

CBM submission on women and girls with
disabilities to the Committee on the Rights of
Persons with Disabilities as requested by
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Introduction

CBM welcomes the decision by the Committee on the Rights of Persons with Disabilities to host a general discussion on women and girls with disabilities and submits this short paper in response to the Committee’s request for submissions. The paper starts with a short discussion on issues faced by women and girls with disabilities. It places the discussion in the context of the intersection between disability and gender and how human right treaties and future development frameworks must be cognizant of the interaction between both in order to provide effective protection for women and girls with disabilities.

The paper then suggests **three key areas** for the Committee on the Rights of Persons with Disabilities to consider:

- (a) the need for **cooperation and synergy between monitoring mechanisms** of CEDAW and the CRPD
- (b) important **legal and policy areas** for women and girls with disabilities, and
- (c) the **mainstreaming** of women and girls with disabilities into the post-2015 framework and gives an example of how CBM is working to progress the rights of women with disabilities.

The final section offers some short conclusions and recommendations to the Committee for future consideration.

Context:

“The plight of women with disabilities is not the simple sum of the barriers faced by people with disabilities and the barriers faced by women. The combination of their disabilities and inferior status as women goes beyond the mechanical doubling of discrimination to a situation of utter social alienation and policy neglect”.¹

It is well recognised that women and girls with disabilities are subject to multiple discrimination; in that they not only face discrimination and exclusion from the perspective of being disabled, but also from being a women/girl. Some commentators have gone further to suggest that women with disabilities face ‘triple discrimination’ particularly those women who live in low income and poor countries.² Yet despite these facts, up until recently women and girls with disabilities have largely been invisible within both disability and gender law and policy and within global development policies. Progress is being made on a number of fronts, however the rationale behind the Committees request for this submission on women and girls with disabilities demonstrates that much remains to be achieved.³

The intersection of both gender and disability place women and girls with disabilities in situations of increased vulnerability to poverty and can in fact place their lives at risk. The UN claims that ‘the combination of male preference in many cultures and the universal devaluation of disability can be deadly for disabled females’.⁴ Data remains limited on women and girls with disabilities, however what is clear is that women with disabilities are more exposed to practices which qualify as torture or inhuman or degrading treatment; are more susceptible to violence and abuse; are at an increased risk of increased poverty⁵; and if they are from ethnic or indigenous communities, are more likely to have to contend with forces that exclude them on the basis of gender as well as disability, culture and heritage.⁶

However, as the quote at the start of this section from the Korean delegation highlights, tackling the discrimination faced by women with disabilities is not simply about adding disability and gender together. Instead it is about identifying where both gender and disability intersect

¹ Intervention by South Korea at UN Convention on the Human Rights of People with Disabilities AdHoc Committee - Daily Summaries, August 2, 2005, <http://www.un.org/esa/socdev/enable/rights/ahc6sum2aug.htm>

² See UNESCAP, Hidden Sisters: Women with Disabilities in the Asia Pacific Region, Social Devt Division, Bangkok

³ The rationale for the call for this submissions is based on the scarcity of information provided in State Reports submitted to-date to the CRPD Committee

⁴ See the Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt, submitted in accordance with Commission resolution 2002/31, E/CN.4/2003/58, paragraph 67

⁵ Committee of Ministers of the Council of Europe (2009) Declaration: Making gender equality a reality. 119th Session of the Committee of Ministers, Madrid, 12 May 2009.

⁶ Groce, N. (2006), Op Cit.

to create unique forms of discrimination that require a holistic response by law and policymakers. The following sections discuss this in more detail with respect to the international normative framework protecting the rights of women and girls with disabilities and future global development policies.

A. Normative frameworks and the need for cooperation and synergy to protect the rights of Women and Girls with Disabilities.

The rights of women and girls with disabilities are protected by international law, within the general treaties of the IESCR and the ICCPR and more specifically with the Convention on the Elimination of Discrimination against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD). CEDAW while not explicitly referencing women with disabilities in its original treaty text has subsequently included references in general recommendation no 18.⁷ In particular it recognises the double discrimination faced by women and girls with disabilities. Similarly, the CRPD recognises the double disadvantage faced by women and girls with disabilities. Furthermore it takes a twin track approach to progressing the rights of women and girls with disabilities through (a) the inclusion of a specific article ensuring the rights which could be considered specific to the situation of women with disabilities (such as institutionalization and forced sterilization)⁸ are protected and (b) the general rights contained in the CRPD such as anti-discrimination (Article 5) awareness raising (Article 8), protection from exploitation (Article 16), violence and abuse and health (Article 24) are gender sensitive.

There is no doubt that the CRPD has made progress on moving away from a homogenous view of disability to one where multiple identities are recognized. Degener describes it as *'the only Convention, which explicitly refers to multiple discrimination in the binding text'*.⁹ She explains that one of factors contributing to this is that the CRPD as one of youngest international treaties has benefited from the recent commentary from United Nations bodies on multiple-discrimination.¹⁰ Building on this, De Silva suggests that the CRPD has the potential to enable the different human rights treaties affecting women and children with disabilities *'to be implemented together within an interlocking web of the human rights framework'*. She believes that an intersectional approach between CEDAW, CRC and the CRPD can go some way towards decreasing the

⁷ See General recommendation No 18 (1991) which recognises that women with disabilities face double discrimination

⁸ See Women with Disabilities Australia: Submission to the Australian Attorney-General on the Sterilization of girls and women with disabilities (2012)
<http://www.wwda.org.au/WWDASubtoAGJuly2012.pdf>

⁹ The CRPD being the youngest of the treaties has had the benefit of building on recent years commentary coming from UN treaty bodies on multiple discrimination for example General Comment on CEDAW no 18, see the European Union Non-Discrimination Law and Intersectionality, Chapter 2,

¹⁰ See *"European Union Non-Discrimination Law and Intersectionality"* Chapter 7 (2011)

incidence of multiple-discrimination faced by women and girls with disabilities.

However, despite the growing recognition of multiple-discrimination the fact remains that the struggle faced by the community of women with disabilities to include a specific article on women with disabilities in the CPRD demonstrates the dichotomy that exists in law and policy when responding to issues faced by women with disabilities. The failure of traditional disability and law and policy to include women with disabilities¹¹ highlights how women with disabilities fall between existing gender and disability protections and remain invisible.¹² This raises questions of where specific approaches are needed (as in case of Article 6 of the CRPD) or when a gender sensitive approach is needed which is envisaged by both CEDAW and the CRPD.

To-date State reporting under both CEDAW¹³ and the CRPD and their respective lack of information on women with disabilities suggest a number of important points for the Committee on the Rights of Persons with Disabilities to consider with respect to monitoring the implementation of the rights of women and girls with disabilities

- A need to prioritize information and data gathering on women with disabilities in future CRPD State reports
- A need to ensure that reporting across all areas of the CRPD include a gender aspect
- A need for sharing information between the Committees of the CRPD and CEDAW

B. Key issues facing women with disabilities

As noted earlier in the introductory section, getting to the heart of the discrimination faced by women and girls with disabilities is not about simply adding gender and disability. Many of the issues faced by women and girls with disabilities are issues faced by women throughout the world

¹¹ For example, previous measures such as the World Programme of Action on Disability made minimal references to diversity within disability, recognizing women and children with disability within the category of special groups rather than integrated throughout its actions. Similarly the UN Standard Rules references women and children with disabilities at different junctures, however the CRPD explicitly references them throughout the text and also with specific articles

¹² It could be reasonable then to suggest that the experience of women with disabilities falling between the gaps of gender and disability could be described as similar to that of the case made by Kimberley Crenshaw on race and gender where she claims that the “ *intersection of racism and sexism factors into Black women’s lives in ways that cannot be captured wholly by looking at the race or gender dimensions of those experiences separately*”, see *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*. Crenshaw, Kimberly, *Stanford Law Review* Vol. 43, July 1991.

¹³ The rationale behind this call for submission by the CRPD Committee highlights how the first set of State reports to the Committee on the Rights of Persons with Disabilities have had a ‘*scarcity of information on the situation of women and girls with disabilities*’. This was also highlighted by the CEDAW committee, which found scarcity of information on women and girls with disabilities, see General Recommendation No.18

and stem from society's response to gender. In the context of strengthening human rights protections for women and girls with disabilities and ensuring their inclusion in future development policy, this section highlights key issues facing women and girls with disabilities, which cross-over with mainstream gender issues.

1. Access to economic and social rights:¹⁴

While data remains limited, it is generally accepted that women and girls with disabilities have less access to education, social services and employment opportunities than non-disabled women and disabled men. For example, USAID reports that women with disabilities are at increased risk of being sicker, poorer and more socially isolated than man with disabilities or able-bodied women. In terms of accessing education the UNDP reports the literacy rate for women with disabilities may be as low as 1% and UNICEF reports that women and children with disabilities receive 20% less rehabilitation services. Finally in terms of access to employment opportunities studies on women with disabilities in rural areas of many countries have found that more than 80 percent of women with disabilities have no independent means of livelihood, and are totally dependent on others for their very existence.¹⁵

2. Vulnerability to Violence and Abuse:¹⁶

From a gender perspective a recent report by the UN Special Rapporteur found that by virtue of being a woman and having a disability, the risk of violence increases.¹⁷ From a disability perspective studies have shown that disabled women are far more likely to be subjected to violence and abuse than non-disabled women¹⁸ and in some instances the form of abuse is particular to the fact of the woman having a disability. For example, studies have found that women with disabilities are more likely to experience abuse by attendants or health-care providers and are less likely than non-disabled women to access support and help with they need it.¹⁹

¹⁴ See in general the IESCR and in specific terms see CEDAW (Articles 10, 11, 12 and 13), see CRPD (Articles 24, 25, 26, 27 and 28)

¹⁵ See <http://www.un.org/disabilities/convention/facts.shtml> for facts about people with disabilities, USAID, Fact Sheet on Women with Disabilities http://www.usaid.gov/our_work/cross-cutting_programs/wid/disability/wwd_statistics.html and the Statement made by United Nations Special Rapporteur on Disability on the occasion of International Women's Day, 2005, <http://www.un.org/esa/socdev/enable/womenday05.htm>

¹⁶ See general provisions in ICCPR and in specific terms see CEDAW (Article 6); see CRPD (Article 15, 16 and 17)

¹⁷ See A/67/227 Report of the Special Rapporteur on Violence against women, its causes and consequences (pg. 4)

¹⁸ See 'Forgotten Sisters – A Report on Violence Against Women with Disabilities: An Overview of its nature, scope, causes and consequences' Ortoleva and Lewis (2012); see also report from the Triple Jeopardy project that took place from 2010 – 2012, and was implemented by Banteay Srei, the Cambodian Disabled People's Organisation, CBM-Australia, the International Women's Development Agency and Monash University with support from AusAID.

¹⁹ See Making the links: Disabled women and domestic violence, final report by Hague et al (2007)

3. Access to Justice:

Access to justice for women with disabilities remains an under-researched topic. Under the CRPD, CEDAW and other treaties women with disabilities are guaranteed equal access to the law. However in practice many barriers exist for women and girls with disabilities in seeking justice. Recent research conducted on violence against women found that a number of factors contribute to these barriers, these include; weak implementation of laws regarding disabilities; low levels of knowledge about law and the process of participating in the formal justice system by women with disabilities and finally a lack of resources to promote the laws, which means that local authorities are not aware of the laws they can use to protect women's rights and ensure their safety.²⁰

4. The Right to Home and Family²¹

Society generally views women with disabilities as not capable of having children and therefore incapable of fulfilling their role of being a mother and participating in family life. This is particularly prevalent in developing countries where women with disabilities are not seen as marriage material and in many circumstances are left hidden away resulting in an increased vulnerability to a life of poverty. The prejudice faced by women with disabilities in accessing their sexual and reproductive rights can manifest itself in decisions about reproduction and family planning being made by a third party in the 'best interests of women with disabilities'. This results in women and girls with disabilities not being aware of their rights and having little or no information on reproduction and sexual health.

5. Participation in political and public life²²

Women with disabilities much like non-disabled women face challenges in participating in political and public life. While non-disabled women's political participation rates are low, disabled women's participation rates are low to non-existent. Not being at the table for decision-making processes contributes to the lack of visibility of the issues faced by women with disabilities. Prejudice and stigma faced by women with disabilities hinders the participation of women with disabilities resulting in what Ortoleva describes as "*the human rights (of women with disabilities) and their other demands and priorities most probably being ignored or bargained away*".²³

²⁰ For further reading see Triple Jeopardy - a study of violence against women with disabilities in Cambodia (2013)

²¹ See CEDAW (Article 16) and CRPD (Article 23)

²² See ICCPR Article 25 (a) and (b) and CEDAW Article 7(a)

²³ See Ortoleva, Women with Disabilities – the forgotten peace-builders (2011)

C. Mainstreaming women and girls with disabilities in global development frameworks

As noted in the section, over the coming 18 months a new framework will be developed and international disability organisations such as CBM are advocating for the inclusion of persons with disabilities. The Millennium Development Goals (MDGs) in their original format have been widely criticized for failing to explicitly reference disability.²⁴ As a result many international organisations now claim that achieving success of the MDG's is limited due to this omission. For the purposes of this submission as it relates to women and girls it is interesting to explore the context in which women with disabilities are discussed in the current gender oriented goals of the MDGs. These goals include MDG 3 (Promote Gender Equality and Empower Women), MDG 4 and MDG 5 (Child Mortality and Maternal Health). Assessing how women with disabilities or disability in general are included in the MDG's gives an indication where development policy makers place their focus i.e. is it from the perspective of disability impacting gender or from the perspective of measures taken to include women with disabilities in gender policies? There is some small evidence available from desk research carried out to ascertain where disability is referenced in the MDG's, which gives an indication where the current focus is. The research carried out found that where disability was cited in reports under MDG 3 the references to disability were made for the most part on the impact of disability on gender e.g. women acquiring an impairment through poor maternity services, poverty etc. For example, one country report highlighted the issue of women as caregivers of persons with disabilities.²⁵ Another report stressed the need to understand how gender equality was affected by different factors such as disability. Finally under MDG 4 and MDG 5, the issue of how the lack of obstetric, pre and postnatal care was a cause of disability was raised. In terms than of any references specific to women with disabilities and their inclusion, the only reference was a one-time financial assistance for women with disabilities.

As discussed in previous sections, the issue of where to place a focus (disability or gender) from a legal or policy perspective can result in the invisibility of women with disabilities. This raises a number of points for the Committee to consider in the context of the upcoming consultation and negotiations on post-2015. These are:

- The need for the post-2015 framework to be consistent with the principles of the CRPD in particular with Article 3, 4 and 5.
- The need for disability to be mainstreamed through its overall goals and objectives

²⁴ See A/64/180 Realizing the Millennium Development Goals for Persons with Disabilities through the implementation of the World Programme of Action concerning Disabled Persons and the Convention on the Rights of Persons with Disabilities

²⁵ *ibid*

- The need for new gender oriented goals/objectives to be inclusive of women with disabilities.

CBM and its approach to inclusion of women and girls with disabilities

One of the key values of CBM's work is inclusion and to this end CBM strives to deliver programmes that are disability-inclusive and part of this includes women and girls with disabilities. As CBM takes steps to ensure that its programmes are compliant with the CRPD (particularly Article 32), there is a need to ensure that the programmes delivered meet both the specific needs of women and girls with disabilities and are also sensitive to wider gender issues.²⁶ Two examples from CBM's work on measures taken to include women and girls with disabilities are worth referencing. First of all a toolkit prepared by CBM Australia highlights a number of important points for including women with disabilities in development programmes. These include the need to have the voice of women with disabilities heard; for barriers to education for girls with disabilities to be removed so they can participate in meaningful work later in life; visibility of women with disabilities issues to be increased so that disability and gender biased can be tackled and finally integration of disability into gender programmes and vice versa.²⁷

Secondly CBM through its programming has delivered innovative projects which promote the rights and independence of women with disabilities. One such project is the *Advocacy for Women with Disabilities Initiative*, an NGO that is made up of women with disabilities coming together to form self-help groups in the communities where they live. The main purpose of the group is to advocate for an enabling environment for women with disabilities around the world and especially in Nigeria. The project coordinator describes the group's vision as below.

*"Investing in a girl child with disability is not a waste of resources but preparing her for the future as a woman with disability just like every other person in society, a positive future where she can contribute to herself, her family and her community. This is the beginning of creating an enabling environment, which is the main goal of Advocacy for Women with Disabilities Initiative for an inclusive society."*²⁸

So far, there are 41 self help groups in 14 States across Nigeria comprising of over 500 women with disabilities representative of different types of impairment and also women living with HIV Aids and leprosy. The different types of activities the groups supports include capacity building

²⁶ As required by Article 6 of the CRPD

²⁷ See *Inclusion Made Easy: A guide to disability in development, reasons for including women with disabilities* (pg. 4)

²⁸ Quote from Patience Ogolo (Operations Officer for CBM Nigeria country Office & AWWDI National Coordinator), for more details about the project see <http://www.CBM.org/programmes/AWWDI-Advocacy-for-Women-with-Disabilities-Initiative-323124.php>

of women with disabilities, workshops on how to form self help groups; financial support in the form of loans to start small businesses and wider human rights lobbying and advocacy work.²⁹

Conclusions and Recommendations:

CBM's submission to the Committee has attempted to highlight the barriers faced by women and girls with disabilities in achieving their full potential. These barriers, some are specific to the situation of women and girls with disabilities while others fit within the continued struggle of all women for equal rights and opportunities. The submission also highlighted the need for support for specific measures for women and girls with disabilities in terms of rights protections and also the need for general gender goals and objectives to be inclusive of women with disabilities.

The following recommendations below CBM makes to the Committee to further strengthen the rights of women and girls with disabilities.

- Guidance by the CRPD committee to State Parties on how to collect data and evidence pertaining to human rights violations of women and girls with disabilities
- Support services for women particularly in the area of violence and abuse and access to justice must be inclusive of women with disabilities
- Increased cooperation between the CRPD and CEDAW committee with a view to sharing respective competencies to strengthen monitoring (e.g. information sharing and exchange between disability and gender experts)
- The need for disability to be mainstreamed through its overall goals and objectives of post-2015 framework and the need for new gender oriented goals/objectives to be inclusive of women with disabilities.

²⁹ See the AWWDI newsletter to read more about the work of the group
http://www.CBM.org/programmes/downloads/76931/AWWDI_NEWS_4th_quarter_2011___1st_quarter_2012.pdf