



United States Laws, Policies, and International Human Rights Obligations Impacting Health & Safety of Women with Disabilities

Statistics & data

- According to the most recent U.S. Census Bureau analysis, approximately 19.8% of all women and girls in the U.S. have a disability. Thus, severe gaps in addressing health and safety concerns of women and girls with disabilities impacts almost one-fifth of all of the women and girls in the U.S. (*See WEI Submission p. 1*).

Recommendations

- Ratify without delay CEDAW, CRPD, ICESCR, and all other human rights treaties to which the U.S. is not yet a party.
- To address lack of access to reproductive health services for women with disabilities:
 - Promulgate regulations reflecting the U.S. Access Board's proposed requirements for accessible medical equipment for health facilities including those offering obstetric and gynecological services;
 - Work with Congress and take appropriate Executive Branch action to repeal the Hyde Amendment to improve access to abortion for women with disabilities (and all women) who rely on Medicaid for their health insurance coverage;
 - Give the U.S. Centers for Medicaid and Medicare statutory authority to ensure that health facilities funded through these programs comply with federal disability law;
 - Through the U.S. Department of Health and Human Services and other federal agencies, enhance funding and improve programs for training of reproductive healthcare professionals on (1) physical accessibility of facilities; (2) informed consent procedures for all reproductive health procedures involving women with disabilities; and (3) multiple accessible formats for communicating reproductive health information; and
 - Improve U.S. Department of Education guidelines to elementary and secondary education institutions regarding the provision of sexual and reproductive and anti-violence awareness to female students with disabilities.
- To reduce violence against women with disabilities:
 - Increase funding to programs focusing on women with disabilities under VAWA, administered by the U.S. Department of Justice Office on Violence Against Women;
 - Ensure that the U.S. Department of Education's Title IX regulations on harassment and rape in colleges address the needs of female students with disabilities;
 - Develop disability-sensitive screening instruments and interventions to address violence against women with disabilities;

- Strengthen disaggregated data collection on sexual violence against women prisoners with disabilities by the appropriate entities within the U.S. Department of Justice as required by the Prison Rape Elimination Act (PREA);
 - Work with state governments to remove statutory language in the 11 states that authorize a court to order the involuntary sterilization or forced contraceptive use of a person with a disability, as prohibited by the Americans with Disabilities Act (ADA); and
 - Encourage medical associations to adopt the 2011 International Federation of Gynecology and Obstetrics ethical guidelines on obtaining prior informed consent to sterilization.
- To improve access to justice for women with disabilities:
- Include within U.S. Department of Justice awareness-raising and continuing legal education for attorneys, judges and police, training designed to eliminate stereotypes about the credibility of female witnesses with disabilities and the need to provide ADA-required accommodations; and
 - Promulgate U.S. Access Board guidelines on court access.

Legal Framework: United States Laws, Policies, and International Human Rights Obligations Impacting Health & Safety of Women with Disabilities

- The U.S. has ratified the ICCPR, CAT, and CERD. The United States has signed, but not ratified CEDAW, CRPD, CRC, and ICESCR, and is therefore obligated to refrain from acts that would defeat the object and purpose of these treaties. The U.S. understands its treaty obligations to include addressing gender-based violence and discrimination in access to sexual and reproductive health services. (See WEI Submission pp. 1-2)
- The U.S. has a number of federal laws and policies that address health and safety of women and girls with disabilities. The **Americans with Disabilities Act (ADA)** prohibits discrimination on the basis of disability in a range of areas, including by healthcare providers, hospitals, and domestic/sexual violence shelters. **Section 504 of the Rehabilitation Act of 1973** requires any federally funded program to be accessible to and usable by persons with disabilities. The **Patient and Protection Affordable Care Act of 2010** mandates coverage in health plans for women’s preventive health care, including contraception. The **Violence against Women Act of 2013** provides limited funds to programs aimed specifically at women with disabilities. The **Prison Rape Elimination Act of 2003** recognizes that female inmates with disabilities face higher rates of sexual violence. (For more details regarding federal laws and policies, see WEI Submission, Section II.B)
- Despite these federal protections, state laws continue to enshrine stereotypes about women with disabilities as mothers: eleven states retain statutory language authorizing a court to order the **involuntary sterilization of a person with disabilities**, and courts fail to consistently recognize involuntary sterilization as a violation of the ADA and human rights. (See WEI Submission p. 3)

Discrimination in Practice: Sexual and Reproductive Health and Rights

- Women and girls with disabilities lack appropriate, consistent, non-discriminatory, and affordable access to sexual and reproductive healthcare, which results in serious violations of their sexual and reproductive health rights. (See WEI Submission, pp. 5-8) For example:
- Many health facilities lack **physically accessible** diagnostic equipment such as mammogram machines and adjustable examination tables, which can prevent women with disabilities from seeking necessary reproductive health services such as breast cancer screenings.

- Sexual and reproductive **health information**, including comprehensive sexuality education, is seldom accessible or appropriate for women girls with disabilities, which means they lack the necessary information to protect themselves from sexual abuse, unwanted pregnancy, and sexually transmitted infections. One U.S. study showed that only 19% of physically disabled women had received sexuality counseling.
- Women with disabilities have higher unemployment rates and poverty than the general population, and are less likely to have private health insurance. **High costs**, coupled with limited numbers of accessible and appropriately trained providers accepting Medicaid/Medicare, can make it difficult for women with disabilities to afford the health care services they need.
- Women with disabilities encounter **pervasive discrimination and bias** on the part of healthcare providers, who frequently lack the training necessary to provide people with disabilities with appropriate, quality care. For instance, providers may not recognize a woman's need for reproductive health services, including the need for contraceptives, due to stereotypes that women with disabilities are sexually inactive.

Discrimination in Practice: Gender-Based Violence in the Public Sphere

- Women with disabilities are at least two to three times more likely to experience domestic violence and other forms of gender-based violence than non-disabled women, are likely to experience abuse over a longer period of time, and often suffer more severe injuries as a result of the violence. (See WEI Submission, pp. 8-12) For example:
 - One national study estimated that almost **80% of women with disabilities are sexually assaulted** on more than one occasion throughout their lives.
 - Girls with disabilities disproportionately experience **sexual harassment and abuse in schools**, as well as bullying and teasing. 61% of deaf female undergraduates experienced sexual coercion from their partner compared to 28% of hearing female undergraduates.
 - U.S. jails and prisons house more persons with psycho-social disabilities than all of the country's psychiatric hospitals combined, and **female prisoners with disabilities** may be actively targeted by both guards and other inmates as victims of violence, including sexual violence. Prison conditions may lead to development of, or aggravation of a preexisting, disability, and prisons may not offer rape counseling or mental health treatment to victims of sexual assault in prison.
 - Women and girls with disabilities are frequently subjected to involuntary reproductive health services, including **forced sterilization or forced contraception**, or may face **pressure to abort** wanted pregnancies. For example, in 2007, the parents of a 9-year-old girl with developmental disabilities consented to have her undergo a surgical procedure to stunt her growth and remove her reproductive organs prior to puberty. Since 2012, there have been 12 confirmed cases and over 100 suspected cases of families subjecting disabled children to similar treatment.

Discrimination in Practice: Access to Justice

- Despite experiencing disproportionately high rates of physical and sexual violence, women with disabilities encounter significant barriers to accessing justice when they attempt to report the violence. (See, WEI Submission pp. 12-17) For example:
 - Individuals with disabilities have diminished **physical access** to courthouses due to features such as inaccessible witness chairs and jury boxes, elevated courtroom areas within confined spaces, and lack of accessible signage and listening systems.

- The justice system often fails to see a woman or child with a disability as a competent witness because of stereotypes or difficulties in communicating without accommodation. The mere fact that a woman has a disability can lead police officers, prosecutors, judges, and jurors to dismiss her **testimony as lacking credibility**.
- Crimes committed against individuals with disabilities are often characterized as abuse and neglect instead of specific crimes such as assault, rape, and murder. The minimization of the criminal victimization that occurred and the stereotype that women with disabilities lack competency to testify both lead to **impunity for violence against women with disabilities**, which in turn perpetuates gender-based violence by emboldening abusers who know that the justice system is unlikely to take complaints by disabled women seriously.
- Courthouses and police stations often **lack resources in alternative formats** to enable witnesses with disabilities to successfully navigate the justice system.

Stephanie Ortoleva, Esq., President
Women Enabled International
President@WomenEnabled.org

Suzannah Phillips, Legal Advisor
Women Enabled International
LegalAdvisor@WomenEnabled.org