

International Human Rights and Women with Disabilities

Recognizing Our Diverse Identities

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Une femme handicapée se présente sous plusieurs identités, telles la race, la classe, le sexe, ses habiletés et son statut social. Quand il y a intersection, l'oppression s'installe. Cet article examine la portée des droits humains internationaux en fonction de cette intersectionnalité. Tout d'abord elle étudie la théorie féministe des droits des handicapées avant d'explorer la Convention sur l'élimination de la discrimination envers les femmes handicapées et la Convention pour l'élimination de la discrimination envers les femmes. L'auteure ensuite invoque l'importance de surveiller les droits des femmes handicapées avant d'imaginer d'autres défis afin de réaliser leurs droits.

Women with disabilities are diverse and have varied race, class, gender, ability, and citizenship status. Like women without citizenship status, women of colour, Indigenous women, and poor women, women with disabilities share an increased risk of oppression. Where these identities intersect, the risk and the form of oppression take shape.

Importantly, women with disabilities are more likely to experience violence and discrimination than women without disabilities and men. Research in Canada shows that women with disabilities experience higher levels of economic oppression (Crawford iv; Malacrida 674) and violence than women without disabilities or men (Brownridge 805-806; Disabled Women's Network 1-3; Odette 4; Olsvik 86; Vecova Centre for Disability Services and Research 5-8). Research in other countries echoes these realities worldwide (Braathen and Kvam 462; Cohen et al. 838; Fairchild 19; Habib 50-51; Mays 147; Muthukrishna, Sokoya, and Moodley 2265).

This paper examines the extent to which international human rights instruments address intersectionality as it

relates to women with disabilities. I survey developments in feminist disability theory before exploring how women with disabilities are addressed in the Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Elimination of Discrimination Against Women (CEDAW). I will then turn to the importance of human rights monitoring for women with disabilities before concluding with a discussion of the challenges for realizing the human rights of women with disabilities.

Feminist Disability Theory

Colin Barnes and Geof Mercer draw on Paul Abberley's 1987 work that distinguishes the biological experience of people with disabilities from women or racialized people in that, unlike sex or skin colour, impairment encompasses functional limitation which is itself a part of social oppression (78-9). They argue that like women and people of colour, people with disabilities have historically experienced oppression based on biological differences. This argument stops short of adequately addressing intersectionality and identity. Barnes and Mercer compare groups of oppressed people when, in fact, these groups are not mutually exclusive sets of people who experience oppression always based on a single trait such as gender or disability. Instead, individuals comprise various traits simultaneously, which makes comparing groups insufficient. Instead, oppression must be understood as affecting different people in different ways depending on their social, economic, cultural, racial, gender, and ability locations.

In the 1980s and 1990s, advancements in the disability field to deliberately incorporate the experiences and

challenges of women with disabilities were made. Early feminist disability theorists Susan Wendell and Jenny Morris pointed to the feminist movement's failure to include women with disabilities in its work and research. As early as 1989 Wendell argued that, "disabled women struggle with both the oppressions of being a woman in male-dominated societies and the oppressions of being disabled in societies dominated by the able-bodied" (105). Morris is also a pioneering voice for addressing disability within feminism. She describes rereading Simone de Beauvoir's work after acquiring a disability:

Rereading such classic feminist texts as a disabled woman, I felt that I had rediscovered the validity of such ideas all over again—it was almost like becoming a "born again feminist." My feelings of elation, however, were churned up with a powerful sense of exclusion for—although feminist ideas seem so relevant to disability—none of the works which I was reading acknowledged this. (67)

Carol Thomas follows a feminist materialist approach and explains that though the early disability movement was concerned with economic access and removing barriers to the labour market, it created an opportunity to bring other social barriers to light (*Defining Disability* 282). Highlighting social-structural barriers through narratives from women with disabilities, Thomas uses the social model as a starting point for describing disablism as always gendered, and acknowledges that while there may be similarities in oppression of women and men with disabilities, there is always a gender lens at work (292).

Thomas also provides a valuable deconstruction of the theoretical underpinnings of disability theory. By drawing a materialist / post-structuralist divide, Thomas effectively explains that Marxist and "materialist scholars advance theorizations of disability and disablism as outcomes of the ways in which society organizes its fundamental activities." Post structuralists, to contrast, often draw on Foucauldian notions of state control and bio-power that effectively render people disabled by systems focused on medicine and state welfare and call for an end to the dualism found in the impairment / disability distinction ("Disability and Gender" 180). In articulating this debate, Thomas asks where women fit and argues that feminists have not reached their potential in the disability field (180-181).

Others have recognized the need to advocate for feminist disability perspectives. Rohrer suggests that including disability in feminist advocacy and research is a way to expand and deepen theoretical analyses (34). She frames this inclusion as an opportunity. Lloyd raises the dilemma that exists for women with disabilities whose needs have been

unmet by the disability movement but who have also been excluded from the feminist movement (716). She argues that a fundamental challenge for women with disabilities in the feminist movement is to establish themselves as sexual beings capable of sexual relationships, marriage, and motherhood. Though feminists resist notions of the ideal female body, Lloyd examines experiences of women with disabilities who feel notions of normality are even more oppressive for women with disabilities and calls for these to be addressed within the movement (718).

Just as disability inclusion in feminism is important, so too is a feminist lens to the disability field, which has also historically excluded the experience of women with disabilities. Kathryn Collins and Deborah Valentine propose that "empowerment and feminist perspectives provide more than a set of assessment and intervention strategies; they are ways of thinking and can provide a context in which oppression and discrimination of women with disabilities are exposed" (34).

Rosemarie Garland-Thomson gives a materialist feminist interpretation of disability using the term "misfit" (593-594). Misfit implies that two things do not fit together. The material conditions of disablement can be likened to the idea that the issue is not with the two things that do not fit together but with their relationship to each other. Instead of resting on the discursive, Garland-Thomson is concerned with the relationship between flesh and environment (594). In this conceptualization, inequality is also found in the materiality of the world rather than just with social attitudes. In this sense, misfitting emphasizes location rather than body, and any vulnerability is found as a result of the fit, not the body.

Materialist feminist approaches have been applied to disability by Mays and Ervelles to emphasize the consequences of capitalism for women with disabilities. In using the social model as a frame for disability, Jennifer Mays adds to this work by pointing out that disabling societies are predominantly male-centric (150). Writing in the Australian context, Mays views the marginalization of women with disabilities as a consequence of socio-historic and material conditions of capitalist states and remarks on the broader structural oppression as evidenced by an inadequate state response pertaining to programs and services for women with disabilities (154).

Nirmala Ervelles uses a historical materialist analysis to emphasize the various relationships that exist between disability and other identity characteristics (specifically race, class, gender, and sexuality) (7). She argues that a humanist view fails to account for historical and economic conditions that might situate acquiring a disability as violent. In exploring questions of whose bodies matter and recognizing that disability is a commodity in terms

of use and exchange value, Erevelles refers to Third World feminism (123). She notes that critical race theory often sees disability as an add-on and references Deborah Stienstra's position that third world feminists accept notions that disability is individualized rather than a state responsibility.

Similarly to Garland-Thomson, Adrienne Asch posits that disability can biologically affect one's ability to interact with the world (406). Impairment impacts people differently based on a range of psychological and social

and specifically for their noticeable absences of women with disabilities.

The MDGs were developed to combat poverty and its many dimensions. They have been criticized because, "although there is a specific Millennium Development Goal (MDG) to promote gender equality and empower women, there is no mention of disability in any of the eight MDGs, corresponding twenty-one targets or sixty indicators" (Leonard Cheshire Disability). In a 2015 report of the United Nations (*The Millennium Development*

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factors (395). She also agrees that disability can also affect a person in various ways at different points in life. It is with these theoretical framings in mind that the suitability of human rights frameworks for women with disabilities must be assessed.

International Human Rights and Women with Disabilities

In theory, the rights of women with disabilities are covered by all international treaties. However, it has been recognized by the Committee on the Rights of Persons with Disabilities, in its *General Comment No. 3: Article 6: Women and girls with disabilities* that

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In this context, two international treaties will be the primary focus of this section: The Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Elimination of Discrimination Against Women (CEDAW). First though, The Millennium Development Goals (MDGs) and the subsequent Sustainable Development Goals (SDGs) need to be addressed briefly here as important international human rights developments

Goals) about the MDGs, disability is only raised three times: first that people with disabilities are among those being left behind (8); second to stress the importance of more disaggregated data beyond age and sex to include disability and other statuses (11); and third to acknowledge that disability creates a significant barrier for children accessing education (26).

The Sustainable Development Goals (SDGs), which succeeded the MDGs in the Post-2015 development agenda, comprise seventeen goals and 169 corresponding targets developed to

build on the Millennium Development Goals and complete what they did not achieve. They seek to realize the human rights of all and to achieve gender equality and the empowerment of all women and girls. They are integrated and indivisible and balance the three dimensions of sustainable development: the economic, social, and environmental. (United Nations "Transforming our World" 1)

None of the SDGs focus specifically on disability. Disability is mentioned within three of the goals: Goal 4, "Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all" (pertaining to accessibility of spaces); Goal 10, "Reduce inequality within and among countries" (ensuring disability inclusion); and Goal 17, "Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development" (reliable data and evidence on disability) (United Nations "Transforming our World" 19-28). Notably, women with disabilities and the specific challenges

they face are not mentioned in Goal 5, “Achieve gender equality and empower all women and girls” (20). Clearly, there remains a need to include women with disabilities more deliberately in human rights agendas.

The importance of international treaties that protect the rights of women with disabilities is evident. The Committee on the Rights of Persons with Disabilities, which is the committee that meets regarding the CRPD, recognizes the diversity of women with disabilities in its *General Comment No. 3 (2016): Article 6: Women and Girls with Disabilities*:

Women with disabilities are not a homogenous group. They include: indigenous women; refugee, migrant, asylum seeker and internally displaced women; women in detention (hospitals, residential institutions, juvenile or correctional facilities, and prisons); women living in poverty; women from different ethnic, religious, and racial backgrounds; women with multiple disabilities and high levels of support; women with albinism; and lesbian, bi-sexual, transgender women, and intersex persons. The diversity of women with disabilities also includes all types of impairments which is understood as physical, psychosocial, intellectual, or sensory conditions which may or may not come with functional limitations. (United Nations “Committee on the Rights” 2)

Violence, sexual and reproductive health, and discrimination are particularly concerning human rights issues for women with disabilities as a group (3). It is with this acknowledgement that The Committee on the Rights of Persons with Disabilities further recognizes that

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CEDAW does not mention women and girls with disabilities in the original text. However, the subsequent *General Recommendation No. 18 on Disabled Women Adopted by the CEDAW Committee*, recognizing the double discrimination experienced by women with disabilities, recommends that states provide more information on this group as well as measures taken to ensure equal access to participation in all areas of life (UN “*General Recommendation No. 18*” 1).

The CRPD, on the other hand, takes a twin-track approach to including the rights of women and girls with disabilities by having a specific article on women and girls and also by including gender in other general rights provisions (CBM 4). The CRPD is unique in recognizing that women and girls with disabilities are at greater risk of discrimination and abuse (United Nations “Thematic Study on” 4). The CRPD specifically addresses women with disabilities in a response to the historical neglect of this group in international treaties (United Nations “Committee on the Rights” 2-3). Article 6 states that:

1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.
2. States Parties shall take all appropriate measures to ensure the full development, advancement, and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention. (United Nations “Convention on the Rights” 7)

While intersectionality is not directly mentioned in the text, there is recognition that women and girls with disabilities are subject to multiple forms of discrimination.

Though the Committee on the Rights of Persons with Disabilities recognizes that, “Ensuring the human rights of women requires, firstly, a comprehensive understanding of the social structures and power relations that frame laws and policies as well as the economy, social dynamics, family and community life, and cultural beliefs” (3), there has been criticism of the lack of women representatives on this Committee (International Disability Alliance). The June 2016 elections to the Committee for 2017-2018 resulted in only one female representative among seventeen male members (United Nations Human Rights Office of the High Commissioner).

The Office of the United Nations High Commissioner for Human Rights (UNHCHR) undertook a study on violence against women and girls with disabilities. The Office of the UNHCHR consulted with the Special Rapporteurs on violence against women and on disability, the CEDAW and CRPD Committees, and Member States, as well as other relevant stakeholders. The report makes several recommendations to address violence against women and girls with disabilities. Among them is the development of a dual track approach that ensures programs on violence against women are inclusive and accessible, while also developing specific strategies to target women and girls

with disabilities in order to eliminate discrimination and to promote autonomy (United Nations “Thematic Study” 15). They recommend that these programs and strategies be developed in consultation with women with disabilities and that they be accessible (United Nations “Thematic Study” 16). They also recommend collection of information on violence against women and girls with disabilities and awareness-raising programs related to disability and violence against women with disabilities (United Nations “Thematic Study” 16).

Canadian jurisprudence recognizes that grounds of discrimination may intersect and that women and men may experience discrimination on the basis of disability differently. This is taken into account in some analysis which is carried out during policy development to examine the intersection of sex with other identity factors, including disability. (2014, 2)

In this regard, they report on the work of the Status of Women Canada to promote equality for all women in-

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Monitoring Rights of Women with Disabilities

The CRPD is relatively new, having been adopted in December 2006 (United Nations “From Exclusion to Equality” iii). Its effectiveness continues to be monitored by organizations like DRPI and the International Disability Alliance. DRPI’s mandate is to monitor disability rights globally (Pinto 452). Their project uses a holistic approach and monitors three areas: individual experiences, systems, and media. The International Disability Alliance implemented a project to strengthen the capacity of national disability organizations to monitor CRPD implementation in their countries. According to Bengt Lindqvist, after this project began alternative reports, which are reports submitted to a Committee by individuals, organizations or groups who are independent of the state, to the Committee increased (21). Other organizations monitoring CRPD implementation are Human Rights Watch and Disability Rights International. While the CRPD provides formal mechanisms to monitor disability rights, it also offers a framework for ensuring that these rights are realized.

Lindqvist acknowledges that convention violations cannot formally be punished, but also speaks to the shaming capabilities of a convention Committee, which by publishing its findings, recognizes “the outcome is not just about better laws and practice, but also about dignity and self-respect that follow from making people’s concerns visible and respected” (22).

The Government of Canada’s first state report on the CRPD address the experiences of women with disabilities by focusing on Canadian laws prohibiting discrimination based on sex saying that

cluding women with disabilities (6), but do not mention specific measures to address women with disabilities. Civil society organizations responded to Canada’s state report with alternative reports identifying challenges for men and women with disabilities in all areas of life. The reports are available through the UN Human Rights Office of the High Commissioner as part of the 17th Session of the CRPD.

DAWN Canada is an organization of women with disabilities that works to address inequality experienced by women with disabilities due to poverty, violence and discrimination. It submitted an alternative report to the CRPD Committee, which highlights, “the effects of multiple barriers that may intersect and aggravate the discrimination an individual could face. Some of these include gender, sexuality, indigenous status, race, ethnic origin, socioeconomic status, religion, language age, birth, property, political, or another opinion, etc.” (3) Their report addresses each Article of the CRPD as it relates to women with disabilities and recommends that the Government of Canada recognize intersectionality with particular focus on women, Aboriginal women and Racialized women with disabilities when examining the impacts of oppression (3).

The Committee on the Rights of Persons with Disabilities responded with concluding comments which include recommendations pertaining to the intersecting nature of discrimination against women with disabilities and the different forms of violence against women, particularly Indigenous women, with disabilities (United Nations 3-4).

In 2013, Women Enabled Inc. assessed the Committee on the Rights of Persons with Disabilities and its efforts to monitor the CRPD’s success in addressing the rights

of women and girls with disabilities. They reviewed the Committee's Concluding Observations for six countries (Argentina, China, Hungary, Peru, Spain, and Tunisia) and concluded that the range of concerns addressed in the reports could be enhanced and that the List of Issues should be more comprehensive and reflective of the experiences of women with disabilities (Women Enabled Inc.).

CBM, an international Christian development organization working on inclusion of people with disabilities, also made recommendations to the Committee on monitoring

concrete implementation of the CRPD" (13). This is even more challenging when considering the ways in which our intersectional identities might impact discriminatory practices. Many examples could be given, but I will focus on immigrant women with disabilities in Canada and Indigenous women with disabilities globally.

Historically, immigrants with disabilities have been discriminated against based on physical and mental pathologization, a practice that continues in Canada today (Wong 17-18). The "excessive demand" clause in the Canadian

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the rights women and girls with disabilities. They recommended that CRPD State Reports prioritize information on women with disabilities, that reporting on all aspects of the CRPD include a gender perspective, and that information be shared between the CRPD and CEDAW Committees (CBM 5). These recommendations made by Women Enabled Inc. and CBM address a disconnect between women's rights and disability rights.

Challenges

Advances have been made in recognizing that human rights violations affect women with disabilities in serious ways, but more needs to be done to understand the intersections with other factors. Two key challenges, that are not unrelated, influence human rights advances: structural and political limitations, and perceptions of disability that play out in discriminatory ways.

Sarah Parker identifies structural and political climates that affect human rights advances, noting that "one key problem with implementation of human rights at the national level is that discrimination is often bound within the very structures used to promote equality" (72). She cites welfare reforms in liberal welfare states where ideal workers are able-bodied subjects (72). At the same time, though, the state carries the greatest influence over the protection of rights, and, therefore, structural and political climates are important considerations.

Importantly, societal perceptions of disability cannot be legislated. Alexander Hoefmans and Gauthier de Beco say that "overcoming cultural and attitudinal barriers may remain to be one of the major challenges in ensuring the

Immigration and Refugee Protection Act restricts people who are deemed a potential resource drain on the state. Sections 30 and 34 of the Act stipulates that any foreign national seeking entry into Canada,

must hold a medical certificate, based on the most recent medical examination to which they were required to submit ... within the previous 12 months, that indicates that their health condition is not likely to be a danger to public health or public safety and ... is not reasonably expected to cause excessive demand. (Wong 17-18)

Officers who decide if a person's health poses a risk of becoming an excessive demand on the state must consider reports by health practitioners or medical laboratories and any health condition found through medical examination. For applicants, "the Excessive Demand clause often places (sic) them through the humiliating process of being scrutinized and categorized as either deserving or undeserving of status" (20). A second inherently discriminatory immigration process is the point system that assigns points to a permanent residency applicant based on criteria such as education, income, and language—a system that affects people with disabilities (20-21). This is even more discriminatory toward immigrant women with disabilities because, as Dossa argues, "structural exclusion of racialized women with disabilities is more acute on account of the fact that they bear multiple markers of negative difference. They are not perceived to be productive members of society even at the lower echelons of the labour market" (346).

Indigenous people with disabilities also face unique rights

violations—access to services, for example. The Permanent Forum on Indigenous Issues identifies a major form of discrimination for Indigenous people with disabilities as the lack of available, quality services compared to other people with disabilities (United Nations “Study on the Situation” 13). To compound the issue, Indigenous people seeking disability support are often shuffled between various levels of government due to jurisdictional funding issues that are exacerbated when a person leaves a Reserve (Durst, South, and Bluehardt 5). As well as these issues, “Indigenous women with disabilities often experience additional discrimination, such as more restrictions on their legal capacity and lack of an accessible legal system” (United Nations “Study on the Situation” 15). The Permanent Forum on Indigenous Issues recommended that “states should allocate funding to build the capacity of Indigenous peoples to provide culturally adequate services and for the establishment and development of the capacity of organizations of indigenous persons with disabilities, including a focus on indigenous women with disabilities” (United Nations “Study on the Situation” 17).

Conclusion

While international conventions and other rights instruments such as the Sustainable Development Goals address many aspects of individual identities including gender, Indigenous status, disability, and refugee status to name a few, and while some conventions have specific clauses or documents pertaining to subgroups, disability is not consistently or adequately addressed across human rights treaties and instruments. Similarly, while many monitoring strategies include women with disabilities, a specific strategy for monitoring, documenting, reporting, and addressing rights violations against them is less common.

The disability rights movement has made significant strides in the last fifty years—strides that have acknowledged people with disabilities as rights holders. Mary Robinson, as United Nations High Commissioner for Human Rights, advocated for “the full recognition and realization of the human rights of all persons with disabilities.” Similarly, women with disabilities have been increasingly recognized within feminist movements and theories over the last thirty years.

However, steps still need to be taken to strengthen commitments to rights for women with disabilities because of the unique challenges they face. Intersectionality is extremely important in this work because oppression is affected and influenced by the formation of our identities and the amalgamation of various traits and social standings. The groundwork has been laid for organizing around rights so that diverse women with disabilities can

achieve a level of inclusion and dignity that recognizes they are indeed valuable and equal members of society.

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SHIRLEY ADELMAN

The Prescription

Leaving my first home
decades ago,
I kissed the walls goodbye.

Seventh grade in a new school,
a fifteen-year-old boy,
tall as a man sat behind me,
singing the same song every day,
“I’m gonna F you, Shirley.”

First I stopped smiling,
soon food tasted as bad
as my dreams. My mother said,
“You need a tonic” and took me
to the doctor who read my
face and asked: “How is school?”

Between sobs, my mother heard
the words I feared to tell her.
“Mrs. Adelman,” the doctor said,
“You have to move so Shirley
can go to a good school.”

The prescription like poison
for my mother who lived twenty-eight
years in the house where life
returned after the pogroms,
twenty-eight years on a street where
Yiddish words rang in the air
like the Good Humor bell,
and she who feared
the larger world walked
down the block,
for fruits and vegetables.

Shirley Adelman is a writer of poetry and creative non-fiction. Her work has been published in academic, literary, feminist, and medical humanities journals in the United States, Canada, Israel, and South Africa. Most recently, her work has appeared in Nashim: A Journal of Jewish Women’s Studies & Gender Issues, Cell 2 Soul, Blue Collar Review, Kaleidoscope: The Experience of Disability through Literature and Fine Arts, and Jewish Currents. She is the mother of Haim and Rachel and the Bubbie of Maya and Avi, and Zane of blessed memory.