

Forgotten Sisters - A Report on Violence against Women with Disabilities

An Overview of Its Nature, Scope, Causes and Consequences

Prepared by the Violence Against Women with Disabilities Working Group

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VI. Introduction¹

A. Rationale for Report

As scholars and human rights advocates, members of the Working Group on Violence against Women with Disabilities are concerned about the prevalence and pervasiveness of violence against women and girls with disabilities.² The Working Group recognizes the need to ensure that women and girls with disabilities are included as full participants in data-gathering, analysis, and proposed solutions as the mandates of Ms. Rashida Manjoo, the UN Special Rapporteur on Violence against Women, its Causes and Consequences,³ and Mr.

¹ © 2012; Stephanie Ortoleva and Hope Lewis; The Working Group on Violence against Women with Disabilities (“WG” or “Working Group”) (Stephanie Ortoleva, President and Founder Women Enabled & Hope Lewis, Professor of Law, Northeastern University School of Law) gratefully acknowledges the excellent research assistance of the following students: from Northeastern University School of Law, Gautam Jagannath ’12 (state compliance), Sari M. Long ’13, (selected resources appendix), and Deena N. Sharuk ’12, (manuscript and citation checks); from the University of Virginia School of Law-- Natalie D. Morris ’12, (women with disabilities as witnesses and access to legal representation), Meghan “Alex” Royal ’13, (preliminary research), Lars D. Trautman ’12, (violence in prisons), and Jenny Xie ’13 (physical access to courts, etc.); and from the University of Maryland Francis King Carey School of Law -- Meredith Leeson ’13 (manuscript format and citation checks, and research); and from Harvard and Radcliffe Colleges and the Harvard Project on Disability, Harvard University—Katherine Warren (outline manuscript, preliminary research, parental rights and forced sterilization). The Working Group also thanks Janet E. Lord, Senior Partner, BlueLaw International and Adjunct Professor at the University of Maryland Francis King Carey School of Law and Professor Michael Ashley Stein, Harvard Law School Project on Disability and William and Mary College of Law, for their assistance in reviewing the final draft of this report and for assisting in identifying research assistants for the project from their respective universities.

² Throughout this paper the term “women with disabilities” is used and, unless otherwise stated, the term should be interpreted to also include girls with disabilities.

³ The Working Group’s focus on Violence against Women with Disabilities was inspired, in part, by the work of the UN Special Rapporteur on Violence against Women. *See* Human Rights Council, *Mandate of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, A/HRC/16/L.26 (Mar 21, 2011). *See also* United Nations Office of the High Commissioner for Human Rights, *Violence Against Women: South African Legal Expert Takes Over as New UN Special Rapporteur* (announcing the appointment of Rashida Manjoo as the new UN Special Rapporteur on violence against women, its causes and consequences) <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=52&LangID=E>

(last visited June 16, 2011); *see also* Special Rapporteur on Violence Against Women, Its Causes and Consequences,

Shuaib Chalklen, the Special Rapporteur on Disability, move forward.⁴ Additionally, the Working Group calls on international organizations, especially those focused on women's rights such as the UN Commission on the Status of Women (which will consider as its priority thematic issue violence against women at its 57th session in March 2013)⁵ and UN Women, and the international community, governments and non-governmental organizations (NGOs) to join us in the effort to highlight these critical issues.

Because women with disabilities make up a significant part of the world's population, principles of fairness and equality require that the world engage in a vigorous discussion on how to end violence against them. According to the World Health Organization (WHO) and the World Bank (WB), more than one billion people (approximately 15% of the world's population) live with some form of disability.⁶

Significantly, for the World Bank and World Health Organization disability level threshold of 40, which includes those experiencing significant difficulties in their everyday lives For both low income and high income Countries, the male disability prevalence rate is 12 with standard error .18 and Female disability prevalence rate is 19.2 with standard error .19.⁷

Based on these figures, it is clear that women with disabilities constitute a significant portion of the global population and that the pervasive violence against women with disabilities must be addressed.

<http://www2.ohchr.org/english/issues/women/rapporteur/> (last visited June, 16, 2011).

⁴ Economic and Social Council, 2012/7 ¶5, U.N. Doc. E/CN.5/2012/7 (Nov. 8, 2011)

⁵ UN Commission on the Status of Women, 57th Session, Priority Theme - Elimination and prevention of all forms of violence against women and girls, 4 – 14 March 2013, available at: <http://www.un.org/womenwatch/daw/csw/57sess.htm>.

⁶ World Health Organization [WHO] and World Bank, World Report on Disability. (2011), available at:

http://www.who.int/disabilities/world_report/2011/en/index.html .

⁷ World Health Organization [WHO] and World Bank, World Report on Disability. (2011) available at:

http://www.who.int/disabilities/world_report/2011/en/index.html.

The 2011 Report of the United Nations Special Rapporteur on Violence Against Women focused on the multiple and intersecting forms of discrimination that contribute to and exacerbate violence against women, noting that factors such as ability, age, access to resources, race/ethnicity, language, religion, sexual orientation and gender identity and class can exacerbate the violence women experience.⁸ Although women with disabilities experience many of the same forms of violence all women experience, when gender and disability intersect, violence takes on unique forms, has unique causes, and results in unique consequences. Further, women with disabilities who are also people of color or members of minority or indigenous peoples, or who are lesbian, trans-gender or intersex or who live in poverty, can be subject to particularized forms of violence and discrimination. These intersections must be explored in greater depth to ensure that the complexities of violence against women with disabilities are properly understood and addressed.

In recent years, the violence and discrimination experienced by women with disabilities has become somewhat more visible and noted by the international community as a result of the advocacy work and research of women with disabilities and their allies. For example, a 2011 resolution of the United Nations Human rights Council requested that the Office of the High Commissioner for Human Rights prepare a study on violence and disability, recognizing that disability can be both a cause and consequence of violence against women.⁹

Despite the evolution of normative frameworks concerning both the human rights of women and of persons with disabilities, the

⁸ Special Rapporteur on Violence against Women, Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, U.N. Doc. A/HRC/17/26 (May 2, 2011) (by Rashida Manjoo), available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A-HRC-17-26.pdf>.]

⁹ Human Rights Council, Accelerating efforts to eliminate all forms of violence against women: Ensuring due diligence in protection, A/HRC/17/L.6 (10 June 2011), Available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/17/L.6. The Resolution states, in pertinent part: “11. Invites the Office of the High Commissioner to prepare a thematic analytical study on the issue of violence against women and girls and disability, in consultation with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on disability of the Commission for Social Development of the Economic and Social Council, other relevant special procedure mandate holders, States, United Nations entities, regional organizations, civil society organizations and other relevant stakeholders, and to report to the Human Rights Council at its twentieth session”

impact of the combined effects of both gender and disability have not gained sufficient attention and the violence remains at shockingly high rates.

Ratification of the Convention on the Rights of Persons with Disabilities (CRPD),¹⁰ the Convention on the Elimination of All forms of discrimination against Women (CEDAW)¹¹ and the Convention on the rights of the Child (CRC)¹² is widespread.¹³ However, it has been more difficult to determine whether there has been effective implementation of these obligations with regard to preventing, remedying and responding to violence against women with disabilities.

This report reviews available information on the forms, causes and consequences of violence against women when both gender and disability collide to exacerbate that violence; examines the impact of the multiple and intersecting dimensions of women's lives and; their impact on violence against women with disabilities. The Report outlines the international and regional legal framework, highlighting relevant provisions and interpretations. Finally, the Report examines the extent to which States have met their due diligence obligations (setting forth a few country-specific case studies) highlights some best practices, discusses significant gaps in the research and makes recommendations for future action.

1. Forms and Frequency of Violence Against Women with Disabilities.

Violence against women with disabilities occurs in various spheres including in the home and the community. Violence is perpetrated and/or condoned by the State and private actors within

¹⁰ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

¹¹ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180 (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

¹² Convention on the Rights of the Child, G.A. Res. 44/25, Nov. 20, 1989, 1577 U.N.T.S. 3 available at <http://www.unhcr.org/refworld/docid/3ae6b38f0.html>.

¹³ For a list of States which have signed and/or ratified the CRPD and its Optional Protocol, see: UN Enable - Convention and Optional Protocol Signatures and Ratifications available at: <http://www.un.org/disabilities/countries.asp?navid=12&pid=166>.

public and private institutions and in the transnational sphere. The forms of violence to which women and girls with disabilities are subjected are varied. They include physical, psychological, sexual or financial violence, neglect, social isolation, entrapment, degradation, detention, denial of health care and forced sterilization and psychiatric treatment, among others. Women with disabilities are twice as likely to experience domestic violence and other forms of gender-based and sexual violence as non-disabled women, and are likely to experience abuse over a longer period of time and to suffer more severe injuries as a result of the violence. Their abuser may also be their caregiver, someone that the individual is reliant on for personal care or mobility, frequently they do not report the violence, institutions of the justice system are often physically inaccessible and do not provide reasonable accommodation, they often lack access to legal protection and representation, law enforcement officials and the legal community are ill-equipped to address the violence, their testimony is often not viewed as credible by the justice system and they are not privy to the same information available to non-disabled women. Furthermore, women and girls with disabilities are at high risk of gender-based and other forms of violence based on social stereotypes and biases that attempt to dehumanize or infantilize them, exclude or isolate them, target them for sexual and other forms of violence, and put them at greater risk of institutionalized violence. Sexual and gender-based violence also has the consequence of contributing to the incidence of disability among women. These several topics are explored in greater detail in this report, drawing on research by academics, practitioners, women with disabilities, Disabled Peoples Organizations (DPOs), governments and international and regional organizations. However, the Working Group reiterates its concern that more research and data collection by the international community, governments and non-governmental organizations and academic institutions must be undertaken to effectively address this violence.

2. Normative framework- CRPD and CEDAW intersection.

A careful analysis of the intersection between the provisions of the 1979 Convention on the Elimination of All Forms of

Discrimination against Women (CEDAW)¹⁴ and the 2006 Convention on the Rights of Persons with Disabilities (CRPD),¹⁵ along with various United Nations Resolutions and policy statements on human rights, women's rights and disability rights demonstrates the synergy that exists to foster changes in law, policy, and practice to ensure the inclusion of women with disabilities in an understanding of violence against women and its causes and consequences, recognizing the multiple and intersecting dimensions of women's lives.

Those responsible for interpreting and implementing international human rights treaties such as the CEDAW and the CRPD, including States Parties, must take full account of these provisions and principles.

3. CRPD's Gender Lens and Mandates Concerning Women

The CRPD adopts a gender lens in its terms and provisions, as reflected in the Preamble, Article 3, Article 6,¹⁶ and throughout other specific substantive CRPD provisions, such as Article 8 on awareness-raising, Article 16 on freedom from exploitation, violence and abuse, and Article 25 on health. As a result, the CRPD explicitly mandates the inclusion of women in all of the rights enumerated in the CRPD and also addresses the fact that the CEDAW does not explicitly reference women with disabilities in its provisions.¹⁷

4. General Obligations and Temporary Special or Specific Measures

¹⁴ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180 (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

¹⁵ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

¹⁶ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, pmb., (q), (s), arts. 3, 6 (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>; see also Peter Blanck et al., *Defying Double Discrimination*, 8 GEO. J. INT'L AFF. 95, 96-97 (2007) (detailing the genesis and negotiation process for CRPD Article 6 to achieve rights for women with disabilities).

¹⁷ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, arts. 8, 16, 25 (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

The CRPD and the CEDAW share many common principles such as the overall obligations required of states under Article 2 of the CEDAW and Article 4 of the CRPD. Both conventions require States Parties to enact legislative and legal protections for women and/or persons with disabilities. To alleviate the effect that stereotypes have on emphasizing notions of inequality towards women and persons with disabilities, Article 5 of the CRPD and Article 4 of the CEDAW include provisions authorizing the use of special measures or specific measures to expedite and ensure the achievement of equality between the sexes and those with disabilities.¹⁸ The CEDAW states that temporary special measures “aimed at accelerating de facto equality between men and women shall not be considered discrimination.”¹⁹ The CRPD authorizes “specific measures”.²⁰

5. *The CRPD and the CEDAW on Stereotyping*

Article 8 of the CRPD and Article 5 of the CEDAW emphasize the negative role that stereotypes can play in the lives of persons with disabilities, including women with disabilities and women in general. Under both conventions, States hold the responsibility to “[t]o combat stereotypes, prejudices and harmful practices”²¹ and to eliminate “prejudices and customary and all other practices.”²² Similarly, Article 8 of the CRPD lists ways in which a state may combat

¹⁸ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 5(4) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>; Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 4 (Dec. 18, 1979), *available at* <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

¹⁹ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 4(1) (Dec. 18, 1979), *available at* <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

²⁰ U.N. Human Rights Council, U.N. High Commissioner for Human Rights, Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary General: Thematic Study by the Office of the United Nations High Commissioner for Human Rights on enhancing awareness and understanding of the Convention on the Rights of Persons with Disabilities, U.N. Doc. A/HRC/10/48 (Jan. 26, 2009).

²¹ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art 8, para. 1(b) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

²² Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 5(a) (Dec. 18, 1979), *available at* <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

stereotypes against women and persons with disabilities.²³ Article 8 of the CRPD recommends that States employ programs “to raise awareness throughout society, including at the family level... and to foster respect for the rights and dignity of persons with disabilities...including those based on sex and age...”²⁴ The CRPD goes further than the CEDAW in Article 6 by recognizing that gender and disability stereotypes coincide to have a compounded effect on women with disabilities.²⁵

6. The CRPD and the CEDAW on Legal Capacity and Access to Justice

Two crucial elements of human rights, legal capacity and access to justice, are incorporated in both conventions. In the CRPD, Articles 12 and 13 address these issues, and in the CEDAW, Article 15 addresses equality before the law for both men and women.²⁶ The CRPD draws heavily on the approach taken in the CEDAW and rejects the narrower approach taken in the International Covenant on Civil and Political Rights (ICCPR).²⁷ In its General Comment No. 28, the Human Rights Committee (the Committee that monitors compliance with the ICCPR) states that:

The right of everyone under article 16 to be recognized everywhere as a person before the law is particularly pertinent for women, who often see it curtailed by reason of sex or marital status. This right implies . . . that women may not be treated as objects to be given, together with the property of the deceased husband, to his family. States must provide information on laws or

²³ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, arts. 8(1) (a)-(b) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

²⁴ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, arts. 8(1) (a)-(b) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

²⁵ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 6, para. 1 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

²⁶ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, arts. 12, para. 1-4 & 13, para. 1 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>; Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 15 (Dec. 18, 1979), *available at* <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

²⁷ International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. GAOR, Supp. No. 16, U.N. Doc. A/6316, arts. 14, 15, 16, (Dec. 16, 1966), *available at* <http://www2.ohchr.org/english/law/pdf/ccpr.pdf>.

practices that prevent women from being treated or from functioning as full legal persons and the measures taken to eradicate laws or practices that allow such treatment.²⁸

Interestingly, interpretations of this provision of the ICCPR make it abundantly clear that this provision only contemplates one aspect of this right—that every person is a subject, and not an object, of the law.²⁹ This provision does not guarantee that a person has the legal capacity to act.³⁰ On the other hand, the approach used in the provisions of the CRPD utilizes wording similar to that used in the second paragraph of Article 15 of the CEDAW.

Article 15 of the CEDAW contains four provisions. First, it requires States to accord women equality with men before the law. Second, it requires States, in civil matters, to accord women a legal capacity identical to that of men, as well as the same opportunities to exercise that capacity. More specifically, States must give women equal rights to conclude contracts and to administer property, and they must also treat women equally in all stages of court and tribunal procedure. Third, States must agree that all contracts and other private legal instruments directed at restricting the legal capacity of women are deemed null and void. Fourth, Article 15 requires States to accord men and women with the same rights regarding the law relating to the movement of persons and the freedom to choose their residence and domicile.³¹

Furthermore, the CEDAW Article 15 focuses on ensuring women's legal autonomy. It confirms women's equality with men before the law and also requires States to guarantee equal rights in areas of civil law where women have traditionally suffered discrimination.³² Comparably, Articles 3 and 5 of the CRPD

²⁸ Human Rights Comm., para. 19, *General Comment No. 28: Article 3 (Equality of Rights Between Men and Women)* U.N. Doc. CCPR/C/21/Rev.1/Add.10 (Mar. 29, 2000).

²⁹ See U.N. High Comm'r for Human Rights, Legal Capacity para. 14 (Aug. 2005) (unpublished background conference document) (on file with author), available at http://www2.ohchr.org/SPdocs/CRPD/DGD21102009/OHCHR_BP_Legal_Capacity.doc.

³⁰ See U.N. High Comm'r for Human Rights, Legal Capacity para. 14 (Aug. 2005) (unpublished background conference document) (on file with author), available at http://www2.ohchr.org/SPdocs/CRPD/DGD21102009/OHCHR_BP_Legal_Capacity.doc.

³¹ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 15 (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

³² See Comm. on the Elimination of Discrimination Against Women, Rep. on its 13th Sess., Jan. 17-Feb. 4, 1994, para. 26, U.N. Doc. A/49/38 (Apr. 12, 1994).

emphasize and assure the legal rights of persons with disabilities and of men and women.³³

Article 15 of the CEDAW guarantees women equal “legal capacity” with men and the same opportunities to “exercise that capacity,” drawing from the principle of autonomy or self-determination.³⁴ Each individual is presumed to be able to make life choices and to act independently.³⁵ Thus, the CRPD clearly incorporates both concepts of “capacity to be a person before the law” and “legal capacity to act,” drawing on the approach taken in the CEDAW.³⁶

7. Right to a Nationality

Although country-level statistics regarding nationality and persons with disabilities are rare, several international conventions and treaties mention the right to nationality in general, as well as for persons with disabilities. In particular, Article 9 of the CEDAW and Article 18 of the CRPD concentrate on the right to a nationality. Article 9 of the CEDAW expresses that a woman has a right to her own nationality, which is not rendered obsolete once she marries.³⁷ The CRPD incorporates this concept in that persons with disabilities are entitled to a nationality and “to freedom to choose their residence...on an equal basis with others...”³⁸ The right to nationality has particular implications for persons with disabilities seeking to immigrate between States and/or Territories and to people working

³³ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, arts. 3(g) & 5(1) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

³⁴ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 15, para. 2 (Dec. 18, 1979), *available at* <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

³⁵ U.N. High Comm’r for Human Rights, Legal Capacity para. 18 (Aug. 2005) (unpublished background conference document) (on file with author), *available at* http://www2.ohchr.org/SPdocs/CRPD/DGD21102009/OHCHR_BP_Legal_Capacity.doc.

³⁶ U.N. High Comm’r for Human Rights, Legal Capacity para. 37 (Aug. 2005) (unpublished background conference document) (on file with author), *available at* http://www2.ohchr.org/SPdocs/CRPD/DGD21102009/OHCHR_BP_Legal_Capacity.doc.

³⁷ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 9 (Dec. 18, 1979), *available at* <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

³⁸ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 18 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

with clients on parole on mental health orders restricting their place of residence, working in immigration, and working with clients who move between States and/or Territories.³⁹ Article 12 of the International Covenant on Civil and Political Rights,⁴⁰ Articles 7 and 8 of the Convention on the Rights of the Child,⁴¹ and Article 12 of the African Charter on Human Peoples' Rights⁴² reaffirm this right to freedom of movement and nationality without specific mention of disability.

Article 18 of the CRPD applies the traditional right to nationality to the circumstances of persons with disabilities. The article guarantees persons with disabilities the right to movement across and within national borders as well as the right to choose their nationality and residence on an equal basis with others.⁴³ States Parties therefore cannot discriminate in immigration policy on the basis of disability. The second paragraph affirms the specific guarantees of children with disability to be named, registered, and given a nationality at birth as well as to avoid separation from parents at birth. Additionally, this paragraph has important repercussions for immigration laws that refuse entry to a child with disabilities whose family is seeking to immigrate.⁴⁴ The right to nationality for persons with disabilities is mediated by immigration law, discriminatory nationality practices at birth, and other citizenship-based debates.

8. Trafficking

³⁹ *Liberty of movement and nationality*, HUMAN RIGHTS FOR PEOPLE WITH DISABILITIES (Jan. 12, 2009, 3:11 PM), <http://www.disabilityrightsnow.org.au/node/41> [hereinafter *Liberty of movement*].

⁴⁰ International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. GAOR, Supp. No. 16, U.N. Doc. A/6316, art. 12 (Dec. 16, 1966), *available at* <http://www2.ohchr.org/english/law/pdf/ccpr.pdf>.

⁴¹ Convention on the Rights of the Child, G.A. Res. 44/25, U.N. DOC. A/RES/44/25, art. 7-8 (Nov. 20, 1989) [hereinafter CRC], *available at* <http://www2.ohchr.org/english/law/pdf/crc.pdf>.

⁴² African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58, art. 12 (1982), *entered into force* Oct. 21, 1986, *available at* <http://www.unhcr.org/refworld/docid/3ae6b3630.html>.

⁴³ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 18 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴⁴ *Liberty of movement and nationality*, HUMAN RIGHTS FOR PEOPLE WITH DISABILITIES (Jan. 12, 2009, 3:11 PM), <http://www.disabilityrightsnow.org.au/node/41>.

Two provisions of the CRPD have implications for addressing trafficking, although they do not use that term: Article 16 Freedom from exploitation, violence and abuse and Article 27 Work and employment. The CRPD Article 16(1) states: “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.”⁴⁵ Additionally, States Parties shall establish gender and age-specific supports, as well as provide recovery programs, prevention strategies and the identification, investigation and, where appropriate, prosecution of instances of such abuse.⁴⁶ The CRPD Article 27(2) states: “2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.”⁴⁷ The CEDAW Article 6 addresses the suppression of trafficking and exploitation of women and simply states: “States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”⁴⁸

The above discussion explored some of the important intersecting provisions of the CRPD and the CEDAW. Of course, both Conventions have significant provisions and numerous other international and regional human rights treaties and other instruments are relevant to a discussion of violence against women. These will be explored in greater depth in section IV on the international normative framework.

a. Social model understanding of disability and disability and gender stereotyping.

⁴⁵ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 16 (2)-(5) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴⁶ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 16 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴⁷ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 27 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴⁸ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 6 (Dec. 18, 1979), *available at* <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

An analysis of violence against women with disabilities must be informed by and reflective of a social model understanding of disability, in keeping with the Convention on the Rights of Persons with Disabilities (CRPD.) The preamble of the CRPD, together with Article 1, introduces the social model of disability by describing disability as a condition arising from “interaction with various barriers [that] may hinder [disabled peoples’] full and effective participation in society on an equal basis with others.”⁴⁹ This social model perspective does not deny the reality of impairment or its impact on an individual. It does, however, challenge the physical and social environments – and legal frameworks – to accommodate impairment as an anticipated incident of human diversity. This perspective also emphasizes, as underscored in the preamble to the CRPD, that the isolation experienced by persons with disabilities inhibits their meaningful contribution to the society, thereby undermining community cohesion and development.⁵⁰

Many policies operate on the assumption that disabling conditions are pathological and a defect and not, as a social model perspective understands, a *socially ascribed* so-called deficit.⁵¹ The impact of such a perspective is clear: persons with disabilities are to

⁴⁹ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 1 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁵⁰ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, para. (e) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁵¹ Janet E. Lord, “The Convention on the Rights of Persons with Disabilities and Antenatal Screening for Disability,” Expert Opinion developed for Savings Downs, New Zealand, 2012 (on file with authors).

This is summed up by the United Nations High Commissioner for Human Rights as follows: “The focus is no longer on a perceived “wrongness” of the person, with the impairment seen as a matter of deficiency or disease. On the contrary, the Convention views disability as a ‘pathology of society,’ that is, as the result of the failure of societies to be inclusive and to accommodate individual differences. Societies need to change, not the individual, and the Convention provides a road map for such change.” High Commissioner for Human Rights, Navanethem Pillay, Foreword, *Monitoring the Convention on the Rights of Persons with Disabilities: Guidance for Human Rights Monitors 5* (2010) [hereinafter *Monitoring Handbook*]. Policies and programs to address gender-based violence are subject to review under the CRPD for States Parties to the CRPD and must conform also to its purpose which is “to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all women with disabilities, and to promote respect for their inherent dignity.”

be avoided and/or excluded, as opposed to accommodated and included in the community.⁵²

Societal responses to disability are, qua the CRPD, accommodation, inclusion and support – including for families of persons with disabilities. Policies concerning violence against women are required to pitch toward these ascribed principles and not, toward isolation and exclusion.

b. Gender Stereotyping: A Feminist Analysis and Women with Disabilities

The gender-mainstreaming disability-inclusive approach outlined in this paper, draws upon a feminist-disability approach. Noted scholar Rosemarie Garland-Thomson asks the question: “Just what is feminist disability studies?” She answers:

It is more than research and scholarship about women with disabilities, just as feminist scholarship extends beyond women to critically analyze the entire gender system. Like feminist studies itself, feminist disability studies is academic cultural work with a sharp political edge and a vigorous critical punch. Feminist disability studies wants to unsettle tired stereotypes about people with disabilities. It seeks to challenge our dominant assumptions about living with a disability. It situates the disability experience in the context of rights and exclusions. It aspires to retrieve dismissed voices and misrepresented experiences. It helps us understand the intricate relation between bodies and selves. It illuminates the social processes of identity formation. It aims to denaturalize disability. In short, feminist disability studies re-imagines disability. Feminism challenges the belief that femaleness is a natural form of physical and mental deficiency or constitutional unruliness. Feminist disability studies similarly questions our assumptions that disability is a flaw, lack, or excess. To do so, it defines disability broadly from a social rather than a medical perspective. Disability, it argues, is a cultural

⁵² Janet E. Lord, “The Convention on the Rights of Persons with Disabilities and Antenatal Screening for Disability,” Expert Opinion developed for Savings Downs, New Zealand, 2012 (on file with authors).

interpretation of human variation rather than an inherent inferiority, pathology to cure, or an undesirable trait to eliminate. In other words, it finds disability's significance in interactions between bodies and their social and material environments. By probing the cultural meanings attributed to bodies that societies deem disabled, feminist disability studies does vast critical cultural work.⁵³

As described by noted scholar Rosemarie Garland-Thomson, disability-feminism “rejects the homogeneous category of women and focuses on the essential effort to understand just how multiple identities intersect. This analysis rejects an approach that obscures other identities and categories of cultural analysis – such as race, ethnicity, sexuality, class, and physical ability.”⁵⁴ With respect to women with disabilities, gender must be seen as “an ideological and material category that interacts with but does not subordinate other social identities or the particularities of embodiment, history, and location that informs personhood.”⁵⁵ Through this philosophical approach, we can address issues such as violence, body image, sexuality, discrimination, access to education, employment and political and public life, all the issues that are vital in addressing the rights of women with disabilities.

c. Gender Stereotyping and Women with Disabilities

Women with disabilities experience both the stereotypical attitudes toward women and towards persons with disabilities. In the groundbreaking book, *Gender Stereotyping: Transnational Legal Perspectives*, Cook and Cusack define stereotyping as: "a generalized view or preconception of attributes' or characteristics possessed by, or

⁵³ Rosemarie Garland-Thomson, *Feminist Disability Studies*, SIGNS: 30 J. WOMEN CULTURE & SOC. 1557 (2005) available at <http://userwww.service.emory.edu/users/rgarlan/pdfs/RGT%20Feminist%20Disability%20Signs%2005.pdf>.

⁵⁴ Insert footnote

⁵⁵ Rosemarie Garland-Thomson, *Re-shaping, Re-thinking, Re-defining: Feminist Disability Studies*, Barbara Waxman Fiduccia Papers on Women and Girls with Disabilities, (Center for Women Policy Studies 2001) available at <http://www.centerwomenpolicy.org/pdfs/DIS2.pdf>; Sarah N. Heiss, *Locating the Bodies of Women and Disability in Definitions of Beauty: An Analysis of Dove's Campaign for Real Beauty*, 31 DISABILITY STUDIES QUARTERLY (2011), available at <http://www.dsqsds.org/article/view/1367/1497>.

the roles that are or should be performed by members of the particular group (e.g., women, lesbians, adolescents).”⁵⁶

As discussed above, both the CEDAW and the CRPD recognize the role of stereotypes in the denial of human rights to women with disabilities (the CEDAW Article 5(a) and⁵⁷ the CRPD Article 8 (1)).⁵⁸

For those advocating for a separate article on women with disabilities, as well as the inclusion of a gender perspective throughout the CRPD, the recognition of this compounded discrimination was crucial. “In addition to the multiple discrimination women with disabilities have to experience, they face the problem of a double invisibility as women and as disabled persons.”⁵⁹

Fine and Asch, authors of “*Disabled Women: Sexism without the Pedestal*,” note a significant impact of these stereotypical views of women with disabilities, discussing the important role of social roles: “Rolelessness, the absence of sanctioned social roles and/or institutional means to achieve these roles, characterizes the circumstances of disabled women in today’s society. ... The absence of sanctioned roles can cultivate a psychological sense of invisibility; self-estrangement, and/or powerlessness.”⁶⁰ Nonetheless, the authors strongly note that we should not: “...see disabled women as neither helpless nor hopeless victims unwilling to change their

⁵⁶ Rebecca J. Cook & Simone Cusack, *Gender Stereotyping: Transnational Legal Perspectives* (University of Pennsylvania Press 2010).

⁵⁷ See Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 5(a) (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

⁵⁸ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 8(1)(b) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁵⁹ See Sigrid Arnade & Sabine Haefner, Gendering the Comprehensive and Integral Int’l Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities 10 (Disabled Peoples’ International 2006) available at http://v1.dpi.org/lang-en/resources/topics_detail?page=446 (last visited Mar. 23, 2010).

⁶⁰ Michelle Fine & Adrienne Asch, *Disabled Women: Sexism without the Pedestal* 8 J. Soc. & Soc. Welfare 233, 239 (1981) available at <http://heinonline.org/HOL/LandingPage?collection=journals&handle=hein.journals/jrlsasw8&div=26&id=&page=> (last visited Mar. 26, 2011).

circumstances.”⁶¹ Thus, these stereotypes of women with disabilities would certainly contribute to an understanding as to why women and girls with disabilities are so often absent from programs to address women’s rights and gender equality, except when they are occasionally seen as “victims” needing protection.

B. Multiple Forms of Discrimination and Intersectionality

Social sanctions on poverty, race/ethnicity, religion, language, and other identity status or life experiences can further increase the risk of group or individual violence for women with disabilities.⁶² The recognition of this reality variously referred to as “intersectionality,” “multidimensionality,” and “multiple forms of discrimination,” is important to any examination of violence against women with disabilities. Additional disaggregated data is needed on how gender, race, ethnicity, indigenous status, class, religion, sexual orientation, sexual identity, age, ability, migration status, and other identity categories impact or compound discrimination and violence against women with disabilities. Women with disabilities who also belong to (or are perceived as belonging to) disfavored or minority groups may face compounded violence and discrimination based on several factors simultaneously rather than one or two. For example, linguistic barriers or immigration status may keep some women with disabilities from reporting violence to governmental authorities for fear that they, or their partners, or their children, will be detained or deported. The Special Rapporteur on Violence Against Women’s 2011 annual report recognizes the need for a multi-faceted response to discrimination at points of intersection, not only focusing on the inter-gender

⁶¹ Michelle Fine & Adrienne Asch, *Disabled Women: Sexism without the Pedestal* 8 J. Soc. & Soc. Welfare 233, 241 (1981) available at <http://heinonline.org/HOL/LandingPage?collection=journals&handle=hein.journals/jrlsasw8&div=26&id=&page=> (last visited Mar. 26, 2011).

⁶² Johanna Bond, “International Intersectionality: A Theoretical and Pragmatic Exploration of Women’s International Human Rights Violations,” 52 *Emory L.J.* 71 (2003), noting the possibility that during armed conflict, human rights activists should examine how disability rights intersect with gender and ethnicity to get a sense of the types of violence committed, the victims’ access to healthcare and rehabilitation as well as their enjoyment of disability rights in general. See also Rashida Manjoo, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, ¶ 41, delivered to the General Assembly, U.N. Doc. A/66/215 (Aug. 1, 2011);

differences between men and women, but also intra-gender differences among women.⁶³

1. Conflict and Post-Conflict Situations.

Women with disabilities in conflict or post-conflict regions may be at additional risk of violence as members of a targeted race/ethnic, religious, or linguistic group and may have great difficulty in accessing services in the conflict environment.⁶⁴ Furthermore, refugee camps demonstrate the additional burdens women with disabilities may face due to the violence in these situations; despite the fact they flee their homes and leave support systems behind, the facilities are rarely accessible or designed to meet their specific needs. Justice and post-conflict reconciliation activities generally do not include women with disabilities, nor are such programs made accessible or inclusive.⁶⁵

The situation of women with disabilities in refugee camps is dire because of many factors, including dislocation and inaccessible facilities and programs. A report by the Women's Refugee Commission, entitled *Disabilities among Refugees and Conflict-Affected Populations*, notes serious problems with the physical layout and infrastructure of refugee camps.⁶⁶ These problems create the lack

⁶³ Rashida Manjoo, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, ¶ 41, delivered to the General Assembly, U.N. Doc. A/66/215 (Aug. 1, 2011).

⁶⁴ J. Bond, "International Intersectionality: A Theoretical and Pragmatic Exploration of Women's International Human Rights Violations," 52 *Emory L.J.* 71, [pin reference needed] (2003), noting the possibility that during armed conflict, human rights activists should examine how disability rights intersect with gender and ethnicity to get a sense of the types of violence committed, the victims' access to healthcare and rehabilitation as well as their enjoyment of disability rights in general. Stephanie Ortoleva, "The Forgotten Peace Builders: Women with Disabilities," 33 *Loy. L.A. Int'l & Comp. L.Rev.* 83 (2010).

⁶⁵ See Special Rapporteur on Violence Against Women, Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, Including the Question of The Programme and Methods of Work of the Commission; Alternative Approaches and Ways and Means Within the United Nations System for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms, Comm'n on Human Rights, ¶¶ 162, 209–11, U.N. Doc. E/CN.4/1998/54 (Jan. 26, 1998) (by Radhika Coomaraswamy).

⁶⁶ Women's Refugee Comm'n, *Disabilities Among Refugees and Conflict Affected Populations* 3 (2008), available at http://womensrefugeecommission.org/reports/doc_download/104-disabilities-among-refugees-and-conflict-affected-populations.

of services—including toilets, shelters, and health facilities—accessible to people with disabilities.⁶⁷ In general, no special accommodations are made for refugees to access the food and supplies they need on a daily basis.⁶⁸ In addition, because camps and facilities are generally inaccessible, most persons with disabilities are forced to remain in their shelters.⁶⁹ Not surprisingly, then, their voices go unheard in decision-making activities for their communities.

2. Women with Disabilities from Indigenous or Rural Communities

Although no global data exists regarding indigenous persons with disabilities, available statistics show that indigenous peoples are disproportionately likely to experience disability in comparison to the general population; no sex-disaggregated data is available. For example, in 1991 over 20 percent of Canada's indigenous population aged between 25 and 34 reported a disability, the rate rising even to 30 percent concerning the people aged between 34 and 45.⁷⁰ According to a 2007 U.S. study, 20.7% of all Native Americans and/or Alaska Natives aged 16 to 64 reported having a disability,⁷¹ while in 2002 over one third of Australia's Aboriginal and Torres Strait Islander people aged 15 years or older reported a disability or long term health problem, spread relatively evenly over remote and non-remote areas.⁷²

Indigenous persons with disabilities often experience multiple forms of discrimination and face barriers to the full enjoyment of their rights, based on their indigenous status and their disability; the discrimination is compounded when female identity is part of the mix.

⁶⁷ Women's Refugee Comm'n, *Disabilities Among Refugees and Conflict Affected Populations* 3, at 3, 16–17, 22, (2008), available at http://womensrefugeecommission.org/reports/doc_download/104-disabilities-among-refugees-and-conflict-affected-populations.

⁶⁸ Women's Refugee Comm'n, *Disabilities Among Refugees And Conflict Affected Populations* 3 at 14 (2008), available at http://womensrefugeecommission.org/reports/doc_download/104-disabilities-among-refugees-and-conflict-affected-populations.

⁶⁹ Women's Refugee Comm'n, *Disabilities Among Refugees And Conflict Affected Populations* 3, at 22 (2008), available at http://womensrefugeecommission.org/reports/doc_download/104-disabilities-among-refugees-and-conflict-affected-populations.

⁷⁰ See <http://www.statcan.ca/english/studies/82-003/archive/1996/hrar1996008001s0a02.pdf>.

⁷¹ See <http://www.un.org/disabilities/default.asp?id=1598>.

⁷² See <http://www.healthinonet.ecu.edu.au/health-facts/overviews/disability>.

Additionally, incidence of violence against native women with disabilities is heightened by numerous factors, such as historically high levels of alcoholism and substance abuse in some indigenous communities, cultural and linguistic barriers, lack of education services for children with disabilities in native communities and systemic poverty.⁷³ They also encounter barriers resulting from the use of conflicting or overly complex traditional and contemporary justice and service systems resulting in a jurisdictional quagmire.⁷⁴

Women with disabilities from indigenous or rural communities may lack information about access to services for violence prevention and response.⁷⁵ Although there is little or no data on the incidence of violence against indigenous women with disabilities, the incidence of violence against indigenous women is shockingly high, higher than for women in general.⁷⁶

Rural women have less access to resources, training and skill development opportunities due to high levels of illiteracy, the prevalence of negative stereotypes and their overall socioeconomic status.⁷⁷ Women and girls represent two-thirds of the roughly one billion people in the world who are illiterate.⁷⁸ Worldwide, girls from rural areas are particularly disadvantaged, with the lowest levels of

⁷³ Doreen Demas, *Triple Jeopardy: Native Women with Disabilities*, CANADIAN WOMAN STUDIES, VOL. 13, NO. 4, 53-55 (1989).

⁷⁴ Doreen Demas, *Triple Jeopardy: Native Women with Disabilities*, CANADIAN WOMAN STUDIES, VOL. 13, NO. 4, 53-55 (1989).

⁷⁵ World Health Organization, *Promoting sexual and reproductive health for persons with disabilities*, http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf. (last visited Feb. 10, 2012)

⁷⁶ See, for example concerning the U.S., Robbi Ferron, "Sexual Assault in Rural Indian Country," prepared for a Side Event at the 56th Session of the UN commission on the Status of Women, 8 March 2012, available at: http://www.lwvbellinghamwhatcom.org/files/Sexual_Assault_in_Rural_Indian_Country.pdf and Maze of Injustice, the Failure to Protect Indigenous Women from Sexual Violence in the USA Amnesty International Report April 25, 2007, available at <https://www.amnesty.org/en/library/info/AMR51/035/2007/en>.

⁷⁷ UN website <http://www.un.org/disabilities/default.asp?navid=46&pid=1594>

⁷⁸ Comm. on the Elimination of Discrimination against Women, 50th Sess., *General Statement on Rural Women* (Oct. 19, 2011), available at <http://www2.ohchr.org/english/bodies/cedaw/docs/statements/StatementRuralWomen.pdf>.

literacy and education.⁷⁹ Rural women are particularly disadvantaged with respect to their access to health care services.⁸⁰ Studies on women with disabilities in rural areas of many countries in the Asian and Pacific region have found that more than 80% of women with disabilities have no independent means of livelihood, and are thus dependent on others for their economic survival.⁸¹ The myriad of issues that confront women with disabilities are significantly more pronounced in rural areas due to inaccessible environments and lack of services, information and awareness, education, income, and contact resulting in extreme isolation and invisibility.⁸² Rural women with disabilities have even lower levels of education, employment, and health care, all contributing to increased levels of gender-based violence.⁸³ Although there has been progress in women's participation in decision-making globally, the representation of women with disabilities (including those from rural areas) in political and public life remains negligible in most societies.⁸⁴ In some areas, discriminatory and traditional attitudes and practices at the local level limit the space for participation of women with disabilities in

⁷⁹ Comm. on the Elimination of Discrimination against Women, 50th Sess., *General Statement on Rural Women* (Oct. 19, 2011), available at <http://www2.ohchr.org/english/bodies/cedaw/docs/statements/StatementRuralWomen.pdf>.

⁸⁰ Comm. on the Elimination of Discrimination against Women, 50th Sess., *General Statement on Rural Women* (Oct. 19, 2011), available at <http://www2.ohchr.org/english/bodies/cedaw/docs/statements/StatementRuralWomen.pdf>.

⁸¹ U.N. ESCAP Workshop on Women and Disability: Promoting Full Participation of Women with Disabilities in the Process of Elaboration on an International Convention to Promote and Protect the Rights and Dignity of Persons with Disabilities, *Final Report*, Bangkok, Thailand, Aug. 18-22, 2003, available at www.wda.org.au/unescapwwd1.doc.

⁸² U.N. ESCAP Workshop on Women and Disability: Promoting Full Participation of Women with Disabilities in the Process of Elaboration on an International Convention to Promote and Protect the Rights and Dignity of Persons with Disabilities, *Final Report*, Bangkok, Thailand, Aug. 18-22, 2003, available at www.wda.org.au/unescapwwd1.doc.

⁸³ U.N. ESCAP Workshop on Women and Disability: Promoting Full Participation of Women with Disabilities in the Process of Elaboration on an International Convention to Promote and Protect the Rights and Dignity of Persons with Disabilities, *Final Report*, Bangkok, Thailand, Aug. 18-22, 2003, available at www.wda.org.au/unescapwwd1.doc.

⁸⁴ Stephanie Ortoleva, Esq., *Side Event on Rural Women and Girls with Disabilities On The Occasion Of The 56th Session of the United Nations Commission on the Status of Women*, available at UN website <http://www.un.org/disabilities/default.asp?navid=46&pid=1594>.

political and economic decision-making within their communities.⁸⁵

Violence against women, trafficking in women and sexual exploitation and forced labor are often linked to poverty and lack of opportunities in rural areas.⁸⁶

3. Minority Women

Like indigenous and rural women with disabilities, women with disabilities who are members of minority groups are subject to multiple forms of discrimination and violence because of their race/ethnicity, gender, and disability status combined. They may be subject to discrimination in access to quality education, employment, and health care. They may experience the most severe forms of disability without being provided reasonable accommodations. Racial discrimination and barriers in access to justice, health care, employment, and other factors are compounded for women with disabilities.⁸⁷

In the U.S., for example, women with disabilities from a variety of minority backgrounds face special challenges that are based on the multiple influences of gender status, disability status, and social norms about race/ethnicity. The complex network of tribal, state, and federal laws in U.S. criminal justice provides Native American women who experience abuse few options. Some resist seeking justice in formal systems that they see as at best unresponsive to their needs and at worst destructive to their peoples as a whole.⁸⁸ Further, despite their own efforts to be heard about the violence they experience, they

⁸⁵ UN Women et al (2011) OpCit.

⁸⁶ Comm. on the Elimination of Discrimination against Women, 50th Sess., *General Statement on Rural Women* (Oct. 19, 2011), available at <http://www2.ohchr.org/english/bodies/cedaw/docs/statements/StatementRuralWomen.pdf>.

⁸⁷ M. Nosek, B. Hughes, H. Taylor, and P. Taylor, *Disability, Psychosocial and Demographic Characteristics of Abused Women with Disabilities*, *Violence Against Women*, vol. 12, no. 9, 838-850 (Sept. 2006). This is a compilation of data, including summaries and analysis, taken from a sample of 415 minority women with disabilities in the U.S. looking at experiences of physical, sexual, and disability-related abuse within the previous year. It is a data-heavy article but one that gives some credence to the notion that disabled women who are young, socially isolated, less mobile, and more educated are more likely to experience violence.

⁸⁸ A. Kasturirangan, S. Krishnan, and S. Riger, "The Impact of Culture and Minority Status on Women's Experience of Domestic Violence," *Trauma Violence Abuse*, 5: 318-332 (2004).

might be effectively silenced both by community social sanctions and ineffective anti-violence laws.

African-American women with disabilities who suffer violence may find themselves in a similar position. They seek an end to the violence and abuse, but mistrust finding it in a system that imprisons millions from their families and communities. Women of color with disabilities who do seek preventive supports or access to justice are subject to discriminatory practices that treat them as not credible or as “contributors” to their own abuse.

Undocumented Latina women may be at higher risk of violence because of the aggressor’s control over immigration status, language barriers, distrust of the police force, and barriers to social and public services.⁸⁹ Internal and external cultural stereotypes about the supposed “passivity” of Asian-American women, their role in family “honor,” and the primacy of family over individual well-being are exacerbated by the social prejudices that affect most women with disabilities. Actual or perceived violations of such norms can serve as “justifications” for violence.⁹⁰

4. *Lesbians with disabilities*

Women with disabilities who are lesbians or members of other sexual minorities are frequently targets of violence and face double discrimination and risk. Lesbians with disabilities sometimes experience a societal-imposed ‘cultural contradiction,’ as lesbian is viewed as a sexual identity while women with disabilities are often stereotyped as asexual.⁹¹

Lesbians and other sexual minorities who identify as female who have disabilities confront social barriers and isolation from both sexual minority status and disability. They face a complex matrix of

⁸⁹ J. Reynoso, “Perspectives on Intersections of Race, Ethnicity, Gender, and Other Grounds: Latinas at the Margins,” 7 *Harvard Latino Law Review* 64 -73 (2004).

⁹⁰ A. Kasturirangan, S. Krishnan, and S. Riger, “The Impact of Culture and Minority Status on Women’s Experience of Domestic Violence,” *Trauma Violence Abuse*, 5: 318-332 (2004).

⁹¹ PUSHING THE LIMITS: DISABLED DYKES PRODUCE CULTURE (Shelley Tremain, ed., Women’s Press 1996). The book validates the “existence of disabled dykes” by addressing the cultural contradiction that lesbian is a sexual identity while disabled women are considered asexual.

able-ism and discrimination on the basis of sexual orientation and both heterosexuality and ableism function as a social matrix, with exclusionary practices that operate in similar ways towards lesbians with disabilities.⁹² Those with physical disabilities who seek health services, like most or all women with disabilities, often find health care facilities inaccessible. Lesbians with psycho-social disabilities often have been excluded or overlooked in research and treatment, despite high numbers of expressed need or use of mental health care and other psycho-social services.

5. Mothers with disabilities

There is a dichotomy between a “feminist view” that seeks to overturn the notion that motherhood is expected for all women and thereby a limitation on a women’s choices, and on the other hand, women with disabilities are often discouraged, if not forced to reject motherhood roles, despite their personal desire.⁹³ Sterilization of women with disabilities still remains a critical problem, as discussed herein.⁹⁴ Women with disabilities who elect to have a child are often criticized for their decision and face barriers in accessing adequate health care and other services for themselves and their children.⁹⁵ Additionally, if women with disabilities seek these services, they are often denied treatment and if pregnant, sometimes they are rebuked for deciding to have a child.⁹⁶ Disability rights activists who are also mothers challenge the medicalization of bodies and birthing for

⁹² Clare Beckett, *Crossing the Border: Locating heterosexuality as a boundary for lesbian and disabled women*, 5 J. INT’L. WOMEN’S STUD. 44 (2004), available at <http://www.bridgew.edu/SoAS/jiws/May04/Beckett.pdf> (noting that “leaving heterosexuality” as a person viewed as “being disabled.”).

⁹³ See Garland-Thomson, *supra* note 33.

⁹⁴ *Women With Disabilities Australia: Sterilization of Women and Girls with Disabilities - An update on the issue in Australia* (December 2010), available at <http://www.wvda.org.au/sterilisationsynopsisDec2010.pdf>.

⁹⁵ *Promoting sexual and reproductive health for persons with disabilities*, (World Health Organization, *guidance note*, 2009) available at http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf; Almaz Kumenov, **Kazakstan - Disability Still Seen as Barrier to Motherhood**, **Institute for War & Peace Reporting**, Aug. 8, 2012, <http://iwpr.net/report-news/kazakstan-disability-still-seen-bar-motherhood>.

⁹⁶ *Promoting sexual and reproductive health for persons with disabilities*, (World Health Organization, *guidance note*, 2009) available at http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf. Yanghee Lee, *supra* note 20.

women with disabilities.⁹⁷ Additionally, they highlight the challenges and contradictions they faced in reproductive decision-making.⁹⁸

6. Women, disability and aging

Since, in general, women live longer than men, the numbers of women with disabilities will also increase, requiring greater attention by society to their needs. As women with disabilities age, certain daily routines may become more complicated. However, in certain situations, women with disabilities are better equipped to adapt to their environments because of greater experience in doing so and consequently, they may face less fear and anxiety in ageing in comparison to women without disabilities.⁹⁹

Older women experience disability more frequently as they age and older women with disabilities are at particularly high risk of violence. Older women face multiple, or multidimensional, forms of discrimination, with gender, disability, and age compounded by other forms of discrimination. CEDAW Committee General Recommendation on Older Women No. 27 recognizes that “gender stereotyping, traditional and customary practices can have harmful impacts on all areas of the lives of older women, in particular those with disabilities, including family relationships, community roles, portrayal in the media, employers’ attitudes, health care and other service providers, and can result in physical violence as well as psychological, verbal and financial abuse.”¹⁰⁰

Police, judiciary, legal aid and paralegal services are often not trained or sensitized to the age- and gender-related issues that affect older women with disabilities and may not make effective interventions that are equally available and accessible. Health

⁹⁷ Anne Finger, *PAST DUE: A STORY OF DISABILITY, PREGNANCY, AND BIRTH* (Seal Press 1990).

⁹⁸ Debroah Kent, *Somewhere a Mockingbird*, in *PRENATAL TESTING AND DISABILITY RIGHTS*, 64 (Erik and Adrienne Asch eds., Georgetown University, 2000).

⁹⁹ Wendy Pentland, Mary Tremblay, Kristen Spring & Carolyn Rosenthal, *Women with Physical Disabilities: Occupational Impacts of Ageing*, 6 *J. OCCUPATIONAL SCI.* 111 (1999).

¹⁰⁰ Comm. On the Elimination of Discrimination against Women, *General Recommendation 27*, available at <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC1.pdf>.

policies and programs, particularly in age-related contexts, may not be available or accessible to older women with disabilities.¹⁰¹

This Report has highlighted some important issues regarding violence against women with disabilities and the intersecting and multiple dimensions of the lives of women with disabilities. However, what is clear from this discussion is that more research, data collection and services are needed to meet the needs of women with disabilities from a variety of identity groups and communities. This is the challenge to the international, regional and domestic communities.

¹⁰¹ Comm. On the Elimination of Discrimination against Women, *General Recommendation 27*, available at <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC1.pdf>.

VII. Manifestations and Prevalence of Violence against Women and Girls with Disabilities

Women with disabilities are two to three times more likely than women without disabilities to experience violence and abuse in various spheres, although no overall global data exists and studies draw on different sources of data.¹⁰²

A. In the Home

Women with disabilities experience violence in the home from partners or other family members, caregivers, or intruders. When they seek assistance from police or other members of the community, their complaints may not be taken seriously or disbelieved entirely due to stigma and stereotyping. Moreover, barriers to accessing justice for women with disabilities further complicate their ability to seek redress and protection.

1. Domestic Violence

In domestic violence situations, women with disabilities may fear leaving an abuser because of emotional, financial or physical dependence. Women with disabilities may also fear losing custody of their children if they report domestic violence or leave a violent relationship.

A 2009 World Health Organization Guidance Note on Promoting Sexual and Reproductive Health for Persons with Disabilities outlined the numerous obstacles facing women with disabilities in realizing their rights to sexual and reproductive rights.

¹⁰² White House, United States Strategy to Prevent and Respond to Gender-based Violence Globally, 7, (Aug. 10, 2012), <http://www.state.gov/documents/organization/196468.pdf>, stating “Women with a disability are two to three times more likely to suffer physical and sexual abuse than women with no disability.” At footnote 6 citing: United Kingdom Department for International Development. (2000), Disability, Poverty and Development.

The report highlighted the fact that women with disabilities are considered in some societies to be less eligible marriage partners and therefore may find themselves in unstable relationships.¹⁰³ Additionally, if these unstable relationships become abusive, women with disabilities have fewer legal, social and economic options.¹⁰⁴ Courts may enforce the discriminatory stereotype that the non-disabled partner must be a more competent parent.¹⁰⁵

2. Disability-Related Interpersonal Violence

Home assistants, family members, or others who provide assistance may inflict violence through purposeful neglect (e.g., leaving a woman who is in bed or who uses a wheelchair with no assistance for long periods to “punish” or manipulate her). Others may confine a woman with disabilities to her home or institution or isolate her from other human contact. Some may withhold mobility aids, communication equipment, or medications from women with disabilities, causing physical injury, or mental and emotional suffering.

3. Violations of privacy

Women with disabilities may be subjected to extended situations of physical discomfort or embarrassment because their right to privacy is undervalued or not valued at all.

4. Lack of Access to Shelters

¹⁰³ See, e.g., *Disability Health, Women with Disabilities*. Center for Disease Control and Prevention. <http://www.cdc.gov/ncbddd/disabilityandhealth/women.html> (last visited Apr. 14, 2012); *Promoting sexual and reproductive health for persons with disabilities*, (World Health Organization, *guidance note*, 2009) available at http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf.

¹⁰⁴ *Promoting sexual and reproductive health for persons with disabilities*, (World Health Organization, *guidance note*, 2009) available at http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf.

¹⁰⁵ See E. Lightfoot et al. The Inclusion of Disability as a Condition for Termination of Parental Rights. *Child Abuse & Neglect* 34:927-934. 2010; See *Gender and Disability*, Women with Disabilities Australia (WWDA), Dec. 2010; Rashida Manjoo, *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences*, Human Rights Council, 17 sess., U.N. Doc. E/CN.4/2006/61 (May 2, 2011).

There is a serious lack of emergency services for women with disabilities seeking to escape violent situations in the home. Shortages of accessible domestic violence shelters and available beds are widespread.¹⁰⁶ Those shelters and spaces that are available are often inaccessible, fail to provide reasonable accommodations to women with disabilities or exclude them altogether. For example, in the United States of America, only 77% of studied domestic violence shelters in North Carolina were wheelchair accessible and 58% could accommodate a woman with a disability who used a personal care assistant.¹⁰⁷ Only 6% of domestic violence shelters surveyed in the United States indicated they could handle the personal care needs of a woman with a disability requiring assistance.¹⁰⁸ Additionally, shelters are rarely equipped to accommodate the disabled children of a woman who seeks shelter assistance and shelter “no animals” policies are a barrier to women with disabilities who use assistance animals such as guide dogs.

B. In the Community

1. Sexual Violence

Women and girls with disabilities are subjected to violence in the community and broader society. Many experience rape and sexual abuse at home, at work, at school, or on the street.¹⁰⁹ Others experience rape and sexual abuse within institutions.¹¹⁰

¹⁰⁶ United Nations Population Fund (2008). *An Assessment of the State of Violence against Women in Fiji*. http://www.un.org/womenwatch/ianwge/taskforces/vaw/Fiji_VAW_Assessment_2008.pdf (last visited Feb. 24, 2011).

¹⁰⁷ Chang, J. C., et. al., *Helping women with disabilities and domestic violence: Strategies, limitations, and challenges of domestic violence programs and services*, 12(7) *Journal of Women’s Health*, 699 (2003).

¹⁰⁸ Howland, C. A., et. al, (2001). *Programs delivering abuse intervention services to women with disabilities*. CROWD: Houston.

¹⁰⁹ The Secretary-General, *In-depth study on all forms of violence against women*, 41, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc., available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/419/74/PDF/N0641974.pdf?OpenElement>.

¹¹⁰ The Secretary-General, *In-depth study on all forms of violence against women*, 41, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc., available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/419/74/PDF/N0641974.pdf?OpenElement>.

2. Forced abortion or sterilization

Women with disabilities often are treated as if they have no control, or should have no control, over their reproductive health and other aspects of their bodies. They may be forcibly sterilized or forced to terminate wanted pregnancies for what is paternalistically described as “for their own good,” sometimes with the sanction of partners, parents, institutions, or guardians. On the other hand, women with disabilities may lack access to reproductive health services because facilities are inaccessible or because of the stereotype that they have no need for such services because they are said to be sexually inactive.

C. Violence Perpetrated and/or condoned by the state and private institutions

1. General Violence¹¹¹

Violence against women may be permitted by law or carried out under the authority of the state.¹¹² States may engage in violence against women with disabilities through the adoption and implementation of laws and practices that violate their rights, or by failing to adopt and implement laws and practices that uphold their rights.

2. Violence in Public Institutional Settings

In institutional settings, women with disabilities are subjected to numerous forms of violence, including the forced intake of psychotropic drugs or other forced psychiatric treatment. Furthermore, Forced institutionalization itself constitutes a form of violence. People with mental health conditions and intellectual disabilities are sometimes subject to arbitrary detention in long-stay

¹¹¹ Nixon, J., *Domestic violence and women with disabilities: locating the issue on the periphery of social movements*. 24(1) *Disability & Society* 77, (2009).

¹¹² Andrews, A.B., et. al., *Sexual assault and people with disabilities*, 12 *Journal of Social Work and Human Sexuality*, 8, 137-159 (2006); The International Network of Women with Disabilities, *On Violence Against Women with Disabilities*, *Center for Women Policy Studies*, <http://www.centerwomenpolicy.org> (last visited April 5, 2011).

institutions with no right of appeal, in contravention of the CRPD.¹¹³ Medical treatments and commitment to institutions without freely-offered informed consent violates core human rights principles and robs women with disabilities of their legal capacity.

3. *Incarceration, particularly without access to necessary accommodations and services.*

People in institutions who need support services are usually more vulnerable than those who do not. Vulnerability – both in institutions and in community settings – can range from the risk of isolation, boredom, and lack of stimulation, to the risk of physical and sexual abuse. Evidence suggests that people with disabilities are at higher risk of abuse, for various reasons, including dependence on a large number of caregivers and barriers to communication.¹¹⁴ Safeguards to protect people utilizing both formal and informal support services are therefore particularly important (101).¹¹⁵

4. *Psychiatric Outpatients and Inpatients*

A small study found that the majority (68%) of outpatients in a large, university-affiliated county hospital had experienced major physical and/or sexual assaults, a higher frequency than in the general population.¹¹⁶

a. *Forced Sterilization.*

As previously noted, there is a long and disturbing history of socially- and even legally- sanctioned forced and non-consensual

¹¹³ Adams L., *The right to live in the community: making it happen for people with intellectual disabilities in Bosnia and Herzegovina, Montenegro, Serbia and Kosovo.* Sarajevo, Disability Monitor Initiative for South East Europe, Handicap International Regional Office for South East Europe, 2008, http://www.fotoart.ba/hisee/userfiles/file/community_living_english.pdf (last visited Feb. 10, 2012); Agnetti G., *The consumer movement and compulsory treatment: a professional outlook*, 37 *International Journal of Mental Health* 33 (2008).

¹¹⁴ Sobsey D., *Violence and abuse in the lives of people with disabilities: the end of silent acceptance?*, (Paul H. Brookes, ed., Brookes Publishing, 1994).

¹¹⁵ Brown H., *Safeguarding adults and children with disabilities against abuse*, Strasbourg, Council of Europe, http://www.coe.int/T/E/Social_Cohesion/soc-sp/Abuse%20_E%20in%20color.pdf (last visited Feb. 10, 2012).

¹¹⁶ Jacobson, A., *Physical and Sexual Assault Histories among Psychiatric Outpatients*, 146(6) *The American Journal of Psychiatry* 755 (1989).

sterilization of women with disabilities. The Convention on the Rights of Persons with Disabilities (CRPD) identifies coerced sterilization as a violation of human rights and states that persons with disabilities have the right to retain fertility on an equal basis with others.¹¹⁷ Recent guidelines from the International Federation of Gynecology and Obstetrics state that only women themselves can give ethically valid consent to their own sterilization. Furthermore, sterilization cannot be made a condition of access to medical care or other benefit.¹¹⁸

Despite legal prohibitions in some states, there are many cases of involuntary sterilization being used to restrict the fertility of some persons with disabilities, particularly those with intellectual disabilities.¹¹⁹ Other States do not have laws prohibiting involuntary

¹¹⁷ Convention on the Rights of Persons with Disabilities, art. 23, para. 1(c), G.A. Res. 61/106, U.N. Doc. A/RES/61/106, (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

¹¹⁸ International Federation of Gynecology & Obstetrics, *Female Contraceptive Sterilization*, FIGO. <http://www.stoptortureinhealthcare.org/news-and-resources/forced-sterilization/female-sterilization-guidelines> (last visited Aug. 3, 2011).

¹¹⁹ Dyer O., *Gynaecologist is struck off for sterilising women without their consent*, 325 *British Medical Journal*, 1260 (2002). available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1169905/pdf/1260.pdf> Servais L., *Sexual health care in persons with intellectual disabilities*, 12 *Mental Retardation and Developmental Disabilities Research Reviews* 48, (2006). Available at <http://onlinelibrary.wiley.com/doi/10.1002/mrdd.20093/pdf> Grover SR., *Menstrual and contraceptive management in women with an intellectual disability*, 176 *The Medical Journal of Australia*, 108 (2002) available at, http://www.mja.com.au/public/issues/176_03_040202/gro10568_fm.html Stansfield AJ, et. al., *The sterilisation of people with intellectual disabilities in England and Wales during the period 1988 to 1999*, Vol *Journal of Intellectual Disability Research: JIDR Page Start, Pages Cited*, (2007). available at, <http://onlinelibrary.wiley.com/doi/10.1111/j.1365-2788.2006.00920.x/pdf>; WHO/UNFPA. (2009). Promoting sexual and reproductive health for persons with disabilities: WHO/UNFPA guidance note. *World Health Organization*. World Health Organization: Geneva; Maxwell, J., Belsler, J.W., and David, D. (2007). *A Health Handbook for Women with Disabilities*. The Hesperian Foundation. Berkeley, CA; Brief for The European Group of National Human Rights Institutions as Amici Curiae Supporting Applicants, *Glor v. Switzerland*, Application No. 61521/08 (Aug. 16, 2011), available at http://www.scribd.com/fullscreen/73416199?access_key=key-d3jj7keqxh7xofxt0zm; Brief for The European Group of National Human Rights Institutions as Amici Curiae Supporting Applicants, *Gauer & Others v. France*, Application No. 61521/08 (Aug. 16, 2011), available at http://www.scribd.com/fullscreen/73416199?access_key=key-d3jj7keqxh7xofxt0zm.

sterilization and this has been challenged before international tribunals.¹²⁰ Sterilization also has been used as a technique for menstrual management. Sterilization is almost never the only option for menstrual management or fertility control.¹²¹ Involuntary sterilization of persons with disabilities is contrary to international human rights standards. Persons with disabilities should have access to voluntary sterilization on an equal basis with others but not forced to undergo such procedures.

b. Unmet Needs and Negligence in Health Care

Although some research indicates minimal differences in immunization rates, people with disabilities are generally less likely to receive screening and preventive services for disease.¹²² Several studies found that women with disabilities receive less screening for breast and cervical cancer compared with women without disabilities.¹²³

¹²⁰ Brief for The European Group of National Human Rights Institutions as Amici Curiae Supporting Applicants, *Gauer & Others v. France*, Application No. 61521/08 (Aug. 16, 2011), available at

http://www.scribd.com/fullscreen/73416199?access_key=key-d3jj7keqhx7xofxt0zm.

¹²¹ Grover SR. Menstrual and contraceptive management in women with an intellectual disability. *The Medical Journal of Australia*, 2002,176:108-110. PMID:11936305

http://www.mja.com.au/public/issues/176_03_040202/gro10568_fm.html

¹²² Hoffman J.M. et. al., *Association of mobility limitations with health care satisfaction and use of preventive care: a survey of Medicare beneficiaries*, 88 *Archives of Physical Medicine and Rehabilitation* 583, (2007). available at

<http://download.journals.elsevierhealth.com/pdfs/journals/0003-9993/PIIS0003999307001025.pdf>; Iezzoni LI et al., *Mobility impairments and use of screening and preventive services*, 90 *American Journal of Public Health* 955, (2000) available at <http://ajph.aphapublications.org/cgi/reprint/90/6/955>.

¹²³ Disability Rights Commission, *Equality treatment: closing the gap: a formal investigation into the physical health inequalities experienced by people with learning disabilities and/or mental health problems*, <http://www.leeds.ac.uk/disability-studies/archiveuk/DRC/Health%20FI%20main.pdf> (last visited Feb. 10, 2012); Hoffman J.M. et. al., *Association of mobility limitations with health care satisfaction and use of preventive care: a survey of Medicare beneficiaries*, 88 *Archives of Physical Medicine and Rehabilitation* 583, (2007). available at <http://download.journals.elsevierhealth.com/pdfs/journals/0003-9993/PIIS0003999307001025.pdf>; Iezzoni LI et al., *Mobility impairments and use of screening and preventive services*, 90 *American Journal of Public Health* 955, (2000). available at <http://ajph.aphapublications.org/cgi/reprint/90/6/955>; Chevarley F.M. et al., *Health, preventive health care, and health care access among women*

Analysis from the 2002–2004 World Health Survey across 51 countries showed that men and women with disabilities, in high-income and low-income countries, had more difficulties than adults without disabilities in obtaining, from private health care organizations or the government, payment exemptions or the right to special rates for health care. Furthermore people with disabilities experienced more difficulties in determining which benefits they were entitled to from health insurance and obtaining reimbursements from health insurance. This finding was most evident in the age group 18–49 with some variability in the older age groups across income settings.¹²⁴

Furthermore, women with disabilities have more limited access to sexual and reproductive health care and health care providers often see them as asexual and conclude, therefore, that they do not require such health care services.¹²⁵

Analysis of the World Health Survey data showed a significant

with disabilities in the 1994–1995 National Health Interview Survey, Supplement on Disability, 16. Women's Health Issues: official publication of the Jacobs Institute of Women's Health 297 (2006); Johnson K et. al., *Screened out: women with disabilities and preventive health*, 8 Scandinavian Journal of Disability Research 150 (2006); Sullivan S.G, et. al., *Understanding the use of breast cancer screening services by women with intellectual disabilities*, 49. Sozial- und Präventivmedizin 398 (2004); Mele N, et. al., *Access to breast cancer screening services for women with disabilities*, 34 Journal of Obstetric, Gynecologic, and Neonatal Nursing 453 (2005). available at <http://onlinelibrary.wiley.com/doi/10.1177/0884217505276158/abstract>; Reichard A, et. al., *Health disparities among adults with physical disabilities or cognitive limitations compared to individuals with no disabilities in the United States*, 4 Disability and Health Journal 59 (2011) available at <http://www.ncbi.nlm.nih.gov/pubmed/21419369>; Hofman J.M. et. al., *Association of mobility limitations with health care satisfaction and use of preventive care: a survey of Medicare beneficiaries*, 88 Archives of Physical Medicine and Rehabilitation 583, (2007) available at <http://download.journals.elsevierhealth.com/pdfs/journals/0003-9993/PIIS0003999307001025.pdf>.

¹²⁴ World Health Organization, *World Health Survey*.

<http://www.who.int/healthinfo/survey/en/> (last visited Sept. 10, 2010).

¹²⁵ World Health Org., *Promoting Sexual and Reproductive Health for Persons with Disabilities: WHO/UNFPA Guidance Note* (2009), available at http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf; Almaz Kumenov, **Kazakstan - Disability Still Seen as Barrier to Motherhood**, *Institute for War & Peace Reporting*, Aug. 8, 2012, <http://iwpr.net/report-news/kazakstan-disability-still-seen-bar-motherhood>.

difference between men and women with disabilities and people without disabilities in terms of the attitudinal, physical, and system level barriers faced in accessing care.¹²⁶

5. Violence in the Justice and Legal System

a. *Deprivation of legal capacity without justifiable context*

Under Article 12 of the CRPD persons with disabilities are entitled to legal capacity.¹²⁷

Forced institutionalization or medical treatment violates the CRPD's article 12 on Legal Capacity, discussed in greater detail above. Additionally, medical treatments of an intrusive and irreversible nature, enforced or administered without the free and informed consent of the person concerned, that are aimed at correcting or alleviating a disability or that lack a therapeutic purpose, may constitute torture or ill-treatment of persons with disabilities.¹²⁸ Such actions include: forced abortion and sterilization, forced psychiatric interventions, involuntary commitment to institutions, and forced or "unmodified" electroshock (electro-convulsive therapy or ECT).¹²⁹ Deprivation of the legal capacity to make one's own decisions facilitates coerced treatments and violence, and may constitute torture and ill-treatment in itself, as it can amount to a denial of full personhood.¹³⁰

¹²⁶ World Health Organization, *World Health Survey*.

<http://www.who.int/healthinfo/survey/en/> (last visited Sept. 10, 2010). For example, gender inequalities in access to assistive devices were evident in Malawi (men 25.3% and women 14.1%) and Zambia (men 15.7% and women 11.9%)

¹²⁷ Convention on the Rights of Persons with Disabilities, art. 12, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

¹²⁸ Interim report of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment. (2008). UN Doc. A/63/175. Retrieved February 10, 2011, from <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/440/75/PDF/N0844075.pdf?OpenElement>

¹²⁹ See also Minkowitz, T. (2007). The UN CRPD and the Right to be free from nonconsensual psychiatric interventions, *Syracuse Journal of International Law and Commerce*, 32(2), 405-428; and related documents and presentations on forced psychiatric interventions as torture available at <http://www.chrusp.org/home/resources>

¹³⁰ Office of the United Nations High Commissioner for Human Rights. (2007). *Expert seminar on freedom from torture and persons with disabilities*. Retrieved

Another form of such denial of legal capacity is the restrictions on the right of women with disabilities to testify in the courts. This issue is discussed below in greater detail.¹³¹ Failures of the justice system to respond to abuse of women and girls with disabilities and/or see them as credible witnesses perpetuates and reinforces abuse.¹³²

Another example of the denial of legal capacity to women with disabilities is the failure to report the birth of girls with disabilities, resulting in complete isolation and the failure to provide them with education and other social services. This issue for women with disabilities is addressed in both the CRPD and the CEDAW. Although country-level statistics regarding nationality and persons with disabilities are rare, several international conventions and treaties mention the right to nationality in general, as well as for persons with disabilities. In particular, Article 9 of the CEDAW and Article 18 of the CRPD concentrate on the right to a nationality. Article 9 expresses that a woman has a right to her own nationality, which is not rendered obsolete once she marries.¹³³ The CRPD takes this concept further in that persons with disabilities are entitled to a nationality and “to freedom to choose their residence...on an equal basis with others...”¹³⁴ The right to nationality has particular implications for persons with disabilities seeking to immigrate between States and/or Territories and to people working with clients on parole on mental health orders restricting their place of residence, working in immigration, and working with clients who move between States and/or Territories.¹³⁵ Article 12 of the International Covenant on Civil

February 10, 2011 from

<http://www2.ohchr.org/english/issues/disability/documents.htm>

¹³¹ Provide internal cross reference

¹³² Insert citation

¹³³ Convention on the Elimination of All Forms of Discrimination Against Women, art 9, G.A. Res. 34/180, U.N. Doc. A/RES/34/180 (Dec. 18, 1979), *available at* <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

¹³⁴ Convention on the Rights of Persons with Disabilities, art 18, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

¹³⁵ *Liberty of movement and nationality*, HUMAN RIGHTS FOR PEOPLE WITH DISABILITIES (Jan. 12, 2009, 3:11 PM),

<http://www.disabilityrightsnow.org.au/node/41> [hereinafter *Liberty of movement*].

and Political Rights,¹³⁶ Articles 7 and 8 of the Convention on the Rights of the Child,¹³⁷ and Article 12 of the African Charter on Human Peoples' Rights,¹³⁸ reaffirm this right to freedom of movement and nationality without specific mention of disability.

Article 18 of the CRPD applies the traditional right to nationality to the circumstances of persons with disabilities. The article guarantees persons with disabilities the right to movement across and within national borders as well as the right to choose their nationality and residence on an equal basis with others.¹³⁹ State parties therefore cannot discriminate in immigration policy on the basis of disability. The second paragraph affirms the specific guarantees of children with disability to be named, registered, and given a nationality at birth as well as to avoid separation from parents at birth. Additionally, this paragraph has important repercussions for immigration laws that refuse entry to a child with disabilities whose family is seeking to immigrate.¹⁴⁰ The right to nationality for persons with disabilities is mediated by immigration law, discriminatory nationality practices at birth, and other citizenship-based debates.

Government failure to take steps to combat trafficking for forced labor or sexual abuse and prostitution.

b. Women and Girls with Disabilities in Prisons and Detention Facilities

The discrimination and violence faced by women and girls with disabilities in society tends only to be exacerbated by the dangerous environments prevalent in most prison systems across the

¹³⁶ International Covenant on Civil and Political Rights, G.A. Res. art. 12, 2200A (XXI), U.N. GAOR, Supp. No. 16, U.N. Doc. A/6316 (Dec. 16, 1966), *available at* <http://www2.ohchr.org/english/law/pdf/ccpr.pdf>.

¹³⁷ Convention on the Rights of the Child, G.A. Res. 44/25, U.N. DOC. A/RES/44/25, art. 7-8 (Nov. 20, 1989) [hereinafter CRC], *available at* <http://www2.ohchr.org/english/law/pdf/crc.pdf>.

¹³⁸ African [Banjul] Charter on Human and Peoples' Rights, art. 12, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986, *available at* <http://www.unhcr.org/refworld/docid/3ae6b3630.html>.

¹³⁹ Convention on the Rights of Persons with Disabilities, art 18, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

¹⁴⁰ *Liberty of movement and nationality*, HUMAN RIGHTS FOR PEOPLE WITH DISABILITIES (Jan. 12, 2009, 3:11 PM), <http://www.disabilityrightsnow.org.au/node/41>.

globe.¹⁴¹ When combined with pervasive discrimination against women with disabilities, the poor living conditions and systemic violence already present in many prisons raises the risks of incarceration for women with disabilities to new and unacceptable heights. Additionally, women, especially those with disabilities, are an oft overlooked segment of the prison population, both in terms of the officials in charge of running the institutions and even among those outside groups seeking reform.¹⁴² A concerted effort is therefore needed to recognize and address the mistreatment of, and particular hardships faced by, women with disabilities in the world's prisons.

The dramatic rise of the population of female prisoners in the last few decades makes it imperative that the risks associated with the incarceration of women be studied in greater depth. Although women still represent a minority of the overall prison population, they are a rapidly growing segment. Not only are many countries imprisoning more women than ever before, but the rate at which they are doing so is rising even faster than that of men. This phenomenon has instead been noted on every inhabited continent.¹⁴³

For example, a compilation of British studies found that “20 – 30% of offenders have learning disabilities or difficulties that interfere with their ability to cope within the criminal justice system.”¹⁴⁴ Additionally, researchers have recognized significant demographic overlap between populations with higher incidences of disability of all sorts and those with higher rates of imprisonment:

¹⁴¹ Hereafter the paper will refer simply to “women with disabilities,” which, unless otherwise stated, should be taken to include girls with disabilities.

¹⁴² See, Susan Carol Hayes, *Women with Learning Disabilities Who Offend: What Do We Know?* 35(3) *Brit. J. of Learning Disabilities* 187, 190 (2007) (“There is little advocacy for women prisoners with a learning disability and they tend to be an overlooked and devalued group.”).

¹⁴³ UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC), *HANDBOOK FOR PRISON MANAGERS AND POLICYMAKERS ON WOMEN AND IMPRISONMENT*, 2-3 (United Nations Publication, 2008), available at <http://www.unodc.org/documents/justice-and-prison-reform/women-and-imprisonment.pdf>. This trend has been noted in countries as diverse as the United States, England, Wales, Australia, Mexico, Bolivia, Colombia, Kenya, New Zealand, Kyrgyzstan, Cyprus, Estonia, Greece, and the Netherlands.

¹⁴⁴ PRISON REFORM TRUST, *BROMLEY BRIEFINGS PRISON FACTFILE 8* (Dec. 2011), available at <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Bromley%20Briefing%20December%202011.pdf>

[P]eople with disabilities are disproportionately represented among the racialized, working class and poor populations who are subject to disproportionate incarceration, because the same macro-dynamics of classism and racism which result in incarceration also produce emergent disabilities, for instance due to malnutrition, inadequate healthcare, state violence, environmental racism, or labor exploitation.”¹⁴⁵

As especially at risk for these variables, women with disabilities are heavily represented within this group. This is particularly true in the area of cognitive disability; one study disclosed that the female prison population was found to be five times more likely (78% to 15%) to have a mental health disability than the general population,¹⁴⁶ while another found that as many as 80% of female jail detainees have at least one psychiatric disability.¹⁴⁷ Furthermore, these individuals are increasingly housed in prisons rather than psychiatric facilities; in the United States, jails actually house more persons with psycho-social disabilities than all of the country’s psychiatric hospitals combined.¹⁴⁸ The size of all of these numbers strongly suggests that any attempt to address the issues facing women in prison would be ill-conceived if it did not place particular focus on women with disabilities, as the latter group represents a significant segment of the former.

There appears to be a link between domestic violence and women’s incarceration, often for crimes directly related to domestic abuse.¹⁴⁹

¹⁴⁵ Beth Ribet, *Naming Prison Rape as Disablement, Critical Analysis Prison Litigation Reform Act, the Americans with Disabilities Act, and the Imperatives of Survivor-Oriented Advocacy*, 17 Va. J. Soc. Pol’y & L. 281, 293-294 (2010).

¹⁴⁶ PRISON REFORM TRUST, BROMLEY BRIEFINGS PRISON FACTFILE 32 (Dec. 2011), available at <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Bromley%20Briefing%20December%202011.pdf>

¹⁴⁷ Janet I. Warren et al., *Personality Disorders and Violence Among Female Prison Inmates*, 30 J. Am. Acad. Psychiatry Law 502-503 (2002), available at <http://www.jaapl.org/cgi/reprint/30/4/502.pdf>.

¹⁴⁸ Prison Rape Elimination Act of 2003, Pub. L. No. 108-79, 117 Stat. 972 (2003)

¹⁴⁹ Avon Global Center for Women and Justice & The Women in Prison Project, *From Protection to Punishment: Post-Conviction Barriers to Justice for Domestic*

The experience of women with disabilities in prison can only be understood by examining the risks facing all women in prison. Women in prison face risks that “very often include [] rape and other forms of sexual violence such as threats of rape, touching, ‘virginity testing’, being stripped naked, invasive body searches, insults and humiliations of a sexual nature.”¹⁵⁰ This abuse can come from other female prisoners, male prisoners housed in adjoining facilities, as well as the correctional officers staffing the institution itself. Abuse at the hands of prison staff is particularly troubling considering that “[u]nder international law, the rape of a woman in custody by an agent of the State may constitute torture for which the State is held directly responsible.”¹⁵¹ However, despite the United Nations Standard Minimum Rules for the Treatment of Prisoners prohibition on the use of male staff in facilities with female prisoners, many countries, including the United States, actively employ such personnel.¹⁵² This has led law enforcement officers themselves to be the leading source of the abuse of female prisoners in many countries.¹⁵³ Additionally,

Violence Survivor-Defendants in New York State. New York: Avon Global Center & Women in Prison Project, http://scholarship.law.cornell.edu/avon_clarke/2 (last visited Feb. 24, 2012)

¹⁵⁰ Rashida Manjoo, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, ¶ 41, delivered to the General Assembly, U.N. Doc. A/66/215 (Aug. 1, 2011); see also, UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC), *HANDBOOK FOR PRISON MANAGERS AND POLICYMAKERS ON WOMEN AND IMPRISONMENT*, 14 (United Nations Publication, 2008) (highlighting risks “rang[ing] from subtle humiliation to rape”), available at <http://www.unodc.org/documents/justice-and-prison-reform/women-and-imprisonment.pdf>.

¹⁵¹ UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC), *HANDBOOK FOR PRISON MANAGERS AND POLICYMAKERS ON WOMEN AND IMPRISONMENT*, 34 (United Nations Publication, 2008), available at <http://www.unodc.org/documents/justice-and-prison-reform/women-and-imprisonment.pdf>. See also, *C.T. and K.M v. Sweden*, Communication No. 279/2005, 17 November 2006, UN Doc. CAT/C/37/D/279/2005 (2007) (“[T]he Committee considers that the first named complainant was repeatedly raped in detention and as such was subjected to torture in the past.”), available at <http://www1.umn.edu/humanrts/cat/decisions/279-2005.html>.

¹⁵² U.N. Cong. on the Prevention of Crime and the Treatment of Offenders, Geneva, Switz., *United Nations Standard Minimum Rules for the Treatment of Prisoners*, ¶ 53, (1955), available at <http://www2.ohchr.org/english/law/pdf/treatmentprisoners.pdf>.

¹⁵³ See Beth Ribet, *Naming Prison Rape as Disablement, Critical Analysis Prison Litigation Reform Act, the Americans with Disabilities Act, and the Imperatives of Survivor-Oriented Advocacy*, 17 Va. J. Soc. Pol’y & L. 281, 289 (2010) (“For female

the problem of rape carries not only the physical, emotional, and psychological harms that it does for male prisoners, but also the possibility of pregnancy. This includes the obvious toll that a pregnancy carried to term entails, exacerbated by poor prison health resources, as well as the possibility that the pregnant woman is punished by her jailers for the pregnancy.¹⁵⁴ These threats are compounded by overly harsh medical protocols in which “pregnant women are routinely shackled on their way to and from hospital and sometimes remain shackled during labour, delivery, and post-delivery.”¹⁵⁵ Thus, for many women in prison, any kind of healing process is forestalled by this threat of continued bodily harm.

The risks inherent in the incarceration of women are magnified for those who have a disability.¹⁵⁶ In the United States, it is estimated that at least 13% of inmates have been sexually assaulted; many have experienced repeated assaults¹⁵⁷. The United Nations has recognized that “[w]omen prisoners with disabilities are at a particularly high risk of manipulation, violence, sexual abuse and rape.”¹⁵⁸ Prisoners with physical disabilities may be actively targeted based on their disabilities or suffer the effects of having their special needs neglected.¹⁵⁹ Furthermore, Most prison staff are not adequately trained to prevent or

inmates... the perpetrator of a sexual assault is more likely to be [though not always] a male staff person.”)

¹⁵⁴ Kim Shayo Buchanan, *Impunity: Sexual Abuse in Women's Prisons*, 42 HARV. C.R.- C.L.L. REV. 45, 46 (2007), available at http://www.law.harvard.edu/students/orgs/crcl/vol42_1/buchanan.pdf.

¹⁵⁵ Rashida Manjoo, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, ¶ 42, delivered to the General Assembly, U.N. Doc. A/HRC/17/26/Add.5 (June 6, 2011).

¹⁵⁶ See Beth Ribet, *Naming Prison Rape as Disablement, Critical Analysis Prison Litigation Reform Act, the Americans with Disabilities Act, and the Imperatives of Survivor-Oriented Advocacy*, 17 Va. J. Soc. Pol'y & L. 281, 295 (2010) (Going so far as to suggest that the mere perception of a physical, psychiatric, or cognitive disability is sufficient to place an individual at greater risk of sexual victimization).

¹⁵⁷ Prison Rape Elimination Act of 2003, S. 1435, 108th Cong., 1st Sess. (2003).

¹⁵⁸ UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC), HANDBOOK ON PRISONERS WITH SPECIAL NEEDS, 45 (United Nations Publication, 2009), available at <http://www.unodc.org/documents/justice-and-prison-reform/Prisoners-with-special-needs.pdf>.

¹⁵⁹ UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC), HANDBOOK FOR PRISON MANAGERS AND POLICYMAKERS ON WOMEN AND IMPRISONMENT, 45 (United Nations Publication, 2009), available at <http://www.unodc.org/documents/justice-and-prison-reform/Prisoners-with-special-needs.pdf>.

respond to inmate sexual assaults and prison rape often goes unreported and untreated.¹⁶⁰

c. Women with intellectual or psycho-social disabilities

Closure of psychiatric institutions in some countries has led to a marked increase in criminalization of women with disabilities.¹⁶¹ Those with intellectual or psycho-social disabilities face similar threats of inadequate care and mistreatment, in addition to the risks of self-harm and the deterioration of psychological or emotional well-being due to the nature of incarceration.¹⁶² The incarceration of persons with disabilities without necessary services or accommodations, irrespective of any abusive intent, has been deemed illegal and degrading treatment as well as a potential violation of the International Covenant on Civil and Political Rights (ICCPR).¹⁶³

d. Confinement as a Cause of Disability

¹⁶⁰ Prison Rape Elimination Act of 2003, S. 1435, 108th Cong., 1st Sess. (2003).

¹⁶¹ DAWN Ontario, *Q & A: How Are Women With Disabilities Discriminated Against?*, CAEFS, <http://www.fire.or.cr/disabilities/notas/dis-links.htm> (last visited Apr. 15, 2011).

¹⁶² UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC), HANDBOOK FOR PRISON MANAGERS AND POLICYMAKERS ON WOMEN AND IMPRISONMENT, 13 (United Nations Publication, 2009) (“female prisoners with mental health care needs are at particular risk of abuse, self-harm and deteriorating mental well-being in prisons.”), available at <http://www.unodc.org/documents/justice-and-prison-reform/Prisoners-with-special-needs.pdf>.

¹⁶³ *Price v. U.K.*, Application No.33394/96 Eur. Ct. H.R. (2001) (holding that despite “no evidence in this case of any positive intention to humiliate or debase the applicant” that a lack of adequate facilities for a woman with a disability represented “degrading treatment contrary to Article 3 of the [European Convention on Human Rights]”), available at <http://www.humanrights.is/the-human-rights-project/humanrightscasesandmaterials/cases/regionalcases/europeancourtofhumanrights/nr/627>; *Mouisel v. France*, Application No. 67263/01 Eur. Ct. H.R. 17 (2003) (“[S]evere physical disability [is] now among the factors to be taken into account under Article 3 of the [European Convention on Human Rights] in France and the other member States of the Council of Europe in assessing a person’s suitability for detention”), available at www.univie.ac.at/bimtor/dateien/ecthr_2003_mouisel_vs_france.doc; *Brough v. Australia*, United Nations Human Rights Committee Communication No. 1184/2003 (2006), available at <http://www.humanrights.is/the-human-rights-project/humanrightscasesandmaterials/cases/internationalcases/humanrightscommittee/nr/2532>.

There is strong evidence that the experience of prison itself is a source of disablement for *all* prisoners; thus, not only are women with pre-existing disabilities liable to see their disabilities aggravated but those who enter prison without disabilities may develop them over the course of the confinement period and conditions.¹⁶⁴

i. Misclassification

Women with disabilities in prison also face discrimination upon their assignment to a particular facility. Perhaps the most critical instance is the chronic misclassification of the risk level of female prisoners with disabilities. The United Nations has noted that “[d]ue to the limited accommodation available for female prisoners, in a number of countries they are housed in security levels not justified by their risk assessment undertaken on admission.”¹⁶⁵ This is exemplified in Queensland, Australia where a prisoner who would normally be placed in an open facility can instead be sent to a low security one, thereby placing them in secure custody, should a member of the medical, psychological, or psychiatric staff decide that the medical and support services required are unavailable in open custody.¹⁶⁶ As the Anti-Discrimination Commission Queensland aptly notes, “[t]his is *prima facie* direct discrimination on the basis of disability.”¹⁶⁷ It is further compounded by the lack of facilities able to house women with “impairments,” meaning that “[b]ecause of these access and support issues, it would appear that female prisoners with certain physical, mental health or intellectual disabilities are much less likely to be located in one of the low security facilities compared to women without a disability.”¹⁶⁸ The scarcity of prison facilities for women in many countries also often leads them to be incarcerated far from

¹⁶⁴ Beth Ribet, *Naming Prison Rape as Disablement, Critical Analysis Prison Litigation Reform Act, the Americans with Disabilities Act, and the Imperatives of Survivor-Oriented Advocacy*, 17 Va. J. Soc. Pol’y & L. 281, 294 (2010).

¹⁶⁵ UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC), HANDBOOK FOR PRISON MANAGERS AND POLICYMAKERS ON WOMEN AND IMPRISONMENT, 31 (United Nations Publication, 2009), available at <http://www.unodc.org/documents/justice-and-prison-reform/Prisoners-with-special-needs.pdf>.

¹⁶⁶ ANTI-DISCRIMINATION COMMISSION QUEENSLAND, WOMEN IN PRISON 44-45 (2006), available at http://www.adcq.qld.gov.au/pubs/WIP_report.pdf.

¹⁶⁷ ANTI-DISCRIMINATION COMMISSION QUEENSLAND, WOMEN IN PRISON 45 (2006), available at http://www.adcq.qld.gov.au/pubs/WIP_report.pdf.

¹⁶⁸ ANTI-DISCRIMINATION COMMISSION QUEENSLAND, WOMEN IN PRISON 62 (2006), available at http://www.adcq.qld.gov.au/pubs/WIP_report.pdf.

home, making it impractical and costly for family to visit. In Russia, for example, this problem is particularly pronounced with many women prisoners being forced to travel thousands of kilometers to their final place of imprisonment.¹⁶⁹

ii. Access to Rehabilitation and other Programs

Women with disabilities in prison face discrimination not only in the selection of facilities, but in their lack of access to important programs during their incarceration. Jails in the United States house more persons with psycho-social disabilities than all of the country's psychiatric hospitals combined.¹⁷⁰ Inmates with psycho-social disabilities, as many of 16% of inmates in State prisons and jails and 7% of those in Federal prisons and jails, are at an increased risk of sexual abuse.¹⁷¹

Women with disabilities may face significant difficulties in accessing prison services as well as recreational and other prison programs that fail to account for their disabilities.¹⁷² Such hardships go not only to quality of life issues, but to the prison sentences themselves: "Prisoners with disabilities can be routinely denied participation in work programmes outside prison, sometimes significantly lengthening their periods of imprisonment."¹⁷³ Furthermore, those women with disabilities who are able to participate in work programs are often paid lower wages for the work.¹⁷⁴ Aside

¹⁶⁹ L. Alpern, *Women and the System of Criminal Justice in Russia: 2000-2002*, www.mhg.ru/english/1F4FF6D.

¹⁷⁰ Prison Rape Elimination Act of 2003, S. 1435, 108th Cong., 1st Sess. (2003).

¹⁷¹ Prison Rape Elimination Act of 2003, S. 1435, 108th Cong., 1st Sess. (2003).

¹⁷² MEGAN BASTICK & LAUREL TOWNHEAD, QUAKER UNITED NATIONS OFFICE, HUMAN RIGHTS & REFUGEES PUBLICATIONS, *WOMEN IN PRISON: A COMMENTARY ON THE UN STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS* 73 (2008); UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC), *HANDBOOK ON PRISONERS WITH SPECIAL NEEDS*, 45 (United Nations Publication, 2009), available at <http://www.unodc.org/documents/justice-and-prison-reform/Prisoners-with-special-needs.pdf>.

¹⁷³ UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC), *HANDBOOK ON PRISONERS WITH SPECIAL NEEDS*, 45 (United Nations Publication, 2009), available at <http://www.unodc.org/documents/justice-and-prison-reform/Prisoners-with-special-needs.pdf>.

¹⁷⁴ MEGAN BASTICK & LAUREL TOWNHEAD, QUAKER UNITED NATIONS OFFICE, HUMAN RIGHTS & REFUGEES PUBLICATIONS, *WOMEN IN PRISON: A COMMENTARY*

from being explicitly denied the ability to participate in these prison programs, those with disabilities may be unable to meet the requirements of existing programs tailored for prisoners without disabilities.¹⁷⁵ These systemic restrictions exacerbate the suffering of women with disabilities in prison while also increasing the length of their incarceration.

iii. Access to Parole and Early Release

The unavailability of work and other sentence-reducing prison programs is often not the only culprit in longer prison terms for women with disabilities. A common factor considered by parole boards and other bodies determining the appropriateness of the early release of prisoners is the ability of a prisoner to adapt to life in the outside world. This can be a difficult threshold for any prisoner to meet, but especially so in the case of women with disabilities who may have specific needs that the board may not adequately take into consideration.¹⁷⁶ This problem is exacerbated by the misclassification of women with disabilities as higher risk prisoners, which makes it that much more difficult to secure an earlier release.¹⁷⁷

iv. Lack of Remedies

Compounding all of the problems already described is the often ineffective set of remedies available to those subject to abuse. The problem often begins with prevention; for example, the United States Senate after investigating the problem of prison rape in the country's correctional facilities found that most prison staffs are not adequately trained to prevent or respond to inmate sexual assaults, which means that prison rape often goes unreported and untreated.¹⁷⁸ The prevalence of staff members as offenders means that women with disabilities face the risk of retaliation should they report any abuse that

ON THE UN STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS 73 (2008)

¹⁷⁵ ANTI-DISCRIMINATION COMMISSION QUEENSLAND, *WOMEN IN PRISON* 79 (2006)(stating that it is a problem that is especially acute in the case of those with intellectual disabilities that may go unrecognized by prison staff), *available at* http://www.adcq.qld.gov.au/pubs/WIP_report.pdf

¹⁷⁶ Judith Cockram, *People with an Intellectual Disability in the Prisons*, 12 *Psychiatry Psychology & Law* 163, 171 (2005).

¹⁷⁷ Judith Cockram, *People with an Intellectual Disability in the Prisons*, 12 *Psychiatry Psychology & Law* 163, 171 (2005).

¹⁷⁸ Prison Rape Elimination Act of 2003, Pub. L. No. 108-79, 117 Stat. 972 (2003)

they suffered at the hands of a guard.¹⁷⁹ The breakdown can be so severe that by some counts, “[i]n prison, a report of custodial sexual abuse is more likely to result in punishment or retaliation against the prisoner than in disciplinary consequences for the guard.”¹⁸⁰ Even should the women reach a more neutral body, many legislative mechanisms are simply inadequate and built more to suppress a perceived flood of meritless prisoner litigation than to help redress instances of abuse.¹⁸¹ Women with learning disabilities in prison face additional difficulties; their intellectual disability may make byzantine procedures impossible to navigate or may lead authorities to discount their testimony.¹⁸² The failure of the system to correct past wrongs only enables their repetition.

Although the United Nations has made a number of recommendations and highlighted examples of certain best practices,¹⁸³ women with disabilities in prison are still drastically

¹⁷⁹ Kim Shayo Buchanan, *Impunity: Sexual Abuse in Women's Prisons*, 42 HARV. C.R.- C.L.L. REV. 45, 47 (2007), available at http://www.law.harvard.edu/students/orgs/crcl/vol42_1/buchanan.pdf.

¹⁸⁰ Kim Shayo Buchanan, *Impunity: Sexual Abuse in Women's Prisons*, 42 HARV. C.R.- C.L.L. REV. 45, 47 (2007) (citing Lori B. Girshick, *Abused Women and Incarceration*, in *Women in Prison: Gender and Social Control* 95, 109-110 (Barbara H. Zaitzow & Jim Thomas eds., 2003)), available at http://www.law.harvard.edu/students/orgs/crcl/vol42_1/buchanan.pdf.

¹⁸¹ Beth Ribet, *Naming Prison Rape as Disablement, Critical Analysis Prison Litigation Reform Act, the Americans with Disabilities Act, and the Imperatives of Survivor-Oriented Advocacy*, 17 Va. J. Soc. Pol'y & L. 281, 297 (2010)(arguing that in the United States, despite proposed reforms, “the various components of the [Prison Litigation Reform Act] are still too prohibitive, generally, and specific to the issue of the capacity of many prisoners with disabilities to navigate the legal system”).

¹⁸² See, JENNY TALBOT, PRISON REFORM TRUST, NO ONE KNOWS REPORT AND FINAL RECOMMENDATIONS, PRISONERS' VOICES: EXPERIENCES OF THE CRIMINAL JUSTICE SYSTEM BY PRISONERS WITH LEARNING DISABILITIES AND DIFFICULTIES 46 (2008) (Fewer than half of prisoners were aware of a complaints form and/or process, which reduced to a third for those with possible learning or borderline learning disabilities.”).

¹⁸³ See, MEGAN BASTICK & LAUREL TOWNHEAD, QUAKER UNITED NATIONS OFFICE, HUMAN RIGHTS & REFUGEES PUBLICATIONS, WOMEN IN PRISON: A COMMENTARY ON THE UN STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS 73 (2008); UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC), HANDBOOK ON PRISONERS WITH SPECIAL NEEDS (United Nations Publication, 2009), available at <http://www.unodc.org/documents/justice-and-prison-reform/Prisoners-with-special-needs.pdf>; UNITED NATIONS OFFICE ON DRUGS AND CRIME (UNODC), HANDBOOK FOR PRISON MANAGERS AND POLICYMAKERS ON WOMEN AND IMPRISONMENT (United Nations Publication, 2009), available at

under-served.¹⁸⁴ Furthermore, states routinely ignore the United Nations Convention on the Rights of Persons with Disabilities, which calls on states to “promote appropriate training for those working in the field of administration of justice, including police and prison staff” and demands that prisoners with disabilities be treated on an equal basis.¹⁸⁵ A more concerted effort must be made to bridge the attention gap to focus not only on women in prison or prisoners with disabilities, but women with disabilities in the prison system.¹⁸⁶

v. Torture

Prison life is especially harsh for women with disabilities, at times rising to the level of torture. Reform is a moral imperative; there is simply no better time to address the growing population of women with disabilities in prison than the present. The incarceration of persons with disabilities without necessary services or accommodations has been deemed violence or torture in multiple international law decisions. For example, see *Price v United Kingdom*, 2001, United Kingdom, where the Court found that incarceration without necessary accommodations constituted ill-treatment.¹⁸⁷ Also see *CB v Australia*, 2006. United Nations Human Rights Committee. Inhumane and discriminatory treatment of

<http://www.unodc.org/documents/justice-and-prison-reform/Prisoners-with-special-needs.pdf>.

¹⁸⁴ Judith Cockram, *People with an Intellectual Disability in the Prisons*, 12 *Psychiatry Psychology & Law* 163, 172 (2005) (“Historically, there has been little action to identify and address the special needs of women with intellectual disability who offend.”).

¹⁸⁵ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, ¶¶ 13-14, U.N. Doc. A/RES/61/106 (Jan. 24, 2007), *available at* <http://www.un.org/disabilities/convention/conventionfull.shtml>.

¹⁸⁶ The potential for women with disabilities to be overlooked as its own group as opposed to the confluence of two separate groups is hardly novel to the prison context, see R. Amy Elman, *Confronting the Sexual Abuse of Women with Disabilities*, National Online Resource Center on Violence Against Women, 1 (Jan. 2005) (“The immense and important research on the sexual abuse of women often ignores disability, and disability research rarely considers the sexual abuse of women with disabilities.”), *available at* http://snow.vawnet.org/Assoc_Files_VAWnet/AR_SVDisability.pdf.

¹⁸⁷ *Price v UK* (2001) 34 EHRR 128; For a detailed analysis of the Price decision, see, Angela Laycock, “Price v. UK: The Importance of Human Rights Principles in Promoting the rights of Disabled Prisoners in the United Kingdom,” p 201 – 238, in *CRITICAL PERSPECTIVES ON HUMAN RIGHTS AND DISABILITY LAW* (Marcia H. Rioux, Lee Ann Bassler, & Melinda Jones eds., 2011).

Aboriginal juvenile prisoner with mental disability – violations of Articles 10 and 24(1) of ICCPR.¹⁸⁸ Other decisions include *Mouisel v France*, 2002, France. Physical integrity and dignity - disproportionate measures - violation Art 3¹⁸⁹; *Mental Disability Advocacy Center (MDAC) v Bulgaria*, 2008, Bulgaria. Violation of Article 17(2) – right to free education – and in conjunction with Article E – non-discrimination clause – on RESC.¹⁹⁰ In *Peruvian Prison*, 1992, Peru. Provisional measures refused - ACHR Art 63(2), The IACHR had requested provisional measures regarding the situation in three prisons, namely, that it be authorized by the government to inspect them and interview prisoners and that the provision of clothing, food, means of hygiene and medical attention also be authorized.

e. Lack of Physical Access to Courts and other Institutions of the Justice System

Lack of Physical Access to the Courthouse or other Institutions of the Justice System

One of the most obvious and egregious barriers to access to justice for women with disabilities is the physical barriers to courthouses and other institutions of the justice system. This is a basic and fundamental element of human rights and access to justice and the ability of women and girls with disabilities to vindicate their rights and eliminate the violence. Inaccessibility of courthouses may include stairs at entrances, inaccessible witness chairs and jury boxes, lack of technology to enable persons with disabilities to understand and participate in the proceedings, prohibitions on animals in the courthouse despite the fact that they are service animals, failure to provide materials in alternative formats for women who are blind or sign language interpreters for women who are deaf, lack of wheelchair lifts, and other elements of inaccessible courthouse design.¹⁹¹ Similar barriers often exist in offices of lawyers and prosecutors, police stations and violence prevention and protection services.¹⁹²

¹⁸⁸ *CB v. Australia* (2006), UNHRC No. 1184/2003.

¹⁸⁹ *Mouisel v France*, (2004) 38 EHRR 34.

¹⁹⁰ *Mental Disability Advocacy Center (MDAC) v Bulgaria*, (2008) European Committee of Social Rights No 41/2007.

¹⁹¹ Stephanie Ortoleva, Esq., [Inaccessible Justice: Human Rights, Persons with Disabilities and the Legal System](#), 17 ILSA J. Int'l & Comp. L. 281, 305 (2011). Chang, J. C., et. al., [Helping women with disabilities and domestic violence: Strategies, limitations, and challenges of domestic violence programs and services](#), 12(7) Journal of Women's Health, 699 (2003); Howland, C. A., et.

Increasingly world-wide persons with disabilities and Disabled Peoples Organizations (DPOs) are fighting to remove these barriers.

These issues are addressed by international law, regional law and in the laws of various countries. Approaches are varied and draw on diverse strategies and standards.

- i. *The CRPD*. The ¹⁹³ CRPD in its Article 5 on Reasonable Accommodation, Article 9 on Accessibility and Article 13 on Access to Justice each address these issues.

The CRPD's Article 5 requires States to ensure provision of reasonable accommodation, in order to "promote equality and eliminate discrimination."¹⁹⁴ A reasonable accommodation is simply a resource or a measure designed to promote full participation and access and to empower a person to act on his or her own behalf.

Article 9 of the CRPD concerns accessibility. The principle of accessibility in Article 9 is directed at the removal of the barriers that hinder the effective enjoyment of rights by persons with disabilities.¹⁹⁵ The provision addresses a number of accessibility concerns, including physical, technological, information, communication, economic and social accessibility. The provision expressly acknowledges the need to consider and address accessibility measures at the earliest stage in planning and preparedness programming and applies to both public and private actors who are obliged to make their product or services "open or provided to the public."¹⁹⁶ This provision draws on the

al, (2001). Programs delivering abuse intervention services to women with disabilities. CROWD: Houston; see also discussion in Part II, Subpart C-5.

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¹⁹³ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

¹⁹⁴ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 5(3) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

¹⁹⁵ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 9 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

¹⁹⁶ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 9(1) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

articulation of accessibility as a target for priority reform in the Standard Rules.¹⁹⁷

Article 13 of the CRPD is of particular importance and it is entitled, “Access to justice.” The succinct two-clause article requires “procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including all witnesses, in all legal proceedings, including at investigative and other preliminary stages.” Accommodations and training for those within the justice system are therefore necessary for both persons with disabilities and those administering justice in all facilities and at all stages.

Thus, the CRPD enumerates a comprehensive framework which requires both reasonable accommodation and physical access to all institutions of the justice system.

¹⁹⁷ G.A. Res. 48/96, Standard Rules on the Equalization of Opportunities for Persons with Disabilities, U.N. Doc A/RES/48/96, Rule 5 (Dec. 20, 1993), *available at* <http://www.un.org/disabilities/documents/gadocs/standardrules.pdf>.

Information is provided with respect to litigation on physical access to institutions of the justice system in the United States of America and South Africa as examples of strategies and approaches to eliminating this significant barrier to addressing violence against women with disabilities.

ii. *In the United States.*

The Supreme Court of the United States has addressed the right of physical access to the courts and other institutions of the justice system. The Due Process Clause and the Confrontation Clause of the Sixth Amendment, as applied to the states under the United States Constitution via its Fourteenth Amendment, both guarantee to a criminal defendant the “right to be present at all stages of the trial where his absence might frustrate the fairness of the proceedings.”¹⁹⁸ The Due Process Clause also requires the States to afford certain civil litigants a “meaningful opportunity to be heard” by removing obstacles to their full participation in judicial proceedings.¹⁹⁹ And, finally, the U.S. Supreme Court has recognized that members of the public have a right of access to criminal proceedings secured by the First Amendment of the United States Constitution.²⁰⁰

More recently, the United States Supreme Court addressed physical access to the courthouse for persons with disabilities in *Tennessee v. Lane*, a 2004 court decision.²⁰¹ In the case, citizens with disabilities who could not access the upper floors in state courthouses sued the state, arguing that Tennessee was denying them public services because of their disabilities under Title II of the Americans with Disabilities Act (ADA).²⁰² Under Title II of the ADA, no one

¹⁹⁸ *Faretta v. California*, 422 U.S. 806, 819, n. 15 (1975).

¹⁹⁹ *Boddie v. Connecticut*, 401 U.S. 371, 379 (1971); *M.L.B. v. S.L. J.*, 519 U.S. 102 (1996).

²⁰⁰ *Press—Enterprise Co. v. Superior Court of Cal., County of Riverside*, 478 U.S. 1, 8–15 (1986).

²⁰¹ *Tennessee v. Lane*, 541 U.S. 509 (2004).

²⁰² *Tennessee v. Lane*, 541 U.S. 509 (2004).

can be denied access to public services due to his or her disability.²⁰³ The United States Supreme Court held that Congress had sufficient evidence that persons with disabilities were being denied the fundamental right of access to the courts, so that Title II of the ADA constitutes a valid exercise of Congressional enforcement power under the Due Process Clause of the Fourteenth Amendment of the United States Constitution.²⁰⁴

In the *Tennessee v. Lane* majority opinion, the United States Supreme Court addressed evidence that people with disabilities were being denied physical access to justice. Leading up to the enactment of the ADA:

“Congress learned that many individuals, in many States across the country, were being excluded from courthouses and court proceedings by reason of their disabilities. A report before Congress showed that some 76% of public services and programs housed in state-owned buildings were inaccessible to and unusable by persons with disabilities, even taking into account the possibility that the services and programs might be restructured or relocated to other parts of the buildings. Congress itself heard testimony from persons with disabilities who described the physical inaccessibility of local courthouses. And its appointed task force heard numerous examples of the exclusion of persons with disabilities from state judicial services and programs, including exclusion of persons with visual impairments and hearing impairments from jury service, failure of state and local governments to provide interpretive services for the hearing impaired, failure to permit the testimony of adults with developmental disabilities in abuse cases, and failure to make courtrooms accessible to witnesses with physical disabilities.”²⁰⁵

Congress found that “discrimination against individuals with disabilities persists in such critical areas as . . . education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services” in combination with the extensive record of disability discrimination that underlies it, made

²⁰³ Title II of the Americans with Disabilities Act of 1990, 104 Stat. 337, 42 U.S.C. §§ 12131–12165.

²⁰⁴ *Tennessee v. Lane*, 541 U.S. 509, 533-34 (2004) (citations omitted).

²⁰⁵ *Tennessee v. Lane*, 541 U.S. 509, 527 (2004).

it clear to the Court that Congressional enactment of the ADA was appropriate.²⁰⁶ The Court concluded that Title II, as it applies to the class of cases implicating the fundamental right of access to the courts, constitutes a valid exercise of Congress' authority to enforce the guarantees of the Fourteenth Amendment.²⁰⁷ However, because of the limited scope of the Court's holding, only the right of physical access to the courts was upheld, and the rights of persons with disabilities in other areas of public programs and services would be considered on a case-by-case basis in the future.

Physical access to the justice system under United States law is not limited to courthouse access, but also includes access to the police station, the prosecutor's office, etc. Title II of the Americans with Disabilities Act applies to all public entities, defined as "any state or local government" and "any department, agency, special purpose district, or other instrumentality of a state . . . or local government."²⁰⁸ The courts have extended this definition to cover state prison systems,²⁰⁹ local police departments,²¹⁰ state judicial nominating commissions,²¹¹ police pension funds,²¹² state court systems,²¹³ and state boards of bar examiners and bar associations.²¹⁴ Law enforcement agencies are programs of state and local governments and are thus covered public entities under Title II of the ADA. Virtually everything that police officers and sheriff's deputies do is affected by the ADA, including receiving citizen complaints, interrogating witnesses, arresting and booking suspects, providing emergency medical services, and enforcing laws.²¹⁵ Because these are services provided by a public entity under the ADA, these services and the facilities at which they are offered must be accessible to individuals

²⁰⁶ *Tennessee v. Lane*, 541 U.S. 509, 529 (2004).

²⁰⁷ *Tennessee v. Lane*, 541 U.S. 509, 533-34 (2004).

²⁰⁸ Title II of the Americans with Disabilities Act of 1990, 104 Stat. 337, 42 U.S.C. §§ 12131-12165.

²⁰⁹ *Pa. Dep't of Corr. v. Yeskey*, 524 U.S. 206, 213 (1998).

²¹⁰ *Gorman v. Barch*, 152 F.3d 907, 916 (8th Cir. 1998).

²¹¹ *Doe v. Jud. Nominating Comm'n for Fifteenth Jud. Cir.*, 906 F. Supp. 1534, 1543 (S.D. Fla. 1995).

²¹² *Piquard v. City of East Peoria*, 887 F. Supp. 1106, 1127 (C.D. Ill. 1995).

²¹³ *Galloway v. Superior Court*, 816 F. Supp. 12, 18-19 (D.C. Cir. 1993); *People v. Caldwell*, 603 N.Y.S. 2d 713 (N.Y. Crim. Ct. 1993).

²¹⁴ *Ware v. Wyo. Bd. of Law Exam'rs*, 973 F. Supp. 1339, 1352-53 (D. Wyo. 1997), *aff'd*, 161 F.3d 19 (1998); *In re Petition of Rubenstein*, 637 A.2d 1131, 1136-37 (Del. 1994); *State ex rel. Okla. Bar Ass'n v. Busch*, 919 P.2d 1114, 1117-18 (Okla. 1996).

²¹⁵ Rothstein, *Disabilities and the Law* § 5:3 (4th ed.).

with disabilities. Interpreters must be made available to individuals with hearing impairments who are arrested, 911 services have to be made available to those with speech disabilities, arrestees with mobility impairments must have access to the toilet facilities and other amenities at the lock-up or jail, and all new police facilities that are open to the public must be made accessible.²¹⁶ Additionally, in 1998, the U.S. Supreme Court stated that state prisons are within Title II's statutory definition of a "public entity."²¹⁷

United States case law also demonstrates the extent of denial of access to persons with disabilities during arrests. In 1998, a hearing impaired arrestee stated a claim under the Americans with Disabilities Act against a county and sheriff's department because he was denied, due to his disability, the opportunity to post bond and make a telephone call when the department failed to provide, despite his requests, alternatives to a conventional telephone, such as an interpreter, a text telephone device (TDD), or a TDD directory.²¹⁸ In another case, an arrestee who used a wheelchair brought suit against the city chief of police and others, seeking to recover for injuries he suffered while being transported to jail in a police van that was not equipped with a wheelchair lift or wheelchair restraints.²¹⁹

Additionally, the United States Access Board Courthouse Access Advisory Committee issued a comprehensive report in 2006 which illustrated how the design of courthouses impeded the physical access to justice for people with disabilities.²²⁰ This Report specifically highlighted the fact that the design of courthouses poses challenges to access due to unique features, such as courtroom areas that are elevated within confined spaces.²²¹ The report additionally identified many other common errors that challenge the physical access to the courthouse for people with disabilities, and a few examples are set forth below, although this detailed report enumerates many other barriers to access:

²¹⁶ Rothstein, *Disabilities and the Law* § 5:3 (4th ed.).

²¹⁷ *Pennsylvania Dept. of Corrections v. Yeskey*, 524 U.S. 206 (1998).

²¹⁸ *Hanson v. Sangamon County Sheriff's Dept.*, 991 F. Supp. 1059 (C.D. Ill. 1998).

²¹⁹ *Gorman v. Bishop*, 919 F. Supp. 326 (W.D. Mo. 1996).

²²⁰ U.S. Access Board, *Justice for All: Designing Accessible Courthouses* (Nov. 15, 2006) (available at <http://www.access-board.gov/caac/report.pdf>).

²²¹ U.S. Access Board, *Justice for All: Designing Accessible Courthouses* (Nov. 15, 2006), pg. 9.

- Restricted and employee parking lots do not provide the minimum number of accessible spaces or an accessible route from parking to building entrances.²²²
- Having a security layout that separates people with disabilities from their belongings without allowing them to maintain visual contact at security entrances.²²³
- Difficult-to-open heavy ornamental interior doors.²²⁴
- Lack of elevator access to upper levels.²²⁵
- Fixed seating that obstructs wheelchair space.²²⁶
- Locating wheelchair space outside jury box.²²⁷
- Insufficient space to permit a person using a wheelchair to move into and out of the witness stand.²²⁸
- Lighting provided is typically inadequate for someone with a vision impairment to be able to see his/her paperwork adequately.²²⁹
- Toilet rooms are not sized to be accessible or sinks are located in the required clear floor space for the water closet.²³⁰²³¹

The Access Board Report outlines specific design solutions to the above problems, as well as many additional problems, and the Canadian agency working on communication for persons with hearing

²²² U.S. Access Board, *Justice for All: Designing Accessible Courthouses* (Nov. 15, 2006), pg. 17.

²²³ U.S. Access Board, *Justice for All: Designing Accessible Courthouses* (Nov. 15, 2006), pg. 24.

²²⁴ U.S. Access Board, *Justice for All: Designing Accessible Courthouses* (Nov. 15, 2006), pg. 27.

²²⁵ U.S. Access Board, *Justice for All: Designing Accessible Courthouses* (Nov. 15, 2006), pg. 27.

²²⁶ U.S. Access Board, *Justice for All: Designing Accessible Courthouses* (Nov. 15, 2006), pg. 35.

²²⁷ U.S. Access Board, *Justice for All: Designing Accessible Courthouses* (Nov. 15, 2006), pg. 54.

²²⁸ U.S. Access Board, *Justice for All: Designing Accessible Courthouses* (Nov. 15, 2006), pg. 57.

²²⁹ U.S. Access Board, *Justice for All: Designing Accessible Courthouses* (Nov. 15, 2006), pg. 69.

²³⁰ U.S. Access Board, *Justice for All: Designing Accessible Courthouses* (Nov. 15, 2006), pg. 77.

²³¹ U.S. Access Board, *Justice for All: Designing Accessible Courthouses* (Nov. 15, 2006), pg. 77.

disabilities has outlined strategies to include alternative communications (AAC) in the courts.

Professor Peter Blanck, in a recent article, highlights the vast array of technological solutions available for the courtroom. He highlights the fact that assistive technology can, in addition to providing access to individuals with disabilities, enhance the experience and accuracy of proceedings to non-disabled individuals, such as: jurors, judges, and attorneys." "This is particularly true when courtroom technology embodies concepts of 'universal design,' which enables all participants to engage meaningfully in the proceedings."²³²

iii. *In South Africa.*

Esthe Muller, a South African lawyer and also a wheelchair user, filed suit under the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 against the Justice Department and the Department of Public Works because of the inaccessibility of the courthouses.²³³ On one occasion, Ms. Muller had to be carried down a flight of stairs to enter the courthouse and on another occasion the court had to postpone her cases because she could not get into the courtroom.²³⁴ In September 2004, the South African Equality Court reached a final settlement in which the two government departments admitted that they had failed to provide proper wheelchair access and that this was a form of unfair discrimination against Ms. Muller and other people with similar accessibility needs.²³⁵ The departments committed to a plan to ensure that all court buildings throughout the country would be made accessible within three years.²³⁶

iv. *Reports by Non-Governmental Organizations.*

In addition to these examples of barriers found through court cases in the United States of America and South Africa, international non-governmental organizations also have addressed the lack of physical access to the courts and other institutions of the justice system for people with disabilities. A few illustrative examples are set forth.

In a 2011 report by the SHYRAK Association of Women with Disabilities based in Kazakhstan, they noted that one of the barriers preventing access to justice for women with disabilities is the

²³² Peter Blanck, Ann Wilichowski & James Schmeling, *Disability Civil Rights Law and Policy: Accessible Courtroom Technology*, 12 WM. & MARY BILL OF RTS. J. 825, 836 (2004).

²³³ South African Government Information, *Equality Court Victory for People with Disabilities*, <http://www.info.gov.za/speeches/2004/04022415461001.htm> (last visited Feb. 23, 2011) [hereinafter South African Government Information]; see also Dave Reynolds, *Government Sets Date for All Courts to be Accessible*, INCLUSION DAILY EXPRESS, Sept. 15, 2004, <http://www.inclusiondaily.com/archives/04/09/15/091504sacourtaccess.htm> (last visited Feb. 27, 2011).

²³⁴ South African Government Information, *Equality Court Victory for People with Disabilities*, <http://www.info.gov.za/speeches/2004/04022415461001.htm> (last visited Feb. 23, 2011) [hereinafter South African Government Information].

²³⁵ South African Government Information, *Equality Court Victory for People with Disabilities*, <http://www.info.gov.za/speeches/2004/04022415461001.htm> (last visited Feb. 23, 2011) [hereinafter South African Government Information].

²³⁶ Dave Reynolds, *Government Sets Date for All Courts to be Accessible*, INCLUSION DAILY EXPRESS, Sept. 15, 2004, <http://www.inclusiondaily.com/archives/04/09/15/091504sacourtaccess.htm> (last visited Feb. 27, 2011).

inaccessibility of buildings, public transport, urban infrastructure, and lack of sign language interpretation.²³⁷

In a report submitted to the Australian Parliament by various women's groups in October 2011, they noted that many family violence services are not equipped or resourced to meet the needs of women with various disabilities.²³⁸ Additionally, emergency and crisis accommodation services often lack the funding to redevelop their premises to make them physically accessible, and staff may lack the training and expertise in working with women with disabilities.²³⁹ The report states that "the majority of crisis accommodation facilities in Victoria are communal, with women required to share a bedroom with their children, and kitchen, bathroom and laundry facilities with up to five other families."²⁴⁰ Such living arrangements are unsuitable for the majority of women with a disability."²⁴¹

In Malawi, lack of physical access to courts is a real barrier to justice for most people. A report by the Africa Governance Monitoring and Advocacy Project (AfriMAP) starkly illustrates the barriers women with disabilities face in attempting to access the justice system:

"The courts are located mainly in urban and peri-urban areas or rural community centres. This means that for the majority of the people who live in remote rural areas, the nearest court might be as much as 40 kilometres away. In some cases, a person may have to walk for up to eight hours to reach the court nearest to his or her home. The effect of such distances is made worse by the fact that most rural areas do not have regular public transport. Where public transport exists, it is prohibitively expensive for most Malawians. The bus fare for a 40 kilometre journey is almost the equivalent of a day's wages. The Supreme Court of Appeal, the High Court and the Industrial Relations Court are even less geographically accessible to most Malawians."²⁴²

For persons with physical disabilities, these problems are exacerbated. Additionally, the physical design of some court premises in Malawi denies access to people with physical disabilities because of their use of stairs. For example, the premises of the High Court and the Supreme Court of Appeal in Blantyre and the High Court in Mzuzu allow public access to the courtrooms and offices only by climbing flights of stairs.²⁴³

²³⁷ Access to Justice for Women with Disabilities in Almaty: Status Quo, Problems and Recommendations 2011, pg. 15.

²³⁸ Submission to Parliament of Victoria Law Reform Committee Inquiry into Access to and Interaction with the Justice System by People with an Intellectual Disability and Their Families and Carers, October 2011, pg. 14.

²³⁹ Submission to Parliament of Victoria Law Reform Committee Inquiry into Access to and Interaction with the Justice System by People with an Intellectual Disability and Their Families and Carers, October 2011, pg. 14.

²⁴⁰ Submission to Parliament of Victoria Law Reform Committee Inquiry into Access to and Interaction with the Justice System by People with an Intellectual Disability and Their Families and Carers, October 2011, pg. 14.

²⁴¹ Submission to Parliament of Victoria Law Reform Committee Inquiry into Access to and Interaction with the Justice System by People with an Intellectual Disability and Their Families and Carers, October 2011, pg. 14.

²⁴² AfriMAP, Malawi: Justice Sector and the Rule of Law, Access to Justice, Sept. 12, 2006 pg. 132-33 (available at <http://www.afriMAP.org/english/images/report/mal-eng-part-2-chapter-6.pdf>).

²⁴³ AfriMAP, Malawi: Justice Sector and the Rule of Law, Access to Justice, Sept. 12, 2006 pg. 132-33 (available at <http://www.afriMAP.org/english/images/report/mal-eng-part-2-chapter-6.pdf>).

These numerous barriers (physically inaccessible courthouses and other institutions of the justice system, lack of reasonable accommodation, long or arduous travel distances to the courts or other institutions) combined with legal, political, economic, cultural and other barriers impose, are all obstacles which make it impossible for many women with disabilities to vindicate their rights at all.

f. Women with Disabilities as Witnesses

Several international treaties are relevant to combating the discrimination faced by women with disabilities as witnesses. The CRPD includes a right of access to justice for people with disabilities.²⁴⁴ Article 13 requires state parties to “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.”²⁴⁵ The specific reference to witnesses indicates that the drafters of the Convention recognized the importance of witnesses in the justice system generally, and the specific need to ensure that people with disabilities can participate fully as witnesses in all stages of the judicial process. The CRPD also requires parties to provide training to members of the judicial system, such as police officers, in order to effectuate the goal of including people with disabilities in the justice system.

i. Admission of Testimony by Women

Furthermore, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) requires member states to ensure that men and women have equal access to the legal system.²⁴⁶ The CEDAW committee has expressed particular concern with cultural and social factors that tend to discount the testimony of women and their ability to participate as full and equal members in the legal system.²⁴⁷ The Committee has recognized that without equal access to justice, women are unable to fully vindicate the rights granted to them by the CEDAW and other laws protecting women.²⁴⁸ Because women with disabilities have rights under both the CEDAW and the CRPD, member nations have an obligation that neither the disability nor the gender of these community members results in the denial of their full and fair access to the justice system.

ii. Credibility and competency

²⁴⁴ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, Annex I, art. 13, U.N. Doc. A/RES/61/106 (Dec. 13, 2006).

²⁴⁵ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, Annex I, art. 13, U.N. Doc. A/RES/61/106 (Dec. 13, 2006).

²⁴⁶ Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 15 (Dec. 18, 1979).

²⁴⁷ OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: EQUALITY IN MARRIAGE AND FAMILY RELATIONS, CEDAW General Recommendation No. 21, 13th Session, cmt. 7, (Apr. 2, 1994).

²⁴⁸ OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: EQUALITY IN MARRIAGE AND FAMILY RELATIONS, CEDAW General Recommendation No. 21, 13th Session, cmt. 7, (Apr. 2, 1994).

Women with disabilities face a number of obstacles in the legal justice system, including the systematic failure of the court system to acknowledge them as competent witnesses. This exclusion is particularly problematic in cases involving sexual assault or other forms of gender-based violence, in which the complaining witness may provide key evidence necessary for a conviction. Because women with disabilities face violence at least one and one-half times more often than other women,²⁴⁹ excluding women with disabilities from the witness stand will only perpetuate the reality that they face sexual violence to a disproportionate degree. In fact, sexual abuse cases involving a complainant with learning disabilities rarely go to court and the complainant frequently does not serve as sole witness against the accused.²⁵⁰

iii. Factors leading to exclusion from the witness stand

Not only are women with disabilities excluded as witnesses because they may have difficulty communicating with the police, but stereotypes about women with disabilities operate to exclude or discount their testimony. For example, the sexual nature of certain crimes and the general failure of society to see people with disabilities as sexual beings may result in judges and juries discounting the witnesses' testimony in sexual assault cases.²⁵¹ This tendency to essentially "infantilize" women with mental disabilities contributes to the discounting of their testimony.²⁵² On the other hand, there may also be an inclination for society to view some women with mental disabilities as hypersexual and lacking self-control, leading to the disregard of their complaints.²⁵³

More generally, law enforcement and legal agencies may see women and girls with disabilities who require assistive communication or accommodations, as well as women with psycho-social and intellectual disabilities, as lacking credibility, which may result in the police dismissing their complaints.²⁵⁴ For example, there may also be a tendency for judges to require more corroborating evidence of an assault in cases involving women with disabilities than in other cases, and evidence about prior mental health treatment may be used to discredit these witnesses' testimony.²⁵⁵ Finally, women with cognitive disabilities may have more difficulty

²⁴⁹ Disability Discrimination Legal Service, *Beyond Belief, Beyond Justice: The Difficulties for Victims/Survivors with Disabilities when Reporting Sexual Assault and Seeking Justice* (Nov. 2003), p. 17. Located at www.wvda.org.au/beyondbelief1.pdf

²⁵⁰ Pamela Cooke & Graham Davies, *Achieving Best Evidence from Witnesses with Learning Disabilities: New Guidelines*, 29 BRITISH JOURNAL OF LEARNING DISABILITIES 84 (2001).

²⁵¹ Hilary Brown, *Sexual Abuse: Facing Facts*, 87 NURSING TIMES 65 (1991).

²⁵² Janine Benedet and Isabel Grant, *Hearing the Sexual Assault Complaints of Women with Mental Disabilities: Evidentiary and Procedural Issues*, 52 MCGILL L.J. 515, 523 (2007).

²⁵³ Janine Benedet and Isabel Grant, *Hearing the Sexual Assault Complaints of Women with Mental Disabilities: Evidentiary and Procedural Issues*, 52 MCGILL L.J. 515, 522, 537 (2007). Benedet and Grant argue that in some instances, courts may inquire into a complainant's sexual history in order to establish her understanding of sexual matters, even though these inquiries do not satisfy the strict requirements for admission of past sexual history under Canada's "rape shield" law. *Id.* at 533.

²⁵⁴ Disability Discrimination Legal Service, *Beyond Belief, Beyond Justice: The Difficulties for Victims/Survivors with Disabilities when Reporting Sexual Assault and Seeking Justice* (Nov. 2003), p. 59. Located at www.wvda.org.au/beyondbelief1.pdf

²⁵⁵ Janine Benedet and Isabel Grant, *Hearing the Sexual Assault Complaints of Women with Mental Disabilities: Evidentiary and Procedural Issues*, 52 MCGILL L.J. 515, 531-32 (2007).

with long term memory or remembering the sequence of events, which may make them appear less credible on the stand.²⁵⁶ This failure to afford the testimony of women with disabilities due respect is particularly problematic in gender-based violence and sexual assault cases, where the testimony of the parties and the credibility of the witnesses are exceptionally important.²⁵⁷

iv. Social Attitudes

Paternalistic attitudes towards people with disabilities may also prevent full and fair access to the witness stand; various players in the judicial system may view women with disabilities as too fragile to withstand the rigors of examination by attorneys or judges, leading to their systematic exclusion.²⁵⁸ These and other stereotypes about women with disabilities keep their experiences from being brought to light. Furthermore, such exclusion has the effect of placing women with disabilities at even greater risk, because the perpetrators themselves may be more likely to attack women with disabilities because they know that complaints by women with disabilities may be taken less seriously. Moreover, women with disabilities whose complaints have been dismissed in the past are even less likely to come forward and report abuse.²⁵⁹ Failing to listen to the voices of women with disabilities when they speak out against these perpetrators therefore has the devastating effect of perpetuating violence against them.

v. Communication during Trials, Hearings, or Depositions

In addition to stereotypes about the competence of witnesses with disabilities, the structure of the legal proceedings themselves may also place substantial barriers to the testimony of witnesses' with disabilities being heard. There is mounting evidence that language used in the courtroom, particularly during the cross-examination process, can be distressing and confusing to some witnesses with a cognitive disability or a learning disability.²⁶⁰ Specifically, questions during cross-examinations may involve trick questions, hypothetical questioning, and "leading and lengthy" questions with double negative phrasing, which often are confusing to people with and without a cognitive disability.²⁶¹ Furthermore, people with intellectual disabilities may often give the answers that they think will satisfy the person asking the question, making leading questions and yes/no questions particularly problematic.²⁶² One study of sexual assault cases

²⁵⁶ Janine Benedet and Isabel Grant, *Hearing the Sexual Assault Complaints of Women with Mental Disabilities: Evidentiary and Procedural Issues*, 52 MCGILL L.J. 515, 531-32 (2007).

²⁵⁷ Chris Jennings, *Family Violence & Sexual Assault: A Criminal Justice Response for Women with Disabilities* (13 July 2005).

²⁵⁸ Chris Jennings, *Family Violence & Sexual Assault: A Criminal Justice Response for Women with Disabilities* (13 July 2005).

²⁵⁹ Chris Jennings, *Family Violence & Sexual Assault: A Criminal Justice Response for Women with Disabilities* (13 July 2005).

²⁶⁰ Disability Discrimination Legal Service, *Beyond Belief, Beyond Justice: The Difficulties for Victims/Survivors with Disabilities when Reporting Sexual Assault and Seeking Justice* (Nov. 2003), p. 61. Located at www.wwda.org.au/beyondbelief1.pdf

²⁶¹ Disability Discrimination Legal Service, *Beyond Belief, Beyond Justice: The Difficulties for Victims/Survivors with Disabilities when Reporting Sexual Assault and Seeking Justice* (Nov. 2003), p. 61. Located at www.wwda.org.au/beyondbelief1.pdf

²⁶² Disability Discrimination Legal Service, *Beyond Belief, Beyond Justice: The Difficulties for Victims/Survivors with Disabilities when Reporting Sexual Assault and Seeking Justice* (Nov. 2003), p. 61. Located at www.wwda.org.au/beyondbelief1.pdf

involving witnesses with cognitive disabilities suggested that judges should more actively intervene in proceedings to encourage clearer communication, and that support services should be offered to every witness with a cognitive disability to ensure that she can navigate the trial process.²⁶³ For example, a process called “facilitated communication” can be used to assist non-verbal people with disabilities, such as people with autism, with communication. According to the Institute of Communication and Inclusion at Syracuse University, facilitated communication is “a form of alternative and augmentative communication (AAC) in which people with disabilities and communication impairments express themselves by pointing (e.g. at pictures, letters, or objects) and, more commonly, by typing (e.g. on a keyboard). The method involves a communication partner who may provide emotional encouragement, communication supports (e.g., monitoring to make sure the person looks at the keyboard and checks for typographical errors) and a variety of physical supports, for example to slow and stabilize the person’s movement, to inhibit impulsive pointing, or to spur the person to initiate pointing; the facilitator should never move or lead the person.”²⁶⁴

Unfortunately, statements made through facilitated communication have faced almost universal skepticism by the courts. While some courts have admitted statements by witnesses made through assisted communication, leaving the credibility of such statements to be weighed by the jury, other courts have refused to admit such statements because facilitated communication has not garnered wide acceptance by some in the scientific community.²⁶⁵ While certainly procedural safeguards to protect defendants are necessary, outright refusal to allow these kinds of accommodations will deny some women with disabilities full and equal opportunity to offer their testimony to the police or to the courts. Furthermore, even if a woman with a disability can fully understand police or attorney questioning, if she uses alternative forms of communication her credibility as a witness may also be called into question by a judge or jury.²⁶⁶ For example, jurors may not trust that a sign language interpreter is fully relaying the statements of a witness with a hearing impairment, or jurors may feel that they cannot use “typical” vocal cues that they would use in their everyday lives in order to assess the speaker’s trustworthiness.²⁶⁷ Jurors may therefore hold witnesses using an interpreter or another form of alternative communication to a higher standard than they would to other witnesses.

vi. Communicating Complaints

In addition, courthouses and police stations may also not have the resources necessary to ensure that witnesses with disabilities have the ability to adequately communicate with the police

²⁶³ Disability Discrimination Legal Service, *Beyond Belief, Beyond Justice: The Difficulties for Victims/Survivors with Disabilities when Reporting Sexual Assault and Seeking Justice* (Nov. 2003), p. 61-3. Located at www.wvda.org.au/beyondbelief1.pdf

²⁶⁴ Syracuse University School of Education, “What is Supported Typing?” located at

http://soe.syr.edu/centers_institutes/institute_communication_inclusion/what_is_supported_typing/default.aspx

²⁶⁵ See *State v. Warden*, 891 P.2d 1074, 1088 (Kan. 1995) for a case where the court admitted a statement made through facilitated communication, and *DSS ex. rel. Jenny S. v. Mark S.*, 593 N.Y.S.2d 142 (N.Y. Fam. Ct. 1992) where the court refused to admit such a statement due to scientific uncertainty as to its accuracy.

²⁶⁶ Chris Jennings, *Family Violence & Sexual Assault: A Criminal Justice Response for Women with Disabilities* (13 July 2005).

²⁶⁷ Brandon Tuck, *Preserving Facts, Form and Function when a Deaf Witness with Minimal Language Skills Testifies in Court*, 158 U. PA. L.R. 905, 917-920 (2010).

or access information. During initial police questioning for example, sign language interpreters may not be readily accessible to assist women with hearing impairments. Information may not be available in Braille or other alternative formats, making it more difficult for women with a visual disability to pursue their complaints to the fullest extent of the law.²⁶⁸ Furthermore, information about legal rights is often not provided in clear, easy-to-understand formats using plain language, which prevents women with disabilities who have basic reading skills from understanding their rights.²⁶⁹ If women with disabilities cannot access adequate forms of communication and information designed to inform them of the process or of their rights more generally, it will be impossible for them to reach their full potential as witnesses in the justice system.

vii. Discrimination against Women as Witnesses Generally

The unfair treatment of women with disabilities on the witness stand is compounded by the reality that women in general are seen as less competent witnesses than men. In most cultures, religious, cultural and social factors work to limit the worth or credibility of female testimony.²⁷⁰ While cultural views towards women as witnesses has improved in recent decades, cultural prejudices still exist to place women at a disadvantage in the justice system generally.²⁷¹ Given that women with disabilities face discrimination both because of their gender and because of their disabilities, it is unfortunately not surprising that many women with disabilities are turned away from court systems because of a misguided belief that their gender and/or cognitive or physical disability should prevent them from taking the stand to vindicate whatever wrong may have been done to them.²⁷²

In a number of recent studies, authorities have attributed this perceived insignificance or triviality of women's role in the justice system to a variety of religious or culturally based practices and norms throughout the world that directly affect the status or influence of women.²⁷³ CEDAW recognizes the importance of culture and tradition in shaping the thinking and behavior of men and women who prescribe to a specific religion or cultural practice.²⁷⁴ Despite the engrained nature of this discrimination, a number of international human rights institutions have labeled some religious views of women as discriminatory or contradictory to basic human

²⁶⁸ Stephanie Ortoleva, *Inaccessible Justice: Human Rights, Persons with Disabilities and the Legal System*, 17 ILSA J. INT'L & COMP. L. 281, 311 (2011).

²⁶⁹ Stephanie Ortoleva, *Inaccessible Justice: Human Rights, Persons with Disabilities and the Legal System*, 17 ILSA J. INT'L & COMP. L. 281, 300 (2011).

²⁷⁰ OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS: EQUALITY IN MARRIAGE AND FAMILY RELATIONS, CEDAW General Recommendation No. 21, 13th Session, cmt. 7, (Apr. 2, 1994).

²⁷¹ See U.N. Women, *In Pursuit of Justice*, 2011-2012 Progress on the World's Women, located at progress.unwomen.org/ for a comprehensive review of challenges facing women seeking to access the justice system.

²⁷² Chris Jennings, Family Violence & Sexual Assault: A Criminal Justice Response for Women with Disabilities (13 July 2005).

²⁷³ U.N. Women, *In Pursuit of Justice*, 2011-2012 Progress on the World's Women, p. 69-71 located at progress.unwomen.org/

²⁷⁴ Convention on the Elimination of All Forms of Discrimination Against Women, G.A. Res.34/180, U.N. Doc. A/RES/34/180, introduction (Dec. 18, 1979).

rights.²⁷⁵ For example, in a number of countries, the testimony of two women is equal to that of one man,²⁷⁶ and many countries still permit evidence of a woman's sexual history in sexual assault cases.²⁷⁷ Therefore, addressing the discrimination faced by women with disabilities requires consideration of the discrimination facing women witnesses generally.

g. Termination of Parental Rights of Women with Disabilities

Stereotypical views of women with disabilities may be imposed on the parental rights of women with disabilities through the termination of parental rights. Though disability laws may prohibit discrimination in social services, they do not always extend to child custody and protection proceedings.²⁷⁸ Research has found that parents with disabilities are no more likely to maltreat their children than are parents without disabilities; however, sociocultural ambivalence towards women with disabilities becoming parents persists in many contexts.²⁷⁹ Women with a psychosocial, intellectual or physical disability have also found that their disability raises issues during child custody battles.

Due to a wide-ranging list of prejudices, and the stereotypical notion that disabled women are unfit mothers, many women have lost custody and even visitation rights with their children during divorce trials and are often forced to relinquish their children from their custody by social welfare agencies.²⁸⁰ Although society's fear that women with disabilities will produce so-called "defective" children is for the most part groundless, nonetheless, these erroneous concerns have resulted in discrimination against women with disabilities from being impregnated or having children. Based on research studies and documentation, it is believed that no group has ever been as severely restricted, or negatively received, in regards to their reproductive rights as women with disabilities.²⁸¹ The removal of children or denials of custody may occur in two main situations: in divorce and child custody proceedings; and by social service agencies and other processes.

i. Removal of children or denials of custody in divorce and child custody proceedings

Women with disabilities may have their parental rights terminated in divorce and child custody proceedings with a non-disabled spouse. Unfortunately, it is relatively common for everyday stereotypes and deeply rooted beliefs about women with disabilities to be legitimized

²⁷⁵ U.N. Women, *In Pursuit of Justice*, 2011-2012 Progress on the World's Women, p.71 located at progress.unwomen.org/

²⁷⁶ U.N. Women, *In Pursuit of Justice*, 2011-2012 Progress on the World's Women, p. 57 located at progress.unwomen.org/

²⁷⁷ U.N. Women, *In Pursuit of Justice*, 2011-2012 Progress on the World's Women, p. 57 located at progress.unwomen.org/

²⁷⁸ E. Lightfoot et al. *The Inclusion of Disability as a Condition for Termination of Parental Rights*. 34 *Child Abuse & Neglect* 927,927-934 (2010).

²⁷⁹ E. Lightfoot et al. *The Inclusion of Disability as a Condition for Termination of Parental Rights*. 34 *Child Abuse & Neglect* 927,927-934 (2010).

²⁸⁰ Rannveig Traustadottir, *Obstacles to Equality: The Double Discrimination of Women with Disabilities*, available at <http://dawn.thot.net/disability.html>.

²⁸¹ Rannveig Traustadottir, *Obstacles to Equality: The Double Discrimination of Women with Disabilities*, available at <http://dawn.thot.net/disability.html>.

in family court and used against them in a divorce hearing or custody trial.²⁸² Many women with disabilities are well aware of the critical, judgmental and ill-informed scrutiny they undergo as mothers. The fear of being perceived as an unfit mother by a court on the basis of their disability and the breakdown of their relationship has frequently discouraged mothers from separating and obtaining the legal advice or assistance that may be in their best interest.²⁸³ The result of this longstanding exclusion of women from becoming biological mothers is that society has adopted a negative attitude toward disabled women holding a legitimate legal capacity or authority over a non-disabled child who was conceived with a non-disabled father.

In many countries, statutes on child custody and divorce may use outdated notions of disability and disability status. As a result, divorce proceedings and child custody hearings may focus on the mother's disability as opposed to her parenting behavior. In the United States, thirty-seven of fifty states include disability-related grounds for termination of parental rights. The state codes use unclear definitions and terminology that emphasize disability status rather than behavior.²⁸⁴ Of the remaining states, each includes language for termination based on neglectful parenting behavior that may be disproportionately influenced by the mother's disability status.²⁸⁵

ii. Removal of children or denials of custody by Social Service Agencies and Other Processes

Given existing prejudices about the parenting capabilities of persons with disabilities, women with disabilities may experience greater regulation and prejudice by social service agencies than women without disabilities.²⁸⁶ Statutes that include disability as a possible cause for termination of parental rights may implicitly equate parental disability with parental unfitness.²⁸⁷ In many places, the child's "best interests" are seen as primary to and at odds with maternal rights of women with disabilities.²⁸⁸ Women with a psychosocial, developmental, or intellectual disability may be at particular risk of termination of parental rights.²⁸⁹ Work on maternal rights in custody litigation may reaffirm pre-existing prejudices against women with intellectual or developmental disabilities.²⁹⁰

²⁸² *Gender and Disability*, Women With Disabilities Australia (WWDA), Dec. 2010.

²⁸³ Human Rights Council, Rashida Manjoo, *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences*, 17 sess., U.N. Doc. E/CN.4/2006/61 (May 2, 2011).

²⁸⁴ E. Lightfoot et al. *The Inclusion of Disability as a Condition for Termination of Parental Rights*. 34 *Child Abuse & Neglect* 927,927-934 (2010).

²⁸⁵ E. Lightfoot et al. *The Inclusion of Disability as a Condition for Termination of Parental Rights*. 34 *Child Abuse & Neglect* 927,927-934 (2010).

²⁸⁶ E. Lightfoot et al. *The Inclusion of Disability as a Condition for Termination of Parental Rights*. 34 *Child Abuse & Neglect* 927,927-934 (2010).

²⁸⁷ E. Lightfoot et al. *The Inclusion of Disability as a Condition for Termination of Parental Rights*. 34 *Child Abuse & Neglect* 927,927-934 (2010).

²⁸⁸ Chesler, Phyllis. *Mothers on Trial*. (1985). Available at <http://www.phyllis-chesler.com/1026/excerpt-from-phyllis-chesler-book-mothers-on-trial>

²⁸⁹ *Guide for Creating Legislative Change*.

<http://www.cehd.umn.edu/ssw/CASCW/attributes/PDF/LegislativeChange.pdf> (last accessed Apr. 9, 2012).

²⁹⁰ Chesler, Phyllis. *Mothers on Trial*. (1985). Available at <http://www.phyllis-chesler.com/1026/excerpt-from-phyllis-chesler-book-mothers-on-trial>

In order to prevent disability discrimination in the termination of parental rights, key principles for statutes have been identified. Statutes should be free from discriminatory language; explicitly affirm that no part of the statute be used for anti-disability discrimination; acknowledge that successful parenting can occur with accommodations; and require a multidisciplinary approaches to address this situation.

Fear of unjustified termination of parental rights may cause women with disabilities to remain in abusive relationships. Thus, eliminating such discriminatory practices is essential to addressing violence against women with disabilities, and demonstrates how various discriminatory practices have direct implications for combatting violence against women.

D. In the Transnational Sphere: Human Trafficking²⁹¹

In many countries and throughout history, women from different races/ethnicities have been stereotyped as special targets for sex trafficking (e.g., in recent years Asian, Eastern European, Russian, and Latina) with women or girls with disabilities being considered especially exploitable. Women and girls with disabilities are at risk of being trafficked and forced into prostitution though they are rarely included as the focus of anti-trafficking programs nor in reports on the incidence of trafficking. The four major risk factors for susceptibility to trafficking are poverty, ignorance, minority status and being a female. Women and girls with disabilities may fit into one or more of these increased risk categories. They are disabled which may lead to a lack of access to education, they are often the poorest individuals in the community and they are further subject to the effects of discrimination against women throughout the world.

Further, because of the misguided belief that sex with a virgin will cure HIV/AIDS, and the stereotype that women with disabilities are virgins, they can be targeted for trafficking as sex workers.²⁹² Because of stereotypical views of the value of disabled female children and the lack of supports available to parents with children with disabilities, parents may see trafficking of their disabled daughter as their only economic option.²⁹³

For example, UNICEF reports that in Thailand proprietors of brothels have specifically sought out deaf girl children and adolescents, with the idea that such young people will be less able to communicate their distress or find their way back to their homes. Their customers, fellow sex workers, and neighbors are likely unable to speak sign language.²⁹⁴ Another UNICEF study on Taiwan found that the proportion of child prostitutes who had mild developmental disabilities was six times greater than what might be expected from the incidence in the general

²⁹¹ The information provided in this section is drawn from the U.S. Department of State Trafficking in Persons Report, 2011 which is the latest Report available.

²⁹² Nora E. Groce, *Rape of individuals with disability: AIDS and the folk belief of virgin cleansing*, *The Lancet*, Volume 363, Issue 9422, 1663 - 1664, 22 May 2004, [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(04\)16288-0/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(04)16288-0/fulltext).

²⁹³ Rashida Manjoo, *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, ¶ 41, *delivered to the General Assembly*, U.N. Doc. A/66/215 (Aug. 1, 2011)..

²⁹⁴ Insert citation to the Thailand report mentioned in the text.

population.²⁹⁵ A ground-breaking investigative report by Disability Rights International (DRI) highlighted significant problems with trafficking of women and girls with disabilities from several institutions, stating: “Our investigative team interviewed authorities at the Federal District Human Rights Commission, who also conducted the investigation into disappearances and abuses at this facility. According to these authorities, they “strongly suspect” that girls in the facility were sexual[ly] abused and this matter is currently under investigation. Children’s rights groups in Mexico have also expressed concern about the dangers of abuse and trafficking of children in institutions. According to a statement by the Children’s Rights Network and newspaper reports, minors have reported to have been sexually abused and forced into labor by members of an organized crime ring at children’s home called Casa Adulam AC. In 2010, Mexican authorities identified another institution, the Drug and Alcohol Rehabilitation Institute Hospital Center “Saint Tomás, Los Elegidos de Dios,” where women and girls were subject to sexual abuse and trafficking....Based on findings of sexual abuse and trafficking at Casa Adulam and Los Elegidos de Dios, an official of the Mexico City Human Rights Commission reported to DRI that ‘we do not yet face a scenario that what happened at Casita del Sur could not happen again....The Recommendation of the La Casita del Sur case was issued in April 2009, and we found what was happening in the Casa Adulam and Casa de los Elegidos de Dios this year.’”²⁹⁶ The Disability Rights Initiative noted that the lack of alternatives to institutionalization for children who face abuse in their homes or whose parents simply cannot keep them because of the lack of disability-related supports increases the likelihood of trafficking as a last resort for some families.²⁹⁷

Women and girls with disabilities are rarely included in global studies on trafficking in persons. For example, the U.S. Department of State Trafficking in Persons Report for 2011 mentioned persons with disabilities only with respect to seven countries (Afghanistan, Armenia, Burundi, China, Israel, Nigeria and Slovak Republic), and none of these references specifically mention women and girls with disabilities.²⁹⁸ The information noted below on Mexico is not included in the U.S. Department of State Report at all.²⁹⁹ Inclusion of women with disabilities is essential to bring attention to this issue and to develop prevention and protection strategies.

²⁹⁵ *Women with Disabilities: General Statistics*, USAID WOMEN IN DEVELOPMENT (WID) (Jan. 12, 2011), http://www.usaid.gov/our_work/cross-cutting_programs/wid/disability/wwd_statistics.html.

²⁹⁶ Rosenthal, et al., *Abandoned & Disappeared: Mexico’s Segregation and Abuse of Children and Adults with Disabilities*, 24-25 (June 2011), available at <http://www.disabilityrightsintl.org/media-gallery/our-reports-publications/>.

²⁹⁷ Rosenthal, et al., *Abandoned & Disappeared: Mexico’s Segregation and Abuse of Children and Adults with Disabilities*, 24-25 (June 2011), available at <http://www.disabilityrightsintl.org/media-gallery/our-reports-publications/>.

²⁹⁸ U.S. Dept. of State, *Trafficking in Persons Report*, 256 (2011), available at <http://www.state.gov/g/tip/rls/tiprpt/2011/index.htm>.

²⁹⁹ See Section V. State Compliance with Due Diligence Obligations (subsection Mexico).

VIII. Causes and Consequences

A. Causes

The causes of violence against women with disabilities originate in social norms about the nature and type of disability as well as gender roles.³⁰⁰ As previously noted, women with disabilities face many barriers to escaping, resisting, or preventing, or redressing violence. Such barriers include, but are not limited to emotional and financial dependency on the abuser; an unwillingness to be stigmatized; fears regarding child custody or single-parenthood; inaccessibility or unavailability of violence prevention programs and facilities; fear or loss of assistive devices and other supports; concerns about being believed when disclosing the abuse; and a reluctance to take any action that may escalate the violence. Women with disabilities have also reported experiencing abuse longer in duration and feeling as though they had limited and fewer alternatives for escaping or ending the abuse.

1. Pervasive and Widespread Social and Cultural Stereotypes and Misperceptions about Disability Status.

Some women with disabilities face specific discrimination and targeted violence primarily because of their disability status. In addition to bias among individuals, some cultural and religious traditions view disability as a symbol of “evil” or “sin” committed by the person or family members.³⁰¹

Article 8 of the CRPD and Article 5 of the CEDAW emphasize the negative role that stereotypes can play in the lives of persons with disabilities, including women with disabilities and women in general. Under both conventions, States hold the responsibility to “[t]o combat stereotypes, prejudices and harmful practices”³⁰² and to eliminate “prejudices and customary and all other practices.”³⁰³ Similarly, Article 8 of the CRPD lists ways in which a state may combat stereotypes against women and persons with disabilities.³⁰⁴ Article 8 of the CRPD recommends that States employ programs “to raise awareness throughout society, including at the family level... and to foster respect for the rights and dignity of persons with disabilities...including those based on sex and age...”³⁰⁵ The CRPD takes the CEDAW stereotype provisions further by recognizing that gender and disability stereotypes coincide to have a compound effect on women

³⁰⁰ Ortoleva, S. Recommendations for Action to Advance the Rights of Women and Girls with Disabilities in the United Nations System. http://sites.google.com/site/womenenabled/Stephanie_Ortoleva_Addressing_the_Rights_ofWomen.pdf?attredirects=0. (Last accessed Jun. 19, 2011).

³⁰¹ Alvares, L., et. al., *Reproductive Health Justice for Women with Disabilities*, National Organization for Women Disability Rights Advisory Committee http://www.centerwomenpolicy.org/programs/waxmanfiduccia/documents/BFWFP_ReproductiveHealthJusticeforWomenwithDisabilities_NOWFoundationDisabilityRightsAdvisor.pdf (last visited Feb. 24, 2012).

³⁰² Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 art 8, para. 1(b) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

³⁰³ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180 art. 5(a) (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

³⁰⁴ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 arts. 8(1) (a)-(b) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

³⁰⁵ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 arts. 8(1) (a)-(b) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

with disabilities.³⁰⁶

Women with disabilities experience both the stereotypical attitudes toward women and towards persons with disabilities. In the groundbreaking book, *Gender Stereotyping: Transnational Legal Perspectives*, Cook and Cusack define stereotyping as: “a generalized view or preconception of attributes or characteristics possessed by, or the roles that are or should be performed by members of the particular group (e.g., women, lesbians, adolescents).”³⁰⁷

Both the CEDAW and the CRPD recognize the role of stereotypes in the denial of human rights to women with disabilities. The CEDAW Article 5(a) states: “States Parties shall take all appropriate measures: (a) [t]o 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.”³⁰⁸

As noted earlier, the CRPD takes the CEDAW stereotype provisions one further step and recognizes that, in the case of women with disabilities, it is important to consider how gendered stereotypes coincide with stereotypes of persons with disabilities to harm and discriminate against them in compounded ways, thereby recognizing the intersection of both gender and disability stereotypes in the case of women with disabilities. The CRPD Article 8 on Awareness-raising states: Article 8(1) States Parties undertake to adopt immediate, effective and appropriate measures: (b) [t]o combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life.”³⁰⁹

For those advocating for a separate article on women with disabilities, as well as the inclusion of a gender perspective throughout the CRPD, the recognition of this compounded discrimination was crucial. “In addition to the multiple discrimination women with disabilities have to experience, they face the problem of a double invisibility as women and as disabled persons.”³¹⁰

Fine and Asch, authors of “*Disabled Women: Sexism without the Pedestal*,” note a significant impact of these stereotypical views of women with disabilities, discussing the important role of social roles: “Rolelessness, the absence of sanctioned social roles and/or institutional means to achieve these roles, characterizes the circumstances of disabled women in today’s society. ... The absence of sanctioned roles can cultivate a psychological sense of

³⁰⁶ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 art. 6, para. 1 (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

³⁰⁷ REBECCA J. COOK & SIMONE CUSACK, *GENDER STEREOTYPING: TRANSNATIONAL LEGAL PERSPECTIVES* (Univ. of Penn. Press 2010).

³⁰⁸ See Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180 art. 5(a) (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

³⁰⁹ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 art. 8(1)(b) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

³¹⁰ See Sigrid Arnade & Sabine Haefner, Disabled Peoples’ International, *Gendering the Draft Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities 7* (2006), available at http://www.dpi.org/files/uploads/publications/gendering_convention/DPI_Gendering_UN_Convention_Jan_2006.pdf.

invisibility; self-estrangement, and/or powerlessness.”³¹¹ Nonetheless, the authors strongly note that we should not: “...see disabled women as [] helpless nor hopeless victims unwilling to change their circumstances.”³¹² Thus, these stereotypes of women with disabilities would certainly contribute to an understanding as to why women and girls with disabilities are so often absent from programs to address women’s rights and gender equality, except when they are occasionally seen as “victims” needing protection.

a. Social myths

Some individuals perpetuate the incorrect and dangerous belief that having sex with girls or women with disabilities (who are assumed to be virgins) can “cleanse” them from the HIV/AIDS virus. (Found in 14 of the 21 countries reviewed).³¹³

b. Barriers to resistance or escape

Some women and girls with disabilities may be unable to defend themselves, lack access to self-defense training, or be unable to physically flee the site of violence.³¹⁴ They may therefore become particularly “easy” targets for perpetrators of violence seeking to cause harm to the broader group or community.³¹⁵ Available self-defense and violence prevention programs may be inaccessible to and exclusive of women and girls with disabilities.

c. Barriers to independence and information

Some women and girls with disabilities may lack access to education, financial independence, and information on how to report incidents of violence and on how to recognize and address violence, including sexual violence.³¹⁶

d. Barriers to reporting

³¹¹ Michelle Fine & Adrienne Asch, *Disabled Women: Sexism without the Pedestal*, 8 J. SOC. & SOC. WELFARE 233, 239 (1981).

³¹² Michelle Fine & Adrienne Asch, *Disabled Women: Sexism without the Pedestal*, 8 J. SOC. & SOC. WELFARE 233, 241 (1981).

³¹³ Groce, Nora E., *Rape of individuals with disability: AIDS and the folk belief of virgin cleansing*, *The Lancet*, Volume 363, Issue 9422, 1663 - 1664, 22 May 2004, [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(04\)16288-0/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(04)16288-0/fulltext).

³¹⁴ Leslie Myers, *People with Disabilities and Abuse*, Independent Living Research Utilization, available at: http://www.ilru.org/html/publications/readings_in_IL/abuse.html; Astrid Aafjes, *Empowering Girls and Women through Sport and Physical Activity*, Women Win, , available at: <http://womenwin.org/files/pdfs/EmpoweringReport.pdf> (see discussion on Saripah binti A.Hamid, at the Women Win/WSFFM Self-defence course for women with disabilities in Malaysia).

³¹⁵ J. C. Chang, et. al., *Helping women with disabilities and domestic violence: Strategies, limitations, and challenges of domestic violence programs and services*, 12(7) *Journal of Women’s Health*, 699 (2003); C. A. Howland et. al, *Programs delivering abuse intervention services to women with disabilities*, CROWD: Houston (2001).

³¹⁶ Women With Disabilities Australia, Submission to the South Australian Government's Discussion Paper: "Valuing South Australia's Women: Towards A Women's Safety Strategy For South Australia." Canberra: Women With Disabilities Australia. available at <http://www.wwda.org.au/saviolsub.htm#three>.

Police and law enforcement agencies may not take appropriate action to prevent or respond to violence against women and girls with disabilities. Women with disabilities may avoid reporting violence to avoid discrimination, retribution, institutionalization or the loss of economic and other supports. These points are discussed in greater detail in the section on restrictions on the testimony of women with disabilities in cases of gender-based and sexual violence.

2. *Risk Factors*

a. *Lack of credibility*

Perpetrators may believe assault will not be discovered or the woman with disabilities' testimony will not be credible in law enforcement and court systems.³¹⁷ Law enforcement and legal agencies may see women and girls with disabilities who require assistive communication or reasonable accommodation in communication as well as women with psycho-social and intellectual disabilities as lacking credibility.

b. *Dependence on abuser*

Persons with physical disabilities may be more dependent on attendant care³¹⁸ and more dependent on the abuser, physically, emotionally or financially, for care than other groups.³¹⁹

c. *Low self esteem as a risk factor*

Women with disabilities may be more likely to have low self-esteem, a risk factor for domestic and other forms of violence.³²⁰

d. *Media, body image and women with disabilities*

Popular media images throughout the world contribute to the presumption that the bodies of women with disabilities are unattractive, asexual and outside the societal ascribed norms of "beauty." Popular media generally describes the "normal" female body as the presence of high cheekbones, even skin tones, long legs, and the absence of fat, wrinkles, physical disabilities, and deformities.³²¹ This contributes to the undervaluing of women with disabilities as well as self-

³¹⁷ Women With Disabilities Australia, Submission to the South Australian Government's Discussion Paper: "Valuing South Australia's Women: Towards A Women's Safety Strategy For South Australia." Canberra: Women With Disabilities Australia. available at <http://www.wdda.org.au/saviolsub.htm#three>

³¹⁸ Women With Disabilities Australia, Submission to the South Australian Government's Discussion Paper: "Valuing South Australia's Women: Towards A Women's Safety Strategy For South Australia." Canberra: Women With Disabilities Australia. available at <http://www.wdda.org.au/saviolsub.htm#three>

³¹⁹ Women With Disabilities Australia, Submission to the South Australian Government's Discussion Paper: "Valuing South Australia's Women: Towards A Women's Safety Strategy For South Australia." Canberra: Women With Disabilities Australia. available at <http://www.wdda.org.au/saviolsub.htm#three>

³²⁰ Walton, D.R., *What's a Leg Got to Do With It: Black, Female and Disabled in America*, 22 Disability Studies Quarterly 74 (2002).

³²¹ Kilbourne, J. *Beauty and the beast of advertising*. Women in culture: A women's studies anthology. (L.J Peach (ed.), Blackwell Publishing Inc. 1998); Kilbourne, J. *Killing us softly: Advertising and the obsession with thinness*.

devaluing of their own bodies by women whether they have disabilities or not. Dominant culture is often represented by white, male, educated, wealthy, and able-bodied individuals even though few in society meet all of these standards.³²² Many images only depict people with disabilities as deserving of pity, further stigmatizing them.³²³

e. Myth of asexuality

People with disabilities are traditionally and incorrectly seen by society to be asexual.³²⁴ These views contribute to the violence women with disabilities experience as well as the lack of response by many governments and societies.

In 2009, the World Health Organization developed its *Guidance Note on Promoting Sexual and Reproductive Health for Persons with Disabilities*, which recognized that to be a woman with a disability is to be doubly marginalized. Women and girls with disabilities face numerous obstacles, including the fact that they are considered in some societies to be less eligible marriage partners and may find themselves in unstable relationships.³²⁵ If unstable relationships become abusive, women with disabilities have fewer legal, social and economic options.³²⁶

3. Denial of reproductive rights

Denying access to reproductive health care, or forcing women with disabilities to undergo procedures aimed at controlling their reproductive choices, is a form of violence against women. The International Conference on Population and Development Programme of Action (ICPD PoA) recognizes the basic right of all individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes the right to make decisions concerning reproduction free of discrimination, coercion and violence. Significantly, this Programme of Action also recognized that these rights specifically apply to

39-50 (P. Fallon, M. Katzman, & S. Wooley eds., Guilford Press); Kilbourne, J., *Deadly persuasion: Why women and girls must fight the addictive power of advertising*. (Ed. Free Press 1999).

³²² Kreps, G. L. (2000). Disability and culture: Effects on multicultural relations in modern organizations. In D.O. Braithwaite & T.L. Thompson (Eds.), *Handbook of communication and people with disabilities* (pp. 177-192). Mahwah, NJ: Lawrence Erlbaum.

³²³ Nelson, J., The invisible cultural group: Images of disability. In *Images that injure: Pictorial stereotypes in the media* (P. M. Lester ed. Praeger, 1996), 119-125.

³²⁴ Nemeth, S., *Society, sexuality, and disabled/ablebodied romantic relationships*. In D.O. Braithwaite & T.L. Thompson (Eds.), *Handbook of communication and people with disabilities* (pp. 37-48). Mahwah, NJ: Lawrence Erlbaum. (2000).

³²⁵ World Health Organization, *Promoting sexual and reproductive health for persons with disabilities*, (World Health Organization, *guidance note*, 2009) http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf. (last visited Feb. 23, 2012).

³²⁶ World Health Organization, *Promoting sexual and reproductive health for persons with disabilities*, (World Health Organization, *guidance note*, 2009) http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf. (last visited Feb. 23, 2012).

persons with disabilities.³²⁷

a. *Access to sexual and reproductive health care, information and related services*

Often women with disabilities do not receive general information on sexual and reproductive health and have limited access to family planning services.³²⁸ Women with disabilities face numerous barriers in accessing adequate healthcare. These barriers should not be dismissed as simply a result of the woman's disability. Rather, health care professionals and governments must also be trained to overcome stereotypes, misinformation, and bias in the treatment of women with disabilities.³²⁹

4. *Violence against women with disabilities in conflict zones*

Armed conflict generates injuries and trauma that can result in disabilities and also can increase the severity of existing disabilities. For those incurring such injuries, the situation is often exacerbated by delays in obtaining emergency health care and longer-term rehabilitation. For example, a 2009 assessment in Gaza found such problems as:³³⁰

- complications and long-term disability from traumatic injuries, from lack of appropriate follow-up;
- complications and premature mortality in individuals with chronic diseases, as a result of suspended treatment and delayed access to health care;
- permanent hearing loss caused by explosions, stemming from the lack of early screening and appropriate treatment;
- long-term mental health problems from the continuing insecurity and the lack of protection.

Further, the report noted that as many as half of the 5000 men, women, and children injured over the first three weeks of the conflict could have permanent impairments, aggravated

³²⁷ United Nations Population Fund, *Report of the International Conference on Population and Development*, Report of the ICPD 94/10/18 U.N. Doc. A/CONF.171/13 (Oct. 18, 1994) available at <http://www.un.org/popin/icpd/conference/offeng/poa.html> (last visited Apr. 18, 2011). International Federation of Gynecology & Obstetrics, *Female Contraceptive Sterilization, FIGO*. <http://www.stoptortureinhealthcare.org/news-and-resources/forced-sterilization/female-sterilization-guidelines> (last visited Aug. 3, 2011). New FIGO Guidelines on Female Involuntary Contraceptive Sterilization are now available at: <http://www.figo.org/files/figo-corp/FIGO%20-%20Female%20contraceptive%20sterilization.pdf>

³²⁸ World Health Organization, *Promoting sexual and reproductive health for persons with disabilities*, (World Health Organization, *guidance note*, 2009) http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf. (last visited Feb. 23, 2012).

³²⁹ World Health Organization, *Promoting sexual and reproductive health for persons with disabilities*, (World Health Organization, *guidance note*, 2009) http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf. (last visited Feb. 23, 2012).

³³⁰ World Health Organization, *Gaza Strip Health Cluster Bulletin No. 2.*, 2009 http://www.who.int/hac/crises/international/wbgs/sitreps/gaza_health_cluster_4feb2009/en/index.html, (last visited Nov. 15, 2009).

by the inability of rehabilitation workers to provide early intervention.³³¹

In conflict situations, those with disabilities are entitled to assistance and protection. Humanitarian organizations do not always respond to the needs of people with disabilities promptly, and gaining access to persons with disabilities who are scattered among affected communities can be difficult. A variety of measures can reduce the vulnerability of persons with disabilities including:

- effective planning to meet disability needs by humanitarian organizations before crises;
- assessments of the specific needs of people with disabilities;
- provision of appropriate services;
- referral and follow-up services where necessary.

Such measures may be carried out directly through specialized services for persons with disabilities or mainstreamed to the general population in a non-discriminatory manner. The needs of families and caretakers must also be taken into account, both among the displaced population and in the host communities. In emergencies linked to conflicts, the measures need to be flexible and capable of following the target population, adjusting quickly as the situation evolves.³³²

According to NGOs, a more focused effort to provide medical services to people with disabilities is required.³³³

5. Access to Attorneys Who Understand the Needs of Women with Disabilities

a. Introduction

Women with disabilities face similar problems with legal representation and protection as others who are economically disadvantaged; however both gender and disability stereotyping further exacerbate the disadvantages. For example, women with disabilities may fail to comport with society's view on women's roles generally, leading to invisibility and exclusion from meaningful participation in society.³³⁴ Women with disabilities may also be viewed as childlike and presumed to be incompetent, which prevents them from reaching their complete potential as full and equal members of the community.³³⁵

³³¹ Bensheim, *Call for all agencies in Gaza to ensure rights for people with disabilities*.

<http://www.cbmnz.org.nz/NEWS/Archives/Call+for+all+agencies+in+Gaza+to+ensure+rights+for+people+with+disabilities.html> (last visited November 15, 2009).

³³² WHO & World Bank (2011). *World Report on Disability*. Geneva: World Health Organization.

http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf (last visited Feb. 24, 2012).

³³³ HAITI EQUALITY COLLECTIVE, *The Haiti Gender Shadow Report 5* (2010),

<http://www.genderaction.org/publications/2010/gsr.pdf> (last visited Jul. 6, 2011).

³³⁴ Michelle Fine & Adrienne Asch, *Disabled Women: Sexism Without the Pedestal*, 8 J.SOC. & SOC. WELFARE 233, 239 (1981).

³³⁵ The criminal justice system, for example, tends to discount the testimony of women with disabilities due to stereotypes regarding their competency. See Disability Discrimination Legal Service, *Beyond Belief, Beyond Justice: The Difficulties for Victims/Survivors with Disabilities when Reporting Sexual Assault and Seeking Justice*, p. 59 (Nov. 2003) at www.wvda.org.au/beyondbelief1.pdf (last accessed April 5, 2012).

Furthermore, women with disabilities must rely on the increasingly scarce free or low-cost legal services and therefore have less choice in who represents them, and generally have less understanding and access to the legal system.³³⁶ This section will discuss the nature of these barriers, and will address ways in which the justice system can be improved to ensure greater availability of legal representation to women with disabilities. Specifically, addressing problems in cost and obtainability of legal services, improving attorney training regarding accommodations necessary to serve these clients, and increasing the number of women lawyers and law professors with disabilities, will help to address the gap between attorneys and their clients with disabilities.

b. Issues in access to attorneys for women with disabilities

Perhaps one of the greatest barriers to women with disabilities seeking legal services is the lack of accessible information; without information about different programs that provide legal aid or even basic information about the justice system, women with disabilities may not be able to vindicate their rights.³³⁷ This information may not be available in easy to understand language, in alternative formats such as Braille, or may not be located in places that are physically or economically accessible to women with disabilities.³³⁸

Furthermore, people with disabilities may not even be aware that they may have a legal claim that may result in compensation. For example, a report from Australia indicates that many people with disabilities may not even be aware that damage they have suffered may be compensable.³³⁹ Additionally, people with disabilities may have to rely on another person to research potential claims and available legal assistance, leading to another barrier between the woman with the disability and the information she needs to vindicate her rights.³⁴⁰ This barrier is particularly problematic in cases where the woman seeks legal assistance due to issues she may be having with her caretakers.³⁴¹ One of the most significant barriers to ensuring that women with disabilities have full and equal access to the justice system is the fact they may be

³³⁶ Chris Jennings, *Family Violence & Sexual Assault: A Criminal Justice Response for Women with Disabilities* (13 July 2005).

³³⁷ Stephanie Ortoleva, *Inaccessible Justice: Human Rights, Persons with Disabilities and the Legal System*, 17 ILSA J. INT'L & COMP. L. 281, 300 (2011). See *Access to Justice: Practice Note, United Nations Development Programme* (Sept. 3, 2004), p. 3, at http://www.undp.org/governance/docs/Justice_PN_English.pdf (last accessed April 5, 2012) for a discussion of the relationship between access to information and the ability of the poor and underprivileged to assert their rights.

³³⁸ A number of human rights and disability rights organizations have developed legal rights guides for people with disabilities and their advocates. See *Disability Rights, Gender and Development: A Resource Tool for Action*, the Wellesley Centers for Women and 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 (2008), at www.un.org/disabilities/documents/.../UNWCW%20MANUAL.pdf (last accessed May 10, 2012); The British Institute for Human Rights, *Your Human Rights: a Guide for Disabled People*, at www.bihhr.org.uk/sites/default/files/bihr_disabled_guide.pdf (last accessed May 10, 2012).

³³⁹ Disability Council of New South Wales, *A Question of Justice: Access and Participation for People with Disabilities in Contact with the Justice System*, at <http://www.disabilitycouncil.nsw.gov.au/archive/03/justice.pdf>, p. 28 (last accessed April 5, 2012).

³⁴⁰ Gray, Forell & Clarke, *Cognitive Impairment, Legal Need and Access to Justice*, Justice Issues Paper 10, Law and Justice Foundation of New South Wales (2009).

³⁴¹ Gray, Forell & Clarke, *Cognitive Impairment, Legal Need and Access to Justice*, Justice Issues Paper 10, Law and Justice Foundation of New South Wales (2009).

unaware of where to go to get legal assistance, how to access such assistance, and what rights and entitlements they have under the law.

Even if a woman with a disability is aware of her legal rights, the cost of legal assistance to vindicate those rights may also be prohibitive for women without financial means, and may be particularly unaffordable for women with disabilities who often experience economic disadvantage. Women with disabilities, for example, have fewer career opportunities due to employer unwillingness to provide accommodations, receive lower pay, and may be forced to take less prestigious career paths in order to be able to work at all.³⁴² Furthermore, medical expenses related to her disability may also make affording legal services impossible; in essence, “disability is both a fundamental cause and consequence of income poverty.”³⁴³

More generally, “availability, affordability, and adequacy” serve as substantial barriers to women with disabilities who seek the aid of attorneys.³⁴⁴ Because people with disabilities may face greater financial constraints than other members of society, and because they may face even higher barriers to obtaining information on how to vindicate rights, providing free or low cost attorneys to people with disabilities, in both civil and criminal matters, may be necessary to ensure that these citizens are not discriminated against due to their disability.³⁴⁵

c. Barriers in the Lawyer-Client Relationship

Even if a woman with a disability is able to secure the services of an attorney, her lawyer may be unaware of how to ensure that the lawyer-client relationship reaches its full potential. For example, lawyers may not always provide information in Braille or other accessible forms of communication, or provide adequate sign language interpreter services.³⁴⁶ More fundamentally, attorneys who do not have much experience interacting with people with disabilities may not fully understand their needs and may not be aware of the “disability etiquette” necessary to ensure the optimal functioning of the attorney-client relationship.³⁴⁷ Finally, few law schools do require or provide training in working with clients with disabilities, or even a course requirement for disability law generally.³⁴⁸ Therefore, many lawyers will have little practical or academic

³⁴² See LEANDRO DESPOUY, SPECIAL RAPPOREUR OF THE SUB-COMM’N ON PREVENTION OF DISCRIMINATION AND PROT. OF MINORITIES, HUMAN RIGHTS AND DISABLED PERSONS, ¶ 18, U.N. Sales No. E.92.XIV.4 (1988), at <http://www.un.org/esa/socdev/enable/dispaperdes0.htm> (last accessed May 10, 2012).

³⁴³ Shawn Fremstad of the Center for Economic and Policy Research *cited in* BA Comm. on Mental and Physical Disability, ABA Disability Statistics—2010, at <http://new.abanet.org/disability/PublicDocuments/ABADisabilityStatisticsReport.pdf> (last accessed April 5, 2012)

³⁴⁴ Stephanie Ortoleva, *Inaccessible Justice: Human Rights, Persons with Disabilities and the Legal System*, 17 ILSA J. INT’L & COMP. L. 281, 300 (2011).

³⁴⁵ Frances Gibson, *Article 13 of the Convention on the Rights of Persons with Disabilities— A Right to Legal Aid?*, 15 AUSTL. J. OF HUM. RTS. 123, 131 (2010).

³⁴⁶ Stephanie Ortoleva, *Inaccessible Justice: Human Rights, Persons with Disabilities and the Legal System*, 17 ILSA J. INT’L & COMP. L. 281, 300-01 (2011).

³⁴⁷ See City of Sacramento, *Disability Etiquette*, at http://www.cityofsacramento.org/adaweb/learning_about_disabilities.htm (last accessed May 10, 2012) for an example of a comprehensive disability etiquette guide.

³⁴⁸ Frances Gibson, *Article 13 of the Convention on the Rights of Persons with Disabilities— A Right to Legal Aid?*, 15 AUSTL. J. OF HUM. RTS. 123, 128 (2010). However, there are some notable exceptions in that a few law schools have successful clinical programs on disability law. For example, Syracuse University College of Law and

experience that could help them maximize their client's interests and make them aware of potential issues facing their clients with disabilities.

Certainly, these issues that may arise in the lawyer-client relationship indicate that greater awareness and training regarding the needs of clients with disabilities is necessary in the legal field. While there is some guidance available for attorneys,³⁴⁹ there is no systematic requirement that attorneys receive any kind of training regarding how to best serve clients with disabilities. Continuing legal education courses, law school courses and clinics, and employer-mandated training are all possible vehicles for ensuring the training required to maximize the lawyer-client relationship.

d. Women with Disabilities as Lawyers and Law Professors

One way to improve access to attorneys who understand the needs of women with disabilities is to increase the number of women with disabilities in the legal field. Even though people with disabilities constitute approximately 20% of the U.S. population according to 2005 Census data, only 2.6% of people working in the legal field in the United States have a disability, according to 2009 data from the Bureau of Labor Statistics.³⁵⁰ This data reflects the numerous barriers that people with disabilities face entering the legal field, such as the lack of accommodations in the law school admissions tests and the failure of legal employers to provide necessary accommodations.³⁵¹

Carrie Basas' qualitative study of 38 women attorneys with disabilities reveals some interesting facts about the lives of women attorneys with disabilities in the United States. Basas found that most women lawyers with disabilities "self accommodated" instead of requiring their employers to comply with the Americans with Disabilities Act by providing reasonable accommodations.³⁵² According to Basas, "Self-accommodation occurs when women with disabilities opt or are pressured to provide their own reasonable accommodations rather than rely

the American University Washington College of Law, among others, offer a disability rights clinic and multiple courses related to disability law. See <http://disabilitystudies.syr.edu/> (last accessed May 11, 2012) for information on Syracuse University's program and <http://www.wcl.american.edu/clinical/disability.cfm> (last access May 11, 2012) for information on American University's program. The University of Pittsburgh offers a Master of Studies in Law Degree with a concentration in Disability Law. See <http://www.law.pitt.edu/academics/msl/concentrations/disability> (last accessed May 11, 2012). The National University of Ireland, Galway has recently announced the creation of an LL.M. program in International and Comparative Disability Law and Policy. See <http://www.nuigalway.ie/cdlp/llm.html> (last accessed May 11, 2012).

³⁴⁹ See MICHAEL SCHWARTZ, *SERVING HEARING-IMPAIRED CLIENTS, BARRISTER* (1991) and the National Pro Bono Resource Centre, *Australian Pro Bono Manual* § 4.8, at <http://www.nationalprobono.org.au/probonomanual/page.asp?sid=4&pid=14> (last accessed May 10, 2012).

³⁵⁰ Commission on Mental and Physical Disability, *ABA Disability Statistics—2010*, at <http://new.abanet.org/disability/PublicDocuments/ABADisabilityStatisticsReport.pdf> (last accessed April 5, 2012).

³⁵¹ See *ABA Calls for Better Accommodations for Disabled LSAT-Takers* (Feb. 8, 2012), at http://newsandinsight.thomsonreuters.com/Legal/News/2012/02_-_February/ABA_calls_for_better_accommodations_for_disabled_LSAT-takers/ (last accessed May 10, 2012); U.S. Equal Employment Opportunity Commission, *Reasonable Accommodations for Attorneys with Disabilities*, at <http://www.eeoc.gov/facts/accommodations-attorneys.html> (last accessed May 10, 2012).

³⁵² Carrie Griffin Basas, *The New Boys: Women with Disabilities and the Legal Profession*, 25 BERKELEY J. GENDER L. & JUST. No.1, 108 (2010).

on their employers to arrange them.”³⁵³ The study found that women self accommodated in three ways: by providing themselves with physical accommodations or equipment, by choosing jobs that are more flexible, and by becoming self-employed.³⁵⁴ For example, government and nonprofit positions were more common among the study participants, because these employers were more accommodating than those in the private sector or had experience with clients with disabilities.³⁵⁵

Many of the women studied also indicated that the combination of being a woman and having a disability served to further compound the view that women are the “weaker sex” and therefore put them at a double disadvantage.³⁵⁶ As a result, many women with disabilities may feel pressure to “cover up” the fact they have a disability in part to avoid this double stigma.³⁵⁷ For women with visible disabilities, they may also feel like they have to perform much better than their colleagues to be viewed as equally competent.³⁵⁸ All of these factors may lead them to self-accommodate instead of demanding the accommodations to which they are entitled by law.

In addition to a dearth of women with disabilities serving in the legal profession, the number of women with disabilities who work as professors at law schools is also extremely low, and furthermore, women with disabilities are likely to have less prestigious professor positions. According to Basas, “even where disabled women have gotten footholds in more conventional positions, such as law teaching, they often occupy positions with administrative duties or adjunct contracts rather than tenured or tenure-track titles.”³⁵⁹ Although there exists a relatively higher volume of information and guidance regarding accommodating students with disabilities, guidelines and procedures designed to address accommodating professors with disabilities are few and far between.³⁶⁰

Until women with disabilities are fully accommodated and can engage in their profession without feeling the need to “cover up” their disability, and until there are more law professors with disabilities, the legal field will not reach its full potential in providing full and complete access to clients with disabilities. Until the legal field becomes more inclusive and accepting of its own members with disabilities, clients with disabilities will continue to face a lack of understanding and barriers in accessing legal assistance.

³⁵³ Carrie Griffin Basas, *The New Boys: Women with Disabilities and the Legal Profession*, 25 BERKELEY J. GENDER L. & JUST. No.1, 108 (2010).

³⁵⁴ Carrie Griffin Basas, *The New Boys: Women with Disabilities and the Legal Profession*, 25 BERKELEY J. GENDER L. & JUST. No.1, 128-29 (2010).

³⁵⁵ Carrie Griffin Basas, *The New Boys: Women with Disabilities and the Legal Profession*, 25 BERKELEY J. GENDER L. & JUST. No.1, 135, (2010).

³⁵⁶ Carrie Griffin Basas, *The New Boys: Women with Disabilities and the Legal Profession*, 25 BERKELEY J. GENDER L. & JUST. No.1, 116 (2010).

³⁵⁷ Carrie Griffin Basas, *The New Boys: Women with Disabilities and the Legal Profession*, 25 BERKELEY J. GENDER L. & JUST. No.1, 126 (2010).

³⁵⁸ Carrie Griffin Basas, *The New Boys: Women with Disabilities and the Legal Profession*, 25 BERKELEY J. GENDER L. & JUST. No.1, 145 (2010).

³⁵⁹ Carrie Griffin Basas, *The New Boys: Women with Disabilities and the Legal Profession*, 25 BERKELEY J. GENDER L. & JUST. No.1, 127 (2010).

³⁶⁰ See Association of American University Professors (AAUP) report: “Accommodating Faculty Members Who Have Disabilities,” at <http://www.aaup.org/AAUP/pubsres/academe/2012/JF/NB/franke.htm>for (last accessed May 11, 2012) a discussion of ways to accommodate professors with disabilities.

e. Conclusion

First and foremost, women with disabilities need to be able to access information about their legal rights in a clear and useful format. Information should be provided in alternative formats and needs to be made available to women with disabilities in order to ensure that any ensuing lawyer-client relationship can reach its full potential. Because of the high cost of legal assistance and the particularly high barriers these costs pose on people with disabilities, information about free and low cost services also needs to be provided to women with disabilities in an accessible way. Finally, the lawyer should take all steps to ensure that the lawyer-client relationship can reach its full potential, for example by learning this important area of law, by becoming aware of disability etiquette and by ensuring accessibility throughout representation. Of course, it is important to note that it is not only in areas of disability discrimination or disability benefits that women with disabilities seek legal representation. Women with disabilities, like others in the community, may have a variety of legal concerns and problems requiring the representation of a competent lawyer.

On a broader level, increasing the number of lawyers and professors with disabilities will help improve access to attorneys who understand the needs of women with disabilities. Because they can relate to the barriers confronted by clients with disabilities, improving equality within the legal field will help to improve equality among clients. More generally, improved training both during and after law school will also help to ensure that more attorneys are aware of the needs of clients with disabilities.

B. Consequences

1. Homelessness

Women with disabilities who have experienced violence are at increased risk of homelessness. When women with disabilities attempt to flee the abusive situation (or are forced to leave the home of the abuser as another form of abuse,) they often lose their home and, since shelters are often inaccessible, they cannot move to shelters leaving them with no alternative housing other than the streets. Often the social isolation imposed by the abuser during the abuse has caused women with disabilities to sever relationships with families, friends and other support systems that could help in such situations.

2. Poverty and Unemployment

Women with disabilities who have experienced violence are at increased risk of poverty and unemployment. For example, the abuser may harass or intimidate them in the workplace, harass other employees or prevent them from going to work at all as a mechanism of control, causing them to lose employment

3. Disability, illness and injury

Violence against women with disabilities often aggravates existing disabilities and causes additional disabilities because Violence itself can lead to disability among women who previously did not have a disability. Disabilities include both the physical injuries that result from the violence as well as the psycho-social conditions that result from ongoing isolation, abuse, demeaning conduct and other aspects of violence against women.

4. Health effects

Violence is linked to health outcomes both immediate and long term, including injuries, physical and mental health concerns, substance abuse, and sometimes even death.³⁶¹ Gender-based, domestic, and sexual violence can all lead to disability through sexual injury as well as increased risk of sexually transmitted diseases such as HIV/AIDS.

5. Pregnancy-related impacts

For women with disabilities who are pregnant, violence can result in pre-mature birth or death of the fetus, thereby compounding the devastating effects of the violence. This also can result in the woman's loss of her ability to conceive again because of related trauma.

6. Impact of Violence in War, conflict and natural disasters

Violence against women with disabilities in situations of armed conflict, racial/ethnic and religious violence, and gender-biased cultural practices limit their access to food, shelter, health care, safe working environments, marriage and social integration. These effects can be seen pre-conflict, during conflict and post-conflict.³⁶²

Additionally, during conflict and natural disasters, women with disabilities often find themselves in refugee camps which are ill-equipped to meet their needs for accessibility. As a result, sanitation may be impossible as toileting facilities and safe drinking water and food sources may be in inaccessible locations, resulting in poor nutrition and increased risk of disease.

Conflict situations disproportionately cause injury and subsequent disability in women through land mines, bombs, combat, and other factors.³⁶³ War and conflict situations can also increase the frequency of psycho-social disabilities.³⁶⁴ For every child killed in warfare, three are injured and acquire a disability.³⁶⁵

³⁶¹ World Health Organization, World report on violence and health (2002), available at <http://whqlibdoc.who.int/hq/2002/9241545615.pdf> (last visited Feb. 10, 2012)

³⁶² INT'L FED'N OF RED CROSS & RED CRESCENT SOCIETIES, DISASTERS REPORT: FOCUS ON DISCRIMINATION 88 (2007) <http://www.ifrc.org/Docs/pubs/disasters/wdr2007/WDR2007-English.pdf>. (last visited Feb. 23, 2012).

³⁶³ U.N. Department of Disarmament Affairs, Conflict, Peace-Building, Disarmament, Security: *Gender Perspectives on Landmines* (Mar. 2001), available at <http://www.oecd.org/dataoecd/3/28/1896552.pdf>

³⁶⁴ Rangita de Silva de Alwis, *The Intersection of CEDAW and CRPD Special Report*

http://www.wcwonline.org/component/page,shop.product_details/category_id,389/flypage,shop.flypage/product_id,1181/option,com_virtuemart/Itemid,175/ (last visited Feb. 24, 2012).

³⁶⁵ UN Enable, *Fact Sheet on Persons with Disabilities*,

<http://www.un.org/disabilities/documents/toolaction/pwdfs.pdf> (last visited Jun. 19, 2011).

IX. Normative Framework

A. International Law and Policy³⁶⁶

1. Disability

a. *Early Efforts to Develop Disability-Specific International Norms and Standards*

Beginning in the 1970s, the UN turned its attention to the drafting of non-binding standards specifically pertaining to disability. These early efforts included the adoption of the Declaration on the Rights of Mentally Retarded Persons³⁶⁷ followed by the Declaration on the Rights of Disabled Persons.³⁶⁸ These were the first international instruments specifically addressing persons with disabilities. While the adoption of these instruments certainly reflected an important development in terms of placing disability on the international agenda, as non-binding instruments, they did little to shape national law and policy and had no monitoring and implementation measures to facilitate national action. Moreover, they did not fully reflect - and in some cases diverged from - existing human rights principles.

b. *1971 Declaration on the Rights of Mentally Retarded Persons*

The Declaration on the Rights of Mentally Retarded Persons was adopted by the UN General Assembly on December 20, 1971 and did represent a significant step in terms of raising awareness about the human rights of persons with intellectual disabilities. It has come under heavy criticism by the disability community, for its expression of outmoded medical and charity models of disability which serve to reinforce paternalistic attitudes about the lives of a particularly marginalized sector of the disability community. Its language is surely outdated and does not reflect the language preferences of the self advocacy community. Indeed, it has also been criticized for seemingly qualifying the scope of rights for people with intellectual disabilities both in providing that “the mentally retarded person has, to the maximum degree of feasibility, the same rights as other human beings”³⁶⁹ and in terms of its goal for societies which is to promote “their integration as far as possible in normal life.”³⁷⁰ These provisions were problematic from a legal perspective because they appeared to suggest that the rights to which disabled persons were entitled, were somehow more restricted than for other groups of people. One former Special Rapporteur on Disability, Mr. Bengt Lindqvist, noted that insofar “as its

³⁶⁶ This section is drawn from a background paper prepared by Janet E. Lord and Stephanie Ortoleva submitted to UN DESA. See Janet E. Lord & Stephanie Ortoleva, International norms and standards on disability: an overview of the current framework, Background paper technical paper submitted to the Secretariat of the Convention on the Rights of Persons with Disabilities (2010), on file with authors.

³⁶⁷ Declaration on the Rights of Mentally Retarded Persons, G.A. Res. 2856 (XXVI), at 93, U.N. GAOR, Supp. No. 29, U.N. Doc. A/8429 (Dec. 20, 1971) [hereinafter 1971 Declaration], art. 1; Prembl. 5.

³⁶⁸ Declaration on the Rights of Disabled Persons, G.A. Res. 3447 (XXX), at 88, U.N. GAOR, Supp. No. 34, U.N. Doc. A/10034 (Dec. 9, 1975).

³⁶⁹ See Declaration on the Rights of Mentally Retarded Persons, G.A. Res. 2856 (XXVI), at 93, U.N. GAOR, Supp. No. 29, U.N. Doc. A/8429 (Dec. 20, 1971) [hereinafter 1971 Declaration], art. 1; Prembl. 5.

³⁷⁰ See Declaration on the Rights of Mentally Retarded Persons, G.A. Res. 2856 (XXVI), at 93, U.N. GAOR, Supp. No. 29, U.N. Doc. A/8429 (Dec. 20, 1971) [hereinafter 1971 Declaration], art. 1; Prembl. 5.

inappropriate terminology shows, the Declaration is in many ways outdated. It reflects an approach to disability commonly referred to as the “medical model”, in which persons with disabilities are primarily seen as individuals with medical problems, dependent on social security and welfare and in need of separate services and institutions.”³⁷¹

c. Declaration on the Rights of Disabled People (1975)

The 1975 Declaration expanded the coverage to include all persons with disabilities.³⁷² It acknowledged that persons with disabilities have the right to respect for their human dignity, the same civil and political rights as others,³⁷³ the right to medical treatment, and economic and social security. It set the standard for equal treatment and access to services that help develop the capabilities of persons with disabilities and accelerate their social integration. Like the 1971 Declaration, however, the language is outdated and the approach is limited.

In sum, the two disability-specific instruments reflect an earlier era and while they served to raise some awareness about disability issues, they were not crafted in the language of modern human rights law nor were they informed by the social model perspective.

d. The World Programme of Action Concerning Disabled Persons

The International Year of Disabled Persons in 1981³⁷⁴ and the World Programme of Action provided a strong impetus for progress on the rights of persons with disabilities. Among the major outcomes of the Decade of Disabled Persons (1983-1992),³⁷⁵ was the adoption of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities by the General Assembly on 4 March 1994.³⁷⁶

In 1982, the launch year of the Decade, the World Programme of Action Concerning Disabled Persons³⁷⁷ was adopted by the General Assembly as a means of encouraging national level programs to achieve equality for people with disabilities.³⁷⁸ The World Programme is a

³⁷¹ U.N. Enabled, Progress of efforts to ensure the full recognition and enjoyment of the human rights of persons with disabilities - Report of the Secretary-General, A/58/181, paragraph 11, *available at* <http://www.un.org/esa/socdev/enable/disa58181e.htm>.

³⁷² Declaration on the Rights of Disabled Persons, G.A. Res. 3447 (XXX), at 88, U.N. GAOR, Supp. No. 34, U.N. Doc. A/10034 (Dec. 9, 1975).

³⁷³ The 1975 Declaration notes that this provision is limited by paragraph 7 of the Declaration of the Rights of Mentally Retarded People 1971.

³⁷⁴ International Year of Disabled Persons, G.A. Res. 36/77, at 176, U.N. GAOR, 36th Sess., Supp. No. 77, U.N. Doc. A/RES/36/77 (Dec. 8, 1981).

³⁷⁵ Implementation of the World Programme of Action Concerning Disabled Persons, G.A. Res. 37/53, at 186-87, para. 11, U.N. GAOR, 37th Sess., Supp. No. 53, U.N. Doc. A/RES/37/53 (Dec. 3, 1982).

³⁷⁶ General Assembly Resolution A/RES/48/96, 4 March 1994, which annexed thereto (resolution 48/96 annex, 20 December 1993), found at: <http://www1.umn.edu/humanrts/instree/disabilitystandards.html>.

³⁷⁷ G.A. Res. 37/52, World Programme of Action Concerning Disabled Persons, U.N. Doc. A/RES/37/52 (Dec. 3, 1982), *available at* <http://www.un.org/documents/ga/res/37/a37r052.htm>.

³⁷⁸ G.A. Res. 37/52, World Programme of Action Concerning Disabled Persons, U.N. Doc. A/RES/37/52 paras. 87-90 (Dec. 3, 1982), *available at* <http://www.un.org/documents/ga/res/37/a37r052.htm> (providing, *inter alia*, that “Member States should urgently initiate national long-term programmes to achieve the objectives of the World Programme of Action; such programmes should be an integral component of the nation's general policy for socio-economic development.”).

global strategy to enhance disability prevention, rehabilitation and equalization of opportunities. Its three chapters provide an analysis of principles, concepts and definitions relating to disabilities; an overview of the world situation regarding persons with disabilities; and set out recommendations for action at the national, regional and international levels.

“Equalization of opportunities” is a central theme of the World Programme and its guiding philosophy for the achievement of full participation of persons with disabilities in all aspects of social and economic life. An important principle underlying this theme is that issues concerning persons with disabilities should not be treated in isolation, but within the context of normal community services. The inclusion of the goal of equalization of opportunities, set out in some detail in paragraphs 108-138, represents an important shift towards a rights-based approach to disability issues or as “evidence of the slow but sure shift towards a rights-based model.”³⁷⁹ Yet the prominence given to disability prevention and rehabilitation reflect the traditional approach, and align with what Quinn & Degener referred to as the “caring” model of disability in their analysis of the World Programme or what others might refer to as the medical/charity or personal tragedy models of disability.³⁸⁰

i. Stated Purpose of the World Programme

The purpose of the World Programme is to promote effective measures for prevention of disability, rehabilitation and the realization of the goals of “full participation” of disabled persons in social life and development, and of “equality.”³⁸¹ Interpreting the World Programme through the lens offered by the CRPD and its general principles and stated purpose, the World Programme may be regarded as a hybrid instrument, combining prevention and rehabilitation with more rights-oriented, albeit incomplete, objectives.

Evoking ideas inherent in the social model understanding of disability, the World Programme notes that equalization of opportunities requires measures that address barriers in the environment.³⁸² The goal of equalizing opportunities for persons with disabilities is elaborated in the World Programme in paragraphs 108 to 138 under thematic headings that include: legislation; physical environment; income maintenance and social security; education and training; employment; recreation; culture; religion; and sports. These thematic areas find expression, elaboration and restructuring in the Standard Rules.

ii. Monitoring of the World Programme

³⁷⁹ See Gerard Quinn & Theresia Degener, United Nations, Human Rights and Disability: The Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability, p. 20 (2002), available at <http://www.ohchr.org/Documents/Publications/HRDisabilityen.pdf>.

³⁸⁰ See Gerard Quinn & Theresia Degener, United Nations, Human Rights and Disability: The Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability, p. 20 (2002), available at <http://www.ohchr.org/Documents/Publications/HRDisabilityen.pdf>.

³⁸¹ G.A. Res. 37/52, World Programme of Action Concerning Disabled Persons, U.N. Doc. A/RES/37/52 paras. 87-90 (Dec. 3, 1982), available at <http://www.un.org/documents/ga/res/37/a37r052.htm>.

³⁸² G.A. Res. 37/52, World Programme of Action Concerning Disabled Persons, U.N. Doc. A/RES/37/52 paras. 21 (Dec. 3, 1982), available at <http://www.un.org/documents/ga/res/37/a37r052.htm>.

The World Programme of Action mandates periodic reporting on progress towards implementation, optimistically to take place at the domestic, regional and international levels. Critical analyses of its monitoring scheme disclose little in the way of progress.³⁸³

The adoption of the CRPD together with its Optional Protocol, the acknowledgement that the World Programme has been less than successful in its implementation, and the reality that much of its content is heavy laden with outmoded understandings of disability and is decidedly at odds with the overall spirit and language of the CRPD, raises questions regarding its utilization in the future. The flexibility offered by the revision process, however, and the importance attached to national action planning, implicitly in the CRPD in Article 33 and explicitly by the OHCHR in human rights action planning generally, may as yet offer a roadmap for the World Programme. Revision in line with the CRPD principles would be imperative and substantial redrafting and restructuring would most clearly be required.

e. The UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities

i. Development of the Standard Rules

The Commission for Social Development considered the report of the ad hoc open-ended working group which drafted the Standard Rules at its thirty-third session. This report was ultimately attached as an appendix to the 1994 General Assembly Resolution and thereby became the Standard Rules adopted by the General Assembly.

ii. Objectives and Principles

The Standard Rules consist of 22 rules that aim to elaborate the message of the World Programme of Action, providing a basis for technical and economic cooperation among States, the United Nations and other international organizations.³⁸⁴ The Standard Rules identify their purpose “to ensure that girls, boys, women and men with disabilities, as members of their societies, may exercise the same rights and obligations as others.”³⁸⁵ It notes the existence of “obstacles preventing persons with disabilities from exercising their rights and freedoms and making it difficult for them to participate fully in the activities of their societies”, the “responsibility of States to take appropriate action to remove such obstacles” and the role of persons with disabilities and their organizations in the removal of barriers.³⁸⁶ The core concept referenced within the section outlining the purpose and objectives of the Standard Rules is the

³⁸³ See, for example, the bleak assessment offered by Quinn & Degener in their report. Gerard Quinn & Theresia Degener, *United Nations, Human Rights and Disability: The Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability*, pp. 26-27 (2002), available at <http://www.ohchr.org/Documents/Publications/HRDisabilityen.pdf>.

³⁸⁴ See General Assembly Resolution A/RES/48/96, 4 March 1994, which annexed thereto para. 14 (resolution 48/96 annex, 20 December 1993) available at <http://www1.umn.edu/humanrts/instree/disabilitystandards.html>.

³⁸⁵ See General Assembly Resolution A/RES/48/96, 4 March 1994, which annexed thereto para. 15 (resolution 48/96 annex, 20 December 1993) available at <http://www1.umn.edu/humanrts/instree/disabilitystandards.html>.

³⁸⁶ See General Assembly Resolution A/RES/48/96, 4 March 1994, which annexed thereto para. 15 (resolution 48/96 annex, 20 December 1993) available at <http://www1.umn.edu/humanrts/instree/disabilitystandards.html>.

“equalization of opportunities for persons with disabilities” which is identified as “an essential contribution in the general and worldwide effort to mobilize human resources.”³⁸⁷

The Standard Rules represent an advance insofar as they stress that persons with disabilities may exercise the same rights and obligations as others. As noted in the seminal Quinn/Degener study, the “traditional preoccupations of prevention and rehabilitation have been relegated to the background in favour of the rights perspective.”³⁸⁸ The Standard Rules acknowledge that barriers in society prevent the full participation of persons with disabilities and that the population of persons with disabilities is diverse, implicitly suggesting that some groups, such as women with disabilities or racial minorities experiencing multiple or multi-dimensional forms of discrimination.³⁸⁹

f. Convention on the Rights of Persons with Disabilities

The UN General Assembly adopted the CRPD on December 13, 2006.³⁹⁰ The CRPD opened for signature on March 30, 2007. It rapidly entered into force, on May 3, 2008, after a requisite 20 ratifications had been duly deposited with the UN.³⁹¹

The purpose of the CRPD “is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.”³⁹² The CRPD also reflects the “Nothing about us without us” principle of inclusion of persons with disabilities.

The CRPD moves farther than the Standard Rules in establishing, explicitly for the first time in a binding human rights convention, that human rights and fundamental freedoms apply to all persons with disabilities. It specifies that the CRPD aims to ensure that all human rights and fundamental freedoms are promoted, protected and fulfilled and that the inherent dignity of persons with disabilities are promoted and respected.³⁹³

³⁸⁷ See General Assembly Resolution A/RES/48/96, 4 March 1994, which annexed thereto para. 15 (resolution 48/96 annex, 20 December 1993) available at <http://www1.umn.edu/humanrts/instreet/disabilitystandards.html>.

³⁸⁸ Gerard Quinn & Theresia Degener, United Nations, Human Rights and Disability: The Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability, pp. 22 (2002), available at <http://www.ohchr.org/Documents/Publications/HRDisabilityen.pdf>.

³⁸⁹ Gerard Quinn & Theresia Degener, United Nations, Human Rights and Disability: The Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability, pp. 22 (2002), available at <http://www.ohchr.org/Documents/Publications/HRDisabilityen.pdf>.

³⁹⁰ See General Assembly Adopts Groundbreaking Convention, *Optional Protocol on Rights of Persons with Disabilities: Delegations, Civil Society Hail First Human Rights Treaty of Twenty-First Century*, GA/105554 (United Nations Department of Public Information December 13, 2006), available online at <http://www.un.org/News/Press/docs/2006/ga10554.doc.htm>.

³⁹¹ The CRPD text, along with its drafting history, resolutions, and updated list of States Parties is posted on the United Nations Enable website, available online at <http://www.un.org/esa/socdev/enable/rights/convtexte.htm>. Readers are encouraged to visit this site to obtain more recent information.

³⁹² United Nations Office of the High Commissioner for Human Rights, Convention on the rights of persons with disabilities (Dec. 13, 2006) available at <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>.

³⁹³ See United Nations Office of the High Commissioner for Human Rights, Convention on the rights of persons with disabilities, art. 1 (Dec. 13, 2006) available at <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>.

The CRPD therefore establishes a major conceptual break from the World Programme of Action as well as the Standard Rules, insofar as its exclusive focus is on ensuring the human rights of persons with disabilities.³⁹⁴ The CRPD addresses disability prevention and rehabilitation only as an aspect of full and comprehensive human rights protection for persons with disabilities. Thus, prevention and rehabilitation are directed at ensuring equal access and making all public health programmes accessible to persons with disabilities. The implicit signal from the drafters of the CRPD is that public health issues, such as protecting the general population from infectious diseases and their consequences, implementing public safety policies and programmes such as road safety or industrial accident prevention and the like, are not appropriately addressed within the framework of disability rights. They are conceptually distinct from an instrument that has as its focus the human rights of persons with disabilities and should thus be addressed elsewhere, for example in a specialized public health instrument. The foregoing thus calls into question whether it is ever appropriate or consistent with a rights-based framing of disability to frame public health issues as “disability prevention.”

The CRPD states in the Preamble 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...”³⁹⁵ It further states in Article 1:

Persons with disabilities include 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.³⁹⁶ Thus, the CRPD, in contrast with the Standard Rules and World Programme adopts a broad categorization of persons with disabilities, moving away from the World Health Organization’s more medical orientation and embracing a social model of disability within which civil, political, economic, social and cultural rights are enumerated and elaborated.

The approach taken in the CRPD, by contrast, is markedly distinct. In addressing these issues from a human rights perspective, the Convention structures Articles 25 (Health) and 26 (Rehabilitation) within the specific substantive rights section of the treaty and does not accord rehabilitation or medical care the same sequential status of the Standard Rules, namely, as a “precondition for equal participation.”³⁹⁷ Moreover, the provisions in the CRPD are firmly anchored in human rights and are directed towards ensuring that persons with disabilities are able to fully access their human right to health. Article 25 thus provides that: “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” and then go on to specify the measures

³⁹⁴ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 1 (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>. (“The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity....”).

³⁹⁵ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, at preamble, para. (e) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

³⁹⁶ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 1 (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

³⁹⁷ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 25-26 (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

that States must take in order to ensure equal access.³⁹⁸ They are not directed at disability prevention in general, rather, they are directed at ensuring equal access to all types of health services which would include immunization programs provided to the general population, public health education programs and the like. In discussing habilitation and rehabilitation, the CRPD provides that habilitation and rehabilitation programs and services for persons with disabilities are voluntary, provided to persons with disabilities with free and informed consent, and that such services are directed at maximizing independence.³⁹⁹

The CRPD addresses a number of core human rights issues that are not covered in the Standard Rules. As expressed in specific CRPD provisions, these include:

- Article 12 - Equal recognition before the law;
- Article 13 - Access to justice;
- Article 14 - Liberty and security of the person;
- Article 15 - Freedom from torture or cruel, inhuman or degrading treatment or punishment;
- Article 16 - Freedom from exploitation, violence and abuse;
- Article 17 - Protecting the integrity of the person;
- Article 18 - Liberty of movement and nationality;
- Article 19 - Living independently and being included in the community;
- Article 20 - Personal mobility;
- Article 21 - Freedom of expression and opinion, and access to information;
- Article 22 - Respect for privacy;
- Article 23 - Respect for and the family; and
- Article 29 - Participation in political and public life.

These provisions reflect the far more comprehensive approach to the human rights of persons with disabilities taken in the CRPD as opposed to the Standard Rules.

i. Article 3

Article 3 of the CRPD outlines the following general principles: (i) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; (ii) non-discrimination; (iii) full and effective participation and inclusion in society; (iv) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; (v) equality of opportunity; (vi) accessibility; (vii) equality between men and women; and (viii) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

States Parties to the Convention have a series of general obligations that must be met with measures aimed at ensuring the promotion and full realization of human rights for all

³⁹⁸ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 25 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

³⁹⁹ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 26 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

persons with disabilities.⁴⁰⁰ Article 4 requires that States Parties undertake such measures without discrimination of any kind on the basis of disability.⁴⁰¹ In relation to economic, social and cultural rights, States Parties are obliged to take measures to realize these rights progressively to the maximum extent of available resources.⁴⁰² Thus, the Convention recognizes that some measures will need to be introduced over time and subject to longer term budgeting and planning. In this respect, it will be important for the Committee to monitor carefully the obligation for States Parties to take immediate steps towards the fulfilment of their obligation and to underscore that the principle of progressive realization is not an escape clause for circumventing Convention obligations.

States Parties must also take measures to realize economic, social and cultural rights progressively to the maximum extent of their available resources. The general obligations require States to: (i) adopt legislative, administrative and other measures to implement the Convention; (ii) abolish or amend existing laws, regulations, customs and practices that discriminate against disabled persons; (iii) adopt an inclusive approach to protect and promote the rights of persons with disabilities in all policies and programmes; (iv) refrain from conduct that violates the Convention and ensure that the public sector respects the rights of persons with disabilities; (v) take measures to abolish disability discrimination by persons, organizations or private enterprises; (vi) undertake research and development of accessible goods, services and technology for persons with disabilities and to promote others to undertake such research; (vii) provide accessible information about assistive technology to persons with disabilities; (viii) promote professional and staff training on Convention rights for those working with persons with disabilities on the Convention; and (ix) consult with and involve persons with disabilities in developing and implementing legislation and policies and in decision-making processes concerning rights.⁴⁰³

ii. Article 5

Article 5 represents the first time that an international human rights convention expressly bars discrimination on the basis of disability.⁴⁰⁴ Discrimination on the basis of disability is defined in Article 2 to mean: “any distinction, exclusion or restriction on the basis of disability” that has the “purpose or effect of” damaging or denying the enjoyment or exercise of human rights by people with disabilities.⁴⁰⁵ The principle of “non-discrimination” therefore

⁴⁰⁰ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 4 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴⁰¹ *See* Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 4(1) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴⁰² *See* Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 4(2) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴⁰³ *See* Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 4(2) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴⁰⁴ That is not to say that disability-based discrimination is permitted under the prior human rights conventions simply because their lists of prohibited grounds do not include the term “disability.” Arguably, the references in the ICESCR, ICCPR and other treaties to “other status” preclude discrimination on the basis of disability. However, Article 5 of the CRPD leaves no question that discrimination on the basis of disability is prohibited, though Article 5 does not define this term.

⁴⁰⁵ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 2 (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

encompasses the commitment not to engage in disability discrimination and to take steps to counter more subtle and indirect forms of discrimination. Prohibited treatment includes blatant and direct forms of discrimination, such as a law expressly discriminating against people with disabilities in denying their right to education, and includes treatment that can occur in a more subtle manner, such as where a rule is neutral but acts to adversely affect people with disabilities. Such subtle forms of discrimination can be particularly insidious because people may believe that the lack of blatant discrimination makes rules or laws fair, even though their effects are damaging. States must ensure that they address issues of discrimination regardless of whether the discrimination occurs just between individuals or in a more systemic way, such as through legislation, policies, and regulations.

In addition to prohibiting discrimination both on the basis of disability and other grounds, Article 5 requires States to ensure provision of reasonable accommodation, in order to “promote equality and eliminate discrimination.”⁴⁰⁶ A reasonable accommodation is simply a resource or a measure designed to promote full participation and access and to empower a person to act on his or her own behalf.

iii. Article 6

CRPD Article 6 addresses women with disabilities directly by recognizing “that women and girls with disabilities are subject to multiple forms of discrimination.” Thus, the CRPD addresses the fact that the Convention on the Elimination of All Forms of Discrimination Against Women makes no mention of women with disabilities in its provisions. The CRPD then requires State Parties to guarantee “human rights and fundamental freedoms” to both women with disabilities and women in general.

iv. Article 7

Express the view of the drafters that the rights of women with disabilities (and children with disabilities as expressed in Article 7, are indivisible, interrelated and interconnected with all other CRPD rights.⁴⁰⁷ CRPD Article seeks to ensure that the provisions of the CRPD also apply to children, as with Article 6 on women.

v. Article 8

CRPD Article 8 on Awareness-raising emphasizes the detrimental effects of stereotypes in the lives of persons with disabilities, emphasizing the particular impact on the lives of women and girls with disabilities. It adopts a social model of disability under which disability is seen as the evolving interaction between persons with disabilities and environmental and attitudinal

⁴⁰⁶ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 5(3) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴⁰⁷ Vienna Declaration and Program of Action, World Conference on Human Rights, Vienna, 14-25 June 1993, U.N. Doc. A/CONF.157/24, para. 63, *available at* [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.CONF.157.23.En](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.23.En).

barriers that prevent full and equal societal participation is comparable to the role of gender and race as socially constructed roles and stereotypes, as opposed to biological characteristics.⁴⁰⁸

vi. Article 9

Article 9 of the CRPD concerns accessibility. The principle of accessibility in Article 9 is directed at the removal of the barriers that hinder the effective enjoyment of rights by persons with disabilities.⁴⁰⁹ The provision addresses a number of accessibility concerns, including physical, technological, information, communication, economic and social accessibility. The provision expressly acknowledges the need to consider and address accessibility measures at the earliest stage in planning and preparedness programming and applies to both public and private actors who are obliged to make their product or services “open or provided to the public.”⁴¹⁰ This provision draws on the articulation of accessibility as a target for priority reform in the Standard Rules.⁴¹¹

vii. Article 11

CRPD Article 11 requires that States must take all necessary measures to ensure the protection and safety of persons with disabilities in situations of armed conflict, humanitarian emergencies, natural disasters, and other situations of risk.

viii. Article 12

CRPD Article 12 on Equal recognition before the law requires that the State Parties first “reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law” and recognize that states ensure that persons with disabilities “enjoy legal capacity on an equal basis with others in all aspects of life” and that “appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.”

ix. Article 13

Article 13 of the CRPD is of particular importance and it is entitled, “Access to justice.” The succinct two-clause article requires “procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including all witnesses, in all legal proceedings, including at investigative and other preliminary stages.” It also then provides for the promotion of “appropriate training for those working in the field of administrative justice, including police and prison staff.” Accommodations and training for such

⁴⁰⁸ Ortoleva, S. (2010). Women with Disabilities: The Forgotten Peacebuilders. *United Nations*.

http://www.un.org/disabilities/documents/events/20oct10_sortoleva.doc (last visited Jun. 17, 2011).

⁴⁰⁹ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 9 (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴¹⁰ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 9(1) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴¹¹ G.A. Res. 48/96, Standard Rules on the Equalization of Opportunities for Persons with Disabilities, U.N. Doc A/RES/48/96, Rule 5 (Dec. 20, 1993), available at <http://www.un.org/disabilities/documents/gadocs/standardrules.pdf>.

procedures are therefore necessary for both persons with disabilities and those administering justice, from the initial investigation to the final prison sentence.

x. Article 15

Article 15 on Torture requires that State parties take effective measures to prevent persons with disabilities from being subjected to “torture or cruel, inhuman or degrading treatment or punishment.” This includes medical or scientific experimentation without free consent. The Committee Against Torture has acknowledged that certain acts against persons with disabilities, such as imprisoning or detaining them, would constitute torture or ill-treatment.⁴¹²

xi. Article 16

Article 16, “Freedom from exploitation, violence and abuse” specifically addresses gender-based aspects of the mentioned offenses. It provides for the protection against, educational support about, monitoring, recovery, and prosecution of these crimes. CRPD Article 16(1) states: “1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, , from all forms of exploitation, violence and abuse, including their gender-based aspects.”⁴¹³ Additionally, States Parties shall establish Gender and age-specific supports, as well as provide recovery programs, prevention strategies and the identification, investigation and, where appropriate, prosecution of instances of such abuse.⁴¹⁴

xii. Article 21

Article 21 of the CRPD concerns the “Freedom of expression and opinion, and access to information,” provides for “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.” Though more general in nature, such a right should guarantee translation and interpretation services within the investigation, case preparation, and court proceedings.

xiii. Article 25

Article 25 of the CRPD is Particularly relevant to violence against women, the “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.” This includes access to gender-sensitive health services and health-related rehabilitation, “sexual and reproductive health and population-based public health programs,” all provided as close to “people’s own communities” as possible.

⁴¹² Committee Against Torture, *Committee Against Torture Meets with Subcommittee on the Prevention of Torture to Discuss Synergies in their Work*. CAT/09/37. Released 17 Nov. 2009.

⁴¹³ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 16 (2)-(5) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴¹⁴ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 16 (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

xiv. Article 27

Article 27 of the CRPD concerns work and employment and states that “States Parties recognize the right of persons with disabilities to work, on an equal basis with others.” This includes the accessibility of training programs, placement services, and guidance programs as well as the prohibition of discrimination on the basis of disability with regards to employment.⁴¹⁵ CRPD Article 27(2) states: “2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.”⁴¹⁶

xv. Article 31

CRPD Article 31 on Statistics and data collection addresses a serious gap with respect to violence against women with disabilities since there is little data disaggregated by gender, disability and other identities with respect to violence. Article 31 provides:

- States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:
 - Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;
 - Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.
- The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.
- States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.

xvi. Article 31-40

Articles 31-40 of the CRPD set forth implementation and monitoring measures,⁴¹⁷ as does the Optional Protocol.⁴¹⁸ The implementation and monitoring mechanisms establish, for the

⁴¹⁵ Kathambi, K, *Protection of the rights of women with disabilities*. 1 Disability World 28, http://www.disabilityworld.org/01_07/women.shtml (last visited Feb. 10, 2012)

⁴¹⁶ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 27 (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴¹⁷ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, arts. 31-40 (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴¹⁸ See *General Assembly Adopts Groundbreaking Convention, Optional Protocol on Rights of Persons with Disabilities: Delegations, Civil Society Hail First Human Rights Treaty of Twenty-First Century*, GA/105554 (United Nations Department of Public Information December 13, 2006), available at <http://www.un.org/News/Press/docs/2006/ga10554.doc.htm>.

first time in a disability-specific international instrument, a mandatory framework for monitoring disability rights at the international level, something that was not possible in the non-binding World Programme of Action or Standard Rules. Moreover, the CRPD takes into account developments and lessons learned in the context of human rights treaty monitoring and implementation and therefore represents in many respects progressive development among human rights treaty monitoring more generally.⁴¹⁹

xvii. Article 33

Article 33 seeks to ensure effective implementation at the national level by requiring States to designate one or more focal points within their governments for implementing the CRP,⁴²⁰ and urges States to consider creating or designating a coordination mechanism, again within government, to further implement across government sectors.⁴²¹ It also requires States Parties to establish and/or support one or more independent mechanisms separate from government to “promote, protect and monitor” the Convention’s implementation.⁴²²

The Committee is authorized to accept and deliberate individual and group complaints and communications regarding alleged violations of the CRPD⁴²³ asserted against States Parties to the Optional Protocol;⁴²⁴ these may also be submitted *on behalf of* aggrieved individuals.⁴²⁵ Otherwise, the admissibility of communications mirrors that of other international complaints procedures.⁴²⁶ The Committee may at any time after receiving a communication but before determining its merits, request a State Party to adopt sufficient interim measures “to avoid possible irreparable damage” to the alleged victims of its actions.⁴²⁷ Such action does not imply

⁴¹⁹ Two papers by the Office of the United Nations High Commissioner for Human Rights (OHCHR) provided an overview of treaty body reform and its implications for the CRPD, offering possible options for development and innovation. See *Monitoring Implementation of the International Human Rights Instruments: An Overview of the Current Treaty Body System*, U.N. OHCHR, Ad Hoc Comm. on a Comprehensive & Integral Int’l Convention on Protection & Promotion of the Rts. & Dignity of Persons with Disabilities, 5th Sess., U.N. Doc. A/AC.265/2005/CRP.2 (2005), available at <http://www.un.org/esa/socdev/enable/rights/ahc5documents.htm>; U.N. OHCHR, *Expert Paper on Existing Monitoring Mechanisms, Possible Relevant Improvements and Possible Innovations in Monitoring Mechanisms*, Ad Hoc Comm. on a Comprehensive & Integral Int’l Convention on Protection & Promotion of the Rts. & Dignity of Persons with Disabilities, 7th Sess., U.N. Doc. A/AC.265/2006/CRP.4 (2006), available at <http://www.un.org/esa/socdev/enable/rights/ahc7docs/ahc7unedchrmonitor.doc>.

⁴²⁰ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 33(1) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴²¹ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 33(1) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴²² Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 art. 33(2) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴²³ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 art. 1(1) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴²⁴ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 art. 1(2) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴²⁵ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 art. 1(1) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴²⁶ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 art. 2 (a-f) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴²⁷ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 art. 4(1) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

the ultimate admissibility or merits of the given communication.⁴²⁸ Communications procedures are confidential and issued recommendations are not enforceable.⁴²⁹

g. United Nations Interagency Support Group

This Report also takes into consideration the joint statement of commitment of the inter-agency support group for the Convention on the Rights of Persons with Disabilities (IASG),⁴³⁰ which was established by the United Nations Chief Executives Board in 2006, with the purpose of “demonstrating our will to ensure the promotion and protection of the rights of persons with disabilities by working towards the full inclusion of persons with disabilities in the work of the United Nations.”⁴³¹ Furthermore, the UN inter agency network on women and gender equality (IANWGE) also reinforces the concept of gender inclusion within the United Nations.⁴³² Kofi Annan, former United Nations Secretary-General, has often highlighted this approach in his statements.⁴³³ IANWGE is chaired by UN Women and was established by the United Nations

⁴²⁸ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 art. 4(2) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴²⁹ See Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106 art. 5 (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁴³⁰ UNITED NATIONS ENABLE, INTER-AGENCY SUPPORT GROUP, <http://www.un.org/disabilities/default.asp?navid=43&pid=323> (last visited July 28, 2010). The IASG was created to ensure “the commitment to the internationally agreed development goals; the need for system-wide coherence within the “delivering as one” framework; the importance of inclusion of persons with disabilities in the work of the United Nations; the need for a participatory approach; and the role of the United Nations in supporting Member States and specifically States parties.” The IASG includes many UN entities, including the Department of Economic and Social Affairs (DESA), United Nations Educational, Scientific and Cultural Organization (UNESCO), World Health Organization (WHO), United Nations Development Programme (UNDP) and the United Nations Children’s Fund (UNICEF) all of which work on the issues raised in this paper.

⁴³¹ UNITED NATIONS ENABLE, INTER-AGENCY SUPPORT GROUP, <http://www.un.org/disabilities/default.asp?navid=43&pid=323>

⁴³² INTER-AGENCY NETWORK ON WOMEN AND GENDER EQUALITY, <http://www.un.org/womenwatch/ianwge/index.html> (last visited Mar. 28, 2011). The IANWGE was created to champion for gender equality throughout the programs, resolutions and goals of the UN bodies and to support and monitor the implementation of the Beijing Platform for Action and other gender related recommendations pertaining to the UN system. The IANWGE is comprised of many UN entities, including the Department of Economic and Social Affairs (DESA), United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nations Development Programme (UNDP), United Nations Population Fund (UNFPA), United Nations Children’s Fund (UNICEF), World Health Organization (WHO), and the World Bank (WB).

⁴³³ In June 2000, at the “Women 2000: Gender Equality, Development and Peace for the Twenty-first Century” UN General Assembly Special Session in New York, Kofi Annan stated: “The commitments made by governments in Beijing reflect the understanding that women's equality must be a central component of any attempt to solve the world's social, economic and political problems. Thus, where once women fought to put gender equality on the international agenda, gender equality is now one of the primary factors shaping that agenda.” He made a similar statement five years later in 2005 at the Commission on the Status of Women’s Beijing +10 Review calling for the empowerment of women, which can be found here: <http://www.aid.govt.nz/library/docs/gender-doco.pdf>.

Chief Executives Board in 2001⁴³⁴ with the specific intent to promote gender equality throughout the UN system.⁴³⁵

2. Women

a. *Convention on the Elimination of All Forms of discrimination Against Women*

CEDAW enumerates the human rights guaranteed to women.⁴³⁶ The CEDAW was adopted and opened for signature in 1979, and entered into force in 1981, the CEDAW Preamble affirms “[t]hat the strengthening of international peace and security, the relaxation of international tension . . . and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence . . . will contribute to the attainment of full equality between men and women.”⁴³⁷ This treaty further states that States are convinced that the complete development of a country, the welfare of the world, and the cause of peace require the maximum equal participation of women in all fields.⁴³⁸

i. Article 2

The CEDAW Article 2 enumerates the overall obligations required of states under the Convention. States must enact legislative and legal protections for women. To alleviate the effect that stereotypes have on emphasizing notions of inequality towards women, Article 4 of the CEDAW includes provisions authorizing the use of special measures to expedite and ensure the achievement of equality between the sexes.⁴³⁹ The CEDAW states that temporary special measures “aimed at accelerating de facto equality between men and women shall not be considered discrimination”⁴⁴⁰, providing for such measures.⁴⁴¹

⁴³⁴ Although IANWGE was established in 2001, the group was actually created in 1996 under the title: Inter-Agency Committee on Women and Gender Equality (IACWGE). For more information on the history of this group, please visit <http://www.un.org/womenwatch/ianwge/uninteagcoll.htm>.

⁴³⁵ Although IANWGE was established in 2001, the group was actually created in 1996 under the title: Inter-Agency Committee on Women and Gender Equality (IACWGE). For more information on the history of this group, please visit <http://www.un.org/womenwatch/ianwge/uninteagcoll.htm>.

⁴³⁶ Convention on the Elimination of All Forms of Discrimination against Women (Dec. 18, 1979), available at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

⁴³⁷ Convention on the Elimination of All Forms of Discrimination against Women, Annex (Dec. 18, 1979), available at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

⁴³⁸ Convention on the Elimination of All Forms of Discrimination against Women, Annex (Dec. 18, 1979), available at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

⁴³⁹ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 5(4) (Dec. 13, 2006), available at <http://www.unhcr.org/refworld/docid/45f973632.html>; Convention on the Elimination of All Forms of Discrimination against Women, art. 4 (Dec. 18, 1979), available at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

⁴⁴⁰ Convention on the Elimination of All Forms of Discrimination against Women, art. 4(1) (Dec. 18, 1979), available at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

⁴⁴¹ U.N. Human Rights Council, U.N. High Commissioner for Human Rights, Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary General: Thematic Study by the Office of the United Nations High Commissioner for Human Rights on enhancing awareness and understanding of the Convention on the Rights of Persons with Disabilities, U.N. DOC. A/HRC/10/48 (Jan. 26, 2009) [hereinafter OHCHR].

ii. Article 5

Article 5 of the CEDAW emphasizes the negative role that stereotypes can play in the lives of women. States hold the responsibility to “[t]o combat stereotypes, prejudices and harmful practices” and to eliminate “prejudices and customary and all other practices.”⁴⁴²

iii. Article 15

In the CEDAW, Article 15 addresses equality before the law for both men and women.⁴⁴³ Article 15 of the CEDAW states four provisions. First, it requires States to accord women equality with men before the law. Second, it requires States, in civil matters, to accord women a legal capacity identical to that of men, as well as the same opportunities to exercise that capacity. More specifically, States must give women equal rights to conclude contracts and to administer property, and they must also treat women equally in all stages of court and tribunal procedure. Third, States must agree that all contracts and other private legal instruments directed at restricting the legal capacity of women are deemed null and void. Fourth, Article 15 requires States to accord men and women with the same rights regarding the law relating to the movement of persons and the freedom to choose their residence and domicile.⁴⁴⁴

Furthermore, the CEDAW Article 15 focuses on ensuring women’s legal autonomy. It confirms women’s equality with men before the law and also requires States to guarantee equal rights in areas of civil law where women have traditionally suffered discrimination.⁴⁴⁵

iv. Articles 6-12

Article 9 of the CEDAW concentrates on the right to a nationality and expresses that a woman has a right to her own nationality, which is not rendered obsolete once she marries.⁴⁴⁶

The CEDAW Article 6 addresses the suppression of trafficking and exploitation of women and simply states: “States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”⁴⁴⁷

The right to education is also guaranteed in Article 10 of the CEDAW. The CEDAW education provision advocates for “the elimination of any stereotyped concept of the roles of

⁴⁴² Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 5 (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

⁴⁴³ See Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, arts. 12 & 15, para. 1-4 & 13, para. 1 (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

⁴⁴⁴ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 15 (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

⁴⁴⁵ See Comm. on the Elimination of Discrimination Against Women, Rep. on its 13th Sess., Jan. 17-Feb. 4, 1994, para. 26, U.N. Doc. A/49/38 (Apr. 12, 1994).

⁴⁴⁶ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 9 (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

⁴⁴⁷ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 6 (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

men and women at all levels and in all forms of education...by the revision of textbooks and school programmes and the adaptation of teaching methods.”⁴⁴⁸

The right to work and participate in the same economy is also mentioned in Article 11 of the CEDAW. The CEDAW advocates for an inclusive workforce that will in turn advance the economy, human rights and development of the state.⁴⁴⁹

The CEDAW includes guarantees to women concerning political life in Article 7, which states that states shall “eliminate discrimination against women in the political and public life of the country,” and in Articles 7 and 8, which guarantees to women “the opportunity to represent their Governments at the international level.”⁴⁵⁰

Article 12 of the CEDAW addresses issues concerning health. The CEDAW stresses the importance of access to healthcare for women, especially in the areas of reproduction and family planning.⁴⁵¹

b. CEDAW Committee General Recommendations

The CEDAW Committee increasingly has addressed the concerns of women with disabilities in its General Recommendations.

i. General Recommendation Number 18

In General Recommendation Number 18, issued in 1991, the CEDAW Committee called for special attention to be paid to the double discrimination women with disabilities face and “[r]ecommends 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.”⁴⁵²

ii. General Recommendation Number 24

In General Recommendation Number 24, issued in 1999, the CEDAW Committee also referenced issues of concern to women with disabilities. The CEDAW Committee recognized that societal factors may be “determinative of health status” and that “special attention should be given to health needs and rights of women” with disabilities, among other vulnerable groups.⁴⁵³

⁴⁴⁸ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 10(c) (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

⁴⁴⁹ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, art. 11 (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

⁴⁵⁰ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, arts. 7, 8 (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

⁴⁵¹ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180, arts. 12 (Dec. 18, 1979), available at <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

⁴⁵² Comm. On the Elimination of Discrimination against Women, *General Recommendation 18*, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom18>.

⁴⁵³ Comm. On the Elimination of Discrimination against Women, *General Recommendation 24*.

iii. General Recommendation Number 27

CEDAW Committee General Recommendation Number 27, issued in 2010, pertains to the protection of the human rights of older women and addresses women with disabilities by discussing the double discrimination and gender stereotyping older women with disabilities face, especially in regards to their access to education, healthcare services, legal services and their increased susceptibility to violence.⁴⁵⁴

iv. General Recommendation Number 28

CEDAW Committee General Recommendation Number 28, also issued in 2010, focuses on the core obligations of States parties under Article 2 of the CEDAW and discusses the enhanced vulnerability for discrimination women with disabilities face in civil and penal laws, regulations and customary laws and practice.⁴⁵⁵

v. General Recommendation Elaboration

Additionally, the CEDAW Committee is in the process of elaborating a General Recommendation on Women in situations of Conflict⁴⁵⁶ and, in coordination with the Committee on the Convention on the Rights of the Child, a General Recommendation on Harmful Traditional Practices.⁴⁵⁷

c. Declaration on the Elimination of Violence against Women⁴⁵⁸

The Declaration, adopted December 20, 1993, defines violence and enumerates its types. It also makes reference to violence and women with disabilities and states:

“Concerned that some groups of women, such as women belonging to minority groups, indigenous women, refugee women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women and women in situations of armed conflict, are especially vulnerable to violence...”

Furthermore, Article 4 (c and d) of the UN Declaration on the Elimination of Violence against Women requires States to “exercise due diligence to prevent, investigate and in accordance with national legislation punish acts of violence against women whether those actions are perpetrated by the State or private persons.”

⁴⁵⁴ Comm. On the Elimination of Discrimination against Women, *General Recommendation 27*, available at <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC1.pdf>.

⁴⁵⁵ Comm. On the Elimination of Discrimination against Women, *General Recommendation 28*, available at <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC2.pdf>.

⁴⁵⁶ Comm. On the Elimination of Discrimination against Women, *General Recommendation 28*, available at <http://www2.ohchr.org/english/bodies/cedaw/discussion2011.htm>.

⁴⁵⁷ <http://www2.ohchr.org/english/bodies/cedaw/JointCEDAW-CRC-GeneralRecommendation.htm>

⁴⁵⁸ Declaration on the Elimination of Violence against Women, GA Res. A/RES/48/104, 20 December 1993, available at: <http://www.un.org/documents/ga/res/48/a48r104.htm>.

d. Special Rapporteur on Violence against Women

The 2013 annual report of the Special Rapporteur on Violence against Women, its Causes and Consequences, will be devoted to a study on the "Due Diligence Obligation to address Violence Against Women." The Special Rapporteur is seeking information in preparation of a global study that analyzes the interpretation and implementation of the due diligence obligation by States to be submitted to the Human Rights Council. Due to the multiplicity of forms of violence against women, and the fact that this violence often occurs in an intersectional manner, States must adopt more holistic, multi-pronged approaches to effectively implementing their due diligence obligations. State interventions must also be designed at the different levels at which violence occurs, namely at the individual, community, State and transnational levels.⁴⁵⁹

e. *1995 Beijing Declaration and the UN General Assembly Beijing Plus Five Declaration*⁴⁶⁰

In 1995 and 2000, these documents recognized the “multiple barriers” faced by women with disabilities.” The 1995 Beijing Declaration recognized the need to address the concerns of women with disabilities and the correlated need to include women with disabilities in decision making, stating that Governments should:

Strengthen and encourage the implementation of the recommendations contained in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, paying special attention to ensure non-discrimination and equal enjoyment of all human rights and fundamental freedoms by women and girls with disabilities, including their access to information and services in the field of violence against women, as well as their active participation in and economic contribution to all aspects of society.⁴⁶¹

Drawing on the disability-inclusive nature of the original Beijing Declaration itself, the 2000 Special Session of the United Nations General Assembly, reviewing the progress of the outcomes of the Fourth World Conference on Women, also addressed the concerns and role of women with disabilities by indicating that Governments should:

Adopt and promote a holistic approach to respond to all forms of violence and abuse against girls and women of all ages, including girls and women with disabilities, as well as vulnerable and marginalized women and girls in order to address their diverse needs, including education, provision of appropriate health care and services and basic social

⁴⁵⁹ See: the background paper for this Special report at: Summary Paper on the Due Diligence Standard for Violence against Women Sample questionnaire; Special Rapporteur on Violence Against Women, Reparations to Women Who Have Been Subjected to Violence, ¶ 17, U.N. Doc. A/HRC/14/22 (2010) (by Rashida Manjoo)

⁴⁶⁰ G.A. Res. S-23/3, para. 69(j), U.N. DOC. A/RES/S-23/3 (Nov. 16, 2000); United Nations, *Beijing Declaration & Report* (September 1995). <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>. (last visited Dec. 1 2010).

⁴⁶¹ UNITED NATIONS, REPORT OF THE FOURTH WORLD CONFERENCE ON WOMEN, ¶ 143(E), U.N. DOC. A/CONF.177/20, U.N. SALES NO. 96.IV.13 (1996) [HEREINAFTER REPORT OF THE FOURTH WORLD CONFERENCE ON WOMEN], Para. 232(P).

services.⁴⁶²

Furthermore, it also stated that Governments should: “Design and implement policies and programmes to address fully specific needs of women and girls with disabilities, to ensure their equal access to education at all levels, including technical and vocational training and adequate rehabilitation programmes, health care and services and employment opportunities, to protect and promote their human rights and, where appropriate, to eliminate existing inequalities between women and men with disabilities.”⁴⁶³

3. Other Human Rights Treaties

a. *Convention on the Rights of the Child*

The Convention on the Rights of the Child (CRC) was adopted by the General Assembly on November 20, 1989 and entered into force on September 2, 1990.⁴⁶⁴ CRC Article 19 (1) discusses violence against children. It states: “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.”⁴⁶⁵

Article 23 recognizes that children with disabilities “should enjoy a full and decent life,” recognizes the child’s right to special care provided free of charge, when possible while taking into account the resources of the parents or others caring for the child.

The CRC Article 23 also calls for international exchange of appropriate information on prevention and treatment of children with disabilities as well as the provision of services, particularly within developing countries.⁴⁶⁶

b. *Convention on the Elimination of Racial Discrimination (CERD)*⁴⁶⁷

The CERD was adopted on December 21, 1965 and entered into force on January 4, 1969.⁴⁶⁸ It makes no reference to persons with disabilities.⁴⁶⁹ However, the Working Group did

⁴⁶² G.A. Res. S-23/3, para. 69(j), U.N. Doc. A/RES/S-23/3 (Nov. 16, 2000).

⁴⁶³ G.A. Res. S-23/3, para. 83(d), U.N. Doc. A/RES/S-23/3 (Nov. 16, 2000).

⁴⁶⁴ United Nations, *Convention on the Rights of the Child*. Retrieved May 31, 2011 UN Doc GA Res. 44/25, (Nov. 20, 1989) available at <http://www2.ohchr.org/english/law/crc.htm>

⁴⁶⁵ United Nations, *Convention on the Rights of the Child*. Retrieved May 31, 2011 UN Doc GA Res. 44/25, art 19 (Nov. 20, 1989) available at <http://www2.ohchr.org/english/law/crc.htm>

⁴⁶⁶ United Nations, *Convention on the Rights of the Child*. Retrieved May 31, 2011 UN Doc GA Res. 44/25, art 23 (Nov. 20, 1989) available at <http://www2.ohchr.org/english/law/crc.htm>.

⁴⁶⁷ International Convention on the Elimination of All Forms of Racial Discrimination, G.A. Res. 2106 (XX), U.N. Doc. A/RES/ 2106(XX), art. 5(a) (Dec. 21, 1965), available at: <http://www2.ohchr.org/english/law/cerd.htm>.

⁴⁶⁸ International Convention on the Elimination of All Forms of Racial Discrimination, G.A. Res. 2106 (XX), U.N. Doc. A/RES/ 2106(XX), art. 5(a) (Dec. 21, 1965), available at: <http://www2.ohchr.org/english/law/cerd.htm>.

⁴⁶⁹ International Convention on the Elimination of All Forms of Racial Discrimination, G.A. Res. 2106 (XX), U.N. Doc. A/RES/ 2106(XX), art. 5(a) (Dec. 21, 1965), available at: <http://www2.ohchr.org/english/law/cerd.htm>.

not review the General Recommendations of the CERD Committee to determine if the issues of the rights of persons with disabilities or the rights of women were address by that Committee in its General Recommendations or other documents.

*c. International Covenant on Economic, Social and Cultural Rights*⁴⁷⁰

To more fully elaborate on the strategies for implementation of the rights set forth in the International Covenant on Economic, Social and Cultural Rights (ICESCR,) the Committee on Economic Social and Cultural Rights issued General Comment 5 in 1994.⁴⁷¹ ICESCR was adopted on December 6, 1966 and entered into force on January 3, 1976.⁴⁷² This General Comment formulates obligations of states to eliminate discrimination of persons with disabilities in the areas of equal rights for men and women ("double discrimination") (Article 3), work (Articles 6-8), social security (Article 9), protection of the family (Article 10), adequate standard of living (Article 11), right to physical and mental health (Article 12), right to education (Articles 13 and 14) and the right to take part in cultural life and enjoy the benefits of scientific progress (Article 15). Significantly for the purposes of progressively developing human rights in the context of disability, the Committee articulated a connection between non-discrimination and the duty to provide reasonable accommodation.⁴⁷³

Furthermore, the Committee on Economic, Social and Cultural Rights, has stated that forced sterilization of women and girls with disabilities breaches Article 10 of the International Covenant on Economic, Social and Cultural Rights. The Committee on Economic, Social and Cultural Rights, with respect to the International Covenant on Economic, Social and Cultural Rights, has stated that forced sterilization of women and girls with disabilities breaches Article 10 of the International Covenant on Economic, Social and Cultural Rights.⁴⁷⁴

*d. International Covenant on Civil and Political Rights*⁴⁷⁵

Interestingly, interpretations of Article 16 of the ICCPR on the right to be recognized everywhere as a person before the law, make it abundantly clear that this provision only contemplates one aspect of this right—that every person is a subject, and not an object, of the law.⁴⁷⁶ The ICCPR was adopted on December 16, 1966 and entered into force on March 23,

⁴⁷⁰ International Covenant on Economic, Social & Cultural rights (1966), GA res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 49, UN Doc. A/6316 (1966); 993, available at: <http://www1.umn.edu/humanrts/instree/b2esc.htm>.

⁴⁷¹ See Committee on Economic, Social and Cultural Rights, General Comment No. 5, available at: <http://www1.umn.edu/humanrts/gencomm/epcomm5e.htm>.

⁴⁷² International Covenant on Economic, Social & Cultural rights (1966), GA res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 49, UN Doc. A/6316 (1966); 993, available at: <http://www1.umn.edu/humanrts/instree/b2esc.htm>.

⁴⁷³ See Committee on Economic, Social and Cultural Rights, General Comment No. 5, para 15, available at: <http://www1.umn.edu/humanrts/gencomm/epcomm5e.htm>.

⁴⁷⁴ See UN Committee on Economic, Social and Cultural Rights, (CESCR Committee), General Comment No.5, para 31, available at <http://www1.umn.edu/humanrts/gencomm/epcomm5e.htm>.

⁴⁷⁵ International Covenant on Civil & Political Rights, G.A. Res. 2200 (XXI), A (Dec. 16, 1966), available at: <http://www2.ohchr.org/english/law/pdf/ccpr.pdf>.

⁴⁷⁶ International Covenant on Civil & Political Rights, G.A. Res. 2200 (XXI), Art. 16 (Dec. 16, 1966), available at: <http://www2.ohchr.org/english/law/pdf/ccpr.pdf>; See U.N. High Comm'r for Human Rights, Legal Capacity para. 14 (Aug. 2005) (unpublished background conference document) (on file with author), available at http://www2.ohchr.org/SPdocs/CRPD/DGD21102009/OHCHR_BP_Legal_Capacity.doc.

1976.⁴⁷⁷ This provision does not guarantee that a person has the legal capacity to act.⁴⁷⁸ On the other hand, the approach used in the provisions of Articles 12 and 13 of the CRPD utilize the more expansive wording used in the second paragraph of Article 15 of the CEDAW. Article 12 of the ICCPR, reaffirms this right to freedom of movement and nationality without specific mention of disability.⁴⁷⁹

*e. International Declaration on the Rights of Indigenous Peoples*⁴⁸⁰

The Declaration calls for specific attention to be paid to the rights and special needs of persons with disabilities, including in measures taken by States to ensure continuing improvement of economic and social conditions for indigenous peoples.⁴⁸¹ The Declaration was adopted on September 13, 2007.⁴⁸²

f. Resolution adopted by the Human Rights Council: 17/19 Human rights, sexual orientation and gender identity

The resolution requested the UN High Commissioner for Human Rights to produce a study on discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity.⁴⁸³ Human Rights Council Nineteenth session Agenda items 2 and 8 Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General. Follow-up and implementation of the Vienna Declaration and Programme of Action Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity Report of the United Nations High Commissioner for Human Rights.⁴⁸⁴ That study, "Discriminatory Laws and Practices and Acts of Violence Against Individuals Based on their Sexual Orientation and Gender Identity," was released this past December.⁴⁸⁵

4. Other International Normative Documents

*a. United Nations Millennium Development Goals*⁴⁸⁶

⁴⁷⁷ International Covenant on Civil & Political Rights, G.A. Res. 2200 (XXI), A (Dec. 16, 1966), available at: <http://www2.ohchr.org/english/law/pdf/ccpr.pdf>.

⁴⁷⁸ See U.N. High Comm'r for Human Rights, Legal Capacity para. 14 (Aug. 2005) (unpublished background conference document) (on file with author), *available at* http://www2.ohchr.org/SPdocs/CRPD/DGD21102009/OHCHR_BP_Legal_Capacity.doc.

⁴⁷⁹ International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. GAOR, Supp. No. 16, U.N. Doc. A/6316, art. 12 (Dec. 16, 1966), *available at* <http://www2.ohchr.org/english/law/pdf/ccpr.pdf>.

⁴⁸⁰ Find the declaration at: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

⁴⁸¹ UNDRIP, Article 21(2) and 22(1).

⁴⁸² Find the declaration at: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

⁴⁸³ LGBT Human Rights, A/HRC/RES/17/19, Human rights, sexual orientation and gender identity, Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/148/76/PDF/G1114876.pdf?OpenElement>.

⁴⁸⁴ available at: <http://www.scribd.com/doc/75797509/OHCHR-Discriminatory-Laws-and-Practices-and-Acts-of-Violence-Against-Individuals-Based-on-their-Sexual-Orientation-and-Gender-Identity>

⁴⁸⁵ LGBT Human Rights, A/HRC/RES/17/19, Human rights, sexual orientation and gender identity, *available at*: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/148/76/PDF/G1114876.pdf?OpenElement>.

⁴⁸⁶ United Nations Millennium Development Goals (MDGs), *available at*: <http://www.un.org/millenniumgoals/>

The eight Millennium Development Goals (MDGs) include reducing by one-half extreme poverty, reducing maternal mortality, halting the spread of HIV/AIDS, providing universal primary education, all by the target date of 2015. These goals were adopted on September 8, 2000.⁴⁸⁷ The MDGs serve as a blueprint agreed to by the members of the United Nations and all the world's leading development institutions, all in a massive effort to address extreme poverty worldwide. Regrettably, people with disabilities in developing countries living below the poverty line receive little attention in the MDGs and are not mentioned in the MDGs themselves. Although General assembly resolution A/RES/64/131 on "realizing the MDGs for persons with disabilities" recalls that persons with disabilities are facing multiple discrimination, particularly women with disabilities, and remain largely invisible to the implementation, monitoring and evaluation of the MDGs.⁴⁸⁸

The outcome document for the MDG Summit was adopted by the General Assembly by consensus on 22 September 2010. It includes an action agenda for achieving the eight MDGs by their 2015 target date and the announcement of major new commitments.⁴⁸⁹

Regrettably, although there are references to the CEDAW and the CRC, there are no references to the CRPD and, as it relates to the subject of this Report, the specific needs of women and girls with disabilities receive scant attention.

B. Regional Law and Policy⁴⁹⁰

1. Africa

a. The African Charter on Human and People's Rights

The African Charter on Human and People's Rights draws inspiration from various provisions of international law as well as African values and instruments.⁴⁹¹ Fifty-three countries in Africa have ratified the Charter.⁴⁹² It entered into force in 1986.⁴⁹³ It has broad and sweeping provisions that provide for equality of all, including women.⁴⁹⁴ It also provides for duties to the state and to society.

⁴⁸⁷ United Nations Millennium Development Goals (MDGs), *available at*: <http://www.un.org/millenniumgoals/>

⁴⁸⁸ United Nations Millennium Development Goals (MDGs), *available at*: <http://www.un.org/millenniumgoals/>

⁴⁸⁹ United Nations General Assembly, 56th Session, A/65/L.1 17 September 2010, *available at* <http://www.internationaldisabilityalliance.org/sites/disalliance.e-presentaciones.net/files/public/files/mdg%20outcome%20document%5B1%5D.pdf>

⁴⁹⁰ Note that this information is taken from a variety of sources, including the website of the United Nations Secretariat on the Convention on the Rights of Persons with Disabilities, *available at*: <http://www.un.org/esa/socdev/enable/comp303.htm>.

⁴⁹¹ African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986 at art. 60.

⁴⁹² African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986.

⁴⁹³ African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986.

⁴⁹⁴ African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986 at art. 2-3, 5.

Article 18 of the Banjul charter states that, “The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and child as stipulated in international declarations and conventions.”⁴⁹⁵ The duty is also placed on individuals to respect others without discrimination.⁴⁹⁶ There is no provision contained within Chapter III to ensure enforcement against individuals, rather it is the States that are held accountable.⁴⁹⁷

The African Commission on Human and Peoples’ Rights (“the Commission”) is obligated to protect the rights enshrined in the Banjul charter.⁴⁹⁸ The Commission is charged with considering customs, precedents and doctrine of international and domestic law within the African states.⁴⁹⁹

b. The Maputo Protocol

The Banjul Charter provides for additional protocols to be appended.⁵⁰⁰ The Maputo Protocol entered into effect in 2005 after being adopted by the African Union in 2003.⁵⁰¹ It is a breakthrough in that it added rights to the Banjul charter specifically addressing women.⁵⁰² It also defined certain terms to give them legal significance. For example, “discrimination against women” is defined as “any exclusion, distinction or restriction on the basis of sex.”⁵⁰³ It also detailed “violence against women” fairly broadly, including “all acts [or attempted acts] perpetrated against women which could cause physical, sexual, psychological, or economic harm.”⁵⁰⁴

The most salient provisions of this protocol are contained in Article 23.⁵⁰⁵ This article specifically protects women with disabilities and provides them a right to freedom from all

⁴⁹⁵ African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986.at art. 18 (3)

⁴⁹⁶ African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986.at art. 28

⁴⁹⁷ African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986.at art. 47

⁴⁹⁸ African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986.at art. 30, 45 (2).

⁴⁹⁹ African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986.at art. 61

⁵⁰⁰ African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), *entered into force* Oct. 21, 1986.at art. 66

⁵⁰¹ [Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa](#), Adopted by the 2nd Ordinary Session of the Assembly of the Union, Maputo, CAB/LEG/66.6 (Sept. 13, 2000); *reprinted* in 1 Afr. Hum. Rts. L.J. 40, *entered into force* Nov. 25, 2005.

⁵⁰² Federal Ministry for Economic Cooperation and Development, *The Maputo Protocol of the African Union* (2006), <http://www.gtz.de/de/dokumente/en-fgm-maputoprotocol.pdf> (last visited Jun. 27, 2011).

⁵⁰³ Federal Ministry for Economic Cooperation and Development, *The Maputo Protocol of the African Union* (2006), <http://www.gtz.de/de/dokumente/en-fgm-maputoprotocol.pdf> (last visited Jun. 27, 2011).at art. 1(f)

⁵⁰⁴ Federal Ministry for Economic Cooperation and Development, *The Maputo Protocol of the African Union* (2006), <http://www.gtz.de/de/dokumente/en-fgm-maputoprotocol.pdf> (last visited Jun. 27, 2011).at art. 1(j)

⁵⁰⁵ Federal Ministry for Economic Cooperation and Development, *The Maputo Protocol of the African Union* (2006), <http://www.gtz.de/de/dokumente/en-fgm-maputoprotocol.pdf> (last visited Jun. 27, 2011).at art. 23

violence and discrimination.⁵⁰⁶ It furthermore states that women with disabilities are to be treated with dignity.⁵⁰⁷ The duty again seems to be upon the nation state to take “specific measures” to ensure the goals of the article.⁵⁰⁸

2. *Europe*

With respect to Europe, it is important to note that there are various regional entities which address human rights, the most important of which are the Council of Europe and the European Union, each of which has its own scheme of human rights instruments.

a. *Council of Europe*

The Council of Europe is a regional intergovernmental organization whose main role is to strengthen democracy, human rights and the rule of law throughout its Member States of 40 countries. The Council of Europe is also active in enhancing Europe's cultural heritage in all of its diversity. Finally, it acts as a forum for examining a whole range of social problems, such as social exclusion, intolerance, the integration of migrants, the threat to private life posed by new technology, and bio-ethical issues.

The Council of Europe comprises: A decision making body: the Committee of Ministers; A deliberative body: the Parliamentary Assembly; A voice for local democracy: the Congress of Local and Regional Authorities of Europe. More than 160 European Conventions serve as a basis for reforming and harmonizing Member States' legislation. For issues that do not lend themselves to conventions, the Committee of Ministers adopts recommendations to Governments on what line of action to take.

The European Convention for the Protection of Human Rights and Fundamental Freedoms, which entered into force in 1953, is the main European human rights convention. It deals with civil and political rights, and is in that sense similar to the ICCPR. Several additional Protocols have added to its substantive and procedural provisions. The European Social Charter deals with economic and social rights. Although these are the main European human rights conventions, the Council of Europe has adopted numerous other conventions pertaining to human rights, covering a wide range of areas including, migrant workers, torture, national minorities, and children, and gender equality. The Council of Europe has not adopted any specific human rights instruments on disabled persons. It has to be recognized, though, that for a long time the European Social Charter was the first human rights treaty in which disabled persons were explicitly mentioned as bearers of Human Rights.⁵⁰⁹

⁵⁰⁶ Federal Ministry for Economic Cooperation and Development, *The Maputo Protocol of the African Union* (2006), <http://www.gtz.de/de/dokumente/en-fgm-maputoprotocol.pdf> (last visited Jun. 27, 2011).at art 23(b)

⁵⁰⁷ Federal Ministry for Economic Cooperation and Development, *The Maputo Protocol of the African Union* (2006), <http://www.gtz.de/de/dokumente/en-fgm-maputoprotocol.pdf> (last visited Jun. 27, 2011) .at art 23(b)

⁵⁰⁸ Federal Ministry for Economic Cooperation and Development, *The Maputo Protocol of the African Union* (2006), <http://www.gtz.de/de/dokumente/en-fgm-maputoprotocol.pdf> (last visited Jun. 27, 2011).at art 23(b)at art. 23(a)

⁵⁰⁹ Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, May 11, 2011, C.E.T.S. 210, *available at* <http://conventions.coe.int/Treaty/EN/Treaties/Html/210.htm>.

This Convention of the Council of Europe (CoE Convention) recognizes the CRPD and the CEDAW. This CoE Convention recognizes the CRPD and the CEDAW, among other international treaties, as significant human rights instruments that guide the provisions of this CoE Convention. “Violence against women” is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

The implementation of the provisions of this CoE Convention by the Parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.

The CoE Convention also requires State Parties to devote adequate resources to these issues and to engage in necessary data collection. The CoE Convention also includes numerous provisions with respect to prevention of violence against women and addressing that violence in the judicial system. Although this CoE Convention is very detailed, it has no specific provisions on women with disabilities, ensuring accessible facilities and programs, including women with disabilities in all violence prevention and treatment programs, and providing accessible communication approaches and information.

The CoE Convention does prohibit performing an abortion on a woman without her prior and informed consent or performing surgery which has the purpose or effect of terminating a woman’s capacity to naturally reproduce without her prior and informed consent or understanding of the procedure. The Group of experts on action against violence against women and domestic violence (hereinafter referred to as “GREVIO”) shall monitor the implementation of this CoE Convention.

Other relevant documents have been adopted within the machinery of the Council of Europe which are legally non-binding but worth mentioning, because they emphasise the Human Rights aspects of disability legislation and policy. The European Convention for the Protection of Human Rights and Fundamental Freedoms is designed to protect individuals' fundamental rights and freedoms. This Convention contains the classical human rights guarantees, including the right to life (article 2), the right not to be subject to torture or to inhuman or degrading treatment or punishment (article 3), the right to liberty and security of person (article 5), and the right to respect for private and family life, home and correspondence (article 8). These rights apply to all persons, including disabled persons.

Two articles are particularly interesting in regard to disability. Indeed, according to article 5 (e), "Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save the following cases and in accordance with a procedure prescribed by law: ... e) the lawful detention of persons (of unsound mind ". That means that the right to liberty and security may be restricted on grounds of mental disability. While the anti-discrimination clause of article 14 refers to sexual, racial, lingual, religious, or political discrimination, disabled

persons are not explicitly mentioned. But disabled people must be contained in the formulation any other status at the end of article 14.

The European Social Charter has led to legal reforms in such areas as the family, the protection of young workers, trade union rights and social insurance. It lays down twenty-three fundamental rights. It contains in Part I, a declaration of aims which contracting states shall pursue by all appropriate means. Each state party agrees to be bound by at least six of nine articles specified in Part II of the Charter. The nine articles are: the right to work; the right to organize; the right to bargain collectively; the right of children and young persons to protection; the right to social security; the right to social and medical assistance; the right of the family to social, legal and economic protection; the right of migrant workers and their families to protection and assistance; and the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex. Part II has a set of articles which to a large extent correspond to the provisions in the ICCPR. States can choose from a menu of obligations (10 out of the 19 articles in Part II, or 45 out of the 72 numbered paragraphs of which the 19 articles consist). Furthermore, according to article 20 (Undertakings), "Each of the Contracting Parties undertakes: (b) To consider itself bound by at least five of the following articles of Part II of this Charter: articles 1, 5, 6, 12, 13, 16 and 19." Regarding the issue of disability, three articles are worth mentioning: article 11 (the right to protection of health), article 13 (the right to social and medical assistance) and article 15 (the right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement). It is important to note that articles 11 and 15 are not part of the list of article 20 (b). Articles 11 and 13 are rights applicable to all persons that may be of particular concern to disabled persons. Article 11 states that "...the Contracting Parties undertake (1. To remove as far as possible the causes of ill-health; 2. To provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health; 3. To prevent as far as possible epidemic, endemic and other diseases." Article 13 states that "...the contracting Parties undertake: 1. To ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and in case of sickness, the care necessitated by his condition; 2. To ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights; 3. To provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want ". Pursuant to Article 15, Contracting Parties undertake to take adequate measures for (1) the provision of training facilities for disabled persons, and (2) the placing of disabled persons in employment, such as specialized placing services, facilities for sheltered employment and measures to encourage employers to admit disabled persons to employment.

As one can see, the concept of human rights and disability as contained in the European Social Charter is based on the traditional institutional approach to disability. It has been revised in order to update and adapt the substantive contents of the Charter in order to take into account, in particular, the fundamental social changes, which have occurred since the text was adopted. The new article 15 of the Revised Charter (adopted by the Council of Europe, 3 May 1996) reads as follows: "The right of persons with disabilities to independence, social integration and participation in the life of the community: With a view to ensuring to persons with disabilities,

irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular: to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialized bodies, public or private; to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for a creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialized placement and support services; to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure." This version is more comprehensive than the previous one and is based more on a human rights approach. It will enter into force after the "...three Member States of the Council of Europe have expressed their consent to be bound by this Charter." (article K).

Beside the above mentioned norms there are several other European Council instruments that concern persons with disabilities more specifically, including:

- Recommendation on the Situation of the Mentally Ill (EC Recommendation No. 818),
- Recommendation on Rehabilitation Policies for the Disabled (EC Recommendation No. 1185)
- Recommendation on a Coherent Policy for the Rehabilitation of People with Disabilities (EC Recommendation No. (92) 6).
- Recommendation Towards full social inclusion of people with disabilities Recommendation 1592 (2003)
- Towards concerted efforts for treating and curing spinal cord injury - Parliamentary Assembly Recommendation 1560 (2002)
- Towards full citizenship of persons with disabilities through inclusive new technologies Resolution, ResAP(2001)3
- Resolution on a Charter on the Vocational Assessment of People with Disabilities (AP (95) 3)

The Recommendation on a Coherent Policy for the Rehabilitation of People with Disabilities adheres to the principle of independent living and full integration into society. This recommendation is extremely progressive in that it recognises the rights of disabled persons to be different. It is the first international/regional instrument, which applies the right to be different to the situation of disabled persons, in particular with respect to the whole rehabilitation process.

b. The Council of Europe - Remedies under the European conventions

The machinery for enforcement of human rights agreements under the European Convention is the most developed in Europe and one of the most efficient human rights systems in the world. Protocol 11 of the European Convention on the Protection of Human Rights and Fundamental Freedoms, established a single permanent Court replacing and simplifying the previous mechanism composed of the European Commission on Human Rights and the European Court of Human Rights. It oversees the implementation of the European Convention on Human Rights through State and individual complaint systems. There is no periodic report mechanism for the European Convention. The European Court of Human Rights is a judicial body composed of a number of judges equal to the number of states that are current members of the Council of Europe. Judges are elected by the Parliamentary Assembly of the Council of Europe for a term of six years. Any Contracting State (State application) or individual claiming to be a victim of a violation of the Convention (individual application) may lodge directly with the Court an application alleging a breach by a State Party of one of the Convention rights. The procedure before the Court is adversarial and public, unless the Chamber decides otherwise on account of exceptional circumstances. The Council of Europe has set up a legal aid scheme for applicants who do not have sufficient means. Decisions are taken by majority vote. Judgments of Chambers shall become final, unless a party requests, within a period of three months from the date of the judgment, that the case be referred to the Grand Chamber. A panel of five judges shall decide whether or not the case should be examined by a Grand Chamber. The Court's decision "shall, if necessary, afford just satisfaction to the injured party" (Article 50), if a state party is determined to have violated the European Convention, and if the country's domestic laws do not provide for adequate redress. The Court may thus issue a declaration and /or award monetary damages, including costs and expenses or pecuniary and non-pecuniary damages. Final judgments are legally binding for States Parties and their execution will be supervised by the Committee of Ministers.

The European Social Charter sets out its system of supervision and enforcement, providing for a monitoring and reporting procedure and a system of collective complaints. The European Committee of Social Rights is a committee of independent experts, which examines reports and decides whether the situations in the countries concerned are in conformity with the Charter. State parties are required to submit copies of their reports to "the international non-governmental organizations which have consultative status with the Council of Europe and have particular competence in the matters governed by." The Committee may also "hold, if necessary, a meeting with the representative of a Contracting Party either on its own initiative or at the request of the Contracting Party concerned"(Article 24(3)). The Committee's decisions ("conclusions") are published every year.

The 1995 Additional Protocol allows the Committee also to consider collective complaints. The Committee decides on the admissibility and merits of the case. Both the State and the organization concerned are asked to provide written explanations and information to the Committee. A hearing, which is public, may be held at the request of one of the parties. The Committee's decision is transmitted to the Committee of Ministers and the Parliamentary Assembly, and it is made public.

c. The European Union

The European Union (EU) is a regional organisation with currently 15 democratic member States voluntarily joined by a political desire to present a united front to the great challenges of our age. The EU's main concern lies in the field of economic, monetary and political issues. Accordingly, gender, disability and other human rights issues have been mostly dealt with as a matter of social policy,⁵¹⁰ the European Parliament has adopted resolutions on the rights of persons with disabilities (Resolution on the rights of Disabled People, and Resolution on the human rights of disabled people). European Parliament resolution of 26 April 2007 on the situation of women with disabilities in the European Union.⁵¹¹ This resolution draws the following conclusions: Confirms that 80% of women with disabilities are subjected to abuse. Calls on the Commission and the Member States to put in place effective legislation and policies focusing on women and children which will ensure that instances of exploitation, violence against and sexual abuse of persons with disabilities – within their places of residence and elsewhere – are identified and investigated and, where appropriate, lead to prosecution; suggests that, in that context, particular attention be paid to women with disabilities whose disability prevents them from representing themselves and that preventive measures be drawn up to eliminate any differences between the rights of disabled women and those of other women as regards their personal physical integrity and their sexual expression.

3. Association of Southeast Asian Nations (ASEAN)

ASEAN has no regional treaties specifically on disability or violence against women. Hanoi Declaration and Plan of Action of the Summit of Heads of State and Government underlined the importance of interchanges on human rights in ASEAN. ASEAN Intergovernmental Commission on Human Rights.⁵¹² The Economic and Social Commission for Asia and the Pacific Asian and Pacific Decade of Persons with Disabilities (1993-2002).

In April 1992, the Economic and Social Commission for Asia and the Pacific proclaimed the Asian and Pacific Decade of Disabled Persons (1993-2002). This regional decade of disabled persons aimed to help to promote the human rights of disabled persons in a region which has probably the largest number of the world's disabled persons. The Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region and the Agenda for Action for the Asian and Pacific Decade of Disabled Persons, 1993-2002 contain some of the major topics of the World Programme of Action concerning Disabled Persons and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities. Various regional instruments of the ASEAN Region address human rights issues. The Working Group was not able to explore each of these instruments with respect to their coverage of violence against women or disability rights.

⁵¹⁰ Charter of Fundamental Rights of the European Union, 2000 O.J. (C 364) 01, art. 26, available at www.europarl.europa.eu/charter/pdf/text_en.pdf.

⁵¹¹ European Parliament resolution of 26 April 2007 on the situation of women with disabilities in the European Union, adopted April 26, 2007, EU Doc 2006/2277(INI).

⁵¹² Association of Southeast Asian Nations, ASEAN Intergovernmental Commission on Human Rights, available at <http://www.aseansec.org/22769.htm>.

- Hanoi Action Plan (1999-2004)⁵¹³
- Declaration on the Commitment for Children in ASEAN (2001)⁵¹⁴
- Vientiane Action Programme (2004-2010)⁵¹⁵
- Declaration on the Elimination of Violence Against Women in the ASEAN Region on June 30, 2004⁵¹⁶
- Declaration Against Trafficking in Persons Particularly Women and Children (2004)⁵¹⁷
- Declaration on the Promotion and Protection of Migrant Workers (2007).⁵¹⁸

Additionally, important workshops have been organised within Asia, such as the United Nations Workshop for the Asian-Pacific Region on Human Rights Issues, Jakarta, 26-28 January 1993. In 1999, the Interregional Seminar and Symposium on International Norms and Standards Relating to Disability was held in Hong Kong Special Administrative Region of the People's Republic of China. The Interregional Seminar and Symposium brought together policy makers, practitioners and representatives of the non-governmental community to exchange views on international norms and standards relating to disability and to develop recommendations for the further equalization of opportunities for persons with disabilities. The Interregional Seminar and Symposium built upon the meeting of international experts held in December 1998 at Boalt Hall Law School, University of California at Berkeley. The Interregional Seminar and Symposium was divided into three clusters. Cluster one focused international norms and standards relating to disability; Cluster two focused on capacity building to promote and monitor the implementation of norms and standards for persons with disabilities; Cluster three addressed the different approaches to the definition of disability. Cluster one acknowledged the importance of international disability rights law in designing strategies to advance disability rights in the domestic sphere and to interpret broad treaty obligations relevant to persons with disabilities. Cluster two focused on importance of training in human rights advocacy among disability rights NGO's. Cluster Three concentrated the different legal definitions of disability and how these definitions can serve different purposes. For example, the medical model will be useful in the context of clinical care, while this model may be inadequate in advancing the civil rights of persons with disabilities. The Interregional Seminar provided a further opportunity for experts from fifty countries to exchange ideas on current law reforms in disability issues.

4. Inter-American System

a. *American Declaration of the Rights and Duties of Man (1948)*⁵¹⁹

⁵¹³ Association of Southeast Asian Nations, Hanoi Plan of Action, adopted December 15, 1997, *available at* <http://www.aseansec.org/8754.htm>.

⁵¹⁴ Association of Southeast Asian Nations, Declaration on the Commitment for Children in ASEAN, *available at* <http://www.aseansec.org/579.htm>.

⁵¹⁵ Association of Southeast Asian Nations, Vientiane Action Programme *available at* <http://www.aseansec.org/VAP-10th%20ASEAN%20Summit.pdf>

⁵¹⁶ Association of Southeast Asian Nations, Declaration on the Elimination of Violence Against Women in the ASEAN Region *available at* <http://www.aseansec.org/16189.htm>.

⁵¹⁷ Association of Southeast Asian Nations, Declaration Against Trafficking in Persons Particularly Women and Children, *available at* <http://www.aseansec.org/16793.htm>

⁵¹⁸ Association of Southeast Asian Nations, Declaration on the Promotion and Protection of Migrant Workers, *available at* <http://www.aseansec.org/19264.htm>

The American Declaration was approved in 1948 at the 9th International American Conference in Bogota, Colombia. When the American Declaration of the Rights and Duties of Man was signed in April 1948, it became the first international document listing universal human rights and proclaiming the need to protect these rights. The Declaration was adopted by the Ninth International Conference of American States in Bogotá, Colombia. It is applicable to the all the members of the OAS but, since the adoption of the American Convention on Human Rights, the Declaration is mostly applied to those states who have not yet joined the American Convention.

The Declaration is unique in that, unlike its United Nations counterpart, the Universal Declaration of Human Rights, the American Declaration includes both human rights that need to be protected along with duties that individuals have to society. The rights are listed in the first chapter of the Declaration, in Articles 1 through 28, and include civil and political rights, economic, and social and cultural rights, such as to property, culture, work, leisure time, and social security.

i. Article II

All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor.

ii. Article XVII

Every person has the right to be recognized everywhere as a person having rights and obligations, and to enjoy the basic civil rights.

iii. Article XX

Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free.

b. American Convention on Human Rights (1969)⁵²⁰

This treaty, which was adopted in 1969 and entered into force in 1978, enforces much of the notions contained in the American Declaration of the Rights and Duties of Man. As a treaty, it is binding only on the nations that have signed it. It focuses mainly on civil and political human rights, and offers more detailed definitions of these rights than the Declaration does. The treaty also created the Inter-American Court of Human Rights. It offered signatories a chance to sign on to an additional protocol to accept the Court's jurisdiction.

i. Article 23. Right to Participate in Government

- Every citizen shall enjoy the following rights and opportunities:

⁵¹⁹ American Declaration of the Rights and Duties of Man, OEA/ser. L./ V./II.23, doc. 21 rev. 6 (1948).

⁵²⁰ American Convention on Human Rights, Nov. 22, 1969, 9 I.L.M. 673 (entered into force July 18, 1978) [hereinafter American Convention].

- to take part in the conduct of public affairs, directly or through freely chosen representatives;
- to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and
- to have access, under general conditions of equality, to the public service of his country.
- The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.

*c. Protocol of San Salvador: Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (1988)*⁵²¹

This Additional Protocol was adopted in 1988 and entered into force on November 16, 1999. It focuses on the state's obligation to promote social, economic, and cultural human rights, such as those related to labor laws, health issues, education rights, economic rights, rights relating to the family, and rights of children, the elderly, and the handicapped. It demonstrates that states may fulfill these obligations through enacting legislation, enforcing measures of protection, and refrain from discrimination.

i. Article 3 Obligation of Nondiscrimination

The State Parties to this Protocol undertake to guarantee the exercise of the rights set forth herein without discrimination of any kind for reasons related to race, color, sex, language, religion, political or other opinions, national or social origin, economic status, birth or any other social condition.

ii. Article 6 Right to Work

Everyone has the right to work, which includes the opportunity to secure the means for living a dignified and decent existence by performing a freely elected or accepted lawful activity. The State Parties undertake to adopt measures that will make the right to work fully effective, especially with regard to the achievement of full employment, vocational guidance, and the development of technical and vocational training projects, in particular those directed to the disabled. The States Parties also undertake to implement and strengthen programs that help to ensure suitable family care, so that women may enjoy a real opportunity to exercise the right to work.

iii. Article 9 Right to Social Security

⁵²¹ Organization of American States, Protocol of San Salvador: Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights *available at* <http://www.oas.org/juridico/english/treaties/a-52.html>

Everyone shall have the right to social security protecting him from the consequences of old age and of disability which prevents him, physically or mentally, from securing the means for a dignified and decent existence. In the event of the death of a beneficiary, social security benefits shall be applied to his dependents. In the case of persons who are employed, the right to social security shall cover at least medical care and an allowance or retirement benefit in the case of work accidents or occupational disease and, in the case of women, paid maternity leave before and after childbirth.

iv. Article 18 Protection of the Handicapped

Everyone affected by a diminution of his physical or mental capacities is entitled to receive special attention designed to help him achieve the greatest possible development of his personality. The States Parties agree to adopt such measures as may be necessary for this purpose and, especially, to:

- Undertake programs specifically aimed at providing the handicapped with the resources and environment needed for attaining this goal, including work programs consistent with their possibilities and freely accepted by them or their legal representatives, as the case may be;
- Provide special training to the families of the handicapped in order to help them solve the problems of coexistence and convert them into active agents in the physical, mental and emotional development of the latter;
- Include the consideration of solutions to specific requirements arising from needs of this group as a priority component of their urban development plans;
- Encourage the establishment of social groups in which the handicapped can be helped to enjoy a fuller life.

*d. Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (“Convention of Belém do Pará”)*⁵²²

This Convention was Adopted in Belem do Para, Brazil at the twenty-fourth regular session of the OAS General Assembly.

This Convention was adopted in 1994 and entered into force on March 5, 1995. It defines violence against women as being gender based and having a negative effect on a woman's physical, sexual, or psychological well-being. It lists rights of women, including freedom from violence in both the public and private sphere, as well as freedom from discrimination. State parties are held responsible for not committing violence against women, for preventing such violence from occurring, for enacting appropriate relevant legislation prohibiting such violence,

⁵²² Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (“Convention of Belém do Pará”), June 9, 1994, available at <http://www.cidh.org/Basicos/English/basic13.Conv%20of%20Belem%20Do%20Para.htm>

for providing women a just legal recourse in the case of violence, and promoting social awareness and cultural acceptance of these rights of women.

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belem do Para Convention). This Convention is the equivalent of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in the UN system. The Belem do Para Convention focuses on the protection of women from violence in both the public and private sphere. The Convention includes discrimination as a form of violence. The Belem do Para Convention is carried out by the Inter-American Commission on Women (CIM)—that is charged with the duty of promoting and protecting women's rights throughout the Inter-American region. Interestingly, as a requirement all of the state delegates to the CIM are high-ranking women. Cases at the Inter-American court involving the Belem do Para Convention center around the maltreatment of incarcerated women.⁵²³

Signature states must also include a report on the treatment of women within the state in its annual report to the Inter-American Commission of Women. Additionally, any individual of a member state may send a petition to the Inter-American Commission on Human Rights regarding a violation of Article 7 of the Convention, which list women's rights.

i. Article 4

Every woman has the right to the recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others:

- The right to have her life respected;
- The right to have her physical, mental and moral integrity respected;
- The right to personal liberty and security;
- The right not to be subjected to torture;
- The right to have the inherent dignity of her person respected and her family protected;
- The right to equal protection before the law and of the law;
- The right to simple and prompt recourse to a competent court for protection against acts that violate her rights;
- The right to associate freely;
- The right of freedom to profess her religion and beliefs within the law; and
- The right to have equal access to the public service of her country and to take part in the conduct of public affairs, including decision-making.

ii. Article 5

⁵²³ See e.g., *Aloeboetoe et al. v. Suriname*, Inter-Am. Ct. H.R. (ser. C) No.15, ¶ 17 (Sep. 10, 1993); *Caballero Delgado and Santana v. Colombia*, Inter-Am. Ct. H.R. (ser. C) No. 22, ¶ 65 (Dec. 8, 1995); *Loayza-Tamayo v. Peru*, Inter-Am. Ct. H.R. (ser. C) No. 33, ¶ 45 (e), 58 (Sep.17, 1997); *Urrutia v. Guatemala*, Inter-Am. Ct. H.R. (ser. C) No.103, ¶ 51(a) (Nov. 27, 2003); *Castro Castro Prison v. Peru*, Inter-Am Ct. H.R. (ser. C) No. 160, ¶ 421 (Nov. 25, 2006).

Every woman is entitled to the free and full exercise of her civil, political, economic, social and cultural rights, and may rely on the full protection of those rights as embodied in regional and international instruments on human rights. The States Parties recognize that violence against women prevents and nullifies the exercise of these rights.

iii. Article 7

The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:

- refrain from engaging in any act or practice of violence against women and to ensure that their authorities, officials, personnel, agents, and institutions act in conformity with this obligation;
- apply due diligence to prevent, investigate and impose penalties for violence against women;
- include in their domestic legislation penal, civil, administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary;
- adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property;
- take all appropriate measures, including legislative measures, to amend or repeal existing laws and regulations or to modify legal or customary practices which sustain the persistence and tolerance of violence against women;
- establish fair and effective legal procedures for women who have been subjected to violence which include, among others, protective measures, a timely hearing and effective access to such procedures;
- establish the necessary legal and administrative mechanisms to ensure that women subjected to violence have effective access to restitution, reparations or other just and effective remedies; and
- adopt such legislative or other measures as may be necessary to give effect to this Convention.

iv. Article 8

The States Parties agree to undertake progressively specific measures, including programs:

- to promote awareness and observance of the right of women to be free from violence, and the right of women to have their human rights respected and protected;
- to modify social and cultural patterns of conduct of men and women, including the development of formal and informal educational programs appropriate to every level of the educational process, to counteract prejudices, customs and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on the stereotyped roles for men and women which legitimize or exacerbate violence

- against women;
- to promote the education and training of all those involved in the administration of justice, police and other law enforcement officers as well as other personnel responsible for implementing policies for the prevention, punishment and eradication of violence against women;
 - to provide appropriate specialized services for women who have been subjected to violence, through public and private sector agencies, including shelters, counseling services for ail family members where appropriate, and care and custody of the affected children;
 - to promote and support governmental and private sector education designed to raise the awareness of the public with respect to the problems of and remedies for violence against women;
 - to provide women who are subjected to violence access to effective readjustment and training programs to enable them to fully participate in public, private and social life;
 - to encourage the communications media to develop appropriate media guidelines in order to contribute to the eradication of violence against women in all its forms, and to enhance respect for the dignity of women;
 - to ensure research and the gathering of statistics and other relevant information relating to the causes, consequences and frequency of violence against women, in order to assess the effectiveness of measures to prevent, punish and eradicate violence against women and to formulate and implement the necessary changes; and
 - to foster international cooperation for the exchange of ideas and experiences and the execution of programs aimed at protecting women who are subjected to violence.

v. Article 10

In order to protect the right of every woman to be free from violence, the States Parties shall include in their national reports to the Inter-American Commission of Women information on measures adopted to prevent and prohibit violence against women, and to assist women affected by violence, as well as on any difficulties they observe in applying those measures, and the factors that contribute to violence against women.

*e. Inter-American Convention For The Elimination Of All Forms Of Discrimination Against Persons With Disabilities*⁵²⁴

As a region, Latin America is a leader in adopting an international hard law instrument specifically for individuals with disabilities. In 1999, the IACHR adopted the Inter-American Convention for the Elimination of All Forms of Discrimination against Persons with Disabilities.

The Inter-American Convention For The Elimination Of All Forms Of Discrimination Against Persons With Disabilities moves away from the more medical model used in prior inter-american human rights treaties moving more towards the social model of disability. Unlike the

⁵²⁴ Inter-American Convention for the Elimination of All Forms of Discrimination Against Persons with Disabilities, June 7, 1999, Organization of American States, AG/RES. 1608 (XXIX-0/99), , available at <http://www.oas.org/juridico/english/ga-res99/eres1608.htm>.

United Nations Convention on the Rights of Persons with Disabilities, it defines the term "disability." It also defines the phrase "discrimination against persons with disabilities". It is designed to allow disabled persons to fully integrate within society without being unjustly excluded on the basis of their disability. It calls for states to further justice for the disabled through legislation, social initiatives, education for the disabled and for others regarding acceptance of those with disabilities, and making buildings, methods of communication, recreation, offices, and homes available to be accessed by the disabled.

The Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities enforces the Convention. The committee will be composed of one representative per signatory state and will be in charge of evaluating state reports, sent every four years, on the progress of fulfilling the convention's measures for eliminating discrimination against persons with disabilities. The primary goal of the Convention is "to prevent and eliminate all forms of discrimination against persons with disabilities and to promote their full integration into society."

The Convention defines disability as "a physical, mental, or sensory impairment, whether permanent or temporary, that limits the capacity to perform one or more essential activities of daily life, and which can be caused or aggravated by the economic and social environment." The Convention states that discrimination against disabled persons has occurred where there has been: "any distinction, exclusion, or restriction based on a disability, record of disability, condition resulting from a previous disability, or perception of disability, whether present or past, which has the effect or objective of impairing or nullifying the recognition, enjoyment, or exercise by a person with a disability of his or her human rights and fundamental freedoms.

- i. Article III To achieve the objectives of this Convention, the states parties undertake:

To adopt the legislative, social, educational, labor-related, or any other measures needed to eliminate discrimination against persons with disabilities and to promote their full integration into society, including, but not limited to: Measures to eliminate discrimination gradually and to promote integration by government authorities and/or private entities in providing or making available goods, services, facilities, programs, and activities such as employment, transportation, communications, housing, recreation, education, sports, law enforcement and administration of justice, and political and administrative activities; Measures to ensure that new buildings, vehicles, and facilities constructed or manufactured within their respective territories facilitate transportation, communications, and access by persons with disabilities; Measures to eliminate, to the extent possible, architectural, transportation, and communication obstacles to facilitate access and use by persons with disabilities; and Measures to ensure that persons responsible for applying this Convention and domestic law in this area are trained to do so.

To work on a priority basis in the following areas: Prevention of all forms of preventable disabilities; Early detection and intervention, treatment, rehabilitation, education, job training, and the provision of comprehensive services to ensure the optimal level of independence and quality of life for persons with disabilities; and Increasing of public awareness through educational campaigns aimed at eliminating prejudices, stereotypes, and other attitudes that jeopardize the right of persons to live as equals, thus promoting respect for and coexistence with

persons with disabilities;

- ii. Article VI To achieve the objectives of this Convention, the states parties undertake to:

Cooperate with one another in helping to prevent and eliminate discrimination against persons with disabilities; Collaborate effectively in: Scientific and technological research related to the prevention of disabilities and to the treatment, rehabilitation, and integration into society of persons with disabilities; and The development of means and resources designed to facilitate or promote the independence, self-sufficiency, and total integration into society of persons with disabilities, under conditions of equality.

Cases brought under this Convention are primarily brought by individuals with mental disabilities who are tortured or treated inhumanely by Latin American countries or psychiatric hospitals or institutions as the country's agent. The petitioners in these cases argue the state deprived them of the Right to Life which is guaranteed under the American Convention. Article four of the American Convention states that "every person has the right to have his life respected. In the Villagrán Morales case from Guatemala, the Inter-American court has interpreted Article 4 broadly, recognizing that it is the state's duty to not only refrain from arbitrarily depriving an individual of life, but the state must also take affirmative measures to guarantee life and *life opportunities*.⁵²⁵

In Victor Rosario Congo, the IACHR found that Ecuador violated Article 5, Right to Humane Treatment, by placing the petitioner in an isolation cell. The IACHR stated that because the petitioner had a mental disability he was in a "particularly vulnerable position" making the state's violation relate also to the Inter-American Convention for the Elimination of All Forms of Discrimination Against Persons with Disabilities.⁵²⁶

5. Arab Region

Cairo Declaration on Human Rights in Islam, was issued in 1990 by Foreign ministers of Muslim countries. The declaration is a guiding document that does not require ratification.⁵²⁷ Arab Charter of Human Rights/Amended, was prepared by the Arab summit in Tunisia in may 2004 and it came into force on 15 march 2008.⁵²⁸ The human rights community expressed concerns regarding the effectiveness of the above two instruments.⁵²⁹ The organization of the Islamic conference (OIC) is reported to be in the process of creating a human rights mechanism, but it is still being developed. OIC is now organization of Islamic cooperation (June 2011). The OIC dropped "conference" in preference to "cooperation" and unveiled a new emblem recently at

⁵²⁵ The Case of Villagrán Morales, Preliminary Objections, Judgment of September 11, 1997, Inter-Am. Ct. H.R. (Ser. C) No. 32 (1997).

⁵²⁶ The Case Of Victor Rosario Congo, Annual Report Of The Inter-American Commission On Human Rights, Report 63/99, Case 11.427, Ecuador, OEA/Ser.L/V/II.102, Doc. 6 Rev. (1999).

⁵²⁷ <http://www1.umn.edu/humanrts/instree/cairodeclaration.html>; www.arabhumanrights.org

⁵²⁸ <http://www1.umn.edu/humanrts/instree/loas2005.html>

⁵²⁹ <http://www.unausa.org/page.aspx?pid=1061> and <http://www.cihrs.org/english/newssystem/articles/434.aspx>

the start of its council of foreign ministers annual meeting in the Kazakh Capital of Astana. It will now be called the organization of Islamic cooperation.⁵³⁰

⁵³⁰ See, organization of the islamic conference - ngo law monitor - research center – icnl available at: <http://www.icnl.org/research/monitor/oic.html>.

X. State Compliance with due diligence obligations

Ratification of the CRPD, the CEDAW, and the CRC is widespread. However, it has been more difficult to determine effective implementation of these obligations with regard to preventing and remedying violence against women with disabilities.

This section provides a brief survey of available information relevant to compliance with due diligence obligations on violence against women with disabilities in the following countries: Australia, Brazil, China, Haiti, India, Ireland, Jamaica, Japan, Mexico, Pakistan, Sierra Leone, Sri Lanka, and Uganda.

The information contained here results from a brief literature review and provides any available information on prevalence and any available disaggregated information on compound or multiple forms of discrimination that may intensify violence against women with disabilities (e.g., race, ethnicity, religion, or class). However such information is difficult to obtain because there is a general lack of information on women with disabilities, much less on specific subgroups among them. Obtaining large data sets has been problematic in this area, and most research is principally conducted through case studies.

A. Australia

1. International Law

Australia ratified CEDAW on July 28, 1983.⁵³¹ Acceded to Optional Protocol on December 4, 2008.⁵³² Australia ratified CRPD on July 17, 2008.⁵³³ Acceded to Optional Protocol on August 21, 2009.⁵³⁴ Australia ratified CRC on December 17, 1990.⁵³⁵

2. Domestic Law⁵³⁶

Sex Discrimination Act 1984 to implement CEDAW.⁵³⁷ The Act covers discrimination in the workplace, in education, and sexual harassment. It provides for the appointment of a Sex

⁵³¹ United Nations Office of High Commissioner on Human Rights, *Status By Country – Australia*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=9#9> (last visited Jul. 5, 2011).

⁵³² United Nations Office of High Commissioner on Human Rights, *Status By Country – Australia*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=9#9> (last visited Jul. 5, 2011).

⁵³³ United Nations Office of High Commissioner on Human Rights, *Status By Country – Australia*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=9#9> (last visited Jul. 5, 2011).

⁵³⁴ United Nations Office of High Commissioner on Human Rights, *Status By Country – Australia*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=9#9> (last visited Jul. 5, 2011).

⁵³⁵ United Nations Office of High Commissioner on Human Rights, *Status By Country – Australia*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=9#9> (last visited Jul. 5, 2011).

⁵³⁶ See Australia Human Rights Commission website at <http://www.humanrights.gov.au/index.htm> for information on addressing human rights issues such as discrimination.

Discrimination Commissioner. Equal Opportunity for Women in the Workplace Act of 1999 to promote equal opportunity for women based on merit.⁵³⁸ Disability Discrimination Act 1992 to implement International Labour Organisation Convention Concerning Discrimination in Respect of Employment and Occupation.⁵³⁹ This Act is implemented by the Australian Human Rights Commission, which is also responsible for CRPD. National Disability Strategy to implement CRPD.⁵⁴⁰ Signed by the Prime Minister of Australia and the State Premiers

3. Civil Society

NGOs are actively participating in the CRPD. NGO CPRD Shadow Report Project Group is working on a comprehensive shadow report to be submitted to the UN CRPD Committee in October of 2011. Seven Australia NGOs concerned with disability rights are participating.⁵⁴¹ “Women with Disabilities in Australia” is one group at the forefront of rights for women with disabilities in the country. It is comprised of other smaller NGOs and aims to be a national voice for women with disabilities.⁵⁴²

4. Statistics

1 in 5 women in Australia have experienced sexual violence. 1 in 3 women in Australia have experienced physical violence. There was a slight decrease in violence against women in Australia from 1996 to 2005.⁵⁴³ 20-30% of victims of sexual assault had some type of disability or special need.⁵⁴⁴ According to 1998 data, 19% of people in Australia aged 5-64 had some form of disability.⁵⁴⁵ Studies have shown that 10-20% of women experience various forms of sexual violence from non-partners, including unwanted sexual contact, rape, and attempted rape.⁵⁴⁶

B. Brazil

1. International Law

⁵³⁷ Sex Discrimination Act of 1984, available at <http://www.comlaw.gov.au/Details/C2011C00443>

⁵³⁸ Equal Opportunity in the Workplace Act of 1999 available at <http://www.comlaw.gov.au/Details/C2009C00329>.

⁵³⁹ Disability Discrimination Act of 1992 (amended 2009), available at <http://www.comlaw.gov.au/Series/C2004A04426>.

⁵⁴⁰ National Disability Strategy, http://www.coag.gov.au/coag_meeting_outcomes/2011-02-13/docs/national_disability_strategy_2010-2020.pdf. (last visited Feb. 10, 2012).

⁵⁴¹ Human Rights for People with Disabilities, Australian Shadow Report Project, <http://www.disabilityrightsnow.org.au/node/15>. (last visited, Feb. 10, 2012)

⁵⁴² Information about Women with Disabilities Australia (WWDA) <http://www.wwda.org.au/about.htm> (last visited Mar 19, 2012).

⁵⁴³ Author, *Measuring Domestic Violence and Sexual Assault against Women: A Review of Literature and the Statistics*, <http://www.aph.gov.au/library/intguide/sp/ViolenceAgainstWomen.htm> (last visited Feb. 10, 2012)

⁵⁴⁴ *Id.*; See *Sexual Assault in Australia: A Statistical Overview* for data on the breakdown on the type of disability, available at: <http://www.abs.gov.au/Ausstats/abs@.nsf/0/5AA0527434AF9CADCA256ED90079344D?Open> for more information on women with disabilities in Australia, see <http://www.wwda.org.au/snapshot.htm>.

⁵⁴⁵ *Disability Support and Services in Australia*, <http://www.aph.gov.au/library/intguide/sp/disability.htm>. (last visited Feb. 10, 2012).

⁵⁴⁶ The Secretary-General, In-depth study on all forms of violence against women, 41, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc., available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/419/74/PDF/N0641974.pdf?OpenElement>.

Brazil ratified CEDAW on February 1, 1984 with a reservation.⁵⁴⁷ Optional Protocol ratified on June 28, 2002.⁵⁴⁸ Brazil ratified CRPD on August 1, 2008.⁵⁴⁹ Brazil ratified the optional protocol of the CRPD on the same day.⁵⁵⁰ Brazil ratified CRC on September 24, 1990.⁵⁵¹ Brazil ratified Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities on July 17, 2001.⁵⁵²

2. Domestic Law

Rights of Persons with Disabilities, Law No. 7.853- provides basic rights for individuals with disabilities in Brazil for access to education, work and vocational training, health and criminalizes discrimination against persons with disabilities.⁵⁵³ Law No. 11.340 was passed to implement CEDAW and the Brazilian Constitution; it recognizes the fundamental right of all women to live without violence and the effective exercise of many basic rights (life, nutrition, culture, etc.)⁵⁵⁴ This is known as the Maria de Penha law. Brazilian Constitution Art. 226- Paragraph 5- rights and duties of marital society shall be exercised equally by the man and the woman. Paragraph 8- the state shall ensure assistance to each member of the family by creating mechanisms to suppress violence within the family.⁵⁵⁵ Law No. 7353 created the "Conselho Nacional dos Direitos da Mulher" (or National Council on Women's Rights) to promote the elimination of discrimination against women.⁵⁵⁶ Law No. 10406 codifies equality between spouses.⁵⁵⁷

3. Civil Society

⁵⁴⁷ United Nations Office of High Commissioner on Human Rights, *Status By Country – Brazil*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=24#24> (last visited Jul. 5, 2011).

⁵⁴⁸ United Nations Office of High Commissioner on Human Rights, *Status By Country – Brazil*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=24#24> (last visited Jul. 5, 2011).

⁵⁴⁹ United Nations Office of High Commissioner on Human Rights, *Status By Country – Brazil*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=24#24> (last visited Jul. 5, 2011).

⁵⁵⁰ United Nations Office of High Commissioner on Human Rights, *Status By Country – Brazil*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=24#24> (last visited Jul. 5, 2011).

⁵⁵¹ United Nations Office of High Commissioner on Human Rights, *Status By Country – Brazil*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=24#24> (last visited Jul. 5, 2011).

⁵⁵² Department of International Law, Organization of American States, Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, <http://www.oas.org/juridico/english/sigs/a-65.html>. (last visited Feb. 10, 2012).

⁵⁵³ Lei No. 7.853, de 24 de Outubro de 1989 (Brazil).

⁵⁵⁴ Lei No. 11.340, de 7 de Agosto de 2006 (Brazil).

⁵⁵⁵ C.F. Art. 226

⁵⁵⁶ Lei No. 7353, de 29 de Agosto de 1985 (Brazil).

⁵⁵⁷ Lei No. 10.406, de 10 de Janeiro de 2002.

Brazil's civil society has been actively engaged in CEDAW and has submitted shadow reports to the Commission. A series of actions and protests were organized in Brazil in 2006 to publicize the issue of violence against women.⁵⁵⁸

4. *Statistics*

12 million individuals in Brazil have some type of disability.⁵⁵⁹ In 2006 over the span of 6 months, there was 1 killing per day of women in the Federal District of Pernambuco.⁵⁶⁰ 1 in 4 women in Brazil have been victims of domestic violence.⁵⁶¹

C. Canada

Case Study: *R. v. D.A.I.*⁵⁶² A recent case from the Canadian Supreme Court offers a poignant case study of the challenges facing women with disabilities as they navigate the court system. The case, *R. v. D.A.I.*, involved an allegation by a woman with an intellectual disability that her step-father played “games” with her, which involved him touching her genitals, breasts and buttocks. She gave a videotaped statement to the police describing the assaults and she gave evidence at a preliminary inquiry. At trial, the accused challenged the complainant’s competence to testify. Under the Canada Evidence Act, if an adult witness cannot understand the meaning of an oath or solemn affirmation, that person can still testify provided they can communicate the evidence and they promise to tell the truth. At the trial level, the judge was not satisfied with the witness’ answer to a host of questions, such as “what do you think about the truth?” and “if you don’t tell the truth do you go to jail?” Because the judge did not think that the witness was competent and understood what it meant to tell the truth, her statements were excluded and the accused was acquitted.

On appeal, the Canadian Supreme Court held that the trial court should not have asked the witness such searching questions about the nature of truth and falsity and the legal ramifications of failing to tell the truth. The Court held that the Canadian rules of evidence, which has specific rules for testimony by people with mental disabilities, required the judge to admit the evidence because the witness was able to promise to tell the truth. The Court found that by enacting a statute that permits people with mental disabilities to testify, even if they do not understand the nature of an oath or affirmation, the parliament intended to make it easier for

⁵⁵⁸ Shadow Report of Civil Society, *Brazil and Compliance with CEDAW*, The Sixth National Report of Brazil on the Convention on the Elimination of All Forms of Discrimination Against Women- 2001-2005 period 6 (June 2007), http://www.iwraw-ap.org/resources/pdf/BRAZIL_SHADOWREPORT_CEDAW_June,18%5B1%5D.pdf. (last visited Feb. 10, 2012)

⁵⁵⁹ General Information, People with Disabilities, <http://www.cedipod.org.br/w6causas.htm>. (last visited Feb. 10, 2012)

⁵⁶⁰ Shadow Report of Civil Society, *Brazil and Compliance with CEDAW*, The Sixth National Report of Brazil on the Convention on the Elimination of All Forms of Discrimination Against Women- 2001-2005 period 7 (June 2007), http://www.iwraw-ap.org/resources/pdf/BRAZIL_SHADOWREPORT_CEDAW_June,18%5B1%5D.pdf. (last visited Feb. 10, 2012).

⁵⁶¹ Shadow Report of Civil Society, *Brazil and Compliance with CEDAW*, The Sixth National Report of Brazil on the Convention on the Elimination of All Forms of Discrimination Against Women- 2001-2005 period 7 (June 2007), http://www.iwraw-ap.org/resources/pdf/BRAZIL_SHADOWREPORT_CEDAW_June,18%5B1%5D.pdf. (last visited Feb. 10, 2012).

⁵⁶² *R. v. D.A.I.* (Supreme Court of Canada) (Released Feb. 10, 2012).

judges to find these witnesses competent to testify. The Supreme Court remanded the case for a new trial.

The Supreme Court of Canada made clear that Parliament intended to accommodate witnesses with mental disabilities. The Court pointed out that “questioning an adult with mental disabilities requires consideration and accommodation for her particular needs; questions should be phrased patiently in a clear, simple manner.” In other words, the Canadian courts must be more accommodating to witnesses with disabilities in order to comport with Parliament’s view that a promise to tell the truth is sufficient to allow a person with a disability to testify. Intense questioning of the witnesses’ understanding of the truth or of the legal consequences of failing to tell the truth fails to recognize the fact that these witnesses are capable of providing truthful and relevant testimony even if they cannot present it in a “typical” way or take an oath in the traditional sense of the word.

While the Supreme Court’s opinion does indicate a movement in Canada to be more flexible with witness requirements when dealing with witnesses with disabilities, the fact that the witness was excluded from testifying in the first place reflects a continuing distrust of the competency of witnesses with disabilities. This decision may pave the way for more flexible, case-by-case examination of witness competency, rather than reinforcing the stereotype that people with cognitive disabilities should not serve as witnesses.

D. China

1. International Law

China ratified CEDAW on February 1, 1980.⁵⁶³ Optional Protocol ratified June 28, 2001.⁵⁶⁴ China ratified CRPD on August 1, 2008.⁵⁶⁵ No action on Optional Protocol.⁵⁶⁶ China ratified CRC with a reservation on March 2, 1992.⁵⁶⁷

2. Domestic Law

The rights of persons with disabilities are elaborated in the Constitution, the Labor Law, and the Law on the Protection of Disabled Persons (“LPDP”).⁵⁶⁸ The Chinese Constitution

⁵⁶³ United Nations Office of High Commissioner on Human Rights, *Status By Country – China*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=36#36> (last visited Jul. 5, 2011).

⁵⁶⁴ United Nations Office of High Commissioner on Human Rights, *Status By Country – China*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=36#36> (last visited Jul. 5, 2011).

⁵⁶⁵ United Nations Office of High Commissioner on Human Rights, *Status By Country – China*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=36#36> (last visited Jul. 5, 2011).

⁵⁶⁶ United Nations Office of High Commissioner on Human Rights, *Status By Country – China*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=36#36> (last visited Jul. 5, 2011).

⁵⁶⁷ United Nations Office of High Commissioner on Human Rights, *Status By Country – China*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=36#36> (last visited Jul. 5, 2011).

provides for a right to work and equality for all people.⁵⁶⁹ There are also provisions on a right to material assistance for the disabled.⁵⁷⁰ These are substantive grants of rights under the Constitution. Those who become disabled as a result of employment are supposed to be given full social insurance as well.⁵⁷¹ The Law on the Protection of Rights of Women of 1992 states that women have equal rights as men.⁵⁷² The Law on the Protection of Disabled Persons of 1990 addresses rehabilitation, education, employment, cultural life, welfare, access, and the legal liability of those with disabilities.⁵⁷³ The State Council Coordination Committee on Disability (SCCCD) is the national coordinating body for disability policy in China.⁵⁷⁴ Ministry of Health and Civil Affairs administers disability law.⁵⁷⁵ Other laws and regulations on disability can be found at the footnoted citation.⁵⁷⁶

3. *Civil Society*

In October 2004, NGOs and government sponsored an Information Accessibility Seminar.⁵⁷⁷ The China Disabled Persons' Federation (CDPF) is a national umbrella organization of and for people with various forms of disabilities.⁵⁷⁸

4. *Statistics*

There are 81 million people with disabilities in China, representing 6.3% of its population.⁵⁷⁹ Fifteen percent of women report being physically abused by their spouses over their lifetime.⁵⁸⁰ Helpful gender disaggregated data on women with disabilities appears at the

⁵⁶⁸ Cerise Fritsch, *Right to Work? A Comparative Look at China and Japan's Labor Rights for Disabled Persons*, 6 Loy. U. Chi. Int'l L. Rev. 403, 413 (2009)

⁵⁶⁹ Xian Fa art. 33 (1982) (P.R.C.), available at <http://english.peopledaily.com.cn/constitution/constitution.html>.

⁵⁷⁰ Xian Fa art. 42-45 (1982) (P.R.C.), available at <http://english.peopledaily.com.cn/constitution/constitution.html>.

⁵⁷¹ Labor Law (promulgated by the Standing Comm. Nat'l People's Cong., July 5, 1994, effective Jan. 1, 1995) art. 73 (P.R.C.).

⁵⁷² Zhonghua renmin gongheguo funu quanyi baozhangfa {Law of the People's Republic of China on the Protection of Women's Rights and Interests}, art. 2, Fagui Huibian 1992, 27

⁵⁷³ *Law of the People's Republic of China on the Protection of Persons with Disabilities*, available at http://www.cdpcf.org.cn/english/law/content/2008-04/10/content_84949.htm (last visited Jul. 6, 2011).

⁵⁷⁴ IDEANet, *IDRM Publications – China*, <http://www.ideanet.org/content.cfm?id=585870> (last visited Jul. 6, 2011).

⁵⁷⁵ JAPAN INTERNATIONAL COOPERATION AGENCY, *Country Profile on Disability – People's Republic of China*, http://siteresources.worldbank.org/DISABILITY/Resources/Regions/East-Asia-Pacific/JICA_China.pdf (last visited Feb. 10, 2012).

⁵⁷⁶ JAPAN INTERNATIONAL COOPERATION AGENCY, *Country Profile on Disability – People's Republic of China*, 9-11 http://siteresources.worldbank.org/DISABILITY/Resources/Regions/East-Asia-Pacific/JICA_China.pdf (last visited Feb. 10, 2012)

⁵⁷⁷ IDEANet, *IDRM Publications – China*, <http://www.ideanet.org/content.cfm?id=585870> (last visited Jul. 6, 2011).

⁵⁷⁸ IDEANet, *IDRM Publications – China*, <http://www.ideanet.org/content.cfm?id=585870> (last visited Jul. 6, 2011).

⁵⁷⁹ Cerise Fritsch, *Right to Work? A Comparative Look at China and Japan's Labor Rights for Disabled Persons*, 6 Loy. U. Chi. Int'l L. Rev. 403, 413 (2009) available at <http://www.ifpri.org/sites/default/files/publications/oc63ch37.pdf>;

⁵⁸⁰ The Secretary-General, *In-depth study on all forms of violence against women*, 54, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc., A/61/122/Add.1

footnoted citation.⁵⁸¹ The majority of the women in the data set have hearing or speech impairments.⁵⁸²

E. Haiti

1. *International Law*

Haiti ratified CEDAW on July 20, 1981.⁵⁸³ No action on Optional Protocol.⁵⁸⁴ Haiti acceded to CRPD on July 23, 2009.⁵⁸⁵ Accession to Optional Protocol on the same day.⁵⁸⁶ Haiti ratified CRC on June 8, 1995.⁵⁸⁷

2. *Domestic Law*

Code of Criminal Procedure was amended to protect women and children from sexual abuse and violence.⁵⁸⁸ Elimination and prohibition of abuse and mistreatment of children.⁵⁸⁹

3. *Civil Society*

MADRE, an international NGO, works to address a variety of women's human rights issues in Haiti.⁵⁹⁰ KOFIVIV was established by rape survivors and serves the poorest women of Port au Prince.⁵⁹¹ A list of other organizations that participate in women's rights / gender

⁵⁸¹ JAPAN INTERNATIONAL COOPERATION AGENCY, *Country Profile on Disability – People's Republic of China*, http://siteresources.worldbank.org/DISABILITY/Resources/Regions/East-Asia-Pacific/JICA_China.pdf (last visited Feb. 10, 2012).

⁵⁸² JAPAN INTERNATIONAL COOPERATION AGENCY, *Country Profile on Disability – People's Republic of China*, http://siteresources.worldbank.org/DISABILITY/Resources/Regions/East-Asia-Pacific/JICA_China.pdf (last visited Feb. 10, 2012).

⁵⁸³ United Nations Office of High Commissioner on Human Rights, *Status By Country – Haiti*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=74&Count=15&Expand=74#74> (last visited Jul. 5, 2011).

⁵⁸⁴ United Nations Office of High Commissioner on Human Rights, *Status By Country – Haiti*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=74&Count=15&Expand=74#74> (last visited Jul. 5, 2011).

⁵⁸⁵ United Nations Office of High Commissioner on Human Rights, *Status By Country – Haiti*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=74&Count=15&Expand=74#74> (last visited Jul. 5, 2011).

⁵⁸⁶ United Nations Office of High Commissioner on Human Rights, *Status By Country – Haiti*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=74&Count=15&Expand=74#74> (last visited Jul. 5, 2011).

⁵⁸⁷ United Nations Office of High Commissioner on Human Rights, *Status By Country – Haiti*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=74#74> (last visited Jul. 5, 2011).

⁵⁸⁸ Décret of 6 Jul 2005 in *Le Moniteur* 11 Aug 2005, available at <http://0-www.foreignlawguide.com.ilsprod.lib.neu.edu/ip/flg/Haiti.htm#FAMILY>; <http://snurl.com/27xne0>.

⁵⁸⁹ Loi of 13 May 2003 in *Le Moniteur* 5 Jun 2003

⁵⁹⁰ MADRE – *Who We Are*, <http://www.madre.org/index/meet-madre-1/who-we-are-49.html> (last visited Jul. 6, 2011).

⁵⁹¹ MADRE: KOFIVIV: *Zanmi Lasante*, <http://www.madre.org/index/meet-madre-1/our-partners-6/haiti-kofaviv--zanmi-lasante-36.html> (last visited Jul. 6, 2011).

violence reform is found in a recent CEDAW Shadow Report.⁵⁹² According to NGOs, a more focused effort to provide medical services to the disabled is required.⁵⁹³ A national plan for women with disabilities is also needed.⁵⁹⁴ Currently there are no government-sponsored services for women and girls with disabilities.⁵⁹⁵

4. *Statistics*

Over two hundred cases of rape were reported within a few months after the catastrophic earthquake in January 2010.⁵⁹⁶ Solidarité des Femmes Haïtiennes (SOFA) estimates that eight in ten Haitian women have experienced domestic abuse; in half of these cases, the husband or partner is the perpetrator.⁵⁹⁷ In Haiti, 21% of women stated they were physically abused in the last 12 months.⁵⁹⁸ That number is 29% for the lifetime of the woman.⁵⁹⁹ 90% of women in Haiti have experienced gender-based violence in their lives.⁶⁰⁰

F. India

1. *International Law*

India ratified CEDAW on July 9, 1993 with a reservation.⁶⁰¹ No action on Optional Protocol.⁶⁰² India ratified CRPD on October 1, 2007.⁶⁰³ India has not signed the CRPD optional protocol.⁶⁰⁴ India acceded to CRC on December 11, 1992.⁶⁰⁵

⁵⁹² HAITI EQUALITY COLLECTIVE, *The Haiti Gender Shadow Report 3* (2010), <http://www.genderaction.org/publications/2010/gsr.pdf> (last visited Jul. 6, 2011).

⁵⁹³ HAITI EQUALITY COLLECTIVE, *The Haiti Gender Shadow Report 5* (2010), <http://www.genderaction.org/publications/2010/gsr.pdf> (last visited Jul. 6, 2011).

⁵⁹⁴ HAITI EQUALITY COLLECTIVE, *The Haiti Gender Shadow Report 23* (2010), <http://www.genderaction.org/publications/2010/gsr.pdf> (last visited Jul. 6, 2011).

⁵⁹⁵ HAITI EQUALITY COLLECTIVE, *The Haiti Gender Shadow Report 23* (2010), <http://www.genderaction.org/publications/2010/gsr.pdf> (last visited Jul. 6, 2011).

⁵⁹⁶ MassLegalHelp, *Violence Against Women in Haiti*, <http://www.masslegalhelp.org/immigration/haiti/violence-against-women> (last visited Jul. 6, 2011).

⁵⁹⁷ Social Institutions & Gender Index, *Gender Equality and Social Institutions in Haiti*, <http://genderindex.org/country/haiti> (last visited Jul. 6, 2011).

⁵⁹⁸ The Secretary-General, In-depth study on all forms of violence against women, 53, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc.

⁵⁹⁹ The Secretary-General, In-depth study on all forms of violence against women, 53, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc.

⁶⁰⁰ Inter-American Commission on Human Rights, *The Right of Women to be Free from Violence and Discrimination in Haiti*, http://www.cidh.org/countryrep/Haitimujer2009eng/HaitiWomen09.Intro.Chap.IandII.htm#_ftnref54 (last visited Jul. 6, 2011).

⁶⁰¹ United Nations Office of High Commissioner on Human Rights, *Status By Country – India*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=79#79> (last visited Jul. 5, 2011).

⁶⁰² United Nations Office of High Commissioner on Human Rights, *Status By Country – India*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=79#79> (last visited Jul. 5, 2011).

2. Domestic Law / Government Action

The Persons with Disabilities Act of 1995 is a comprehensive statute, however it does not specifically address violence against women with disabilities.⁶⁰⁶ The PWD Act of 1995 fails to obligate government in implementing CRPD.⁶⁰⁷ Criminal Law Amendment Bill of 2006 attempted to bring minimum punishment and burden shifting in violence against women with disabilities matters.⁶⁰⁸ Forced sterilizations have been a problem in India at least since the administration of Indira Gandhi. However, in 1994, women with disabilities were found to be a particular target of forced sterilizations.⁶⁰⁹

National Trust for Welfare of Persons with Autism, Cerebral palsy, Mental Disability and Multiple Disability Act of 1999 provides for legal guardianship and independent living.⁶¹⁰ Rehabilitation Council of India Act, 1992 funds rehab services.⁶¹¹ India's laws for people with disabilities seem welfare based rather than personal empowerment or fostering independence.⁶¹² Indian Constitution prohibits discrimination for sex or disability.⁶¹³ Although this is part of constitutional text, a "public interest litigation"/ "social action litigation" culture did not emerge until the 1980s when activist lawyers and judges began to more assertively implement this language.⁶¹⁴ Incidence of rape against women while in police custody has been identified as a problem.⁶¹⁵

⁶⁰³ United Nations Office of High Commissioner on Human Rights, *Status By Country – India*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=79#79> (last visited Jul. 5, 2011).

⁶⁰⁴ United Nations Office of High Commissioner on Human Rights, *Status By Country – India*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=79#79> (last visited Jul. 5, 2011).

⁶⁰⁵ United Nations Office of High Commissioner on Human Rights, *Status By Country – India*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=79#79> (last visited Jul. 5, 2011).

⁶⁰⁶ Swagata Raha, *Protecting women with disabilities from violence*, Infochangeindia, <http://infochangeindia.org/disabilities/backgrounder/protecting-women-with-disabilities-from-violence.html> (last visited Jul. 7, 2011).

⁶⁰⁷ Swagata Raha, *Protecting women with disabilities from violence*, Infochangeindia, <http://infochangeindia.org/disabilities/backgrounder/protecting-women-with-disabilities-from-violence.html> (last visited Jul. 7, 2011).

⁶⁰⁸ Swagata Raha, *Protecting women with disabilities from violence*, Infochangeindia, <http://infochangeindia.org/disabilities/backgrounder/protecting-women-with-disabilities-from-violence.html> (last visited Jul. 7, 2011).

⁶⁰⁹ Swagata Raha, *Protecting women with disabilities from violence*, Infochangeindia, <http://infochangeindia.org/disabilities/backgrounder/protecting-women-with-disabilities-from-violence.html> (last visited Jul. 7, 2011).

⁶¹⁰ Centre for Legislative Research and Advocacy, *Indian Disability Laws – an obsolete picture*, 2 (Aug. 2008), http://www.dpiap.org/resources/pdf/DPbriefnoCLRA_11_05_16.pdf. (last visited Feb. 10, 2012).

⁶¹¹ Centre for Legislative Research and Advocacy, *Indian Disability Laws – an obsolete picture*, 2 (Aug. 2008), http://www.dpiap.org/resources/pdf/DPbriefnoCLRA_11_05_16.pdf. (last visited Feb. 10, 2012).

⁶¹² Centre for Legislative Research and Advocacy, *Indian Disability Laws – an obsolete picture*, 2 (Aug. 2008), http://www.dpiap.org/resources/pdf/DPbriefnoCLRA_11_05_16.pdf. (last visited Feb. 10, 2012).

⁶¹³ Indian Const. §§ 14-15

⁶¹⁴ Jayanth K. Krishnan, *Lawyering for A Cause and Experiences from Abroad*, 94 Cal. L. Rev. 575, 596 (2006)

⁶¹⁵ Jayanth K. Krishnan, *Lawyering for A Cause and Experiences from Abroad*, 94 Cal. L. Rev. 575, 599 (2006).

3. Civil Society

The essay cited below on the status of women with disabilities is a good resource for both India and Pakistan.⁶¹⁶ Violence in India generally, including violence directed at women, is highly politicized and fraught with religious overtones.⁶¹⁷ The Ministry of Social Justice and Empowerment connects NGOs and the public with information and publicity materials in regard to disability related issues.⁶¹⁸ National Association for the Blind is the major NGO for people with visual impairments.⁶¹⁹ India's national TV station has sign language news and closed captioning.⁶²⁰ AWWD focuses on empowerment and mainstreaming of women with disabilities.⁶²¹

4. Statistics

Almost 2% of India's population (making up 16% of the world) is disabled.⁶²² One study, based in Orissa, India noted that all women with disabilities were beaten at home and many raped.⁶²³ This source notes that as a general matter throughout the world, violence against people with disabilities is largely directed at women.⁶²⁴ 90% of India's children with disabilities are not in school.⁶²⁵ 36% of people with disabilities in India are minors under 19 years of age.⁶²⁶ Over ten percent of people with disabilities in India have more than one kind of disability.⁶²⁷ The literacy rate for women is lower than that of men, and even lower still for people with disabilities.⁶²⁸ However, there is a severe lack of gender specific data for women.

G. Ireland

1. International Law

⁶¹⁶ Maya Thomas, *The Status of Women with Disabilities in South Asia*, available at

<http://www.aifo.it/english/resources/online/apdrj/selread102/thomas.doc> (last visited Jul. 7, 2011).

⁶¹⁷ Smita Narula, *Overlooked Danger: The Security and Rights Implications of Hindu Nationalism in India*, 16 Harv. Hum. Rts. J. 41, 48 (2003)

⁶¹⁸ IDEANet, *IDRM Report India*, <http://www.ideanet.org/content.cfm?id=585871> (last visited Jul. 7, 2011).

⁶¹⁹ IDEANet, *IDRM Report India*, <http://www.ideanet.org/content.cfm?id=585871> (last visited Jul. 7, 2011).

⁶²⁰ IDEANet, *IDRM Report India*, <http://www.ideanet.org/content.cfm?id=585871> (last visited Jul. 7, 2011).

⁶²¹ AWWD (Association of Women with Disabilities), About Us, <http://www.awwdindia.org/about.html> (last visited DATE).

⁶²² IDEANet, *IDRM Report India*, <http://www.ideanet.org/content.cfm?id=585871> (last visited Jul. 7, 2011).

⁶²³ Don MacKay, *The United Nations Convention on the Rights of Persons with Disabilities*, 34 Syracuse J. Int'l L. & Com. 323, 325 (2007)

⁶²⁴ Swagata Raha, *Protecting women with disabilities from violence*, Infochangeindia,

<http://infochangeindia.org/disabilities/backgrounder/protecting-women-with-disabilities-from-violence.html> (last visited Jul. 7, 2011).

⁶²⁵ Centre for Legislative Research and Advocacy, *Indian Disability Laws – an obsolete picture*, 2 (Aug. 2008), http://www.dpiap.org/resources/pdf/DPbriefnoCLRA_11_05_16.pdf.

⁶²⁶ Centre for Legislative Research and Advocacy, *Indian Disability Laws – an obsolete picture*, 2 (Aug. 2008), http://www.dpiap.org/resources/pdf/DPbriefnoCLRA_11_05_16.pdf.

⁶²⁷ IDEANet, *IDRM Report India*, <http://www.ideanet.org/content.cfm?id=585871> (last visited Jul. 7, 2011).

⁶²⁸ IDEANet, *IDRM Report India*, <http://www.ideanet.org/content.cfm?id=585871> (last visited Jul. 7, 2011).

Ireland acceded CEDAW on 12/23/1985 with reservations.⁶²⁹ These reservations seem to indicate preferential treatment of women.⁶³⁰ OP ratified 9/7/2000.⁶³¹ Ireland has not ratified but signed CRPD on March 30, 2007.⁶³² Ireland is not a signatory to the CRPD optional protocol.⁶³³ Ireland ratified CRC on 9/28/1992.⁶³⁴

2. Domestic Law

The Equality Act of 2004- to achieve equality between men and women, also for persons with disabilities.⁶³⁵ The Equal Status Act of 2000- to prohibit harassment and discrimination against persons with disabilities and others.⁶³⁶ The Domestic Violence Act of 1999.⁶³⁷

3. Civil Society

NGOs in Ireland are actively involved in CEDAW participation through the use of shadow reports.⁶³⁸ National Disability Authority is an independent state body specializing in disability rights issues. It commissioned a review of literature on women and disability to intersections of issues (this paper does not consider violence against women with disabilities but may be useful nonetheless). Cultural and social acceptance of violence against women with disabilities is the largest barrier to addressing the problem.⁶³⁹ Disability Law Center is based at National University of Ireland, Galway, and directed by Professor Gerard Quinn, a leading international human rights and disability rights scholar and advocate.

4. Statistics

⁶²⁹ United Nations Office of High Commissioner on Human Rights, *Status By Country – Ireland*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=83#83> (last visited Jul. 5, 2011).

⁶³⁰ See *supra* note 95.

⁶³¹ United Nations Office of High Commissioner on Human Rights, *Status By Country – Ireland*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=83#83> (last visited Jul. 5, 2011).

⁶³² United Nations Office of High Commissioner on Human Rights, *Status By Country – Ireland*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=83#83> (last visited Jul. 5, 2011).

⁶³³ United Nations Office of High Commissioner on Human Rights, *Status By Country – Ireland*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=83#83> (last visited Jul. 5, 2011).

⁶³⁴ United Nations Office of High Commissioner on Human Rights, *Status By Country – Ireland*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=83#83> (last visited Jul. 5, 2011).

⁶³⁵ The Equality Act of 2004, available at <http://www.irishstatutebook.ie/2004/en/act/pub/0024/print.html>.

⁶³⁶ The Equality Act of 2004, available at <http://www.irishstatutebook.ie/2004/en/act/pub/0024/print.html>.

⁶³⁷ The Domestic Violence Act of 1999, available at <http://www.irishstatutebook.ie/1996/en/act/pub/0001/print.html>

⁶³⁸ See Ireland Shadow Report: Domestic Violence, [http://www.iwraw-ap.org/resources/pdf/Ireland\(2\).pdf](http://www.iwraw-ap.org/resources/pdf/Ireland(2).pdf). (last visited Feb. 10, 2012).

⁶³⁹ WERRC, A Review of Literature on Women and Disability ([http://www.nda.ie/website/nda/cntmgmtnew.nsf/0/BF3A14B644017A648025729D0051DD2B/\\$File/Exploring_the_research_and_policy_gaps.pdf](http://www.nda.ie/website/nda/cntmgmtnew.nsf/0/BF3A14B644017A648025729D0051DD2B/$File/Exploring_the_research_and_policy_gaps.pdf)). (Last visited Feb. 10, 2012).

Adults in Ireland with severe disabilities were 2.9 times more likely to experience abuse than other adults.⁶⁴⁰

H. Jamaica

1. International Law

Jamaica signed and ratified CRPD on March 30, 2007 and was the first country to do so.⁶⁴¹ Signed the optional protocol as well.⁶⁴² Jamaica ratified CEDAW on July 17, 1980.⁶⁴³ No action on optional protocol.⁶⁴⁴ Jamaica ratified CRC on January 26, 1990.⁶⁴⁵

2. Domestic Law / Government Action

Jamaica has also sought to implement domestic legislation to ensure that the goals of CEDAW are met within its borders.⁶⁴⁶ However, it has not done so in a comprehensive fashion. The 2004 amendments to the 1996 Domestic Violence Act were a major breakthrough.⁶⁴⁷ The intent of the law was to broaden the scope of who qualifies as an abuser.⁶⁴⁸ The Maintenance Act of 2005 requires that parents care for their unmarried disabled children.⁶⁴⁹ National

⁶⁴⁰ *Prevalence of Abuse of People with Disabilities: Briefing Paper by the NDA*, [http://www.nda.ie/website/nda/cntmgmtnew.nsf/0/CE957ED7DA23464B802576CB005B809A/\\$File/SexualAbuse2008_03.htm#fn9](http://www.nda.ie/website/nda/cntmgmtnew.nsf/0/CE957ED7DA23464B802576CB005B809A/$File/SexualAbuse2008_03.htm#fn9). (Last visited Feb. 10, 2012).

⁶⁴¹ United Nations Office of High Commissioner on Human Rights, *Status By Country – Jamaica*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=86#86> (last visited Jul. 5, 2011).

⁶⁴² United Nations Office of High Commissioner on Human Rights, *Status By Country – Jamaica*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=86#86> (last visited Jul. 5, 2011).

⁶⁴³ United Nations Office of High Commissioner on Human Rights, *Status By Country – Jamaica*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=86#86> (last visited Jul. 5, 2011).

⁶⁴⁴ United Nations Office of High Commissioner on Human Rights, *Status By Country – Jamaica*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=86#86> (last visited Jul. 5, 2011).

⁶⁴⁵ United Nations Office of High Commissioner on Human Rights, *Status By Country – Jamaica*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=86#86> (last visited Jul. 5, 2011).

⁶⁴⁶ Barbara Bailey, *Permanent Mission of Jamaica to the United Nations* (Aug. 11, 2006), http://www.un.org/womenwatch/daw/cedaw/cedaw36/Jamaica_Intro.pdf. (Last visited Feb. 10, 2012)

⁶⁴⁷ Immigration and Refugee Board of Canada, *Jamaica: Legislation governing domestic violence and its enforcement (2004 - 2007)* (Apr. 30 2007), <http://www.unhcr.org/refworld/docid/469cd69818.html> (Last visited Feb. 10, 2012)

⁶⁴⁸ Amnesty International, *Sexual violence against women and girls in Jamaica: “just a little sex,”* 29 (Jun. 21, 2006), <http://www.amnesty.org/en/library/asset/AMR38/002/2006/en/d61bb513-d438-11dd-8743-d305bea2b2c7/amr380022006en.pdf> (Last visited Feb. 10, 2012)

⁶⁴⁹ The Maintenance Act of 2005, <http://www.moj.gov.jm/laws/statutes/Maintenance%20Act.pdf> (last visited Jun. 30, 2011).

Disability Act was proposed several times since 2003 but never passed.⁶⁵⁰ There is a national policy on disabilities but it is not judicially enforceable.⁶⁵¹

Amnesty International argues that there has been inadequate national legislation in Jamaica to rectify the problem of violence against women in general.⁶⁵² There are no laws against sexual harassment.⁶⁵³ This then makes it a problem to identify actors that are engaging in violence against women with disabilities if women are not afforded simpler protections. Jamaica has a total exemption from income tax for the disabled.⁶⁵⁴ Very few disabled women find work and remain unemployed.⁶⁵⁵ Women with certain disabilities may be barred from exercising their right to vote; however, the Constitution seems to have contradictory provisions on this issue.⁶⁵⁶

Jamaica Council for Persons with Disabilities is responsible for providing employment for people with disabilities.⁶⁵⁷ The Jamaican government began a project in 2000 called “Enabling the Disabled through Information Technology” with a goal of training people with disabilities for the workforce.⁶⁵⁸ Government assisted housing via the National Housing Trust provides assisted mortgages for those with disabilities.⁶⁵⁹ Government admits that with respect to VAW, an official housing database needs to be created for spousal abuse.⁶⁶⁰

3. Statistics on Women with Disabilities

⁶⁵⁰ IdeaNet, *International Disability Rights Monitor Publications*, <http://www.ideanet.org/content.cfm?id=5B5C74> (last visited Jun. 30, 2011); Phillip Hamilton, *Crippled by a Non-Existent Disability Act*, THE JAMAICA GLEANER, Feb. 2, 2011.

⁶⁵¹ IdeaNet, *International Disability Rights Monitor Publications*, <http://www.ideanet.org/content.cfm?id=5B5C74> (last visited Jun. 30, 2011)

⁶⁵² IdeaNet, *International Disability Rights Monitor Publications*, <http://www.ideanet.org/content.cfm?id=5B5C74> (last visited Jun. 30, 2011)

⁶⁵³ IdeaNet, *International Disability Rights Monitor Publications*, <http://www.ideanet.org/content.cfm?id=5B5C74> (last visited Jun. 30, 2011)

⁶⁵⁴ Jamaica Tax Administration Online, *Tax Exemption and Relief*, http://www.jamaicatax-online.gov.jm/exemption_relief.html (last visited Jun. 30, 2011).

⁶⁵⁵ IdeaNet, *International Disability Rights Monitor Publications*, <http://www.ideanet.org/content.cfm?id=5B5C74> (last visited Jun. 30, 2011).

⁶⁵⁶ See Jamaican Const. Art. 24(3) (stating that no law can discriminate against the disabled) and Const. Art. 15(1)(i) (stating that personal liberty may be deprived to those with unsound mind); IdeaNet, *International Disability Rights Monitor Publications*, <http://www.ideanet.org/content.cfm?id=5B5C74> (last visited Jun. 30, 2011).

⁶⁵⁷ Jamaica Ministry of Labor and Social Security, *Persons with Disabilities*, Jamaica Council for Persons with Disability, <http://www.mlss.gov.jm/pub/index.php?artid=26> (last visited Jul. 3, 2011).

⁶⁵⁸ United Nations, *Convention on the Elimination of All Forms of Discrimination against Women*, Fifth periodic report of state parties, Jamaica (2004), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/246/29/PDF/N0424629.pdf?OpenElement> at 52. (last visited DATE)

⁶⁵⁹ United Nations, *Convention on the Elimination of All Forms of Discrimination against Women*, Fifth periodic report of state parties, Jamaica (2004), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/246/29/PDF/N0424629.pdf?OpenElement> at 69. (last visited DATE)

⁶⁶⁰ United Nations, *Convention on the Elimination of All Forms of Discrimination against Women*, Fifth periodic report of state parties, Jamaica (2004), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/246/29/PDF/N0424629.pdf?OpenElement> at 7. (last visited DATE)

Approximately 6% of Jamaican women have a disability.⁶⁶¹ Over 70% of violence against women is directed at children.⁶⁶²

4. Policy Initiatives / Civil Society

The National Policy on Disability was passed in Jamaica in 1999.⁶⁶³ It provides guidelines for government and civil society for cooperation.⁶⁶⁴ However, it has no legally-binding effect.⁶⁶⁵ The Ministry of Education is working with NGOs to enhance physical access for children with disabilities.⁶⁶⁶ The Combined Disabilities Association is a non-profit NGO launched in 1981 with an advocacy focus.⁶⁶⁷ Its board of directors is composed of people with disabilities.⁶⁶⁸ The Jamaica Society for the Blind recently obtained a major grant,⁶⁶⁹ but there is little information about them.⁶⁷⁰

5. Intersectional Aspects

There is at least one source on cultural views of disability in Jamaica. It notes that some superstitions attribute disability to the “sins” of an ancestor.⁶⁷¹ Jamaican law has only recently recognized the rights of women in terms of property ownership.⁶⁷² More research is needed on matriarchal aspects of Jamaican/Caribbean culture.⁶⁷³ Also, the vast majority of university and law students are women.⁶⁷⁴

⁶⁶¹ IdeaNet, *International Disability Rights Monitor Publications*, <http://www.ideanet.org/content.cfm?id=5B5C74> (last visited Jun. 30, 2011).

⁶⁶² *Women's rights are human rights – protections from harm or abuse*, JAMAICA GLEANER, Apr. 21, 2008, <http://jamaica-gleaner.com/gleaner/20080421/flair/flair11.html>.

⁶⁶³ IdeaNet, *International Disability Rights Monitor Publications*, <http://www.ideanet.org/content.cfm?id=5B5C74> (last visited Jun. 30, 2011).

⁶⁶⁴ IdeaNet, *International Disability Rights Monitor Publications*, <http://www.ideanet.org/content.cfm?id=5B5C74> (last visited Jun. 30, 2011).

⁶⁶⁵ IdeaNet, *International Disability Rights Monitor Publications*, <http://www.ideanet.org/content.cfm?id=5B5C74> (last visited Jun. 30, 2011).

⁶⁶⁶ Laura Redpath, *New School Building Codes to Facilitate the Physically Disabled*, THE JAMAICA GLEANER, Apr. 8, 2010, <http://jamaica-gleaner.com/gleaner/20100408/news/news9.html>. (last visited Feb. 10, 2012)

⁶⁶⁷ Mary Mitchell, *Combined Disabilities Association*, http://www.bezev.de/fileadmin/Neuer_Ordner/Literatur/Bibliothek/Tagungsdokumentationen/Entwicklung_braucht_Beteiligung/Combined_20Disabilities_20Association.PDF (last visited DATE)

⁶⁶⁸ Mary Mitchell, *Combined Disabilities Association*, http://www.bezev.de/fileadmin/Neuer_Ordner/Literatur/Bibliothek/Tagungsdokumentationen/Entwicklung_braucht_Beteiligung/Combined_20Disabilities_20Association.PDF (last visited DATE)

⁶⁶⁹ *Society for the blind gets 3.3 million for income projects*, JAMAICA OBSERVER, http://www.jamaicaobserver.com/news/Society-for-the-Blind-gets-3-3-million-for-income-projects_8220458 (last visited Jul. 3, 2011).

⁶⁷⁰ Jamaica Social Investment Fund, *Jamaica Society for the Blind Completion*, http://www.jsif.org/jsif_project_details.asp?PID=071327 (last visited Jul. 3, 2011).

⁶⁷¹ Doreen Miller, *An Introduction to Jamaican Culture for Rehabilitation Services Providers*, Center for International Rehabilitation Research Information and Exchange, (2002), <http://cirrie.buffalo.edu/culture/monographs/jamaica.php#s2k> (last visited Jul. 3, 2011).

⁶⁷² Foreign Law Guide, *Jamaica*, <http://0-www.foreignlawguide.com.ilsprod.lib.neu.edu/ip/flg/Jamaica.htm#FAMILY> (last visited Jul. 5, 2011).

⁶⁷³ Danna Harman, *Jamaica's women rising*, THE CHRISTIAN SCIENCE MONITOR, Mar. 13, 2006 at 6.

⁶⁷⁴ Id.

I. Japan

1. International Law

Japan ratified CEDAW on June 25, 1985.⁶⁷⁵ No action on the Optional Protocol.⁶⁷⁶ Japan signed CRPD on September 28, 2007, but has not ratified it.⁶⁷⁷ No action on Optional Protocol.⁶⁷⁸ Japan ratified CRC on April 22, 1994.⁶⁷⁹

2. Domestic Law

Domestic law of Japan is rich with protections for the disabled. Early laws include Law for the Welfare of Physically Disabled Persons (1949).⁶⁸⁰ This law provided work opportunities, some services.⁶⁸¹ There are approximately thirty laws with protections for people with disabilities.⁶⁸² Law 84 of 21 May 1970 is the comprehensive statute amended in 2004.⁶⁸³ It confers rights, fosters independence, and sets out programs for the disabled.⁶⁸⁴ Government issues an annual report on people with disabilities.⁶⁸⁵ Adult suffrage of people with disabilities is limited under the Constitution.⁶⁸⁶

3. Civil Society

Oxfam has identified that women with disabilities needs services after the recent earthquake, tsunami, and nuclear crisis.⁶⁸⁷ Asia Disability Institute and DPI-Japan are working for women with disabilities.⁶⁸⁸ They work on promoting independence of women with

⁶⁷⁵ United Nations Office of High Commissioner on Human Rights, *Status By Country – Japan*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=87#87> (last visited Jul. 5, 2011).

⁶⁷⁶ United Nations Office of High Commissioner on Human Rights, *Status By Country – Japan*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=87#87> (last visited Jul. 5, 2011).

⁶⁷⁷ United Nations Office of High Commissioner on Human Rights, *Status By Country – Japan*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=87#87> (last visited Jul. 5, 2011).

⁶⁷⁸ United Nations Office of High Commissioner on Human Rights, *Status By Country – Japan*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=87#87> (last visited Jul. 5, 2011).

⁶⁷⁹ United Nations Office of High Commissioner on Human Rights, *Status By Country – Japan*, <http://www.unhcr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=87#87> (last visited Jul. 5, 2011).

⁶⁸⁰ Law 283 of 1949, <http://www.dinf.ne.jp/doc/english/law/japan/30select.html#support> (last visited Jul. 7, 2011).

⁶⁸¹ Law 283 of 1949, <http://www.dinf.ne.jp/doc/english/law/japan/30select.html#support> (last visited Jul. 7, 2011).

⁶⁸² IDEANet, *IDRM Japan*, <http://www.ideanet.org/content.cfm?id=58587E> (last visited Jul. 7, 2011).

⁶⁸³ Law 84 of 21 May 1970, <http://www8.cao.go.jp/shougai/english/law/no84.html> (last visited Jul. 7, 2011).

⁶⁸⁴ Law 84 of 21 May 1970, <http://www8.cao.go.jp/shougai/english/law/no84.html> (last visited Jul. 7, 2011).

⁶⁸⁵ Cabinet Office, Japan, Annual Report on Government Measures for Persons with Disabilities, <http://www8.cao.go.jp/shougai/english/annualreport/2003/mokuji.html> (last visited Jul. 7, 2011).

⁶⁸⁶ Japan Const. Art. 11.

⁶⁸⁷ Oxfam Hong Kong, *Japan: Three Months After the Crisis*, Jun. 10, 2011, http://www.oxfam.org/hk/en/news_1573.aspx (last visited Jul. 7, 2011).

⁶⁸⁸ IDEANet, *IDRM Japan*, <http://www.ideanet.org/content.cfm?id=58587E> (last visited Jul. 7, 2011).

disabilities.⁶⁸⁹ Japan is an ultra-modern westernized society but also has strong traditions and cultural norms that may affect the treatment of persons with disabilities.⁶⁹⁰ There is a lot of cultural work that needs to be enhanced to increase awareness.⁶⁹¹

4. Statistics

Three percent of women reported physical violence by a partner in the last year, and thirteen percent over their lifetime.⁶⁹²

J. Mexico

1. International Law

Mexico ratified the CEDAW on July 17, 1980.⁶⁹³ Mexico Ratified the Optional Protocol on December 10, 1999.⁶⁹⁴ Mexico ratified the CRPD on March 30, 2007, one of the first states to do so.⁶⁹⁵ Mexico Ratified the Optional Protocol on the same day.⁶⁹⁶ Mexico was a strong and early advocate for the CRPD.⁶⁹⁷ Mexico ratified the CRC on January 26, 1990.⁶⁹⁸

2. Domestic Law / State Funded

⁶⁸⁹ Union of International Associations, *Asia Disability Institute*, <http://www.uia.be:8080/s/or/en/1100064938> (last visited Jul. 7, 2011).

⁶⁹⁰ Kumiko Usui, *Issues regarding the Lives and Work of Women with Disabilities in Japan – From the Viewpoint of Disability, Gender, and Work*, 15 (Feb. 2009), <http://www2.e.u-tokyo.ac.jp/~read/en/archive/dp/f08/f0805.pdf>. (last visited, Feb. 10, 2012).

⁶⁹¹ See Yukio Nakanishi, *Development and Self-Help Movement of Women with Disabilities*, CORNELL UNIVERSITY ILR SCHOOL (July 1, 1999), <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1347&context=gladnetcollect&sei-redir=1#search=%22japan%20violence%20women%20disabilities%22>. (last visited, Feb. 10, 2012).

⁶⁹² The Secretary-General, In-depth study on all forms of violence against women, 54, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc., available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/419/74/PDF/N0641974.pdf?OpenElement>. (last visited, Feb. 10, 2012).

⁶⁹³ United Nations Office of High Commissioner on Human Rights, *Status By Country – Mexico*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=113#113> (last visited Jul. 5, 2011).

⁶⁹⁴ United Nations Office of High Commissioner on Human Rights, *Status By Country – Mexico*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=113#113> (last visited Jul. 5, 2011).

⁶⁹⁵ UNITED NATIONS, Treaty Collection, *Convention on the Rights of Persons with Disabilities*, UN Doc, UN Cite, When adopted, also available at <http://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-15.en.pdf>

⁶⁹⁶ United Nations Office of High Commissioner on Human Rights, *Status By Country – Mexico*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=113#113> (last visited Jul. 5, 2011).

⁶⁹⁷ Don MacKay, *The United Nations Convention on the Rights of Persons with Disabilities*, 34 *Syracuse J. Int'l L. & Com.* 323, 324 (2007)

⁶⁹⁸ United Nations Office of High Commissioner on Human Rights, *Status By Country – Mexico*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=113#113> (last visited Jul. 5, 2011).

Mexico does not have a comprehensive law for people with disabilities.⁶⁹⁹ The Constitution of Mexico prohibits discrimination against the disabled. The Mexican states created laws in the 90's to integrate people with disabilities.⁷⁰⁰ Program to Provide Services for Disabled Persons, National System for Comprehensive Development of the Family (DIF).⁷⁰¹ Inmujeres produced version 4.0 of the System of Indicators for Follow-up regarding the Situation of Women in Mexico (SISESIM), which highlights women's contributions to society and reveals situations of inequity and inequality in opportunities between men and women. SISESIM has national coverage and includes 1,205 indicators grouped together under the following 10 topics, including disability.⁷⁰²

Since 2003, SEDESOL has been implementing the Hábitat programme which provides assistance to people living in poverty situations in cities and metropolitan areas. This programme targets its assistance on household members living in poverty, taking special account of the inequities suffered by women, especially those who are heads of family, the disabled and older adults.⁷⁰³ In 2004, the IMSS posted health statistics with a gender breakdown on its Internet portal, dealing with morbidity, mortality and disability, and including demographic and social aspects, and population services.⁷⁰⁴

The First National Survey on Discrimination in Mexico, conducted by the Ministry for Social Development and CONAPRED in 2005, is another of the major advances made on discrimination, having made it possible to open public debate on the issue. Its purpose is to generate information to characterize and better understand the phenomenon of discrimination in Mexico. In total, 5,608 interviews were held, including with indigenous people, older adults, disabled persons, religious minorities and people with different sexual preferences.⁷⁰⁵ Senate tabled and passed a bill in 2005 providing for a General Act on Disabled People which was a comprehensive bill providing for equity.⁷⁰⁶ Nothing specific was found with respect to women

⁶⁹⁹ IDEAnet, *Mexico 2003 IDRM Compendium Report*, <http://www.ideanet.org/content.cfm?id=585970&searchIT=1> (last visited Jul. 3, 2011).

⁷⁰⁰ Ley para las Personas con Discapacidad del Distrito Federal (D.O., December 19, 1995).

⁷⁰¹ United Nations, Committee on the Elimination of Discrimination Against Women, *Sixth periodic report of States parties – Mexico* (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/220/44/PDF/N0622044.pdf?OpenElement> at 17. (last visited, Feb. 10, 2012).

⁷⁰² United Nations, Committee on the Elimination of Discrimination Against Women, *Sixth periodic report of States parties – Mexico* (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/220/44/PDF/N0622044.pdf?OpenElement> at 38. (last visited, Feb. 10, 2012).

⁷⁰³ United Nations, Committee on the Elimination of Discrimination Against Women, *Sixth periodic report of States parties – Mexico* (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/220/44/PDF/N0622044.pdf?OpenElement> at 118. (last visited, Feb. 10, 2012).

⁷⁰⁴ United Nations, Committee on the Elimination of Discrimination Against Women, *Sixth periodic report of States parties – Mexico* (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/220/44/PDF/N0622044.pdf?OpenElement> at 287. (last visited, Feb. 10, 2012).

⁷⁰⁵ United Nations, Committee on the Elimination of Discrimination Against Women, *Sixth periodic report of States parties – Mexico* (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/220/44/PDF/N0622044.pdf?OpenElement> at 342. (last visited, Feb. 10, 2012).

⁷⁰⁶ United Nations, Committee on the Elimination of Discrimination Against Women, *Sixth periodic report of States parties – Mexico* (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/220/44/PDF/N0622044.pdf?OpenElement> at 347. (last visited, Feb. 10, 2012).

with disabilities. The Secretary for Public Education awarded scholarships with a 10% quota for disadvantaged, including disabled, children.⁷⁰⁷

3. Statistics

One in three people interviewed from a particular group in Mexico feels that they were discriminated against on the basis of their disability.⁷⁰⁸ Children with disabilities are rarely adopted in Mexico.⁷⁰⁹ Over 300 women have been murdered in Ciudad Juarez, and a third of these were brutally raped.⁷¹⁰ Femicide is a problem in Mexico, especially for women under age 35.⁷¹¹ In some parts of Mexico, 27 percent of women have been physically assaulted in their lifetime.⁷¹²

4. Civil Society

Children with disabilities are frequently trafficked out of Mexico.⁷¹³ Reform proposals have been made to deal with this issue.⁷¹⁴ In 2001, the president created the National Consultative Council for Social Integration of Disabled People which intended to expand policies on disabilities and coordinate civil society participation.⁷¹⁵ Women who fear retribution in the form of violence have been found not to participate in civil society / community development projects.⁷¹⁶

⁷⁰⁷ United Nations, Committee on the Elimination of Discrimination Against Women, *Sixth periodic report of States parties – Mexico* (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/220/44/PDF/N0622044.pdf?OpenElement> at 559. (last visited, Feb. 10, 2012).

⁷⁰⁸ United Nations, Committee on the Elimination of Discrimination Against Women, *Sixth periodic report of States parties – Mexico* (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/220/44/PDF/N0622044.pdf?OpenElement> at 343. (last visited, Feb. 10, 2012).

⁷⁰⁹ Disability Rights International, *Abandoned and Disappeared: Mexico's Segregation and Abuse of Children and Adults with Disabilities* 12 (2010) http://www.disabilityrightsintl.org/wordpress/wp-content/uploads/Mex_Report_English_June2_final.doc (last visited Jul. 3, 2011).

⁷¹⁰ The Secretary-General, In-depth study on all forms of violence against women, 41, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc. A/61/122/Add.1 (Jul. 6, 2006).

⁷¹¹ The Secretary-General, In-depth study on all forms of violence against women, 41, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc. A/61/122/Add.1 (Jul. 6, 2006).

⁷¹² The Secretary-General, In-depth study on all forms of violence against women, 53, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc. A/61/122/Add.1 (Jul. 6, 2006).

⁷¹³ Disability Rights International, *Abandoned and Disappeared: Mexico's Segregation and Abuse of Children and Adults with Disabilities* 10 (2010) http://www.disabilityrightsintl.org/wordpress/wp-content/uploads/Mex_Report_English_June2_final.doc (last visited Jul. 3, 2011).

⁷¹⁴ United Nations, Committee on the Elimination of Discrimination Against Women, *Sixth periodic report of States parties – Mexico* (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/220/44/PDF/N0622044.pdf?OpenElement> at 157. (last visited Feb. 10, 2012)

⁷¹⁵ United Nations, Committee on the Elimination of Discrimination Against Women, *Sixth periodic report of States parties – Mexico* (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/220/44/PDF/N0622044.pdf?OpenElement> at 717. (last visited Feb. 10, 2012)

⁷¹⁶ The Secretary-General, In-depth study on all forms of violence against women, 49, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc. A/61/122/Add.1 (Jul. 6, 2006).

K. Pakistan

1. International Law

Pakistan acceded to CEDAW on March 12, 1996 with a reservation.⁷¹⁷ No action on the Optional Protocol.⁷¹⁸ Pakistan ratified the CRPD on May 7, 2011 (update from UNEnable).⁷¹⁹ Pakistan is not a signatory to the CRPD optional protocol.⁷²⁰ Pakistan ratified CRC on November 12, 1990.⁷²¹

2. Civil Society

NGO Review:⁷²² There is an NGO called the National Forum of Women with Disabilities in Pakistan.⁷²³ AWAM does workshops and training to achieve equal rights for women with disabilities.⁷²⁴ WEMC has found that there is state sanctioned violence against women under the guise of punishment.⁷²⁵ The Pakistan Society for the Rehabilitation of the Disabled prepares reports and is a non-profit org dedicated to providing medical care to those with disabilities.

3. Domestic Law

There are several discriminatory laws in Pakistan that compromise the position of women.⁷²⁶ Disabled Persons' (Employment and Rehabilitation) Ordinance 1981, Government of Pakistan has the goal of promoting employment and welfare of people with disabilities.⁷²⁷ National Council is empowered to implement the act, however it is largely focused on

⁷¹⁷ United Nations Office of High Commissioner on Human Rights, *Status By Country – Pakistan*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=132#132> (last visited Jul. 5, 2011).

⁷¹⁸ United Nations Office of High Commissioner on Human Rights, *Status By Country – Pakistan*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=132#132> (last visited Jul. 5, 2011).

⁷¹⁹ United Nations Office of High Commissioner on Human Rights, *Status By Country – Pakistan*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=132#132> (last visited Jul. 5, 2011).

⁷²⁰ United Nations Office of High Commissioner on Human Rights, *Status By Country – Pakistan*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=132#132> (last visited Jul. 5, 2011).

⁷²¹ United Nations Office of High Commissioner on Human Rights, *Status By Country – Pakistan*, <http://www.unhchr.ch/TBS/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=132#132> (last visited Jul. 5, 2011).

⁷²² Pakistan NGO Review, Women 2000: Gender Equality, <http://un.org.pk/ngoreport.htm> (last visited, Feb. 10, 2012).

⁷²³ NFWWD Pakistan, <http://nfwwdpk.blogspot.com/> (last visited Jul. 6, 2011).

⁷²⁴ Shazia George, *AWAM organizes leadership training for women with disabilities*, PAKISTAN CHRISTIAN POST, Aug. 12, 2010, <http://www.pakistanchristianpost.com/headlinenews.php?hnewsid=2220>. (last visited, Feb. 10, 2012).

⁷²⁵ WEMC, 'Culture,' women, violence, http://www.wemc.com.hk/web/culture_and_VAW.htm (last visited Jul. 7, 2011).

⁷²⁶ Sadaf Zahra, *Women in Pakistan – victims of social and economic desecration*, IN DEFENCE OF MARXISM, Oct. 10, 2005, available at <http://www.marxist.com/women-pakistan-victims-of-desecration.htm>.

⁷²⁷ No. 40 of 1981

employment and not violence against women.⁷²⁸ The Council has implemented certain accessibility measures but has not increased awareness.⁷²⁹ Pakistan instituted 2% quotas for persons with disabilities, including women in government service.⁷³⁰ There is also a 5% quota of women.⁷³¹ Bait-ul-Mal is a government-funded organization working for the welfare of persons with disabilities (among others).⁷³²

4. Statistics

Physical and mental disabilities prevalence statistics.⁷³³ So-called “honor killings” are a problem in Pakistan, and the rate of women killed doubles that of men.⁷³⁴

L. Sierra Leone

1. International Law

Sierra Leone ratified CEDAW on September 21, 1988.⁷³⁵ Signed Optional Protocol on September 8, 2000.⁷³⁶ Sierra Leone ratified CRPD on October 4, 2010.⁷³⁷ Signed the optional protocol on March 30, 2007.⁷³⁸ Sierra Leone ratified CRC on June 8, 1990.⁷³⁹

⁷²⁸ IDEANet, *Pakistan Compendium Report*, <http://www.ideanet.org/content.cfm?id=5B5C73> (last visited Jul. 7, 2011).

⁷²⁹ IDEANet, *Pakistan Compendium Report*, <http://www.ideanet.org/content.cfm?id=5B5C73> (last visited Jul. 7, 2011).

⁷³⁰ Committee on the Elimination of Discrimination of Women, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women – Pakistan, 25 (Aug. 3, 2005), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/454/37/PDF/N0545437.pdf?OpenElement>. (last visited, Feb. 10, 2012).

⁷³¹ Committee on the Elimination of Discrimination of Women, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women – Pakistan, 71 (Aug. 3, 2005), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/454/37/PDF/N0545437.pdf?OpenElement>. (last visited, Feb. 10, 2012).

⁷³² Committee on the Elimination of Discrimination of Women, Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women – Pakistan, 103 (Aug. 3, 2005), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/454/37/PDF/N0545437.pdf?OpenElement>. (last visited, Feb. 10, 2012).

⁷³³ Zahida Lari, *Self-empowerment for women with disabilities in Pakistan*, ISEC 2000, http://www.isec2000.org.uk/abstracts/papers_l/lari_1.htm (last visited Jul. 7, 2011).

⁷³⁴ The Secretary-General, In-depth study on all forms of violence against women, 93, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc. A/61/122/Add.1 (Jul. 6, 2006).

⁷³⁵ United Nations Office of High Commissioner on Human Rights, *Status By Country – Sierra Leone*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=157#157> (last visited Jul. 5, 2011).

⁷³⁶ United Nations Office of High Commissioner on Human Rights, *Status By Country – Sierra Leone*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=157#157> (last visited Jul. 5, 2011).

⁷³⁷ United Nations Office of High Commissioner on Human Rights, *Status By Country – Sierra Leone*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=157#157> (last visited Jul. 5, 2011).

⁷³⁸ United Nations Office of High Commissioner on Human Rights, *Status By Country – Sierra Leone*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=157#157> (last visited Jul. 5, 2011).

2. Domestic Law

Section 8(e) of the Sierra Leone constitution provides that the disabled should be actively promoted and safeguarded.⁷⁴⁰ However this protection is not afforded to those in a legal relationship or in the domestic sphere.⁷⁴¹ The Child Rights Act of 2007 is the Sierra Leone implementing statute for CRC.⁷⁴² Within the CRA of 2007, disabled children have a special right to care, education and training.⁷⁴³ They must be treated in a dignified manner.⁷⁴⁴ Spouses owe a “duty of sexual intercourse.”⁷⁴⁵ Gender Acts of 2007 were passed creating a minimum marriage age of 18 and providing for registration of marriage and divorce.⁷⁴⁶ It was a way of protecting girls from forced marriages.⁷⁴⁷ The Domestic Violence Act of 2007 criminalizes domestic violence.⁷⁴⁸

3. Civil Society

There is a shortage of services for persons with disabilities, especially those with physical disabilities.⁷⁴⁹ There is limited understanding of the problem of violence against women, especially in rural areas.⁷⁵⁰ NGOs such as the International Rescue Committee provide health care and counseling.⁷⁵¹ LAWYERS is working on ensuring that the laws are enforced.⁷⁵² There

⁷³⁹ United Nations Office of High Commissioner on Human Rights, *Status By Country – Sierra Leone*, <http://www.unhcr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=157#157> (last visited Jul. 5, 2011).

⁷⁴⁰ United Nations, *Committee on the Elimination of Discrimination Against Women, Combined reports – Sierra Leone*, 62 (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/687/70/PDF/N0668770.pdf?OpenElement> (last visited Feb. 10, 2012).

⁷⁴¹ United Nations, *Committee on the Elimination of Discrimination Against Women, Combined reports – Sierra Leone*, 23 (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/687/70/PDF/N0668770.pdf?OpenElement> (last visited Feb. 10, 2012).

⁷⁴² The Child Right Act of 2007. <http://www.sierra-leone.org/Laws/2007-7p.pdf> (last visited Feb. 10, 2012).

⁷⁴³ The Child Right Act of 2007 at § 30(2). <http://www.sierra-leone.org/Laws/2007-7p.pdf> (last visited Feb. 10, 2012).

⁷⁴⁴ The Child Right Act of 2007 at § 30(1). <http://www.sierra-leone.org/Laws/2007-7p.pdf> (last visited Feb. 10, 2012).

⁷⁴⁵ United Nations, *Committee on the Elimination of Discrimination Against Women, Combined reports – Sierra Leone*, 79 (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/687/70/PDF/N0668770.pdf?OpenElement> (last visited Feb. 10, 2012).

⁷⁴⁶ MUSAWAH, *CEDAW and Muslim Family Laws: In Search of Common Ground*, 31 (2011), <http://musawah.org/docs/pubs/CEDAW%20&%20Muslim%20Family%20Laws.pdf>. (last visited Feb. 10, 2012).

⁷⁴⁷ UN WOMEN, *Legal Protection At Last for the Women of Sierra Leone*, Jul. 5, 2007, http://www.unifem.org/news_events/story_detail.php?StoryID=606 (last visited Jul. 6, 2011).

⁷⁴⁸ UN WOMEN, *Legal Protection At Last for the Women of Sierra Leone*, Jul. 5, 2007, http://www.unifem.org/news_events/story_detail.php?StoryID=606 (last visited Jul. 6, 2011).

⁷⁴⁹ United Nations, *Committee on the Elimination of Discrimination Against Women, Combined reports – Sierra Leone*, 68 (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/687/70/PDF/N0668770.pdf?OpenElement> (last visited Feb. 10, 2012).

⁷⁵⁰ United Nations, *Committee on the Elimination of Discrimination Against Women, Combined reports – Sierra Leone*, 65 (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/687/70/PDF/N0668770.pdf?OpenElement> (last visited Feb. 10, 2012).

⁷⁵¹ United Nations, *Committee on the Elimination of Discrimination Against Women, Combined reports – Sierra Leone*, 36 (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/687/70/PDF/N0668770.pdf?OpenElement> (last visited Feb. 10, 2012).

is an extensive list of NGOs working in Sierra Leone as noted in the Shadow Report of 2007.⁷⁵³ NGOs report that women are disadvantaged in the formal laws, customary laws and Constitution.⁷⁵⁴ NGOs are concerned about the prevalence of FGM/FGC (female genital mutilation, also known as female genital cutting) and would like to see the government implement laws against this practice.⁷⁵⁵

4. Statistics

According to the UN, there is no specific data on gender-based violence but it has soared during the war.⁷⁵⁶ Often the state will refuse to investigate crimes of violence against young girls.⁷⁵⁷ Apparently 94% of households surveyed randomly reported serious abuse during the ten years of conflict preceding 2002.⁷⁵⁸ Rape was the most common act of violence against women.⁷⁵⁹ Many women who were abused during the war became disabled.⁷⁶⁰ This led to the inability to work and survive.⁷⁶¹ Thirteen percent of households between 1991-1999 reported some form of abuse and eight percent of females in households reported sexual abuse.⁷⁶²

5. Intersectional Aspects

⁷⁵² Awareness Times, *Legal Access Through Women Yearning for Equality Rights and Social Justice*, Mar. 9, 2010, <http://news.sl/drwebsite/exec/view.cgi?archive=6&num=14776>. (last visited Feb. 10, 2012).

⁷⁵³ Sierra Leone Association of Non Governmental Organizations (SLANGO), *Shadow Report of Sierra Leone's Initial, Second, Third, Fourth, and Fifth Report on the Implementation of CEDAW* (May 2007), <http://www.iwraw-ap.org/resources/pdf/Sierra%20Leone.pdf> (last visited Feb. 10, 2012).

⁷⁵⁴ Sierra Leone Association of Non Governmental Organizations (SLANGO), *Shadow Report of Sierra Leone's Initial, Second, Third, Fourth, and Fifth Report on the Implementation of CEDAW* 1 (May 2007), <http://www.iwraw-ap.org/resources/pdf/Sierra%20Leone.pdf>. (last visited Feb. 10, 2012).

⁷⁵⁵ Sierra Leone Association of Non Governmental Organizations (SLANGO), *Shadow Report of Sierra Leone's Initial, Second, Third, Fourth, and Fifth Report on the Implementation of CEDAW* 3 (May 2007), <http://www.iwraw-ap.org/resources/pdf/Sierra%20Leone.pdf> (last visited Feb. 10, 2012).

⁷⁵⁶ United Nations, *Committee on the Elimination of Discrimination Against Women, Combined reports – Sierra Leone*, 36 (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/687/70/PDF/N0668770.pdf?OpenElement> (last visited Feb. 10, 2012).

⁷⁵⁷ Sierra Leone Association of Non Governmental Organizations (SLANGO), *Shadow Report of Sierra Leone's Initial, Second, Third, Fourth, and Fifth Report on the Implementation of CEDAW* 2 (May 2007), <http://www.iwraw-ap.org/resources/pdf/Sierra%20Leone.pdf>

⁷⁵⁸ Physicians for Human Rights, *War Related Sexual Violence in Sierra Leone: A Population Based Assessment 2* (2002), https://s3.amazonaws.com/PHR_Reports/sierra-leone-sexual-violence-2002.pdf (last visited Feb. 10, 2012).

⁷⁵⁹ I Sierra Leone Association of Non Governmental Organizations (SLANGO), *Shadow Report of Sierra Leone's Initial, Second, Third, Fourth, and Fifth Report on the Implementation of CEDAW* 2 (May 2007), <http://www.iwraw-ap.org/resources/pdf/Sierra%20Leone.pdf>

⁷⁵⁹ Physicians for Human Rights, *War Related Sexual Violence in Sierra Leone: A Population Based Assessment 2* (2002), https://s3.amazonaws.com/PHR_Reports/sierra-leone-sexual-violence-2002.pdf (last visited Feb. 10, 2012).

⁷⁶⁰ Physicians for Human Rights, *War Related Sexual Violence in Sierra Leone: A Population Based Assessment 49* (2002), https://s3.amazonaws.com/PHR_Reports/sierra-leone-sexual-violence-2002.pdf (last visited Feb. 10, 2012).

⁷⁶¹ Physicians for Human Rights, *War Related Sexual Violence in Sierra Leone: A Population Based Assessment 82* (2002), https://s3.amazonaws.com/PHR_Reports/sierra-leone-sexual-violence-2002.pdf (last visited Feb. 10, 2012).

⁷⁶² The Secretary-General, In-depth study on all forms of violence against women, 45, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc A/61/122/Add.1 (Jul. 6, 2006).

Sierra Leone family laws have problematic provisions such as required sex in marriage and provisions on female obligations to perform domestic work.⁷⁶³ These concerns have been reiterated by other NGOs.⁷⁶⁴ Polygamy persists in Sierra Leone.⁷⁶⁵

M. Sri Lanka

1. International Law

Sri Lanka ratified CEDAW on October 5, 1981.⁷⁶⁶ Acceded to Optional Protocol on October 15, 2002.⁷⁶⁷ Sri Lanka has not ratified CRPD but signed it on March 30, 2007.⁷⁶⁸ No action on Optional Protocol so far.⁷⁶⁹ Sri Lanka ratified CRC on July 12, 1991.⁷⁷⁰

2. Domestic Law

The Constitution of Sri Lanka provides safeguards for women, however they are not enforceable against non-state actors.⁷⁷¹ Act 37 of 1999 is a Maintenance Act, which prevents neglect of disabled spouses and children.⁷⁷² Women and Children Act 30 of 2005 implements convention against trafficking.⁷⁷³ Protection of the Rights of Persons with Disabilities Act No. 28 of 1996 establishes a council for disabilities, funds it, and sets out substantive rights including antidiscrimination for employment only and public access.⁷⁷⁴ Prevention of Domestic Violence

⁷⁶³ United Nations, *Committee on the Elimination of Discrimination Against Women, Combined reports – Sierra Leone*, 79 (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/687/70/PDF/N0668770.pdf?OpenElement>

⁷⁶⁴ MUSAWAH, *CEDAW and Muslim Family Laws: In Search of Common Ground*, 9 (2011), <http://musawah.org/docs/pubs/CEDAW%20&%20Muslim%20Family%20Laws.pdf> (last visited Feb. 10, 2012).

⁷⁶⁵ MUSAWAH, *CEDAW and Muslim Family Laws: In Search of Common Ground*, 8 (2011), <http://musawah.org/docs/pubs/CEDAW%20&%20Muslim%20Family%20Laws.pdf>. (last visited Feb. 10, 2012).

⁷⁶⁶ United Nations Office of High Commissioner on Human Rights, *Status By Country – Sri Lanka*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=165#165> (last visited Jul. 5, 2011).

⁷⁶⁷ United Nations Office of High Commissioner on Human Rights, *Status By Country – Sri Lanka*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=165#165> (last visited Jul. 5, 2011).

⁷⁶⁸ United Nations Office of High Commissioner on Human Rights, *Status By Country – Sri Lanka*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=165#165> (last visited Jul. 5, 2011).

⁷⁶⁹ United Nations Office of High Commissioner on Human Rights, *Status By Country – Sri Lanka*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=165#165> (last visited Jul. 5, 2011).

⁷⁷⁰ United Nations Office of High Commissioner on Human Rights, *Status By Country – Sri Lanka*, <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=165#165> (last visited Jul. 5, 2011).

⁷⁷¹ United Nations, *Committee on the Elimination of Discrimination Against Women, Third and fourth periodic reports of States parties – Sri Lanka 5* (Oct. 18, 1999), <http://www.un.org/womenwatch/daw/cedaw/cedaw26/lka3-4.pdf>. (last visited Feb. 10, 2012).

⁷⁷² Act 37 of 1999. <http://lankalawnet.com/acts/1999/Maintenance%20Act%20No.%2037%20of%201999.pdf> (last visited Feb. 10, 2012).

⁷⁷³ Act 30 of 2005. http://hrcls.lk/english/?page_id=241 (last visited Feb. 10, 2012).

⁷⁷⁴ Protection of the Rights of Persons with Disabilities Act No. 28 of 1996. http://hrcls.lk/PFF/Library_Domestic_Laws/Legislations_related_to_Employment/Protection%20of%20the%20Rights%20of%20Persons%20with%20Disabilities%20Act%20No%2028%20of%201996.pdf (last visited Feb. 10, 2012).

Act of 2005 does not provide penal violations to domestic violence but permits protective orders for women.⁷⁷⁵ Sub-regulations indicate that persons with disabilities should fill 3% of high level government positions provided they meet the qualifications.⁷⁷⁶ There is a National Committee on Women and Disabilities.⁷⁷⁷

There is also a Ministry on Health & Women's Affairs.⁷⁷⁸ Discriminatory personal laws are apparently "deeply rooted in cultural and religious beliefs."⁷⁷⁹ Women's charter was adopted in 1993 mirroring CEDAW type protections, including right to protection from gender based violence and social discrimination.⁷⁸⁰ Legal consciousness of gender based violence and discrimination in the past years has led to new crimes and increased term of punishment for those crimes.⁷⁸¹ "Women's Committee has been set up by the government and the LTTE to ensure that gender concerns are addressed in all aspects of the peace process."⁷⁸²

3. Civil Society

NSAWWD is an organization providing women with disabilities with a forum to talk about their issues and develop solutions.⁷⁸³ AKASA is a grassroots organization for women with disabilities providing training, peer groups, and support.⁷⁸⁴ State and non-state violence in Sri Lanka has been widespread.⁷⁸⁵ "Sri Lanka, as in Sierra Leone, the poor, the tribal, the indigenous, or the linguistic or ethnic minorities have been subject to structural and institutional discrimination."⁷⁸⁶ "In Sri Lanka, despite an anti-discrimination clause in the Constitution, and despite many other laws and policies guaranteeing equal rights for all, actual state practices in

⁷⁷⁵ WOMEN MEDIA COLLECTIVE, *Sri Lanka Shadow Report*, 31 (July 2010), <http://www.jicafriends.jp/projects/asiaandpacific/srilanka/006kamala/002b.html>. (last visited Feb. 10, 2012).

⁷⁷⁶ D.B.I.P.S. Siriwardhana, Public Administration Circular No. 27/88, Aug. 18, 1998, http://hrsl.lk/PFF/Library_Domestic_Laws/regulations/Document1.pdf (last visited Feb. 10, 2012).

⁷⁷⁷ Ministry of Child Development and Women's Affairs, <http://www.childwomenmin.gov.lk/>; Human Rights Commission of Sri Lanka, Domestic Instruments and Institutions, http://hrsl.lk/english/?page_id=241. (last visited Feb. 10, 2012).

⁷⁷⁸ United Nations, Committee on the Elimination of Discrimination Against Women, *Third and fourth periodic reports of States parties – Sri Lanka* 7 (Oct. 18, 1999), <http://www.un.org/womenwatch/daw/cedaw/cedaw26/lka3-4.pdf>. (last visited Feb. 10, 2012).

⁷⁷⁹ United Nations, Committee on the Elimination of Discrimination Against Women, *Third and fourth periodic reports of States parties – Sri Lanka* 7 (Oct. 18, 1999), <http://www.un.org/womenwatch/daw/cedaw/cedaw26/lka3-4.pdf>. (last visited Feb. 10, 2012).

⁷⁸⁰ United Nations, Committee on the Elimination of Discrimination Against Women, *Third and fourth periodic reports of States parties – Sri Lanka* 8 (Oct. 18, 1999), <http://www.un.org/womenwatch/daw/cedaw/cedaw26/lka3-4.pdf>. (last visited Feb. 10, 2012).

⁷⁸¹ United Nations, Committee on the Elimination of Discrimination Against Women, *Third and fourth periodic reports of States parties – Sri Lanka* 14 (Oct. 18, 1999), <http://www.un.org/womenwatch/daw/cedaw/cedaw26/lka3-4.pdf>. (last visited Feb. 10, 2012).

⁷⁸² Sunila Abeysekera, *Maximizing the Achievement of Women's Human Rights in Conflict-Transformation: The Case of Sri Lanka*, 41 Colum. J. Transnat'l L. 523, 539 (2003).

⁷⁸³ *Network of South Asian Women with Disabilities – Front Page*, <http://nsawwd.org/> (last visited Jul. 6, 2011).

⁷⁸⁴ AKASA – The Association of Women with Disabilities, Sri Lanka, *Moving Forward* 129-132, <http://www.ilo.org/public/english/region/asro/bangkok/ability/download/srilanka-1.pdf> (last visited Jul. 6, 2011).

⁷⁸⁵ Deepika Udagama, *Taming of the Beast: Judicial Responses to State Violence in Sri Lanka*, 11 Harv. Hum. Rts. J. 269, 272 (1998)

⁷⁸⁶ Sunila Abeysekera, *Maximizing the Achievement of Women's Human Rights in Conflict-Transformation: The Case of Sri Lanka*, 41 Colum. J. Transnat'l L. 523, 525 (2003).

areas of employment in the government sector, university admission, and land redistribution and resettlement have disfavored the minority Tamil community and reaffirmed Sinhala¹⁶ hegemony in every aspect of life on the island.⁷⁸⁷ Women and Media Collective (WMC) prepared a CEDAW shadow report in 2010.⁷⁸⁸ A list of NGOs can be found in the report.⁷⁸⁹

Crimes against women are committed with impunity. Men are committing rapes expecting suspended sentences.⁷⁹⁰ This is despite minimum prison sentences for rape.⁷⁹¹ The culture of violence has prevented many women from participating in the political process.⁷⁹²

4. *Statistics*

Gender based violence is on the rise, or at least it is being reported more often thanks to new legislation.⁷⁹³ Domestic violence is rarely reported to the police or authorities.⁷⁹⁴ “In Sri Lanka, throughout the period of the ethnic conflict, Tamil women have been subject to rape, sexual abuse, torture, and arbitrary arrest and detention by government security agencies.”⁷⁹⁵ A vast majority of the grave and minor offenses in Sri Lanka involve violence against women.⁷⁹⁶ NGOs do not provide sex-disaggregated data.⁷⁹⁷ State actors have perpetrated violence against women.⁷⁹⁸

N. Uganda

1. *International Law*

⁷⁸⁷ Sunila Abeysekera, *Maximizing the Achievement of Women's Human Rights in Conflict-Transformation: The Case of Sri Lanka*, 41 Colum. J. Transnat'l L. 523, 527 (2003).

⁷⁸⁸ WOMEN MEDIA COLLECTIVE, *Sri Lanka Shadow Report*, (July 2010), <http://www.jicafriends.jp/projects/asiaandpacific/srilanka/006kamala/002b.html>. (last visited Feb. 10, 2012).

⁷⁸⁹ WOMEN MEDIA COLLECTIVE, *Sri Lanka Shadow Report*, 3-4 (July 2010), <http://www.jicafriends.jp/projects/asiaandpacific/srilanka/006kamala/002b.html>. (last visited Feb. 10, 2012).

⁷⁹⁰ WOMEN MEDIA COLLECTIVE, *Sri Lanka Shadow Report*, 36 (July 2010), <http://www.jicafriends.jp/projects/asiaandpacific/srilanka/006kamala/002b.html>. (last visited Feb. 10, 2012).

⁷⁹¹ The Secretary-General, In-depth study on all forms of violence against women, 86, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc., available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/419/74/PDF/N0641974.pdf?OpenElement>.

⁷⁹² The Secretary-General, In-depth study on all forms of violence against women, 49, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, A/61/122/Add.1 (Jul. 6, 2006).

⁷⁹³ United Nations, Committee on the Elimination of Discrimination Against Women, *Third and fourth periodic reports of States parties – Sri Lanka* 10 (Oct. 18, 1999), <http://www.un.org/womenwatch/daw/cedaw/cedaw26/lka3-4.pdf>. (last visited Feb. 10, 2012).

⁷⁹⁴ United Nations, Committee on the Elimination of Discrimination Against Women, *Third and fourth periodic reports of States parties – Sri Lanka* 16 (Oct. 18, 1999), <http://www.un.org/womenwatch/daw/cedaw/cedaw26/lka3-4.pdf>. (last visited Feb. 10, 2012).

⁷⁹⁵ Sunila Abeysekera, *Maximizing the Achievement of Women's Human Rights in Conflict-Transformation: The Case of Sri Lanka*, 41 Colum. J. Transnat'l L. 523, 535 (2003).

⁷⁹⁶ WOMEN MEDIA COLLECTIVE, *Sri Lanka Shadow Report*, 38 (July 2010), <http://www.jicafriends.jp/projects/asiaandpacific/srilanka/006kamala/002b.html>. (last visited Feb. 10, 2012).

⁷⁹⁷ WOMEN MEDIA COLLECTIVE, *Sri Lanka Shadow Report*, 38 (July 2010), <http://www.jicafriends.jp/projects/asiaandpacific/srilanka/006kamala/002b.html>. (last visited Feb. 10, 2012).

⁷⁹⁸ D.B.S. Jeyaraj, *Sexual Violence in the Past by Police and Security Forces Against Tamil Women*, http://www.sangam.org/ANALYSIS_ARCHIVES/Jeyaraj_7_8_01.htm (last visited Jul. 6, 2011).

Uganda has ratified the CRPD as well as the optional protocol.⁷⁹⁹ Uganda ratified CEDAW without reservations in 1985.⁸⁰⁰

2. Domestic Laws

Uganda's constitution prohibits state sponsored discrimination.⁸⁰¹ The wording of Article 33(6) could be interpreted to also prohibit cultural or private sponsored activities that are intended to be contrary to the welfare of women.⁸⁰² At least one report indicates that while Uganda is a party to international conventions such as CRPD and CEDAW, it has implemented some domestic laws protecting women as well. However, at the present there is little "buy-in" or acceptance of these laws by some non-disabled Ugandans.⁸⁰³ According to Uganda's Third CEDAW Report (2000), Uganda is "still in the process of translating [its] constitutional principles barring discrimination into domestic legislation."⁸⁰⁴ As a party to the African Charter on Human and People's Rights (and the African Union), Uganda must protect women against discrimination by private individuals as well.⁸⁰⁵ To that effect, Uganda has its own Human Rights Commission whose sole purpose is to protect constitutionally guaranteed rights through domestic and international law.⁸⁰⁶ However, little information is available on its successes. Regional offices had not been developed for the Human Rights Commission.⁸⁰⁷ The Land Act and Domestic Relations Bill were passed in 2003.⁸⁰⁸ The laws now create criminal liability for spousal rape, and provide that people must be at least eighteen years old to marry.⁸⁰⁹ According to the 2000 CEDAW report, the only other governmental action taken to prevent violence and discrimination against women has been the National Gender Policy and the National Action Plan

⁷⁹⁹ United Nations Enable, *Convention and Optional Protocol Signatures and Ratifications*, <http://www.un.org/disabilities/countries.asp?navid=12&pid=166> (last visited Jun. 27, 2011).

⁸⁰⁰ Human Rights Watch, <http://www.ohchr.org/en/countries/africaregion/pages/ugindex.aspx> (last visited Feb. 10, 2012).

⁸⁰¹ Manusuli Ssenyonjo, *Women's Right to Equality and Non-Discrimination: Discriminatory Family Legislation in Uganda and the Role of Uganda's Constitutional Court*, 21 INT. J. L. POLY. & FAMILY 341, 341 (2007).

⁸⁰² Manusuli Ssenyonjo, *Women's Right to Equality and Non-Discrimination: Discriminatory Family Legislation in Uganda and the Role of Uganda's Constitutional Court*, 21 INT. J. L. POLY. & FAMILY 341, 341 (2007).

⁸⁰³ Disability Now, *Uganda: Women in danger*, <http://www.disabilitynow.org.uk/latest-news2/world-view/uganda-women-in-danger> (last visited Jun. 27, 2011).

⁸⁰⁴ United Nations Committee on the Elimination of Discrimination Against Women, *Consideration of reports submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women*, 17 (Jul. 3, 2000) [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/b5a3748ef01f85aac1256ccb00324da4/\\$FILE/N0052373.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/b5a3748ef01f85aac1256ccb00324da4/$FILE/N0052373.pdf). (last visited Feb. 10, 2012)

⁸⁰⁵ United Nations Committee on the Elimination of Discrimination Against Women, *Consideration of reports submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women*, 34 at Preamble, Art. 4, 5, and 18. (Jul. 3, 2000) [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/b5a3748ef01f85aac1256ccb00324da4/\\$FILE/N0052373.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/b5a3748ef01f85aac1256ccb00324da4/$FILE/N0052373.pdf). (last visited Feb. 10, 2012)

⁸⁰⁶ Uganda Human Rights Commission, <http://www.uhrc.ug/>, (last visited Jun 21, 2011).

⁸⁰⁷ Uganda Human Rights Commission, <http://www.uhrc.ug/>, (last visited Jun 21, 2011).

⁸⁰⁸ Uganda: Domestic Relations Bill (2003) http://www.chr.up.ac.za/undp/domestic/docs/legislation_19.pdf (page 17) (last visited Feb. 10, 2012)

⁸⁰⁹ Uganda: Domestic Relations Bill (2003) http://www.chr.up.ac.za/undp/domestic/docs/legislation_19.pdf (page 17) (last visited Feb. 10, 2012).

on Women.⁸¹⁰ On the socio-political side, women are still poorly represented in Uganda's government.⁸¹¹ None of these women have disabilities.⁸¹² Women still need the consent of their husbands to obtain travel documents.⁸¹³ Women with disabilities are often denied access to education among other basic rights.⁸¹⁴

3. *Civil Society*

Human Rights Watch ("HRW") reported in 2010 that women face discrimination and both sexual and gender based violence in Uganda.⁸¹⁵ Strangers, neighbors and family members were documented as perpetrators of abuse.⁸¹⁶ List of the NGOs doing work in Uganda.⁸¹⁷ NGOs have an extensive role in Uganda in taking care to implement the goals of international law.⁸¹⁸ Over two decades of war has created a new group of women with disabilities.⁸¹⁹ These women have been the collateral damage of the war, suffering from the effects of landmines, fires and gunshot wounds among other trauma.⁸²⁰

4. *Statistics*

The reality on the ground in Uganda is quite different from the stated goals and the rhetoric of politicians and reports. HRW reports that perhaps twenty percent of Ugandans have disabilities.⁸²¹ Many women with disabilities have been turned away from reporting incidents by a corrupt police force.⁸²² More than 1/3 of Ugandan women with disabilities have experienced sexual abuse.⁸²³ Local government has also been ineffective and women were forced to rely on

⁸¹⁰ Uganda: Domestic Relations Bill (2003) http://www.chr.up.ac.za/undp/domestic/docs/legislation_19.pdf (page 17) (last visited Feb. 10, 2012).

⁸¹¹ Uganda: Domestic Relations Bill (2003) http://www.chr.up.ac.za/undp/domestic/docs/legislation_19.pdf (page 17) (last visited Feb. 10, 2012).

⁸¹² Uganda: Domestic Relations Bill (2003) http://www.chr.up.ac.za/undp/domestic/docs/legislation_19.pdf (page 17) (last visited Feb. 10, 2012).

⁸¹³ Uganda: Domestic Relations Bill (2003) http://www.chr.up.ac.za/undp/domestic/docs/legislation_19.pdf (page 17) (last visited Feb. 10, 2012).

⁸¹⁴ Uganda: Domestic Relations Bill (2003) http://www.chr.up.ac.za/undp/domestic/docs/legislation_19.pdf (page 17) (last visited Feb. 10, 2012).

⁸¹⁵ Human Rights Watch, *Uganda: For Women with Disabilities, Barriers and Abuse*, Aug. 26, 2010, <http://www.hrw.org/en/news/2010/08/23/uganda-women-disabilities-barriers-and-abuse>. (last visited Feb. 10, 2012).

⁸¹⁶ Human Rights Watch, *Uganda: For Women with Disabilities, Barriers and Abuse*, Aug. 26, 2010, <http://www.hrw.org/en/news/2010/08/23/uganda-women-disabilities-barriers-and-abuse>. (last visited Feb. 10, 2012).

⁸¹⁷ Human Rights Watch, *Uganda: For Women with Disabilities, Barriers and Abuse*, Aug. 26, 2010, <http://www.hrw.org/en/news/2010/08/23/uganda-women-disabilities-barriers-and-abuse>. (last visited Feb. 10, 2012).

⁸¹⁸ Human Rights Watch, *Uganda: For Women with Disabilities, Barriers and Abuse*, Aug. 26, 2010, <http://www.hrw.org/en/news/2010/08/23/uganda-women-disabilities-barriers-and-abuse>. (last visited Feb. 10, 2012).

⁸¹⁹ Human Rights Watch, *Uganda: For Women with Disabilities, Barriers and Abuse*, Aug. 26, 2010, <http://www.hrw.org/en/news/2010/08/23/uganda-women-disabilities-barriers-and-abuse>. (last visited Feb. 10, 2012).

⁸²⁰ Human Rights Watch, *Uganda: For Women with Disabilities, Barriers and Abuse*, Aug. 26, 2010, <http://www.hrw.org/en/news/2010/08/23/uganda-women-disabilities-barriers-and-abuse>. (last visited Feb. 10, 2012).

⁸²¹ Human Rights Watch, *Uganda: For Women with Disabilities, Barriers and Abuse*, Aug. 26, 2010, <http://www.hrw.org/en/news/2010/08/23/uganda-women-disabilities-barriers-and-abuse>. (last visited Feb. 10, 2012).

⁸²² Human Rights Watch, *Uganda: For Women with Disabilities, Barriers and Abuse*, Aug. 26, 2010, <http://www.hrw.org/en/news/2010/08/23/uganda-women-disabilities-barriers-and-abuse>. (last visited Feb. 10, 2012).

⁸²³ Shifa Mwesigye, *Women with disabilities cry out for justice*, THE OBSERVER, Sep. 10, 2010, http://www.peacewomen.org/news_article.php?id=1936&type=news. (last visited Feb. 10, 2012).

NGOs for assistance.⁸²⁴ Forty-one percent of Ugandan women have been physically abused in their lifetime.⁸²⁵ The prevalence of gender based violence is quite high.⁸²⁶ Although some of this can be attributed to war, conflicted government and other institutional factors, other factors include lack of educational opportunities and the lack of reasonable accommodations.⁸²⁷

5. *Intersectional Issues*

HRW reports that stigma and outright discrimination are widespread.⁸²⁸ Women with disabilities are labeled as “useless” and denied access to shelter, food and clothing.⁸²⁹ These women suffered a host of collateral consequences, such as inability to purchase products because of their reputation.⁸³⁰ Problems include lack of property rights, lack of child support, and lack of healthcare access.⁸³¹

O. Violence against women with disabilities in post-natural disaster settings

Oxfam has identified that women with disabilities needs services after the recent earthquake, tsunami, and nuclear crisis.⁸³² Asia Disability Institute and DPI-Japan are working for women with disabilities.⁸³³ They work on promoting independence of women with disabilities.⁸³⁴ Japan is an ultra-modern westernized society but also has strong traditions and cultural norms that may affect the treatment of persons with disabilities.⁸³⁵ There is a lot of cultural work that needs to be enhanced to increase awareness.⁸³⁶

P. Violence against women in developing countries

Many countries lack a comprehensive law on persons with disabilities and a national plan for women with disabilities. In countries such as Haiti, there are currently no government-

⁸²⁴ Shifa Mwesigye, *Women with disabilities cry out for justice*, THE OBSERVER, Sep. 10, 2010, http://www.peacewomen.org/news_article.php?id=1936&type=news. (last visited Feb. 10, 2012).

⁸²⁵ The Secretary-General, In-depth study on all forms of violence against women, 52, delivered to the Division for the Advancement of Women of the Department of Economic and Social Affairs of the United Nations Secretariat, U.N. Doc. A/61/122/Add.1 (Jul. 6, 2006).

⁸²⁶ Kim Thuy Seelinger, *Violence Against Women and HIV Control in Uganda: A Paradox of Protection?*, 33 *Hastings Int'l & Comp. L. Rev.* 345, 371 (2010)

⁸²⁷ *Id.* at 28; *Id.* at 45.

⁸²⁸ *See supra* note 8 at 24.

⁸²⁹ *Id.* at 25

⁸³⁰ *Id.* at 26

⁸³¹ *See supra* note 8 at 24-30.

⁸³² Oxfam Hong Kong, *Japan: Three Months After the Crisis*, http://www.oxfam.org.hk/en/news_1573.aspx (last visited Jul. 7, 2011).

⁸³³ IDEANet, IDR Japan, <http://www.ideanet.org/content.cfm?id=58587E> (last visited Jul. 7, 2011).

⁸³⁴ Union of International Associations, Asia Disability Institute, <http://www.uia.be:8080/s/or/en/1100064938> (last visited Jul. 7, 2011).

⁸³⁵ Kumiko Usui, *Issues regarding the Lives and Work of Women with Disabilities in Japan – From the Viewpoint of Disability, Gender, and Work*, <http://www2.e.u-tokyo.ac.jp/~read/en/archive/dp/f08/f0805.pdf>. (last visited Feb. 10, 2012)

⁸³⁶ *See* Yukio Nakanishi, *Development and Self-Help Movement of Women with Disabilities*, CORNELL UNIVERSITY ILR SCHOOL, <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1347&context=gladnetcollect&sei-redir=1#search=%22japan%20violence%20women%20disabilities%22>. (last visited Feb. 10, 2012)

sponsored services for women and girls with disabilities.⁸³⁷ In Sri Lanka, there is a National Committee on Women and Disabilities.⁸³⁸ There is also a Ministry on Health & Women's Affairs.⁸³⁹ Local and international NGOs and DPOs often address women's human rights issues.⁸⁴⁰ In Haiti, MADRE, an international NGO, works to address a variety of women's human rights issues in Haiti.⁸⁴¹ KOFIVIV was established by rape survivors and serves the poorest women of Port au Prince.⁸⁴² In Sierra Leone, there is a shortage of services for persons with disabilities, especially those with physical disabilities.⁸⁴³ There is limited understanding of the problem of violence against women, especially in rural areas.⁸⁴⁴

Q. Violence against women in industrialized economies

Pairing national-level strategies with strong civil society movements. Australia has a National Disability Strategy to implement the CRPD, signed by the Prime Minister of Australia and the State Premiers.⁸⁴⁵ NGOs are actively participating in the CRPD. NGO CPRD Shadow Report Project Group is working on a comprehensive shadow report to be submitted to the UN CRPD Committee in October of 2011. Seven Australia NGOs concerned with disability rights are participating.⁸⁴⁶ "Women with Disabilities in Australia" is one group at the forefront of rights for women with disabilities in the country. It is comprised of other smaller NGOs and aims to be a national voice for women with disabilities.⁸⁴⁷

R. Shadow reports completed by DPOs or NGOs

⁸³⁷ HAITI EQUALITY COLLECTIVE, *The Haiti Gender Shadow Report 23*, <http://www.genderaction.org/publications/2010/gsr.pdf> (last visited Jul. 6, 2011); IDEAnet, *Mexico 2003 IDRM Compendium Report*, <http://www.ideanet.org/content.cfm?id=585970&searchIT=1> (last visited Jul. 3, 2011).

⁸³⁸ Ministry of Child Development and Women's Affairs, Homepage, <http://www.childwomenmin.gov.lk/> (last visited Feb. 10, 2012); Human Rights Commission of Sri Lanka, Domestic Instruments and Institutions, http://hrsl.lk/english/?page_id=241. (last visited Feb. 10, 2012).

⁸³⁹ United Nations, Committee on the Elimination of Discrimination Against Women, *Third and fourth periodic reports of States parties – Sri Lanka 7* (Oct. 18, 1999), <http://www.un.org/womenwatch/daw/cedaw/cedaw26/lka3-4.pdf>. (last visited Feb. 10, 2012)

⁸⁴⁰ MADRE – *Who We Are*, <http://www.madre.org/index/meet-madre-1/who-we-are-49.html> (last visited Jul. 6, 2011).

⁸⁴¹ MADRE – *Who We Are*, <http://www.madre.org/index/meet-madre-1/who-we-are-49.html> (last visited Jul. 6, 2011).

⁸⁴² MADRE: KOFIVIV: *Zanmi Lasante*, <http://www.madre.org/index/meet-madre-1/our-partners-6/haiti-kofiviv-zanmi-lasante-36.html> (last visited Jul. 6, 2011).

⁸⁴³ United Nations, *Committee on the Elimination of Discrimination Against Women, Combined reports – Sierra Leone*, 68 (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/687/70/PDF/N0668770.pdf?OpenElement> (last visited Feb. 10, 2012)

⁸⁴⁴ United Nations, *Committee on the Elimination of Discrimination Against Women, Combined reports – Sierra Leone*, 68 (2006) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/687/70/PDF/N0668770.pdf?OpenElement> (last visited Feb. 10, 2012)

⁸⁴⁵ Council of Australian Government, *National Disability Strategy*, http://www.coag.gov.au/coag_meeting_outcomes/2011-02-13/docs/national_disability_strategy_2010-2020.pdf. (last visited, Feb. 10, 2012).

⁸⁴⁶ Australian Shadow Report Project, *Human Rights for People with Disabilities*, <http://www.disabilityrightsnow.org.au/node/15>.

⁸⁴⁷ <http://www.wwda.org.au/about.htm>. (last visited Feb. 10, 2012).

NGOs in Ireland are actively involved in CEDAW participation through the use of shadow reports.⁸⁴⁸ National Disability Authority is an independent state body specializing in disability rights issues. It commissioned a review of literature on women and disability to intersections of issues (this paper does not consider violence against women with disabilities but may be useful nonetheless). Cultural and social acceptance of violence against women with disabilities is the largest barrier to addressing the problem.⁸⁴⁹

S. Violence against women with disabilities in emerging economies

Domestic laws on rights of persons with disabilities and of women. Brazil's Rights of Persons with Disabilities, Law No. 7.853- provides basic rights for individuals with disabilities in Brazil for access to education, work and vocational training, health and criminalizes discrimination against persons with disabilities.⁸⁵⁰ Law No. 11.340 was passed to implement CEDAW and the Brazilian Constitution; it recognizes the fundamental right of all women to live without violence and the effective exercise of many basic rights (life, nutrition, culture, etc.)⁸⁵¹ This is known as the Maria de Penha law.

In China, the rights of persons with disabilities are elaborated in the Constitution, the Labor Law, and the Law on the Protection of Disabled Persons ("LPDP").⁸⁵² The Chinese Constitution provides for a right to work and equality for all people.⁸⁵³ There are also provisions on a right to material assistance for the disabled.⁸⁵⁴ These are substantive grants of rights under the Constitution. Those who become disabled as a result of employment are supposed to be given full social insurance as well.⁸⁵⁵ The Law on the Protection of Rights of Women of 1992 states that women have equal rights as men.⁸⁵⁶ The Law on the Protection of Disabled Persons of 1990 addresses rehabilitation, education, employment, cultural life, welfare, access, and the legal liability of those with disabilities.⁸⁵⁷ The State Council Coordination Committee on Disability (SCCCD) is the national coordinating body for disability policy in China.⁸⁵⁸ Ministry of Health and Civil Affairs administers disability law.⁸⁵⁹

⁸⁴⁸ See Ireland Shadow Report: *Domestic Violence*, [http://www.iwraw-ap.org/resources/pdf/Ireland\(2\).pdf](http://www.iwraw-ap.org/resources/pdf/Ireland(2).pdf). (last visited Feb. 10, 2012)

⁸⁴⁹ A Review of Literature on Women and Disability, WERRC (June 8, 2006), [http://www.nda.ie/website/nda/cntmgmtnew.nsf/0/BF3A14B644017A648025729D0051DD2B/\\$File/Exploring_the_research_and_policy_gaps.pdf](http://www.nda.ie/website/nda/cntmgmtnew.nsf/0/BF3A14B644017A648025729D0051DD2B/$File/Exploring_the_research_and_policy_gaps.pdf). (last visited Feb. 10, 2012)

⁸⁵⁰ Lei No. 7.853, de 24 de Outubro de 1989 (Brazil).

⁸⁵¹ Lei No. 11.340, de 7 de Agosto de 2006 (Brazil).

⁸⁵² Cerise Fritsch, *Right to Work? A Comparative Look at China and Japan's Labor Rights for Disabled Persons*, 6 Loy. U. Chi. Int'l L. Rev. 403, 413 (2009)

⁸⁵³ Xian Fa art. 33 (1982) (P.R.C.), available at <http://english.peopledaily.com.cn/constitution/constitution.html>.

⁸⁵⁴ Xian Fa art. 42-45 (1982) (P.R.C.), available at <http://english.peopledaily.com.cn/constitution/constitution.html>.

⁸⁵⁵ Labor Law (promulgated by the Standing Comm. Nat'l People's Cong., July 5, 1994, effective Jan. 1, 1995) art. 73 (P.R.C.).

⁸⁵⁶ Zhonghua renmin gongheguo funu quanyi baozhangfa (Law of the People's Republic of China on the Protection of Women's Rights and Interests), art. 2, Fagui Huibian 1992, 27

⁸⁵⁷ *Law of the People's Republic of China on the Protection of Persons with Disabilities*, available at http://www.cdpc.org.cn/english/law/content/2008-04/10/content_84949.htm (last visited Jul. 6, 2011).

⁸⁵⁸ IDEANet, *IDRM Publications – China*, <http://www.ideanet.org/content.cfm?id=585870> (last visited Jul. 6, 2011).

⁸⁵⁹ JAPAN INTERNATIONAL COOPERATION AGENCY, *Country Profile on Disability – People's Republic of China*, 8 (March 2002) http://siteresources.worldbank.org/DISABILITY/Resources/Regions/East-Asia-Pacific/JICA_China.pdf (last visited Feb. 10, 2012)

In India, the Persons with Disabilities Act of 1995 is a comprehensive statute, however it does not specifically address violence against women with disabilities.⁸⁶⁰ Forced sterilizations have been a problem in India at least since the administration of Indira Gandhi. However, in 1994, women with disabilities were found to be a particular target of forced sterilizations.⁸⁶¹

⁸⁶⁰ Swagata Raha, *Protecting women with disabilities from violence*, Infochangeindia, <http://infochangeindia.org/disabilities/backgrounder/protecting-women-with-disabilities-from-violence.html> (last visited Jul. 7, 2011).

⁸⁶¹ Swagata Raha, *Protecting women with disabilities from violence*, Infochangeindia, <http://infochangeindia.org/disabilities/backgrounder/protecting-women-with-disabilities-from-violence.html> (last visited Jul. 7, 2011).

XI. **Best and Emerging State and Non-state Programmes/Practices**

Below are set forth a few examples of best practices. For additional exemplary programs, please see the section V State Compliance with Due Diligence Obligations.

A. Activism and organizing in civil society

Brazil's civil society has been actively engaged in CEDAW and has submitted shadow reports to the Commission. A series of actions and protests were organized in Brazil in 2006 to publicize the issue of violence against women.⁸⁶²

In October 2004, NGOs and the Chinese government sponsored an Information Accessibility Seminar.⁸⁶³ The China Disabled Persons' Federation (CDPF) is a national umbrella organization of and for people with various forms of disabilities.⁸⁶⁴

In India, the constitutional text prohibiting discrimination for sex or disability was not more assertively implemented until a public-interest and social-action litigation culture emerged in the 1980s.⁸⁶⁵

B. Development of domestic violence and sexual abuse programs and facilities directly around the needs assessment of women with disabilities.

For example, in the United States, the Illinois State Domestic Violence program, "Our Rights, Right Now"⁸⁶⁶ is an innovative program. In Cape Town, South Africa a so-called Psycho-legal project has been established to assist complainants with learning disabilities in sexual assault cases.⁸⁶⁷ As a result of the project, a conviction rate of 28% was achieved and this was comparable to the best conviction rate in sexual assault cases in the general population in South Africa. The vigorous pursuit of cases identified as strong contributed to the high conviction rate when most sexual abuse cases involving a complainant with learning disabilities rarely go to court.⁸⁶⁸

⁸⁶² Shadow Report of Civil Society, *Brazil and Compliance with CEDAW*, The Sixth National Report of Brazil on the Convention on the Elimination of All Forms of Discrimination Against Women- 2001-2005 period 6 (June 2007), http://www.iwraw-ap.org/resources/pdf/BRAZIL_SHADOWREPORT_CEDAW_June,18%5B1%5D.pdf. (last visited Feb. 10, 2012)

⁸⁶³ IDEANet, *IDRM Publications – China*, <http://www.ideanet.org/content.cfm?id=585870> (last visited Jul. 6, 2011).

⁸⁶⁴ IDEANet, *IDRM Publications – China*, <http://www.ideanet.org/content.cfm?id=585870> (last visited Jul. 6, 2011).

⁸⁶⁵ Indian Const. §§ 14-15; Jayanth K. Krishnan, *Lawyering for A Cause and Experiences from Abroad*, 94 Cal. L. Rev. 575, 596 (2006).

⁸⁶⁶ Illinois Coalition Against Sexual Assault, *Our Rights, Our Now* www.icasa.org <- where on this website? (last visited May 31, 2011).

⁸⁶⁷ Dickman, B.J et. al., *Complainants with learning disabilities in sexual abuse cases: a 10-year review of a psycho-legal project in Cape Town, South Africa.*, 33 British Journal of Learning Disabilities 138 (2005).

⁸⁶⁸ Cooke P. et. al, *Achieving best evidence from witnesses with learning disabilities: new guidelines* 29. *BJLD* 84 (2005).

In the United States, the World Institute on Disability's (WID) identified the need for increasing use of abuse prevention and response programs and developed the Curriculum on Abuse Prevention and Empowerment (CAPE) Curriculum for people with disabilities and elders living independently.⁸⁶⁹ The program has a strong focus on empowerment through its curriculum, assisting people with disabilities to address situations and prevent future violence.

The NGO Women With Disabilities Australia has extensive resources on confronting violence against women with disabilities using a human rights approach. They also enumerate the areas needed for further qualitative and quantitative research.⁸⁷⁰

The Swedish Government has undertaken a comprehensive study on violence against women with disabilities and has enumerated strategies to address this violence.⁸⁷¹

To facilitate mentoring for Young Women with Disabilities, Abia Akram, a young woman from Pakistan will be the Global Coordinator for the Global Network of Emerging Women Leaders, a project of Disabled People's International. The project seeks to provide mentoring and support to women with disabilities who are emerging leaders for women's rights. She is well suited to this role as she is also studying for her Masters degree in Gender Policy at the University of Warwick on a scholarship.⁸⁷²

To share information on sexuality and women with disabilities, Point of View and CREA have launched the website: <http://www.sexualityanddisability.org>. The website starts with the premise that women who are disabled are sexual beings -- just like any other woman. The website is interactive and readers are also encouraged to post questions and their own stories on issues such as Body, Sexuality, Relationships, Reproduction and Violence.

⁸⁶⁹ See World Institute on Disability, *CAPE of Self-Protection for People with Disabilities and Elders Living Independently*, <http://www.wid.org/programs/health-access-and-long-term-services/curriculum-on-abuse-prevention-and-empowerment-cape/cape-curriculum-on-abuse-prevention-and-empowerment> (last visited Apr. 14, 2011).

⁸⁷⁰ Frohmader, C. *Assessing the situation of women with disabilities in Australia – a human rights approach*, Women With Disabilities Australia. <http://www.wdda.org.au/WWDAPolicyPaper2011.pdf> (last visited, Feb. 10, 2012). Containing a summary of relevant human rights law on access to justice and equal recognition for women with disabilities.

⁸⁷¹ Swedish National Board of Health and Welfare, *Looking the Other Way: A Study Guide to Female Victims of Violence with Disabilities* (Feb. 2012), available at http://www.euroblind.org/media/ebu-media/Sweden_Guide_violence_against_disabled_women_2011.pdf.

⁸⁷² Sehrish Wasif, "Pakistan Young disabled Woman Is Leader for Rights," *The Tribune*, May 11, 2012, available at: <http://tribune.com.pk/story/377034/like-herself-abia-aims-to-empower-women-with-disabilities/>

XII. Challenges and Gaps

A. **Barriers to Addressing Violence against Women with Disabilities**

1. Multiple Identities

Women with disabilities experience multiple forms of discrimination, including racial/ethnic, language, sexual orientation, and religious discrimination that compounds the gender and disability discrimination. The intersectionality of multiple discriminations requires more complex solutions and many best practices may not apply to every case of violence against women with disabilities.

2. Research Gaps

Research on violence against women with disabilities, especially research containing disaggregated data on women with disabilities, is rare. The limited disaggregated research that has been done tends to focus on industrialized societies or the so-called developed countries, with little attention to minority or other identity groups within society or to developing countries. Studies are generally not done with large enough sample sizes and much research is qualitative (often based on interviews with individual women) only and not quantitative. For example, quantitative statistics on the intersection of HIV/AIDS and disability are scarce.

3. Barriers to Information and Services

Persons with disabilities, especially women, face barriers to information and services. Usually these barriers are a result of ignorance and attitudes of society and individuals, including health-care and other service providers, and not the persons disabilities.⁸⁷³

4. Violence Prevention and Other Related Services

There are numerous barriers to preventive services and other organizations in addressing violence against women such as domestic violence and sexual abuse programs and facilities; legal services and facilities; health care systems and personnel, particularly in terms of sexual and reproductive health.⁸⁷⁴ School personnel may have stereotypical attitudes towards violence against women with disabilities, e.g., may not believe that it occurs and thus not see the signs of abuse.

5. Health Care Services

⁸⁷³ WHO Promoting sexual and reproductive health for persons with disabilities screen reader-friendly PDF at:

<http://www.who.int/reproductivehealth/publications/general/9789241598682/>

⁸⁷⁴ WHO Promoting sexual and reproductive health for persons with disabilities screen reader-friendly PDF at: <http://www.who.int/reproductivehealth/publications/general/9789241598682/>

Inaccessibility of particular health care systems and personnel, especially in terms of sexual and reproductive health is a serious barrier to women with disabilities receiving these services. Lack of physical access (e.g. transportation, ramps, adapted examination tables); Lack of information and communication materials in Braille, large print, simplified language, and pictures; lack of sign language interpreters.

Women with disabilities have the same sexual and reproductive health needs as other people. Women with disabilities may be hesitant to seek reproductive health care because of adverse past experiences⁸⁷⁵. Women with disabilities often have sexual and reproductive health needs left unmet because of a lack of social attention, legal protection, and support. Negative attitudes of health-care providers toward women with disabilities. Lack of disability-specific knowledge from service providers in domestic violence and sexual abuse programs; legal services; health care systems, police offices, and judicial courts. Lack of awareness of personnel and organizations serving persons with disabilities, e.g., centers for independent living, social service agencies. Need for human resources for rehabilitation.

The lack of women in rehabilitation professions as well as cultural attitudes towards gender affect rehabilitation services in certain contexts. The low number of women technicians in India, for example, may partly explain why women with disabilities were less likely than men to receive assistive devices.⁸⁷⁶ Female patients in Afghanistan can be treated only by female therapists, and men only by men. Restrictions on travel for women prevent female physiotherapists from participating in professional development and training workshops and limit their ability to make home visits.⁸⁷⁷

An analysis of the General Household Survey in the United Kingdom found that informal care reduced the probability of working by 13% for men and 27% for women.⁸⁷⁸

6. Sexually Transmitted Infections and diseases.

Women with disabilities in high school settings may be at higher risk for contracting sexually transmitted infections (STIs) than their peers without disabilities.⁸⁷⁹ Persons with disabilities fit the common pattern of structural risks for HIV/AIDS and other STIs: high rates of poverty, high rates of illiteracy, lack of access to health resources, lack of power when

⁸⁷⁵ Center for Research on Women with Disabilities, Sexuality and Reproductive Health. Center for Research on Women with Disabilities, Baylor College of Medicine. <http://www.bcm.edu/crowd/index.cfm?PMID=1332> (last visited Dec. 12, 2010).

⁸⁷⁶ World Bank, *People with disabilities in India: from commitments to outcomes*, (http://imagebank.worldbank.org/servlet/WDSContentServer/IW3P/IB/2009/09/02/000334955_20090902041543/Rendered/PDF/502090WP0Peopl1Box0342042B01PUBLIC1.pdf, (last visited 8 December 2010).

⁸⁷⁷ Wickford J. et. al., *Physiotherapy in Afghanistan—needs and challenges for development*, Disability and Rehabilitation http://gupea.ub.gu.se/bitstream/2077/22922/1/gupea_2077_22922_1.pdf (last visited Feb. 24, 2012).

⁸⁷⁸ Carmichael F, et. al., *The opportunity costs of informal care: does gender matter?*, 22 Journal of Health Economics 781(2003). Available at <http://www.uv.es/~atortosa/costinformalcare.pdf>

⁸⁷⁹ Mandell, D., et al., *Sexually-transmitted infection among adolescents receiving special education services*. 78 *Journal of School Health* 382 (2008).

negotiating safer sex. This also results from misconceptions that persons with disabilities are sexually inactive, unlikely to use drugs, at less risk for violence and rape.⁸⁸⁰

7. Extreme poverty

Economic status is a severe barrier, both because of the ability to pay for the services and travel to facilities providing the services.

8. Social sanctions against marrying a person with disabilities

Disability is both a cause and consequence of poor reproductive health.⁸⁸¹ With respect to maternal health care, for example, every minute, more than 30 women are seriously injured or disabled during labor but these 15-50 million women generally go without services.

9. Lack of coordination of services

A report on 29 African countries found that many lack coordination and collaboration among the different sectors and ministries involved in disability and rehabilitation, and 4 of the 29 countries did not have a lead ministry.⁸⁸²

10. Barriers in access to justice through the legal system after violent act committed

An exploratory study in Bangladesh⁸⁸³ disclosed such problems, for example: Lack of disability-specific training for both advocates and judges; Lack of financial support or awareness of possible supports for legal assistance; Lack of sign language interpretation or alternative communication strategies in the justice system, including courts, police stations and law offices. Socioeconomic status and prejudices by those in the justice system often results in the failure to take seriously the complaints of women with disabilities to admit the testimony of women with disabilities.

11. Other Barriers

Other barriers include: Corruption, coercion, and bribery; Lack of decision-making power; Perception of diminished womanhood because of disability myths; Self-imposed pressure

⁸⁸⁰ Groce, N., *HIV/AIDS and people with disability*, The Lancet. <http://www.thelancet.com/> (last visited April 14, 2011).

⁸⁸¹ World Bank (2011). Reproductive Health and Disability. *World Bank*. <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTHEALTHNUTRITIONANDPOPULATION/EXTPRH/0,,contentMDK:20286128~menuPK:632615~pagePK:148956~piPK:216618~theSitePK:376855,00.html> (last visited Mar. 19, 2012)

⁸⁸² World Health Organization, *Disability and rehabilitation status review of disability issues and rehabilitation services in 29 African Countries*. <http://www.who.int/disabilities/publications/care/African%2029%20country%20report%20updated-12-2004.pdf> (last visited Feb. 10, 2012).

⁸⁸³ Warren, K.E et. al, *Report on Violence Against Women with Disabilities in Bangladesh: Lessons from Lawyers*. Unpublished manuscript. Harvard Law School Project on Disability.

to fulfill womanhood; Lack of reproductive health knowledge; Stigmatization within society at large; Lack of legal education given link between disability and poverty; Lack of faith in the justice system; Weak rule of law; Societal pressures to maintain the status quo.

B. Specific Gaps in Research

1. Stakeholders: Various stakeholders have a role to play in improving research and reporting

National and local governments. United Nations entities. These include: UN Women; the UN Commission on the Status of Women; the UN Development Program; the UN Population Fund; World Health Organization; the World Bank; the CRPD Committee; the CEDAW Committee; the CRC Committee; the Special Representative of the Secretary-General on Sexual Violence in Conflict; Special Representative of the Secretary-General for Children and Armed Conflict; the Special rapporteur on Violence Against Women; the Special Rapporteur on Health; the UN 16 Days Campaign to End Violence Against Women conducted now by UN Women. Signatories and States Parties to CEDAW, the CRC and the CRPD.

Public and non-governmental service providers, [including reproductive and sexual health service providers, sexual assault and domestic violence programs, programs serving persons with disabilities, including independent living centers, education institutions, academics and researchers, etc]; Donors and foundations; Civil society including non-governmental human rights groups; Women's rights groups; Disabled persons organizations (DPOs); Individual women with disabilities, since some women with disabilities may not wish to join a DPO or believe that a particular DPO does not represent their interests.

2. Heterogeneity of disability and need to include all types of experiences of disability⁸⁸⁴

Women with disabilities should be included in mainstream endeavors addressing violence against women and sexual and reproductive health and women with disabilities should be part of the teams developing these services and programs. Disabled persons organizations, advocacy groups, individual Practitioners, and other resources exist with both domestic and international experience and focus.

Inaccessibility of violence against women services, including transportation, support, communication and interpretation needs to be addressed.

The lack of materials on awareness raising in alternative formats accessible to women with disabilities needs to be addressed and such materials must be developed and disseminated widely, especially in alternative formats and through diverse distribution networks.

Issues of violence and abuse identified as highest health priority by women with disabilities must be a priority for service provision.⁸⁸⁵

⁸⁸⁴ The International Network of Women with Disabilities (2011). On Violence Against Women with Disabilities. *Center for Women Policy Studies*. Retrieved April 5, 2011 from <http://www.centerwomenpolicy.org>

Sufficient fiscal and financial resources generally are not devoted to ensure that women with disabilities are included in programs on violence against women and women's health care, including sexual and reproductive health care. Fiscal, personnel, and other resources allocated to such programs often do not consider possible ramifications of the need for reasonable accommodation, accessibility, nor personnel who are experts on working with women with disabilities,⁸⁸⁶ which must be considered in program budgets.⁸⁸⁷

Government disability national action plans, gender national action plans and human rights national action plans often do not consider relevant issues concerning violence against women with disabilities and the health concerns of women with disabilities.

⁸⁸⁵ Berkeley Planning Associates, *Priorities for future research: Results of BPA's Delphia Survey of Disabled Women*. (1996); National Institute on Disability and Rehabilitation Research. (1994). *Focus group on women and disability: Report of proceedings*. Washington, DC: U.S. Department of Education, Office of Special Education and Rehabilitative Services; Nosek, M.A. et al., *National study of women with physical disabilities: Final report*. Houston: Center for Research on Women with Disabilities (1997).

⁸⁸⁶ Article 9 of the CRPD ensures the right of accessibility for people with disabilities. The provision requires states parties to take measures to ensure that people with disabilities have equal access 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 rural areas." CRPD, *supra* note 8, at art. 9(1). The provision specifically requires states parties to "provide training for stakeholders" regarding accessibility issues that people with disabilities face. *Id.* at art. 9(2)(c). Article 5 of the CRPD ensures the right of reasonable accommodation for people with disabilities. *Id.* at art. 5(3) (requiring states parties to "take all appropriate steps to ensure that reasonable accommodation is provided.").

⁸⁸⁷ Budget analysis refers to a process through which state allocation of resources is scrutinized and assessed. In the human rights context, civil society organizations use budget analysis to determine whether the state is meeting its human rights obligations. See Gillian MacNaughton, *Human Rights Frameworks, Strategies, and Tools for the Poverty Lawyer's Toolbox*, 44 CLEARINGHOUSE REV. 437, 446. In order to determine whether the needs of women with disabilities are met in programs and policies, budgetary analysis is crucial. See Janet E. Lord & Michael Ashley Stein, *The Domestic Incorporation of Human Rights Law and the United Nations Convention on the Rights of Persons with Disabilities*, 83 WASH. L. REV. 449, 459 (2008) (stating that budget analysis is an "essential component" of any effective disability rights campaign). Human rights practice tends to overemphasize legal intervention over other forms of rights oriented work, including budgetary analysis. See *id.* at 453. Human rights advocates have only recently stressed the importance of budgetary analysis. See Stephanie Farrior, *Human Rights Advocacy on Gender Issues: Challenges and Opportunities*, 1 J. HUM. RTS. PRAC. 83, 95; Gillian MacNaughton & Paul Hunt, *A Human rights-Based Approach to Social Impact Assessment*, in NEW DIRECTIONS IN SOCIAL IMPACT ASSESSMENT: CONCEPTUAL AND METHODOLOGICAL ADVANCES 355, 360 (Frank Vanclay & Ana Maria Esteves, eds., 2012) Budget analysis "reveals human rights problems and affords means to tackle them." *Id.* It can be used to identify the sufficiency of resource allocation in an attempt to secure the rights of a particularly disadvantaged group. See MARIA SOCORRO I. DIKNO, A RIGHTS-BASED APPROACH TO BUDGET ANALYSIS, 8 (1999), <http://www.crin.org/docs/resources/publications/hrbap/RBABudgetAnalysis.pdf> (last visited Feb. 22, 2012); HELENA HOFBAUER, ET AL., DIGNITY COUNTS: A GUIDE TO USING BUDGET ANALYSIS TO ADVANCE HUMAN RIGHTS (2004), http://www.ii.org/en/Programs/IHRIP/~media/Files/Programs/IHRIP/Dignity_Counts.ashx (last visited Feb. 22, 2012). Budget analysis can also serve an important role in the realm of women's rights. See, e.g., DEBBIE BUDLENDER & RHONDA SHARP, HOW TO DO A GENDER-SENSITIVE BUDGET ANALYSIS: CONTEMPORARY RESEARCH AND PRACTICE, (1998), http://www.thecommonwealth.org/shared_asp_files/uploadedfiles/%7B1171EF87-2C5C-4624-9D76-B03CF35F4E65%7D_AusAIDTr.pdf (last visited Feb. 22, 2012). Budget analysis has also been emphasized in the context of state reporting obligations on the implementation of economic, social, and cultural rights. See United Nations, Econ. & Soc. Council, Limburg Principles on the Implementation of Economic, Social and Cultural Rights, ¶ 79, U.N. Doc.E/CN.4/1987/17 (Jan. 8, 1987) ("Quantitative information should be included in the reports of States parties in order to indicate the extent to which the rights are protected in fact. Statistical information and information on budgetary allocations and expenditures should be presented in such a way as to facilitate the assessment of the compliance with Covenant obligations. States parties should, where possible, adopt clearly defined targets and indicators in implementing the Covenant.").

XIII. Recommendations and Conclusions

A. **Recommendations Directed to International and Regional Entities and mechanisms, National Governments and International and National Disability rights and Human Rights organizations.**

Towards the end of addressing violence against women with disabilities, the Working Group sets forth various goals and strategies to increase engagement and coordination with United Nations and other international entities and mechanisms, Regional entities and mechanisms, governments and non-governmental organizations addressing women's and disabled peoples human rights, related gender and disability issues, development and peacebuilding to focus on as a priority inclusion of women and girls with disabilities.

Areas in which women and girls with disabilities generally have not been integrated into programs and policy documents, but can be so integrated, include numerous thematic issues, for example: 1. ensuring the inclusion of women with disabilities into the United Nations Women, Peace and Security framework, as set forth in United Nations Security Council Resolution 1325⁸⁸⁸ and succeeding resolutions; 2. engaging women and girls with disabilities in the science, technology, engineering and math fields in education and employment, which was the thematic issue focus of the United Nations Commission on the Status of Women, 55th Session;⁸⁸⁹ 3. Including women with disabilities in discussions of rural and indigenous women, which was the priority theme of the United Nations commission on the Status of Women, 56th Session,⁸⁹⁰ and 4. combating violence against women, which both encompasses the mandate of the Special Rapporteur on Violence Against Women⁸⁹¹ and United Nations General Assembly Resolution 187 Intensification to Eliminate all Forms of Violence Against Women and which will be the priority theme of the United nations Commission on the Status of Women 57th Session.⁸⁹² However, this approach can be duplicated with other issues addressed by the international community and enumerated in various United Nations and Regional conventions, declarations and resolutions concerning women's human rights and the human rights of persons with disabilities , gender equality, disability inclusion and other issues of concern to women, all of which have an impact on violence against women with disabilities.

1. Increase engagement by United Nations agencies and mechanisms.

⁸⁸⁸ U.N. Security Council S.C. Res. 1325, U.N. Doc. S/RES/1325 (Oct. 31, 2000).

⁸⁸⁹ UN Commission on the Status of Women, 55th Session, *Priority Theme*, <http://www.un.org/womenwatch/daw/csw/55sess.htm#priority>.

⁸⁹⁰ UN Commission on the Status of Women, 56th Session, *Panel Discussion: Rural Women and Girls with Disabilities - Economic Empowerment and Political Participation*, <http://www.un.org/disabilities/default.asp?navid=46&pid=1594>

⁸⁹¹ See United Nations Human Rights, Office of the High Commissioner for Human Rights, Violence Against Women: South African Legal Expert Takes Over as New UN Special Rapporteur (announcing the appointment of Rashida Manjoo as the new UN Special Rapporteur on violence against women, its causes and consequences), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=52&LangID=E> (last visited July 28, 2010); see also Special Rapporteur on Violence Against Women, Its Causes and Consequences, <http://www2.ohchr.org/english/issues/women/rapporteur/> (last visited July 16, 2010).

⁸⁹² G.A. Res.65/187, U.N. Doc. A/RES/65/187 (Feb. 23, 2011); UN Commission on the Status of Women, 57th Session, *Priority Theme - Elimination and prevention of all forms of violence against women and girls*, (Mar. 4-14, 2013), available at: <http://www.un.org/womenwatch/daw/csw/57sess.htm>.

Increase engagement by United Nations agencies and mechanisms as well as other international and regional mechanisms on violence against women with disabilities.

Coordinate within UN Women,⁸⁹³ to address issues of concern for women and girls with disabilities and appoint women with disabilities to leadership positions to focus on issues of concern for women and girls with disabilities.⁸⁹⁴

Encourage the United Nations Human Rights Council's Working Group on Discrimination Against Women in Law & Practice⁸⁹⁵ to ensure that it also undertakes efforts to encourage governments to revoke any remaining laws that discriminate on the basis of sex against women and girls with disabilities and remove gender bias against women and girls with disabilities in the administration of justice, issues that are especially important in light of the double discrimination that women and girls with disabilities face because of both their gender and disability and their increased susceptibility to violence.⁸⁹⁶

UN Women and other United Nations organs focusing on women's rights should submit reports to the Committee on the United Nations Convention on the Rights of Persons with Disabilities (CRPD Committee) on the implementation of the CRPD in their activities with respect to incorporating a gender-sensitive and disability-inclusive approach to include women with disabilities in programs, policies and practices, under the CRPD Article 38 Relationship of the Committee with other bodies.⁸⁹⁷

Encourage the establishment of a mechanism by which the UN Special Rapporteur on Violence Against Women can coordinate and collaborate with the UN Special Rapporteur on Disability of the Commission on Social Development, with respect to violence against women with disabilities.⁸⁹⁸

⁸⁹³ Gretchen Luchsinger, "UN Women Celebrates Launch as Powerful Driver of Women's Equality," *press release*, Feb. 24, 2011 *available at* <http://www.unwomen.org/2011/02/un-women-celebrates-launch-as-powerful-driver-of-womens-equality/> (last visited Mar. 14, 2011).

⁸⁹⁴ In Historic Move, UN Creates Single Entity to Promote Women's Empowerment, U.N. News Centre (July 2, 2010), <http://www.un.org/apps/news/story.asp?NewsID=35224&Cr=gender&Cr1> (last visited July 28, 2010).

⁸⁹⁵ See United Nations Human Rights, Office of the High Commissioner for Human Rights, "Human Rights Council establishes Working Group on Discrimination against Women in Law and Practice" (announcing the creation of the Working Group) (Oct. 1, 2010), *available at* <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10405&LangID=E> (last visited Apr. 6, 2011).

⁸⁹⁶ See United Nations Human Rights, Office of the High Commissioner for Human Rights, "Human Rights Council concludes sixteenth session" (announcing the need to combat violence against women) (Mar. 25, 2010), *available at* <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10897&LangID=E> (last visited Apr. 6, 2011).

⁸⁹⁷ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 38(a) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

Potential figures and organizations might include UN Women,⁸⁹⁹ the CRPD Committee,⁹⁰⁰ the CEDAW Committee,⁹⁰¹ the CRC Committee,⁹⁰² the CAT Committee the United Nations Development Program,⁹⁰³ the World Health Organization,⁹⁰⁴ the International Labour Organization,⁹⁰⁵ the UN Educational, Scientific and Cultural Organization,⁹⁰⁶ the 16 Days Campaign on Violence Against Women,⁹⁰⁷ the UN Special Rapporteur on Disability,⁹⁰⁸ the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living,⁹⁰⁹ the Special Rapporteur on the Right to Food,⁹¹⁰ the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health,⁹¹¹ the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance,⁹¹² the Special Rapporteur on the Right to Education,⁹¹³ the Independent Expert on Human Rights and Extreme Poverty,⁹¹⁴ the Special Representative of the Secretary General on Sexual Violence in Conflict,⁹¹⁵ the UNICEF Senior Advisor on Children with Disabilities,⁹¹⁶ etc.

⁸⁹⁹ Gretchen Luchsinger, “UN Women Celebrates Launch as Powerful Driver of Women’s Equality,” *press release*, Feb. 24, 2011 *available at* <http://www.unwomen.org/2011/02/un-women-celebrates-launch-as-powerful-driver-of-womens-equality/> (last visited Mar. 14, 2011).

⁹⁰⁰ Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, U.N. Doc. A/RES/61/106, art. 38(a) (Dec. 13, 2006), *available at* <http://www.unhcr.org/refworld/docid/45f973632.html>.

⁹⁰¹ Convention on the Elimination of All Forms of Discrimination against Women, G.A. Res. 34/180, U.N. Doc. A/RES/34/180 (Dec. 18, 1979), *available at* <http://www.unhcr.org/refworld/docid/3ae6b3970.html>.

⁹⁰² Convention on the Rights of the Child, G.A. Res. 44/25, U.N. Doc. A/RES/44/25, art. 7-8 (Nov. 20, 1989), *available at* <http://www2.ohchr.org/english/law/pdf/crc.pdf>.

⁹⁰³ United Nations Development Programme, <http://www.undp.org/> (last visited Mar. 23, 2011).

⁹⁰⁴ World Health Organization, <http://www.who.int/en/> (last visited Mar. 23, 2011).

⁹⁰⁵ International Labour Organization, <http://www.ilo.org/global/lang--en/index.htm> (last visited April 3, 2011).

⁹⁰⁶ United Nations Educational, Scientific and Cultural Organization, <http://www.unesco.org/new/en/> (last visited May 15, 2011).

⁹⁰⁷ Office of the United Nations High Commission for Human Rights, http://www2.ohchr.org/english/events/16_days/index.htm.

⁹⁰⁸ U.N. Special Rapporteur on Disability, <http://www.srdisability.org/> (last visited Aug. 21, 2010); U.N. Enable, The Special Rapporteur on Disability of the Commission for Social Development, <http://www.un.org/esa/socdev/enable/rapporteur.htm> (last visited Aug. 21, 2010).

⁹⁰⁹ Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, <http://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndexOld.aspx> (Mar. 20, 2011).

⁹¹⁰ Special Rapporteur on Right to Food, <http://www2.ohchr.org/english/issues/food/index.htm> (last visited Mar. 20, 2011).

⁹¹¹ Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, <http://www2.ohchr.org/english/issues/health/right/> (last visited Mar. 20, 2011).

⁹¹² Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, <http://www2.ohchr.org/english/issues/racism/rapporteur/index.htm> (last visited, Mar. 20, 2011).

⁹¹³ Special Rapporteur on Right to Education, <http://www2.ohchr.org/english/issues/education/rapporteur/index.htm> (last visited Mar. 23, 2011).

⁹¹⁴ Independent Expert on Human Rights and Extreme Poverty, <http://www2.ohchr.org/english/issues/poverty/expert/index.htm> (last visited Mar. 23, 2011).

⁹¹⁵ UN Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, http://www.unhcr.org/refworld/publisher/SRSG_SVC.html.

⁹¹⁶ UNICEF Senior Advisor on Children with Disabilities, Rosanglea Berman-Bieler, *Dear Colleague Letter*, Feb. 17, 2011, *available at* http://www.usicd.org/index.cfm/news_unicef-senior-adviser-on-children-with-disabilities-rosangela-berman-bieler (last visited Mar. 14, 2011).

2. Explore collaborations between and among Special Rapporteurs and Special Procedure mechanisms of the Human Rights Council

Explore collaborations between and among Special Rapporteurs and Special Procedure mechanisms of the Human Rights Council to ensure that the perspectives of women and girls with disabilities are addressed in their mandates, e.g., Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living,⁹¹⁷ Special Rapporteur on the Right to Food,⁹¹⁸ Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health,⁹¹⁹ the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance,⁹²⁰ the Special Rapporteur on the Right to Education⁹²¹ and the Independent Expert on Human Rights and Extreme Poverty.⁹²²

Urge that the UN system, United Nations Development Program (UNDP),⁹²³ World Health Organization (WHO),⁹²⁴ International Labour Organization (ILO),⁹²⁵ United Nations Educational, Scientific and Cultural Organization (UNESCO),⁹²⁶ United Nations Development Programme (UNDP),⁹²⁷ governments and those institutions involved in development, health (including sexual and reproductive health),⁹²⁸ education, peace building and reconciliation address the rights and needs of women and girls with disabilities in their programs and reporting.⁹²⁹

Encourage the United Nations group of independent experts (which is to advise on ways to better protect women in conflict situations, to ensure that their voices are heard in peace processes and to include women in post-conflict reconstruction and governance

⁹¹⁷ Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, <http://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndexOld.aspx> (Mar. 20, 2011).

⁹¹⁸ Special Rapporteur on Right to Food, <http://www2.ohchr.org/english/issues/food/index.htm> (last visited Mar. 20, 2011).

⁹¹⁹ Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, <http://www2.ohchr.org/english/issues/health/right/> (last visited Mar. 20, 2011).

⁹²⁰ Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, <http://www2.ohchr.org/english/issues/racism/rapporteur/index.htm> (last visited, Mar. 20, 2011).

⁹²¹ Special Rapporteur on Right to Education, <http://www2.ohchr.org/english/issues/education/rapporteur/index.htm> (last visited Mar. 23, 2011).

⁹²² Independent Expert on Human Rights and Extreme Poverty, <http://www2.ohchr.org/english/issues/poverty/expert/index.htm> (last visited Mar. 23, 2011).

⁹²³ United Nations Development Programme, <http://www.undp.org/> (last visited Mar. 23, 2011).

⁹²⁴ World Health Organization, <http://www.who.int/en/> (last visited Mar. 23, 2011).

⁹²⁵ International Labour Organization, <http://www.ilo.org/global/lang--en/index.htm> (last visited April 3, 2011).

⁹²⁶ United Nations Educational, Scientific and Cultural Organization, <http://www.unesco.org/new/en/unesco/> (last visited Apr. 16, 2011).

⁹²⁷ United Nations Development Programme, <http://www.undp.org/> (last visited Mar. 23, 2011).

⁹²⁸ World Health Organization (2009). *Promoting Sexual and Reproductive Health for Persons with Disabilities*, WHO/UNFPA Guidance Note. Available at http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf (last visited Mar. 14, 2011).

⁹²⁹ See CRPD, *supra* note 5, arts. 11, 31; United Nations Enable, Inter-Agency Support Group, <http://www.un.org/disabilities/default.asp?navid=43&pid=323> (last visited July 28, 2010).

structures), appoint a member who is a woman with a disability and who is expert on inclusion of and on issues confronting girls and women with disabilities in such efforts.⁹³⁰

Encourage the Special Representative of the Secretary General on Sexual Violence in Conflict on her work to curb sexual violence in conflict to ensure that she considers the needs and concerns of women and girls with disabilities.⁹³¹

Encourage the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) as it drafts General Comments, to ensure that women with disabilities are included therein.⁹³² Encourage other treaty bodies, such as the Committee on the Convention on the Rights of the Child (CRC Committee),⁹³³ the Committee on the Convention on the Elimination of Racial Discrimination (CERD Committee),⁹³⁴ to ensure that women with disabilities are included therein.

Collaborate with UNICEF Senior Advisor on children with disabilities, on her work to include girls with disabilities in education.⁹³⁵

Support the work of the UN Special Rapporteur on Violence Against Women,⁹³⁶ to support her commitment to ensure that the issues of violence against women with disabilities are addressed and that she has sufficient resources to visit countries to assess violence against women with disabilities in future mandates.⁹³⁷

⁹³⁰ See, e.g., Press Release, Security Council, U.N. Creates New Structure for Empowerment of Women, U.N. Press Release (July 2, 2010), available at http://www.unwomen.org/wp-content/uploads/2010/07/UNWomen_PressRelease_201007021.pdf; Civil Society Group to Help Advise UN on Role of Women in Peace and Security, UN News Centre (Mar. 5, 2010), <http://www.un.org/apps/news/story.asp?NewsID=33992&Cr=gender+equality&Cr1> (recognizing the establishment of the group of independent experts who will advise the UN on effective ways to implement resolution 1325 regarding the protection and integration of women in conflict situations) (last visited July 28, 2010). For more on U.N. WOMEN visit <http://www.unwomen.org/>.

⁹³¹ *Curbing sexual violence in conflict is 'mission irresistible' for new UN envoy*, Feb. 9, 2011, available at <http://www.un.org/apps/news/story.asp?NewsID=33723> (last visited Mar. 14, 2011).

⁹³² General Recommendations, CEDAW Committee, see Recommendations 18 & 24, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom18> (last visited Mar. 14, 2011).

⁹³³ Convention on the Rights of the Child, G.A. Res. 44/25, U.N. Doc. A/RES/44/25, art. 7-8 (Nov. 20, 1989), available at <http://www2.ohchr.org/english/law/pdf/crc.pdf>.

⁹³⁴ Comm. on the Elimination of Racial Discrimination, General Recommendation XXV, Gender Related Dimensions of Racial Discrimination, U.N. Doc. A/55/18, annex V (Mar. 20, 2000), available at <http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/76a293e49a88bd23802568bd00538d83?Opendocument>.

⁹³⁵ UNICEF Senior Advisor on Children with Disabilities, Rosanglea Berman-Bieler, *Dear Colleague Letter*, Feb. 17, 2011, available at http://www.usicd.org/index.cfm/news_unicef-senior-adviser-on-children-with-disabilities-rosanglea-berman-bieler (last visited Mar. 14, 2011).

⁹³⁶ See United Nations Human Rights, Office of the High Commissioner for Human Rights, Violence Against Women: South African Legal Expert Takes Over as New UN Special Rapporteur (announcing the appointment of Rashida Manjoo as the new UN Special Rapporteur on violence against women, its causes and consequences), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=52&LangID=E> (last visited July 28, 2010); see also Special Rapporteur on Violence Against Women, Its Causes and Consequences, <http://www2.ohchr.org/english/issues/women/rapporteur/> (last visited July 16, 2010).

⁹³⁷ Human Rights Council, *Mandate of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, A/HRC/16/L.26 (Mar 21, 2011).

Advocate that the UN Special Rapporteur on Disability has sufficient resources to visit countries to assess the situation of women with disabilities.⁹³⁸ Unlike other Special Rapporteurs on human rights issues, such as the Special Rapporteur on Violence Against Women⁹³⁹ or the Special Rapporteur on Sale of Children, Child Prostitution and Child Pornography⁹⁴⁰ which report to the Human Rights Council and are under the Office of the High Commissioner for Human Rights, the Special Rapporteur on disability reports to and falls under the Commission for Social Development. The Special Rapporteurs under the Human Rights Council generally have somewhat greater monetary and staff resources at their disposal to carry out their functions, although often even their resources are insufficient. Finally, the UN General Assembly Resolution adopting the Standard Rules for the Equalization of Opportunities for Persons with Disabilities merely “urges” States to respond to requests for information regarding the State’s implementation of the Standard Rules.⁹⁴¹ Thus, because of the non-binding nature of the Standard Rules, the Special Rapporteurs on disability have had difficulty in gathering information from various States. Institute reports on the status of women with disabilities in other United Nations organs.

3. Foster collaboration within women’s rights groups, disabled Peoples organizations, and other stakeholders

Foster collaboration within women’s rights groups, disabled Peoples organizations, and other stakeholders involved in violence against women, women with disabilities, sexual and reproductive health, education, development, refugee and conflict response, institution building, etc.,⁹⁴² with a view toward including women with disabilities in the dialog, strategy and institution building.⁹⁴³

4. Develop training materials on the prevention of and response

Develop training materials on the prevention of and response to violence against women with disabilities targeted to different stakeholders and materials that are culturally appropriate within different countries, cultures, and populations.

⁹³⁸ See U.N. Special Rapporteur on Disability, <http://www.srdisability.org/> (last visited Aug. 21, 2010); U.N. Enable, The Special Rapporteur on Disability of the Commission for Social Development, <http://www.un.org/esa/socdev/enable/rapporteur.htm> (last visited Aug. 21, 2010).

⁹³⁹ See generally Special Rapporteur on Violence Against Women, <http://www2.ohchr.org/english/issues/women/rapporteur/>.

⁹⁴⁰ See generally Special Rapporteur on Sale of Children, Child Prostitution and Child Pornography, <http://www2.ohchr.org/english/issues/children/rapporteur/>.

⁹⁴¹ Standard Rules, *supra* note 2 at Monitoring mechanism, para. 3.

⁹⁴² Ortoleva, S. (2011). Recommendations for Action to Advance the Rights of Women and Girls with Disabilities in the United Nations System.

⁹⁴³ See CRPD, art. 29, 32; see also Rangita de Silva de Alwis, The Intersection of CEDAW and CRPD Special Report (2010), available at http://www.wcwonline.org/component/page,shop.product_details/category_id,389/flypage,shop.flypage/product_id,1181/option,com_virtuemart/Itemid,175/ (discussing various projects to integrate women with disabilities into legislative and policy advocacy in Bangladesh, Nepal, Cambodia and India); cf. Advocacy for Inclusion, <http://www.advocacyforinclusion.org/>; cf. DAWN-RAFH, <http://www.dawncanada.net/ENG/ENGGodds.htm>, Nepal Disabled Women’s Association, <http://www.ndwa.org.np/>, National Union of Women with Disabilities of Uganda, <http://www.civilsocietyforum.org/content/national-union-women-disabilities-uganda-nuwodu>.

Training materials and modules should be developed in collaboration with women with disabilities, to enhance their skills and the skills of their Disabled Peoples organizations on advocacy and inclusive development as well as an understanding of relevant specific issues, such as violence against women, the peace building process, inclusive education, international and domestic laws, etc.

Develop training materials and modules to enhance skills to build awareness for those working in development on the importance of inclusion of women with disabilities in processes. Test the modules and materials in developed and developing countries before final publication and distribution, ensuring that all materials incorporate an empowerment model and include information on the CRPD, the CEDAW, other human rights treaties and the relevant United Nations Resolutions.⁹⁴⁴ Ensure that all training materials are accessible to and usable by persons with disabilities, as required by the CRPD.

Raise Awareness Among Prosecutors, Courts, including Post-Conflict Tribunals, About the Need to Make the Judicial System and Reconciliation Processes Accessible to Women with Disabilities by Informing and educating the institutions of justice in countries, the courts, police and prosecutors, including the International Criminal Court and other post-conflict tribunals, on how to support women and girls with disabilities who wish to bring forth claims of discrimination or claims regarding violence of any kind, including age- and disability-appropriate supports to participate in legal proceedings as parties or witnesses.⁹⁴⁵ Similar inclusive approaches should also be applied in the judicial systems of governments, consistent with Article 13 Access to Justice of the CRPD.⁹⁴⁶

5. *Disaggregated statistics on violence and abuse against women with disabilities.*

Improve and expand data collection both within countries and internationally on the frequency and co-factors of violence against women with disabilities. Such data should also include issues such as violence, education, employment, health, etc., as well as on the situation of women with disabilities in conflict environments. Currently, global data on persons with disabilities are unreliable and baseline data for many issues, especially those concerning women with disabilities, are scarce or non-existent and data is not desegregated by gender nor other

⁹⁴⁴ See CRPD, *supra* note 5, at arts. 3(c), 4(3).

⁹⁴⁵ See, e.g., Courthouse Access Advisory Committee Courtroom Mock-Up, <http://www.access-board.gov/caac/mock-up.htm> (illustrating a model accessible courtroom) (last visited July 28, 2010); U.S. Access Board, Courthouse Access Advisory Committee, Justice for All: Designing Accessible Courthouses, Recommendations from the Courthouse Access Advisory Committee (Nov. 15, 2006), <http://www.access-board.gov/caac/report.pdf>; see also <http://www.accpc.ca/ej-calc-01.htm> (outlining strategies to make courts accessible to people using alternative communications (AAC)) (last visited July 28, 2010); see generally [Tennessee v. Lane, 541 U.S. 509 \(2004\)](#) (holding that one particular individual had a right to physically access one particular court, but leaving open the question of whether any other persons with disabilities could gain relief when denied access to other justice elements, for example, as witnesses or jurors); United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, Italy, July 15-17, 1998, Rome Statute of the International Criminal Court, U.N. Doc. A/CONF.183/9 (July 17, 1998), available at <http://untreaty.un.org/cod/icc/statute/romefra.htm>.

⁹⁴⁶ See CRPD, *supra* note 5, art. 13.

identity groups.⁹⁴⁷ Paucity of data on disability remains an obstacle to the effective formulation of disability-inclusive policies and programs as well as in the monitoring and evaluation of progress.⁹⁴⁸

6. *Develop Inclusive Media images*

Recognizing the importance of media images, in light of the fact that the media is a potent force in countering stigma and misinformation⁹⁴⁹ and a powerful ally in changing perceptions, eliminating discrimination and ending violence, and raising public awareness,⁹⁵⁰ ensure that women and girls with disabilities are included in publications, presentations, and other media products, e.g., publications for UN Women, 16 Days Campaign on Violence Against Women, International Women's Day⁹⁵¹ and International Day for Persons with Disabilities.⁹⁵²

Ensure inclusion of women with disabilities in future 16 Days Campaigns on Violence Against Women.⁹⁵³ Media, body image and women with disabilities. Media images are a potent force in countering stigma and misinformation⁹⁵⁴ and a powerful ally in changing perceptions, eliminating discrimination, and raising public awareness,⁹⁵⁵ therefore society must ensure that women and girls with disabilities are included in publications, presentations, and other media products regarding women's rights and gender equality. Women's rights advocates must adopt images that normalize the unique experiences of people with physical differences. Images must be sensational enough to gain attention, but sufficiently routine to position disability as part of mainstream society.

7. *Maintain the "Nothing About Us Without Us" philosophy adopted by Disabled Persons Organizations during the negotiation of the CRPD*⁹⁵⁶

⁹⁴⁷ See CRPD, *supra* note 5 at arts. 8(2)(c), 31(1)(a)-(b); U.N. General Assembly, 65th Session, *Keeping the Promises: Realizing the MDGs for Persons with Disabilities towards 2015 and beyond 20, 22* (A/65/173, Report of the Secretary-General) 26 July 2010.

⁹⁴⁸ See generally The Washington Group on Disability Statistics, which is charged with promoting and coordinating international cooperation by developing sets of general disability measures, suitable for use in censuses, sample based national surveys, or other statistical formats, *available at* <http://unstats.un.org/unsd/methods/citygroup/washington.htm> and <http://www.cdc.gov/nchs/citygroup.htm>.

⁹⁴⁹ See BOSTON WOMEN'S HEALTH COLLECTIVE, *OUR BODIES, OURSELVES: A NEW EDITION FOR A NEW ERA* (Judy Norsigian, Heather Stephenson & Kiki Zeldes eds., 2005) *available at* <http://www.ourbodiesourselves.org/book/excerpt.asp?id=2> (discussing how women with disabilities are made to feel less womanly by the typical media images).

⁹⁵⁰ Disability Rights Education & Defense Fund, "Media and Disability" *available at* http://www.dredf.org/Media_and_Disability/index.shtml (last visited Mar. 20, 2011).

⁹⁵¹ Occurred on March 8, 2011.

⁹⁵² Scheduled to take place on December 3, 2011.

⁹⁵³ <http://16dayscswgl.rutgers.edu/about-16-days>.

⁹⁵⁴ BOSTON WOMEN'S HEALTH COLLECTIVE, *OUR BODIES, OURSELVES: A NEW EDITION FOR A NEW ERA* (Judy Norsigian, Heather Stephenson & Kiki Zeldes eds., 2005) *available at* <http://www.ourbodiesourselves.org/book/excerpt.asp?id=2> (discussing how women with disabilities are made to feel less womanly by the typical media images).

⁹⁵⁵ Disability Rights Education & Defense Fund, *Media and Disability* http://www.dredf.org/Media_and_Disability/index.shtml (last visited Mar. 20, 2011).

⁹⁵⁶ *In Historic Move, UN Creates Single Entity to Promote Women's Empowerment*, U.N. News Centre (July 2, 2010), <http://www.un.org/apps/news/story.asp?NewsID=35224&Cr=gender&Cr1> (last visited July 28, 2010).

Drawing on the approach articulated by Disabled Persons Organizations during the negotiations of the United Nations Convention on the Rights of Persons with Disabilities, “Nothing About Us Without Us,” women with disabilities must be part of the NGO Advisory Group to be appointed by UN Women Under-Secretary-General Michelle Bachelet.⁹⁵⁷ For all meetings discussing empowerment of women and girls and gender equality, ensure that women with disabilities have the opportunity to have their unique ideas and initiatives for programming and policy development considered and that meetings are held in accessible locations, with appropriate accommodations for those who may have intellectual disabilities, hearing or visual disabilities, psycho-social disabilities or other disabilities.⁹⁵⁸

8. Employ a lens of empowerment perspectives

Employ a lens of empowerment perspectives as opposed to the vulnerability perspectives and apply a social model of disability as opposed to a medical or charity model within prevention and response work on violence against women and girls with disabilities to United Nations and other international and regional programs and policies.⁹⁵⁹

9. Raise awareness

Raise awareness about violence against women and girls with disabilities within community organizations, including women’s rights organizations and disability rights organizations, law enforcement agencies, health-care practitioners, prosecutors, courts, and other involved parties. Employ inclusive approaches consistent with provisions of the CRPD, including its Article 9.

10. Address violence against women with disabilities in prison.

Draw upon recommendations for the criminal justice system from the “No One Knows” study of persons with learning disabilities in British prisons⁹⁶⁰: The requirement for UK criminal

⁹⁵⁷ Disabled Peoples’ International, “DPI CRPD Guide #44, The Unique Role of Civil Society,” available at <http://www.dpi-icrpd.org/index.php?q=en/node/67> (last visited Mar. 14, 2011); Michelle Bachelet, Under-Secretary-General and Executive

Director, at the opening of the First Regular Session of the Executive Board of the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), 24 January 2011 available at <http://www.unwomen.org/2011/01/statement-to-the-first-regular-session-of-the-executive-board-united-nations-entity-for-gender-equality-and-the-empowerment-of-women/>.

⁹⁵⁸ See *id.* at Art. 3(c),(f), 9.

⁹⁵⁹ Ortoleva, S. (2011). Recommendations for Action to Advance the Rights of Women and Girls with Disabilities in the United Nations System. See, e.g., CRPD, *supra* note 5, at Preamble (e), Art. 1, 3 (requiring the full integration of persons with disabilities in all segments of society so that they may fully participate and express themselves independently in social, legal, and political life, promoting, protecting and ensuring the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and promoting respect for their inherent dignity, and including those persons with disabilities 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).

⁹⁶⁰ Talbot, J, *No One Knows: Prisoners’ Voices: Experiences of the criminal justice system by prisoners with learning disabilities and difficulties*. London: Prison Reform Trust (2008).

justice agencies to comply with disability and human rights legislation; The need to know who has learning disabilities or difficulties as enter the criminal justice system in order that appropriate action may be taken; The need for effective and reciprocal information sharing between criminal justice agencies, health, social services and education; The development of a needs led approach and mandatory multi-agency working at the local level to help prevent offending and re-offending by people with learning disabilities and difficulties; Workforce development, to include awareness training on learning disabilities and difficulties and increased capacity of specialist provision; The development of alternatives to custody, in particular for people with learning disabilities; National standards for health and social care provision. Clarification on methods and criteria for fitness for police interview, and the concept of criminal responsibility as applied to people with learning disabilities; Greater precision in terminology.

The United Nations Office on Drugs and Crime produced a *Handbook on Prisoners with Special needs*.⁹⁶¹ Chapter 1 addresses prisoners with psycho-social disabilities and recommends: Country-level reform to improve adequate health care and health care facilities for people with psycho-social disabilities in order to reduce unnecessary imprisonment of individuals with psycho-social disabilities' health care needs. Reassessment punitive sentencing policies that increase the imprisonment of offenders with psycho-social disabilities in facilities not able to provide for their health care and other needs and in environments that lead to more serious health complications. Promotion of mental health within prisons in the prison management and training as well as health care policies. Chapter 2 focuses on prisoners with disabilities and recommends: Legislation and implementation of policies preventing discrimination against persons with disabilities in the criminal justice system. Relegating a prison sentence to a last resort due to inaccessibility of most prison facilities and lack of adequate training and care. Direct policies within prisons to address adequate strategies to fulfill the needs of persons with disabilities in prisons.

11. Ensure that Women with disabilities Can Participate in the Justice System as Witnesses

Witnesses play a crucial role in the justice system, and for witnesses who are also a victim of the crime at issue, they may offer the only evidence that a crime occurred.

Stereotypes about the competency and believability of witnesses with disabilities, compounded by the fact that in many cultures women are not viewed as credible, works to systematically deny women with disabilities access to the witness stand. Without training key players in the justice system, addressing accessibility concerns, using clearer language when necessary, and generally acknowledging the implicit and explicit biases facing people with disabilities, women with disabilities will not be full and equal players in the justice system.

Legislators and judicial branches should promote solutions to encourage and facilitate the participation of witnesses with disabilities while maintaining a fair and impartial justice system

12. Reform of the Justice System with a Gender Lens.

⁹⁶¹ United Nations Office on Drugs and Crime (2009). *Handbook on Prisoners with special needs*. United Nations. Vienna, Austria: United Nations Publication.

Increase involvement women with disabilities have in shaping and restructuring today's legal system. Making the justice system work for women, including those with disabilities, requires gender equality throughout the many stages of building legislation. This is one of the major concerns that troubles organizations that are able to survey legislative agencies and fairly assess the various obstacles that have been put in place to keep women out of the process.⁹⁶² Employing women to serve at the heart of the justice system would certainly increase a woman's access to the courtroom and knowledge about her rights under the law. Moreover, it is commonly believed that a transition to a more gender-equal platform would help build a more stable legal system, as well as promote State accountability.⁹⁶³

The United Nations has specifically targeted this angle in General Assembly Resolutions 63 and 64 by encouraging States to pay special attention to the gender specific needs of persons with disabilities and encouraging such persons to participate in the development and execution of a justice system that would be endorsed by the Millennium Development Goals.⁹⁶⁴

Support innovative justice services, including one-stop shops, legal aid and specialized courts, to ensure women can access the justice to which they are entitled. Put women on the frontline of justice delivery. As police, judges, legislators and activists, women in every region are making a difference and bringing about change. Invest in justice systems that can respond to women's needs. Donors spend U.S. \$4.2 billion annually on aid for justice reform, but only 5 percent of this spending specifically targets women and girls.

B. Conclusions

This report reviewed available information on the forms, causes and consequences of violence against women when both gender and disability collide to exacerbate that violence and we found that violence occurs in the home, in the community, in the transnational sphere and is perpetuated by the State itself. Sometimes that violence takes place in those very places where women live, either in their home or in the very institutions that are supposed to provide them with care and assistance. The Report explored the impact of the multiple and intersecting dimensions of women's lives and the impact of these multiple identities on the violence women with disabilities experience, finding that violence must be addressed through a multi-faceted response to discrimination and violence at points of intersection. The Report outlined the international and regional legal framework, highlighting relevant provisions and interpretations, and noting that these instruments are not being effectively implemented worldwide to address this violence. Finally, the Report examined the extent to which States have met their due diligence obligations, setting forth a few country-specific case studies, which disclosed substantial

⁹⁶² United Nations Entity for Gender Equality and the Empowerment of Women, *In Pursuit of Justice: 2011-2012 Progress of the World's Women*, Executive Summary, 4.

⁹⁶³ United Nations Entity for Gender Equality and the Empowerment of Women, *In Pursuit of Justice: 2011-2012 Progress of the World's Women*, Executive Summary, 4

⁹⁶⁴ Fifty-fourth session of the Commission on the Status of Women, *Interactive panel discussion on "Cross-sectionalities of gender, disability, and development: Towards equality for women and girls with disabilities,"* United Nations Headquarters, New York, 4 March 2010, available at http://www.un.org/disabilities/default.asp?id=1514#csw48_side_event.

differences in the extent to which data was available and the extent to which the violence was addressed. The Report highlighted some best practices, many of which were implemented by organizations of women with disabilities themselves. The Report discussed significant gaps in the research and made numerous recommendations for future action by the international and national communities, and we note the importance of action reflecting the social model of disability.

The Report reveals pervasive violence against women with disabilities and placed a spotlight on the realities that the violence still remains hidden and not addressed. A serious concern is that there is limited comprehensive and global research and data collection by the international community, governments and non-governmental organizations and academic institutions, especially with respect to multiple identity issues. This lack of data is often cited as a rationale for the failure to address the problem – the misguided belief that no data means no problem. In addition to research, funding must be provided to effectively address this violence, women with disabilities themselves must be at the forefront of project design and women with disabilities must be empowered to advocate for their own rights. The various international, regional and national instruments that address the issue must be implemented and enforced and, where national law does not address violence against women with disabilities, such legislation must be drafted with the engagement of women with disabilities. Although violence against women with disabilities is pervasive, it must not be inevitable. We clearly recognize that violence against women with disabilities is preventable through the development and implementation of evidence-based programs to address unique aspects of violence against women with disabilities, especially in low-income countries.

In addition to the multiple forms of discrimination women with disabilities experience, they face the problem of a double invisibility as women and as persons with disabilities, reflecting erroneous stereotypes of both women and persons with disabilities. Thus, significant work remains to address these attitudes and stereotypes by the international community, anti-gender-based violence advocates and the community at large. We also call on the women's rights community to work side-by-side with their disabled sisters to ensure that violence against all women, disabled and not disabled, is ended. What is clear from this discussion is that more research, data collection, services and legal advocacy are needed to meet the needs of women with disabilities from a variety of identity groups and communities. This is the challenge to the international, regional and domestic communities of governments and non-government organizations.

XIV. Appendix A: General Data on Persons with Disabilities

A. Prevalence with Global Demographic Analysis

According to the World Health Organization (WHO) and the World Bank (WB), more than one billion people live with some form of disability.⁹⁶⁵ Across all 59 countries, the World Health Survey revealed that average prevalence rate of disability in adults, aged 18 years and older, was 15.6% (some 650 million people of the estimated 4.2 billion adults aged 18 and older in 2004 (35)) (see Table 2.1). These rates ranged from 11.8% in higher income countries to 18.0% in lower income countries. This figure is based on a definition of “persons with disabilities” (PWD) as those who experienced significant difficulties functioning in their everyday lives” (see Technical appendix C). The average prevalence rate for adults with very significant difficulties was estimated at 2.2% or about 92 million people in 2004.⁹⁶⁶ If the prevalence figures are expanded to include adults 15 years and older, approximately 720 million people have difficulties in functioning with around 100 million experiencing very significant difficulties. These estimates do not directly indicate the need for specific services. Estimating the size of the target group for services requires more specific information about the aims of services and the domain and extent of disability.

Several limitations or uncertainties in the World Health Survey data should be noted. These include the valid debate regarding how best to set the threshold for disability, and the still unexplained variations across countries in self-reported difficulties in functioning, as well as the influence of cultural differences in expectations about functional requirements and other environmental factors, for which the statistical methods could not adjust.

B. Who are Persons with Disabilities?

The majority of persons with disabilities are among the 80% of the world’s population who live in developing countries,⁹⁶⁷ where their needs are less likely to be met. The Global Burden of Disease estimates of moderate and severe disability prevalence are 11% higher for females than males, reflecting somewhat higher age-specific prevalence rates in females, but also the greater number of older women in the population than older men. But World Health Survey estimates place female prevalence of disability nearly 60% higher than that of males. It is likely that the differences between females and males in the World Health Survey study are a result, to some extent, of differences in the use of response categories.⁹⁶⁸

⁹⁶⁵ World Health Organization [WHO] and World Bank, *World Report on Disability*. (2011).

⁹⁶⁶ World Health Organization [WHO] and World Bank, *World Report on Disability*. (2011); United Nations Yearbook 2004 U.N. Jurid. Y.B. 56, U.N. Doc. ST/ESA/STAT/SER.R/35.

⁹⁶⁷ United Nations Enable (2007). *Factsheet on persons with disabilities*.

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⁹⁶⁸ World Health Organization, *World Health Survey (2002–2004)*, <http://www.who.int/healthinfo/survey/en/> (last visited Feb. 10, 2012); World Health Organization, *The global burden of disease: 2004 update*. (2008), http://www.who.int/healthinfo/global_burden_disease/GBD_report_2004update_full.pdf

XV. **Appendix B: Bibliography**

Selected Resources on Violence against Women with Disabilities

Compiled and Annotated By Sari M. Long, with Hope Lewis & Stephanie Ortoleva

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WORLD HEALTH ORG., WHO MULTI-COUNTRY STUDY ON WOMEN’S HEALTH AND DOMESTIC VIOLENCE AGAINST WOMEN: INITIAL RESULTS ON PREVALENCE, HEALTH OUTCOMES, AND WOMEN’S RESPONSES (2005), *available at* http://www.who.int/entity/gender/violence/who_multicountry_study/summary_report/en/index.html.

The WHO summary report looks at evidence collected by 24,000 women from 15 sites in 10 countries with diverse cultural settings. There is an interesting set of data related to types of violence experienced, age at which violence was experienced, perpetrator data, and other information that could provide insight into prevalence and demographic data of worldwide violence against women. The study highlighted three areas that could be predictors for increased violence against women, which included age, partnership status, and education, though other

areas such as financial autonomy, history of violence in the family, partner's drug/alcohol use, and whether the partner had witnessed violence against women in the home as a child.

WORLD HEALTH ORG., PROMOTING SEXUAL AND REPRODUCTIVE HEALTH FOR PERSONS WITH DISABILITIES: WHO/UNFPA GUIDANCE NOTE (2009), *available at* http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf.

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Brough v. Australia, Comm. No. 1184/2003 (United Nations Human Rights Comm. 2006), *available at* <http://www.humanrights.is/the-human-rights-project/humanrightscasesandmaterials/cases/internationalcases/humanrightscommittee/nr/2532>.

The United Nations Human Rights Committee decided that Australia violated its obligations under the International Covenant of Civil and Political Rights when prison officials mistreated Brough, an adolescent Aboriginal man with a mild intellectual disability.

C.T. and K.M v. Sweden, Communication No. 279/2005, 17 November 2006, UN Doc. CAT/C/37/D/279/2005 (2007)

("[T]he Committee considers that the first named complainant was repeatedly raped in detention and as such was subjected to torture in the past."), *available at* <http://www1.umn.edu/humanrts/cat/decisions/279-2005.html>.

Finding that the rape of detained women constitutes torture under the Convention Against Torture.

Regional Decisions and Briefs

Brief for The European Group of National Human Rights Institutions as Amici Curiae Supporting Applicants, Gauer & Others v. France, Application No. 61521/08 (Aug. 16, 2011), *available at* http://www.scribd.com/fullscreen/73416199?access_key=key-d3jj7keqhx7xofxt0zm.

The amicus brief was submitted in a case of five women with mental disabilities who were sterilized as a form of contraception. The European Group contends that this action violated the UN Convention on the Rights of Persons with Disabilities in failing to obtain informed consent.

The Case of Villagrán Morales, Preliminary Objections, Judgment of September 11, 1997, Inter-Am. Ct. H.R. (Ser. C) No. 32 (1997).

The Case Of Victor Rosario Congo, Annual Report Of The Inter-American Commission On Human Rights, Report 63/99, Case 11.427, Ecuador, OEA/Ser.L/V/II.102, Doc. 6 Rev. (1999).

EUROPEAN COURT OF HUMAN RIGHTS NEWS, *Case Gauer and Others v. France (61521/08) Forced Sterilization of Disabled Citizens: Communicated* (Nov. 22, 2011), available at <http://echrnews.wordpress.com/2011/11/22/gauer/>.

The case concerned five women with intellectual disabilities who underwent a process of fallopian tube removal without their informed consent.

Farcas v. Romania, App. No. 32596/04 Eur. Ct. H.R. (2011), available at <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=875009&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649> (in French).

The European Court of Human Rights dismissed as inadmissible a case brought by a man with disabilities who complained about the lack of access to essential public amenities, including court buildings and lawyers' offices, in his Romanian hometown. He alleged violations of a number of articles from the European Convention on Human Rights.

Gonzalez et al. ("Cotton Field") v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, Inter-Am. Ct. H.R., (ser. C) No. 205 (November 16, 2009), available at <http://www.corteidh.or.cr/casos.cfm>.

The Inter-American Court of Human Rights found that Mexico violated a number of its international human rights obligations in failing to investigate the murders of three women in Ciudad Juarez and failing to provide protection to the victims. Further, the Court determined Mexico lacked due diligence in the investigation of the homicides, as well as the denial of justice.

Inter-American Court: Aloboetoe et al. v. Suriname, Inter-Am. Ct. H.R. (ser. C) No.15, ¶ 17 (Sep. 10, 1993); Caballero Delgado and Santana v. Colombia, Inter-Am. Ct. H.R. (ser. C) No. 22, ¶ 65 (Dec. 8, 1995); Loayza-Tamayo v. Peru, Inter-Am. Ct. H.R. (ser. C) No. 33, ¶ 45 (e), 58 (Sep.17, 1997); Urrutia v. Guatemala, Inter-Am. Ct. H.R. (ser. C) No.103, ¶ 51(a) (Nov. 27, 2003); Castro Castro Prison v. Peru, Inter-Am Ct. H.R. (ser. C) No. 160, ¶ 421 (Nov. 25, 2006).

Jessica Lenahan (Gonzales) v. United States, Case 12.626, Inter-Am. Comm'n H.R., Report No. 80/11 (2011), available at <http://www.cidh.oas.org/casos/11.eng.htm>.

The Inter-American Commission on Human Rights found that the U.S. did not meet its obligations in protecting the petitioner and her family from the actions of her estranged husband, which resulted in the deaths of her three children. The case implicates violence against women and the due diligence obligations of states who bear the primary responsibility for the implementation of international law.

Mental Disability Advocacy Center (MDAC) v. Bulgaria, (2008) European Comm. of Social Rights No. 41/2007, available at <http://hudoc.esc.coe.int/esc2008/document.asp?related=1&item=2&relateditem=0>.

The European Committee of Social Rights concluded that it is a violation of the European Social Charter that Bulgarian children with intellectual disabilities do not receive an education.

Mouisel v. France, App. No. 67263/01 Eur. Ct. H.R. 17 (2003), available at http://www.univie.ac.at/bimtor/dateien/ecthr_2003_mouisel_vs_france.doc.

“[S]evere physical disability [is] now among the factors to be taken into account under Article 3 of the [European Convention on Human Rights] in France and the other member States of the Council of Europe in assessing a person's suitability for detention.”

Price v. U.K., App. No. 33394/96 Eur. Ct. H.R. (2001), *available at* <http://www.humanrights.is/the-human-rights-project/humanrightscasesandmaterials/cases/regionalcases/europeancourtofhumanrights/nr/627>.

The court held that despite “no evidence in this case of any positive intention to humiliate or debase the applicant” that a lack of adequate facilities for a woman with a disability represented “degrading treatment contrary to Article 3 of the [European Convention on Human Rights]”).

Ximenes-Lopes v. Brazil, Preliminary Objection, Inter-Am. Ct. H.R. (ser. C) No. 139, (July 4, 2006), *available at* <http://www.corteidh.or.cr/casos.cfm>.

The Inter-American Court of Human Rights held Brazil liable for violating various Articles of the American Convention, which establish state duties to protect the rights to physical integrity and life of disabled individuals, and the rights of due process and access to justice for the victim’s family.

Domestic Court Decisions by Country

Australia

Secretary, Department of Health and Community Services v JWB and SMB (1992) 175 CLR 218 (Austl.), *available at* <http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/HCA/1992/15.html?stem=0&synonyms=0&query=title%28Department%20of%20Health%20and%20Community%20Services%20and%20JWB%20and%20SMB%20%29>.

The court determined that the parents of a child with intellectual disabilities could not be given authorization or consent by the courts to carry out a sterilization procedure.

Canada

E. (Mrs.) v. Eve [1986] 2 S.C.R. 388 (Can.), *available at* <http://scc.lexum.org/en/1986/1986scr2-388/1986scr2-388.html>.

The court authorized the appeal of a mother who sought authorization to sterilize her adult daughter who had an intellectual disability.

R. v. D.A.I. [2012] S.C.R. 5 (Can.), *available at* <http://scc.lexum.org/en/2012/2012scc5/2012scc5.html>.

The court decided that the appeals court failed to properly consider a woman with mental disabilities competent to testify as to the sexual assaults she suffered from her mother’s partner.

France

Farge, M. N° de pourvoi: 07-86623, *available at* <http://www.legifrance.com/affichJuriJudi.do?idTexte=JURITEXT000019126238&fastReqId=981989350&fastPos=4&oldAction=rechExpJuriJudi>.

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K. G. Balakrishnan, P. Sathasivam & B. S. Chauhan. *Suchita Srivastava and Another v Chandigarh Administration*. Supreme Court of India. Case no. Civil Appeal No.5845 of 2009 (Arising Out of S.L.P. (C) No. 17985 of 2009). 28 Aug. 2009, *available at* <http://indiankanoon.org/doc/1500783/>.

The court did not authorize an abortion for a woman with intellectual disabilities who had become pregnant as a result of a rape that occurred while in state welfare custody without her consent.

United Kingdom

United States of America

Boddie v. Connecticut, 401 U.S. 371, 379 (1971), *available at*

<http://supreme.justia.com/cases/federal/us/401/371/case.html>.

The Court held that a fee requirement for welfare reliant applicants seeking a divorce was a violation of due process.

Buck v. Bell 274 U.S. 200 (1927), *available at*

http://scholar.google.com/scholar_case?case=1700304772805702914&q=buck+v.+bell&hl=en&as_sdt=2,22.

The Court held that the Virginia statute authorizing sterilization of individuals with mental disabilities did not violate due process.

Castle Rock v. Gonzales, 545 U.S. 748 (2005), *available at*

<http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=US&navby=case&vol=000&invol=04-278>.

The Court ruled that a town and its police department could not be sued for failing to enforce a restraining order against her estranged husband which resulted in the killing of a woman's three children.

Pa. Dep't of Corr. v. Yeskey, 524 U.S. 206, 213 (1998), *available at*

http://scholar.google.com/scholar_case?case=3291537490094626018&q=524+U.S.+206&hl=en&as_sdt=2,22.

The Court held that the Americans with Disabilities Act of 1990 (ADA) applied to prison inmates and that the Pennsylvania Department of Corrections' refusal to allow a prison inmate with hypertension to participate in a motivational boot camp was a violation of Title II of the ADA.

Skinner v. Oklahoma, 316 U.S. 535 (1942), *available at*

http://scholar.google.com/scholar_case?case=8050731321644873759&q=316+U.S.+535&hl=en&as_sdt=2,22.

The Court held that the State may not sterilize an individual against his will for being convicted of three felonies involving moral turpitude.

Tennessee v. Lane, 541 U.S. 509 (2004), *available at*

http://scholar.google.com/scholar_case?case=6561706852611120473&q=541+U.S.+509+&hl=en&as_sdt=2,22.

The Court held that Congress had sufficiently demonstrated the problems faced by disabled persons who sought to exercise fundamental rights protected by the Due Process clause. The Court emphasized that the remedies required from the states were not unreasonable and that states had to make reasonable accommodations to allow disabled persons to exercise their fundamental rights.

Gorman v. Bartch, 152 F.3d 907, 916 (8th Cir. 1998), *available at* <http://caselaw.findlaw.com/us-8th-circuit/1115860.html>.

The Court concluded that the ADA and the Rehabilitation Act covered the claims of the plaintiff, a paraplegic who was mishandled during police transport.

Galloway v. Superior Court, 816 F. Supp. 12, 18-19 (D.C. Cir. 1993), *available at* http://scholar.google.com/scholar_case?case=3359237550123507523&q=816+F.+Supp.+12&hl=en&as_sdt=2,22.

The case concerned a policy of the Superior Court of the District of Columbia of categorically excluding blind individuals from jury service. The court found that this is a violation of the Rehabilitation Act of 1973 and the ADA and the Civil Rights Act of 1871.

Hanson v. Sangamon County Sheriff's Dept., 991 F. Supp. 1059 (C.D. Ill. 1998), *available at* http://scholar.google.com/scholar_case?case=9933866586804945506&q=991+F.+Supp.+1059&hl=en&as_sdt=2,22.

The plaintiff, a deaf individual, was arrested but not provided with the available means to contact friends or family members to post bond. The court found that this violated the Rehabilitation Act of 1973 and the ADA.

Piquard v. City of East Peoria, 887 F. Supp. 1106, 1127 (C.D. Ill. 1995), *available at* http://scholar.google.com/scholar_case?case=14477652673874374682&q=887+F.+Supp.+1106&hl=en&as_sdt=2,22.

The court found that a police department's denial of pension benefits to two disabled employees violated the ADA on an ongoing and systematic basis.

Gorman v. Bishop, 919 F. Supp. 326 (W.D. Mo. 1996), *available at* http://scholar.google.com/scholar_case?case=14720106150879620879&q=919+F.+Supp.+326+&hl=en&as_sdt=2,22.

A police officer who injured a paraplegic in transporting him to the police station was found to have qualified immunity from liability.

Ware v. Wyo. Bd. of Law Exam'rs, 973 F. Supp. 1339, 1352-53 (D. Wyo. 1997), *aff'd*, 161 F.3d 19 (1998), *available at* http://scholar.google.com/scholar_case?case=7483588257584285838&q=973+F.+Supp.+1339+&hl=en&as_sdt=2,22.

The plaintiff requested accommodations to take the bar examination in Wyoming due to her multiple sclerosis. The court ruled in favor of the Wyoming Board of Law Examiners in granting their motion for summary judgment, finding no genuine issue of material fact.

In re Petition of Rubenstein, 637 A.2d 1131, 1136-37 (Del. 1994), *available at* http://scholar.google.com/scholar_case?case=1437442516560838621&q=637+A.2d+1131&hl=en&as_sdt=2,22.

The petitioner sought to be admitted to the Delaware Bar after multiple attempts to pass the required examinations. Finding that she had a learning disability, she sought reasonable accommodation for bar passage. The court determined that she had experienced manifest unfairness and ruled in her favor.

State v. Warden, 891 P.2d 1074, 1088 (Kan. 1995), *available at* http://scholar.google.com/scholar_case?case=2713362631566803934&q=,+891+P.2d+1074&hl=en&as_sdt=2,22.

The court affirmed the conviction of the defendant who was found guilty of indecent liberties with an autistic child in his care.

State ex rel. Okla. Bar Ass'n v. Busch, 919 P.2d 1114, 1117-18 (Okla. 1996), *available at* http://scholar.google.com/scholar_case?case=5488163885042603020&q=919+P.2d+1114&hl=en&as_sdt=2,22.

An attorney was subject to discipline and suspension of his license to practice law due to issues raised on account of his Attention Deficit Disorder. After the suspension, he could continue to practice law under the supervision and treatment of a physician.

People v. Caldwell, 603 N.Y.S.2d 713 (N.Y. Crim. Ct. 1993), *available at* http://scholar.google.com/scholar_case?case=4758248980496970295&q=603+N.Y.S.+2d+713&hl=en&as_sdt=2,22.

The court found that a visually impaired juror may not be declared unfit as a result of her disability and that to declare otherwise would be a violation of the ADA.

Jenny S. v. Mark S., 593 N.Y.S.2d 142 (N.Y. Fam. Ct. 1992), *available at* http://scholar.google.com/scholar_case?case=18436288660901194746&q=593+N.Y.S.2d+142+&hl=en&as_sdt=2,22.

The Family Court found that facilitated communication had not been thoroughly studied nor verified to enable testimony from an autistic child claiming abuse to be heard in court.

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ANTI-DISCRIMINATION COMMISSION QUEENSLAND, WOMEN IN PRISON 44-45 (2006), *available at* http://www.adcq.qld.gov.au/pubs/WIP_report.pdf.

AUSTRALIAN BUREAU OF STATISTICS, SEXUAL ASSAULT IN AUSTRALIA: A STATISTICAL OVERVIEW (Sept. 7, 2004), *available at* <http://www.abs.gov.au/Ausstats/abs@.nsf/0/5AA0527434AF9CADCA256ED90079344D?Open>.

DISABILITY COUNCIL OF NEW SOUTH WALES, A QUESTION OF JUSTICE: ACCESS AND PARTICIPATION FOR PEOPLE WITH DISABILITIES IN CONTACT WITH THE JUSTICE SYSTEM, *available at* <http://www.disabilitycouncil.nsw.gov.au/archive/03/justice.pdf>.

PARLIAMENT OF VICTORIA LAW REFORM COMMITTEE INQUIRY INTO ACCESS TO AND INTERACTION WITH THE JUSTICE SYSTEM BY PEOPLE WITH AN INTELLECTUAL DISABILITY AND THEIR FAMILIES AND CARERS (Oct. 2011), *available at* <http://www.parliament.vic.gov.au/lawreform/inquiry/299>.

Janet Phillips & Malcolm Park, PARLIAMENT OF AUSTRALIA, MEASURING DOMESTIC VIOLENCE AND SEXUAL ASSAULT AGAINST WOMEN: A REVIEW OF LITERATURE AND THE STATISTICS (Dec. 12, 2006), *available at* <http://www.aph.gov.au/library/intguide/sp/ViolenceAgainstWomen.htm>.

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PUBLIC HEALTH AGENCY OF CANADA, VIOLENCE AGAINST WOMEN WITH DISABILITIES (2005), *available at* <http://www.phac-aspc.gc.ca/nfv-cnivf/publications/femdisabus-eng.php>.

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Immigration and Refugee Board of Canada, *Jamaica: Legislation Governing Domestic Violence and Its Enforcement (2004 - 2007)* (Apr. 30 2007), *available at* <http://www.unhcr.org/refworld/docid/469cd69818.html>.

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CABINET OFFICE, JAPAN, ANNUAL REPORT ON GOVERNMENT MEASURES FOR PERSONS WITH DISABILITIES, <http://www8.cao.go.jp/shougai/english/annualreport/2003/mokuji.html>.

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D.B.I.P.S. Siriwardhana, Public Administration Circular No. 27/88, Aug. 18, 1998, http://hrsl.lk/PFF/Library_Domestic_Laws/regulations/Document1.pdf.

Human Rights Commission of Sri Lanka, Domestic Instruments and Institutions, http://hrsl.lk/english/?page_id=241.

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SWEDISH NATIONAL BOARD OF HEALTH AND WELFARE, LOOKING THE OTHER WAY: A STUDY GUIDE TO FEMALE VICTIMS OF VIOLENCE WITH DISABILITIES (Feb. 2012), *available at* http://www.euroblind.org/media/ebu-media/Sweden_Guide_violence_against_disabled_women_2011.pdf.

This guide details the various challenges and models of violence against women with disabilities in Sweden as well as provides helpful information for professionals who work with women with disabilities.

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NORTH CAROLINA DEPARTMENT OF ADMINISTRATION, NC JUSTICE FOR STERILIZATION VICTIMS FOUNDATION (2012), *available at* <http://www.sterilizationvictims.nc.gov/>.

U.S. ACCESS BOARD, JUSTICE FOR ALL: DESIGNING ACCESSIBLE COURTHOUSES (Nov. 15, 2006) *available at* <http://www.access-board.gov/caac/report.pdf>.

U.S. DEPT. OF STATE, TRAFFICKING IN PERSONS REPORT 256 (2011), *available at* <http://www.state.gov/g/tip/rls/tiprpt/2011/index.htm>.

USAID WOMEN IN DEVELOPMENT (WID), WOMEN WITH DISABILITIES: GENERAL STATISTICS (Jan. 12, 2011), *available at* http://www.usaid.gov/our_work/cross-cutting_programs/wid/disability/wwd_statistics.html.

White House, United States Strategy to Prevent and Respond to Gender-based Violence Globally (Aug. 10, 2012), <http://www.state.gov/documents/organization/196468.pdf>.

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Phyllis Chesler, *Mothers on Trial* (2011).

CRITICAL PERSPECTIVES ON HUMAN RIGHTS AND DISABILITY LAW (Marcia H. Rioux, Lee Ann Bassler, & Melinda Jones eds., 2011).

“Culture, Disability, and ‘Disability Culture’” in HUMAN RIGHTS AND THE GLOBAL MARKETPLACE: ECONOMIC, SOCIAL AND CULTURAL DIMENSIONS 647-649 (Jeanne M. Woods & Hope Lewis, eds., 2005).

Arne H. Eide et al., *Assistive Technology in Low Income Countries* in DISABILITY & INTERNATIONAL DEVELOPMENT: TOWARDS INCLUSIVE GLOBAL HEALTH (Malcolm Maclachlan & Leslie Swartz, eds., 2009).

Zanita E. Fenton, *Dear Heart* in LAWYERS, LEAD ON: LAWYERS WITH DISABILITIES SHARE THEIR INSIGHTS 67-70 (Carrie G. Basas et al., eds., 2011).

ANNE FINGER, PAST DUE: A STORY OF DISABILITY, PREGNANCY, AND BIRTH (SEAL PRESS 1990).

HEALTH AND HUMAN RIGHTS (Rebecca J Cook & Charles Ngwena, eds., 2007).

Rosemarie Garland-Thomson, *Feminist Disability Studies*, Signs: 30 J. Women Culture & Soc. 1557 (2005) *available at* <http://userwww.service.emory.edu/users/rgarlan/pdfs/RGT%20Feminist%20Disability%20Signs%2005.pdf>.

Rosemarie Garland-Thomson, *Re-shaping, Re-thinking, Re-defining: Feminist Disability Studies*, Barbara Waxman Fiduccia Papers on Women and Girls with Disabilities, (Center for Women Policy Studies 2001) *available at* <http://www.centerwomenpolicy.org/pdfs/DIS2.pdf>.

Sarah N. Heiss, *Locating the Bodies of Women and Disability in Definitions of Beauty: An Analysis of Dove’s Campaign for Real Beauty*, 31 Disability Studies Quarterly (2011), *available at* <http://www.dsqsds.org/article/view/1367/1497>.

Rebecca J. Cook & Simone Cusack, *Gender Stereotyping: Transnational Legal Perspectives* (University of Pennsylvania Press 2010).

Jean Kilbourne, *Beauty and the Beast of Advertising* in WOMEN IN CULTURE: A WOMEN'S STUDIES ANTHOLOGY (Lucinda Joy Peach, ed., 1998).

Gary Kreps, *Disability and Culture: Effects on Multicultural Relations in Modern Organizations* in HANDBOOK OF COMMUNICATION AND PEOPLE WITH DISABILITIES: RESEARCH AND APPLICATION (Dawn O. Braithwaite & Teresa L. Thompson, eds., 2000).

Hope Lewis, *To My Sisters-in-Law (Teaching): A Critical Race Feminist Perspective* in LAWYERS, LEAD ON: LAWYERS WITH DISABILITIES SHARE THEIR INSIGHTS 58-62 (Carrie G. Basas et al., eds., 2011).

Michelle McCarthy, SEXUALITY AND WOMEN WITH LEARNING DISABILITIES (1999).

Bonita Meyersfeld, DOMESTIC VIOLENCE AND INTERNATIONAL LAW (2010).

Roxanne Mykituk & Ena Chadha, *Sites of Exclusion: Disabled Women's Sexual, Reproductive and Parenting Rights*, in CRITICAL PERSPECTIVES ON HUMAN RIGHTS AND DISABILITY LAW 157 – 199 (Marcia H. Rioux, Lee Ann Bassar, & Melinda Jones eds., 2011).

Jack Nelson, *The Invisible Cultural Group: Images of Disability* in IMAGES THAT INJURE: PICTORIAL STEREOTYPES IN THE MEDIA (Paul Martin Lester, ed., 1996).

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JUDY NORSIGIAN, BOSTON WOMEN'S HEALTH COLLECTIVE, OUR BODIES, OURSELVES: A NEW EDITION FOR A NEW ERA (Touchstone, 40 Anv. Rev. ed. 2011).

Marcia H. Rioux & Lora Patton, *Beyond Legal Smokescreens: Applying a Human Rights Analysis to Sterilization Jurisprudence*, in CRITICAL PERSPECTIVES ON HUMAN RIGHTS AND DISABILITY 243-271 (Marcia H. Rioux, Lee Ann Bassar, & Melinda Jones eds., 2011).

Laura F. Rothstein, DISABILITIES AND THE LAW § 5:3 (4th ed., 2009).

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Michael Stein, Charlotte McClain-Nhlapo, & Janet E. Lord, *Disability Rights, the MDGs and Inclusive Development*, in MILLENNIUM DEVELOPMENT GOALS AND HUMAN RIGHTS: PAST, PRESENT AND FUTURE (Malcolm Langford et al. eds., forthcoming 2012).

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Sunila Abeysekera, *Maximizing the Achievement of Women's Human Rights in Conflict-Transformation: The Case of Sri Lanka*, 41 COLUM. J. TRANSNAT'L L. 523, 539 (2003).

Carrie Griffin Basas, *The New Boys: Women with Disabilities and the Legal Profession*, 25 BERKELEY J. GENDER L. & JUST. No.1, 128-29 (2010).

Clare Beckett, *Crossing the Border: Locating heterosexuality as a boundary for lesbian and disabled women*, 5 J. Int'l. Women's Stud. 44 (2004), available at <http://www.bridgew.edu/SoAS/jiws/May04/Beckett.pdf> (noting that "leaving heterosexuality" as a person viewed as "being disabled.").

Janine Benedet and Isabel Grant, *Hearing the Sexual Assault Complaints of Women with Mental Disabilities: Evidentiary and Procedural Issues*, 52 MCGILL L.J. 515, 523 (2007).

Johanna E. Bond, *International Intersectionality: A Theoretical and Pragmatic Exploration of Women's International Human Rights Violations*, 52 EMORY L.J. 71 (2003).

Bond's law review article explores various multidimensional ways that women are impacted by violence and other human rights violations. The article proposes a new framework for modifying human rights institutions and ideas to promote an intersectional human rights analysis and recognizing that human rights apply to all but that different groups experience violations differently. She advocates against essentialism to provide a richer conception of women's human rights and a recognition of the complex interactions of multiple systems of oppression.

Kim Shayo Buchanan, *Impunity: Sexual Abuse in Women's Prisons*, 42 HARV. C.R.- C.L.L. REV. 45, 46 (2007), available at http://www.law.harvard.edu/students/orgs/crc1/vol42_1/buchanan.pdf.

Judith Cockram, *People with an Intellectual Disability in the Prisons*, 12 PSYCHIATRY PSYCHOLOGY & LAW 163 (2005).

Kimberle Crenshaw, *Mapping the Margins; Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991).

This law review article explores race and gender as they relate to violence against women of color by looking at battering and rape. This is the seminal article in the area of intersectionality and violence against women. The overarching theme of the paper is that the intersection of these categories of identification make violence more complex but also increases the vulnerability and barriers to overcome the violence for these women.

Cerise Fritsch, *Right to Work? A Comparative Look at China and Japan's Labor Rights for Disabled Persons*, 6 LOY. U. CHI. INT'L L. REV. 403, 413 (2009).

Nimish R. Ganatra, "The Cultural Dynamic in Domestic Violence: Understanding the Additional Burdens Battered Immigrant Women of Color Face in the United States," 2 J.L. Soc'y 109 (2001).

The focus of this law review article is the issues immigrant women of color face, focusing on Asian American women and looks at how VAWA has impacted victims of domestic abuse.

Frances Gibson, *Article 13 of the Convention on the Rights of Persons with Disabilities—A Right to Legal Aid?*, 15 AUSTL. J. OF HUM. RTS 123 (2010).

Abigail Gray, Suzie Forell & Sophie Clarke, *Cognitive Impairment, Legal Need and Access to Justice*, Justice Issues Paper 10, Law and Justice Foundation of New South Wales (2009).

Doug Jones, *Domestic Violence Against Women with Disabilities: A Feminist Legal Theory Analysis*, 2 FLA. A & M U. L. REV. 207 (2007).

Jones's law review article posits that women with disabilities experience violence twice as often as women without disabilities, and that his own research indicates that half of all women with disabilities will experience domestic violence. The article describes ways to improve women with disabilities' access to the domestic violence service infrastructure while providing information on the myths and misconceptions about women with disabilities using feminist legal theory.

Deborah Kent, *Somewhere a Mockingbird, in Prenatal Testing and Disability Rights*, 64 (Erik and Adrienne Asch eds., Georgetown University, 2000).

Jayanth K. Krishnan, *Lawyering for A Cause and Experiences from Abroad*, 94 CAL. L. REV. 575, 596 (2006).

Tamara Rice Lave, *Essays, Special Topic: Gender Justice and Human Rights in the Americas, Thinking Critically How to Address Violence Against Women*, 65 U. MIAMI L. REV. 923, 924-25 (Spring 2011).

This law review article recognizes that women of color, women with disabilities, migrants, and GLBT women suffer most in terms of violence and abuse against women. They are victims of double and triple discrimination and therefore experience the worst and most severe forms of abuse. The article uses the sexual offender policy in the U.S. as a way to discuss ideas for solutions to the worldwide problem of violence against women. It provides a couple of nuggets of wisdom and potential sources for follow up in the footnotes.

Don MacKay, *The United Nations Convention on the Rights of Persons with Disabilities*, 34 SYRACUSE J. INT'L L. & COM. 323, 325 (2007).

Charlotte V. McClain (McClain-Nhlapo), *The Triple Oppression: Disability, Race & Gender*, DISABILITY WORLD, Issue No. 15 (2002).

Yukio Nakanishi, *Development and Self-Help Movement of Women with Disabilities*, CORNELL UNIVERSITY ILR SCHOOL (July 1, 1999), available at <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1347&context=gladnetcollect&sei-redir=1#search=%22japan%20violence%20women%20disabilities%22>.

Smita Narula, *Overlooked Danger: The Security and Rights Implications of Hindu Nationalism in India*, 16 HARV. HUM. RTS. J. 41, 48 (2003).

Karen Nutter, *Domestic Violence in the Lives of Women with Disabilities: No (Accessible) Shelter from the Storm*, 13 S. CAL. REV. L. & WOMEN'S STUD. 329 (2004).

This law review article discusses domestic violence as it impacts women with disabilities and how restraining orders and shelters are inadequate to address the problem. In particular the author argues that misperceptions of women with disabilities and the types of abuse they suffer contributes to their struggle to escape dangerous domestic violence situations.

Stephanie Ortoleva, *The Forgotten Peace Builders: Women with Disabilities*, 33 LOY. L.A. INT'L & COMP. L. REV. 83 (2010).

Stephanie Ortoleva, *Inaccessible Justice: Human Rights, Persons with Disabilities and the Legal System*, 17 ILSA J. INT'L & COMP. L. 281 (Spring 2011).

Wendy Pentland, Mary Tremblay, Kristen Spring & Carolyn Rosenthal, *Women with Physical Disabilities: Occupational Impacts of Ageing*, 6 J. Occupational Sci. 111 (1999).

Sherene Razack, *From Consent to Responsibility, From Pity to Respect: Subtexts in Cases of Sexual Violence Involving Girls and Women with Developmental Disabilities*, LAW AND SOCIAL INQUIRY, VOL. 19, NO. 4, 891-922 (1994).

The author proposes that the legal categories used in defining women and disability contribute to the system of domination over those groups and feminist law reformers should consider this in their work. The article uses two rape cases involving women with developmental disabilities to highlight the competing narratives of race, class, gender, and disability impact the courtroom, and that these narratives limit the ability for women to overcome narrow categorization and move towards a responsibility framework (as opposed to consent). There is not much discussion of these “other” categories in terms of intersectionality other than to mention that sometimes women face triple discrimination.

Beth Ribet, *Naming Prison Rape as Disablement, Critical Analysis Prison Litigation Reform Act, the Americans with Disabilities Act, and the Imperatives of Survivor-Oriented Advocacy*, 17 Va. J. Soc. Pol'y & L. 281, 297 (2010).

Michael Schwartz, *Serving Hearing-Impaired Clients*, 18 BARRISTER 45 (1991-1992).

Kim Thuy Seelinger, *Violence Against Women and HIV Control in Uganda: A Paradox of Protection?*, 33 HASTINGS INT'L & COMP. L. REV. 345, 371 (2010).

Manusuli Ssenyonjo, *Women's Right to Equality and Non-Discrimination: Discriminatory Family Legislation in Uganda and the Role of Uganda's Constitutional Court*, 21 INT. J. L. POLY. & FAMILY 341, 341 (2007).

Brandon Tuck, *Preserving Facts, Form and Function when a Deaf Witness with Minimal Language Skills Testifies in Court*, 158 U. PA. L.R. 905, 917-920 (2010).

Deepika Udagama, *Taming of the Beast: Judicial Responses to State Violence in Sri Lanka*, 11 HARV. HUM. RTS. J. 269, 272 (1998).

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Lisa Adams, DISABILITY MONITOR INITIATIVE FOR SOUTH EAST EUROPE, HANDICAP INTERNATIONAL REGIONAL OFFICE FOR SOUTH EAST EUROPE, *The Right to Live in the Community: Making it Happen for People with Intellectual Disabilities in Bosnia and Herzegovina, Montenegro, Serbia and Kosovo*. (2008), available at http://www.fotoart.ba/hisee/userfiles/file/community_living_english.pdf.

Germana Agnetti, *The Consumer Movement and Compulsory Treatment: A Professional Outlook*, 37 INTERNATIONAL JOURNAL OF MENTAL HEALTH 33 (2008).

ALISHA ALI ET AL., CENTER FOR WOMEN POLICY STUDIES, COLLECTIVE ACTION AND EMANCIPATORY AIMS: APPLYING PRINCIPLES OF FEMINIST PRACTICE IN A SHELTER FOR DOMESTIC VIOLENCE SURVIVORS WITH DISABILITIES (2011), available at http://www.womenlobby.org/spip.php?action=acceder_document&arg=845&cle=90331aa1cadca1a5189d2673853fe36a820c7e14e&file=pdf%2Fbarbara_faye.pdf.

LISA ALVARES ET AL., CENTER FOR WOMEN POLICY STUDIES, REPRODUCTIVE HEALTH JUSTICE FOR WOMEN WITH DISABILITIES (2011), available at http://www.centerwomenpolicy.org/programs/waxmanfiduccia/documents/BFWFP_ReproductiveHealthJusticeforWomenwithDisabilities_NOWFoundationDisabilityRightsAdvisor.pdf.

SIGRID ARNADE & SABINE HAEFNER, DISABLED PEOPLES' INTERNATIONAL, GENDERING THE DRAFT COMPREHENSIVE AND INTEGRAL INTERNATIONAL CONVENTION ON THE PROTECTION AND PROMOTION OF THE RIGHTS AND DIGNITY OF PERSONS WITH DISABILITIES 7 (2006), available at http://www.dpi.org/files/uploads/publications/gendering_convention/DPI_Gendering_UN_Convention_Jan_2006.pdf.

Kirsten A. Barrett et al., *Intimate Partner Violence, Health Status, and Health Care Access Among Women with Disabilities*, 19 WOMEN'S HEALTH ISSUES 94 (2009).

Arlene Bowers Andrews et al., *Sexual Assault and People with Disabilities*, 12 JOURNAL OF SOCIAL WORK AND HUMAN SEXUALITY, 8, 137-159 (2006).

Hilary Brown, Council of Europe, *Safeguarding Adults and Children with Disabilities against Abuse*, (Feb. 2003), http://www.coe.int/T/E/Social_Cohesion/soc-sp/Abuse%20_E%20in%20color.pdf.

Hilary Brown, *Sexual Abuse: Facing Facts*, 87 NURSING TIMES 65 (1991).

Douglas A. Brownridge, *Partner Violence Against Women with Disabilities: Prevalence, Risk, and Explanation*, VIOLENCE AGAINST WOMEN, VOL. 12, NO. 9, 805-822 (2006).

This study focuses on women with disabilities in Canada and their experience with intimate partner violence. It provides a good overview of the social and economic characteristics of those experiencing violence and also provides profiles of perpetrator characteristics that contribute to greater levels of violence against women with disabilities.

Fiona Carmichael et al., *The Opportunity Costs of Informal Care: Does Gender Matter?*, 22 JOURNAL OF HEALTH ECONOMICS 781(2003), available at <http://www.uv.es/=atortosa/costinformalcare.pdf>.

Carri Casteel et al., *National Study of Physical and Sexual Assault Among Women with Disabilities*, INJURY PREVENTION (Mar. 23, 2012).

Judy Chang et al., *Helping Women with Disabilities and Domestic Violence: Strategies, Limitations, and Challenges of Domestic Violence Programs and Services*, 12(7) JOURNAL OF WOMEN'S HEALTH 699 (2003).

Lesley Chenoweth, *Violence and Women With Disabilities: Silence and Paradox*, 2 (4) VIOLENCE AGAINST WOMEN 391-411 (1996).

This article examines experiences of a number of Australian women with disabilities, their mothers, and other women who work with them, and official reports of several Australian inquiries into violence. Women with disabilities typically occupy positions of extreme marginalization and exclusion that make them more vulnerable to violence and abuse than other women, Chenoweth argues.

Francis M. Chevarley et al., *Health, Preventive Health Care, and Health Care Access among Women with Disabilities in the 1994–1995 National Health Interview Survey, Supplement on Disability*, 16 WOMEN'S HEALTH ISSUES: OFFICIAL PUBLICATION OF THE JACOBS INSTITUTE OF WOMEN'S HEALTH 297 (2006).

Judith Cockram, *People with an Intellectual Disability in the Prisons*, 12 PSYCHIATRY PSYCHOLOGY & LAW 163, 171 (2005).

Pamela Cooke and Graham Davies, *Achieving Best Evidence from Witnesses with Learning Disabilities: New Guidelines*, 29 BRITISH JOURNAL OF LEARNING DISABILITIES 84 (2001).

Doreen Demas, *Triple Jeopardy: Native Women with Disabilities*, CANADIAN WOMAN STUDIES, VOL. 13, NO. 4, 53-55 (1989).

B.J. Dickman et al., *Complainants with Learning Disabilities in Sexual Abuse Cases: A 10-Year Review of a Psycho-Legal Project in Cape Town, South Africa*, 33 BRITISH JOURNAL OF LEARNING DISABILITIES 138 (2005).

Michelle Fine & Adrienne Asch, *Disabled Women: Sexism Without the Pedestal*, 8 J.SOC & SOC. WELFARE 233, 239 (1981).

Carolyn Frohmader, *Assessing the Situation of Women with Disabilities in Australia – A Human Rights Approach*, Women With Disabilities Australia (2011), available at <http://www.wwda.org.au/WWDAPolicyPaper2011.pdf>.

Rosemarie Garland-Thomson, *Integrating Disability, Transforming Feminist Theory*, NWSA JOURNAL, VOL. 14, NO. 3, 1-32 (Fall 2002).

This is a theoretical background piece of disability and feminist theory that does not address further issues of intersectionality per se but is a helpful primer on the bi-dimensional issues of gender and disability.

Stephen French Gilson, Elizabeth P. Cramer and Elizabeth DePoy, *Redefining Abuse of Women With Disabilities: A Paradox of Limitation and Expansion*, VIOLENCE AGAINST WOMEN, VOL. 16, NO. 2, 220-235 (2001).

The study looked at the experiences of abused women with disabilities and the women's use of and need for services and resources. The study found that women with disabilities have unique experiences that require specialized services.

Nora Ellen Groce et al., *Rape of Individuals with Disability: AIDS and the Folk Belief of Virgin Cleansing*, 363 THE LANCET 9422, 1663 – 1664 (May 22, 2004), available at [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(04\)16288-0/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(04)16288-0/fulltext).

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European Parliament Hearing on Violence against Women with Disabilities, European Parliament, Brussels (March 28, 2012), available at http://www.edf-feph.org/Page_Generale.asp?DocID=22112&thebloc=29523. Chaired by Iratxe García Pérez MEP, member of the EP Disability Intergroup and of the FEMM Committee and featuring Mikael Gustafsson MEP, Chairman of EP Women’s Committee, Ana Peláez, Chair of Women’s Committee at the European Disability Forum, member of the UN Committee on the Rights of Persons with Disabilities, and Jan Jarab, Regional Representative of UN OHCHR.

In cooperation with Members of Parliaments and Ana Peláez, UN Committee on the Rights of Persons with Disabilities, a hearing on Violence against Women with Disabilities brought together the Chair and members of FEMM Committee, representatives of the EU institutions and international organizations, as well as civil society organizations to inform policy makers and the public about issues related to violence against women with disabilities by highlighting such practices and proposing policy solutions.

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