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PROTECTION OF SEXUAL AND REPRODUCTIVE RIGHTS OF WOMEN WITH DISABILITIES IN INTERNATIONAL LAW

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ABSTRACT

Every community consists of a few vulnerable and discriminated groups that need special protection in order to survive. In the past, the term disability was used as a derogatory term because it was believed to be based on the word "cap in hand" which referred to an ancient practice in which beggars would stretch their cap to access services. The terms "disability" was often used in a vague and confusing way, which provided a negative guide to policy making and political actions. The term denotes a medical and diagnostic method, which ignores the imperfections and shortcomings of the surrounding community. Women with disabilities are the most vulnerable and discriminated groups in the world. They are "obliged" to suffer in their disabilities in a common connotation. Sometimes the society forgets that the ultimate goal of equality, freedom, justice and dignity of all human beings is guaranteed under various international and national instruments still, they treat them differently.

De Facto, the reaffirmation of gender equality is not enough to meet the obligation to end all forms of discrimination against women with disabilities. This research paper outlines protections that have emerged at International level to protect the sexual and reproductive rights of women with disabilities. As disability is a human rights issue around the world, there is always a need to care for the United Nations and its specialized agencies because these rights are not only a common heritage of cultural violations, but also local values and international commitments based on international conventions and constitutional laws of countries. Nevertheless, women with disabilities are a part of our society. They have the same hopes, desires and aspirations as any of us and should be treated like any ordinary person in the world

INTRODUCTION

Women with disabilities are mostly kept in dark about their sexual and reproductive health. A study showed that 98%¹ of them are not able to protect themselves against various kinds' diseases, violence, abuses, sexually transmitted infection etc. As I started researching about my topic, the first term that I came across was "REPRODUCTIVE JUSTICE MOVEMENT". The term reproductive justice is a combination of two words: reproductive right and social justice. It was coined and contrived as an organizing framework by a group of Black women who came together for this purpose in 1994 and named themselves Women of African Descent for Reproductive Justice. This term 'reproductive justice' means the right of a person to maintain bodily autonomy, the choice to have children, or to not have children and to cater the child in a safe environment. The reproductive justice movement recognizes the manners by which meeting factors like race and social class, limit the opportunity of disabled women to settle on brief decisions about pregnancy by forcing abusive conditions or confining to meager arrangements.

The reproductive justice framework confine a wide range of issues affecting the reproductive lives of marginalized women, including their access to contraception, broad sexual education, prevention and care for sexually transmitted infections, alternative to birth options, adequate prenatal and pregnancy care, violence assistance, ample wages to support families, safe and sound homes. Reproductive justice is mostly based on the international framework which views reproductive rights as human rights. Reproductive justice relates to reproductive rights with social, economic and political inequalities that impact a woman's capability to ingress reproductive process. The reproductive rights movement began in the 1960's that transformed the lives of millions of women entitling them to rule their bodies and build their own future. The fundamental components of reproductive justice encompass equal access to safe abortion, affordable contraceptives and inclusive sex education

¹ United Nations Social Affair Disability, "Women and girls with disabilities", United Nations, New York 4 March 2010, <https://www.un.org/development/desa/disabilities/issues/women-and-girls-with-disabilities.html>.

as well as freedom from any kind of sexual abuse. It means that we can't separate the battle for a strong reproductive health care system from the struggles against economic inequality, homophobia, transphobia and racism because these also affect how people are able to make decisions about their lives, families and their body. The term "Reproductive justice"² also includes those individuals who choose to be parent, who shall be able to raise their children in a safe and sound surrounding that is free from discrimination and any kind of violence. Individuals are battling to guarantee that the less fortunate can use their abortion rights, contraception, sex education and pre-birth and labor care. People with disabilities experience dishonor in most part of their lives. This stigma is combined with gender discrimination and the assumption that people with disabilities have no sexuality which creates a dominant prejudice. Girls with disabilities are like any normal girl entitled to their sexual and reproductive health and rights under international law. And regardless of the nature of their disability, they possess the same legal right as their companions. There are between million persons aged between 10-24 with disabilities globally, the majority of which live in a developing country Example: Afghanistan, Myanmar, Nepal, South Sudan and many others. Girls and women with disabilities experience four times the sexual violence than their non-disabled peers and have a harder time entering justice for their rights violations.



Girls with disorder or any psychosocial disabilities are likely to be denied to make health care decisions for themselves, which increases their vulnerability to sexual abuse during their life course.

² Osub Ahmed, Public health post, Reproductive Justice: What It Means and Why It Matters (Now, More than Ever), January 16, 2017, <https://www.publichealthpost.org/viewpoints/reproductive-justice/>.

MEANING OF SEXUAL AND REPRODUCTIVE RIGHTS

Sexual and reproductive health basically means the right to have control over and decide freely and responsibly on matters related to sexuality, including sexual and reproductive health, free of coercion, discrimination and violence. A condition of complete mental, physical as well as social prosperity and not just the shortfall of illness or ailment, in all issue identifying with the reproductive system and to its capacities. It suggests that individuals can have a satisfying and safe sexual coexistence and that they have the capacity to reproduce and the right to choose if, when and how regularly to do so. It means their preferred methods of family planning of their choice as well as other methods of their choice for regulation of fertility.

Sexual and reproductive rights are crucial human rights and freedom. They embrace basic rights and liberties that are now perceived in global, national and regional level systems, standards and agreements. They incorporate the right to autonomy and self determination – the right of everybody to take free and educated decisions and have full control over their body, sexuality, wellbeing and relationships. But, women with disabilities have a different struggle, prejudices and discriminations against them that continue which result in extreme violations of their rights. They are forced to be sterilized, forced to use some kind of contraception (limited or no contraceptive choice at all), poorly managed pregnancy, forceful or coerced abortion, exclusion from health care rights and sexual suppression are few examples of their torture. They also experience intense violence which is most of the times, gender based.

STATASTICS OF GLOBAL DISABILITY

15% of the world's population has some form of disability.³ By far most (80%) of individuals with disabilities live in developing countries. with 66% live in the Asia. these figures are quickly expanding, because of population growth, maturing, war, clashes, ecological debasement, helpless labor conditions, sexual and gender based violence. Between the ranges of 2.5 to 3.5 million of the world's 35 million dislodged people live with disabilities. There are critical contrasts in disability between men and women in both developing and developed counties.

³ United Nations Social Affair Disability, "Women and girls with disabilities", United Nations, New York 4 March 2010, <https://www.un.org/development/desa/disabilities/issues/women-and-girls-with-disabilities.html>, .

The male disability pervasiveness rate is 12% while the female disability predominance rate is 19.2%. However, an itemized worldwide picture on how gender and disability converge isn't yet conceivable as information assortment and examination has been very restricted and frequently blurred by factors that are evaluation challenges, like the feminizations of poverty, social ideas of gender based jobs and sexual and conceptive rights, violence, misuse and different sorts of damage. Disability isn't limited to any one social or economic class, culture or age group. It is both a reason and a consequence of poverty (with individuals with disability, especially women and kids represent the world's poor. It is currently acknowledged that improvement measures to destroy poverty won't be accomplished without the incorporation of individuals with disabilities.

SEXUAL AND REPRODUCTIVE PREJUCICES AGAINST WOMEN WITH DISABILITIES

Forced sterilization: The act of forced sterilization is performed across the world on women with disabilities for various purposes that include: eugenics based practices of population control, menstrual management and private care, and pregnancy prevention (mainly sexual abuse pregnancies). This practice of forced sterilization is a component of a broader pattern of denial of the human rights to woman, including reproductive rights of woman with disabilities. This denial includes exclusion from reproductive and sexual health care which these women are denied on the face of it, limited or zero contraceptive alternatives, focus on menstrual suppression, poorly managed pregnancy, involuntary abortion and the denial of rights to parenting to the young mothers. These practices are framed within traditional social attitudes that characterize disability as a private tragedy or a matter for medical management and rehabilitation. These women have problem in understanding or communicating what was done to them which further increase their vulnerability to forced sterilization. A major factor is legal guardians or others making life altering decisions for women with disabilities, including consenting to sterilization on their behalf. The practice of forced sterilization in many countries (like Australia) continues to be debated and justified by governments as being within the “best interests” of women with disabilities.

International Federation of Gynecology & Obstetrics ⁴ developed new protocols and calls for action to put an end to the practice of forced sterilization, expanding consent protocols and rules clearly outlining the ethical lack of access to information and education on sexual and reproductive rights of girls and women with disabilities.

Gender Based Violence: Multiple and intersecting sorts of discrimination contribute to an increased violence against women and girls with disabilities. Women with disabilities experience many sorts of violence all women experience, when gender and disability intersect, violence has unique causes, takes on unique forms and leads to unique consequences. Also, women and girls with disabilities who are members of other identity groups are often subject to particular sorts of violence and discrimination. Despite the evolution of normative frameworks concerning both the human rights of woman with disabilities, the impact of the combined effects of both gender and disability has not attained sufficient attention and violence still remains at surprisingly high rates. Violence against women with disabilities occurs in various spheres of life including the home, the community and private institutions. There are various kinds of violence that they are subjected to- physical, psychological, sexual and financial, neglect, social isolation, degradation, trafficking, detention, denial of health care and forced sterilization and psychiatric treatment are some examples.

Denial of Legal Rights and Decision-Making: The assurance of legal capacity is connected to the activity right to autonomy and self-determination. To make a finding of insufficiency brings about the limitation of quite possibly the most central rights revered in law, the right to autonomy. Yet a huge number of woman with disabilities are deprived of their lawful limit, legal capacity because of shame and segregation. Through legal declaration of ineptitude or simply by a doctor's result that the lady "LACKS CAPACITY" to settle on a choice. 'Insufficiency' or 'Incapacity' is frequently used as a substantial legitimization for infringement of sexual and reproductive rights of women. Nonetheless, the CRPD plainly orders States Parties to perceive that people with incapacities appreciate legitimate limit on an equivalent premise with others and ought to be upheld to practice their legal capacity. This implies that a person's right to decision making can't be subbed by a third party, however that every person regardless has the privilege

⁴ FIGO, Global voice of women's health, <https://www.figo.org/>, visited on: 29 April, 2021.

or right to get the backing they need to settle on their own decisions and to coordinate their own lives, according to clinical treatment, family, parenthood and connections, or living plans.

Lack of Access to Justice: The right to access justice is among the most important civil and political rights as it establishes the extent to which individuals can secure and enforce their additional human rights. From multiple points of view, the justice framework itself executes or disregards the discrimination and brutality of these women. These women with disabilities, especially those with scholarly, intellectual, cognitive or psychosocial disability are mostly denied successful access to justice and denial of their rights since they don't get any help or assistance to report infringement of their rights or to take an interest in legal processes. They are not accepted and are seen as a questionable or unreliable witness. Infringement of their rights is regularly acknowledged as 'behavior management' practices for example- forceful administration of drugs.

INTERSECTIONALITY

The term intersectionality describes the interconnection or the linkage between the natures of social categories such as race, class regarded as creating an overlap and interdependent systems of discrimination or disadvantage. It is a framework for conceptualizing a person, group of people or social problem as affected by a number of discriminations. It takes into account people's overlapping identities and experiences in order to understand the complexity of prejudices they face. Intersectional theory asserts that people are often disadvantaged by multiple sources of oppression: their race, class, gender identity, sexual orientation, religion, and other identity markers. Intersectionality recognizes that identity markers (Example: the terms woman and black) don't exist independently of each other, and that each informs the others, often creating a complex convergence of oppression.⁵

Women with incapacities who are additionally ethnic minorities or individuals from minority or native people groups or who are lesbian, trans or inter sex or who live in destitution, or who are more seasoned, or who are detained in foundations or penitentiaries, can be liable to

⁵ YW Boston Blog, "What is intersectionality, and what does it have to do with me?", March 29, 2017, <https://www.ywboston.org/2017/03/what-is-intersectionality-and-what-does-it-have-to-do-with-me/>.

particularized types of brutality and discrimination. Social authorizations on personality status or educational encounters can additionally build the danger of gathering or individual rejection and refusal of sexual and reproductive rights for them. The acknowledgment of this is called as "interconnection," "multidimensionality," and "various types of separation," is essential to any assessment of the sexual and conceptive rights of women.

ACCOUNTABILITY OF WOMEN WITH DISABILITIES

Basic human rights law obliges the State and other obligation carriers not to encroach on or compromise the fundamental freedom and rights of individuals and to make a move to acknowledge their rights. The international human rights regularizing system, including the international human rights treaties and protocols and proposals embraced by the bodies checking their execution, give the structure to portray the individual commitments and obligations of governments and other duty carriers, corresponding to the sexual and reproductive rights of disabled women and girls.

Access to sexual and reproductive health promotes environmental sustainability

The impacts of climate change are amplified in low-income countries that have rapid population growth, high population density, intense land use, a young age structure and urbanization.⁶ For example, climate change in some areas is causing a gradual depletion of natural resources such as arable land and fresh water resources. In order to support themselves and their families, local people therefore have to use their environment more intensively, and travel further afield to find firewood and water. This burden falls disproportionately on girls and women, who are often responsible for agriculture and for supplying water and fuel for their household. In some areas rapid population growth and high population density, the agricultural land is being cultivated faster and more intensively than it can renew itself, there is a loss of bio-diversity and

⁶ United Nations, Sexual, Reproductive Health Rights Key to Obtaining Sustainable Development as Population and Development Session, 2 April, 2019, and <https://www.un.org/development/desa/disabilities/issues/women-and-girlswith-disabilities.html>.

natural habitats, and there is increased competition for clean water and water sources to grow food.

High fertility rates can also lead to a shortage of land per capita and to over-grazing of land, as relatively small plots of land may be sub-divided among several children. One third of the global population lives in an environment of medium or high water stress, which means that water availability is a limiting factor. This makes living conditions increasingly difficult and can lead to poor health and increased poverty, conflict and migration. Family planning can enable women to plan their pregnancies, and limit their family size according to the resources available, taking account of the challenges in accessing water and supplying food. Delayed childbearing also extends the time between generations and in doing so slows population growth, which helps to protect the environment.

CONCLUSION AND RECOMMENDATIONS

Access to universal sexual and health rights helps the disabled youth, especially young women around the world. This availability of rights helps them to gain control over their reproductive rights and sexuality as well. These rights also help them to have control over their bodies without any influence, discrimination, gender based violence and violence by any authority or third party in their lives. It helps men and women to have children by CHOICE, NOT by chance.

Sexual and reproductive rights seek immediate inclusion in essential package services under Universal health broadcast. Lastly, when sustainable development is the end goal for counties, they clearly can't afford to leave sexual and reproductive rights of disabled women off their agenda list.