Sexual and Reproductive Health and Rights of Women and Girls with Disabilities

Women Enabled International

FACTS

Women and girls with disabilities account for almost one-fifth of the world's population of women,[1] and they are just as likely to be sexually active as their peers without disabilities[2] despite inaccurate stereotypical views to the contrary. Accordingly, they have the same sexual and reproductive health (SRH) needs as women and girls without disabilities. Due to multiple and intersecting forms of discrimination on the basis of gender and disability, however, women and girls with disabilities face unique and pervasive barriers to full realization of their sexual and reproductive health and rights (SRHR).

Forms and Manifestations of SRHR Violations against Women & Girls with Disabilities

Physical and informational barriers to accessing SRH information, goods, and services

- Children and adolescents with disabilities are often excluded from—or not given access to—sexuality education programs due to assumptions that they do not need this information.[3]
- Information about sexual and reproductive health is frequently not provided in accessible formats,[4] denying women and girls with disabilities information essential to avoid sexual abuse, unwanted pregnancy, and sexually transmitted infections (STIs).
- Equipment and facilities in sexual and reproductive health care settings may not be physically accessible nor be designed with women with disabilities in mind.[5]
- Even when health services are physically accessible, women and girls with disabilities may face financial, social, and psychological barriers to accessing adequate reproductive health care.[6]

Substituted decision-making and denial of personal autonomy

- Women with disabilities are disproportionately subjected to practices such as forced or coerced sterilization, contraception, and abortion.[7]
- Substituted decision-making by parents, guardians, or doctors, who make decisions about these reproductive health procedures for women deprived of legal capacity, is often specifically permitted by law.[8]
- Forced practices are frequently based on false and discriminatory assumptions about women with disabilities' sexuality or ability to parent or are based on the desire to control their menstrual cycles and growth.[9]

Discriminatory sexual and reproductive health care

- Health care providers generally demonstrate a lack of sensitivity, courtesy, and support for women and girls with disabilities,[10] largely due to the lack of appropriate, evidence-based training for health care providers
- Many health care providers hold inaccurate, stereotypical views about women and girls with disabilities, such as assumptions that they are asexual.
- Biases and lack of training mean providers are less likely to offer women with disabilities information about contraceptive methods, prevention of STIs (including HIV),[11] or to screen for domestic or sexual violence[12] or reproductive cancers.

Discrimination and stigma around pregnancy and motherhood

- Women with disabilities frequently encounter substandard care, including discrimination and abusive treatment, when they access maternal and newborn health services. Such negative treatment can deter them from seeking prenatal health care.
- Materials about maternal and newborn health are not regularly available in accessible formats, and stereotypes that women with disabilities should not become parents can lead providers to overlook their need for counselling on safe pregnancy.
- Women with physical disabilities are seldom empowered to make autonomous decisions about their birthing process. For instance, they are often told they must give birth by caesarean section, despite the fact that this is not always necessary.

Access to Information During Pregnancy

Pregnant women and girls with disabilities need appropriate information to promote healthy pregnancy and make informed decisions to determine the course of their lives. Essential information during pregnancy includes:

- Information about **safe pregnancy, labor and delivery, parenting (including the right to parent), and supports and services** for disabled parents in an accessible form and format;
- Information about and access to **prenatal diagnostic screening** on a voluntary, informed basis;
- **Accurate, unbiased, non-directive and non-discriminatory counseling** about prenatal test results;
- Objective and nondiscriminatory **information about raising a child with a disability**, including information about **available services and supports** for children with disabilities and their families; and
- Unbiased and non-directive information about and access to **abortion**.

Sexual and Reproductive Rights

The right to sexual and reproductive health means that people have the right to:

- complete physical, mental, and social wellbeing in all matters relating to their reproductive system;
- a satisfying and safe sex life; and
- the freedom to decide if, when, and how often to reproduce.[13]

A range of fundamental rights protected in a number of international and regional human rights treaties underpin the right of women and girls with disabilities to sexual and reproductive health information, goods, and services, including the Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). These include the rights to:

- **Life**[14]
- **Health**, including sexual and reproductive health[15]
- **Privacy**, **liberty and security of the person**, and to **decide the number and spacing of children**[16]
- **Information** and **education**, including information and education on sexual and reproductive health[17]
- **Equality** and **non-discrimination**[18]
- **Accessibility**[19]
- **Enjoy the benefit of scientific progress**[20]
- **Freedom from torture or cruel, inhuman or degrading treatment or punishment**[21]

Government Obligations to Ensure SRHR[22]

Governments have specific obligations under international law to respect, protect, and fulfil sexual and reproductive health and rights for women and girls with disabilities.

Governments must:

Respect:
This obligation requires States to refrain from directly or indirectly interfering with access to SRH services, for instance by criminalizing certain SRH services such as abortion, non-disclosure of HIV status, or consensual sexual activity between adults.

Protect:
This obligation requires States to protect the SRHR of women and girls with disabilities from interference by private actors, for instance by ensuring contraceptive or abortion access irrespective of parental or guardian consent.

Fulfil:
This obligation requires States to address practical and social barriers to the full realization of SRHR to ensure that "[s]ocial misconceptions, prejudices and taboos ... do not obstruct an individual's enjoyment of the right to sexual and reproductive health."[23]

Governments also have to ensure that sexual and reproductive health services are:

Available:
This requires States to ensure that SRH information, goods, and services exist in both law and practice, and that they are well distributed throughout the country.

Accessible:
This requires States to ensure that SRH information, goods, and services can be accessed by women and girls across a range of disabilities. This requirement includes physical accessibility, economic accessibility (affordability), and information accessibility.

Acceptable:
This requires States to ensure that SRH information, goods, and services conform to ethical standards, are culturally respectful, sensitive to the gender and disability needs of the individual, and respectful of a person's privacy and confidentiality.

Quality:
This requires States to ensure that SRH information, goods, and services are scientifically and medically appropriate and delivered by personnel trained to provide services to women and girls with disabilities.

Realizing SRHR for Women and Girls with Disabilities

- Women and girls with disabilities must be able to make decisions for themselves about their sexuality and reproduction, with support to ensure their voluntary and informed consent when needed.
- Information, goods, and services must be accessible to persons with disabilities, sensitive to their needs, and provided on the basis of non-discrimination, with reasonable accommodations as needed.
- Comprehensive sexuality education courses and materials, as well as information on sexual and reproductive health and rights generally, must be available in alternative formats.
- Physical spaces where health care services are provided, medical equipment, and transportation to and from these facilities must be available and accessible to women and girls with disabilities.
- Health care workers must be trained to work with women and girls with disabilities and provide services that are based on dignity and that respect the autonomy of persons with disabilities.

Supported Decision-Making

Supported decision-making models can help empower people with disabilities who require assistance to make decisions independently and retain legal authority to make decisions. Supported decision-making requires making available various support options that can facilitate an individual's ability to make their own decisions about their lives. Supported decision-making models prioritize the individual's will and preferences and protect her fundamental human rights, including rights to related to personal autonomy, legal capacity and equal recognition before the law.[24]

1 World Health Organization (WHO) and World Bank, World Report on Disability 28 (2011).

2 WHO and United Nations Population Fund (UNFPA), Promoting Sexual and Reproductive Health for Persons with Disabilities: WHO/UNFPA Guidance Note 3 (2009).

3 *See, e.g.*, Committee on the Rights of Persons with Disabilities (CRPD Committee), *General Comment No. 3: Article 6 (Women and Girls with Disabilities)*, ¶ 40, U.N. Doc. CRPD/C/GC/3 (2016); WHO and World Bank, *supra* note 1, at 61, 205-206.

4 CRPD Committee, *General Comment No. 3*, *supra* note 3, ¶ 40. *See also*, WHO and World Bank, *supra* note 1, at 263.

5 *See, e.g.,* CRPD Committee, *Concluding Observations: Paraguay*, ¶ 59, U.N. Doc. CRPD/C/PRY/CO/1 (2013); *Concluding Observations: El Salvador*, ¶ 51, U.N. Doc. CRPD/C/SLV/CO/1 (2013).

6 Carolyn Frohmader & Stephanie Ortoleva, *Issues Paper: The Sexual and Reproductive Rights of Women and Girls with Disabilities* 6 (2013).

7 Rashida Manjoo, *Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences*, ¶¶ 28, 36, U.N. Doc. A/67/227 (2012).

8 CRPD Committee, *General Comment No. 3*, *supra* note 3, ¶¶ 31-32.

9 Rashida Manjoo, *supra* note 7, ¶¶ 28, 36.

10 *See, e.g.*, T. Kroll, et al., *Barriers and Strategies Affecting the Utilisation of Primary Preventative Services for People with Physical Disabilities: A Qualitative Inquiry*, 14 Health & Social Care in the Community 284 (2006).

11 *See, e.g.*, Human Rights Watch, Fact Sheet: HIV and Disability 8 (2012).

12 Frohmader & Ortoleva, *supra* note 6, at 7.

13 UNFPA, Danish Institute for Human Rights, and UN Office for the High Commissioner on Human Rights, Reproductive Rights are Human Rights: A Handbook for National Human Rights Institutions, HR/PUB/14/16, 18 2014).

14 International Covenant on Civil and Political Rights (ICCPR), Art. 6; Convention on the Rights of Persons with Disabilities (CRPD), Art. 10; Convention on the Rights of the Child (CRC), Art. 6; African Charter on Human and People's Rights (African Charter), Art. 4; Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol), Art. 4; American Convention on Human Rights (American Convention), Art. 4; European Convention on Human Rights (ECHR), Art. 2.

15 International Covenant on Economic, Social and Cultural Rights (ICESCR), Art. 12; CRPD, Art. 25; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Art. 12; CRC, Art. 24; African Charter, Art. 16; Maputo Protocol, Art. 14; Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador), Art. 10; European Social Charter, Art. 11.

16 ICCPR, Arts. 9, 17; CRPD, Arts. 14, 22-23; CEDAW, Art. 16; CRC, Art. 16; African Charter, Art. 6; Maputo Protocol, Arts.4, 14; American Convention, Arts. 7, 11; ECHR, Arts. 5, 8.

17 ICESCR, Art. 13; CRPD, Arts. 23, 24; CEDAW, Art. 10; CRC, Arts. 13, 17, & 28; African Charter, Arts. 9, 17; Maputo Protocol, Art. 14; Protocol of San Salvador, Arts. 10, 13; European Social Charter, Art. 11.

18 ICCPR, Art. 2; ICESCR, Art. 2; CRPD, Arts. 5-7; CEDAW, Arts. 1, 3; CRC, Arts. 2, 5; African Charter, Arts. 2-3; Maputo Protocol, Art. 8; American Convention, Arts. 1, 24; Protocol of San Salvador, Art. 3; ECHR, Art. 14.

19 CRPD, Art. 9; Maputo Protocol, Art. 14.

20 ICESCR, Art. 15; Protocol of San Salvador, Art. 14.

21 ICCPR, Art. 7; Convention against Torture, Arts. 2, 16; CRPD, Art. 15; CRC, Art. 37; African Charter, Art. 5; American Convention, Art. 5; ECHR, Art. 3.

22 Committee on Economic, Social, and Cultural Rights, *General Comment No. 22 on the Right to Sexual and Reproductive Health*, ¶¶ 12-21, 39-48, U.N. Doc. E/C.12/GC/22 (2016).

23 *Id.*, ¶ 48.

24 CRPD Committee, *General Comment No. 1: Article 12 (Equal recognition before the law)* ¶ 29, U.N. Doc. CRPD/C/GC/1 (2014).

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