



The Right of Women and Girls with Disabilities to be Free from Gender-Based Violence

Women Enabled International

FACTS

Women and girls with disabilities, who make up almost one-fifth of the world's population of women,¹ are at least two to three times more likely than women without disabilities to experience gender-based violence in various spheres.² They are also likely to experience abuse over a longer period of time, resulting in more severe injuries.³ Women with disabilities experience both the same forms of gender-based violence, as well as unique forms as a result of their disability; they also experience distinct barriers to escaping such violence and seeking justice. However, existing laws, policies, and programs on gender-based violence seldom address the specific concerns of women and girls with disabilities, and it is difficult to find accurate and comprehensive data disaggregated by both gender and disability.

Violations of the Right to Be Free from Gender-Based Violence Against Women and Girls with Disabilities

What is Gender-Based Violence?

The World Health Organization defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”⁴ Gender-based violence can take a variety of forms—physical, emotional, psychological, sexual, economic—and can include violence perpetrated by intimate partners, family members, caregivers, medical or other service providers, law enforcement, military personnel, educators, employers, and strangers.

Forms and manifestations of violence against women with disabilities

- Women with disabilities experience the same forms of gender-based violence as women and girls without disabilities, such as intimate partner violence, family violence, sexual violence, and sexual harassment.
- Women with disabilities also experience distinct forms of gender-based violence due to their disabilities. These can include sexual abuse by a caregiver; withholding of medication or an assistive device; purposefully substandard care; denial of necessities like food, toileting, or grooming; control of sensory devices; financial control; restriction of communication devices; ‘virgin rape’; violence in long-term care institutions; and enforced isolation.⁵
- Women with disabilities additionally experience some forms of violence that other women and girls experience at disproportionate rates—such as forced or coerced medical procedures, particularly forced sterilization, contraception, or abortion.
- Guardianship and other formal or informal substituted decision-making regimes can deprive women with disabilities of their legal capacity and decision-making power, exposing them to a heightened risk of gender-based violence. Deprivation of decision-making power can make women with disabilities more reliant on potential abusers and can render them particularly vulnerable to forced medical procedures.
- Women with disabilities who belong to, or are perceived as belonging to, other groups that face heightened vulnerability to discrimination and violence—such as women with disabilities who are also immigrants, racial or ethnic minorities, indigenous, LGBTI, older women, or adolescents—may experience compounded forms of gender-based violence.

Barriers to ending the cycle of violence

- Women with disabilities may fear leaving or reporting their abuser because of emotional, financial, or physical dependence that results from an inaccessible environment, lower rates of employment and lower education levels, and broader discrimination against women with disabilities.
- Women with disabilities may fear retribution, institutionalization, loss of assistive devices and other supports, or loss of custody if they report or leave abusers.
- Emergency shelters and spaces are often inaccessible and fail to provide reasonable accommodations to women with disabilities or exclude them altogether, and information on such services is seldom available in alternative formats.
- Shelters may have “no animal” policies that serve as a barrier to women who rely on a service animal such as a guide dog.
- Service providers, including social workers and health care providers, often lack necessary training on providing care and assistance to women and girls with disabilities who have experienced gender-based violence.
- Providers may fail to screen for domestic or sexual violence due to misconceptions that people with disabilities are not sexually active or do not form intimate partner relationships.

Barriers to access to justice

- Police stations may not have the resources necessary to ensure that witnesses with disabilities are able to adequately communicate with the police or access information. Police stations and courthouses may also be physically inaccessible.
- Information about legal rights is not often provided in alternative formats (such as Braille, plain language, or text-to-speech), which can prevent women with disabilities from understanding their rights or pursuing their complaints to the fullest extent of the law.
- Women with disabilities may fear losing custody of their children if they report domestic violence, particularly as courts may enforce the discriminatory stereotype that a non-disabled partner must be a more competent parent.
- Police, the judiciary, and the public may perceive women with disabilities as being less credible witnesses than others, and in some cases, women with disabilities who are deprived of legal capacity may be prohibited from testifying in court.
- Women themselves may be the only or primary witnesses to instances of gender-based violence committed against them, making barriers to reporting violence or testifying in court particularly pernicious.
- Impunity for violence against women with disabilities can embolden perpetrators who know that the justice system is unlikely to take complaints seriously.

Access to Justice for Women and Girls with Disabilities

Women and girls with disabilities have the right to seek and receive justice when they experience acts of gender-based violence. In order to ensure this, the justice system must be fully accessible to women with disabilities. This means that:

- Law enforcement, the judiciary, and other actors involved in the administration of justice must be trained to recognize and respond to gender-based violence against women with disabilities, and lawyers must be trained to provide them with effective legal representation.
- Information on obtaining orders of protection and other legal rights must be available in alternative formats to ensure that it is accessible to women with disabilities.
- States must recognize the legal capacity of women with disabilities and give equal weight to their testimony.
- Women with disabilities must have access to necessary support services to navigate and participate in the judicial process.
- Women with disabilities must not fear institutionalization or loss of custody of their children when seeking justice for gender-based violence.
- Police stations and courts (including witness boxes) must be physically accessible to women with disabilities.

The Right to Be Free from Gender-Based Violence

A range of fundamental rights protected in a number of international and regional human rights treaties, including the Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), underpin the right of women and girls with disabilities to be free from gender-based violence. These include the rights to:

- **Freedom from gender-based violence**⁶
- **Life**⁷
- **Liberty and security of the person**⁸
- **Equality and non-discrimination**⁹
- **Accessibility**¹⁰
- **Freedom from torture or cruel, inhuman or degrading treatment or punishment**¹¹
- **Physical and psychological recovery, rehabilitation, and social reintegration** of victims of violence, abuse, or exploitation.¹²
- **Consent to marriage and equal rights within marriage**¹³
- **Freedom from harmful practices**¹⁴
- **Equality before the law and access to justice**¹⁵
- **Adequate standard of living and social protection**¹⁶
- **Protection and safety** for people with disabilities in situations of risk¹⁷
- **Live independently and be included in the community**¹⁸

Government Obligations with Respect to Gender-Based Violence

Governments have specific obligations under international law to respect, protect, and fulfil the right of women with disabilities to be free from gender-based violence. Governments must:

- Respect:** This obligation requires States—including any state actors—to refrain from committing acts of gender-based violence. The State must enact laws and regulations to safeguard against such violence, for instance by ensuring that sterilization or abortion without informed consent is prohibited in law and practice.
- Protect:** This obligation requires States to exercise due diligence to protect women with disabilities from gender-based violence by private actors.
- Fulfil:** This obligation requires States to take necessary measures to ensure that women with disabilities can live a life free from gender-based violence, including, for example, by ensuring that protective services are accessible to women and by training providers to provide disability-inclusive services.

While States have a direct duty to eliminate gender-based violence by State actors—such as government officials, members of the military or law enforcement, and people working in the public health system—States must also exercise due diligence to prevent and redress gender-based violence committed by private actors. Due diligence requires that States:

- Prevent:** This requires States to enact laws and policies that address gender-based violence, in addition to taking steps to dismantle the stereotypes and cultural practices that contribute to violence against women with disabilities.
- Protect:** This requires States to provide adequate, timely, and accessible services to victims of gender-based violence to prevent recurrence of the harm.
- Investigate, prosecute, and punish:** This requires States to ensure that allegations of violence against women with disabilities are taken seriously, that States take all measures to fully investigate and prosecute such violence, and that States ensure punishments are commensurate with the gravity of the crime.
- Redress:** This requires States to take a holistic response to experiences of violence, taking all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of victims of gender-based violence.

Realizing the Right to Be Free from Gender-Based Violence for Women and Girls with Disabilities

- Women and girls with disabilities must be able to live their lives free from violence committed against them on the basis of their gender and their ability.
- Laws, policies, and programs must recognize and respond to the specific forms of gender-based violence that women with disabilities face and States must involve women with disabilities in their design, implementation, and monitoring. States also must collect disaggregated data on the incidence of violence against women with disabilities to inform the development of responsive policies and programs.
- Awareness raising campaigns must address the underlying stereotypes and stigma that foster violence against women and girls with disabilities.
- Law enforcement, the judiciary, health care providers, and others must be trained to identify and respond to situations of violence against women with disabilities.
- Health care and shelter services must be available and accessible to women with disabilities and information and hotlines must be available in alternative formats to ensure that they are accessible to women with disabilities.

- 1 WORLD HEALTH ORGANIZATION (WHO) AND WORLD BANK, *WORLD REPORT ON DISABILITY* 28 (2011).
- 2 United States Agency for International Development (USAID), *United States Strategy to Prevent and Respond to Gender-based Violence Globally* 7 (Aug. 10, 2012), <http://www.state.gov/documents/organization/196468.pdf>. It is worth noting that no global data exists on the incidence of such violence, and studies draw on different sources of data.
- 3 Rashida Manjoo, Report of the Special Rapporteur on violence against women, its causes and consequences: women with disabilities, para. 31, U.N. Doc. A/67/227 (Aug. 3, 2012)
- 4 World Health Organization, *Health Topics: Violence against Women*, http://www.who.int/topics/gender_based_violence/en.
- 5 CRPD Committee, *General Comment No. 3 on women and girls with disabilities*, para. 31, U.N. Doc. CRPD/C/GC/3 (2016).
- 6 Convention on the Rights of Persons with Disabilities (CRPD), Arts. 6, 16; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Arts. 5, 6; Convention on the Rights of the Child (CRC), Arts. 19, 34; Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol), Arts. 3, 4, 5, 11 & 23; Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará), Arts. 3, 7; Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), Art. 4.
- 7 International Covenant on Civil and Political Rights (ICCPR), Art. 6; CRPD, Art. 10; Convention on the Rights of the Child (CRC), Art. 6; African Charter on Human and People's Rights (African Charter), Art. 4; Maputo Protocol, Art. 4; American Convention on Human Rights (American Convention), Art. 4; Belém do Pará, Art. 4; European Convention on Human Rights (ECHR), Art. 2.
- 8 ICCPR, Arts. 9, 17; CRPD, Arts. 14, 22-23; CRC, Art. 16; African Charter, Art. 6; Maputo Protocol, Arts. 4, 14; American Convention, Arts. 7, 11; Belém do Pará, Art. 4; ECHR, Arts. 5, 8.
- 9 ICCPR, Art. 2; ICESCR, Art. 2; CRPD, Arts. 5-7; CEDAW, Arts. 1, 3; CRC, Arts. 2, 5; African Charter, Arts. 2-3; Maputo Protocol, Art. 8; American Convention, Arts. 1, 24; Protocol of San Salvador, Art. 3; ECHR, Art. 14; Istanbul Convention, Art. 4.
- 10 CRPD, Art. 9; Maputo Protocol, Art. 14; Istanbul Convention, Art. 20.
- 11 ICCPR, Art. 7; Convention against Torture, Arts. 2, 16; CRPD, Art. 15; CRC, Art. 37; African Charter, Art. 5; American Convention, Art. 5; Belém do Pará, Art. 4; ECHR, Art. 3.
- 12 CRPD, Art. 16(4); CRC, Art. 39; Maputo Protocol, Art. 4; Istanbul Convention, Art. 20.
- 13 ICCPR, Art. 23; ICESCR, Art. 10(1); CEDAW, Art. 16; CRPD, Art. 23(1); Maputo Protocol, Art. 6; American Convention, Art. 17; Istanbul Convention, Art. 32.
- 14 CRPD, Arts. 6, 8(1)(b); CEDAW, Arts. 2, 5; CRC, Art. 24; Maputo Protocol, Art. 5.
- 15 ICCPR, Art. 26; CRPD, Arts. 12, 13; African Charter, Art. 3; Maputo Protocol, Art. 8; American Convention, Art. 3; Belém do Pará, Art. 4.
- 16 ICESCR, Art. 11; CRPD, Art. 28; Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, Art. 9.
- 17 CRPD, Art. 11; African Charter, Art. 18; Maputo Protocol, Art. 23.
- 18 CRPD, Art. 19.

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WEI works at the intersection of women's rights and disability rights to advance the rights of women and girls with disabilities around the world. Through advocacy and education, WEI increases international attention to—and strengthens international human rights standards on—issues such as violence against women, sexual and reproductive health and rights, access to justice, education, legal capacity, and humanitarian emergencies. Working in collaboration with women with disabilities rights organizations and women's rights organizations worldwide, WEI fosters cooperation across movements to improve understanding and develop cross-cutting advocacy strategies to realize the rights of all women and girls.