**DGD on the Right to Education of Persons with Disabilities**

**Opening Statement**

Madam Chair of the CRPD, Distinguished Panelists, Ladies and Gentlemen: I have been asked to address this discussion on the right to education for persons with disabilities from the perspective of the CEDAW monitoring mechanism and would like to use the time at my disposal to address four critical issues that relate to the right to education of persons with disabilities. Both the CEDAW and CRPD promote the principles of non-discrimination and equality. Under CEDAW, the entry point is the elimination of sex-based discrimination against women and their enjoyment of rights under the Convention on the basis of equality with men (A1)[[1]](#footnote-1) while under the CRPD, the entry point is the elimination of disability-based discrimination and the obligation of States parties to ensure the full realization of the human rights and fundamental freedoms (A4)[[2]](#footnote-2) of pesons with disabilities.

In spite of a focus on two different target groups, there is a very clear intersection between the two conventions. Article 6 of the CRPD acknowledges that women and girls with disabilities are not only subjected to disability-based discrimination but also to sex/gender based discrininationon. Madam Chair, in the overall global population, the male/female divide is the most dominant axis of differentiation and inequality and this is no less true for the disabled population which is simply a subset of the larger domain. Although I could not find a precise figure, reports indicate that ‘girls with disabilities are a large and diverse group whose educational needs have gone largely unnoticed by those committed to promoting gender or disability equity’[[3]](#footnote-3).

Besides disability and sex/gender based discrinimation, there are several other interlocking hierarchies that determine access to educational resources. Indications are that in relation to inclusive education, access for disabled persons is also affected by ‘type of disability, economic status of the family, ethnicity, whether they live in an urban or rural areas and a host of other factors’[[4]](#footnote-4) resulting in multiple and intersecting forms of discrimination that collectively affect disabled persons to a different degrees and/or in different ways.

Madam Chair, given that every individual embodies many or all of these subjectivities, the second point that I wish to highlight is that intersectionality is a basic framework that must be applied to fully understand the scope of obligations of States parties under both the CEDAW and the CRPD. In the case of CEDAW, the impact of intersecting factors on women’s rights is elaborated in General Recommendation 28.[[5]](#footnote-5) The concern of multiple discrimination is raised in Article 6 of the CRPD but this must be treated more fully in the elaboration of the General Comment in a way that guides States parties to precisely analyse and understand the unique forms of discrimination and the possible educationl needs of all sub-groups in the targeted population.

This leads me to a third point that is integrally linked to the issue of intersectionality and the need for a nuanced analysis of the situation of persons with disabilities. Madam Chair, the reported lack of data on which to assess the ‘general status of children living with disabilities’ is graphically described as a ‘vast disability data hole’. It is further suggested that ‘the lack of reliable and consistent data at the national level feeds a lack of clarity internationally’ and ultimately ‘leaves children with disabilities, and their educational needs invisible to policy makers’.[[6]](#footnote-6) This, Madam Chair, points to the urgency for the General Comment to further elaborate on Article 31 of the CRPD which focuses on ‘observing legally established and international standards in the collection of data which should be appropriately disaggregated’. In my opinion, Madam Chair the reference to ‘appropriate disaggregation’ of data is far too vague. The GC must provide precise guidance to States parties in terms of clearly defined core indicators and methods and techniques that can be used for gathering the type of data which would enable States parties to ‘draft and deliver education inclusion plans, set realistic targets and measure progress’; and, in this regard, I would strongly recommend that States parties be urged to ensure that as far as possible, at the very least, data be disaggregated on the basis of sex, type of impairment, age and location.

In the CEDAW, the right to non-discriminatory education is addressed in Article 10 while, in this regard, obligations of States parties under the CRPD is outlined in Article 24. In both instances, however, the major focus is on access to the system. The final point, therefore, that I wish to raise is the fact that it is now well established that a three-dimensional framework is required to analyse the multiple dimensions of discrimination and inequality in relation to education covering **rights to**, **rights within** and **rights through** education.

Madam Chair, factors that challenge the right **to** education include, *inter alia*, practices in the family and society such as boy preference for schooling, engagement of girls in the domestic care economy, a lack of provision of adequate and suitable infrastructure and the explicit and hidden costs of schooling. These issues must be addressed but the GC must go beyond the myopic concern of access to and inclusion in mainstream education. It must also focus on rights **within** the educational process and the extent to which mainstream education systems meet the specific needs of persons with disabilities through appropriate curricula, teaching methods, and the creation of a safe and non-threatening learning environment free of sexual and disability harassment and violence. Further, rights **through** education and the extent to which, beyond school, the education received by children with disabilities translates into equal and meaningful opportunities in the wider social, political and economic spheres[[7]](#footnote-7), must also be a central concern.

Madam Chair, the time constraint does not allow for a fuller exploration of these concerns but I submit them for consideration and hope that the points raised can illuminate the formulation of the General Comment intended to illuminate obligations under the CRPD in relation to provision of inclusive education by State parties.

Thank you.

Barbara Bailey

Vice-Chair, CEDAW Committee

1. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm> [↑](#footnote-ref-1)
2. Convention on the Rights of Persons with Disabilities (CRPD). [www.un.org/**disabilities**/documents/**convention**/convoptprot-e.pdf](http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf) [↑](#footnote-ref-2)
3. EFA Global Report 03/04. Gender and Education for All: The Leap to Equality. UNESCO Publishing. 2003. [↑](#footnote-ref-3)
4. Equal Right Equal Opportunity: Inclusive Education for Children with Disabilities. Global Campaign for Education and Handicap International. <http://www.campaignforeducation.org/en/campaigns/education-and-disability> [↑](#footnote-ref-4)
5. CEDAW General Recommendation 28. The Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women. <http://www2.ohchr.org/english/bodies/cedaw/comments.htm> [↑](#footnote-ref-5)
6. Equal Rights Equal Opportunities*. Op cit*. [↑](#footnote-ref-6)
7. EFA Global Monitoring Report 2003/04. Gender and Education for All: The Leap to Equality. UNESCO Publishing. 2003. [↑](#footnote-ref-7)