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RECOMMENDATIONS FOR ACTION TO ADVANCE THE RIGHTS OF WOMEN AND GIRLS  
WITH DISABILITIES IN THE UNITED NATIONS SYSTEM

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The recent statement of Michelle Bachelet, Under-Secretary-General and Executive Director of the new United Nations entity, UN Women, noted that women and girls with disabilities must be included in the UN Women action plan. Women and girls with disabilities, including this author, and our Disabled Persons (Womens) Organizations are available to support this work. Under-Secretary-General Bachelet stated: "We will expand partnerships with the private sector, foundations and individuals, including through new electronic giving and internet campaigns. Recognizing that much of our work will be to stimulate and support others to do what needs to be done, we will build partnerships with governments and civil society, with parliamentarians and community based leaders, targeting groups that are most excluded, including HIV positive women, women in minority groups, women with disabilities, informal women workers and rural or urban poor women. UN Women's research and training agenda will depend upon strong partnerships with academia, think tanks and research centers. This approach will be fully reflected in our Strategic Plan, which we will bring to you at the annual session in June. The process of preparing this plan will provide important opportunities to continue our dialogue with Member States, and within the UN system, on how we can best add value."<sup>3</sup>

This paper enthusiastically takes on Under-Secretary-General Bachelet's invitation for partnership with women with disabilities and offers concrete suggestions for the meaningful inclusion of women and girls with disabilities as UN Women develops its plans of action and in all of the publications, programs and activities of UN Women. This paper also invites UN Women to specifically and concretely include women and girls with disabilities in the Strategic Plan to be presented to the UN Women Executive Board in June 2011 and to specifically include women with disabilities as part of the NGO Advisory Group appointed by Under-Secretary-General Bachelet.

## **INTERNATIONAL LEGAL BASIS FOR INCLUSION**

The below recommendations for action include strategies to improve the extent to which women and girls with disabilities are included in United Nations resolutions, programs, policies and processes; in the organization of and activities of the various entities of the United Nations, especially UN WOMEN; in international, national and non-governmental organizations; recommendations to ensure that women with disabilities have a meaningful role in designing these programs ; suggested approaches to ensure that greater attention is paid to the issues of women and girls with disabilities and to provide a data-rich, resource-based framework for action. These recommendations are

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<sup>3</sup> 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/>.

drawn from and are consistent with the gender-sensitive, disability-inclusive approaches outlined in the United Nations Charter,<sup>4</sup> and consistent with the provisions of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), especially its Article 6 on Women with Disabilities,<sup>5</sup> the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>6</sup> and the Convention on the Rights of the Child (CRC).<sup>7</sup> The CEDAW Committee increasingly has addressed the concerns of women with disabilities in its General Recommendations. 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.”<sup>8</sup> 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.<sup>9</sup> More recently, CEDAW Committee General Recommendation Numbers 27 and 28 also specifically mention women with disabilities. 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.<sup>10</sup> 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

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<sup>4</sup> United Nations, *Charter of the United Nations*, (1945) available at <http://www.un.org/en/documents/charter/index.shtml>.

<sup>5</sup> *Convention on the Rights of Persons with Disabilities*, G.A. Res. 61/611, U.N. Doc. A/RES/61/611 (Dec. 6, 2006) available at <http://www.un.org/disabilities/convention/conventionfull.shtml> [hereinafter CRPD].

<sup>6</sup> *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.un.org/womenwatch/daw/cedaw/text/econvention.htm> [hereinafter CEDAW].

<sup>7</sup> *Convention on the Rights of the Child*, G.A. Res. 44/25, U.N. Doc. A/RES/44/25 (Sept. 2, 1990) available at <http://www2.ohchr.org/english/law/pdf/crc.pdf> [hereinafter CRC] (Article 23 of the CRC recognizes the special needs of disabled children and specifically calls on the community to make the necessary accommodations so that disabled children are fully integrated into society and can enjoy a fair and decent life. Additionally, in 2007, the Commission on the Status of Women called for action for the elimination of all forms of discrimination against the girl child, resulting in the Secretary General issuing reports dealing with this issue. See Press Release, Commission on the Status of Women hold Fifty-first session, Feb. 23, 2007, available at <http://www.un.org/News/Press/docs/2007/wom1607.doc.htm>).

<sup>8</sup> General Recommendations, CEDAW Committee, see Recommendation 18 available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom18> (last visited Mar. 14, 2011).

<sup>9</sup> See *id.* (Recommendation 24).

<sup>10</sup> General Recommendations, CEDAW Committee, see Recommendations 27 available at <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC1.pdf> (last visited Apr. 16, 2011).

women with disabilities face in civil and penal laws, regulations and customary laws and practice.<sup>11</sup>

The 1995 Beijing Declaration clearly 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.<sup>12</sup>

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 services.<sup>13</sup>

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.<sup>14</sup>

This paper 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),<sup>15</sup> which was established by the United Nations Chief Executives Board in 2006,

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<sup>11</sup> General Recommendations, CEDAW Committee, see Recommendations 28 *available at* <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC2.pdf> (last visited Apr. 16, 2011).

<sup>12</sup> REP. OF THE FOURTH WORLD CONFERENCE ON WOMEN, *supra* note **Error! Bookmark not defined.**, para. 232(p).

<sup>13</sup> G.A. Res. S-23/3, para. 69(j), U.N. Doc. A/RES/S-23/3 (Nov. 16, 2000).

<sup>14</sup> *Id.* para. 83(d).

<sup>15</sup> United Nations Enable, Inter-Agency Support Group, *available at* <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

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.”<sup>16</sup> Furthermore, the UN inter agency network on women and gender equality (IANWGE) also reinforces the concept of gender inclusion within the United Nations.<sup>17</sup> Kofi Annan, former United Nations Secretary-General, has often highlighted this approach in his statements.<sup>18</sup> IANWGE is chaired by UN Women and was established by the United Nations Chief Executives Board in 2001<sup>19</sup> with the specific intent to promote gender equality throughout the UN system.<sup>20</sup>

This paper does not postulate that such inclusion has not occurred, but it is sporadic and not seen generally in all activities concerning women’s rights and gender equality within the United Nations system. Several entities within the United Nations system have begun to utilize the gender mainstreaming, disability-inclusive approach outlined below in this paper. For example, some current and former members of the CEDAW and CRC Committees are particularly notable for focusing on women and girls with disabilities in their statements, including Silvia Pimentel,<sup>21</sup> Yanghee Lee,<sup>22</sup> and

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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).

<sup>16</sup> *Id.*

<sup>17</sup> Inter-Agency Network on Women and Gender Equality, *available at* <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).

<sup>18</sup> 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>.

<sup>19</sup> *Note:* 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>.

<sup>20</sup> *See id.*

<sup>21</sup> Silvia Pimentel is the Chair of the CEDAW Committee.

<sup>22</sup> During her keynote speech at the Disability Rights in Asia symposium at the University of Washington in 2008, Yanghee Lee stated: “The rights of persons with disabilities can now be fully realized as the result of the new Convention. I like to think of human rights treaties as a spider’s web. We have spun a web whereby the rights of any individual human being or the collective human beings can, in theory, be upheld, promoted, and protected. But, it has to start with ratification of the particular conventions and

Indira Jaising,<sup>23</sup> to name a few. As noted above, several CEDAW Committee General Recommendations have addressed women with disabilities, particularly General Recommendation Number 18,<sup>24</sup> General Recommendation Number 24,<sup>25</sup> General Recommendation Number 27<sup>26</sup> and General Recommendation Number 28.<sup>27</sup>

Additionally, it must be highlighted that the Secretariat for the Convention on the Rights of Persons with Disabilities in the Department of Economic and Social Affairs has been particularly impressive in its support of the gender mainstreaming, disability inclusive approach outlined below in this paper. For example, that office supported two notable side events organized by this author: first, a side event on October 20, 2010 to discuss women with disabilities in situations of conflict, held during the United Nations Security Council's discussions on the tenth anniversary of UN Security Council Resolution 1325 on post-conflict peace building and reconciliation processes;<sup>28</sup> and second, a side event discussing the involvement of women and girls with disabilities in STEM fields, held during the 2011 Commission on the Status of

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political will to comply. A good indicator of political will is through legal reforms that a State Party makes to comply with the particular convention. As we all know, without enforcement and implementation of laws, programs, and policies, an international treaty will be of no use. The key to full realization of rights is the active engagement of many stakeholders: the State, public and private sectors, civil society, international NGO's, and intergovernmental groups, along with the full participation of the group of persons that a particular convention addresses. In other words, it is 'our' responsibility." The text of this speech is available at <https://digital.lib.washington.edu/dspace-law/bitstream/handle/1773.1/527/18PacRimLPolyJ283.pdf?sequence=1>.

<sup>23</sup> In her paper entitled "Women with Disabilities and the Question of Autonomy," which is *available at* <http://www.disabilityrights-southasia.org/Resources/Magazine%20Spl%20Issue/1.%20Women%20with%20Disabilities%20and%20the%20Question%20of%20Autonomy.pdf>, Indira Jaising stated that: "It is in this context that the wishes of the mentally disabled woman, who wants to be a mother, have to be appreciated. India's obligation under the Convention would demand that the woman be allowed to enjoy all fundamental rights and freedoms, on an equal basis with the non-disabled women. If motherhood is a right guaranteed to the non-disabled woman, then it is only just and reasonable that the State should provide support to the disabled woman and facilitate her right to motherhood. The argument that she would have no resources to provide for the care and upbringing of the child has to be rejected, at least on the ground that the State is expected to provide her with adequate support and care."

<sup>24</sup> General Recommendations, CEDAW Committee, see Recommendations 18 *available at* <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom18> (last visited Mar. 14, 2011).

<sup>25</sup> General Recommendations, CEDAW Committee, see Recommendations 24 *available at* <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom24> (last visited Apr. 16, 2011).

<sup>26</sup> General Recommendations, CEDAW Committee, see Recommendations 27 *available at* <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC1.pdf> (last visited Apr. 16, 2011).

<sup>27</sup> General Recommendations, CEDAW Committee, see Recommendations 28 *available at* <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW-C-2010-47-GC2.pdf> (last visited Apr. 16, 2011).

<sup>28</sup> Panel Discussion on "Peace and Development – Leadership of Women With Disabilities – Our Forgotten Sisters: Women with Disabilities in Situations of Conflict," 20 Oct. 2010, *available at* <http://www.un.org/disabilities/default.asp?navid=13&pid=1514>.



Women Conference.<sup>29</sup> On March 4, 2010 the Secretariat for the Convention on the Rights of Persons with Disabilities in the Department of Economic and Social Affairs held a panel discussion on women with disabilities and development.<sup>30</sup>

### **Why we must include women and girls with disabilities in activities and leadership in the United Nations System:**

Women and girls with disabilities are a part of all societies and need to be part of the solution in advancing the human rights of all and shaping how societies affect their lives. The justifications for inclusion are numerous. Fairness is the most obvious: women account for more than half of the population of the world, persons with disabilities are at least 10% of the world's population (although clearly this often-quoted number is unreliable since most countries do not collect disability-related data in any uniform manner and numbers vary widely from country to country.) Women with disabilities are more than half of the population of persons with disabilities, (although some reports indicate that women are a greater proportion of the population of persons with disabilities); often in conflict environments, the population of persons with disabilities is even greater than 10% (in some cases as high as 20%.) Women comprise an even greater proportion of the population of persons living in poverty.<sup>31</sup> Therefore, it is only just that they have meaningful roles as decision makers and achieve gender equality. Given how greatly women and girls with disabilities are affected by the double discrimination and gender and disability stereotyping they face because of both gender and disability, they deserve to be heard.

Some issues with particular relevance to women and girls with disabilities, include the following: women with disabilities are the poorest among the poor because of discriminatory employment practices; they are denied educational opportunities because education was not provided for girls, or school facilities were not accessible to them and programs were not designed to meet their needs; they are unable to travel from place to place because of the dangers of violence, which cannot be mitigated because they cannot afford assistive devices like wheelchairs or access transportation systems; they are often the last in the family to receive food because they are viewed as useless, and because they may be too indigent to afford food; they are more likely than men with disabilities or women without disabilities to experience domestic and other forms of violence, and are unaware of helpful services, or such services are not accessible to them; they are not able

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<sup>29</sup> Panel Discussion on "STEM: Expanding opportunities for women and girls with disabilities in education and employment," 23 Feb. 2011, *available at*

<http://www.un.org/disabilities/default.asp?navid=47&pid=1556>.

<sup>30</sup> Interactive Panel Discussion on "Cross-sectionalities of gender, disability, and development: Towards equality for women and girls with disabilities," 4 Mar. 2010 *available at*

[http://www.un.org/disabilities/default.asp?navid=37&pid=1514#csw48\\_side\\_event](http://www.un.org/disabilities/default.asp?navid=37&pid=1514#csw48_side_event); *see also* Rangita de Silva de Alwis, *Disability Rights, Gender, and Development: A Resource Tool for Action: Rep. of the CRPD Secretariat*, United Nations Population Fund & Wellesley Centers for Women (2008) *available at* <http://www.un.org/disabilities/documents/Publication/UNWCW%20MANUAL.pdf> (last visited Mar. 14, 2011).

<sup>31</sup> *See* de Silva de Alwis, *supra* note 30.

to receive health care services, including reproductive health care services, because these services are not in accessible locations (due to the fact that the availability of these services are communicated in ways that are not accessible to them), and because health care providers cannot communicate with them or believe they are asexual; they are unable to access the justice system, especially for sexual violence cases, either because the police and judges cannot communicate with them or do not find their testimony credible, or because they have no information on how to access the system; and they are sometimes unwilling to return to their former home communities because of the fear of notarization based on their disability, or because the shelter in the refugee camp was slightly more accessible than their former home.

Therefore, as programs are developed and implemented on these issues, as laws on human and legal rights are drafted, as political processes are established and implemented, as government institutions and policies are designed, and as new buildings, systems, and facilities are constructed or revised, women with disabilities want to assure that their needs are met, so that in the future these barriers in society are not further entrenched, and that the concerns of all men and women with and without disabilities are addressed. If women with disabilities do not have a seat at the table, their human rights and other demands and priorities will most likely be ignored or bargained away. There is no one better than women with disabilities themselves to give voice to these issues, and they can only do so with a seat at the table. Appendix A to this document provides greater detail on the situation of women and girls with disabilities globally.

## WHY INCLUSION IS IMPORTANT

Two underlying concepts that must be considered here are a feminist-disability analysis 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 firm 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 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.<sup>32</sup>

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.” 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.”<sup>33</sup> 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 and girls with disabilities.

- 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 the roles that are or should be performed by members of the particular group (e.g., women, lesbians, adolescents).”<sup>34</sup>

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

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<sup>32</sup> 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>.

<sup>33</sup> 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>.

<sup>34</sup> Rebecca J. Cook & Simone Cusack, *Gender Stereotyping: Transnational Legal Perspectives* (University of Pennsylvania Press 2010).

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.”<sup>35</sup>

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.”<sup>36</sup>

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.”<sup>37</sup>

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.”<sup>38</sup> Nonetheless, the authors strongly note that we should not: “... see disabled women as neither helpless nor hopeless victims unwilling to change their circumstances.”<sup>39</sup> 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.

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<sup>35</sup> See CEDAW, *supra* note 6, art. 5(a).

<sup>36</sup> See CRPD, *supra* note 5, art. 8(1)(b).

<sup>37</sup> 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](http://v1.dpi.org/lang-en/resources/topics_detail?page=446) (last visited Mar. 23, 2010).

<sup>38</sup> 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).

<sup>39</sup> See *id.* at 241.

This paper considers two elements essential to inclusion, that is, gender and disability.

- Gender mainstreaming

The CEDAW clearly promotes the approach of gender mainstreaming. Article 3 requires States Parties to “take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women , for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men”<sup>40</sup> and Article 5 of the CEDAW addresses the need “[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.”<sup>41</sup> Under both the CEDAW and the establishment of UN Women, and policies that flow from them, gender is viewed as the socially constructed roles ascribed to women and men, as opposed to biological and physical characteristics which often flow from stereotypes of women and men.<sup>42</sup> Gender is a cross-cutting issue that affects everything from building housing, transportation, schools, bridges or wells, delivering humanitarian relief, reforming the security sector, establishing the rule of law, de-mining, instituting human rights protections, implementing inclusive decision-making processes, setting priorities for development activities, ensuring employment opportunities, and so on, all of which relate to the development and advancement of society both in conflict environments and in society generally.<sup>43</sup> For example, in the area of post-conflict peace building, this view sees women with disabilities as active participants in the peace building process and development of institutions post-conflict. As another example, in the fields of science, technology, engineering and math, this view sees women and girls with disabilities as scientists, technicians, engineers and mathematicians and also recognizes the importance of knowledge of STEM subjects in daily life. With respect to violence against women, this approach ensures that the specific needs of women with disabilities are considered as violence prevention programs are developed and that services and programs for women who have experienced gender-based violence are inclusive of and accessible to women with disabilities. A gendered perspective can help identify different barriers, needs and interests of men and women, boys and girls; can

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<sup>40</sup> See CEDAW, *supra* note 6, art. 3.

<sup>41</sup> See CEDAW, *supra* note 6, art. 5(a).

<sup>42</sup> See de Silva de Alwis, *supra* note 30.

<sup>43</sup> In Gender Mainstreaming: Strategy for Promoting gender Equality Document, Office Of the Special Advisor on gender Issues and Advancement of Women (2001) *available at* <http://www.un.org/womenwatch/osagi/pdf/factsheet1.pdf> (last visited Mar. 4, 2011).

help mainstream gender into planning and decision making processes; and maximize contributions to these processes.<sup>44</sup>

- Disability Inclusion

The United Nations Convention on the Rights of Persons with Disabilities, the first human rights treaty of the 21<sup>st</sup> Century, became the first international instrument by which persons with disabilities could enforce their human rights. The CRPD also incorporated a transformative view of disability, moving away from the “medical model” of disability toward a “social model” of disability. Noted disability human rights scholars Michael Stein and Janet Lord emphasize the fact that “The Convention categorically affirms the social model of disability in relation to persons with disabilities by describing it as a condition arising from “interaction with various barriers [that] may hinder their full and effective participation in society on an equal basis with others” instead of a condition arising from inherent limitations,” referencing the CRPD Article 1.<sup>45</sup> Under the CRPD disability is viewed through a social model under which disability is recognized as 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. This social model of disability has important ramifications for development and human rights programming because the CRPD recognizes the existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty.<sup>46</sup> This social model of disability poses an alternative to the medical model of disability, asserting that persons with disabilities are disadvantaged not because of their impairments, but as a result of the limitations imposed by social, cultural, economic, and environmental barriers.<sup>47</sup> The advancement of persons with disabilities can most effectively be achieved through modifications to the environment utilizing the universal design approach, which promotes the equalization of opportunities for disabled persons

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<sup>44</sup> CWINF Guidance for NATO Gender Mainstreaming, Committee on Women in the NATO Forces, (2007) available at [http://www.nato.int/issues/women\\_nato/cwinf\\_guidance.pdf](http://www.nato.int/issues/women_nato/cwinf_guidance.pdf) (last visited Mar. 4 2011).

<sup>45</sup> See CRPD, *supra* note 5, art. 1; Janet E. Lord and Michael Ashley Stein, THE DOMESTIC INCORPORATION OF HUMAN RIGHTS LAW AND THE UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES, 83 WALR 449, 460 (2008).

<sup>46</sup> See CRPD, *supra* note 5.

<sup>47</sup> United Nations Inter-Agency Support Group for the Convention on the Rights of Persons with Disabilities, *Joint Statement of Commitment to the Convention*, (2008) available at <http://www.un.org/disabilities/documents/iasg/soc.pdf>.

and which benefits the society as a whole.<sup>48</sup> Eradication of stereotypes of persons with disabilities also promotes equality and human rights. Disability mainstreaming will afford the same benefits as gender mainstreaming and has similar implications as gender mainstreaming for the various stages and elements of programming as outlined above.

- Gender-Focused Disability Mainstreaming

This paper argues that UN Women can be an innovator and use both gender mainstreaming and disability inclusion as a predominant framework to discuss inclusion of all women and girls within the UN System, including those with disabilities. This refers to the process of assessing the implications for women and men with and without disabilities of any planned action, including legislation, policies or programs in all areas and at all levels. It is a strategy for making the concerns and experiences of women and men with and without disabilities an integral dimension of design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres, so that women and men with and without disabilities benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality and equality for persons with and without disabilities. It is important to note that this mainstreaming approach does not focus solely on women with disabilities, although women with disabilities would more often than not be the focus and beneficiaries of mainstreaming practices due to their disadvantaged position in many communities.

## RECOMMENDATIONS FOR ACTION BY UN WOMEN

To the end of achieving gender-focused disability mainstreaming in UN Women, this paper sets forth various goals and strategies to increase the engagement of UN Women in its own work and its coordination with other United Nations entities, governments and non-governmental organizations addressing women's human rights, related gender 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 1325<sup>49</sup> 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, 55<sup>th</sup> Session;<sup>50</sup> and 3. combating violence against women, which

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<sup>48</sup> Sheryl Burgstahler, *Universal Design of Instruction*, AccessSTEM website available at <http://www.washington.edu/doi/Stem/ud.html> (last visited Mar. 4, 2011).

<sup>49</sup> U.N. Security Council S.C. Res. 1325, U.N. Doc. S/RES/1325 (Oct. 31, 2000).

<sup>50</sup> UN Women, Commission on the Status of Women, 55th Session, *Priority Theme*, <http://www.un.org/womenwatch/daw/csw/55sess.htm#priority>.

both encompasses the mandate of the Special Rapporteur on Violence Against Women<sup>51</sup> and United Nations General Assembly Resolution 187 Intensification to Eliminate all Forms of Violence Against Women.<sup>52</sup> However, this approach can be duplicated with other issues addressed by the international community and enumerated in various United Nations conventions, declarations and resolutions concerning women's human rights, gender equality and other issues of concern to women.

- ❖ Coordinate within UN Women,<sup>53</sup> 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.<sup>54</sup>
- ❖ 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.<sup>55</sup>
- ❖ Collaborate with the United Nations Human Rights Council's Working Group on Discrimination Against Women in Law & Practice<sup>56</sup> 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

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<sup>51</sup> 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).

<sup>52</sup> G.A. Res.65/187, U.N. Doc. A/RES/65/187 (Feb. 23, 2011).

<sup>53</sup> 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).

<sup>54</sup> 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).

<sup>55</sup> 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/>.

<sup>56</sup> 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).



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.<sup>57</sup>

- ❖ Recognizing the importance of media images, in light of the fact that the media is a potent force in countering stigma and misinformation<sup>58</sup> and a powerful ally in changing perceptions, eliminating discrimination, and raising public awareness,<sup>59</sup> 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 Day<sup>60</sup> and International Day for Persons with Disabilities.<sup>61</sup>
- ❖ As a United Nations specialized agency, 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.<sup>62</sup>
- ❖ Work with the UN Special Rapporteur on Violence Against Women, currently Rashida Manjoo,<sup>63</sup> to support her commitment to ensure that the issues of violence against women with disabilities are addressed and that

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<sup>57</sup> 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).

<sup>58</sup> 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).

<sup>59</sup> Disability Rights Education & Defense Fund, “Media and Disability” *available at* [http://www.dredf.org/Media\\_and\\_Disability/index.shtml](http://www.dredf.org/Media_and_Disability/index.shtml) (last visited Mar. 20, 2011).

<sup>60</sup> Occurred on March 8, 2011.

<sup>61</sup> Scheduled to take place on December 3, 2011.

<sup>62</sup> See CRPD, *supra* note 5, art. 38(a).

<sup>63</sup> 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).

she has sufficient resources to visit countries to assess violence against women with disabilities in future mandates.<sup>64</sup>

- ❖ Encourage the establishment of a mechanism by which the UN Special Rapporteur on Violence Against Women coordinates and collaborates with the UN Special Rapporteur on Disability of the Commission on Social Development, currently Shuaib Chalklen, with respect to violence against women with disabilities.<sup>65</sup>
- ❖ Advocate that the UN Special Rapporteur on Disability has sufficient resources to visit countries to assess the situation of women and girls with disabilities.<sup>66</sup>
- ❖ Ensure inclusion of women with disabilities in the 2011 16 Days Campaign on Violence Against Women.<sup>67</sup>
- ❖ Explore collaborations with other 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,<sup>68</sup> Special Rapporteur on the Right to Food,<sup>69</sup> Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health,<sup>70</sup> the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance,<sup>71</sup> the Special Rapporteur on the Right to Education<sup>72</sup> and the Independent Expert on

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<sup>64</sup> Human Rights Council, *Mandate of the Special Rapporteur on Violence Against Women, its Causes and Consequences*, A/HRC/16/L.26 (Mar 21, 2011).

<sup>65</sup> *Note*: various scholars and researchers, including this author, are now collaborating with both the Special Rapporteur on Violence against Women and the Special Rapporteur on Disability to produce a thematic report on violence against women and girls with disabilities.

<sup>66</sup> 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).

<sup>67</sup> <http://16dayscswgl.rutgers.edu/about-16-days>.

<sup>68</sup> 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).

<sup>69</sup> Special Rapporteur on Right to Food, <http://www2.ohchr.org/english/issues/food/index.htm> (last visited Mar. 20, 2011).

<sup>70</sup> 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).

<sup>71</sup> 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).

<sup>72</sup> Special Rapporteur on Right to Education, <http://www2.ohchr.org/english/issues/education/rapporteur/index.htm> (last visited Mar. 23, 2011).

## Human Rights and Extreme Poverty.<sup>73</sup>

- ❖ Urge that the UN system, United Nations Development Program (UNDP),<sup>74</sup> World Health Organization (WHO),<sup>75</sup> International Labour Organization (ILO),<sup>76</sup> United Nations Educational, Scientific and Cultural Organization (UNESCO),<sup>77</sup> United Nations Development Programme (UNDP),<sup>78</sup> governments and those institutions involved in development, health (including sexual and reproductive health),<sup>79</sup> education, peace building and reconciliation address the rights and needs of women and girls with disabilities in their programs and reporting.<sup>80</sup>
- ❖ Work with 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 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.<sup>81</sup>
- ❖ Collaborate with the Special Representative of the Secretary General on Sexual Violence in Conflict, currently Margot Walstrom of Sweden<sup>82</sup> on her work to curb sexual violence in conflict to ensure that she considers the needs and concerns of women and girls with disabilities.
- ❖ Collaborate with the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) as it drafts General Comments, to ensure that

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<sup>73</sup> Independent Expert on Human Rights and Extreme Poverty,

<http://www2.ohchr.org/english/issues/poverty/expert/index.htm> (last visited Mar. 23, 2011).

<sup>74</sup> United Nations Development Programme, <http://www.undp.org/> (last visited Mar. 23, 2011).

<sup>75</sup> World Health Organization, <http://www.who.int/en/> (last visited Mar. 23, 2011).

<sup>76</sup> International Labour Organization, <http://www.ilo.org/global/lang-en/index.htm> (last visited April 3, 2011).

<sup>77</sup> United Nations Educational, Scientific and Cultural Organization, <http://www.unesco.org/new/en/unesco/> (last visited Apr. 16, 2011).

<sup>78</sup> United Nations Development Programme, <http://www.undp.org/> (last visited Mar. 23, 2011).

<sup>79</sup> 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](http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf) (last visited Mar. 14, 2011).

<sup>80</sup> 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).

<sup>81</sup> 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](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/>.

<sup>82</sup> *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).

women with disabilities are included therein<sup>83</sup>

- ❖ Collaborate with UNICEF Senior Advisor on children with disabilities, currently Rosanglea Berman-Bieler, on her work to include girls with disabilities in education.<sup>84</sup>
- ❖ 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.<sup>85</sup> Similar inclusive approaches should also be applied in the judicial systems of governments, consistent with Article 13 Access to Justice of the CRPD.<sup>86</sup>
- ❖ Revise (or develop new) United Nations Security Council, General Assembly, Human Rights Council and Commission on the Status of Women (among other UN forums) resolutions and policies are drafted. For example, Resolutions<sup>87</sup> and Indicators on Women, Peace and Security<sup>88</sup> can be amended and/or new resolutions can be drafted to include women with disabilities, such as,

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<sup>83</sup> 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).

<sup>84</sup> 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](http://www.usicd.org/index.cfm/news_unicef-senior-adviser-on-children-with-disabilities-rosanglea-berman-bieler) (last visited Mar. 14, 2011).

<sup>85</sup> *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/rome.htm>.

<sup>86</sup> *See* CRPD, *supra* note 5, art. 13.

<sup>87</sup> *See* S.C. Res. 1325, *supra* note 49; U.N. Security Council, S.C. Res. 1820, U.N. Doc. S/RES/1820 (June 19, 2008); U.N. Security Council S.C. Res. 1888, U.N. Doc. S/RES/1888 (Sept. 30, 2009); U.N. Security Council S.C. Res. 1889, U.N. Doc. S/RES/1889 (Oct. 5, 2009); S.C. Res. 1894, U.N. Doc. S/RES/1894 (Nov. 11, 2009); S.C. Res. 1960, U.N. Doc. S/RES/1960 (Dec. 16, 2010).

<sup>88</sup> U.N. Secretary-General, *Women and Peace and Security: Rep. of the Secretary-General*, para. 3, U.N. Doc. S/2010/173 (Apr. 6, 2010).

amending UNSCR 1325 and its progeny to include women and girls with disabilities as active participants at all stages of peace building, reconstruction, development, reconciliation and transition and ensure that women and girls with disabilities are included in protection programs in conflict zones and also by ensuring that the UNSCR 1325 Indicators developed by the UN Secretary-General have detailed and specific measurements concerning women and girls with disabilities, and consult with women with disabilities as these actions are taken.<sup>89</sup> Similarly, United Nations General Assembly Resolution 187 Intensification to Eliminate all Forms of Violence Against Women addresses the need to achieve gender equality to combat violence against women.<sup>90</sup> (Also, note that the Final Conclusions on STEM of the 55<sup>th</sup> Session of the Commission on the Status of Women, as opposed to the original proposed draft Conclusions, now mention women and girls with disabilities due to the advocacy of this author and other advocates at the session, although not as comprehensively as proposed by advocates.<sup>91</sup>

- ❖ Hold focused side events, in cooperation with UN entities, governments and/or non-governmental organizations, concerning women and girls with disabilities during UN official meetings (e.g., General Assembly, Human Rights Council, Economic and Social Council, Commission on the Status of Women, etc.) considering the human rights of all women and girls. Such events would highlight the importance of incorporating the rights of women and girls with disabilities when resolutions and policies are drafted regarding women's human rights, as women and girls with disabilities are often left out in such discussions. For example, during the United Nations Security Council's discussions on the anniversary of UN Security Council Resolution 1325 on post-conflict peace building and reconciliation processes, this author organized a side event on October 20, 2010 to discuss women with disabilities in situations of conflict.<sup>92</sup> At the 55<sup>th</sup> Session of the Commission on the Status of Women, which identified as a thematic issue women and girls and science, technology, engineering and math, the only side event focusing on women and girls with disabilities was organized and facilitated by this author.<sup>93</sup> While these focused side events are important, women with disabilities should be integrated into more side events, not only disability-focused events. It is important to hold such side events in cooperation with relevant UN entities, governments and non-governmental organizations.<sup>94</sup>

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<sup>89</sup> See S.C. Res. 1325, *supra* note 49; S.C. Res. 1820, *supra* note 87; S.C. Res. 1888, *supra* note 87; S.C. Res. 1889, *supra* note 87.

<sup>90</sup> See G.A. Res.65/187, *supra* note 52.

<sup>91</sup> See Commission on the Status of Women, "Agreed Conclusions" available at <http://www.un.org/womenwatch/daw/csw/55sess.htm#agreed>; see also [www.forgottenpeacebuilders.org](http://www.forgottenpeacebuilders.org).

<sup>92</sup> For details on the panel discussion and other resources see <http://www.forgottenpeacebuilders.org>.

<sup>93</sup> For details on the panel discussion and other resources see <http://www.forgottenpeacebuilders.org>.

<sup>94</sup> See Statement by the President of the Security Council, U.N. Doc. S/PRST/2010/8 (Apr. 27, 2010) (announcing the Secretary-General's report regarding the implementation of SC Res. 1325 will be given to

- ❖ Incorporate the CRPD Empowerment and Social Models and Reasonable Accommodation and Accessibility Standards as well as a Gender-Sensitive and disability-inclusive approach in all Activities and programs.
- ❖ Use the lens of the empowerment perspectives, as opposed to the vulnerability perspectives and apply a social model as opposed to a medical or charity model of disability to UN Women programs and policies.<sup>95</sup>
- ❖ At UN Women 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.<sup>96</sup>
- ❖ Foster collaboration among women's rights groups, disabled persons organizations of women with disabilities, organizations and institutions working on violence against women, sexual and reproductive health, girls education, development, refugee programs, peace building, rule of law programming, etc., with a view toward including women with disabilities in the dialog, strategy and institution building.<sup>97</sup>
- ❖ Improve and expand data collection on the national and international levels, on women and girls with disabilities, including on issues such as violence, education,

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the U.N. body in October 2010), *available at* <http://www.un.org/Docs/journal/asp/ws.asp?m=S/PRST/2010/8>; *see also* Letter from Civil Society Advisory Group to the United Nations on Women, Peace, and Security on Events and Action to Commemorate the 10<sup>th</sup> Anniversary of SCR 1325 (June 21, 2010), *available at* [http://www.gnwp.org/wp-content/uploads/2010/04/PDF\\_CSAG-Updated-Recommendations-on-10th-Anniversary-of-SCR1325-June-21-2010.pdf](http://www.gnwp.org/wp-content/uploads/2010/04/PDF_CSAG-Updated-Recommendations-on-10th-Anniversary-of-SCR1325-June-21-2010.pdf).

<sup>95</sup> *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).

<sup>96</sup> *See id.* at Art. 3(c),(f), 9.

<sup>97</sup> *See id.* 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/](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/ENGodds.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>.



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.<sup>98</sup> This 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.<sup>99</sup>

- ❖ Develop training materials and modules, in collaboration with women with disabilities, to enhance their skills and the skills of their Disabled persons organizations on advocacy and inclusive development as well as an understanding of relevant specific issues, such as the peace building process, inclusive education, 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; and 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 and the relevant United Nations Resolutions.<sup>100</sup>

## CONCLUSION

*The innovative gender-sensitive, disability inclusive approach proposed herein will significantly advance the human rights of women and girls with disabilities around the world, and also will dramatically contribute to the improvement of society as a whole. Although this impact may not be immediately realized, including women and girls with disabilities at the outset as the rights of women and girls generally are advanced by UN Women, will ensure that women and girls with disabilities are not left behind. This paper challenges UN Women to incorporate this approach in its work, making it a leader in promoting the rights of women and girls with disabilities. The passion, brilliance and dynamic leadership of Under-Secretary-General Michelle Bachelet and all those working in UN Women is clearly recognized and appreciated and if this dedicated staff will include women with disabilities as active leaders within the entity as its strategic plan is finalized and its work moves forward, much progress will be made. The community of women and girls with disabilities remains committed to be both an active partner and energetic supporter as the community's advocacy for the rights of women and girls continues.*

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<sup>98</sup> 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.

<sup>99</sup> 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>.

<sup>100</sup> See CRPD, *supra* note 5, at arts. 3(c), 4(3).



## **Appendix A: Situation of Women and Girls with Disabilities**

Numerous issues affect women with disabilities disproportionately when compared to men with disabilities and women without disabilities.<sup>101</sup> These areas concern the following issues: health, education, employment, violence, family rights, marriage, housing, and participation in public life, all of which are exacerbated by war and are seen globally.<sup>102</sup>

### ❖ *Disability and Gender Background Data.*

There are approximately 650 million persons with disabilities in the world, or 10 percent of the global population, although this number is increasing due to population growth, aging of the population and war and conflict.<sup>103</sup> An estimated 80 per cent of these persons live in developing countries, many in conditions of poverty. In both developed and developing countries, evidence suggests that persons with disabilities are disproportionately represented among the world's poor and tend to be poorer than their counterparts without disabilities. It is estimated that of the world's poorest people, meaning those who live on less than one dollar a day and who lack access to basic necessities such as food, clean water, clothing and shelter, 1 in 5 is a person with disabilities.<sup>104</sup> Given that persons with disabilities represent such a significant portion of the population, and are more likely to live in poverty than their peers without disabilities, ensuring that they are integrated into all development activities is essential in order to achieve international development goals.<sup>105</sup>

Persons with disabilities are the world's largest minority.<sup>106</sup> Women are certainly at least half of the human population and women with disabilities comprise at least a similar proportion of persons with disabilities. Globally, women make up three-fourths of persons with disabilities in low and middle income countries. Between 65% and 70% of these women live in rural areas.<sup>107</sup> According to one of the women who led the effort to ensure that the rights of women with disabilities were incorporated into the CRPD<sup>108</sup> “[g]ender is one of the most important categories of social organization, and patterns of disadvantage are often associated with the differences in social position of women and men. These gendered differences are reflected in the different life

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<sup>101</sup> Natacha David, “Women with Disabilities – Dual Discrimination,” 137 *Trade Unions and Workers with Disabilities: Promoting Decent Work, Combating Discrimination, Labour Education* 17 (2004).

<sup>102</sup> See Arnade & Haefner, *supra* note 37, at 12.

<sup>103</sup> “Some Facts about Persons with Disabilities” Convention on the Rights of Persons with Disabilities, available at <http://www.un.org/disabilities/convention/facts.shtml> (last visited March 31, 2011).

<sup>104</sup> See *id.*

<sup>105</sup> U.N. Economic and Social Council, *Mainstreaming Disability in the Development Agenda*, U.N. Enable Secretariat, U.N. Doc. E/CN.5/2008/6 (Nov. 23, 2007) available at <http://www.un.org/disabilities/default.asp?id=708> (last visited Mar. 27, 2011).

<sup>106</sup> UN Enable, *Fact Sheet on Persons with Disabilities*, available at <http://www.un.org/disabilities/documents/toolaction/pwdfs.pdf> (last visited Mar. 27, 2011).

<sup>107</sup> See de Silva de Alwis, *supra* note 30.

<sup>108</sup> See CRPD, *supra* note 5, art. 8(1)(b).

experiences of women with disabilities and men with disabilities. While women with disabilities have much in common with men with disabilities, women with disabilities have to face multiple discrimination in many cases, so that they are often more disadvantaged than men with disabilities in similar circumstances.”<sup>109</sup> Women with disabilities are recognized to be doubly disadvantaged, experiencing exclusion on account of both their gender and their disability.

❖ *Education.*

The limited statistics that are available indicate that, Although the literacy rate for adults with disabilities is 3%, only a meager 1% of women with disabilities are literate.<sup>110</sup> Estimates of the percentage of children with disabilities not attending school is extremely variable, however, in general, children with disabilities are less likely to start school and have lower rates of staying and being promoted in school than their peers without disabilities. The correlation between low educational outcomes and having a disability is often stronger than the correlations between low education outcome and other characteristics such as gender, rural residence or poverty. Additionally, women with disabilities have few opportunities for vocational training.

❖ *Employment.*

This lack of education opportunities, of course, makes it even more difficult for women with disabilities to participate in their communities and to advocate for their rights.<sup>111</sup> For this and many other reasons, women with disabilities have low employment rates, experience discriminatory hiring and promotion criteria, do not receive equal pay for equal work and are frequently steered into segregated and less remunerative occupations.<sup>112</sup> Women with non-severe disabilities earn less than their male counterparts; with women with severe disabilities having the lowest earnings of any group, in both developed and developing countries.<sup>113</sup> Credit (including microfinance) and other productive resources are often denied to them, making it more difficult to start

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<sup>109</sup> See Arnade & Haefner, *supra* note 37, at 7.

<sup>110</sup> Harilyn Rousso, *Gender and Education for All: The Leap to Equality* (UNESCO, Education for All Global Monitoring Report, Background Paper, 2003) available at <http://unesdoc.unesco.org/images/0014/001469/146931e.pdf> (last visited Mar. 26, 2011).

<sup>111</sup> See *id.*

<sup>112</sup> Arthur O’Reilly, *Employment Barriers for Women with Disabilities*, in *The Right to Decent Work of Persons with Disabilities* 31 (International Labour Organization, Working Paper, 2003) available at [http://staging2.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_bk\\_pb\\_93\\_en.pdf](http://staging2.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_bk_pb_93_en.pdf) (last visited Mar. 26, 2011).

<sup>113</sup> See also LITA JANS & SUSAN STODDARD, CHARTBOOK ON WOMEN AND DISABILITY IN THE UNITED STATES (InfoUse Report, U.S. National Institute on Disability and Rehabilitation Research 1999) available at <http://www.infouse.com/disabilitydata/womendisability/> (last visited Mar. 23, 2010); Daniel Stubbs, & Sainimili Tawake, *Pacific Sisters with Disabilities: At the Intersection of Discrimination*, (UNDP, 2009) available at <http://www.undppc.org.fj/resources/article/files/Final%20PSWD%20BOOKLET.pdf> (last visited Mar. 26, 2011).

businesses. Incorporating women with disabilities into microfinance programs is an essential element for achieving financial self-sufficiency and to date, such inclusion is very limited.<sup>114</sup>

Women with disabilities are twice as unlikely to find work as disabled men. Although the majority of women with disabilities contribute significantly to their families through cooking, cleaning, and caring for children and relatives, 75% of women with disabilities worldwide, and up to 100% in some developing countries, are excluded from the workforce.<sup>115</sup> All of these factors contribute to the high poverty rates for women with disabilities and increases their invisibility.<sup>116</sup>

❖ *Health.*

Inaccessible health care services is a significant barrier for women with disabilities, with respect to both physical inaccessibility of facilities and staff who lack the skills to communicate with women with various disabilities and/or who view them as asexual with respect to the provision of sexual and reproductive health care services.<sup>117</sup> Gender-based discrimination, sexual and other forms of violence, poverty, armed conflict, dislocation and other forms of social isolation contribute to increased risk of psycho/social disabilities amongst women. All of these health care deficits are amplified in the conflict environment and in situations of disaster, especially when women with disabilities are subjected to gender-based and other forms of violence.

❖ *Housing.*

Women with disabilities generally face significant barriers in accessing adequate housing and services and, in conflict situations, housing is often scarce as a result of the conflict itself and this is exacerbated for women with disabilities.<sup>118</sup>

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<sup>114</sup> Josh Goldstein, *The Smart Campaign Enshrines Non-discrimination in Core Principles*, CENTER FOR FINANCIAL INCLUSION BLOG (Mar. 30, 2011), <http://centerforfinancialinclusionblog.wordpress.com/2011/03/30/the-smart-campaign-stakes-out-leadership-role-on-equal-access-opportunities-for-persons-with-disabilities/>.

<sup>115</sup> *Id.*

<sup>116</sup> U.N. Economic and Social Council, *Mainstreaming Disability in the Development Agenda*, U.N. Enable Secretariat, U.N. Doc. E/CN.5/2008/6 (Nov. 23, 2007) available at <http://www.un.org/disabilities/default.asp?id=708> (last visited Mar. 27, 2011).

<sup>117</sup> U.N. Economic and Social Council, *The Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, Rep. of the Special Rapporteur, ¶ 64, U.N. Doc. E/CN.4/2003/58 (Feb. 13, 2003) available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G03/109/79/PDF/G0310979.pdf?OpenElement> (last visited Mar. 27, 2011).

<sup>118</sup> U.N. Economic and Social Council, *Study by the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living*, ¶ 64, U.N. Doc. E/CN.4/2005/43 (Feb. 25,

❖ *Violence against Women with Disabilities.*

Of course, violence at all times and especially in times of war often contributes to the incidence of disability among girls and women. Both men and women with disabilities are more vulnerable to physical, psychological, sexual or financial violence, and in particular, they are vulnerable to neglect, entrapment, and degradation. Women with disabilities, youth and children are especially at higher risk of being mentally or physically abused. They are generally more likely to experience abuse over a longer period and to suffer more severe injuries as a result of the violence.<sup>119</sup>

In addition, women with disabilities are twice as likely to experience domestic violence as non-disabled women. Often for disabled people, their abuser may also be their caregiver, someone that the individual is reliant on for personal care or mobility. Domestic violence and abuse are a significant cause of physical and mental disabilities in women.<sup>120</sup> Abuse by household members often remains unreported to avoid further stigmatization. Furthermore, people with disabilities, (especially women with disabilities) tend to lack access to legal protection.

Although there is limited reliable statistical data on incidences of sexual and gender based violence against women with disabilities, women with disabilities themselves frequently report experiencing high rates of such violence and abuse.<sup>121</sup> It is estimated that the rate of abuse among women with disabilities is two to four times the rate of violence experienced by women in general.<sup>122</sup> Depending on their disability, some women with disabilities may be unable to defend themselves, may not be able to flee the site of violence or know how to report incidents of violence. “Women and girls with disabilities are also not privy to the same information available to nondisabled women and girls needed to recognize and address violence, including sexual violence. Finally, the police and law enforcement community may not respond appropriately to reports of violence against women and girls with disabilities.”<sup>123</sup>

❖ *Gender-based Violence as an Act of War*

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2005) available at [http://www.un.org/womenwatch/enable/E-CN4-2005-43\\_Housing.pdf](http://www.un.org/womenwatch/enable/E-CN4-2005-43_Housing.pdf) (last visited Mar. 26, 2011).

<sup>119</sup> See *id.*

<sup>120</sup> See *id.*

<sup>121</sup> Marit Hoem Kvam & Stine Hellum Braathen, *Violence and Abuse Against Women with Disabilities in Malawi*, (SINTEF, 2006) available at <http://www.sintef.no/upload/Helse/Levek%C3%A5r%20og%20tjenester/AbuseMalawi.pdf> (last visited Mar. 26, 2011).

<sup>122</sup> *Violence Against Women with Disabilities—Prevalence* (Baylor College of Medicine 2009) available at <http://www.bcm.edu/crowd/?pmid=1338> (last visited Mar. 23, 2011).

<sup>123</sup> See de Silva de Alwis, *supra* note 30.



No discussion of violence against women in the context of war would be complete without an exploration of the use of gender-based violence as a tactic of war and indeed this reality was the basis for the series of United Nations Security Council Resolutions on Women, Peace and Security, especially United Nations Security Council Resolution 1820 (2008), which links the prevention of sexual violence with the maintenance of peace and security<sup>124</sup> and United Nations Security Council Resolution 1888 (2009), which mandates peacekeeping missions to protect women and girls from sexual violence in armed conflict.<sup>125</sup> Although neither of these resolutions recognize the violence women with disabilities experience, a 2010 Resolution of the United Nations Human Rights Council<sup>126</sup> recognizes that women with disabilities are subject to gender-based violence, that services must be accessible to them and that women with disabilities must be included in data collected on the prevalence of gender-based violence.

Parties in conflict situations often rape women, sometimes using systematic rape as a tactic of war. Other forms of gender-based violence committed in armed conflict include murder, sexual slavery, child prostitution, forced pregnancy, forced sterilization, acid burnings, and so-called “honor killings.”<sup>127</sup> The State itself, the administrative systems and authorities, armed combatants, military forces, and peacekeeping forces have committed acts of sexual and other forms of violence.<sup>128</sup>

Thus, as discussed previously, women with disabilities face higher levels of gender-based violence and this appears to be no different in times of war and, for this reason as well, women with disabilities must be included in any discussions and actions on violence against women in the conflict environment and in the United Nations Security Council resolutions on women, peace and security and in the programs to implement the resolutions.

❖ *Women with Disabilities, HIV and Violence.*

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<sup>124</sup> See S.C. Res. 1820, *supra* note 87 **Error! Bookmark not defined.**

<sup>125</sup> See S.C. Res. 1888, *supra* note 87 **Error! Bookmark not defined.**

<sup>126</sup> Human Rights Council, *Accelerating efforts to eliminate all forms of violence against women: ensuring due diligence in prevention*, HRC Res. 14/12 U.N. Doc. A/HRC/RES/14/12 (June 23, 2010) available at [http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/RES.14.12\\_AEV.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/RES.14.12_AEV.pdf) (last visited Mar. 26, 2011).

<sup>127</sup> Swanee Hunt & Cristina Posa, *Women Waging Peace* 124 *Foreign Policy* 38 (2001) available at <http://www.jstor.org.proxy.wcl.american.edu/stable/3183189?seq=9&Search=yes&term=november&term=waging&term=peace&term=hunt&term=2000&term=swanee&list=show&searchUri=/action/doBasicSearch%3FQuery%3Dnovember%2B2000%26gw%3Djtx%26prq%3D%2528swanee%2Bhunt%2529%2BAND%2B%2528waging%2Bpeace%2529%26Search%3DSearch%26hp%3D25%26wc%3Don%26swp%3Don&item=1&ttl=1&returnArticleService=showArticle&resultsServiceName=doBasicResultsFromArticle> (last visited Mar. 24, 2011).

<sup>128</sup> Suk Chun & Inger Skjelsbaek, *Sexual Violence in Armed Conflicts* International Peace Research Institute (2010) available at [http://www.peacewomen.org/assets/file/Resources/Academic/vaw\\_sexualviolenceinarmedconflicts\\_prio\\_jan2010.pdf](http://www.peacewomen.org/assets/file/Resources/Academic/vaw_sexualviolenceinarmedconflicts_prio_jan2010.pdf) (last visited Mar. 23, 2011).

Since women with disabilities are at increased risk of sexual abuse and assault, especially during conflict and disaster situations, they have greater vulnerability to HIV infection.<sup>129</sup> Limited data is available on the incidence of HIV infection among persons with disabilities. Strategies and programs fail to adequately address how disability affects men and women differently, and persons with disabilities have often been ignored in HIV interventions that provide prevention, treatment, care, support and impact mitigation. In addition to myths about their behavior and life experiences, the failure to distinguish between the different needs of persons with various disabilities, the inaccessibility of health information and services, insufficient training and negative attitudes of health professionals, as well as the social isolation of persons with disabilities have all had a negative impact on their ability to access HIV/AIDS-related health care, further increasing the vulnerability of persons with disabilities to HIV infection and also increasing the impact of HIV and AIDS on their lives once infected.<sup>130</sup>

❖ *Increased Incidence of Disability for Women in Conflict Situations.*

Girls and women are more likely to become disabled as a result of violence, armed conflicts, aging and gender-biased cultural practices limiting their access to food, shelter, health care, safe working environments, marriage and social integration and these effects can be seen pre-conflict, during conflict and post-conflict.<sup>131</sup> At the same time, conflict situations make more women disabled directly with injury through land mines, bombs, combat, and other factors incident to a conflict situation.<sup>132</sup>

Land mine removal is also a physical risk that may result in disabilities.<sup>133</sup> The Beijing Platform for Action (1995) recognizes that women and children are particularly affected by the indiscriminate use of anti-personnel landmines.<sup>134</sup> Although men are generally involved in landmine removal, women also engage in this dangerous work. All-female demining teams are becoming increasingly prevalent, and there have been all-

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<sup>129</sup> Nora Ellen Groce & Reshma Trasi, *Rape of Individuals with Disability: AIDS and the Folk Belief of "Virgin Cleansing,"* (Global Health Division, Yale School of Public Health, 2004) available at [http://aidslex.org/site\\_documents/DB-0021E.pdf](http://aidslex.org/site_documents/DB-0021E.pdf) (last visited Mar. 26, 2011).

<sup>130</sup> *HIV/AIDS and Disability Global Survey, About Us*, YALE CTR. FOR INTERDISCIPLINARY RESEARCH ON AIDS, [http://cira.med.yale.edu/globalsurvey/about\\_us.html](http://cira.med.yale.edu/globalsurvey/about_us.html) (last modified Feb. 20, 2004).

<sup>131</sup> INT'L FED'N OF RED CROSS & RED CRESCENT SOCIETIES, *DISASTERS REPORT: FOCUS ON DISCRIMINATION 88* (2007), available at <http://www.ifrc.org/Docs/pubs/disasters/wdr2007/WDR2007-English.pdf>.

<sup>132</sup> World Bank, *Social Analysis and Disability, Incorporating Disability-Inclusive Development into Bank-Supported Projects* (Mar. 2007) available at <http://siteresources.worldbank.org/DISABILITY/Resources/280658-1172606907476/SAnalysisDis.pdf> (last visited Mar. 26, 2011).

<sup>133</sup> 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> (last visited Mar. 27, 2011).

<sup>134</sup> U.N. *Beijing Declaration & Platform for Action*, (Sept. 1995), available at <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf> (last visited Mar. 27, 2011).

female teams in Cambodia, Croatia, Kosovo, the Lao People's Democratic Republic, Lebanon and one Muslim territory in Somaliland, for example.<sup>135</sup>

Furthermore, a recent innovative, rigorous analysis of the impact of armed conflict on female life expectancy relative to that of males found that over the entire conflict period, interstate and civil wars on average affect women more adversely than men.<sup>136</sup> In peacetime, women typically live longer than men.<sup>137</sup> Therefore, the study concluded that armed conflict tends to decrease the gap between female and male life expectancy.<sup>138</sup> Indeed, for every child killed in warfare, three are injured and acquire a disability.<sup>139</sup> Although entire communities suffer the consequences of armed conflict, women and girls are particularly affected in conflict situations because of their status in society, stereotyping of roles and attitudes toward women and girls with disabilities based on the compounded double discrimination they face because of disability and gender.<sup>140</sup>

Furthermore, conflict situations increase the vulnerability of women and girls who are already disabled, and their families, through the breakdown of economic structures and activities in which women and girls with disabilities were engaged, health care institutions and facilities, family and community support, education opportunities, housing, transportation and other infrastructures and they may have been forced to leave wheelchairs, medications, assistive aids and supportive animals, and prosthetics behind.<sup>141</sup> While those injured as a result of the disaster or conflict may be very visible, it is important to remember that many other people living in the affected areas may already be disabled, and may then become further marginalized and excluded on the basis of their disability in the aftermath.<sup>142</sup>

“Persons with disabilities, especially women and children, are particularly vulnerable to violence, exploitation and sexual abuse in such situations. Anyone affected by disasters or conflict is more vulnerable to mental health and psycho-social disabilities – which may result in misunderstandings and further isolation and social exclusion from families and communities.”<sup>143</sup> Women who have been traumatized and disabled during

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<sup>135</sup> Rachel Canfield & Chad McCoull, *Gender in the Mine-Action Community* 12.2 J. OF ERW AND MINE ACTION (2008) available at <http://maic.jmu.edu/Journal/12.2/focus/canfield/canfield.htm> (last visited Mar. 23, 2011).

<sup>136</sup> See Thomas Plümper & Eric Neumayer, *The Unequal Burden of War: The Effect of Armed Conflict on the Gender Gap in Life Expectancy*, 60 INT'L ORG. 723, 723-24 (2006).

<sup>137</sup> See *id.* at 723.

<sup>138</sup> See *id.* at 747.

<sup>139</sup> UN Enable, *Fact Sheet on Persons with Disabilities*, available at <http://www.un.org/disabilities/documents/toolaction/pwdfs.pdf> (last visited Mar. 27, 2011).

<sup>140</sup> See de Silva de Alwis, *supra* note 30.

<sup>141</sup> INT'L FED'N OF RED CROSS & RED CRESCENT SOCIETIES, DISASTERS REPORT: FOCUS ON DISCRIMINATION 88 (2007), available at <http://www.ifrc.org/Docs/pubs/disasters/wdr2007/WDR2007-English.pdf>.

<sup>142</sup> Maria Kett & J. Twigg, *Disability and Disasters: Towards an Inclusive Approach*, (Int'l Federation of Red Cross & Red Crescent Societies, 2007) available at <http://www.ifrc.org/Docs/pubs/disasters/wdr2007/WDR2007-English-4.pdf> (last visited Mar. 26, 2011).

<sup>143</sup> See *id.*

violent conflict are often ostracized from their communities, deprived of liberty without any support, or subjected to involuntary interventions including forced psychiatric drugging. Providing support starts with asking what the woman needs and really listening to what the woman says. It could involve voluntary access to trauma-informed counseling services.<sup>144</sup> The lack of provision of support and/or subjecting a woman to psychiatric interventions against her will are forms of violence that cause further psychological trauma that can lead to further disability.<sup>145</sup> The only way to stop this vicious cycle is to provide real support to women who have been traumatized and to include input from women who have survived such experiences in making policy and planning for the provision of support.<sup>146</sup>

Clearly, the ravages of war can also increase psycho-social disabilities. For example, the civil war in Cambodia is documented to have caused mental disabilities among women and “Cambodia has one of the world's highest ratios of persons with disabilities.”<sup>147</sup>

Girls often serve as child Soldiers (some estimate that as many as 30 percent of child Soldiers are girls).<sup>148</sup> They serve as fighters, cooks, porters, messengers, medics, spies, lookouts, raiders, domestic and agricultural labor, and are also forced to serve as sexual slaves to numerous males in forces, or, they may be given to one male for his exclusive use as a captive “wife.”<sup>149</sup> Such experiences often result in the development of multiple physical and psychosocial disabilities.<sup>150</sup> Generally, their needs are not met and they do not have the opportunity to participate in reintegration programs.<sup>151</sup>

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<sup>144</sup>The International Network of Women with Disabilities, “Violence Against Women with Disabilities” 5 (Barbara Faye Waxman Fiduccia Papers on Women and Girls with Disabilities Center for Women Policy Studies: March 2011) *available at*

[http://www.centerwomenpolicy.org/programs/waxmanfiduccia/documents/BFWFP\\_ViolenceAgainstWomenwithDisabilities\\_TheInternationalNetworkofWomenwithDisabilities.pdf](http://www.centerwomenpolicy.org/programs/waxmanfiduccia/documents/BFWFP_ViolenceAgainstWomenwithDisabilities_TheInternationalNetworkofWomenwithDisabilities.pdf) (last visited Mar. 31, 2011).

<sup>145</sup> See “Mental Health, social functioning, and disability in postwar Afghanistan,” International Emergency and Refugee Health Branch (Aug. 4, 2004) *abstract available at*

<http://www.ncbi.nlm.nih.gov/pubmed/15292083> (last visited Apr. 4, 2011); *see also* Mario Klaric et al. “Psychological Consequences of War Trauma and Postwar Social Stressors in Women in Bosnia and Herzegovina,” 48(2) CROAT MED J. 167 (2007).

<sup>146</sup> 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 *available at* <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/440/75/PDF/N0844075.pdf?OpenElement> (last visited Mar. 28, 2011).

<sup>147</sup> See de Silva de Alwis, *supra* note 30.

<sup>148</sup> Red Hand Day, *Global Appeal: No Use of Child Soldiers*, *available at*

<http://www.redhandday.org/index.php?l=en&view=about> (last visited Mar. 26, 2011).

<sup>149</sup> Div. for the Advancement of Women & UNICEF, Elimination of All Forms of Discrimination and Violence Against the Girl Child para. 80 (unpublished report), *available at*

[http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report\\_FINAL.pdf](http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report_FINAL.pdf).

<sup>150</sup> UNICEF, *Elimination of All Forms of Discrimination and Violence Against the Girl Child*, ¶¶ 67, 79-81 (Sept. 25-28, 2006) *available at* [http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report\\_FINAL.pdf](http://www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report_FINAL.pdf) (last visited Mar. 26, 2011).

<sup>151</sup> World Bank, *Social Analysis and Disability, Incorporating Disability-Inclusive Development into Bank-Supported Projects* (Mar. 2007) *available at*

<http://siteresources.worldbank.org/DISABILITY/Resources/280658-1172606907476/SAnalysisDis.pdf> (last visited Mar. 26, 2011).

❖ *Disaster, access to food and water and environmental issues.*

Natural disasters have an especially horrific effect on women with disabilities. Women with disabilities are typically the last people to receive food and water rations but the first people to be exploited and abused both physically and sexually. For example, the earthquake that struck Haiti in 2010 has left many women with disabilities without much hope. Many women with disabilities who lost their homes in the earthquake were forced into the inaccessible makeshift camps established by aid organizations. Because of this inaccessibility, women with disabilities cannot access food and toileting facilities. The lawlessness rampant in these camps has led to the rapes of many women with disabilities and also led to an exploitative situation where many of these women are forced to engage in sexual activities to receive their food and water rations.<sup>152</sup> This phenomenon of women with disabilities not being “seen” is only further exacerbated by disasters, which leads to increased discrimination against women with disabilities and increased violations of their human rights as they are excluded from humanitarian aid and intervention.<sup>153</sup> An increase in women disaster workers trained to work with women with disabilities would greatly assist in addressing some of these barriers.<sup>154</sup>

❖ *Situation in Refugee Camps and Emergency Shelters.*

The situation of women and girls with disabilities in refugee camps and emergency shelters is dire because of many factors including dislocation, and inaccessible facilities and programs. A groundbreaking report by the Women’s Refugee Commission, entitled “Disabilities among Refugees,”<sup>155</sup> notes serious problems with the physical layout and infrastructure of refugee camps—few services are accessible to people with disabilities, including toilets, shelters and health facilities. In general, no special accommodations are made for getting food and other supplies that refugees with disabilities need on a daily basis. Because camps and facilities are generally inaccessible, most persons with disabilities are forced to remain in their shelters. Not surprisingly, their voices go unheard in decision-making activities for their communities.

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<sup>152</sup> Ketty Luzincourt, “Haitian women: life at stake in the camps,” (Norwegian Peacebuilding Centre, May 2010) available at [http://www.peacebuilding.no/eng/content/download/184273/743534/version/3/file/NorefArt\\_Luzincourt\\_Haiti\\_May10.pdf](http://www.peacebuilding.no/eng/content/download/184273/743534/version/3/file/NorefArt_Luzincourt_Haiti_May10.pdf) (last visited Apr. 17, 2011).

<sup>153</sup> Inter-Agency Standing Committee, “Protecting Persons Affected by Natural Disasters: IASC Operational Guidelines on Human Rights and Natural Disasters,” Geneva, 2006, p. 8.; *Disability and Disasters*, (Global Partnership for Disability and Development, Working Paper, 2010)

<sup>154</sup> Asha Hans & Reena Mohanty, “Inclusion of Disability and Gender in Disaster Management and Response,” Shanta Memorial Rehabilitation Centre available at [http://www.preventionweb.net/files/9661\\_InclusionofDisabilityGender.pdf](http://www.preventionweb.net/files/9661_InclusionofDisabilityGender.pdf).

<sup>155</sup> WOMEN, DISABILITY AND IDENTITY (Asha Hans & Annie Patri, eds. 2003).

Women’s Refugee Commission. *Disabilities Among Refugees*, available at <http://www.womensrefugeecommission.org/programs/disabilities> (last visited Mar. 26, 2011).

This report also reveals disparities between refugee camps and urban areas, concluding that there is greater awareness of the needs of persons with disabilities in camps. On the other hand, the report finds in urban environments refugees with disabilities are unable to access services offered by the host government and virtually no one is providing special assistance to them. The Women's Refugee Commission also found that persons with psycho-social disabilities did not receive services as most programs that did any work with persons with disabilities tended to focus on those with physical disabilities.<sup>156</sup>

In general, women are at greater risk for violence and abuse in refugee camps.<sup>157</sup> Those who escape and seek asylum rarely benefit from social and education programs because most States that receive immigrants do not address the needs of women and girls with disabilities. Furthermore, solely because of their disability, many are denied asylum.<sup>158</sup>

❖ *Access to Justice.*

Persons with disabilities are more vulnerable as victims of crimes from both strangers and persons who know them. However, the difficult experience does not end after the alleged crime is over, because often the police and other elements of the legal system treat persons with disabilities poorly when they seek to redress the wrong. Police stations are often inaccessible, police do not know how to work with victims with disabilities, sign language interpreter services are not available, and materials in alternative formats for victims who are blind are not provided. Often the most serious barrier is that persons with disabilities are not believed or are not viewed as credible and reliable witnesses by police and prosecutors. Unfortunately, little statistical data is available on crimes against persons with disabilities internationally.

There are a number of challenges for disability-based hate crime reporting. For instance, hate crimes against people with disabilities are often never reported to law enforcement agencies.<sup>159</sup> The victim may be ashamed, afraid of retaliation, or afraid of not being believed.<sup>160</sup> The victim may be reliant on a caregiver or other third party to report the crime, who fails to do so.<sup>161</sup> Or, the crime may be reported, but there may be

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<sup>156</sup> *See id.*

<sup>157</sup> U.N. Economic and Social Council, Alternative Approaches and Ways and Means within the United Nations System for Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms, Rep. of the Special Rapporteur on Violence Against Women, U.N. Doc. E/CN.4/1998/54 (Jan. 26, 1998), available at <http://193.194.138.190/Huridocda/Huridoca.nsf/TestFrame/c90326ab6dbc2af4c125661e0048710e?OpenDocument> (last visited Mar. 27, 2011).

<sup>158</sup> Nora Ellen Groce, *People with Disabilities*, in SOCIAL INJUSTICE AND PUBLIC HEALTH 145 (Barry S. Levy & Victor Sidel, eds., 2006) available at [http://www.aidslex.org/site\\_documents/DB-0018E.pdf](http://www.aidslex.org/site_documents/DB-0018E.pdf) (last visited Mar. 26, 2011).

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

<sup>161</sup> *Id.*



no reporting of the victims' disability, especially in cases where the victim has an invisible disability that they themselves do not divulge.<sup>162</sup>

“Perhaps the biggest reason for underreporting of disability-based hate crimes is that disability-based bias crimes are all too frequently mislabeled as ‘abuse’ and never directed from the social service or education systems to the criminal justice system. Even very serious crimes—including rape, assault, and vandalism—are too-frequently labeled ‘abuse.’”<sup>163</sup>

For a comprehensive bibliography on crimes against persons with disabilities, see the work of Michelle Armstrong.<sup>164</sup> The unique crime experiences of women with disabilities are explored by Springtide Resources and by DAWN.<sup>165</sup> With appropriate accommodations and support, women with disabilities can be successful in getting relief for the crimes against them in the legal system. A study by Cape Mental Health in South Africa, described a highly successful project.<sup>166</sup>

A legal framework is essential “for victims and witnesses to be able to approach law enforcement officials in safety and to be able to give evidence without fear of either retaliation or social or familial ostracism . . . [O]nerous procedural rules [often] inhibit women from testifying [and] stereotypes are [often] used to discredit their testimony.”<sup>167</sup>

One of the most obvious barriers to access to justice for persons with disabilities is the physical barriers to the courts and other institutions of the justice system. This remains one of the most egregious problems. Courthouses, the symbols of the justice system, are often inaccessible in many ways. For example, accessibility barriers include: steps to and inside the courthouse, inaccessible witness chairs and jury boxes, lack of technology to enable persons with disabilities to understand the proceedings, prohibitions on animals in the courthouse despite the fact that they are service animals, and other elements of courthouse design. Increasingly world-wide persons with disabilities and DPOs are fighting to remove these barriers.

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<sup>162</sup> *Id.*

<sup>163</sup> Leadership Conference on Civil Rights, *Confronting the New Faces of Hate: Hate Crimes in America 2009, Hate Crimes Against Individuals with Disabilities*, <http://www.civilrights.org/publications/hatecrimes/disabilities.html> (last visited Feb. 27, 2011).

<sup>164</sup> See MICHELLE ARMSTRONG, *VIOLENCE AND CRIMES AGAINST PEOPLE WITH DISABILITIES BIBLIOGRAPHY* (Wyoming Inst. for Disabilities, Sept. 2008), *available at* [http://works.bepress.com/cgi/viewcontent.cgi?article=1002&context=michelle\\_armstrong](http://works.bepress.com/cgi/viewcontent.cgi?article=1002&context=michelle_armstrong) (last visited Mar. 23, 2011).

<sup>165</sup> Springtide Resources, *Ending Violence against Women, Faces of Violence Against Women with Developmental Disabilities*, <http://www.springtideresources.org/resources/show.cfm?id=12> (last visited Mar. 23, 2011); *Vote for Equality, Q&A: How Are Women with Disabilities Discriminated Against?*, <http://dawn.thot.net/election2004/caefs4.htm> (last visited Mar. 23, 2011).

<sup>166</sup> Beverley Jo Dickman & Amanda Jane Roux, *Cape Mental Health, Complainants with Learning Disabilities in Sexual Abuse Cases: A 10-year Review of a Psycho-legal Project in Cape Town, South Africa*, 33 *BRIT. J. OF LEARNING DISABILITIES* 138, 143 (2005).

<sup>167</sup> Christine Chinkin & Hilary Charlesworth, *Building Women into Peace: The International Legal Framework* 27 *THIRD WORLD Q.* 937, 949 (2006) *available at* <http://www.jstor.org/pss/4017787> (last visited Mar. 23, 2011).

The U.S. Access Board and the Canadian agency working on communication for persons with hearing disabilities have developed outstanding guides on how to make courthouses and their facilities and programs accessible to persons with disabilities.<sup>168</sup> Professor Peter Blanck, in a recent article, highlights the vast array of technological solutions available for the courtroom,<sup>169</sup> noting 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.<sup>170</sup> “This is particularly true when courtroom technology embodies concepts of ‘universal design,’ which enables all participants to engage meaningfully in the proceedings.”<sup>171</sup>

Victims and witnesses must be able to approach law enforcement officials in safety and be able to give evidence without fear of either retaliation or social or familial ostracism for meaningful law enforcement. There is little advantage in developing jurisprudence about the nature of international crimes against women if onerous procedural rules inhibit women from testifying, or if stereotypes are used to discredit their testimony.

Even during more peaceful times post-conflict, women with disabilities also face increased vulnerability because of the risk of physical and sexual abuse, especially the danger of leaving their villages to travel to sites where they could participate in the peace processes.<sup>172</sup> Without courts and judicial systems that are accessible to women with disabilities and that address their unique concerns, such processes will not provide them redress for the violations of their human rights.<sup>173</sup>

- *Right to legal capacity and autonomy, including support to exercise this right.*

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<sup>168</sup> See U.S. Access Board, *Courthouse Access Advisory Committee Courtroom, Mock-Up*, <http://www.access-board.gov/caac/mock-up.htm> (last visited Feb. 27, 2011) (illustrating a model accessible courtroom); see also 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> (last visited Feb. 27, 2011). See generally Communication Access to Justice Services, *Building Capacity Within the Justice Sector to Provide Services to People Who Have Communication Disabilities, Outlining Strategies to Make Courts Accessible to People Using Alternative Communications (AAC)*, <http://www.accpc.ca/ej-calc-01.htm> (last visited Feb. 27, 2011).

<sup>169</sup> 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).

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> Pearl Praise Gottschalk, *How Are We in This World Now? Examining the Experiences of Persons Disabled by War in the Peace Processes of Sierra Leone*, (2007) (Masters of Art dissertation, University of Victoria) available at [http://siteresources.worldbank.org/DISABILITY/Resources/News---Events/463933-1184017167861/3975400-1229373211417/Gottschalk\\_Full.pdf](http://siteresources.worldbank.org/DISABILITY/Resources/News---Events/463933-1184017167861/3975400-1229373211417/Gottschalk_Full.pdf) (last visited Mar. 26, 2011).

<sup>173</sup> *Id.*

Often it is erroneously presumed that women with disabilities are incapable of making appropriate legal decisions involving their well-being.<sup>174</sup> However, the advent of Article 12 of the CRPD which recognizes the legal capacity of persons with disabilities and calls for “appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity”<sup>175</sup> has led to a slight shift in attitudes that empowers women with disabilities to make well-informed decisions for themselves with the provision of supportive services. Other women only require reasonable accommodation, such as sign language interpreters or materials in alternative formats to exercise their legal capacity.<sup>176</sup> Additionally, some women with disabilities are seen as lacking legal capacity simply because they are a woman with a disability.

- *Political participation and access to the electoral process.*

Women with disabilities are often excluded from political participation. Although many women with disabilities would like to participate, in certain rural communities where political participation involves many informal gatherings, they are often not told about the time and location of the meetings and if they are present, their opinions are not always taken seriously in comparison to men and women without disabilities.<sup>177</sup>

- *Sexuality and disability.*

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. Numerous obstacles are faced particularly by women and girls with disabilities, including the fact that women with disabilities are considered in some societies to be less eligible marriage partners and therefore find themselves in unstable relationships.<sup>178</sup> Additionally, if these unstable

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<sup>174</sup> Indira Jaising, “Women with Disabilities and the Question of Autonomy,” available at <http://www.disabilityrights-southasia.org/Resources/Magazine%20Spl%20Issue/1.%20Women%20with%20Disabilities%20and%20the%20Question%20of%20Autonomy.pdf>.

<sup>175</sup> See CRPD, supra note 4, at article 12(3).

<sup>176</sup> Marsha Saxton (ed.), “Jody Saxton's Story,” in *Sticks and Stones: Disabled People's Stories of Abuse, Defiance and Resilience* (World Institute on Disability) available at <http://www.wid.org/programs/health-access-and-long-term-services/curriculum-on-abuse-prevention-and-empowerment-cape/excerpts-from-our-forthcoming-book-sticks-and-stones-disabled-people2019s-stories-of-abuse-defiance-and-resilience> ]

<sup>177</sup> Political Participation of Women with Disabilities in Cambodia, (UNDP, Research Report, 2010) available at <http://www.un.org.kh/undp/knowledge/publications/political-participation-of-women-with-disabilities-in-cambodia>.

<sup>178</sup> *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](http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf).

relationships become abusive, women with disabilities have fewer legal, social and economic options.<sup>179</sup>

Additionally, 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. This 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 persons with disabilities.<sup>180</sup>

- *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 also have limited access to family planning services.<sup>181</sup> Women with disabilities face numerous barriers in accessing adequate healthcare. These barriers are not just a result of the woman's disability, but rather barriers inflicted by the ignorance and discriminatory attitudes of society and healthcare providers.<sup>182</sup>

- *Lesbians with disabilities.*

Another aspect of sexuality for women with disabilities are the issues confronting disabled lesbians. A Canadian collection, *Pushing the Limits: Disabled Dykes Produce Culture*, edited by Shelley Tremain validates the "existence of disabled dykes" by addressing the cultural contradiction that lesbian is a sexual identity while disabled women are considered asexual.<sup>183</sup> The book Restricted Access: Lesbians on Disability, edited by Victoria A. Brownworth and Susan Raffo, addresses the important questions of what constitutes disability and sexuality, challenging the assigned abnormality and asexuality against which disabled lesbians must struggle.<sup>184</sup> Additionally, lesbians with disabilities confront both the social isolation of both disability and homosexuality.<sup>185</sup>

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<sup>179</sup> See *id.*

<sup>180</sup> 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).

<sup>181</sup> *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](http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf).

<sup>182</sup> See *id.*

<sup>183</sup> *PUSHING THE LIMITS: DISABLED DYKES PRODUCE CULTURE* (Shelley Tremain, ed., Women's Press 1996).

<sup>184</sup> *RESTRICTED ACCESS: LESBIANS ON DISABILITY* (Victoria A. Brownworth & Susan Raffo eds., Seal Press 1999).

<sup>185</sup> 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

Clare Beckett, in her article, “Crossing the Border: Locating heterosexuality as a boundary for lesbian and disabled women,” notes that heterosexuality and ableism both function as a social matrix, with exclusionary practices that operate in similar ways towards lesbians with disabilities. Mechanisms may be different, but the experience of exclusion is similar, and is based on similar practices. Additionally, as noted herein with respect to accessing sexual and reproductive health care services for women with disabilities, this problem is compounded for lesbians with disabilities.<sup>186</sup>

- *Women, aging and disability.*

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 comparison to women without disabilities in regards to aging.<sup>187</sup>

- *Mothers with disabilities.*

There exists a seeming dichotomy between a “feminist view” that seeks to overturn the view 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 the role of mother, despite the choice or desire of some women with disabilities to fulfill this role.<sup>188</sup> Sterilization of women with disabilities still remains a critical problem.<sup>189</sup> 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 child.<sup>190</sup> 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.<sup>191</sup> Disability rights activist Anne Finger challenges the

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<http://www.bridgew.edu/SoAS/jiws/May04/Beckett.pdf> (noting that “leaving heterosexuality” as a person viewed as “being disabled.”).

<sup>186</sup> *See id.*

<sup>187</sup> Wendy Pentland, Mary Tremblay, Kristen Spring & Carolyn Rosenthal, *Women with Physical Disabilities: Occupational Impacts of Ageing*, 6 J. OCCUPATIONAL SCI. 111 (1999).

<sup>188</sup> *See* Garland-Thomson, *supra* note 33.

<sup>189</sup> *Women With Disabilities Australia: Sterilization of Women and Girls with Disabilities - An update on the issue in Australia* (December 2010), available at <http://www.wwda.org.au/sterilisationsynopsisDec2010.pdf>.

<sup>190</sup> *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](http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf).

<sup>191</sup> *See id.*; Yanghee Lee, *supra* note 20.

medicalization of bodies and birthing for women with disabilities.<sup>192</sup> Additionally, Deborah Kent's meditation on being a blind mother giving birth to a seeing child also captures these ambiguities and contradictions.<sup>193</sup>

- *Women with disabilities as caregivers and as those receiving care services.*

Caring for a person with a disability within a household usually disproportionately falls on the woman in the house because of gender stereotyped roles ascribed to women as care givers.<sup>194</sup> Social isolation compounds the problem for a woman caring for a family member with a disability or for women with disabilities receiving care.<sup>195</sup> This social isolation is further compounded by the physical, mental, emotional and financial stresses accompanied with caring for an individual with disabilities (because of inadequate social supports available in most societies and communities), which consequently perpetuates a cycle of poverty.<sup>196</sup> Stigma, poverty, and lack of support systems take a toll on such families. Thus, support systems for care providers, as well as for persons with disabilities, are crucial – both formal systems, such as social security and health insurance, and informal social networks, such as community support groups. Significant feminist notions of independence and autonomy also place women with disabilities who may need personal assistants or other support services in a philosophical quandary. Furthermore, in a number of societies, if a child is born with a disability, it is assumed that the mother has been unfaithful or has otherwise sinned. She suffers significantly as a result of this assumption. Even without such stigma, the physical, mental and financial stresses, coupled with social isolation, result in rates of divorce and desertion often twice as high among mothers of children with disabilities as among their peers who do not have children with disabilities.

- *Indigenous and rural women with disabilities and women with disabilities from racial and ethnic minority communities.*

Many women with disabilities from indigenous tribes and rural areas may not know about services that are available.<sup>197</sup> Women with disabilities in these societies are even

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<sup>192</sup> Anne Finger, *PAST DUE: A STORY OF DISABILITY, PREGNANCY, AND BIRTH* (Seal Press 1990).

<sup>193</sup> Debroah Kent, *Somewhere a Mockingbird*, in *PRENATAL TESTING AND DISABILITY RIGHTS*, 64 (Erik and Adrienne Asch eds., Georgetown University, 2000).

<sup>194</sup> *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](http://whqlibdoc.who.int/publications/2009/9789241598682_eng.pdf).

<sup>195</sup> *See id.*

<sup>196</sup> *See id.*

<sup>197</sup> *See id.*



more invisible and therefore more likely to not receive adequate health and social services and thus are more likely subject to abuse and exploitation.

Due to cultural barriers and traditional attitudes, special outreach efforts are needed to reach women with disabilities in racial minority communities.<sup>198</sup> Stigmatizations of women with disabilities can also vary from ethnic group to ethnic group as some disabilities may be highly revered in one ethnic group and disregarded in another.<sup>199</sup>

Substantial additional research and data collection is needed on the situation of women with disabilities in these communities.

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

Media images are a potent force in countering stigma and misinformation<sup>200</sup> and a powerful ally in changing perceptions, eliminating discrimination, and raising public awareness,<sup>201</sup> 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. The current media images contribute to the presumptions that the bodies of women with disabilities are unattractive, asexual and outside the societal ascribed norms of "beauty." The media generally describes the "normal" female body as the presence of high cheek bones, even skin tones, long legs, and the absence of fat, wrinkles, physical disabilities, and deformities.<sup>202</sup> This contributes to how individuals value and identify with their own bodies. Dominant culture has been often represented by white, male, educated, wealthy, and able-bodied individuals.<sup>203</sup> Women's rights advocates must adopt images that normalize the unique experiences of people with physical differences. Images must be sensational enough to gain the attention, but routine enough to position disability as everyday and commonplace. Generally, images

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<sup>198</sup> See *id.*

<sup>199</sup> See *id.*

<sup>200</sup> 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).

<sup>201</sup> Disability Rights Education & Defense Fund, "Media and Disability" available at [http://www.dredf.org/Media\\_and\\_Disability/index.shtml](http://www.dredf.org/Media_and_Disability/index.shtml) (last visited Mar. 20, 2011).

<sup>202</sup> Jean Kilbourne, *Beauty and the Beast of Advertising*, in *WOMEN IN CULTURE: A WOMEN'S STUDIES ANTHOLOGY* 127 (L. J. Peach ed., Blackwell Publishing Inc. 1999); Jean Kilbourne, *Killing us softly: Advertising and the obsession with thinness*, in *FEMINIST PERSPECTIVES ON EATING DISORDERS* 395 (P. Fallon, M. Katzman & S. Wooley eds., Guilford Press 1994); Jean Kilbourne, *DEADLY PERSUASION: WHY WOMEN AND GIRLS MUST FIGHT THE ADDICTIVE POWER OF ADVERTISING* (Free Press 1999).

<sup>203</sup> Gary Kreps, *Disability and Culture: Effects on Multicultural Relations*, in *HANDBOOK OF COMMUNICATION AND PEOPLE WITH* 177 (D.O. Braithwaite & T.L. Thompson eds., Lawrence Erlbaum 2000).

only depicted people with disabilities as deserving of pity, thereby further stigmatizing them.<sup>204</sup> Additionally, people with disabilities are traditionally and incorrectly seen by society to be asexual.<sup>205</sup> These images must be confronted, re-envisioned and changed by those advocating for women's rights, gender equality and the rights of women with disabilities.<sup>206</sup>

The above overview of a few selected specific areas of concern to women and girls with disabilities only illuminates a few topics and their unique implications for women and girls with disabilities. Some areas are discussed in detail, others only get cursory attention and some are not mentioned at all. Nonetheless, this overview highlights the necessity for more detailed field and theoretical research. Such research must be undertaken with the involvement of and consultation with women and girls with disabilities and research conducted by women with disabilities should be emphasized and supported. Comprehensive data collection is clearly needed as there is limited global data on persons with disabilities, and especially on women with disabilities, data is unreliable, measurement techniques often vary from country to country, data is often not desegregated by type of disability, gender, age, race, ethnicity and other factors, and baseline data does not exist on many issues. This paucity of data makes it difficult, if not impossible, to monitor progress and to develop informed policies and programs. That being said, the information outlined herein makes it clear that women and girls with disabilities face many of the same challenges as all other women and girls face, but it also makes it starkly clear that women and girls with disabilities face unique challenges and that focused gender-mainstreaming and disability inclusive practices can go a long way to address these disparities.

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<sup>204</sup> Jack Nelson, *The Invisible Cultural Group: Images of Disability*, in IMAGES THAT INJURE: PICTORIAL STEREOTYPES IN THE MEDIA 119 (P. M. Lester ed., Praeger 1996).

<sup>205</sup> Sally Nemeth, *Society, sexuality, and disabled/ablebodied romantic relationships*, in HANDBOOK OF COMMUNICATION AND PEOPLE WITH DISABILITIES 37 (D.O. Braithwaite & T.L. Thompson eds., Lawrence Erlbaum 2000).

<sup>206</sup> For more details on women and body image, see the Love Your Body Campaign of the National Organization for Women, <http://loveyourbody.nowfoundation.org/> and for an insightful, detailed analysis of the issues of women with disabilities, media and advertising and body image; *see also* 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>.

## **Appendix B: Example: Revision of United Nations Security Council Resolutions and Indicators on Women, Peace and Security to Include Women with Disabilities**

- ❖ Example: Amend UNSCR 1325 and its progeny to include women and girls with disabilities at all stages of peace building, reconstruction, development, reconciliation and transition and ensure that women and girls with disabilities are included in protection programs in conflict zones.<sup>207</sup>

Below are some possible paragraphs to incorporate in a new resolution to ensure that women with disabilities are included in the objectives set forth in United Nations Security Council Resolution 1325 and the women, peace and security framework. Similar paragraphs should be developed to address the issues covered in subsequent Resolutions on women, peace and security as well as those on other issues having an impact on women with disabilities.

1. Include a preambular paragraph: Reaffirming the principles of the UN Convention on the rights of Persons with Disabilities, with particular reference to Article 6 on women and Article 10 on Situations of Risk and Armed Conflict;
2. Include a preambular paragraph: Recognizing the unique circumstances confronting women with disabilities during and post-conflict;
3. Include a preambular paragraph: Recalling also the commitments of the Beijing Declaration and Platform for Action (A/52/231) as well as those contained in the outcome document of the twenty-third Special Session of the United Nations General Assembly entitled “Women 2000: Gender Equality, Development and Peace for the Twenty-First Century” (A/S-23/10/Rev.1), in particular those concerning women and girls with disabilities;
4. Include a preambular paragraph: Recognizing that women with disabilities have not been included in peace building activities and that they have a valuable contribution to make in the peace building process for the community at large and offer unique perspectives and must be included to ensure that their needs and concerns are addressed and effectively represented;
5. Include a preambular paragraph: Recognizing the urgent need to mainstream a gender perspective and a human rights centered approach toward women with disabilities, into peacekeeping and reconstruction programs;
6. Include a preamble paragraph: Noting the need to consolidate data on the impact of armed conflict on women and girls with disabilities;
7. Include an action paragraph: Encourages the Secretary-General to appoint experts on issues of concern to women with disabilities to any committee or task force the Secretary-General may appoint to address peacekeeping and/or peace building;
8. Include an action paragraph: Requests the Secretary-General to provide to Member States training on the unique concerns of women and girls with disabilities in peacekeeping and guidelines and materials on the protection, rights and the particular needs of women with disabilities, as well as on the importance of

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<sup>207</sup> S.C. Res. 1325, *supra* note 49, S.C. Res. 1820, *supra* note 87; S.C. Res. 1888, *supra* note 87; S.C. Res. 1889, *supra* note 87.

involving women with disabilities in all peacekeeping and peace building measures;

9. Include an action paragraph: Calls on all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia:

- (a) The special needs of women and girls with disabilities during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction, bearing in mind the stigma that women and girls with disabilities may face in the community;
- (b) Measures that support local women's peace initiatives, indigenous processes for conflict resolution, that ensure access for persons with disabilities, and that involve women with disabilities in all of the implementation mechanisms of the peace agreements;
- (c) Measures that ensure the protection of and respect for human rights of women and girls with disabilities, particularly as they relate to the constitution, the electoral system, the police and the judiciary.

❖ Modify the UN Security Council Resolution 1325 implementation indicators developed by the Secretary General for action by the Security Council to address the importance of including the voices and needs of women and girls with disabilities.<sup>208</sup>

Below are only some possible modifications to the proposed United Nations Security Council Resolution 1325 indicators to ensure that women with disabilities are included in these tools to assess progress in inclusion of women in peacekeeping and peace building.

Indicator 1: Incidence of sexual violence in conflict-affected countries - Data on this indicator are expected to be collected through consistent, replicable and ethical surveys, to be disaggregated by:

- Types of sexual violence
- Relevant vulnerable groups (internally displaced persons, returnees, refugees)

Suggestion: This indicator should also include measurement of incidents of sexual violence experienced by women and girls with disabilities.

Indicator 2: Extent to which United Nations peacekeeping and special political missions include information on violations of women's and girls' human rights in periodic reporting.

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<sup>208</sup> U.N. Secretary-General, Women and Peace and Security: Rep. of Secretary-General, U.N. Doc. S/2010/173 (Apr. 6, 2010), *available at* [http://www.betterpeace.org/files/SGReport\\_Women\\_peace\\_security\\_S.2010.173\\_6Apr2010.pdf](http://www.betterpeace.org/files/SGReport_Women_peace_security_S.2010.173_6Apr2010.pdf).

Suggestion: Reporting should include violations experienced by women and girls with disabilities.

Indicator 3 (b): Inclusion of representatives of women's and civil society organizations in the governance and leadership of human rights bodies.

Suggestion: Assess whether such women's civil society groups include women with disabilities.

Indicator 8: Number and percentage of peace agreements with specific provisions to improve the security and status of women and girls.

Suggestion: Measure whether women and girls are included, especially in areas such as ability to participate in elections, inclusion within constitutional provisions, whether human rights and fundamental freedoms are ensured. Also, since women with hearing related disabilities may need services such as sign language interpreters, they should be included within "linguistic minorities."

Indicator 10: Level of gender expertise in United Nations decision-making in conflict-affected countries.

Suggestion: Include women with disabilities knowledgeable about the specific issues of concern to women and girls with disabilities in the country.

Indicator 11 (a): Level of participation of women in formal peace negotiations

Suggestion: To ensure that the voices of women with disabilities are heard, measure the extent to which they have a seat at the table, with appropriate reasonable accommodations to meet their specific disability-related needs, e.g., sign language interpreters, meetings in accessible facilities, etc.

Indicator 13: Number and percentage of Security Council missions that address specific issues affecting women and girls in their terms of reference and the mission reports.

Suggestion: Terms of reference, etc. should address the specific needs of women and girls with disabilities.

This is a small selection of modifications to the proposed indicators, more should be developed.

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