p> <p>1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.</p> <p>2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:</p> <p>(a) To diminish infant and child mortality;</p> <p>(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;</p> <p>(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily</p>	<p>prevent further disabilities, including among children and older persons;</p> <p>c. Provide these health services as close as possible to people's own communities, including in rural areas;</p> <p>d. Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;</p> <p>e. Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;</p> <p>f. Prevent discriminatory denial of health care or health services or food and fluids on the basis of</p>
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		<p>available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;</p> <p>(d) To ensure appropriate pre-natal and post-natal health care for mothers;</p> <p>(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;</p> <p>(f) To develop preventive health care, guidance for parents and family planning education and services.</p> <p>3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.</p>	disability
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		<p>4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.</p>	
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CEDAW, CRC and CESCR Concluding Observations on the Rights of Persons with Disabilities in the Most Recent Asian State Party Reports

Country	Committee on the Rights of the Child (CRC)	Committee on the Rights of Women (CEDAW)	Committee on Economic, Social, and Cultural Rights (CESCR)
Bangladesh CRC/C/15/Add.221(2003) CEDAW: A/59/38 (SUPP) paras. 228-267 (2004)	<u>Non-discrimination</u> 28. The Committee welcomes the measures undertaken by the State party to enhance the situation of girls, especially in relation to education. It remains deeply concerned about persistent discriminatory attitudes towards girls, which are deeply rooted in traditional stereotypes and limit access to resources and services. The Committee is also concerned about discrimination against children with disabilities, street children, child victims of sexual abuse and exploitation, tribal children and other vulnerable groups. 29. The Committee recommends that the State party take adequate measures to ensure implementation of the principle of non-discrimination in full compliance with article 2 of the Convention, and strengthen its proactive and comprehensive efforts	<i>No comments relating to disability</i>	<i>Bangladesh is party to ICESCR, but has not submitted a report.</i>

	<p>to eliminate discrimination on any grounds and against all vulnerable groups. The Committee also recommends that the State party undertake an education campaign for boys and men on gender issues and sex discrimination.</p> <p><u>Children with disabilities</u></p> <p>55. The Committee is concerned at the situation of children with disabilities, and societal discrimination against these children, including their exclusion with the exception of the visually impaired, from the educational system.</p> <p>56. The Committee recommends that the State party:</p> <p>(a) Undertake studies to determine the causes of, and ways to prevent, disabilities in children;</p> <p>(b) In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on the issue of "The rights of children with disabilities" (CRC/C/69, paras. 310-339), further</p>		
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	<p>encourage their integration into the regular educational system and inclusion into society, including by providing special training to teachers and by making schools more accessible to children with disabilities;</p> <p>(c) Undertake an awareness-raising campaign to sensitize the public to the rights and special needs of children with disabilities;</p> <p>(d) Take the necessary measures to provide children with disabilities with appropriate care and services, and ensure that they are registered at birth;</p>		
<p>Bhutan</p> <p>CRC/C/15/Add.157 (2001)</p> <p>CEDAW: A/59/38, paras. 94-132 (2004)</p>	<p><u>Data collection</u></p> <p>18. The Committee is concerned that disaggregated data on persons under 18 years relating to the rights contained in the Convention are not systematically collected and used effectively to assess progress and design policies to implement the Convention.</p> <p>19. The Committee recommends that the State party:</p>	<p><i>No comments relating to disability</i></p>	<p><i>Bhutan is not party to the ICESCR.</i></p>

	<p>(a) Establish a mechanism to systematically collect and analyse disaggregated data on all persons under 18 years for all areas covered by the Convention, including members of the most vulnerable groups (i.e. children of different ethnicity, living in remote areas, with disabilities, of economically disadvantaged households, etc.); and</p> <p>(b) Seek technical assistance from, among others, UNICEF.</p> <p><u>The right to non-discrimination</u></p> <p>28. The Committee is concerned at the disparities in the enjoyment of rights experienced by children belonging to the most vulnerable groups (e.g. children living in remote areas, belonging to other ethnic groups, with disabilities from economically disadvantaged households, etc.).</p> <p>29. The Committee recommends that the State party:</p> <p>(a) Make greater efforts to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2; and</p>		
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	<p>(b) Prioritize and target social services for children belonging to the most vulnerable groups.</p> <p><u>Children with disabilities</u></p> <p>46. Noting some efforts by the State party concerning children with disabilities (i.e. the pilot school for inclusive education and formation of a parents support group in Thimpu, and a school for visually impaired children), the Committee is concerned that children with disabilities in general have inadequate access to specialized services and education, and there is insufficient support for families.</p> <p>47. The Committee recommends that the State party:</p> <p>(a) Conduct a survey to assess the causes and extent of disability among children;</p> <p>(b) Review existing policies and practice in relation to children with disabilities, taking due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations</p>		
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	<p>adopted at its day of general discussion on "Children with disabilities" (see CRC/C/69);</p> <p>(c) Involve children with disabilities and their families in the development of surveys and policy review;</p> <p>(d) Undertake greater efforts to make available the necessary resources (e.g. professional and financial, including professional and financial support to families);</p> <p>(e) Undertake greater efforts to promote and expand community-based rehabilitation programmes, including parent support groups, and inclusive education of children with all forms of disability; and</p> <p>(f) Seek assistance from, among others, UNICEF and WHO.</p>		
<p>Cambodia</p> <p>CRC/C/15/Add.128 (2000)</p> <p>CEDAW/C/KHM/CO/3 (2006)</p>	<p><u>Children with Disabilities</u></p> <p>48. The Committee expresses its deep concern that as a result of the prolonged armed conflict, the State party has one of the highest levels of disability in the world. In this regard, the Committee notes that most services for children with disabilities</p>	<p>25. The Committee notes with concern the high illiteracy rates among women, in particular those from rural areas, ethnic minority groups or who are disabled, the large disparity in school enrolment rates for males and females and the high drop-out rates of girls. The Committee is concerned about the</p>	<p><i>Cambodia is party to the ICESCR but has not submitted a report.</i></p>

	<p>are provided by NGOs, which need substantial resources to maintain the current high standards of care and rehabilitation services.</p> <p>49. In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted on its day of general discussion on children with disabilities (CRC/C/69), the Committee recommends that the State party work in close collaboration with and support the activities of NGOs working in this field in order to develop early identification programmes to prevent disabilities;</p>	<p>related long-term implications for women's health, their decision-making capabilities and the development of their marketable skills. The Committee is further concerned at the persistence of gender-based segregation in educational fields and its consequences for women's professional opportunities. The Committee is also concerned about persistent stereotypes found in school curricula and textbooks.</p> <p>26. The Committee urges the State party to place high priority on the reduction of the illiteracy rate of women, in particular those who are from rural areas, belong to ethnic minority groups or who are disabled. It also urges the State party to immediately take all appropriate measures, including temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25, to eliminate the disparity in school enrolment rates and to achieve universal primary education for girls in accordance with article 10 of the Convention, the strategic objectives and actions of the</p>	
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	<p>implement alternative measures to the institutionalization of children with disabilities; plan and carry out awareness-raising campaigns to reduce discrimination; establish special education programmes and centres and encourage the inclusion of disabled children in the educational system and in society; and establish adequate monitoring of private institutions for children with disabilities. The Committee further recommends to the State party to seek technical cooperation for the training of professional staff working with and for children with disabilities.</p>	<p>Beijing Declaration and Platform for Action and Millennium Development Goals 2 and 3. It urges the State party to address effectively the obstacles that prevent girls from continuing their education, such as early and forced marriages. It also recommends the active encouragement of diversification of educational and professional choices for women. It requests the State party to revise educational curricula and textbooks to eliminate gender stereotypes.</p> <p>...</p> <p>35. The Committee expresses concern that women from ethnic minority groups and disabled women face multiple forms of discrimination with respect to access to education, employment and health care and are victims of violence. The Committee regrets the lack of information and data in the report about those groups of women.</p> <p>36. The Committee calls on the State party to integrate attention to disabled women and women from ethnic minority groups into national policies, plans and programmes as well as to</p>	
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		implement specific measures to eliminate discrimination against those groups of women. The Committee requests the State party to provide in its next report data and information on the situation of disabled women and women from ethnic minority groups, including with regard to education, employment and health care.	
<p>China</p> <p>CRC/C/OPSA/CO/2 (2005)</p> <p>CEDAW/C/CHN/CO/6 (2006)</p> <p>CESCR: E/C.12/1/Add.107 (2005)</p>	<i>No comments relating to disability</i>	<i>No comments relating to disability</i>	<p><u>China</u></p> <p><u>Principle Subjects of Concern</u></p> <p>16. The Committee is concerned about the reported persistence of discrimination against persons with physical and mental disabilities, especially in terms of employment, social security, education and health.</p> <p>...</p> <p>35. The Committee is concerned about the significant number of persons, especially women, who suffer from mental illnesses and about the inadequacy of measures to ensure a decent life for persons suffering from mental illnesses. The Committee is also concerned that, in addition to suffering social stigmatization, persons with mental illnesses often spend a long</p>

			<p>time in psychiatric facilities, where they live in sub-standard conditions and receive sub-standard treatment and care. The Committee also notes that suicide among women is alarmingly high in the State party.</p> <p><u>Suggestions and Recommendations:</u></p> <p>47. The Committee recommends that the State party adopt effective measures to ensure equal opportunities for persons with disabilities, especially in the fields of employment, social security, education and health, to provide for more appropriate living conditions for persons with disabilities and to allocate adequate resources for improving the treatment of, and care for, persons with disabilities. The Committee requests the State party to provide detailed information in its second periodic report on the measures undertaken with regard to persons with physical and mental disabilities.</p> <p>64. The Committee recommends that the State party allocate adequate resources and undertake</p>
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			<p>effective measures for the treatment of, and care for, persons with mental illnesses, and to ensure that appropriate standards are established and enforced in psychiatric facilities to prevent maltreatment and neglect of mentally ill patients. The Committee also recommends that the State party conduct a study regarding factors and causes of the high rate of suicide among women, and report back to the Committee on its findings in its next periodic report.</p> <p><u>Hong Kong Special Administrative Region</u> <u>Positive Aspects</u></p> <p>74. The Committee welcomes the extensive efforts made by HKSAR, including sensitization campaigns, to combat prejudices and discrimination against persons with physical and mental disabilities.</p> <p><u>Principle Subjects of Concern</u> <u>...</u> (e) The exclusion of many individuals, including women who are homemakers, persons with disabilities and older persons, from</p>
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			<p>the Mandatory Provident Fund Scheme, due to their inability to make sufficient voluntary contributions;</p> <p><u>Macau Special Administrative Region</u> <u>Principle Areas of Concern</u></p> <p>111. The Committee expresses its concern that persons with disabilities are not sufficiently integrated in the labour market.</p> <p><u>Suggestions and Recommendations:</u></p> <p>121. The Committee recommends that MSAR take effective measures to promote the integration of people with disabilities into the labour market, including by providing incentives to employers and strengthening the system of job quotas for persons with disabilities.</p>
<p>Hong Kong (now included under China)</p> <p>U.N. Doc. CRC/C/15/Add.56 (1996).</p>	<p>B. <u>Positive aspects</u></p> <p>4. Note is taken of the enactment of the Parent and Child Ordinance in</p>	<p><i>Included under China</i></p>	<p><i>Included under China</i></p>

	<p>1993 which removes legal disadvantages that previously applied to illegitimate children. The Committee also welcomes the adoption of the Disability Discrimination Ordinance aimed at promoting the integration of persons with a disability into the community.</p> <p>24. The Committee would like to suggest that further consideration be given to evaluating the effectiveness of measures to raise awareness for the prevention and combating of discrimination and promoting tolerance, particularly with respect to discrimination on the grounds of gender, ethnic origin, discrimination against disabled children and children born out of wedlock.</p> <p>29. With respect to improving the situation of disabled children, the Committee encourages the efforts being undertaken to integrate disabled children into regular schools, including through investment in structural changes to schools and support to the training of teachers to assist them in adjusting and adapting their teaching methods to the needs of disabled children.</p>		
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<p>India</p> <p>CRC/C/15/Add.228 (2004)</p> <p>CEDAW/C/IND/CO/3 (2007)</p> <p>CESCR/E/C.12/IND/CO/5 (2008)</p>	<p><u>Previous recommendations of the Committee</u></p> <p>5. The Committee regrets that some of the concerns it expressed and the recommendations it made (CRC/C/15/Add.115) after its consideration of the State party's initial report (CRC/C/28/Add.10) have been addressed not to a sufficient extent, inter alia those contained in paragraphs 13 (implementation of legislation); 15 (coordination); 17 and 19 (monitoring); 29, 31, and 33 (non-discrimination); 37 (birth registration); 39-41 (torture); 45 (violence) 47 (children with disabilities); 49 and 51 (basic health); 53 and 55 (standard of living); 57-60 (education); 64 (armed conflict); 66-71 (child labour); and 80-82 (administration of juvenile justice).</p> <p><u>Children with disabilities</u></p> <p>56. The Committee notes the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 and that the 2001 census took into account</p>	<p><u>Positive aspects</u></p> <p>4. The Committee commends the State party on its</p> <p>(a) National Policy on the Empowerment of Women, 2001, which, among other things, commits to ensure that all marriages are registered by 2010;</p> <p>(b) Women Component Plan in the national budget, where 30 per cent of planned development expenditure in all sectors is to be spent on women;</p> <p>(c) National Policy on Persons with Disabilities, 2005; and</p> <p>(d) National Rural Employment Guarantee Act, 2005.</p>	<p><u>Positive Aspects</u></p> <p>The Committee welcomes the ratification, by the State party, of: the Convention on the Rights of Persons with Disabilities, in 2007; the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, in 2005; and the ILO Convention No.105 on Abolition of Forced Labour, in 2000.</p> <p><u>Principle Subjects of Concern</u></p> <p>1. The Committee is deeply concerned that in spite of the Constitutional guarantee of non-discrimination as well as the criminal law provisions punishing acts of discrimination, widespread and often socially accepted discrimination, harassment and/or violence persist against members of certain disadvantaged and marginalized groups, including women, scheduled castes and</p>

	<p>disability, but remains concerned at the lack of statistical data and of a comprehensive policy for disabled children, the existence of discrimination, which is still widespread. Concern is also expressed at the limited facilities and services for children with disabilities and at the limited number of trained teachers to work with children with disabilities, as well as the insufficient efforts made to facilitate their inclusion into the educational system and generally within society. The Committee also notes with concern that inadequate resources have been allocated to special education programmes for children with disabilities.</p> <p>57. In line with its previous recommendations (Ibid., para. 47) and in light of the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the recommendations adopted by the Committee at its day of general discussion on the rights of children with disabilities (CRC/C/69), it is recommended that the State party:</p> <p>(a) Establish a comprehensive policy</p>		<p>scheduled tribes, indigenous peoples, the urban poor, informal sector workers, internally displaced persons, religious minorities such as the Muslim population, persons with disabilities and persons living with HIV/AIDS. The Committee is also concerned about the obstacles faced by the victims in accessing justice, including the high costs of litigation, the long-delays in court proceedings and the non-implementation of court decisions by government authorities.</p> <p><u>Suggestions and Recommendations:</u></p> <p>1. The Committee recommends the State party to significantly increase its healthcare expenditure, according the highest priority to reducing maternal and infant mortality rates and to preventing and treating serious communicable diseases, including HIV/AIDS. The Committee further recommends that the State party take effective measures to fully implement the National Rural Health Mission (2005-2012) and ensure the quality, affordability and accessibility of health services</p>
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	<p>for children with disabilities;</p> <p>(b) Take effective measures to collect adequate and disaggregated statistical data on children with disabilities and use such data in developing policies and programmes to prevent disabilities and to assist disabled children;</p> <p>(c) Reinforce its efforts to develop early detection programmes to prevent and remedy disabilities;</p> <p>(d) Establish special education programmes for disabled children and include them in the regular school system to the extent possible;</p> <p>(e) Undertake awareness-raising campaigns to sensitize the public, and parents in particular, about the rights and special needs of children with disabilities, including those with mental health concerns;</p> <p>(f) Increase resources, both financial and human, for special education, including vocational training, and the support given to families of children with disabilities;</p> <p>(g) Seek technical cooperation for the training of professional staff,</p>		<p>without hidden costs, especially for disadvantaged and marginalised individuals and groups. In this respect, the Committee draws the attention of the State party to its General Comment No. 14 on the right to the highest attainable standard of health (2000) and requests the State party to provide detailed information, on a disaggregated and comparative basis, regarding the progress it has achieved in this regard in its next periodic report. The Committee also recommends the State party to undertake a systematic assessment of policy measures and the realities of mental illness in the State party with a view to improving the treatment of and care for persons with mental illnesses.</p>
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	including teachers, working with and for children with disabilities from, among others, WHO.		
Indonesia CRC/C/15/Add.223 (2004) CEDAW/C/IDN/CO/5 (2007)	<u>Data collection</u> 22.The Committee welcomes the various data provided in the supplementary report, inter alia on day care, education, neglected children, street children and disabled children. However, the Committee remains concerned at the lack of an adequate data-collection mechanism within the State party to permit the systematic and comprehensive collection of disaggregated quantitative and qualitative data for all areas covered by the Convention. Children with disabilities. 53. While acknowledging the development of special services and rehabilitation centres for children with disabilities, the Committee is concerned that only very few children with disabilities have access to these services. 54. The Committee recommends that the State party: (a) Ensure that adequately disaggregated and comprehensive	40. The Committee requests that information be provided in the next report about the situation of older women and women with disabilities.	<i>Indonesia is party to the ISCESCR but has not submitted a report.</i>

	<p>data are collected and used for the development of policies and programmes for children with disabilities;</p> <p>(b) Review the situation of these children in terms of their access to suitable health care, education services and employment opportunities and allocate adequate resources to strengthen services for children with disabilities, support their families and train professionals in the field;</p> <p>(c) Take note of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex) and of the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities (CRC/C/69, paras. 310-339); and</p> <p>(d) Seek assistance from, among others, UNICEF and WHO.</p>		
<p>Japan</p> <p>CRC: U.N. Doc. CRC/C/15/Add.231 (2004)</p>	<p><u>Non-Discrimination</u></p> <p>24. The Committee is concerned that legislation discriminates against</p>	<p><i>No comments relating to disability</i></p>	<p><u>Principle Subjects of Concern:</u></p> <p>25. The Committee notes with concern that discrimination against</p>

<p>CEDAW: U.N. Doc. A/58/38, paras.337–378 (2003)</p> <p>CESCR: E/C.12/1/Add.67 (2001)</p>	<p>children born out of wedlock and that societal discrimination persists against girls, children with disabilities, Amerasian, Korean, Buraku and Ainu children and other minority groups, and children of migrant workers.</p> <p>25. The Committee recommends that the State party amend its legislation in order to eliminate any discrimination against children born out of wedlock, in particular, with regard to inheritance and citizenship rights and birth registration, as well as discriminatory terminology such as "illegitimate" from legislation and regulations. The Committee recommends that the State party undertake all necessary proactive measures to combat societal discrimination and ensure access to basic services, in particular, for girls, children with disabilities, Amerasians, Koreans, Buraka, Ainu and other minorities, children of migrant workers and refugee and asylum-seeking children, through, inter alia, public education and awareness campaigns.</p> <p><u>Children with disabilities</u></p> <p>43. The Committee is concerned that</p>		<p>persons with disabilities continues to exist in law and practice, particularly in relation to labour and social security rights.</p> <p><u>Suggestions and Recommendations:</u></p> <p>52. The Committee recommends that the State party abolish discriminatory provisions in statutes and that it adopt a law against all kinds of discrimination relating to persons with disabilities. It further urges the State party to continue, and speed up, progress in enforcing the employment rate for persons with disabilities in the public sector that is provided in legislation.</p>
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	<p>children with disabilities, including mental disabilities, remain disadvantaged in the enjoyment of their rights guaranteed by the Convention, and are not fully integrated into the education system as well as other recreational or cultural activities.</p> <p>44. Taking into account the Committee's 1997 day of general discussion on "The rights of children with disabilities" (CRC/C/66, annex V) and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96 of 20 December 1993), the Committee recommends that the State party:</p> <p>(a) In collaboration with children with disabilities and relevant non-governmental organizations, review all policies affecting children with disabilities to ensure that they meet the needs of children with disabilities and are in accordance with the Convention and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities;</p> <p>(b) Promote greater integration of children with disabilities in education and recreational and cultural</p>		
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	<p>activities;</p> <p>(c) Increase the human and financial resources allocated to special education and services for children with disabilities.</p>		
<p>Democratic People's Republic of Korea</p> <p>CRC/C/15/Add.239 (2004)</p> <p>CEDAW/C/PRK/CO/1 (2005)</p> <p>CESCR: E/C.12/1/Add.95 (2003)</p>	<p><u>New Legislation</u></p> <p>3. The Committee notes with appreciation the adoption of the following laws aimed at enhancing the implementation of the Convention:</p> <p>(a) The Education Law, adopted in 1999, ensuring free compulsory education for 11 years, including for children with disabilities;</p> <p>(b) The Law on the Protection of Disabilities, adopted in 2003, ensuring equal access for persons with disabilities to public places, transportation and public services; and</p> <p>(c) The Law on Complaints and Petitions adopted in 1998.</p> <p><u>Non- discrimination</u></p>	<p><i>No comments relating to disability</i></p>	<p><u>Principle Subjects of Concern</u></p> <p>25. The Committee remains concerned that children with disabilities, whenever possible, are not included in the regular school system.</p> <p><u>Suggestions and Recommendations</u></p> <p>37. The Committee encourages the State party to provide in its third periodic report data on the conditions for entitlement under the social security system, including for family benefits, benefits for persons with disabilities, and pensions for older persons.</p> <p>46. The Committee recommends that the State party change the present system concerning the education of children with</p>

	<p>27. The Committee is concerned that some groups of children, including children with disabilities, children belonging to different social groups, and children living in rural and remote areas, suffer from disparities in accessing basic services. In some instances, girls still suffer from prejudicial stereotypes.</p> <p>28. The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and to adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against all vulnerable groups. The Committee requests the State party to pay particular attention to children with disabilities, children belonging to different social groups, and those living in rural and remote areas, as well as to preventing and combating prejudicial stereotypes against girls and women.</p> <p><u>Children with Disabilities</u></p> <p>48. The Committee notes with appreciation the new legislation enacted in 2003 to protect the rights of</p>		<p>disabilities by allowing these children to be educated in the regular school system. Moreover, the State party should take measures to raise awareness among students, teachers and families of the special needs of these children and train teachers to assist them effectively in regular classes.</p>
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	<p>disabled persons and the active work undertaken since 1998 by the Korean Association for Supporting the Disabled, including its first survey. It remains nevertheless concerned at the very poor living conditions of the disabled their lack of integration in schools and society at large, the lack of recovery measures, and at prevailing discriminatory attitudes toward them in society.</p> <p>49. In line with the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the recommendations adopted by the Committee at its day of general discussion on the rights of children with disabilities (CRC/C/69), it is recommended that the State party:</p> <p>(a) Establish a comprehensive and inclusive policy for children with disabilities;</p> <p>(b) Take effective measures to collect adequate and disaggregated statistical data on children with disabilities and use such data in developing policies and programmes to prevent disabilities and to assist disabled children;</p>		
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	<p>(c) Reinforce its efforts to develop early detection programmes to prevent and remedy disabilities;</p> <p>(d) Establish special education programmes for disabled children and integrate them in the regular school system to the extent possible;</p> <p>(e) Undertake awareness-raising campaigns to sensitize the public, and parents in particular, about the rights and special needs of children with disabilities, including those with mental health concerns;</p> <p>(f) Increase resources, both financial and human, for special education, including vocational training, and the support given to families of children with disabilities;</p> <p>(g) Seek technical cooperation from, among others, UNICEF and WHO for the training of professional staff, including teachers working with children with disabilities.</p>		
<p>Republic of Korea</p> <p>CRC/C/15/ Add.197 (2003)</p> <p>CEDAW/C/KOR/CO/6</p>	<p><u>Previous Recommendations</u></p> <p>7. The Committee regrets that most recommendations in the concluding observations (CRC/C/15/Add.51),</p>	<p><i>No comments relating to disability</i></p>	<p><u>Principle Subjects of Concern</u></p> <p>24. The Committee notes with concern that despite the State party's attempts to promote</p>

<p>(2007)</p> <p>CESCR: E/C.12/1/Add.59 (2001)</p>	<p>adopted following its consideration of the State party's initial report (CRC/C/8/Add.21), have been insufficiently addressed, particularly those regarding:</p> <p>(a) The withdrawal of reservations (para. 19);</p> <p>(b) The development of public education campaigns to combat discriminatory attitudes towards girls, disabled children and children born out of wedlock (para. 20);</p> <p>(c) Measures to promote participation of children in family, school and social life (para. 26);</p> <p>(d) The prohibition of all forms of corporal punishment (para. 22);</p> <p>(e) A review of the State party's education policy with a view to reflecting fully the aims of education set out in article 29 of the Convention (para. 29).</p>		<p>employment of the disabled, the previous 2 per cent quota for workers with disabilities in enterprises employing over 300 employees has not been met, even within government agencies. The Committee is also concerned that enforcement mechanisms for this purpose do not seem to have been established.</p>
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	<p><u>Non-discrimination</u></p> <p>31.The Committee notes with concern the absence of information in the State party's report on racial discrimination, and the limited amount of information regarding acts of discrimination against children from single parent families, children born out of wedlock, children with disabilities, girls and migrant families. It is also concerned that the Constitution does not explicitly prohibit discrimination on the grounds of race, colour, language, political or other opinion, national or ethnic origin, disability, birth or other status, as stated in the Convention.</p> <p>32.The Committee recommends that the State party enact legislation explicitly prohibiting discrimination in order to include all grounds enumerated in article 2 of the Convention. In addition, the Committee recommends that the State party undertake all necessary proactive measures to combat societal discrimination, in particular against children from single parent families, children born out of wedlock, children with disabilities, children of migrant workers and girls through,</p>		
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	<p>inter alia, public education and awareness campaigns.</p> <p><u>Children with disabilities</u></p> <p>50.The Committee is extremely concerned that societal discrimination against children is widespread and prevents these children from enjoying their right to “a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation”. In particular, it is concerned at reports that a significant number of children with disabilities are abandoned each year, that many cannot attend school and when they do attend school they are segregated from other students.</p> <p>51.The Committee recommends that the State party, in accordance with the recommendations arising from the Committee’s day of general discussion, held in 1997, on children with disabilities, and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex):</p> <p>(a)Take effective measures to combat the culture of discrimination against children with disabilities, including</p>		
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	<p>through awareness-raising and education campaigns aimed at parents, children, teachers and the general public;</p> <p>(b) Undertake a comprehensive survey of the number of children with disabilities, including those currently not attending school, which assesses their educational needs and access to education and other social services;</p> <p>(c) Expand existing programmes aimed at improving the physical access of children with disabilities to public buildings and areas, including schools and recreational facilities, and increase the number of integrated education programmes at pre-primary, primary, secondary and tertiary levels.</p>		
<p>Lao People's Democratic Republic</p> <p>U.N. Doc. CRC/C/15/Add.78 (1997)</p> <p>CEDAW/C/LAO/CC/1-5 (2005)</p>	<p>B. <u>Positive aspects</u></p> <p>3. The Committee takes note of the political will of the State party to promote and protect the rights of the child, and its efforts to develop and implement a socio-economic development programme for the year 2000. The Committee welcomes the efforts made by the State party in</p>	<p><i>No comments relating to disability</i></p>	<p><i>Laos in a party to the ICESCR but has not submitted a report.</i></p>

	adopting its "Education For All" action plan, its efforts in the area of immunization, as well as combating iodine deficiency, and its project on mainstream education for disabled children.		
Malaysia CRC/C/MYS/CO/1 (2007) CEDAW/C/MYS/CO/2 (2006)	<u>Children with disabilities</u> 60. The Committee notes with appreciation that a number of measures have been taken by the State party to improve the situation of children with disabilities, particularly the establishment of community based rehabilitation centres which provide diagnosis, rehabilitation, treatment and special education for children with disabilities. The Committee is encouraged by the information that the State party is in the process of finalizing a national policy on persons with disabilities, including a plan of action. Nevertheless, the Committee regrets the insufficient official data on the number of children with disabilities in the State party and that children with disabilities living in remote areas do not have access to the same level of services as children living in other parts of the country.	<i>No comments relating to disability</i>	<i>Malaysia is not party to the ICESCR.</i>

	<p>61. The Committee recommends that the State party, taking into account the Committee's General Comment No. 9 (2006) on the rights of children with disabilities (CRC/C/GC/9), take all necessary measures to:</p> <p>(a) Reinforce its efforts to adopt the national policy on persons with disabilities, including the national plan of action, and consider formulating a Bill on persons with disabilities;</p> <p>(b) Collect adequate statistical data on children with disabilities and ensure the use of such data in the development of policies and programmes for these children;</p> <p>(c) Provide children with disabilities with equal access to adequate social and health services, including psychological and counseling services, and tailored services for children with learning difficulties and behavioural disorders, and raise awareness about all services available;</p> <p>(d) Continue and increase the provision of community based programmes and services in order to allow children with disabilities to stay at home with their families; and</p>		
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	(e) Sign and ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol once open for ratification.		
Maldives CRC/C/MDV/CO/3 (2007) CEDAW/C/MDV/CO/3 (2007)	<u>Committee's previous recommendations</u> 7. The Committee notes the State party's efforts to address various concerns and recommendations (CRC/C/15/Add.91) made upon the consideration of the State party's initial report (CRC/C/8/Add.33 and 37) through legislative measures and policies. However, some of the concerns it expressed and recommendations it had made regarding, inter alia, the State party's reservations, harmonization of domestic legislation to fully comply with the provisions and principles of the Convention, discrimination against children with disabilities, children born out of wedlock and girls, the prevention of ill-treatment of children, including sexual abuse, the prevalence of malnutrition, the issue of drug abuse and the administration of juvenile justice, have not been sufficiently addressed. <u>Data collection</u>	<i>No comments relating to disability</i>	<i>Maldives is party to the ICESCR but has not submitted a report.</i>

	<p>23. The Committee welcomes the establishment of “Maldives Info” and it notes with appreciation the efforts of the Ministry of Gender and Family to gather information, in collaboration with the United Nations Children’s Fund (UNICEF), on the situation of children and the significant improvements in data collection, particularly in Malé. Nevertheless, the Committee regrets the lack of a national data collection system in respect of all areas covered by the Convention, which limits the State party’s capacity to adopt adequate policies and programmes and assess the impact of policies adopted, in particular with regard to children living in atolls which are isolated. The Committee notes with concern that the progress in data collection is impeded by the lack of adequately trained personnel and insufficient coordination between State authorities and child welfare agencies.</p> <p>24. The Committee recommends that the State party:</p> <p>(a) Intensify its efforts to establish a national central database on children and develop indicators consistent with the Convention in order to</p>		
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	<p>ensure that data are collected on all areas covered by the Convention and that they are disaggregated, for example, by age, sex, urban and remote areas, and by those groups of children who are in need of special protection (i.e. children living in underserved geographical areas, children with disabilities, children born out of wedlock, child victims of violence, abuse and exploitation, malnourished children, child victims of substance abuse, children in conflict with the law, etc.);</p> <p>(b) Use these indicators as well as collected data to facilitate the formulation of policies and programmes for the implementation of the Convention;</p> <p>(c) Continue providing relevant professional groups with training on data collection and strengthen coordination between the various governmental bodies and mechanisms involved in children's rights both the national and local level;</p> <p>(d) With regard to the current UNICEF Country Programme of Cooperation, continue to seek technical cooperation for improving</p>		
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	<p>the collection and management of disaggregated data from UNICEF.</p> <p><u>Discrimination</u></p> <p>37. The Committee remains concerned about the de facto discrimination faced by children with disabilities. It notes with concern that children with disabilities have limited access to social and health-care services and that they have very few opportunities for inclusive education. In addition, the Committee shares the State party's concern that social stigma continues to influence the treatment of children with disabilities and limits their ability to participate in society.</p> <p>38. The Committee recommends that the State party, taking into account the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's General Comment No. 9 (2006) on the rights of children with disabilities (CRC/C/GC/9), prevent and prohibit all forms of discrimination against children with disabilities and ensure equal opportunities for their full participation in all spheres of life by implementing the Section 5 of Law</p>		
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	<p>No. 9/91 and other relevant provisions of domestic laws. The Committee further recommends that the State party include disability aspects in all relevant policymaking and national planning.</p> <p><u>Children with disabilities</u></p> <p>65. The Committee is encouraged by the State party's efforts to draft a National Disability Policy with several stakeholders. However, it is concerned that efforts aimed at detecting disabilities and providing early-intervention services for children with disabilities may not be adequate in the State party. It notes with concern that the lack of adequate and appropriate services, financial resources as well as specialized, trained personnel continues to be a significant obstacle with respect to the full enjoyment of all human rights and fundamental freedoms by children with disabilities. It also notes with concern that the few services available are neither standardized nor adequately monitored or evaluated. The Committee regrets that a very limited number of children with disabilities are included in the mainstream education. In addition, it notes with concern that civil society</p>		
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	<p>organizations providing recovery services do not have adequate human, technical and financial resources.</p> <p>66. The Committee recommends that the State party, taking into account the Committee's General Comment No. 9 (2006) on the rights of children with disabilities (CRC/C/GC/9), take all necessary measures:</p> <p>(a) To collect adequate statistical data on children with disabilities and use such disaggregated data in developing a comprehensive and specific national policy on disability which promotes equal opportunities of persons with disabilities in society;</p> <p>(b) To provide children with disabilities with access to adequate and standardized social and health services, including early-intervention, psychological and counseling services, and to adequate physical environment, information and communication;</p> <p>(c) To monitor and evaluate the quality of services for children with disabilities and raise awareness about all services available;</p> <p>(d) To ensure that public education</p>		
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	<p>policy and school curricula reflect in all their aspects the principle of full participation and equality and include children with disabilities in the mainstream school system to the extent possible and, where necessary, establish special education programmes tailored to their special needs;</p> <p>(e) To support and expand the Community Rehabilitation Program (CBR) in collaboration with CARE Society and other civil society organizations in order to encourage and assist island communities to establish their own rehabilitation programs and parent support groups;</p> <p>(f) To ensure that professionals working with and for children with disabilities, such as medical, paramedical and related personnel, teachers and social workers are adequately trained;</p> <p>(g) To sign and ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol;</p> <p>(h) To seek technical cooperation with, among others, UNICEF and WHO.</p>		
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<p>Mongolia</p> <p>CRC/C/15/Add.263 (2005)</p> <p>CEDAW: A/56/38, paras.234-278 (2001)</p> <p>CESCR: E/C.12/1/Add.47 (2000)</p>	<p><u>Positive Aspects</u></p> <p>3. The Committee takes note of the adoption of laws aimed at protecting and promoting the rights of the child such as:</p> <p>(a) The adoption of, in 1996, the Law on Protection of Child Rights which provides a legal framework for actions concerning special protection of children;</p> <p>(b) The adoption of, in 1998, the Social Welfare Law, which defines the types and scope of social benefits for, inter alia, orphans without legal guardians and children with disabilities;</p> <p>(c) The adoption of, in 1998, the Health Law, which provides, inter alia, children with specialized medical care;</p> <p>(d) The adoption of, in 1999, the Labour Code which regulates, inter alia, the employment of minors and their work conditions;</p> <p>(e) The adoption of, in 1999, the Family Law which stipulates, inter alia, the parental responsibilities, adoption, custody and alimony;</p>	<p><i>No comments relating to disability.</i></p>	<p><i>No comments relating to disability.</i></p>
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	<p>(f) The adoption of, in 2000, the Law on the National Human Rights Commission of Mongolia and the establishment of that;</p> <p>(g) The revision of, in 2002, the Criminal Procedure Law, which introduced separate sections on offences committed by juveniles and on crimes against children, family and society; and</p> <p>(h) The adoption of, in 2004, of the Law against Domestic Violence with the aim to combat and prevent domestic violence and to protect of human rights of victims, including child victims.</p> <p>4. With regard to the rights and status of children in Mongolia, the Committee notes with appreciation the State party's continuous efforts to emphasize the importance of this issue by declaring several thematic years, such as the Year of the Child in 1997, the Youth Year in 1998, the Year for the Development of Children in 2000, the Year of Support for Disabled Citizens in 2001 and by organizing the National Summit on Children in 2004. The Committee also notes with satisfaction the State party's efforts to increase its budgetary allocations for</p>		
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	<p>children's social services.</p> <p><u>Committee's previous recommendations</u></p> <p>7. The Committee notes with satisfaction that various concerns and recommendations (CRC/C/15/Add.99) made upon the consideration of the State party's initial report (CRC/C/3/Add.46) have been addressed through legislative measures and policies. However, some of the concerns it expressed and recommendations it had made regarding, inter alia, school drop-out among boys in rural areas and to prevent their involvement in child labour (para.23), to reinforce the access to basic services for children (health, education and social care) in rural areas (para.23), to reinforce the access to basic services for children with disabilities throughout the country (para.23), the promotion and protection of the rights of refugee children (para.26), the judicious distribution of resources at central and local levels (para.27) and the rights of children in conflict with law (para.29), have not been sufficiently addressed.</p> <p><u>Data collection</u></p>		
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	<p>17. The Committee acknowledges that the economic transition period in Mongolia has necessitated significant changes in its statistical system. The Committee notes with appreciation the State party's efforts in the compilation of statistics, such as "the Child and Development Survey 2000" which provides, inter alia, base-line data for the Second National Plan of Action for Children 2002-2010. Notwithstanding the positive steps taken by the State party, the Committee expresses its concern that data collection is not sufficiently developed and is not disaggregated for all areas covered by the Convention.</p> <p>18. The Committee recommends that the State party:</p> <p>(a) Continue to develop its systematic data collection within the national statistical system to cover all children up to the age of 18 years, with specific emphasis on those who are in a particularly vulnerable position, such as children with disabilities, children living in extreme poverty, children living in rural areas, migrant children, child victims of abuse or illtreatment, street children, children in conflict</p>		
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	<p>with law and children belonging to minorities, and all areas of the Convention;</p> <p>(b) Ensure that all data and indicators are used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention;</p> <p>(c) Seek innovative ways to publish these statistics and make statistical information widely available to the public;</p> <p>(d) Continue its collaboration with, among others, UNICEF in this respect.</p> <p><u>Non-discrimination</u></p> <p>22. The Committee appreciates the measures taken to promote the principle of nondiscrimination of children, such as the enactment in 1992 of the Constitution of Mongolia and in 1996 of the Law on Protection of Child Rights, which both guarantee that all children are of equal status in the application of the Mongolian legislation. But the Committee is concerned at the persistent de facto discrimination faced by children with</p>		
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	<p>disabilities, children living in poverty, children in conflict with law, street children, children living in rural areas and also children who have migrated from the rural areas and are living in the capital without official registration, especially with regard to their access to adequate social and health services and educational facilities.</p> <p><u>Children with disabilities</u></p> <p>41. The Committee expresses its grave concern about the situation of children with disabilities and regrets that discrimination against them exists. While noting that the majority of services for children with disabilities exist in the urban area, the Committee is particularly concerned for children with disabilities living in rural areas of the country and the difficult socio-economic circumstances faced by them. While taking note of the laws regulating the rights of persons with disabilities and the National Action Program for the Improvement of Livelihood of Disabled Citizens, adopted in 1999, the Committee is concerned about the lack of effective policies, basic services and coordination supporting the children with disabilities. The</p>		
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	<p>Committee notes with concern the lack of a legal framework to provide children with disabilities with access to the physical environment. The Committee also notes with concern that the high number of children with disabilities do neither have adequate access to social and health services nor to education. Furthermore, the Committee expresses its concern about the lack of adequate statistical data on children with disabilities and the existing prejudices against children with disabilities.</p> <p>42. The Committee urges the State party, taking into account the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the recommendations adopted by the Committee on its day of general discussion on the rights of children with disabilities (see CRC/C/69):</p> <p>(a) To initiate and plan a comprehensive national policy for children with disabilities and to allocate necessary financial and human resources to implement the plan;</p> <p>(b) To collect adequate and</p>		
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	<p>disaggregated statistical data on children with disabilities and use such data in developing policies and programmes to promote their equal opportunities in society paying particular attention to children with disabilities living in rural areas of the country;</p> <p>(c) To prevent and prohibit all forms of discrimination against children with disabilities and ensure equal opportunities for their full participation in all spheres of life;</p> <p>(d) To take all necessary measures to include children with disabilities in the mainstream school system to the extent possible and, where necessary, to establish special education programmes tailored for their special needs;</p> <p>(e) To take measures to provide children with disabilities with access to the physical environment, information and communication;</p> <p>(f) Due to the deeply rooted misbeliefs and prevailing prejudices against children with disabilities in Mongolian society, to raise awareness on children with disabilities, including their rights, special needs</p>		
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	and potential, in order to change negative public attitudes.		
Myanmar CRC/C/15/Add.237 (2004) CEDAW: A/55/38, paras.91-138 (2000)	<u>Data Collection</u> 22. The Committee recommends that the State party develop a system of data collection and indicators consistent with the Convention, accurate, and disaggregated by gender, age, and urban and rural area. This system should cover all children up to the age of 18 years with specific emphasis on those belonging to the most disadvantaged groups, including children belonging to ethnic minority groups, children in poverty, children living in remote and border areas, disabled children, street children, and children placed in institutions. It further encourages the State party to use these indicators and data for formulation of policies and programmes for the effective implementation of the Convention. <u>The right to non-discrimination</u> 27. The Committee notes that the principle of non-discrimination is included in the 1993 Child Law but	<i>No comments on disability.</i>	<i>Myanmar is not a party to the ICESCR.</i>

	<p>remains concerned that discrimination, contrary to article 2 of the Convention, still exists in Myanmar. In particular, the Committee is concerned about discrimination against girls and vulnerable children such as children with disabilities, children from remote and border areas, children belonging to religious minorities and children with low status citizenship (see paras. 34-35).</p> <p><u>Children with disabilities</u></p> <p>50. The Committee is concerned at the lack of statistical data and of a comprehensive policy for disabled children, who continue to face widespread discrimination. Concern is also expressed at the limited facilities and services for children with disabilities, especially those in rural and remote areas, and the limited number of trained teachers to work with children with disabilities. Efforts made to facilitate their inclusion into the educational system and the society at large remain insufficient.</p> <p>51. In line with the United Nations Standard Rules on the Equalisation of Opportunities for Persons with</p>		
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	<p>Disabilities (General Assembly resolution 48/96) and the recommendations adopted by the Committee at its day of general discussion on the rights of children with disabilities (CRC/C/69), it is recommended that the State party:</p> <p>(a) Take effective measures to collect adequate and disaggregated data on children with disabilities and use such data to establish a comprehensive policy and appropriate programmes to prevent disabilities and to assist children with disabilities;</p> <p>(b) Reinforce its efforts to develop early detection programmes to prevent and remedy disabilities;</p> <p>(c) Establish special education programmes for disabled children and include them in the regular school system to the extent possible;</p> <p>(d) Undertake awareness-raising campaigns to sensitise the public, and parents in particular, about the rights and special needs of children with disabilities, including those with mental health concerns;</p> <p>(e) Allocate further resources for special education, including</p>		
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	<p>vocational training, and for the support given to families of children with disabilities; and</p> <p>(f) Seek technical cooperation for the training of professional staff working with and for children with disabilities from, inter alia, UNICEF and WHO.</p>		
<p>Nepal</p> <p>CRC/C/15/Add.261 (2005)</p> <p>CEDAW: A/59/38, paras.189-225 (2004)</p> <p>CESCR: E/C.12/NPL/CO/2 (2008)</p>	<p><u>Data collection</u></p> <p>29. The Committee is concerned at the absence of comprehensive and up-to-date statistical data in the State party and the lack of an adequate national data collection system on all areas covered by the Convention.</p> <p>30. The Committee recommends that the State party develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age, and in different parishes and dependencies. This system should cover all children up to the age of 18 years, with specific emphasis on those who are particularly vulnerable, including children living in poverty, children with disabilities and children from single-parent families. It further encourages the State party to use these indicators and data in the</p>	<p><i>No comments relating to disability</i></p>	<p><u>Suggestions and Recommendations</u></p> <p>52. The Committee encourages the State party to consider ratifying the Convention on the Rights of Persons with Disabilities. The Committee also encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.</p>

	<p>formulation of laws, policies and programmes for the effective implementation of the Convention. The Committee recommends that the State party seek technical assistance from, inter alia, UNICEF, in this regard.</p> <p><u>Non-discrimination</u></p> <p>35. While noting that discrimination is prohibited under the Constitution and other relevant legislation, as well as the various efforts undertaken by the State party to eliminate discrimination, the Committee reiterates its deep concerns about the widely prevailing de facto discrimination against girls and children belonging to the most vulnerable groups such as Dalit children, children belonging to indigenous or ethnic minority groups, refugee and asylum-seeking children, street children, children with disabilities and children living in rural areas. The Committee notes with grave concern that as a consequence of prevailing discriminatory attitudes, children belonging to vulnerable groups are particularly likely to fall victim to abuse and exploitation.</p> <p><u>Children with disabilities</u></p>		
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	<p>58. While acknowledging the development of a national policy on persons with disabilities and the existence of laws that provide for the rights of children with disabilities, including the 1982 Disabled Protection and Welfare Act, the 1971 Education Act and the 1992 Children's Act, and the establishment of a National Disability Service Coordination Committee in 2000 to develop and support programmes for persons with disabilities, the Committee remains concerned that:</p> <p>a) Implementation of these legislation and programmes have been ineffective and that the necessary resources have not been allocated by the State party;</p> <p>b) There is no national system for early detection and intervention with regard to children with disabilities; and</p> <p>c) Insufficient efforts have been made to facilitate the inclusion of children with disabilities into the educational system and society in general, including efforts to change traditional attitudes towards persons with disabilities and improve the access to</p>		
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	<p>information, medical facilities, etc.</p> <p>59. The Committee recommends that the State party:</p> <p>a) Expedite the process of establishing a comprehensive policy for children with disabilities and take the necessary measures, in particular, the provision of sufficient resources for an effective implementation;</p> <p>b) Conduct a study to identify causes of and ways to prevent disability and establish a national system for early detection, referral and intervention;</p> <p>c) Assess the situation of these children in terms of their access to suitable health care, education services and employment opportunities, and allocate adequate resources to strengthen services for children with disabilities, support their families and train professionals in the field;</p> <p>d) In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on the rights of children</p>		
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	<p>with disabilities (CRC/C/69, paras. 310-339), further encourage the integration of children with disabilities into the regular educational system and their inclusion into society, inter alia by giving more attention to special training for teachers and making the physical environment, including schools, sports and leisure facilities and all other public areas, accessible for children with disabilities; and</p> <p>e) Seek technical cooperation for the training of parents and professional staff working with and for children with disabilities including teachers, from, among others, UNICEF and WHO.</p> <p><u>6. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)</u></p> <p>75. While welcoming the development of the National Plan of Action on Education for All, and the Basic and Primary Education Master Plan, BPEP (1997-2002) and the BPEP II (1999-2004), the Committee is seriously concerned that primary education has not been made compulsory and that the target set by the State party to achieve universal</p>		
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	<p>primary education by 2000 was never met and has been extended to 2015. The Committee also remains concerned about the low public expenditure in education and structural lack of resources, largely responsible for the shortage of qualified teachers, poor physical infrastructure, overcrowding in schools and material shortages in school. The Committee is also concerned about the high rates of drop-out, and that significant inequality exists in access to education, in part due to the hidden costs associated with schooling, and that a large proportion of girls and children from disadvantaged backgrounds such as dalit children and children with disabilities remain deprived of educational opportunities.</p>		
<p>Pakistan</p> <p>CRC/C/15/Add.217 (2003)</p> <p>CEDAW/C/PAK/CO/3 (2007)</p>	<p><u>Non-discrimination</u></p> <p>29. While acknowledging the actions taken to address discrimination against girls in education, the Committee is concerned at the persistence of discriminatory social attitudes and discrimination against minority children and against girls, early and forced marriages, low school enrolment and high dropout</p>	<p>42. The Committee is especially concerned about the situation of women in rural areas, who often lack access to health care, education, clean water and sanitation services and to the means and opportunities for economic survival, including access to land. The Committee regrets the lack of information on</p>	<p><i>Pakistan is not a party to the ICESCR.</i></p>

	<p>rates, honour killings, mutilation and violence. Furthermore, the Committee is concerned at the disparities in the enjoyment of rights and the social discrimination experienced by children belonging to the most vulnerable groups, including children with disabilities, children belonging to a religious or other minority group and children living in rural areas.</p> <p>30. The Committee recommends that the State party:</p> <p>(a) Make greater efforts to ensure that, in accordance with article 2, all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, particularly girl children, children belonging to a religious or other minority group, children with disabilities and other vulnerable groups of children; and</p> <p>(b) Target social services at children belonging to the most vulnerable groups.</p> <p><u>Children with disabilities</u></p> <p>50. While being aware of the 49 special education centres and disabled-friendly cities initiatives, the</p>	<p>women with disabilities and measures taken to address their situation.</p> <p>43. The Committee urges the State party to pay special attention to the needs of rural women, ensuring that they are empowered in participating in decisionmaking processes and have access to health care, education, clean water and sanitation services and the means and opportunities for economic survival, including access to land. The Committee further requests the State party to provide, in its next report, detailed information on the situation of women with disabilities and of measures taken to address their situation.</p>	
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	<p>Committee remains concerned at the limited integration of children with disabilities in schools, social events and cultural activities and at the low level of support received by these children and their families.</p> <p>51. In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex) and of the Committee's recommendations adopted at its day of general discussion on the rights of children with disabilities (CRC/C/69, paras. 310-339), the Committee recommends that the State party continue and strengthen its efforts to integrate children with disabilities into education and recreational programmes currently used by children without disabilities, notably through the improvement of the physical access of children with disabilities to public service buildings, including schools.</p>		
<p>Philippines</p> <p>CRC/C/15/Add.259 21 September 2005</p> <p>CEDAW/C/PHI/CO/6</p>	<p><u>Data collection</u></p> <p>16. The Committee welcomes the various efforts to improve data collection but it remains concerned that in some areas covered by the</p>	<p><i>No comments relating to disability</i></p>	<p><i>No comments relating to disability</i></p>

<p>August 2006</p> <p>CESCR: E/C.12/1995/7 (1995)</p>	<p>Convention, including children with disabilities, migrant children, children living in extreme poverty, abused and neglected children, children within the justice system and children belonging to minorities and indigenous children, data are lacking or insufficient.</p> <p>17. The Committee recommends that the State party strengthen its existing mechanisms for data collection and develop indicators consistent with the Convention and, where necessary, establish additional mechanisms for data collection, in order to ensure that data are collected on all areas of the Convention and that these are disaggregated, inter alia, by age for all persons under 18 years, gender, urban and rural areas and by those groups of children who are in need of special protection. It further encourages the State party to use these indicators and data to formulate policies and programmes for the effective implementation of the Convention.</p> <p><u>Non-discrimination</u></p> <p>20. Notwithstanding the measures taken by the State party to eliminate</p>		
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	<p>discrimination against children, inter alia, through the implementation of the provisions of the Child and Youth Welfare Code (Presidential Decree No. 603), the Family Code and the Special Protection of Children against Child Abuse, Exploitation and Discrimination Act and several programmes, such as the Third Elementary Education Programme, the Committee is concerned about discrimination faced by many children, in particular children living in poverty, children with disabilities, indigenous and minority children, including Muslim children living in Mindanao, migrant children, street children and children living in rural areas as well as children living in areas of conflict, as regards their access, inter alia, to social and health services and education. The Committee is particularly concerned about the de facto discrimination faced by girls in everyday life, which is often multiple discrimination based on their gender. The Committee finally reiterates its concern about the unequal status of children born out of wedlock, particularly with regard to their right to inherit and their discriminatory classification as "illegitimate".</p>		
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	<p><u>Children with disabilities</u></p> <p>55. Welcoming the State party's efforts to eliminate discrimination against children with disabilities and to promote their integration into society with equal opportunities, inter alia, by implementing the Programme on Community-based Rehabilitation, the Committee is concerned about the de facto discrimination faced by children with disabilities and their invisible role in society. The Committee notes with concern the inadequate implementation of domestic disability legislation, for example, the Magna Charta for Disabled Persons (Republic Act No. 7277 enacted in 1992) and the relevant provisions of the Child and Youth Welfare Code, particularly at the local level. The Committee is concerned that many children with disabilities live in poverty and their access to social and health services and education is limited. Furthermore, deeply rooted misbeliefs and prevailing prejudices against children with disabilities in Philippine society give cause for concern.</p> <p>56. In the light of the United Nations Standard Rules on the Equalization of Opportunities for Persons with</p>		
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	<p>Disabilities (General Assembly resolution 48/96) and the recommendations adopted by the Committee on its day of general discussion on the rights of children with disabilities (see CRC/C/69), the Committee recommends that the State party take all necessary measures to:</p> <p>(a) Prevent and prohibit all forms of discrimination against children with disabilities and ensure equal opportunities for their full participation in all spheres of life by implementing the domestic disability legislation and the national Community-based Rehabilitation Programme and by including disability aspects in all relevant policymaking and national planning;</p> <p>(b) Collect adequate statistical data on children with disabilities and use such disaggregated data in developing policies and programmes to promote their equal opportunities in society paying particular attention to children with disabilities living in the most remote areas of the country;</p> <p>(c) Ensure that public education policy and school curricula reflect in all their aspects the principle of full participation and equality and include</p>		
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	<p>children with disabilities in the mainstream school system to the extent possible and, where necessary, establish special education programmes tailored to their special needs;</p> <p>(d) Provide children with disabilities with access to adequate social and health services and the physical environment, information and communication;</p> <p>(e) Strengthen its efforts to raise awareness on children with disabilities, including their rights, special needs and potential, in order to change negative attitudes, misbeliefs and prevailing prejudices against children with disabilities by initiating and supporting public information campaigns;</p> <p>(f) Ensure that professionals working with and for children with disabilities, such as medical, paramedical and related personnel, teachers and social workers are adequately trained;</p> <p>(g) Strengthen the functioning and activities of the National Council on the Welfare of Disabled Persons and cooperation with the National Federation of Organizations of</p>		
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	<p>Persons with Disabilities in the Philippines and the non-governmental organizations working in the field of disability issues;</p> <p>(h) Seek technical cooperation with, among others, UNICEF and the World Health Organization (WHO).</p> <p>57. Furthermore, the Committee encourages the State party to pay particular attention to the rights and status of children with disabilities in the context of the Philippine Decade of Persons with Disabilities 2003-2012 declared by Presidential Proclamation No. 240 in 2003.</p> <p><u>Education</u></p> <p>68. The Committee takes note of the State party's efforts to improve the standard and aims of education, including by implementing the new school curricula for elementary and secondary schools, and the curriculum for early childhood, the Education for All Programme of Action and the Child-friendly School System, in collaboration with UNICEF. Notwithstanding these positive steps taken, the Committee remains gravely concerned that there still remain <i>barangays</i> which are not</p>		
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	<p>able to provide children with elementary education and there are several vulnerable groups of children, such as children living in poverty, children with disabilities, child labourers, children in armed conflict, indigenous children, children infected with, or affected by, HIV/AIDS and street children, without equal access to elementary education. The Committee is concerned that the costs of schooling, such as meals, transportation, school uniforms and supplies, cause financial obstacles to many children from poor families and deny their equal access to education. The high rate of children not completing primary education gives cause for serious concern as well as the high drop-out rates in secondary education. The Committee also notes a low number of children enjoying early learning in preschools.</p> <p>70. In the light of articles 28 and 29 of the Convention and the Committee's general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party allocate adequate financial, human and technical resources in order to:</p> <p>(a) Increase budgetary allocations, governmental subsidies and</p>		
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	<p>assistance programmes for children from low-income families in order to secure their equal access to education of all levels;</p> <p>(b) Urgently take all necessary measures to ensure universal and free primary education for all and pay particular attention to the schooling opportunities in the most remote <i>barangays</i> and to the educational needs of children belonging to vulnerable groups, such as children living in poverty, children with disabilities, indigenous children, child labourers, children in armed conflict, children infected with or affected by HIV/ AIDS and street children, in order to fulfil their right to education;</p> <p>(c) Adopt effective measures to rapidly decrease the drop-out rate in primary and secondary school;</p> <p>(d) Provide access to early childhood education for every child making it affordable for poor families and raise awareness of the benefits of preschools and early-learning opportunities among parents;</p> <p>(e) Develop and upgrade the infrastructure of the educational system by building new schools and</p>		
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	<p>classrooms, developing textbooks and other school supplies, enhancing teacher training and adopting innovative and interactive learning methods tailored for children with different learning prerequisites;</p> <p>(f) Provide indigenous children and children belonging to minority groups with equal access to quality education which respects their distinct cultural patterns and uses local indigenous and minority languages in education through, inter alia, the Lingua Franca Project;</p> <p>(g) Continue its efforts to offer more facilities for informal learning and vocational training, including for children who have not completed primary and secondary education;</p> <p>(h) Continue its efforts to reduce the number of dropouts and increase the number of children completing secondary education;</p> <p>(i) Establish vocational schools that systematically prepare children in school for the requirements of the labour market and civic responsibilities;</p> <p>(j) Mainstream human rights,</p>		
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	<p>including children's rights, into the school curricula;</p> <p>(k) Cooperate with, among others, UNESCO, UNICEF and non-governmental organizations to improve the education sector;</p> <p>(l) Continue to expand pre-service and in-service teacher training.</p>		
<p>Singapore</p> <p>CRC/C/15/Add.220 (2003)</p> <p>CEDAW/C/SGP/CO/3 (2007)</p>	<p><u>Non-discrimination</u></p> <p>23. The Committee is concerned that the principle of non-discrimination is restricted to citizens, that the Constitution does not expressly prohibit discrimination against women or persons with disabilities, and that societal discrimination against girls, children with disabilities and non-residents persists.</p> <p>24. The Committee recommends that the State party amend its legislation to prohibit discrimination on the basis of gender or disability and ensure that it is applicable to all persons in the State</p>	<p>14. The Committee encourages the State party to incorporate in its Constitution or other appropriate legislation a definition of discrimination against women, encompassing both direct and indirect discrimination, in line with article 1 of the Convention, and also to include provisions to prohibit discrimination against women on other grounds, in particular marital status, age, disability and national origin. The Committee encourages the State party to work towards the practical realization of the principle of equality between women and men, as required under article 2 of the Convention, and not solely towards achievement of equality of opportunities. It also calls upon the State party to provide systematic</p>	<p><i>Singapore is not a party to the ICESCR.</i></p>

	<p>party. The Committee further recommends that the State party undertake all necessary proactive measures to combat societal discrimination, in particular against girls, children with disabilities and non-residents, through, inter alia, public education and awareness campaigns.</p> <p><u>Children with disabilities</u></p> <p>40. While noting that special education services are widely available in the State party, the Committee is concerned that children with disabilities are not fully integrated into the education system and that there is a lack of quantitative and qualitative data on children with disabilities and their needs.</p> <p>41. The Committee recommends that the State party:</p> <p>(a) Extend the Compulsory Education Act (2003) to include special schools and all children with disabilities;</p> <p>(b) Facilitate greater integration and participation of children with disabilities into mainstream education and society at large, inter alia through an improvement in curricula and</p>	<p>and sustained training for lawyers, judges, law enforcement officers, educators, leaders of the People's Association, non-governmental organizations and trade unions on the Convention and its concept of de facto or substantive equality in order to build a culture in support of human rights, gender equality and non-discrimination in the country.</p>	
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	<p>pedagogical services;</p> <p>(c) Gather qualitative and quantitative data on children with disabilities and their specific needs and use these data to develop appropriate programmes and policies for them.</p>		
<p>Sri Lanka</p> <p>CRC/C/15/Add.207 (2003)</p> <p>CEDAW: A/57/38 (Part I), paras.256-302 (2002)</p> <p>CESCR: E/C.12/1/Add.24 (1998)</p>	<p><u>Non-discrimination</u></p> <p>25. The Committee notes with concern that societal discrimination persists against vulnerable groups of children, including children with disabilities, adopted children, children displaced by conflict, children infected with and affected by HIV/AIDS, and children of ethnic and religious groups.</p> <p><u>Children with disabilities</u></p> <p>36. The Committee is concerned that a significant number of children with disabilities, in particular girls, are not able to attend school and that not all special schools managed by non governmental organizations are registered by the Ministry of Education, and they are concentrated in the more developed and urbanized Western Province.</p> <p>37. In light of the recommendations of</p>	<p>41. The Committee urges the Government to ensure the full and effective enforcement of the measures taken to protect women migrant workers, including preventing the activities of illegal employment agencies and ensuring that insurance covers the disabled and jobless after they return to Sri Lanka.</p>	<p><i>No comments relating to disability</i></p>

	<p>the Committee's day of general discussion on the private sector as service provider and its role in implementing child rights in 2002 (see CRC/C/121), the Committee recommends that the State party:</p> <p>(a) Ensure that all children with disabilities, particularly girls, have access to education by increasing spending and expanding special education programmes, including non-formal special education in rural areas, and by training teachers in mainstream education about special needs;</p> <p>(b) Register and monitor all special schools run by non-State actors;</p> <p>(c) Take all necessary measures to integrate children with disabilities into society and include them in cultural and leisure activities.</p>		
<p>Thailand</p> <p>CRC/C/THA/CO/2 (2006)</p> <p>CEDAW/C/THA/CO/5 (2006)</p>	<p><u>Data collection</u></p> <p>20. The Committee notes with appreciation the efforts and initiatives taken to improve data collection on all children in the country. It is concerned, however, that data collection mechanisms remain</p>	<p><i>No comments relating to disability</i></p>	<p><i>Thailand is a party to the ICESCR but has not submitted a report.</i></p>

	<p>fragmented and insufficient to ensure the systematic and comprehensive collection of disaggregated data on all areas covered by the Convention.</p> <p>21. The Committee reiterates its previous recommendation and urges the State party to strengthen and centralize its data collection system, and to systematically integrate and analyse disaggregated data on all children under 18 for all areas covered by the Convention, with special emphasis on the most vulnerable groups (i.e. indigenous and minority children, children in the southernmost provinces of the country, children with disabilities, abused and neglected children, children living in poverty, children in conflict with the law, immigrant and refugee children, children infected with and affected by HIV/ AIDS, and children of sex workers, etc). The Committee urges the State party to use these indicators and data effectively in the formulation of legislation, policies and programmes for the effective implementation of the Convention.</p> <p><u>The right to non-discrimination</u></p> <p>24. The Committee is concerned about the persistence of both direct and</p>		
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	<p>indirect discrimination against the child, contrary to article 2 of the Convention, particularly with respect to the girl child, children of indigenous, and religious or ethnic minority communities, children of refugees and asylum-seekers, children of migrant workers, street children, children with disabilities, children living in rural areas, and children living in poverty. The Committee is also concerned that there continues to be regional disparities, especially in the southernmost provinces, in access to social, health and educational services.</p> <p><u>Children with disabilities</u></p> <p>49. The Committee notes with appreciation that the State party has undertaken many concrete measures to promote the full enjoyment of all human rights and fundamental freedoms by children with disabilities, including access to mainstream and</p>		
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	<p>specialized education and to vocational training. Despite these positive steps, the Committee is concerned that children with disabilities living in the remote areas of the country lack access to adequate health and social services, as well as to education. It also shares the State party's concern about the insufficient and incoherent data on children with disabilities and the non-standardized public and private services for them.</p> <p>50. The Committee recommends that the State party, taking into account the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the recommendations adopted by the Committee on its day of general discussion on the rights of children with disabilities (see CRC/C/69), take all necessary measures to:</p> <p>(a) Formulate and adopt a comprehensive national policy for children with disabilities, and allocate necessary financial and human resources to implement the plan;</p> <p>(b) Prevent and prohibit all forms of discrimination against children with disabilities, including by raising</p>		
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	<p>awareness of their rights, special needs and potential, and ensure equal opportunities for their full participation in all spheres of life;</p> <p>(c) Standardize public and private services for children with disabilities and monitor the accessibility and quality of these services;</p> <p>(d) Provide children with disabilities with physical access to schools and access to appropriate information and communication tools; and</p> <p>(e) Establish a data collection mechanism on children with disabilities and to use such data in developing policies and programmes to promote their equal opportunities in society, paying particular attention to children with disabilities living in remote areas of the country.</p> <p><u>Standard of living</u></p> <p>60. Notwithstanding the State party's continuous and very successful efforts to reduce poverty in Thailand, including the establishment of the Child Protection Fund, the Committee notes with concern that 36 per cent of the poor are children and that there are wide disparities in income levels across regions - the north and north-</p>		
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	<p>east, and the three southernmost provinces being the most economically disadvantaged areas. The Committee is deeply concerned about difficulties faced by children living in poverty, particularly orphans, street children, children with disabilities and children belonging to indigenous and minority communities, in the full enjoyment of their human rights, including access to social and health services and education.</p>		
<p>Vietnam</p> <p>CRC/C/15/Add.200 (2003)</p> <p>CEDAW/C/VNM/6 (2007)</p> <p>CESCR: E/C.12/1993/8 (1993)</p>	<p><u>Data collection</u></p> <p>16. The Committee, noting the State party's efforts to improve its data collection, is concerned, as noted by the State party in the written replies to the list of issues, that there is no system of data collection on child labour or children with disabilities and that the data available on child abuse is not comprehensive.</p> <p><u>Non-discrimination</u></p> <p>22. The Committee notes with concern that domestic legislation does not</p>	<p><i>No comments relating to disability</i></p>	<p><i>No comments relating to disability</i></p>

	<p>specifically prohibit discrimination based on all the grounds listed under article 2 of the Convention. In particular, discrimination against children with disabilities is not explicitly prohibited. Moreover, the lower level of development indicators for ethnic minorities appears to indicate the existence of some level of societal and institutional discrimination, specifically with regard to their access to health and education.</p> <p>23. The Committee recommends that the State party:</p> <p>(a) Amend domestic legislation to ensure that it corresponds fully with all the provisions of article 2 of the Convention and that, in particular, discrimination against children on the grounds of disability is expressly prohibited by law;</p> <p>(b) Strengthen efforts to eliminate disparities in the accessibility and quality of health care and education between regions and ethnic minorities;</p> <p>(c) Conduct a study in collaboration with ethnic community leaders to determine the extent to which ethnic minority children suffer from</p>		
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	<p>discrimination and develop policies and programmes to address the root causes of any such discrimination.</p> <p><u>Right to life</u></p> <p>27. The Committee is concerned at the high number of children that are injured, disabled or killed by accidents, such as traffic accidents, or by natural disasters.</p> <p><u>Children with disabilities</u></p> <p>43. The Committee is very concerned at the high proportion of children with disabilities who that do not attend school, do not have access to vocational training or preparation for employment and have limited access to rehabilitation services, particularly in rural areas.</p> <p>44. The Committee recommends that the State party, in accordance with the recommendations arising from the Committee's 1997 day of general discussion on children with disabilities, and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96):</p> <p>(a) Undertake a comprehensive</p>		
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	<p>survey of the number of children with disabilities, including those currently not attending school, in order to assess their educational and vocational training needs, and their access to rehabilitation and other social services;</p> <p>(b) Provide financial assistance to economically disadvantaged children with disabilities in order ensure their access to rehabilitation services and devices;</p> <p>(c) Expand existing programmes aimed at improving the physical access of children with disabilities to public buildings and areas, including schools and recreational facilities, and increase the number of integrated education programmes at pre-primary, primary, secondary and tertiary levels.</p>		
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Asian Region Disability Laws Compared

Country and Law	Definition of Disability	Non-Discrimination	Implementation and Remedies
Australia Disability Discrimination Law of 1992	Definition <i>Disability, in relation to a person, means:</i> <i>(a) total or partial loss of the person's bodily or mental functions; or</i> <i>(b) total or partial loss of a part of the body; or</i> <i>(c) the presence in the body of organisms causing disease or illness; or</i> <i>(d) the presence in the body of organisms capable of causing disease or illness; or</i> <i>(e) the malfunction, malformation or disfigurement of a part of the person's body; or</i> <i>(f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or</i> <i>(g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour; and includes a disability that:</i>	Anti-Discrimination The Act prohibits disability-based discrimination in employment (sections 16-21); education (22); access to premises (section 23); goods, services and facilities (section 24); accommodations (section 25); land (section 26); clubs (section 27); sports (section 28); and administration of Commonwealth laws and programs (section 29). Discrimination against persons because of their association with persons with disabilities is also prohibited, as is harassment due to a disability (sections 35-40).	Grievance Procedures The law sets a procedure for complaints about discrimination to be made to the Human Rights and Equal Opportunity Commission (sections 66-105). Remedies The Commission can determine to compel changes in organization policies, payment of damages, job reinstatements, job promotions, apologies, and other outcomes (section 103). However, unless the respondent is a Commonwealth Agency, the Commission must go to court to enforce its determination (sections 105-106)

	<p>(h) presently exists; or</p> <p>(i) previously existed but no longer exists; or</p> <p>(j) may exist in the future; or</p> <p>(k) is imputed to a person.</p>		
<p>Bangladesh</p> <p>Persons with Disability Welfare Act, 2001</p>	<p>Definition</p> <p>3. Definition and identification of Disability:</p> <p>I. "Disability" means any person who,</p> <p>a. is physically crippled either congenitally or as result of disease or being a victim of accident, or due to improper or maltreatment or for any other reasons became physically incapacitated or mentally imbalanced, and</p> <p>b. as a result of such crippledness or mental impairedness,-</p> <p>i. has become incapacitated, either partially or fully; and</p> <p>ii. is unable to lead a normal life.</p> <p>II. Any person having disability described hereunder shall be included in the meaning and scope of the definition under subsection (I) of this section.</p> <p>a. "Visual impaired" means any person who has,-</p> <p>i. No vision in any single eye, or</p> <p>ii. in both the eyes, or</p>	<p>Anti-discrimination</p> <p>None.</p>	<p>Implementation Provisions</p> <p>The law establishes the Coordinating Committee for the Welfare of Persons with Disability.</p> <p>The law also establishes the Executive Committee (Article 9) and the Office of the Executive Committee (Article 10) to support the Coordinating Committee in its mission, and also District Committees for the Welfare of Persons with Disability (Articles 12-13).</p> <p>While the Coordinating Committee is "advise the Government on matters to protect the rights of the disabled Community/ population and motivate other agencies/organizations to that effect," it does not take complaints or work on specific cases of discrimination.</p> <p>6. Responsibilities and functions of</p>

	<p>iii. visual acuity not exceeding 6/60 or 20/200 (Snellen) in the better eye even with correcting lenses; or</p> <p>iv. limitation of the 'field of vision' subtending an angle of 20° (degree) or worse;</p> <p>b. Physically handicapped refers to person who has, -</p> <p>i. lost either one or both the hands, or</p> <p>ii. lost sensation, partly or wholly, of either hand, or it is so weaker in normal condition that the situations stated under subsection I (a) and (b) are applicable to his case; or</p> <p>iii. lost either one or both the feet, or</p> <p>iv. lost sensation, partly or wholly, of either or both the feet, or it is so weaker in normal condition that the situations stated under subsection I (a) and (b) are applicable to his case; or</p> <p>v. has physical deformity and abnormality, or</p> <p>vi. has permanently lost physical equilibrium owing to neuro-disequilibrium; or</p> <p>c. has "hearing impairment" meaning one's loss of hearing capacity in better ear in the conversation range of frequencies at 40 decibels (hearing unit) or more, or damaged or ineffective otherwise; or</p>		<p>the National Coordination Committee:</p> <p>I. The responsibilities and functions of the Co-ordination Committee shall be as under:-</p> <p>a. To review the existing policies of the Government to protect and safeguard the rights and dignity of the persons with disabilities, to ensure full participation of the disabled community in accordance to their capacity/ability in the national and social programmes, and to recommend corrective measures; or if needed be, put suggestion(s) for formulation of a newer policy to this effect, in consideration of the prevailing realistic situations related to the issues;</p> <p>b. to advise the Government to undertake various projects and programmes for implementing the policies on disability issues;</p> <p>c. to review and coordinate the activities of the Executive Committee, the District Committees and other concerned Government and Non-Government agencies, engaged in the acts of welfare for the disabled community under the purview of this Act or other laws so applicable, and to pass on necessary directives, if deemed expedient, to that effect;</p>
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	<p><i>d. has "speech impairment" meaning loss of one's capacity to utter/pronounce meaningful vocabulary sounds, or damaged, partly or wholly, or dysfunctional; or</i></p> <p><i>e. has "mental disability" meaning,-</i></p> <p><i>i. one whose mental development is not at par with his chronological age or whose IQ (Intelligent Quotient) is far below the normal range, or</i></p> <p><i>ii. has lost mental balance or is damaged, partly or wholly; or</i></p> <p><i>f. has multiple disabilities, that is one who suffers from more than one type of above stated impairments; or</i></p> <p><i>g. any other type of impairment to be defined and declared by the Coordination Committee.</i></p>		<p><i>d. to advise the Government on matters to protect the rights of the disabled Community/ population and motivate other agencies/organizations to that effect;</i></p> <p><i>e. to arrange Skill Development Training for persons working in disability sector programmes to raise their work efficiency;</i></p> <p><i>f. to establish a Disability Information Centre and to provide information to various mass media and arrange dissemination/media-coverage of those information for the welfare of the persons with disability.</i></p> <p><i>g. to advise the Government to initiate proper steps to up-grade National policies and up-date concerned laws related to disability issues to keep pace in line with the development on the agenda that are taking place in the International arena and suggest for their implementation;</i></p> <p><i>h. to recommend to the Government for reviewing of the existing laws and effect amendment, if so needed, from time to time, the laws in force;</i></p> <p><i>i. to collect statistical data related to disability issues and arrange preservation of those data;</i></p>
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			<i>j. to undertake appropriately related steps/actions to implement the activities stated in this sub-section.</i>
<p>China</p> <p>Law of the People's Republic of China on the Protection of Disabled Persons, 1990, revised 2008</p>	<p>Definition</p> <p><i>Article 2</i></p> <p><i>A person with disabilities refers to one who has abnormalities of loss of a certain organ or function, psychologically or physiologically, or in anatomical structure and has lost wholly or in part the ability to perform an activity in the way considered normal.</i></p> <p><i>The term "a person with disabilities" refers to one with visual, or hearing, or speech, or physical, or intellectual, or psychiatric disability, multiple disabilities and/or other disabilities.</i></p> <p><i>The criteria for classification of disabilities shall be established by the State Council.</i></p>	<p>Anti-discrimination</p> <p>Article 3 is a general anti-discrimination provision:</p> <p><i>Article 3</i></p> <p><i>Persons with disabilities shall enjoy equal rights with other citizens in political, economic, cultural and social respects and in family life as well.</i></p> <p><i>The rights and dignity of persons with disabilities as citizens shall be protected by law.</i></p> <p><i>Discrimination on the basis of disability shall be prohibited. Insult of and disservice to persons with disabilities shall be prohibited. Disparagement of and infringement upon the dignity of persons with disabilities by means of mass media or any other means shall be prohibited.</i></p> <p>Article 25 specifically prohibits discrimination by educational institutions and Article 38, in</p>	<p>Implementation Provisions</p> <p>Article 8 establishes the Disabled Persons' Federation, with the responsibility to protect the rights of persons with disabilities.</p> <p><i>Article 8</i></p> <p><i>China Disabled Persons' Federation (CDPF) and its local organizations shall represent the common interests of persons with disabilities, protect their lawful rights and interests, unite persons with disabilities and enhance education among them and provide service for them.</i></p> <p><i>The CDPF and its local organizations shall conduct work on disability and mobilize social forces in developing the undertakings for persons with disabilities in accordance with laws, regulations and its constitution or as commissioned by the government.</i></p> <p>Grievance Procedures</p> <p>Articles 59 and 60 establish the right</p>

		<p>employment.</p> <p>Affirmative Action</p> <p>Article 4 states the policy of providing persons with disabilities with “Special Assistance” as a general principle:</p> <p><i>Article 4.</i></p> <p><i>The state shall provide disabled persons with special assistance by adopting supplementary methods and supportive measures with a view to alleviating or eliminating the effects of their disabilities and external barriers and ensuring the realization of their rights.</i></p> <p>Article 30 sets up a quota system in employment: “Government agencies, social organizations, enterprises, public institutions, and private-run non-enterprise entities shall, in accordance with the quota stipulated in relevant regulations, arrange job opportunities for persons with disabilities, and offer them appropriate work and positions.”</p> <p>Article 36 sets up various incentives for employing persons</p>	<p>of persons with disabilities to complain about violations of their rights. Article 59 allows them to complain to “organizations of persons with disabilities” which can in turn demand investigation from “competent departments.” Article 60 establishes the right of the persons with disabilities themselves to “ask competent departments to deal with the case in accordance with law, or submit application to arbitration institutions, or appeal to people’s courts in conformity with law.” It also provides legal aid if needed.</p> <p>Further provisions allow “competent authorities” to have matters “redressed” when the dignity of persons with disabilities is “degraded” in the media (Article 62), when students with disabilities are unfairly denied admission to schools (Article 63), when public works are not appropriately accessible (Article 66) and in other specific situations. Article 64 allows the authorities to redress matters when persons with disabilities are discriminated against in “recruitment for work,” but it also states that “victim workers with disabilities shall have the right to</p>
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		with disabilities, including preferential government buying and tax breaks.	appeal to peoples' court." Article 25 also allows students who are discriminated against in school admissions to "appeal to the relevant authorities."
Fiji National Council for Disabled Persons Act, 1994	Definition <i>2. In this Act, unless the context otherwise requires - "disabled persons" means persons, who as a result of physical, mental or sensory impairment are restricted or lacking in ability to perform an activity in the manner considered normal for human beings;</i>	Anti-discrimination None.	Implementation Procedures Article 3 establishes the Fiji National Council for Disabled Persons. The council's functions are enumerated in Article 4. It does not investigate complaints <i>4. The functions of the Council shall be to - (a) be a coordinating body for all organisations dealing with the care and rehabilitation of the disabled; (b) formulate a national policy that would ensure that services are provided to all disabled persons in Fiji; (c) draw up a national plan of action for rehabilitation services and implement such a plan; (d) seek financial assistance from government and aid donors for itself and registered organisations providing service to disabled persons;</i>

			<p><i>(e) maintain a register of all the organisations providing service to disabled persons and ensure that the independence of such organisation is maintained;</i></p> <p><i>(f) organise national seminars and workshops relating to the problems and needs of disabled persons and assist in the training of personnel involved in the care, training, education and rehabilitation of disabled persons;</i></p> <p><i>(g) create public awareness of the problems and the aspirations of disabled persons through educational media;</i></p> <p><i>(h) regularly inform the appropriate Ministries of the government of the problems and needs of disabled persons and seek solutions to such needs;</i></p> <p><i>(i) work towards the elimination of causes of disability;</i></p> <p><i>(j) establish a National Rehabilitation Fund the purpose of which will be to attract national and international contributions in terms of funds, expertise, material and equipment to be used in implementing a national rehabilitation plan; and</i></p> <p><i>(k) periodically review the national policy and national plan of action for</i></p>
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			<i>the purpose of determining their continuing relevance to local regional and international realities.</i>
<p>India</p> <p>The Persons With Disabilities (Equal Opportunities, Protection Of Rights And Full Participation) Act, 1995</p>	<p>Definition</p> <p><i>2. In this Act, unless the context otherwise requires, ...</i> <i>(i) "disability" means:</i> <i>(i) blindness;</i> <i>(ii) low vision;</i> <i>(iii) leprosy-cured;</i> <i>(iv) hearing impairment;</i> <i>(v) locomotor disability;</i> <i>(vi) mental retardation;</i> <i>(vii) mental illness;</i></p>	<p>Anti-discrimination</p> <p>The law does not contain general anti-discrimination provisions. However, it specifically forbids discrimination in government employment:</p> <p><i>Non-discrimination in government employment.</i></p> <p><i>47. (1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:</i> <i>Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits:</i> <i>Provided further that it is not possible to adjust the employee against and post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.</i></p> <p><i>(2) No promotion shall be denied to a person merely on the ground of his disability:</i></p>	<p>Implementation Procedures</p> <p>The law establishes a national Coordination Committee “to serve as the national focal point on disability matters and facilitate the continuous evolution of a comprehensive policy towards solving the problems faced by persons with disabilities” (Section 8). It also establishes state Coordination Committees (Section 18).</p> <p>The law also establishes a Chief Commissioner for persons with disabilities.</p> <p><i>Functions of the Chief Commissioner</i></p> <p><i>58. The Chief Commissioner shall:</i> <i>(a) coordinate the work of the Commissioners;</i> <i>(b) monitor the utilization of funds disbursed by the Central Government;</i> <i>(c) take steps to safeguard the rights and facilities made available to persons with disabilities;</i> <i>(d) submit reports to the Central</i></p>

		<p><i>Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.</i></p> <p>The law also classifies available access mechanisms as “non-discrimination,” as in Section 44, “Non-discrimination in transport,” Section 45, “Non-discrimination on the Road,” and Section 46, “Non-discrimination in the Built Environment.”</p> <p>Affirmative Action</p> <p>The law requires the government to identify jobs to be reserved especially for persons with disabilities (Sections 32-33)</p> <p>The law creates a Special Employment Exchange to make it easier to find jobs for persons with disabilities (Section 34).</p> <p>The law reserves 3% of the places in poverty alleviation schemes for</p>	<p><i>Government on the implementation of the Act at such intervals as that Government may prescribe.</i></p> <p>Grievance Procedures</p> <p>The Chief Commissioner on Persons with Disabilities can investigate complaints:</p> <p><i>Chief Commissioner to look into complaints with respect to deprivation of rights of persons with disabilities.</i></p> <p><i>59. Without prejudice to the provisions of section 58 the chief Commissioner may on his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to:</i></p> <p><i>(a) deprivation of rights of persons with disabilities;</i></p> <p><i>(b) non-implementation of laws, rules, bye-laws, regulations, executive orders guidelines or instructions made or issued by the appropriate Governments and the local authorities for the welfare and protection of rights or persons with disabilities, and take up the matter with the appropriate authorities.</i></p>
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		<p>persons with disabilities (Section 40).</p> <p>The law provides incentives to employers to ensure 5 percent of the work force is composed of persons with disabilities (Section 41).</p> <p>The law provides preferential allotment of land to persons with disabilities under certain circumstances (section 43).</p>	<p>States may appoint their own Commissioners who can do the same (Section 62). The Commissioners and the Chief Commissioner have, according to Section 63), <i>"the same powers as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:</i></p> <p><i>(a) summoning and enforcing the attendance of witnesses;</i></p> <p><i>(b) requiring the discovery and production of any document;</i></p> <p><i>(c) requisitioning any public record or copy thereof from any court or office;</i></p> <p><i>(d) receiving evidence on affidavits; and</i></p> <p><i>(e) issuing commissions for the examination of witnesses or documents....</i></p>
<p>Japan</p> <p>The Basic Law for Persons with Disabilities Law number 84 of 21 May 1970 (Last amended in June 2004)</p>	<p>Definition</p> <p>Section 2: Definition</p> <p><i>The term "persons with disabilities" in this Law means individuals whose daily life or social life is substantially and continuously</i></p>	<p>Anti-discrimination Provisions</p> <p>Section 3 states non-discrimination as a "Fundamental Principle."</p> <p>Section 3: Fundamental principles</p>	<p>Implementation Measures</p> <p>The law establishes a Central Council on Measures for Persons with Disabilities (Section 25) and corresponding Local Councils (Section 26). The purpose of these bodies, however, is to formulate</p>

	<p><i>limited due to physical, intellectual or mental disability (hereinafter referred to as "disability").</i></p>	<p><i>Every person with disability shall have a right to be respected for his or her individual dignity and lead a decent life.</i></p> <p><i>Every person with disability, as a member of the society, shall be entitled opportunities to participate in social, economic, cultural and all other activities in the society.</i></p> <p><i>No one shall be allowed to discriminate against persons with disabilities or violate their rights and benefits on the basis of disability.</i></p>	<p>policy, not fight discrimination.</p>
<p>Korea</p> <p>Welfare Law for Persons with Disabilities No. 4179, 1989</p>	<p>Definition</p> <p><i>Article 2. (Definition)</i></p> <p><i>For purposes of this Law, "persons with disabilities" encompasses those people with physical disabilities, visual disabilities, audio-lingual disabilities, mental retardation or other mental defects (hereinafter referred to as "persons with disabilities") who have suffered substantially in his/her daily living or social life due to disabilities. Degrees of disability shall be specified by the Presidential Decree.</i></p>	<p>Anti-discrimination</p> <p><i>Article 3. (Human Dignity)</i></p> <p><i>Paragraph 1. Persons with disabilities shall be guaranteed the rights of human dignity, worth and just treatment.</i></p> <p><i>Paragraph 2. No one who has a disability shall be subject to discrimination in the area of political, economic, social and cultural life due to his/her disability.</i></p> <p><i>Paragraph 3. All persons with disabilities shall be guaranteed the opportunity of political, economic, social and cultural activities as a member of society.</i></p>	<p>Implementation Provisions</p> <p>Article 6 establishes a central Committee for the Welfare of Disabled Persons, and local committees. The committees have the power to “demand appearance and explanation of related staffs and submission of materials from administrative bodies concerned.”</p> <p>Article 18 requires the Ministry of Health and Social Services to investigate “the condition of persons with disabilities” every five years to ensure that the law’s requirements are met.</p>

<p>Korea</p> <p>Act Relating to Employment Promotion, etc. of the Handicapped, No. 4219, 1990</p>	<p>Definition of Disability</p> <p><i>The terms used in this Act shall be defined as follows:</i></p> <p><i>“The handicapped” means those who because of physical or mental handicap, are subject to considerable restriction in their working life for a long time, as more fully defined in the Presidential Decree...</i></p>	<p>Anti-discrimination</p> <p>The law forbids employers to discriminate against persons with disabilities.</p> <p>Article 4 (Duties of Employers)</p> <p>(1) Employers shall, with respect to employment of the handicapped, cooperate with the measures of the State, offer them employment opportunities with appreciation of the handicapped and carry out proper employment management.</p> <p>(2) Employers shall not discriminate against workers by physical or mental handicap with regard to personnel management of employment, promotion, transfer to another position, education and training, etc.</p> <p>Affirmative Action</p> <p>The law provides quotas of persons with disabilities who should be employed by businesses (Article 35) and by governments (Article 34).</p>	<p>Implementation Procedures</p> <p>The law allows the Ministry of Labour to order employers to make a plan for employing persons with disabilities (Article 36). The Ministry can give employers an allowance for employing more than the quota of persons with disabilities (Article 37) or require them to pay a levy for employing fewer (Article 38). Employers must make a report when they dismiss an employee with a disability (Article 54), submit to inspections (Article 55), and maintain records on their employment of persons with disabilities (Article 56).</p> <p>Remedies</p> <p>Article 62-64 allow the government to levy fines against persons or employers who fail to comply with Articles 32, 36, and 53-56.</p>
<p>Philippines</p> <p>Magna Carta for Disabled Persons, 1992</p>	<p>Definition</p> <p><i>Section 4. <u>Definition of terms</u></i></p> <p><i>For purposes of this Act, these terms are defined as follows:</i></p>	<p>Anti-discrimination</p> <p>In Section 2, anti-discrimination is declared as policy:</p> <p><i>Section 2: Declaration of Policy</i></p>	<p>Implementation Procedures</p> <p>None.</p>

	<p>... (c) <u>Disability</u> shall mean</p> <p>(1) a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of such individual; (2) a record of such an impairment; or (3) being regarded as having such an impairment.</p>	<p>.... (b) Disabled persons have the same rights as other people to take their proper place in society. They should be-able to live freely and as independently as possible. This must be the concern of everyone, the family, the community and all government and non-governmental organisations. Disabled persons' rights must never be perceived as welfare services by the Government.</p> <p>... Section 32 specifically prohibits discrimination in employment:</p> <p><u>Section 32. Discrimination on employment.</u></p> <p>No entity, whether public or private, shall discriminate against a qualified disabled person by reason of disability in regard to job application procedures, the hiring, promotion, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. The following constitute acts of discrimination:</p> <p>(a) limiting segregating or classifying a disabled job applicant in such a manner that adversely affects his work opportunities;</p>	
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		<p><i>(b) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out a disabled person unless such standards, tests or other selection criteria are shown to be job-related for the position in question and are consistent with business necessity;</i></p> <p><i>(c) utilising standards, criteria, or methods of administration that:</i> <i>(1) have the effect of discrimination on the basis of disability; or</i> <i>(2) perpetuate the discrimination of others who are subject to common administrative control;</i></p> <p><i>(d) providing less compensation, such as salary, wage or other forms of remuneration and fringe benefits, to a qualified disabled employee, by reason of his disability, than the amount to which a non-disabled person performing the same work is entitled;</i></p> <p><i>(e) favouring a non-disabled employee over a qualified disabled employee with respect to promotion, training opportunities, study and scholarship grants, solely on account of the latter's disability;</i></p> <p><i>(f) reassigning or transferring a disabled employee to a job or position he cannot perform by reason of his</i></p>	
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		<p><i>disability;</i></p> <p><i>(g) dismissing or terminating the services of a disabled employee by reason of his disability unless the employer can prove that he impairs the satisfactory performance of the work involved to the prejudice of the business entity: provided, however, that the employer first sought to provide reasonable accommodation for disabled persons;</i></p> <p><i>(h) failing to select or administer in the most effective manner employment tests which accurately reflect the skills, aptitude or other factor of the disabled applicant or employee that such test purports to measure, rather than the impaired sensory, manual or speaking skills of such applicant or employee, if any; and</i></p> <p><i>(j) excluding disabled persons from membership in labour unions or similar organisations.</i></p> <p>Section 7 forbids discrimination in apprenticeship, and Section 12, discrimination in education.</p> <p>Affirmative Action</p> <p>Section 5 guarantees equal access to employment. It also provides:</p>	
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		<p><i>Five per cent of all casual, emergency and contractual positions in the Departments of Social Welfare and Development, Health, Education, Culture and Sports, and other government agencies, offices or corporations engaged in social development shall be reserved for disabled persons.</i></p> <p>Section 6 allows the State to provide “sheltered employment” for persons with disabilities who cannot otherwise find work.</p>	
<p>Sri Lanka</p> <p>Protection of the Rights of Persons with Disabilities Act, No.28, 1996</p>	<p>Definitions</p> <p><i>37. In this Act, unless the context otherwise requires- - "person with disability" means any person who, as a result of any deficiency in his physical or mental capabilities, whether congenital or not, is unable by himself to ensure for himself, wholly or partly, the necessities of life;</i></p>	<p>Anti-Discrimination</p> <p>The law prohibits discrimination in employment, education, and access to public places.</p> <p><i>23. (1) No person with a disability shall be discriminated against on the ground of such disability in recruitment for any employment or office or admission to any educational institution.</i></p> <p><i>(2) No person with a disability shall, on the ground of such disability, be subject to any liability, restriction or condition with regard to access to, or use of, any building or place which any</i></p>	<p>Implementation Provisions</p> <p>The law establishes a National Council for Persons with Disabilities, with wide but vague responsibilities to improve the lives of persons with disabilities (Articles 2-13).</p> <p><i>12. The principal function of the Council shall be to ensure the promotion, advancement and protection of the rights of persons with disabilities.</i></p> <p>Grievance Procedures</p> <p>The law allows a person with a disability who has been</p>

		<p><i>other member of the public has access to or is entitled to use, whether on the payment of any fee or not.</i></p>	<p>discriminated against, or the Council on such a person's behalf, to sue in the High Court:</p> <p>24. (1) <i>Where there has been a contravention of the provisions of section 23, any person affected by such contravention or the Council on behalf of such person may apply to the High Court established under Article 154P of the Constitution for the Province in which the person affected by such contravention resides, for relief or redress.</i></p> <p>(2) <i>Every such application shall be made by petition in writing addressed to such High Court and shall be heard and determined in accordance with the procedure laid down by rules made by the Supreme Court under Article 136 of the Constitution.</i></p> <p>(3) <i>The High Court shall have power to grant such relief or make such directions as it may deem just and equitable in the circumstances in respect of any application referred to in subsection (1).</i></p>
<p>Thailand</p> <p>Rehabilitation Of Disabled Persons Act, 1991</p>	<p>Definition</p> <p><i>In this Act, "Disabled Person" means a person with physical,</i></p>	<p>Anti-Discrimination</p> <p>None.</p>	<p>Implementation Procedures</p> <p>The law establishes a Committee for the Rehabilitation of Disabled</p>

	<p><i>intellectual or psychological abnormality or impairment as categorized and prescribed in the Ministerial Regulations.</i></p>	<p>Affirmative Action</p> <p>Section 17 allows the Ministry to establish ratios of persons with disabilities businesses must employ or be fined.</p>	<p>Persons (Sections 5-6), and an Office of the Committee for the Rehabilitation of Disabled Persons (Section 12) to support the committee. Neither investigate complaints of discrimination:</p> <p><i>Section 6: The Committee shall have the following power and duties to:</i></p> <p><i>(1) propose and recommend to the Minister on policies and plans concerning the assistance, development and reha-bilitation of disabled persons for submission to the Cabinet for approval and designate the concerned governmental organizations for further implementation in compliance with their respective authority.</i></p> <p><i>(2) give advice, suggestions and opinions relating to the enforcement of this Act to the Minister.</i></p> <p><i>(3) support and promote the assistance, development, and rehabilitation of disabled persons undertaken by the concerned governmental and non-governmental organizations by providing technical and financial assistance, facilities or services as considered appropriate.</i></p> <p><i>(4) prepare projects to assist, develop and rehabilitate disabled persons.</i></p>
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			<p><i>(5) approve programs or projects utilizing the Fund for Rehabilitation of Disabled Persons and set the rules and regulations pertaining to management and disbursement of such Fund.</i></p>
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Other Treaties and Norms Relevant to the Rights of Persons with Disabilities

Treaty	Relevant Provisions
<p>Universal Declaration of Human Rights, 1948</p> <p>http://www.unhchr.ch/udhr/lang/eng.htm</p>	<p><i>Article 25 concerns the right to an adequate standard of living and to social security if disabled:</i></p> <p>Article 25</p> <p>Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.</p>
<p>Convention Relating to the Status of Refugees, 1951</p> <p>http://www.unhchr.ch/html/menu3/b/o_c_ref.htm</p>	<p><i>Article 24 grants lawful refugees the same rights as nationals to social security:</i></p> <p>Article 24</p> <p>The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:</p> <p>...</p> <p>a. Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by social security scheme), subject to the following limitations:</p> <p>i. there may be appropriate arrangements for the</p>

	<p>maintenance of acquired rights and rights in course of acquisition;</p> <p>ii. national laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.</p> <p><i>Other provisions which may be used to protect migrants with disabilities include: Articles 3 (non-discrimination), 7 (exemption from reciprocity), 17 (wage-earning employment), 18 (self-employment), 19 (liberal professions), 31 (refugees unlawfully in the country of refuge), 33 (principle of non refoulement).</i></p>
<p>International Covenant on Economic, Social and Cultural Rights, 1966</p> <p>http://www2.ohchr.org/english/law/cescr.htm</p>	<p><i>States Parties to the Covenant must report to the Committee on Economic, Social and Cultural Rights on the welfare of persons with disabilities under Article 12 of the Covenant, which concerns the right to health:</i></p> <p>Article 12</p> <p>1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.</p> <p>2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:</p> <p>(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;</p> <p>(b) The improvement of all aspects of environmental and industrial hygiene;</p>

	<p>(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;</p> <p>(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.</p> <p>General Comment No. 5 (Persons with Disabilities), 1995</p> <p><i>The CESCR's General Comment No. 5 specifically addresses the rights of persons with disabilities. It explains how the Covenant, even though it does not refer directly to persons with disabilities, still guarantees their rights:</i></p> <p>5. The Covenant does not refer explicitly to persons with disabilities. Nevertheless, the Universal Declaration of Human Rights recognizes that all human beings are born free and equal in dignity and rights and, since the Covenant's provisions apply fully to all members of society, persons with disabilities are clearly entitled to the full range of rights recognized in the Covenant. In addition, in so far as special treatment is necessary, States parties are required to take appropriate measures, to the maximum extent of their available resources, to enable such persons to seek to overcome any disadvantages, in terms of the enjoyment of the rights specified in the Covenant, flowing from their disability. Moreover, the requirement contained in article 2 (2) of the Covenant that the rights "enunciated ... will be exercised without discrimination of any kind" based on certain specified grounds "or other status" clearly applies to discrimination on the grounds of disability.</p> <p><i>The Comment calls on States Parties to take positive action to ensure the rights of persons with disabilities and to eliminate discrimination against persons with disabilities:</i></p> <p>9. The obligation of States parties to the Covenant to promote progressive realization of the relevant rights to the maximum of their available resources clearly requires Governments to do much more</p>
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	<p>than merely abstain from taking measures which might have a negative impact on persons with disabilities. The obligation in the case of such a vulnerable and disadvantaged group is to take positive action to reduce structural disadvantages and to give appropriate preferential treatment to people with disabilities in order to achieve the objectives of full participation and equality within society for all persons with disabilities. This almost invariably means that additional resources will need to be made available for this purpose and that a wide range of specially tailored measures will be required.</p> <p>...</p> <p>17. Anti-discrimination measures should be based on the principle of equal rights for persons with disabilities and the non-disabled, which, in the words of the World Programme of Action concerning Disabled Persons, "implies that the needs of each and every individual are of equal importance, that these needs must be made the basis for the planning of societies, and that all resources must be employed in such a way as to ensure, for every individual, equal opportunity for participation. Disability policies should ensure the access of [persons with disabilities] to all community services".</p> <p><i>The Comment highlights specific provisions of the Covenant which implicitly require States Parties to act to ensure the rights of persons with disabilities: Article 3-Equal Rights for Men and Women; Articles 6-8-Rights Relating to Work; Article 9-Social Security; Article 10-Protection of the Family and of Mothers and Children Article 11-The Right to an Adequate Standard of Living; Article 12-The Right to Physical and Mental Health; Articles 13 and 14-The Right to Education; and Article 15-The Right to Take Part in Cultural Life and Enjoy the Benefits of Scientific Progress;</i></p>
ILO C159 Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983	<p><i>The Convention calls on ILO members to formulate a policy on vocational rehabilitation and the employment of persons with disabilities.</i></p>

<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C159>

Article 2

Each Member shall, in accordance with national conditions, practice and possibilities, formulate, implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons.

Article 3

The said policy shall aim at ensuring that appropriate vocational rehabilitation measures are made available to all categories of disabled persons, and at promoting employment opportunities for disabled persons in the open labour market.

Article 4

The said policy shall be based on the principle of equal opportunity between disabled workers and workers generally. Equality of opportunity and treatment for disabled men and women workers shall be respected. Special positive measures aimed at effective equality of opportunity and treatment between disabled workers and other workers shall not be regarded as discriminating against other workers.

Article 5

The representative organisations of employers and workers shall be consulted on the implementation of the said policy, including the measures to be taken to promote co-operation and co-ordination between the public and private bodies engaged in vocational rehabilitation activities. The representative organisations of and for disabled persons shall also be consulted.

<p>ILO R168 Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983</p> <p>http://www.ilo.org/ilolex/cgi-lex/convde.pl?R168</p>	<p><i>In this Recommendation, the ILO provides guidelines for member states on persons with disabilities and employment.</i></p> <p>7. Disabled persons should enjoy equality of opportunity and treatment in respect of access to, retention of and advancement in employment which, wherever possible, corresponds to their own choice and takes account of their individual suitability for such employment.</p> <p>8. In providing vocational rehabilitation and employment assistance to disabled persons, the principle of equality of opportunity and treatment for men and women workers should be respected.</p> <p>9. Special positive measures aimed at effective equality of opportunity and treatment between disabled workers and other workers should not be regarded as discriminating against other workers.</p> <p>10. Measures should be taken to promote employment opportunities for disabled persons which conform to the employment and salary standards applicable to workers generally.</p> <p>11. Such measures, in addition to those enumerated in Part VII of the Vocational Rehabilitation (Disabled) Recommendation, 1955, should include:</p> <p>(a) appropriate measures to create job opportunities on the open labour market, including financial incentives to employers to encourage them to provide training and subsequent employment for disabled persons, as well as to make reasonable adaptations to workplaces, job design, tools, machinery and work organisation to facilitate such training and employment;</p> <p>(b) appropriate government support for the establishment of various</p>
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	<p>types of sheltered employment for disabled persons for whom access to open employment is not practicable;</p> <p>(c) encouragement of co-operation between sheltered and production workshops on organisation and management questions so as to improve the employment situation of their disabled workers and, wherever possible, to help prepare them for employment under normal conditions;</p> <p>(d) appropriate government support to vocational training, vocational guidance, sheltered employment and placement services for disabled persons run by non-governmental organisations;</p> <p>(e) encouragement of the establishment and development of co-operatives by and for disabled persons and, if appropriate, open to workers generally;</p> <p>(f) appropriate government support for the establishment and development of small-scale industry, co-operative and other types of production workshops by and for disabled persons (and, if appropriate, open to workers generally), provided such workshops meet defined minimum standards;</p>
<p>Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984</p> <p>http://www2.ohchr.org/english/law/cat.htm</p>	<p><i>In Article 14, the Convention calls on State Parties to ensure redress, compensation, and rehabilitation for the victims of torture:</i></p> <p>Article 14</p> <p>1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.</p>

	<p>2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.</p>
<p>Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 1997</p> <p>http://untreaty.un.org/English/millennium/law/disarmament/xxvi_5E.htm</p>	<p><i>In its Preamble, the Convention emphasizes the need for medical care and rehabilitation for mine victims:</i></p> <p>Wishing to do their utmost in providing assistance for the care and rehabilitation, including the social and economic reintegration of mine victims,</p> <p>...</p> <p><i>Article 6 requires State Parties "in a position to do so" to assist mine victims:</i></p> <p>Article 6: International cooperation and assistance</p> <p>...</p> <p>3. Each State Party in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims and for mine awareness programs. Such assistance may be provided, inter alia, through the United Nations system, international, regional or national organizations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent societies and their International Federation, non-governmental organizations, or on a bilateral basis.</p> <p>...</p> <p>7. States Parties may request the United Nations, regional organizations, other States Parties or other competent intergovernmental or non-governmental fora to assist its authorities in the elaboration of a national demining program to determine, inter alia:</p> <ol style="list-style-type: none"> The extent and scope of the anti-personnel mine problem; The financial, technological and human resources that are required for the implementation of the program; The estimated number of years necessary to destroy all anti-

	<p>personnel mines in mined areas under the jurisdiction or control of the concerned State Party;</p> <p>d. Mine awareness activities to reduce the incidence of mine-related injuries or deaths;</p> <p>e. Assistance to mine victims;</p> <p>f. The relationship between the Government of the concerned State Party and the relevant governmental, inter-governmental or non-governmental entities that will work in the implementation of the program.</p> <p>8. Each State Party giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programs.</p>
<p>Convention on Cluster Munitions, 2008</p> <p>http://untreaty.un.org/English/Opening_Signature/english.pdf</p>	<p><i>The Convention's Preamble refers specifically to the CRPD:</i></p> <p><i>Bearing in mind the Convention on the Rights of Persons with Disabilities which, inter alia, requires that States Parties to that Convention undertake to ensure and promote the full realisation of all human rights and fundamental freedoms of all persons with disabilities without discrimination of any kind on the basis of disability,</i></p> <p><i>Mindful of the need to coordinate adequately efforts undertaken in various fora to address the rights and needs of victims of various types of weapons, and resolved to avoid discrimination among victims of various types of weapons,</i></p> <p>....</p> <p><i>In Article 5, the Convention requires States Parties to assist cluster munitions victims, and not to discriminate against them or between them and other persons with disabilities:</i></p>

	<p>Article 5-Victim assistance</p> <p>1. Each State Party with respect to cluster munition victims in areas under its jurisdiction or control shall, in accordance with applicable international humanitarian and human rights law, adequately provide age- and gender-sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for their social and economic inclusion. Each State Party shall make every effort to collect reliable relevant data with respect to cluster munition victims.</p> <p>2. In fulfilling its obligations under paragraph 1 of this Article each State Party shall:</p> <ul style="list-style-type: none"> (a) Assess the needs of cluster munition victims; (b) Develop, implement and enforce any necessary national laws and policies; (c) Develop a national plan and budget, including timeframes to carry out these activities, with a view to incorporating them within the existing national disability, development and human rights frameworks and mechanisms, while respecting the specific role and contribution of relevant actors; (d) Take steps to mobilise national and international resources; (e) Not discriminate against or among cluster munition victims, or between cluster munition victims and those who have suffered injuries or disabilities from other causes; differences in treatment should be based only on medical, rehabilitative, psychological or socio-economic needs; (f) Closely consult with and actively involve cluster munition victims and their representative organisations;
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	<p>(g) Designate a focal point within the government for coordination of matters relating to the implementation of this Article; and</p> <p>(h) Strive to incorporate relevant guidelines and good practices including in the areas of medical care, rehabilitation and psychological support, as well as social and economic inclusion.</p>
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Wellesley Centers for Women
Wellesley College, 106 Central Street
Wellesley, MA 02481-8203

Phone: 781.283.2500
Fax: 781.283.2504
www.wcwonline.org