

CHAPTER 17

THE HUMAN RIGHTS OF OTHER POPULATIONS OF PERSONS WITH DISABILITIES

UN Convention on the Rights of Persons with Disabilities

Preamble: (excerpts)

The States Parties to the present Convention...

- (i) Recognizing further the diversity of persons with disabilities,
- (k) Recognizing the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support,
- (p) Concerned about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status,
- (t) Highlighting the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recognizing the critical need to address the negative impact of poverty on persons with disabilities[.]

OBJECTIVES

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

- Understand the multiple forms of discrimination that sub-groups within the general population of persons with disabilities may face and to identify discrimination against them as a human rights issue
- Identify ways in which the human rights of these sub-groups have been promoted or denied
- Explain the importance of affording all persons with disabilities a voice in decision-making processes that concern their interests, including the participation of persons with disabilities in development decision-making
- Understand and apply the provisions on the human rights of persons with disabilities who may be subject to multiple forms of discrimination in the UN ***Convention on the Rights of Persons with Disabilities*** (CRPD)
- Highlight possible strategies to advance the rights of all persons with disabilities



GETTING STARTED: THINKING ABOUT THE HUMAN RIGHTS OF PERSONS WITH DISABILITIES WHO EXPERIENCE MULTIPLE DISCRIMINATION

In general, persons with disabilities are marginalized and face discrimination on account of their disability. Some groups of persons with disabilities face multiple or aggravated discrimination on account of their status or membership in a minority group. They experience discrimination due to their disability as well as other characteristic, situation or circumstance, such as age, social situation or health status. There are many attributes that may result in multiple or aggravated discrimination. These include, but are by no means limited to: race, color, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age, sexual minority status, poverty or other status. A person with a disability who requires intensive support may also experience such aggravated discrimination.

People with disabilities may face discrimination in a variety of life circumstances and situations. People with disabilities who are living in a humanitarian crisis, such as natural disaster or armed conflict, may experience discrimination on account of their disability and on the basis of their refugee or displaced status. Health status, for example the situation of a person with a disability who is living with HIV/AIDS or other communicable disease, may also result in discrimination.

These differences and a variety of other characteristics and circumstances should be taken into account when considering how best to ensure the human rights and fundamental freedoms of *all* persons with disabilities.

Identifying the Many Bases of Discrimination

In 2000, the Charter of Fundamental Rights of the European Union was adopted which includes, among other human rights provisions, one of the most far-reaching non-discrimination provisions in modern human rights law.

Article 21(1) provides: “Any discrimination based on any ground, such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.”¹

The non-discrimination provision in the Charter makes clear that discrimination on any grounds, including those specifically mentioned in the provision, as well as other grounds not mentioned in the provision, are prohibited.

¹ See http://www.europarl.europa.eu/charter/default_en.htm

EXERCISE 17.1: What Does It Mean to Experience Multiple Discrimination?

Objective: To understand the effects of multiple discrimination

Time: 60 minutes

Materials: Slips of paper and pencils

1. Brainstorm:

Ask the group to list types of disabilities with which they are familiar (e.g., people with physical, sensory, learning, intellectual, and psycho-social disabilities). List these and have these written on separate slips of paper. Collect these slips in a container.

Next, ask the participants to name the groups in their community who experience discrimination (e.g., religious and racial minorities, indigenous people, immigrants and migrants, people of color, poor people, people with HIV/AIDS). List these and have them written on a slip of paper. Collect these slips in another container.

2. Imagine/Discuss:

Divide participants into small groups. Explain that each group will imagine a person with certain characteristics that they will choose at random, starting with that person's disability. Ask each group to draw a slip from the container containing types of disabilities and discuss what kinds of discrimination based on that disability their imagined person might face.

3. Imagine/Discuss:

After about five minutes, announce that in addition to having a disability, this person also has another characteristic that results in discrimination. Have each group draw a slip from the container with names of groups. Ask them to imagine and discuss what additional discrimination this person might now face.

4. Imagine/Discuss:

After another five minutes, announce that this person has another characteristic that causes discrimination and have each group draw a second slip from the container of group characteristics. Ask them to imagine and discuss what additional discrimination this person might now face.

5. Discuss:

Bring participants back together and ask a spokesperson from each group to "introduce" the person they have imagined and describe the multiple layers of discrimination that person might face.

6. Discuss/Strategize:

Discuss what steps might be taken to end the kinds of discrimination these imaginary persons face asking questions like these:

- Are some kinds of discrimination harder to address than others? Which ones? Why?
- Are some kinds of discrimination more harmful or painful than others?
- Do some kinds of discrimination have more far-reaching effects than others?
- What can be done to address multiple forms of discrimination experienced by people with disabilities?



WHAT DOES INTERNATIONAL HUMAN RIGHTS LAW SAY ABOUT THE RIGHTS OF PERSONS WITH DISABILITIES WHO EXPERIENCE MULTIPLE DISCRIMINATION?

The principle of non-discrimination is one of the most fundamental norms in human rights law. The rights of persons who face discrimination on account of their particular status are well recognized in human rights treaties. Indeed, the cornerstone of human rights protection as set forth in the **UN Charter** is its non-discrimination provision, which provides that the UN shall promote “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”² All major international human rights conventions contain non-discrimination provisions and build upon the principle of non-discrimination found in the UN Charter.

The **Universal Declaration of Human Rights** (UDHR) provides that:

*Everyone is entitled to all the rights and freedoms set forth in [the UDHR] without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*³

The **International Covenant on Civil and Political Rights** (ICCPR)⁴ contains a non-discrimination clause mirroring that found in the UDHR, an equal rights provision between men and women, as well as a provision guaranteeing to persons belonging to ethnic, religious or linguistic minorities the rights, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, and to use their own language.

Specialized human rights conventions have been drafted in order to address in more detail the rights of populations who may face additional barriers to the enjoyment of their rights on account of their membership in a minority or particularly disadvantaged group. These include, for example, the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**,⁵ the **Convention on the Elimination of All Forms of Racial Discrimination (CERD)**,⁶ the **Convention on the Rights of the Child (CRC)**,⁷ and the **Convention on the Rights of Migrant Workers**.⁸ The rights of indigenous people are addressed in **Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO No. 169)**⁹, as well as the **Declaration on Rights of Indigenous Peoples**¹⁰ adopted by the UN General Assembly in September 2007. Other population groups are similarly pressing for greater recognition of their human rights through the adoption of specialized conventions or non-binding instruments, including, for example, older persons.

2 <http://www.un.org/aboutun/charter>

3 <http://www.unhcr.ch/udhr/lang/eng.htm>

4 <http://www.ohchr.org/english/law/ccpr.htm>

5 <http://www.ohchr.org/english/law/cedaw.htm>

6 <http://www.ohchr.org/english/law/cerd.htm>

7 <http://www.ohchr.org/english/law/crc.htm>

8 <http://www.ohchr.org/english/law/cmw.htm>

9 <http://www.ohchr.org/english/law/indigenous/htm>

10 <http://www.ohchr.org/english/issues/indigenous/docs/draftdeclaration.pdf>

The **CRPD**, in addition to recognizing and defining in some detail the discrimination that people with disabilities face on account of their disability, also recognizes that persons with disabilities may belong to sub-groups who face additional discrimination, beyond disability-based discrimination. Such persons may therefore be doubly disadvantaged and face additional barriers to their full enjoyment of human rights. The CRPD, in its Preamble, recognizes:

- The diversity of persons with disabilities
- The reality that some persons with disabilities require intensive supports and may therefore face additional barriers to their full enjoyment of human rights
- That certain sub-groups of persons with disabilities may be subjected to multiple or aggravated forms of discrimination on the basis of race, color, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status
- That persons with disabilities often live in poverty and that this status creates additional barriers for the full enjoyment of human rights.

All of the human rights set forth in the CRPD apply to all persons with disabilities, whatsoever their minority group membership, social situation or life circumstance of any kind. All of the general principles in the CRPD support a framework of human rights protection that was clearly intended by the drafters to cover all groups of persons with disabilities, whether or not they are expressly mentioned in the CRPD. Article 3 (General Principles) is accordingly an important tool for persons with disabilities who may experience multiple forms of discrimination to use in their advocacy. Several of the principles in Article 3 are of particular note:

The principle of non-discrimination: meaning that both disability discrimination and discrimination on other grounds are prohibited.

The principle of full and effective participation and inclusion in society: meaning that all persons with disabilities, whatever their minority or other status or circumstance are entitled to participate fully in their community and in decision-making where their interests are affected.

The principle of respect for difference and acceptance of persons with disabilities as part of human diversity and humanity: meaning that diversity in humankind, whether based on disability or other attribute, are to be respected and valued.

The principle of equality of opportunity: meaning that all persons with disabilities are entitled to equality of opportunity, whatever their minority or other status or circumstance.

The principle of equality between men and women: recognizing that persons with disabilities, whether men or women, are entitled to equality and providing an explicit basis on which to challenge double discrimination based on disability and sex.

The principle of respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities: recognizing the rights of the child and the issue of discrimination based on disability and age.



EXERCISE 17.2: What Rights of Persons with Disabilities Who Experience Multiple Discrimination Does the CRPD Affirm?

Objective: To review and understand the rights of persons with disabilities who experience multiple discrimination

Time: 30 minutes

Materials: Chart paper and markers or blackboard and chalk

1. Review:

Divide the participants into small groups. Ask each group to work together to paraphrase the paragraphs in the CRPD Preamble in common language and give some examples of how those provisions can help disadvantaged groups of persons with disabilities enjoy their human rights.

2. Paraphrase:

Read the CRPD sections above aloud and pause at each comma or natural section to ask different groups for their paraphrase. Discuss the meaning of each section until everyone can agree on a paraphrase. Write the final paraphrase on chart paper.

3. Give examples:

Ask for examples of how these provisions in CRPD could be enjoyed and make a difference for different groups of persons with disabilities who may experience multiple forms of discrimination.

4. Discuss:

How can these articles of the CRPD be used to set national disability rights agendas and formulate platforms of action for submission to political parties or government decision-makers?

PARTICIPATION IN DEVELOPMENT DECISION-MAKING FOR PERSONS WITH DISABILITIES LIVING IN POVERTY

Poverty is a status that leads to multiple disadvantage on many fronts. The United Nations estimates that one person in twenty has a disability, and that more than 75% of people with disabilities live in a developing country.¹¹ People with disabilities tend to be among the poorest of the poor. According to World Bank estimates, one of every five of the world's poorest persons is disabled.¹² Unfortunately, the multitude of barriers that limit the access of people with disabilities to education, employment, housing, health care and rehabilitation, transportation and recreation also serve to limit their participation in development planning decisions that could improve their lives. Ensuring the full participation of people with disabilities in the planning, design, implementation and evaluation of development programs is essential in order to ensure the success of poverty reduction strategies. Disabled peoples organizations and their allies are working to ensure that international development becomes more inclusive of the voices and needs of people with disabilities.

11 Helander, E. "Prejudice and Dignity; an introduction to community based rehabilitation." UNDP, 1992.

12 Elwan, Ann. "Poverty and Disability; a background paper for the World Development Report," World Bank, October 1999.

Including people with disabilities in development decision-making is critical to achieving the promise of poverty reduction and responsible development. The **CRPD** recognizes that development processes need to take into account disability issues. Article 33 stresses the important role of international cooperation for realizing the rights of people with disabilities and calls on States to take measures “[e]nsuring that international cooperation, including international development programs, is inclusive of and accessible to persons with disabilities.”

International development organizations tend to emphasize that the participation of the people most directly affected by a development project must have the opportunity to participate in its planning from its earliest stage. All too often people with disabilities are left out of these efforts. The World Bank and other development actors are currently addressing this exclusion and are trying to ensure that people with disabilities participate in the various forms of development at the planning stage (see text box). It will take the active efforts of disabled peoples organizations to ensure that inclusive development is a reality.

EXERCISE 17.3: Speaking Out for Participation and Inclusion in Development Decision-making

Objective: To examine the right of people with disabilities to participate in development decision-making

Time: 60+ minutes

Materials: Chart paper and markers or blackboard and chalk

1. Brainstorm:

Ask participants to list areas where they experience barriers in participating in development decision-making in their community (e.g., with international development organizations, with local governments, with community leaders, with religious leaders). Divide participants into small groups and ask each group to choose an area of exclusion from development decision-making on which they wish to concentrate (e.g., planning of a development project, purchase of inaccessible buses, or policies on health, social welfare, or education).

2. Plan:

Ask each group to prepare a five-minute presentation to a “panel of community development leaders” on their problem. Each presentation should –

- Describe the exclusion of people with disabilities in a specific development decision-making process and identify the group of people with disabilities that it impacts and if possible the cause(s) of the problem.
- Relate the problem to the human rights of people with disabilities
- Clarify how the problem affects the lives of people with disabilities (and their families where relevant).
- Show how addressing the problem can improve their lives.
- Propose specific actions that should be taken to address the problem.
- Show how members of the community can get involved in addressing the problem.

Ask each group to choose a spokesperson to make the presentation and one or two to serve as the “panel of community development leaders.” While the groups plan their presentations, the panel of leaders meets to decide on their roles, representing probable attitudes within the community leadership.



3. Role Play:

The spokesperson from each group makes a presentation and members of the panel listen and respond, asking questions and offering comments, objections or suggestions in keeping with their chosen roles.

4. Discuss:

After the presentations and role play, discuss:

- How did the spokespersons feel when presenting the problem?
- How did the “community leaders” respond to the presentation? What attitudes in the community were they representing?
- How did the audience, composed of the rest of the group, respond to the presentations?
- Did any spokesperson discuss the problem as a human rights violation? Did putting the problem in this context strengthen the argument?
- Are any of the ideas put forward feasible in your community? Why or why not?

5. Conclude:

Challenge the participants to evaluate their knowledge of the problem and inclusiveness of perspective:

- How did you obtain your information on the barriers to participation and their impact? Was it accurate and complete? If not, what additional information does you need and how can you obtain it?
- Did you consult the people with disabilities involved about problem and how it affects them? About the actions that could improve the problem?
- Why is it important in real-life human rights advocacy to include the active participation of those directly involved and affected?
- How can you apply the example of this exercise to planning and implementing advocacy for people with disabilities in your community?

PRSPs and Inclusive Development

The term Poverty Reduction Strategy Paper (PRSP) refers to an important development document devised by the World Bank and the International Monetary Fund in 1999 in order to help low-income, highly indebted countries to formulate a national plan on how to reduce poverty in their country and improve living conditions. Once a country has adopted a national PRSP, it may apply for debt relief from the World Bank, the IMF and donor countries, and may gain access to new credits, loans and grants for development projects. The PRSP provides an important roadmap for development and sets priorities for target actions to reduce poverty. This tool and others like it are used by many international development partners. The process by which PRSPs are developed are intended to be highly participatory and include a wide range of country stakeholders. A key principle of the process is the active involvement of civil society in the formulation, implementation, and evaluation of a country’s national poverty reduction strategy. Unfortunately people with disabilities have too often been left out of this important process. The World Bank is working with disability organizations to improve the participation of persons with disabilities in development decision-making.¹³

13 “Making PRSP Inclusive.” Jan. 2006. *Handicap International Christoffel-Blindenmission*. <http://siteresources.worldbank.org/DISABILITY/Resources/280658-1172608138489/MakingPRSPInclusive.pdf>

EXERCISE 17.4: Making a Commitment to Promote the Rights of People with Disabilities Who Experience Multiple Discrimination

Emphasize that human rights involve both rights and responsibilities.

- Ask if after learning about the human rights of people with disabilities who experience multiple forms of discrimination, the group is ready to think about taking concrete action.
- Acknowledge that, although there is still much planning and information gathering to do, commitment to creating change is also very important.
- Explain that you would like to ask each participant to name one individual action, however small, that she or he is willing and able to take in the next month to promote the human rights of people with disabilities who experience multiple discrimination.

For planning advocacy for the human rights of people with disabilities, see Part 3, “Advocacy! Taking Action for the Human Rights of People with Disabilities,” p. 229.

ADDITIONAL RESOURCES ON THE HUMAN RIGHTS OF OTHER POPULATIONS OF PERSONS WITH DISABILITIES

- Children and Disability: <http://www.un.org/esa/socdev/enable/comp501.htm>
- DFID, Disability, Poverty and Development: <http://www.dfid.gov.uk.pubs/files/disability.pdf>
- Ethnic Minorities and Disability: <http://www.un.org/esa/socdev/enable/comp507.htm>
- Global Action on Aging: <http://www.globalaging.org>
- HelpAge International: <http://www.helpage.org/Home>
- Indigenous People and Disability: <http://www.un.org/esa/socdev/enable/comp506.htm>
- International Work Group for Indigenous Affairs: <http://www.iwgia.org>
- Migrant Workers and Disability: <http://www.un.org/esa/socdev/enable/comp509.htm>
- Older Persons and Disability: <http://www.un.org/esa/socdev/enable/comp503.htm>
- People Living in Poverty and Disability: <http://www.un.org/esa/socdev/enable/comp508.htm>
- People Living with HIV/AIDS and Disability:
- Refugees and Disability: <http://www.un.org/esa/socdev/enable/comp505.htm>
- World Bank, HIV/AIDS and Disability: Capturing Hidden Voices, Report of the World Bank Yale University Global Study on HIV/AIDS and Disability. (Washington, DC, 2004): <http://cira.med.yale.edu/globalsurvey/>
- Women and Disability: <http://www.un.org/esa/socdev/enable/comp/504.htm>

