



United Nations

Division for Social Policy Development (DSPD)
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Toolkit on
DISABILITY for **AFRICA**

**ACCESS TO JUSTICE FOR PERSONS
WITH DISABILITIES**

Toolkit on disability for AFRICA



ACCESS TO JUSTICE FOR PERSONS WITH DISABILITIES

TABLE OF CONTENTS

1. OVERVIEW	1
2. TECHNICAL CONTENT	3
2.A Background	3
2.B Legal Framework	4
2.C Barriers faced by Persons with Disabilities in the Administration of Justice ..	6
Country Checkpoint	7
2.D Specific Areas of Concern	9
2.E Ensuring Access to Justice for Persons with Disabilities	14
Country Checkpoint	16
3. SUMMARY & KEY LEARNING POINTS	17
4. USEFUL RESOURCES	18
5. LEARNING ACTIVITIES	19
Session Sheet for the Trainer – Access to Justice for Persons with Disabilities, Session 1	20
Learning Activity 2.C: Overcoming Barriers to Access to Justice	21
Handout: Scenarios: Access to Justice	22
Session Sheet for the Trainer – Access to Justice for Persons with Disabilities, Session 2	23
Learning Activity 2.D. (a): Physical and Sexual Violence against Women....	24
Learning Activity 2.D. (b): Physical and Sexual Violence against Women....	26



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List of acronyms

AT	Assistive Technology
CEDAW	Committee on the Elimination of Discrimination against Women
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
CRPD	Convention on the Rights of Persons with Disabilities
CRPD	Committee on the Rights of Persons with Disabilities
CRC	Committee on the Rights of the Child
CRC	Convention on the Rights of the Child
CRC	Convention on the Rights of the Child
DFIs	Development Financing Institutions
DPOs	Disabled Persons Organizations
DSPD	Division for Social Policy and Development/UNDESA
EC	European Commission
G3ICT	Global Initiative for Inclusive ICTs
HIV/AIDS	Human Immunodeficiency virus / Acquired Immunodeficiency Syndrome
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic and Cultural Rights
ICF	International Classification of Function, The World Health Organization
ICT	Information and Communication Technology
ILO	International Labour Organization
ITCILO	International Training Centre of the ILO
IPU	Inter-Parliamentary Union
ITC	Information and Communication Technology
ITU	International Telecommunication Union
MDGs	Millennium Development Goals
MFI	Microfinance institutions
MSPs	Multi-stakeholder Partnerships
NAPs	National Action Plans
NGO	Non-Governmental Organization
NVDA	Non Visual Desktop Access
OHCHR	Office of the High Commissioner for Human Rights
OSISA	Open Society Initiative for Southern Africa

PCM	Project Cycle Management
PRP	Protracted Relief Programme
SABE	Self-Advocates Becoming Empowered
SDGs	Sustainable Development Goals
UDHR	Universal Declaration of Human Rights
UN	United Nations
UN DESA	United Nations Department of Economic and Social Affairs
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations Development Fund
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
VOCA	Voice Output Communication Aids
WHO	World Health Organization



1. OVERVIEW

Access to justice is a fundamental right, as well as a prerequisite for the protection of all other human rights. Norms and standards relating to access to justice for persons with disabilities are set out in a series of binding and non-binding instruments at international and regional levels.

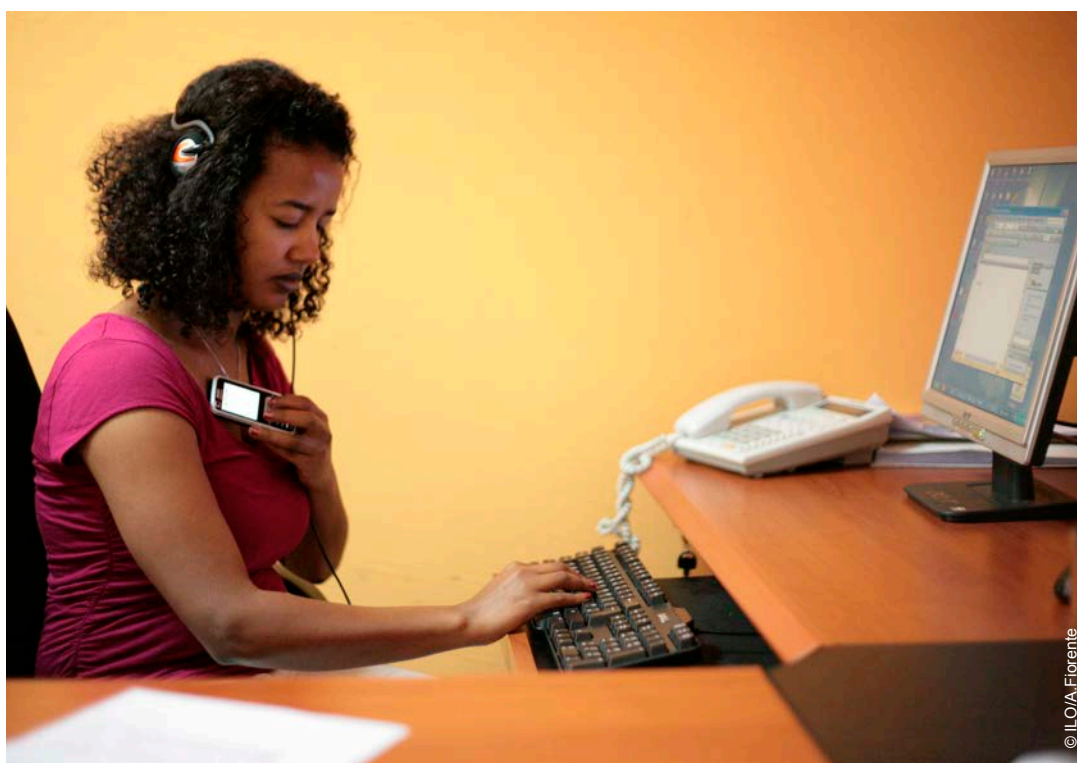
Across Africa, persons with disabilities encounter considerable obstacles in terms of access to justice. The present module explores the barriers faced, and also sets out approaches to overcoming them.

Module objectives

- ▶ To review the relevant provisions of the Convention on the Rights of Persons with Disabilities; to explore the barriers to access to justice frequently faced by persons with disabilities; and to consider steps to overcome them.

Who is this module for?

This module is relevant to everyone who has an interest in disability or a responsibility for addressing issues of access to justice for persons with disabilities because of the nature of their work, including persons with or without disabilities employed in civil society, law enforcement, civil and public service, national human rights institutions, parliaments, development agencies, universities and the private sector.



What is this module about?

The content of this module:

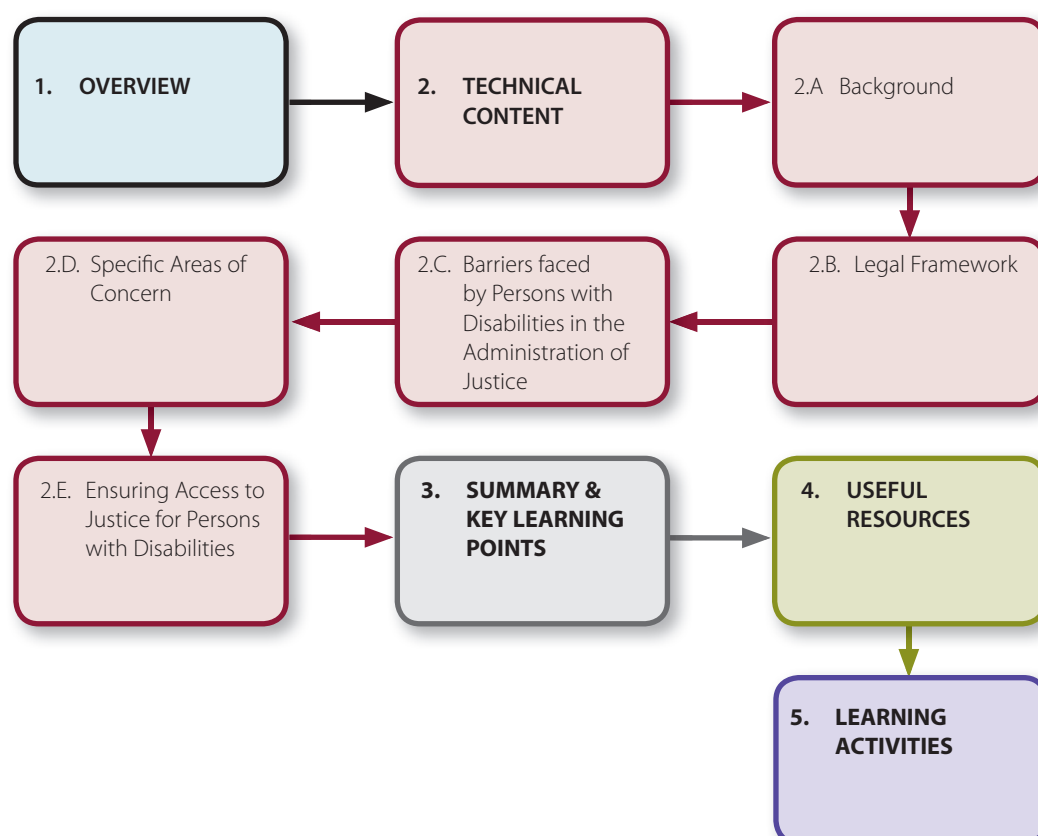
- ▶ explains the importance of equal access to justice for persons with disabilities;
- ▶ reviews the provisions on access to justice in the Convention on the Rights of Persons with Disabilities (CRPD);
- ▶ reviews the many barriers that persons with disabilities experience in accessing justice;
- ▶ identifies actions for overcoming these barriers and enhancing access to justice for persons with disabilities and the role of the police, judges and court systems in that process;
- ▶ includes a learning exercise to accompany the material; *and*
- ▶ lists key resources for additional reference.

Learning objectives

On completion of this module, participants will have:

1. discussed the key provisions of the CRPD in relation to access to justice;
2. considered the multiple barriers to access to justice faced by persons with disabilities;
3. identified approaches to overcoming these barriers;
4. reflected on the special concerns of addressing physical and sexual abuse of women with disabilities.

Module map





2. TECHNICAL CONTENT

2.A Background

The meaning of the term “justice” can vary between countries and cultures. However, the idea of justice is common to all, and generally includes notions of fairness, accountability and equity of outcome.¹ “Access to justice” is a broad concept, encompassing people’s effective access to the formal and informal systems, procedures, information, and locations used in the administration of justice.² The present module focuses largely on formal systems of justice.

People who feel wronged or mistreated in some way usually turn to justice systems – including in relation to civil, administrative and criminal law - for redress.³ Beyond seeking legal protections or remedies, there are numerous ways in which individuals can participate in the justice system, including as witnesses, jurors, lawyers, prosecutors, judges, arbitrators or by taking on other roles such as police or prison staff. In addition one may serve as a defendant in a criminal case.

As will be explored in the present module, across Africa persons with disabilities face considerable obstacles in terms of access to justice. Barriers can be encountered in relation to a country’s normative framework – or national laws – where they do not adequately give effect to the rights of persons with disabilities. Barriers can also be faced in terms of a country’s institutional framework for justice, which includes law enforcement and court systems. With regard to the latter, barriers and impediments are often complex, involving combined forms of inaccessibility, well as other forms of discrimination. The implications of such barriers are significant, as lack of access to justice can compound the disadvantages faced by persons with disabilities, leaving individuals unable to protect their rights and at risk of ongoing abuse, including physical or sexual violence. Equally, justice delayed is justice denied, so timely access to justice is important.

In addition to being a fundamental right in itself, access to justice is also essential in terms of development and poverty reduction,⁴ as well as in the protection and enjoyment of all other rights. For example, “a person with a disability who feels that she or he has been denied the right to work may wish to turn to the justice system to seek a remedy. However, if the justice system fails to accommodate their physical, communication, or other disability-related needs, and/or expressly discriminates against her or him, then clearly denial of access to the justice system also results in denial of protection of the right to work.”⁵ One’s enjoyment of other human rights also impacts on one’s ability to access justice. For example, persons with disabilities who have received a quality education will be better placed to understand their rights and make use of the justice system than those who have been deprived of the right to an education. In this way, as reiterated in other modules of this Toolkit, the human rights of persons with disabilities are indivisible, interdependent, and interconnected.⁶

¹ UNHCR, Action Sheet 10, “Access to Justice,” Available at: <http://unhcr.org/4794b4e12.pdf>

² Janet Lord, et al, Human Rights Yes! Action and Advocacy on the Rights of Persons with Disabilities (2009)

³ Janet Lord, et al, Human Rights Yes! Action and Advocacy on the Rights of Persons with Disabilities (2009)

⁴ Stephanie Ortoleva, Inaccessible Justice: Human Rights, Persons with Disabilities and the Legal System, ILSA Journal of International & Comparative Law, Vol. 17:2 at288, citing to Access to Justice Practice Note, UNDP, Sept. 3, 2004, at 3. www.undp.org/governance/docs/Justice_PN_English.pdf)

⁵ Janet Lord, et al, Human Rights Yes! Action and Advocacy on the Rights of Persons with Disabilities (2009)

⁶ Ibid.

Informal Systems of Justice

The present module focuses largely on formal systems of justice. However, it is important to note that in many countries formal state-administered justice systems coexist with informal systems of justice provision and community dispute resolution. These mechanisms, widely used in rural and poor urban areas worldwide, are also often referred to as “traditional”, “indigenous”, “customary” or “non-state” justice systems.⁷ In some cases the processes used and outcomes produced by such systems have raised concerns regarding their compliance with international norms and standards.⁸ However, in other cases it has been found that informal justice institutions can provide “better access to justice because they may reduce the need for travel if they are conducted in the local area, may cost less, may be less prone to corruption and discrimination and can be conducted by trusted people in a language that everyone understands and in a culturally accessible manner.”⁹ Both formal and informal justice systems must be accessible to and inclusive of persons with disabilities in all contexts.

2.B Legal Framework

The Universal Declaration of Human Rights recognizes that “everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. The right to access to justice is also codified in United Nations core human rights treaties, including the International Covenant on Civil and Political Rights, which provides that persons whose rights or freedoms have been violated are to have an effective remedy, and that “all persons shall be equal before the courts and tribunals.” In the context of criminal proceedings, the ICCPR sets out a range of procedural due process rights. At regional level, the African (Banjul) Charter on Human and Peoples Rights (African Charter) entitles every individual in a ratifying state to have her or his cause heard, and to be tried within a reasonable time by an impartial court or tribunal.

The Convention on the Rights of Persons with Disabilities applies the right to access to justice in the context of disability. Article 13 of the Convention specifically addresses access to justice, directing State parties to ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of specified accommodation, in order to facilitate their effective role as direct and indirect participants (art.13(1)). It further prescribes positive measures to be taken for the fulfilment of the rights of persons with disabilities in relation to justice. For example, State parties are to promote appropriate training for those working in the field of administration of justice, including police and prison staff (art. 13(2)).

⁷ United Nations Rule of Law, Informal Justice, available at: http://www.unrol.org/article.aspx?article_id=30

⁸ United Nations Rule of Law, Informal Justice, available at: http://www.unrol.org/article.aspx?article_id=30

⁹ Study by the Expert Mechanism on the Rights of Indigenous Peoples, “Access to justice in the promotion and protection of the rights of indigenous peoples: restorative justice, indigenous juridical systems and access to justice for indigenous women, children and youth, and persons with disabilities,” A/HRC/27/65, para. 20. Citing to: Tilmann J. Röder, “Informal justice systems: challenges and perspectives,” in *Innovations in Rule of Law: a Compilation of Concise Essays*, Juan Carlos Botero et al., eds. (HiIL and the World Justice Project, 2012); Rachel Sieder and María Teresa Sierra, “Indigenous women’s access to justice in Latin America”, Christian Michelsen Institute Working Paper, No. 2010:2 (Bergen, CMI, 2010). Available from <http://www.cmi.no/publications/publication/?3880=indigenous-womens-access-to-justice-in-latin>.

Article 13 – Access to Justice

Article 13 guarantees the right of persons with disabilities:

- to effective access to justice on an equal basis with others;
- to effective access to justice at all phases of the administration of justice, including at preliminary stages such as initial investigations;
- to be both direct and indirect participants, including being witnesses; and
- to receive procedural and age-appropriate accommodation to ensure their access to justice.

Article 13 requires State parties:

- To provide training to those working in the administration of justice, including police and prison staff, in order to help ensure effective access to justice for persons with disabilities.

Although all provisions of the CRPD are relevant to access to justice, several, beyond Article 13, are of particular importance.

- ▶ Article 5, Equality and Non-Discrimination, requires State parties to recognize that all persons with disabilities are equal before and under the law, and are entitled without any discrimination to equal protection from and equal benefit of the law (art.5(1)). State parties are to further prohibit all discrimination on the basis of disability and guarantee persons with disabilities equal and effective legal protection against discrimination on all grounds.
- ▶ Article 12, Equal Recognition before the Law, requires State parties to recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life, and to take appropriate measures to provide access by persons with disabilities to the support that they may require in exercising their legal capacity.
- ▶ Article 14, Liberty and security of the person, requires State parties to ensure that persons with disabilities are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify deprivation of liberty. The implementation of Article 14 is particularly important because persons with disabilities have been subjected to serious human rights violations while detained or residing in institutions and also because those detained in institutions or isolated in their homes without any contact with the outside world may lack the ability or freedom to pursue legal claims for their own protection.
- ▶ Article 16, Freedom from exploitation, violence and abuse, requires State parties to take all appropriate measures to protect persons with disabilities and directs them to put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.
- ▶ Article 23, Respect for private and family life, requires State parties to take measures to protect the rights of persons with disabilities in relation to marriage, family, parenthood and relationships. With regard to parenthood, States are to take measures to ensure that persons with disabilities retain their fertility on an equal basis with others.

2.C Barriers faced by Persons with Disabilities in the Administration of Justice

In spite of protection afforded under international human rights law, particularly the CRPD, persons with disabilities often continue to face considerable obstacles in terms of access to justice. Barriers and impediments often involve combined forms of inaccessibility and other forms of discrimination. Overarching barriers, which can be compounded for those living in rural areas or in socio-economically disadvantaged situations, or for those facing multiple forms of discrimination, include (1) Legal barriers; (2) Attitudinal barriers; (3) Information and communication barriers; (4) Physical barriers; and (5) Economic barriers. The five categories of barrier are discussed below in turn.

Normative (Legal or Policy) Barriers: Legal barriers to justice for persons with disabilities include instances where the rights of persons with disabilities are not enshrined in law, or where law, policy or practice are contrary to the provisions of the CRPD. Additional barriers may be created where a State's legal framework is confusing or complicated, or where there are overlaps or incompatibilities between national laws and, where they are in use, traditional frameworks.

The Committee on the Rights of Persons with Disabilities

The Committee on the Rights of Persons with Disabilities has expressed concern in instances where the rights of persons with disabilities are not protected in national law or where remedies for violations of rights are not available. For example, in its Concluding Observations in relation to the initial report for Gabon, with regard to Article 5, Equality and Non-Discrimination the Committee noted the absence of: a) explicit prohibition of disability-based discrimination and a lack of legal remedies and sanctions to uphold the right to non-discrimination by persons with disabilities; b) a dedicated mechanism to address cases of discrimination; and c) appropriate labor laws and measures to end discrimination in the work place. The Committee recommended that Gabon undertake the following specific measures to remedy these issues.

- a) Enact disability anti-discrimination law and establish legal remedies sanctions to uphold the prohibition of disability-based discrimination in a cross-cutting way in all rights and areas of life.
- b) Include in legislation the recognition that the denial of reasonable accommodation is a form of discrimination on the basis of disability.
- c) Establish a dedicated mechanism to address cases of discrimination and foster the use of available legal remedies by persons with disabilities facing discrimination and inequality.
- d) Reform labour laws and adopt measures to end discrimination in the workplace.¹⁰

Attitudinal Barriers: Negative attitudes and false beliefs or assumptions on the part of relevant actors, including police, lawyers and judges, may result in persons with disabilities being considered and treated as less credible at all stages of legal processes – including when reporting a crime, in terms of whether one can serve as a witness or in making legal decisions, seeking remedies for alleged violations of their rights, or otherwise participating in legal proceedings.

¹⁰ CRPD/C/GAB/CO/1

Information and Communication Barriers: Persons with disabilities cannot seek remedies for injustices if they do not know what their legal rights are, or how to exercise them under law. In many countries there is limited access to information provided in accessible formats, for example educational materials regarding one's rights or on what constitutes a crime and how to report it, or how to find legal or other services. Lack of accessible information or modes of communication further limits the ability of persons with disabilities to report crimes or their effective participation in legal proceedings.

Physical Barriers: Access to justice for persons with disabilities can be impeded where measures have not been taken to ensure the accessibility of relevant physical environments, including court houses, police stations, and the offices of lawyers and relevant service providers such as victims' advocates and health care facilities where forensic evidence is gathered.

Economic Barriers: Persons with disabilities number disproportionately among the world's poor. A lack of economic resources can directly impact one's access to justice in numerous ways. For example it can affect one's ability to engage and pay for quality legal counsel where it is not provided at no cost; to engage in litigation, which can be expensive and lengthy; or otherwise seek remedies for alleged violations of rights, or to serve as a juror when doing so takes one away from one's gainful employment or pursuit of a livelihood.

See Learning Activity 2.C. titled *Overcoming Barriers to Access to Justice*

The Committee on the Rights of Persons with Disabilities

In its Concluding Observations on the Report on Gabon, the Committee on the Rights of Persons with Disabilities noted its concern "at the lack of accessibility to the justice system, including physical access, legal aid and sign language interpreters in courtrooms, and procedural accommodation." The Committee recommended "that the State party implement physical, informational and communicational accessibility, such as the provision of professional sign language interpreters, Braille and other procedural accommodation, and ensure the training of court staff, judges, police officers and prison staff so as to uphold the rights of persons with disabilities, including the right to a fair trial."¹¹

Country Checkpoint

Look at the text box below and reflect on whether you are aware of such barriers or facilitators in place in your country. Do you know of any means of overcoming the barriers? In the case of facilitators, how can these be built on or expanded to improve access to justice for persons with disabilities?



¹¹ CRPD/C/GAB/CO/1, paras 30-31.

Identifying Barriers and Improving Practice

Examples of Barriers to Access to Justice

- Legislation, regulations, policies or practices expressly barring people with disabilities from being witnesses, jurors, judges or lawyers.
- Attitudes regarding the ability of people with disabilities to participate meaningfully in the administration of justice, for example the belief that people with psycho-social disabilities cannot be reliable witnesses.
- Lack of training for police and other officials to enable them to understand the specific needs of people with disabilities in accessing justice and how to provide the necessary accommodation.
- Lack of accessible information on how the justice system works and what the rights and responsibilities of persons with disabilities are within the justice system.
- Physical barriers to police stations, courthouses, jails, prisons, and other public buildings.
- Lack of accessible transportation to police stations, courthouses, and other public buildings, or to service providers whose work is relevant to the administration of justice, such as health workers that gather forensic evidence.
- Lack of accommodation to facilitate communication by people with disabilities, especially blind, deaf and deaf-blind people, people with intellectual disabilities, and people with learning disabilities.

Facilitators for Reporting and Recording of Crime

- Changes in legislation and policy.
- Providing information and education to persons with disabilities on how the justice system operates and their rights as victims of crime.
- Early identification of persons with disabilities as vulnerable witnesses so that support can be put in place if necessary.
- Disability awareness training for key agencies in the justice system.
- Police officers trained in disability awareness, able to identify disability and recognize when appropriate support needs to be put in place.
- The provision of accessible information for people with disabilities regarding the process of reporting a crime, as well as accessible police premises and communication support such as sign language interpreters in police interviews.
- Creating coordinated access and personalized support for people with disabilities who are victims of crime.
- The presence of an intermediary who can support a person through the reporting and interview process.
- Greater communication between police and service providers such as health and social care agencies whom persons with disabilities engage with, as well as DPOs, and the disability community.
- Availability of specialist victim support services experienced in working with people with disabilities, and who can provide advice and support.

2.D Specific Areas of Concern

The Role of the Police in Access to Justice for Persons with Disabilities

As the first point of contact with the criminal justice system, the police play a very significant role in shaping the way in which alleged offences are handled, and whether cases proceed to trial.

Given their role as gatekeepers to the justice system, the attitudes and dispositions of the police towards persons with disabilities who are victims of crime have a significant bearing on those victims' experiences of seeking legal redress. Police perceptions of people with disabilities, not least their capacity to be reliable reporters and witnesses of crime, have been shown to be key to understanding how incidents of abuse or harassment are handled.

Unfortunately, in many countries police officers lack awareness of disability or of working with victims with disabilities and, indeed, often endorse general stereotypes of persons with disabilities as vulnerable and lacking the capacity to be competent and credible reports of crime and therefore poor witnesses. In addition, many police officers have difficulty distinguishing between different disabilities, most particularly intellectual disability and mental illness, and may not be able to recognize where persons with disabilities require additional support.

Negative experiences with law enforcement and fear that reported crimes will not be taken seriously can contribute to barriers in the reporting of crimes. Such barriers can also include uncertainty on the part of people with disabilities and third parties regarding what constitutes a crime, and when reporting of an incident should take place. Reporting can also be complicated where there exists variability in police policies and practices relating to who handles people with disabilities when they report a crime and where there are no clear recording procedures for crimes relating to persons with disabilities. Persons with disabilities also face challenges when there is a lack of accessible police stations, information and modes of communication. For example deaf people may have difficulty in making contact with the police in an emergency situation.

The Role of Lawyers

Persons with disabilities may face barriers to accessing adequate and quality legal counsel for a variety of reasons. Where legal aid services are not provided at low or no cost, one may lack the economic means to engage a lawyer. Where information is not available in accessible formats, persons with disabilities may not be able to identify or locate a lawyer, or be aware of how a lawyer can be of assistance. Similarly, where accessible and affordable transportation is not available or where a lawyer's office is not accessible, persons with disabilities may be unable to reach or enter their offices.

In some cases lawyers lack training to work with or best serve clients with disabilities and this can affect the quality of service obtained by the client. For example, according to one law firm in South Africa, very little attention is given to training young lawyers on how to provide legal services to people with mental health problems.¹²

¹² Werksman Attorneys, Limited Access to Legal Services for People with Mental Disabilities, available at: http://www.werksmans.com/virt_media/limited-access-to-legal-services-for-people-with-mental-disabilities/

Similarly, lawyers may not be trained on the rights of persons with disabilities. For example, a 2012 report prepared by the Open Society Institute for Southern Africa found that, of nine countries reviewed, “currently... a specialized disability rights law course is being offered in three universities in the region, Midlands State University in Zimbabwe, Eduardo Mondlane Univeristy in Mozambique and Chancellor College in Malawi.”¹³

In addition, persons with disabilities face numerous barriers to education that can impede their ability to become lawyers themselves.

The Role of Service Providers

In navigating justice systems, those who have experienced crime often need services beyond those of law enforcement officers, including services from victim advocates or health care providers. Victim advocates are professionals trained to support victims of crime. They can explain how the justice system works, offer information, emotional support or help in identifying specific sources of support or resources such as support groups, and can even assist in the process of filling out paperwork. In some cases advocates accompany survivors of crime to court and provide counselling. For persons with disabilities, many of the overarching barriers highlighted above can affect their ability to obtain such support. Barriers can include economic barriers where State or other support for such programmes does not exist, as well as barriers where physical environments and facilities are not accessible, where information or communication opportunities are not available in accessible formats, and in cases where victims’ advocates hold negative views on persons with disabilities or lack understanding of how to work with clients with disabilities.

Similar barriers may be faced in relation to hospitals or medical providers that play an important role in not only treating those who have experienced abuse or assault but also in terms of evidence collection, such as sexual assault forensic exams, or in treatment where one has been the victim of physical or sexual assault or abuse.

The Role of Courts in Access to Justice for Persons with Disabilities

Beyond the challenges outlined above, persons with disabilities face legal barriers to their participation in legal proceedings in court, including legislation, regulations, policies, or practices expressly barring persons with disabilities from serving as witnesses or jurors. Participation can also be severely limited by a lack of accessible information or communications – for example where information is not available in accessible formats, examples being sign language provision for people who are deaf; easy-to-read material for persons with cognitive disabilities or large print for persons with low vision; or where assistive technology is not made available. Information and communication barriers can be compounded in instances where persons with disabilities do not speak the dominant language or the language used in proceedings.

Inaccessibility of proceedings may also be experienced where measures have not been taken to ensure the accessibility of relevant physical environments. In the case of courthouses this includes building entrances; courtrooms, including counsel tables and jury¹⁴ and witness boxes; bathrooms; public service offices, such as those used by victim support services or clerks; and holding pens, where criminal defendants may be held while

¹³ OSISA Country Profiles Report: Southern Africa Disability Rights and Law School Project, p.2, available at: http://www.osisa.org/sites/default/files/disability_open_learning_-_country_reports_final.pdf

¹⁴ A jury is a group of individuals selected and sworn to serve as the finders of fact in a civil or criminal trial.

awaiting court appearances. Physical barriers can impede access to justice in instances where the offices of lawyers, service providers and police stations are physically inaccessible.

As noted above, persons with disabilities also face legal barriers to justice in instances where their rights are not protected under domestic law. Courts can, however, play an important role in the interpretation and enforcement of human rights treaty obligations. In most legal systems where the CRPD has been ratified, courts will possess the authority to consider its human rights standards, either because international standards have been expressly incorporated into domestic law and as such are binding, or because courts are able to use international standards as a guide to interpreting domestic law. In some instances international human rights standards may be helpful in filling gaps where domestic law is ambiguous or underdeveloped. This may be especially true in legal systems where disability rights standards are under-developed. An initial challenge with a newly ratified treaty such as the CRPD is for judges to be made aware of its obligations. In many cases neither judges nor lawyers have any background in disability law, which underscores the importance of training judges and lawyers in the rights of persons with disabilities. In many African countries, as in many countries around the world, disability law frameworks are not yet fully developed. Some of the concepts in the CRPD are not yet incorporated into domestic law and policy. It is for this reason that some judges may not be comfortable with rendering decisions on the basis of the CRPD, even if their country has ratified the treaty.

South Africa

The first case to come before the Equality Court in South Africa was a disability discrimination suit. Ms. Esthe Muller, a South African lawyer who uses a wheelchair, filed a complaint under the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 against the Justice Department and the Department of Public Works because of the physical inaccessibility of the courthouses she needed to access in order to perform her job as a lawyer. The only way for her to gain access was to be carried down a flight of stairs. On one occasion, the court had to postpone her case because of courthouse inaccessibility. The Equality Court reached a final settlement according to which the two government departments admitted that they had failed to provide proper wheelchair access and that this constituted unfair discrimination against Ms. Muller and other people with similar accessibility needs.¹⁵

Particular Situation in Relation to Physical and Sexual Violence against Women

Women with disabilities experience higher rates of gender-based violence, sexual abuse, neglect, maltreatment and exploitation than women without disabilities.¹⁶ Violence may be experienced in the home and in other settings, including institutions, and may be perpetrated by care givers, family members or strangers, among others. Violence against women with disabilities can also take the form of forced medical treatment or procedures, including forced sterilization, the incidence of which has been documented in many countries and regions.

¹⁵ See "Equality Court Victory for People with Disabilities." 24 Feb. 2004. South African Human Rights Commission. http://www.sahrc.org.za/sahrc/cms/publish/article_150.shtml;

¹⁶ In his 2006 In-Depth Study on All Forms of Violence against Women, the Secretary-General observed that surveys conducted in Europe, North America and Australia have shown that over half of women with disabilities have experienced physical abuse, compared to one third of non-disabled women. A/61/122/Add.1, para. 152, citing to Human Rights Watch, "Women and girls with disabilities", available at: <http://hrw.org/women/disabled.html>

Significant barriers exist to escaping violence. In some cases States may not have in place laws and practices that adequately protect women from physical or sexual violence. Even where such laws exist, women with disabilities often face obstacles to reporting crimes. These include fear of losing independence or fear of retaliation, lack of access to communications, barriers to mobility and lack of transportation to police stations or other services that could provide assistance, lack of accessible information or education regarding violence, and reliance on a perpetrator for assistance with essential life activities.¹⁷

Survivors of physical or sexual violence may also fear that reporting crimes will not lead to justice. For example, law enforcement officers that doubt the credibility of women with disabilities may take less seriously allegations they make. Women with psychosocial disabilities may face efforts to discredit their testimony on the grounds of their disability. The failure of courts to treat persons with disabilities as competent witnesses, discussed above, can be especially damaging to survivors of physical or sexual abuse, as the complaining witness in such cases often holds evidence that is critical to securing a conviction.¹⁸

The Afrika Tikkun Empowerment Programme for Families of People with Disabilities

“An interesting case study in this regard is the work of the Afrika Tikkun Empowerment Programme for Families of People with Disabilities. Their experience in Orange Farm, an informal settlement South of Johannesburg, was that police personnel were not comfortable with opening cases of sexual abuse or assault where the complainants had mental impairments. This, despite the fact that this is an area with a very high incidence rate of this type of abuse and the resultant increased vulnerability of these victims. In response, Afrika Tikkun organised a march to the Orange Farm SAPS and handed over a memorandum, explaining how people with disabilities have the right to report crimes and to access police services. As a result, there is heightened awareness of this issue and a slight improvement in the response of the SAPS when these types of incidents are reported.”

Source: Werksman Attorneys, Limited Access to Legal Services for People with Mental Disabilities, available at: http://www.werksmans.com/virt_media/limited-access-to-legal-services-for-people-with-mental-disabilities/

See Learning Activity 2.D. titled *Physical and Sexual Violence against Women*

Treatment of Persons with Disabilities in Detention

The United Nations Office of Drugs and Crime has found that “the difficulties people with disabilities face in society are magnified in prisons” and has detailed many shortcomings in the treatment of prisoners with disabilities.¹⁹ Many of these relate to the overarching barriers identified above. For example laws and policies may fail to protect the rights and wellbeing of prisoners with disabilities. Staff and other inmates may have negative

¹⁷ For more information on violence against women with disabilities, see A/HRC/20/5, Thematic study of the Office of the High Commission for Human Rights on the issue of violence against women and girls and disability.

¹⁸ Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Rashida Manjoo, A/67/227, para. 41

¹⁹ UNODC, Handbook on Prisoners with Special Needs, https://www.unodc.org/pdf/criminal_justice/Handbook_on_Prisoners_with_Special_Needs.pdf



attitudes to persons with disabilities, resulting in prejudicial treatment. Correctional staff frequently also lack training in terms of the needs and rights of prisoners with disabilities. Facilities are often inaccessible, limiting the mobility of those in detention as well as their use of basic services such as sanitary services or services for the incarcerated such as recreation spaces or libraries. Detention centres may also lack accessible transport. The African Prisoners Project reports, for example, that because the Oyam Main Prison in Uganda lacked accessible transportation, a prisoner who used a wheelchair had to be carried to court on the back of a peer each time he needed to make an appearance.²⁰

In addition, prisoners with disabilities are in some cases targeted for abuse and violence, not only by other prisoners but also by prison staff. For example Human Rights Watch has found that in Uganda prisoners with mental disabilities are in some cases targeted for beatings.²¹

Access to Justice and Family Law

Persons with disabilities and parents of children with disabilities often face challenges in accessing justice in relation to marriage, family and parenthood. In some cases, there are legal barriers in the form of laws which, for example, do not allow persons with disabilities to marry. In its Concluding Observations, the Committee on the Rights of Persons with Disabilities, for example, expressed concern that Gabon's Civil Code restricted persons with psychosocial disabilities from marrying on an equal basis with others,²² and that Kenya's Marriage Act prevents persons with intellectual and psychosocial disabilities from marrying.²³

While little data exists in Africa on women with disabilities, information from other regions indicates that women with disabilities are often at increased risk of having their children removed because of their disability.²⁴ Contributory factors may include assumptions by child protection authorities regarding the competence of mothers with disabilities; lack of support for parents with disabilities (as called for in article 23 of the CRPD); and lack of access to adequate legal representation and assistance in judicial proceedings. A lack of support can also affect the parental rights of parents of children with disabilities and can harm the ability of parents to raise their children within the family home. The CRPD Committee has also issued Concluding Observations regarding State parties from Africa in this regard. For example in the case of Kenya the Committee recommended that steps be taken to "increase information and support to families of children with disabilities to ensure they can be raised within the family home..."²⁵ In the case of Gabon, the Committee recommended that support be provided to parents with disabilities to enable them to exercise their full parental rights; and that adequate resources be allocated for strengthening services for children with disabilities, for supporting their families and for training professionals in the field."²⁶

²⁰ African Prisons Project, *The Wheels of Justice*, available at: www.africanprisons.org/wheels-justice-healthcare/

²¹ See: <https://www.hrw.org/report/2011/07/14/even-dead-bodies-must-work/health-hard-labor-and-abuse-ugandan-prisons>

²² CRPD Committee Concluding on Gabon CRPD/C/GAB/CO/1, para. 50.

²³ CRPD/C/KEN/CO/1, paras. 40-41.

²⁴ See, for example, National Council on Disabilities (United States), *Rocking the Cradle: Ensuring the Rights of Parents with Disabilities and their Children* (2012), available at: <https://www.ncd.gov/publications/2012/Sep272012>

²⁵ CRPD/C/KEN/CO/1, para. 42(a)

²⁶ CRPD Committee Concluding on Gabon CRPD/C/GAB/CO/1, para.51

2.E Ensuring Access to Justice for Persons with Disabilities

This module has reviewed a broad range of barriers facing persons with disabilities in relation to access to justice. Overcoming these barriers will require a holistic and integrated approach and will require challenges to the discrimination faced by persons with disabilities in the administration of justice.

In initiating action to ensure access to justice for persons with disabilities, initial steps, all of which should be undertaken in consultation and cooperation with persons with disabilities, can include a comprehensive scoping exercise to understand particular barriers to justice faced by persons with disabilities in the specific national context. Based on the findings of this scoping exercise government officials, working with DPOs and other stakeholders, may develop a comprehensive plan of action to overcome the identified barriers to justice faced by persons with disabilities. Possible actions for overcoming barriers addressed in the present module are set out below.

Overcoming Legal Barriers

In seeking to overcome legal barriers, a starting place can be the carrying out of comprehensive reviews of the legislative framework, to identify legal barriers posed inter alia by discriminatory legislation, regulations, policies or practices. Scoping should both include a review of the extent to which the rights of persons with disabilities, as enshrined in the CRPD, are protected under national law, as well as of provisions relating specifically to participation in the justice system. These include instances where these expressly bar persons with disabilities from being witnesses, jurors, judges, or lawyers, or where limits are placed on legal capacity in ways that strip individuals of their legal recognition before the law. In addition, analysis of civil and criminal law and court procedure is relevant to assessing the variety of barriers that may exist for persons with disabilities within civil and criminal court processes.

Where legal barriers are found to exist laws and policies should be amended, as indicated in Article 4, General Obligations, of the CRPD, in order to create enabling disability law and policy frameworks: for example, ensuring that non-discrimination applies to persons with disabilities, ensuring that reasonable accommodation is a required element of non-discrimination and inclusion of DPOs in law and policy development.

Once laws and policies have been brought into line with the CRPD, it is important that the disability community, national human rights institutions and government bodies (e.g., ministries of justice, national judicial training institutes, electoral commissions, and law reform commissions) engage in training on the content and interpretation of disability rights standards.

Overcoming Attitudinal Barriers and Improving Capacity of Legal Professionals

The attitudes, knowledge and awareness of police officers, lawyers, judges, staff of correctional facilities, and other professionals in the justice system on how to accommodate persons with disabilities effectively and make the processes accessible and inclusive are extremely important. There is a huge need for disability awareness training and capacity-building among all law enforcement and justice sector personnel.

Approaches to training may entail the following:

- ▶ Including disability components, including the role of the justice sector in implementing relevant international standards, such as the CRPD, in programmes designed to strengthen justice sector institutions.

- ▶ Ensuring that regular training of police, prosecutors and prison officials includes a disability component and covers accessible communications and reasonable accommodations for persons with disabilities in the criminal justice context. Law enforcement officers should receive adequate and sufficiently in-depth training on the needs and rights of persons with disabilities to enable them to respond effectively to crimes involving persons with disabilities, including crimes of sexual violence.
- ▶ Improving the investigative capacity of police /or prosecutors through disability awareness training. Training should also be provided on cultural competence, to allow officers to work effectively with persons with disabilities across different cultures - for example, indigenous persons with disabilities.
- ▶ Including persons with disabilities and DPOs in community programmes on crime prevention and in community policing.
- ▶ Providing training to strengthen the skills of attorneys interested in litigating in disability cases and building a network of appropriately-trained attorneys.

Training programmes should be devised in collaboration with persons with disabilities and their representative organizations.

One strategy for addressing attitudinal barriers is working to increase the full participation and inclusion in the legal profession of persons with disabilities. This may well require the removal of discriminatory policies and practices in the admissions process for law school, paralegal training and related training so that persons with disabilities can enter and participate in the legal profession. In addition, reasonable appropriate accommodation must be provided for persons with disabilities in training for legal profession jobs. This requires, for example, that disability accommodation services are offered at law schools and universities more generally. Other strategies include coverage of disability law in judicial professional development and continuing legal education sessions. Including disability law as a component of legal education and continuing professional development will raise the general level of awareness of disability law and the accommodation of persons with disabilities in accessing justice.

As noted throughout the present toolkit, there is also a need for community-level awareness-raising on disability and for empowerment of communities to support their members, including persons with disabilities, in obtaining access to justice; this includes for example ensuring that persons with disabilities enjoy equal access to legal aid services and legal literacy programmes, implementation of campaigns against stigma and stereotyping, and provision of human rights training for key service providers.²⁷

The Committee on the Rights of Persons with Disabilities

In its Concluding Observations on the Initial Report of Mauritius, the CRPD Committee recommended that "...that personnel in the justice and prison system are properly trained on the application of human rights standards specifically for persons with disabilities."²⁷

Overcoming Information and Communication Barriers

Capacity development regarding disability for those involved in the administration of justice should include a focus on accessible communications and information; and a national scoping exercise on access to justice for persons with disabilities should consider the extent to which informational and communications barriers may exist at different

²⁷ CRPD/C/MUS/CO/1, para. 24.

stages of legal processes. In consultation and cooperation with persons with disabilities, governments should consider developing a comprehensive disability access plan that covers communications with persons with disabilities in ways that are accessible to them, for example, sign language interpreters, Braille, and others.

Overcoming Physical Barriers

In order to ensure physical access to justice sector facilities, police stations, courthouses and prisons must be accessible to persons with disabilities. DPOs should be consulted and provide input on accessibility measures prior to any new construction or renovation of such facilities. Furthermore, accessibility audits conducted in collaboration with DPOs should be performed on all existing infrastructure with the goal of developing low-cost strategies to ensure physical accessibility to justice sector facilities including courthouses and police stations.

Overcoming Economic Barriers

The recommended scoping exercise should include an analysis of economic barriers to access to justice faced by persons with disabilities. The nature of such barriers may vary from country to country. However, in seeking to overcome economic obstacles the critical role of legal aid should be considered, as well as the availability of transportation and necessary support or medical services. Budgeting may also be necessary for appropriate accommodation for individuals requiring assistance, for instance to fund sign language interpreters, screen readers, etc.



Country Checkpoint

Look at the text box below, titled “Court Accessibility Measures,” and reflect on whether or not any of the good practice tips would work in your country.

The Committee on the Rights of Persons with Disabilities

Participatory Trainings on Justice Sector Access – Create participatory, active learning training courses aimed at increasing the knowledge and capacity of key officials and personnel (judges and court personnel including public information officers) in line with international standards, best practice, and practical strategies. Draw on the expertise of persons with disabilities and DPOs in training programmes and cover: (1) international standards on access to justice, including CRPD obligations; (2) strategies for improving access to court facilities (inside and outside), programmes, and services; (3) best practices for ensuring access to public information facilities (e.g., public information desks and comment boxes); (4) procedures for informing court users about requests for accommodation procedures; (5) providing materials in accessible formats, including web accessibility for persons with visual impairments; (6) developing emergency evacuation plans for persons with disabilities; (7) coordinating periodic accessibility self-evaluations; and (8) interpersonal communication and strategies for ensuring effective and respectful communication for persons with disabilities.

Creating Innovative and User-Friendly Resources to Build Disability Access Knowledge and Sensitivity – Create resources designed to build knowledge on accessibility in the context of court services, procedures and facilities including: (1) Court Accessibility Handbook & Companion Bench Cards addressing the accessibility of court house elements and spaces, including those that are unique to judicial facilities and information on accommodating individuals with disabilities in various roles (witness, juror, lawyer etc), (2) Module on Court System Accessibility for inclusion in Continuing Judicial Education curriculum; and (3) public information leaflets.



3. SUMMARY & KEY LEARNING POINTS










Access to justice is a fundamental right, as well as a prerequisite for the protection of all other human rights. The CRPD interprets the right to access to justice in the context of disability, directing State parties to ensure effective access to justice for persons with disabilities on an equal basis with others and prescribing positive measures to be taken for the fulfillment of rights in this regard.

The present module highlighted a variety of overarching obstacles faced by persons with disabilities, as well as specific areas of concern, in relation to access to justice and also set out approaches to overcoming them.

You are encouraged to do additional reading as indicated in the following list of useful resources on access to justice for persons with disabilities.



4. USEFUL RESOURCES

-  Access to Justice: Practice Note, United Nations Development Programme (Sept. 3, 2004), at 3, http://www.undp.org/governance/docs/Justice_PN_English.pdf
-  United Nations, Office of the High Commissioner for Human Rights, CPR General Comment No. 13: Article 14 (Administration of Justice) Equality Before the Courts and the Right to a Fair and Public Hearing by an Independent Court Established by Law, (Apr. 13, 1984), available at <http://www.unhcr.ch/tbs/doc.nsf/0/bb722416a295f264c12563ed0049dfbd?Opendocument>
-  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).
-  United Nations Office of Drugs and Crime, Handbook on Prisoners with Special Needs, at 80–81 (Criminal Justice Handbook Series 2009), available at <http://www.unodc.org/documents/justice-and-prison-reform/Prisoners-with-special-needs.pdf>
-  Americans with Disabilities Act-Architectural Barrier Act (ADA-ABA), Accessibility Guidelines for Buildings and Facilities (as amended 2004): <http://www.access-board.gov/ada-aba/final.cfm#rooms>
-  David McChesney, Promoting Disability Accommodation in Legal Education and Training (Reach Canada, 2003): <http://www.reach.ca/lepof/table.htm>
-  Stephanie Ortoleva, “Inaccessible Justice: Human Rights, Persons with Disabilities and the Legal System,” 17 ILSA Journal of International and Comparative Law, 281 (Spring 2011), <http://sites.google.com/site/womenenabled/access-to-justice>
-  Washington State Access to Justice Board, Ensuring Equal Access for Persons with Disabilities: A Guide to Washington Administrative Proceedings (2006), http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Access-to-Justice-Board/ATJ-Committees/~/_media/Files/Legal%20Community/Committees_Boards_Panels/ATJ%20Board/EnsuringAccessGuideBook.ashx
-  Faisal Bhabha, Disability Equality Rights in South Africa: Concepts, Interpretation and the Transformation Potential, 25 South African J. Human Rights 218 (2009).



5. LEARNING ACTIVITIES

Session Sheet for the Trainer – Access to Justice for Persons with Disabilities, Session 1

Technical Content 2.C.: Barriers faced by Persons with Disabilities in the Administration of Justice

Learning Activity 2.C.; Overcoming Barriers to Access to Justice

Handout: Scenarios: Access to Justice









Session Sheet for the Trainer – Access to Justice for Persons with Disabilities, Session 2

Technical Content 2.D: Specific Areas of Concern

Learning Activity 2.D.((a) and (b)): Physical and Sexual Violence against Women

Video: Deaf and Disabled Abuse: https://youtu.be/dosHBJzM_Qc

Session Sheet for the Trainer – Access to Justice for Persons with Disabilities, Session 1

	Key Messages	See the summary and key learning points. The goal of both mainstreaming and targeted efforts is the same: to achieve the rights and inclusion of persons with disabilities in all aspects of development.
	Objectives	By the end of this session, participants will have: - Considered the multiple barriers to access to justice faced by persons with disabilities. - Identified approaches to overcoming these barriers.
	Room Arrangement	Tables for small group work with 4-6 people. White boards with pins, paper and cards.
	Activity	30 mins – Plenary discussion about “what do we mean by access to justice” with examples. 30 mins – Small group work around LA 2.C. 30 mins – Plenary feedback, discussion, and summary.
	Duration	90 minutes
	Notes for a Training Team	Open the plenary session by asking participants how they define access to justice. If they miss any of the ideas in the module, bring them into the discussion.
	Task Sheets	Learning Activity 2.C.: Overcoming Barriers to Access to Justice
	Handouts	Handout: Scenarios: Access to Justice

Learning Activity 2.C: Overcoming Barriers to Access to Justice



Objective: To consider the multiple barriers to access to justice faced by persons with disabilities and to identify approaches to overcoming these barriers.

Step 1

In your groups, read the Access to Justice Scenarios and discuss each in turn. Answer the following questions:

- ▶ What factors are working to prevent equal access and accommodation in the scenario?
- ▶ What are the accessibility barriers, or potential barriers, at issue?
- ▶ What specific solutions are needed to provide reasonable accommodation and general accessibility?
- ▶ What resources do these solutions require?
- ▶ What kind of training would judges, court personnel, lawyers and others in the justice system require to ensure that they can improve access to justice?

Step 2

Select one example and prepare a flipchart summary of your discussion to feed back to plenary.

You have 30 minutes to complete Step 1, and a maximum of 5 minutes to present your own example.





Handout: Scenarios: Access to Justice

Scenario 1

Malika comes to the legal assistance bureau at the local court house for assistance. She was unable to register to vote at her local voter registration centre on the basis that she has a cognitive disability. She was told that she need not vote as she would not understand how to vote. She believes that she has the right to vote and wishes to file a complaint with the election commissioner and any other relevant official.

Scenario 2

Mohammad receives a notice that he must report for jury duty in his local community. He shows up at the courthouse on the assigned day. He is a wheelchair user and does not see an accessible route into the building. He asks a guard for assistance and is told that there is no accessible entry way but that it is okay since persons with disabilities do not need to serve as jurors. Mohammad is disappointed as he wanted to perform his duty as others in his family have done. He also thinks that the court house should provide access to wheelchair users and that others are also likely to be accommodated if physical access is improved.









Scenario 3

An international donor has agreed to fund a large-scale court administration reform project requested by the Ministry of Justice. The project will train judges, renovate numerous courthouses around the country, reform court procedures and run a public information campaign to enhance access to justice for all. Desmond is the head of a local DPO. He is concerned that the court administration reform project may not incorporate disability access into the work. He visits the Ministry to advise them on how to ensure that the project will benefit persons with disabilities.

Scenario 4

Lisa is deaf and attends the local deaf school. While visiting her aunt in another town, she witnesses a bag of rice being stolen from a local restaurant. She goes to the local police station to report the incident. She is told that because she is deaf, they cannot take her witness statement. She offers to write her statement down and is then told that no judge would allow her to be a witness in a court because she is deaf, so there is no point in writing it down.

Session Sheet for the Trainer – Access to Justice for Persons with Disabilities, Session 2

	Key Messages	See the summary and key learning points.
	Objectives	By the end of this session, participants will have: - Reflected on the special concerns of addressing physical and sexual abuse of women with disabilities.
	Room Arrangement	Video set-up including speakers, projector, computer. Tables for small group work with 4-6 people. White boards with pins, paper, and cards.
	Activity	15 mins – View short video in plenary, with reflections and discussion. 45 mins – Group work around LA 2.D. 30 mins – Feedback and summary.
	Duration	90 minutes
	Notes for a Training Team	It is suggested that you use this link to open the plenary discussion: https://youtu.be/dosHBjzM_Qc . If you are unable to access the internet, start the conversation by providing facts about sexual abuse and violence of people with disabilities and share thoughts and reflections in plenary. There are two task sheets for this activity, the first (a) addresses physical and sexual violence by caregivers/family. The second (b) addresses enforced medical interventions. You can divide (a) and (b) between the groups and exchange learning during feedback and summary.
	Task Sheets	Learning Activity 2.D.: Physical and Sexual Violence against Women ((a) and (b)).
	Handouts	N/A



Learning Activity 2.D (a): Physical and Sexual Violence against Women

Objective: To reflect on the special concerns of addressing physical and sexual abuse of women with disabilities.

Women with disabilities experience higher rates of gender-based violence, sexual abuse, neglect, maltreatment and exploitation than women without disabilities.¹ Violence may be experienced in the home or in other settings, including institutions, and may be perpetrated by caregivers, family members or strangers, among others. Violence against women with disabilities can also take the form of forced medical treatment or procedures, including forced sterilization, the incidence of which has been documented in many countries and regions.

Significant barriers exist to escaping violence. In some cases States may not have in place laws and practices that adequately protect women from physical or sexual violence. Even where such laws exist, women with disabilities often face obstacles to reporting crimes. These include fear of losing independence or fear of retaliation; lack of access to communications; barriers to mobility and lack of transportation to police stations or other services that could provide assistance; lack of accessible information or education regarding violence; and reliance upon a perpetrator for assistance with essential life activities.

Part 1

In your country/countries, are statistics available regarding physical and sexual violence against people with disabilities? Have any cases been highlighted at national level and what is the general attitude to the issue?

Part 2

In your group discuss and develop a plan for how to protect women with disabilities from physical and sexual violence perpetrated by caregivers or family members. You will need to consider not only the possible general barriers to justice but also additional barriers such as fear of reporting and attitudes to sexual crimes.

The following questions might help you target your plan:

- ▶ What would be the overall aim of your plan?
- ▶ Which targets or stakeholders should be involved?
- ▶ Which specific barriers would you most want to reduce or eliminate?

¹ In his 2006 *In-Depth Study on All Forms of Violence against Women*, the Secretary-General observed that surveys conducted in Europe, North America and Australia have shown that over half of women with disabilities have experienced physical abuse, compared to one third of non-disabled women. A/61/122/Add.1, para. 152, citing to Human Rights Watch, "Women and girls with disabilities", available at: <http://hrw.org/women/disabled.html>



Learning Activity 2.D (b): Physical and Sexual Violence against Women

Objective: To reflect on the special concerns of addressing physical and sexual abuse of women with disabilities.

Women with disabilities experience higher rates of gender-based violence, sexual abuse, neglect, maltreatment and exploitation than women without disabilities. Violence may be experienced in the home or in other settings, including institutions,² and may be perpetrated by caregivers, family members or strangers, among others. Violence against women with disabilities can also take the form of forced medical treatment or procedures, including forced sterilization, the incidence of which has been documented in many countries and regions.

Significant barriers exist to escaping violence. In some cases, States may not have in place laws and practices that adequately protect women from physical or sexual violence. Even where such laws exist, women with disabilities often face obstacles to reporting crimes. These include fear of losing independence or fear of retaliation; lack of access to communications; barriers to mobility and lack of transportation to police stations or other services that could provide assistance; lack of accessible information or education regarding violence; and reliance upon a perpetrator for assistance with essential life activities.

Part 1

In your country/countries has the issue of enforced medical treatment been discussed at a national level? What is the general attitude to this subject?

Part 2

In your group, discuss and develop a plan for how to protect women with disabilities from forms of forced medical treatment or procedures, including forced sterilization.

The following questions might help you target your plan:

- ▶ What kinds of enforced medical treatments would you want to address?
- ▶ What would be the overall aim of your plan?
- ▶ Which targets or stakeholders would be involved?

² In his 2006 *In-Depth Study on All Forms of Violence against Women*, the Secretary-General observed that surveys conducted in Europe, North America and Australia have shown that over half of women with disabilities have experienced physical abuse, compared to one third of non-disabled women. A/61/122/Add.1, para. 152, citing to Human Rights Watch, "Women and girls with disabilities", available at: <http://hrw.org/women/disabled.html>



A large area with horizontal lines for writing, intended for a 15-minute reflection period.

You have 15 minutes to complete Part 1, and a further 30 minutes to complete Part 2. Your presentation back to plenary should not take longer than 5 minutes.



