



Using the human rights framework to promote the rights of children with disabilities: Discussion Paper

An analysis of the synergies between CRC, CRPD and CEDAW



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Abstract

This paper provides an analysis of the synergies of three human rights treaties from the perspective of the rights of children with disabilities: the *Convention on the Rights of the Child*, the *Convention of the Rights of Persons with Disabilities* and the *Convention on the Elimination of All Forms of Discrimination against Women*. It has been developed to encourage understanding of how the three treaties mutually reinforce each other, and can be used to strengthen advocacy in respect of children with disabilities.

Cover Photo: Indonesia, 2009

Ainul Mardiah, a mother who has a physical disability, waits with her 18-month-old daughter Zaidah at an integrated community health and development centre in the village of le Masen in Banda Aceh, capital of Aceh Province on Sumatra Island. They are visiting for Zaidah's routine monthly check-up. The centre was built through a UNICEF-supported 'Posyandu Plus' project to restore and improve child and maternal health services in the tsunami – and conflict-affected region. The centre is 1 of 132 UNICEF-assisted facilities in the region, serving more than 1.35 million children under age five and 510,000 women.

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This paper has been prepared on behalf of UNICEF by Gerison Lansdown with invaluable background information and inputs from Dr Raymond Lang of Leonard Cheshire Disability, UNICEF contributors include Nicola Brandt, Gopal Mitra and Amy Farkas.

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Introduction

The Convention on the Rights of Persons with Disabilities was the first human rights convention of the 21st Century. Drafted 17 years after the Convention on the Rights of the Child, and 27 years after the Convention on Elimination of Discrimination against Women, it brings a more progressive interpretation of principles and approaches to human rights and adds to the overall human rights discourse and understanding, not only in the field of disability. This is a fundamental contribution that has to be taken into consideration in our work for children in general.

Persons with disabilities represent an estimated 15% of the world's population. Estimates from the World Report on Disability suggest that there are around 93 million children under the age of 14 living with a moderate or severe disability. This figure is speculative. The real figure could be much higher. They face discrimination in every aspect of their lives. It arises not from the intrinsic nature of their disability, but rather from entrenched social exclusion resulting from rejection of difference, poverty, social isolation, prejudice, ignorance and lack of services and support. The effects of such exclusion are profound. Approximately 426 million people with disabilities in developing countries live below the poverty line and are often among the 15 to 20% most vulnerable and marginalized poor in such countries. The World Bank has estimated that people with disabilities may account for as many as one in five of the world's poorest people.¹ Indeed, a recent review of 50 countries found that people with disabilities often lag well behind national averages of progress on Millennium Development Goals targets, and that the denial of human rights, exclusion, discrimination and a lack of accountability are barriers to the pursuit of human development.² The cumulative impact serves to deny children with disabilities respect for their dignity, their individuality, even their right to life itself. This social exclusion is even more acute for girls. They face a double jeopardy. Not only are they marginalised by their disability, but their status as girls compounds the discrimination they encounter, commonly leading to even greater violation of their rights, including disproportionate vulnerability to violence and abuse and fewer opportunities for participation, education, play, or health care.³

Discrimination against people with disabilities has existed



Azerbaijan, 2011
A girl and a boy play with interlocking blocks in a boarding school for children with disabilities, in the southern coastal city of Lenkaran. The girl is deaf and also has a learning disability. The boy, 8-year-old Amal Jabbarov, has a physical disability. Most of the students live at the school.

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in every community throughout history, and persists today. But it is not inevitable. Powerful and effective advocacy by disabled people's organisations (DPOs) over the past 30 years has led to emergent recognition of the need to move from an approach largely rooted in terms of medical and rehabilitative needs (the 'medical model'), towards a reframing of disability in terms of human rights, focused on equity, non-discrimination and social inclusion (the social model). Equity represents the fundamental starting point. It demands that all children have an equal opportunity to survive, develop and reach their full potential without discrimination, bias or favouritism. Realising that goal for children with disabilities requires an awareness of the barriers that impede the realisation of their rights in order that they are able to achieve equal access as all other children to education, health care, sanitation, clean water, protection and other services necessary for their survival, growth and development. It also requires a commitment to mainstreaming disability

as an integral part of relevant strategies for sustainable development. Inclusive development is founded in a human rights-based approach emphasizing normativity, accountability, non-discrimination and equality, and the principle of participatory decision-making processes and transparency. This translation of needs into rights and the associated obligations on the part of States to ensure their realisation establishes a powerful framework for challenging the social exclusion of and discrimination against all children with disabilities.

This paper sets out to examine the synergies between three key treaties of relevance to the rights of children with disabilities: the Convention on the Rights of the Child (1989), the Convention on the Rights of Persons with Disabilities (2006) and the Convention on the Elimination of all Forms of Discrimination against Women (1979). They each dovetail, reinforce, and elaborate the others, and contribute towards the goals of equality and inclusive development. Their inter-related nature was acknowledged in the Secretary General's Status Report and Omnibus Resolution on children with disabilities, adopted by the UN General Assembly in 2011.⁴ Together they embody four core values of human rights law that are of particular importance in the context of disability.⁵

- the dignity of each individual, who is deemed to be of inestimable value because of his/her inherent self worth, and not because s/he is economically or otherwise 'useful';
- the concept of autonomy or self-determination, which is based on the presumption of a capacity for self-directed action and behaviour, and requires that the person be placed at the centre of all decisions affecting him/her;
- the inherent equality of all regardless of difference;
- the ethic of solidarity, which requires society to sustain the freedom of the person with appropriate social support.

It is intended that this analysis will strengthen awareness and understanding of how the synergy between these Conventions can be used to facilitate more effective advocacy, legislative and policy development, and accountability to promote the rights of children with disabilities.



Zambia, 2011
John Kalombo sits with his daughter Odelia Chemba at home in Kantaramba village in Kaputa district in Zambia's Northern Province. The family benefits from the social cash transfer programme for their 8 year old daughter, Odelia Chemba, who has a disability. Before she was enrolled in the transfer programme, Lemba says "Life was difficult, we never had three meals a day".

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Overview of the three Conventions

All three Conventions start from a recognition that women, children and people with disabilities, respectively, experience significant violations of their rights as a consequence of their status in society. Accordingly, they each serve both to affirm those human rights, and to elaborate the measures that States parties are required to introduce to ensure their realisation. They also establish mechanisms that serve to hold States accountable for the commitments they have undertaken. In order to monitor progress to that end, each Convention establishes a Committee, whose members are elected by States parties to that Convention, and charged with the responsibility of ensuring that it is implemented by signatory states. All States parties are required to submit a progress report to the Committee two years after ratification, and every four subsequent years, (five in the case of the Convention on the Rights of the Child). The Committees examine these reports and provide Concluding Observations, setting out their recommendations as to the actions States parties need to take to strengthen implementation of all the rights embodied in the relevant Convention. In addition, all three Conventions now have an Optional Protocol which enables individual or groups of people to make appeals to the relevant Committee against abuses of their rights, if all national efforts to obtain redress have been exhausted.

1 The Convention on the Rights of the Child (CRC)

The Convention on the Rights of the Child (CRC) comprising 54 Articles, was adopted by the UN General Assembly in 1989, and came into force in November, 1990. Prior to its adoption, there was no legally binding international treaty addressing the specific situation of children. The CRC rapidly achieved near universal ratification, the only member states of the UN having now failed to do so being the USA and Somalia. The CRC is a holistic treaty which embodies social, economic, cultural and protection rights, as well as civil and political rights. It serves to affirm that children, like adults, are subjects of rights, but that in light of their youth and consequent greater vulnerability, they are entitled to additional levels of protection. It represents a radical transition from an approach that constructs children as recipients of adult protection and welfare to recognition that they are rights-holders, entitled to exercise their rights and to active

participation in matters that affect them in accordance with their age and maturity. All its provisions apply on an equal basis to children with disabilities, but it also embodies specific provisions that are of particular relevance.

Two articles, in particular, render children with disabilities visible and place explicit obligations on States to introduce measures to promote inclusion and freedom from discrimination.

- **Article 2** states that no child should encounter discrimination on the grounds of 'race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, **disability**, birth or other status' (author's highlight). The CRC was the first human rights treaty to include disability as a ground for protection from discrimination. It therefore broke new ground, establishing the right to protection, and imposing obligations on States to take all necessary measures to ensure that protection for all children with disabilities.
- **Article 23** is a provision dedicated to children with disabilities and emphasises their right to a 'full and decent life in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community'. It imposes obligations on States to provide special care and assistance to enable the child to achieve the 'fullest possible social integration and individual development, including his or her spiritual or cultural development'.

Drafted during the 1980s, Article 23 does reflect the earlier thinking of disability as a problem located within the individual, needing targeted or special services, rather than the current understanding which locates the multiple barriers in society as the disabling factors impeding the realisation of rights. Nevertheless, not only does the CRC explicitly place the issue of both children and disability in the arena of international human rights law, but it does so in the context of a comprehensive treaty spanning the full range of human rights.

The Committee on the Rights of the Child, the international monitoring body, has produced guidance to States parties regarding the form and content of the periodic reports they are required to submit on progress towards



Uganda, 2012

Children perform at the Day of the African child (DAC) 2012 national celebrations held at Crested Crane Hotel, Jinja, 16 June 2012. This year's DAC theme was 'The Rights of Children with Disabilities: The Duty to Protect, Respect, Promote and Fulfill'.

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implementation. This guidance groups the articles of the CRC into clusters:⁶

- *General measures of implementation*: delineation of actions that states are legally required to take to enforce the principles and obligations of the Convention;
- *Definition of the child*: everyone under the age of 18;
- *General principles*: non-discrimination, best interests, survival and development, participation;
- *Civil rights and freedoms*: name and nationality, identity, freedom of expression, thought conscience and religion and association, privacy, access to information, freedom from torture;
- *Family environment and alternative care*: parental responsibilities, support for parents, non-separation, alternative care and adoption, abuse and neglect;
- *Basic health and welfare*: health and health services, children with disabilities survival and development, standard of living and social security;
- *Education, leisure and cultural activities*: aims and provision of education, play, recreation, cultural life;
- *Special protection measures*: children in emergencies, in conflict with the law, in situations of exploitation.

The position of Article 23 in a cluster on health and welfare, together with the emphasis in the text on special services, has tended to reinforce the medical model of disability, and therefore limit the scope of reporting. This can be observed in the fact that, overall, States tend to provide information on education, social protection and institutional care, but rarely, if ever, for example, on the right to life and optimum development, the right to be heard, protection from violence, access to justice, or opportunities for play and recreation.

In 1996, the Committee on the Rights of the Child summarised the general concerns it had identified from its examination of governments' reports.⁷ It found:

- lack of sensitivity for the needs and situation of children with disabilities;
- widespread discriminatory attitudes and prejudice;
- lack of access to health care and social services;
- low number of children with disabilities enrolled in schools;
- failure to take sufficient measure to promote inclusion into society and participation in family life.

Accordingly, in 1997, in recognition of the need to gain a greater understanding of the situation of children with disabilities, the Committee on the Rights of the Child held a Day of General Discussion on their rights at which it was recognised that 'their plight rarely figured high on the national or international agenda and they tended to remain invisible'.⁸ Since then, the Committee has focused more consistently on the situation of children with disabilities in its examination of reports by governments and has drawn the attention of States to the Standard Rules on Equalisation of Opportunities for Persons with Disabilities.⁹ In addition, the Committee has adopted a General Comment on children with disabilities, which elaborates how governments are expected to implement the CRC in respect of this group of children.¹⁰

2 The Convention on the Rights of Persons with Disabilities (CRPD)

The Convention on the Rights of Persons with Disabilities (CRPD), adopted by the UN in 2006, was the first international treaty to be successfully negotiated in the

21st-century, and represents the culmination of a 30-year involvement of the United Nations in the field of disability issues. It is the first legally-binding international treaty that secures and promotes the right of persons with disabilities. It was negotiated over an eight year period with the full involvement of civil society institutions, especially disabled people's organisations. The overall objective of the CRPD is outlined in Article 1 which states: *'The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. Persons with disabilities including those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others'*.



Columbia, 2004

(Left-right) Monica Muñoz and Luis Alberto Pinilla Rojas, both 14, sit together at poolside during a weekend retreat for children with disabilities, run by the NGO CIREC (the Colombian Integral Rehabilitation Centre), outside Bogotá, the capital. Monica, from the department of Cauca, lost one foot when her younger cousin brought a grenade home, not knowing its danger. It exploded, killing the cousin and injuring both Monica and her brother Jonathan, both of whom required lower leg amputations. Luis Alberto, from the department of Putamayo, left home at 11 and was rescued from the streets. He says he was born without one foot, but social workers suspect it was amputated following a war-related injury. CIREC designs and makes prosthetic devices for people without limbs, whether from birth or due to illness or the effects of war (including landmines and UXOs). The centre promotes an integrated recovery approach, especially for children, combining physical and play therapy, counselling and empowerment training. Through its Seeds of Hope programme, it also trains clients to advocate against stereotypes affecting people with disabilities. Many CIREC employees are former clients.

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Human rights are universal – they apply to everyone by virtue of their humanity. Accordingly, the aim of the CRPD was not to establish specific new human rights for people with disabilities. Rather, it was developed in recognition that their human rights were widely and severely violated in countries throughout the world, and that additional measures were needed to ensure their realisation. It therefore reaffirms the universality of rights, introduces new obligations on States to overcome barriers and ensure that people with disabilities are acknowledged as subjects of rights, entitled to respect on an equal footing with all other people. More specifically it:

- clarifies human rights principles in the context of people with disabilities;
- provides an authoritative model for governments to use in shaping national law and policies;
- creates more effective mechanisms for monitoring the rights of people with disabilities;
- establishes international standards regarding the rights and freedoms of people with disabilities;
- establishes common bases for greater participation and self-sufficiency of people with disabilities worldwide;
- provides for consultation with persons with disabilities and their representative organisations.

The CRPD is comprised of 50 separate Articles, and has been structured as follows:

- *Preamble*: setting the context of the Convention;
- *Purpose*: the goal for the Convention (promote, protect and ensure disability rights);
- *Definitions* (communication, language and discrimination);
- *General principles*: dignity, autonomy, non-discrimination, participation, diversity, equality, accessibility, and respect for the evolving capacities of children
- *Obligations*: delineation of actions that states are legally required to take to enforce the principles and obligations of the Convention;
- *Specific rights*: civil, cultural, economic, political and social rights;
- *Enabling measures*: measures that states must take to ensure an enabling environment so as to ensure people with disabilities can enjoy the benefit of their inherent rights, irrespective of social, economic and political complexities of particular countries;
- *International cooperation* (disability and the impact on

international development);

- *Implementation and monitoring*: establishment of an administrative infrastructure to ensure the effective implementation of the Convention;
- *Final clauses*: delineating procedures for signature, ratification and so forth.

In the same way that it was important to render children with disabilities visible in the context of the CRC, a generic treaty relating to children, so it was important to render children with disabilities visible in the CRPD, a generic treaty relating to disability. Without this explicit focus, there was a danger of the specific realities of children with disabilities being submerged. Furthermore, there are some issues which apply exclusively to children, or where there is a differential impact on children than on adults. Accordingly, the CRPD includes a number of provisions which address the situation of children:

- The preamble recognizes that children with disabilities should have full enjoyment of all human rights on an equal basis with others;
- The general principles include respect for the evolving capacities of children and their right to preserve their identities;
- The general obligations require that representative organisations of children with disabilities must be consulted when States Parties are developing and implementing legislation and policies;
- A dedicated article on children with disabilities introduces obligations:
 - to ensure the enjoyment of all human rights and fundamental freedoms on an equal basis with other children;
 - to ensure that the best interests of the child is a primary consideration;
 - to provide disability and age appropriate assistance to ensure that children with disabilities are able to realize the right to express their views on all matters of concern to them and have them taken seriously in accordance with age and maturity;
- Age appropriate measures must be introduced to ensure that children with disabilities have access to justice;
- Measures must be taken to provide age sensitive assistance to prevent exploitation violence and abuse,



Serbia, 2011

Six-year-old Nemanja Brkic (left) sits with classmates in their nursery school in Novi Sad, capital of Vojvodina Province. Nemanja was born with hearing impairments. His nursery school is one of the first to accept children with disabilities as part of a new law integrating the children into mainstream schools. Nemanja is the only child with a disability in the class and, with therapy, he is able to keep up with his classmates. The law is meant to reduce the placement of children with disabilities in institutions.

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- age, gender and disability sensitive protection and rehabilitation services, and child focused legislation to ensure that exploitation, violence and abuse is identified and investigated;
- Measures must be taken to ensure that children with disabilities are registered immediately after birth;
- Children with disabilities are entitled to retain their fertility, thereby prohibiting forced sterilization;
- Children with disabilities have equal rights with respect to family life and States Parties have obligations:
 - to provide services and support to families to prevent abandonment, concealment and segregation;
 - not to separate children with disabilities from parents unless this is in their best interests and never on the basis of disability;
 - where parents are unable to care for children, to make efforts to provide alternative care within the wider family or within the community in a family setting;
- Education at all levels must be inclusive and children with disabilities have an equal entitlement to general

Understanding disability and discrimination in the three Conventions

education. Inclusive education requires provision of all necessary support and technical aids, including respect for linguistic identity, and facilitating the learning of Braille, orientation and mobility skills, and training of teachers;

- Children with disabilities must be provided with equal access to participation in play, recreation, and leisure and sporting activities, including in schools.

The CRPD also specifically highlights the situation of women and girls, addressing the need for gender-sensitivity in the implementation of many of its articles. The Preamble recognises the greater vulnerability of women and girls to violence, while the general principles address the importance of equality between men and women. There is a dedicated article acknowledging the multiple discrimination faced by women and girls, and the obligation on States to undertake all appropriate measures to ensure their empowerment and to guarantee the realisation of their rights. Measures to address violence and to ensure access to health services must be gender-sensitive. Efforts must also be made to ensure access by women and girls to social protection and poverty reduction programmes.

3 The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted by the UN in 1979, thus long pre-dating both the CRC and the CRPD. It was the second international human rights treaty to address the discrimination experienced by a specific group of people.¹¹ Throughout its Preamble and 30 Articles, its overriding objective is to ensure gender equality between men and women, in both the public and personal spheres of life. Since CEDAW is not age-specific, its provisions apply to females throughout the life cycle – from infancy to old age. It therefore applies equally to girls.

Within the Preamble, there is explicit recognition that *'extensive discrimination against women continues to exist'* and that it *'violates the principles of equality of rights and respect for human dignity'*. CEDAW defines discrimination as *'any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose*

of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field'. The emphasis of the Convention is threefold: civil rights and the legal status of women and girls; sexual and reproductive rights; and the impact of cultural factors on gender dynamics and relations.

Although CEDAW does not make any explicit reference to disability, the Committee has made two general recommendations of relevance. Firstly, General Recommendation 18 obliges States Parties, in their country reports, to make explicit reference to the situation and status of women with disabilities, in particular, with regard to employment, education and social security.¹² It requires that: *'States parties provide information on women with disabilities in their periodic reports, and on measures taken to deal with their particular situation, including special measures to ensure that they have equal access to education and employment, health services and social security, and to ensure that they can participate in all areas of social and cultural life'*. Furthermore, General Recommendation 24, on women and health, requires commentary and analysis on the health status of women with disabilities.¹³



Haiti, 2010
Marjorie Benoit sleeps beside her 18-month-old son, Herwens, in a tent in Mais Gaté, a displacement camp for quake victims, near the airport in Port-au-Prince. Although part of her arm was crushed during the earthquake, she managed to save Herwens. She has three other children. © UNICEF/NYHQ2010-2587/Roger LeMoyné

All three Conventions address the social exclusion of, and consequent denial of human rights for the group of people they address. Both CEDAW and CRPD are explicitly focused on challenging discrimination, and ensuring the full and equal enjoyment of all human rights and fundamental freedoms by women and people with disabilities respectively. Their aim is to remove the discriminations that impede the realisation of rights and to impose obligations on States to ensure they are able to enjoy those rights on an equal basis with others. In other words, women and people with disabilities must be recognised and afforded equal status and rights with, respectively, men and people without disabilities. Equally, girls and all children with disabilities must be afforded equal rights with boys and children without disabilities.

Women and girls have traditionally been subsumed under a male dominated agenda, and denied political, legal, social and economic rights. This may be attributable to direct discrimination – denying women the right to vote, to own property, or to take certain jobs, or it may be expressed in indirect discrimination, for example, where risk of violence on the way to school results in girls being kept at home. CEDAW seeks to ensure that the barriers that impede equality for women are removed – for example, discriminatory laws, negative stereotypes and prejudice, lack of access to the courts, lack of access to education, control over reproductive health services and inequality within the family. It makes no explicit reference to disability issues, although, because its mandate is applicable to all women, it is, by implication, applicable to all women with disabilities. In addition, many of the rights it embodies apply equally to girls, including girls with disabilities – for example, basic provisions on non-discrimination, challenging stereotypes, ending trafficking and prostitution, participation, nationality, education, health, access to justice, and family life.

People with disabilities, including children, have also traditionally been marginalised, denied rights, and afforded lower status than non-disabled people. They experience both direct and indirect discrimination across every aspect of their lives. CRPD therefore embodies a similar approach to that of CEDAW, and indeed, many of its articles address comparable issues, demanding, for

example, rights to vote, employment, health care, family life and education on an equal basis with others. Its point of reference is that people with disabilities experience barriers in realising those rights, and it both re-affirms them as rights-holders and elaborates the measures needed to ensure their realisation. In addition, both treaties emphasise that specific measures aimed at accelerating or achieving equality between men and women and between people with and without disabilities, shall not be considered discrimination.¹⁴

In the same way that CEDAW challenges traditional assumptions of women's inferiority, weakness, and dependency, which have been used to justify entrenched inequality, so the CRPD challenges traditional models of disability which have served to reinforce and defend the denial of the rights of people with disabilities. The earliest approach to disability conceptualises people with disabilities as objects of charity. In this charity model, the person not only does not have the right to equal treatment and access to resources, but should accept whatever society is prepared to provide – and be willing to take less or nothing, if that society decides their needs are not a priority. It constructs a person with a disability as a passive recipient neither able nor entitled to claim rights. The principles of the charity model are still prevalent in many countries, particularly in South Asia and South-East Asia.¹⁵ However, this approach has been replaced in many parts of the world by a medical model in which responsibility, together with powers of decision making and control rests with doctors and other professionals who hold the key to 'curing' the disability.¹⁶ In this model, if a child with a physical disability was unable to walk up the steps to get into school, for example, the problem would be identified as resting in the child and the solution, therefore, lies in 'curing' the child – it was the individual child's problem. No attention would be given to the fact that a ramp into the classroom would allow that child to attend school and that the problem lies within a community unwilling to build that ramp. The medical model of disability focuses upon the physical, sensory, psychosocial, or intellectual 'deficits' of the individual, and again, constructs the individual as a passive recipient, but of professional expertise, rather than charity.

Synergies in the three Conventions: implications for advocacy

The CRPD demands a fundamentally different approach. It emphasises the social model of disability, which maintains that disability results from interactions between an individual with specific physical, intellectual, sensory or mental health impairment and the surrounding social and cultural environment. Disability is therefore understood as socio-political construct, whereby the attitudinal, environmental and institutional barriers that inherently exist within society systematically exclude and discriminate against people with disabilities. Thus, Clause (e) of the Preamble of the CRPD states that: *'Disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others'*. It affirms the person with a disability as an active agent in his or her own life. The CRPD, therefore, like CEDAW, takes as its starting point the equal rights of all people and imposes explicit obligations on governments to ensure the removal of those barriers that impede the realisation of equality. However, unlike CEDAW, it does make explicit recognition of the need for additional attention to be given both to the situation of women and girls with disabilities, and children with disabilities.

The CRC, in common with CEDAW and CRPD, also recognises that children are subjects of rights, and that no child is discriminated against. However, unlike CEDAW and CRPD, it is not principally focused on achieving equality in relation to another constituency whose rights are recognised, respectively, men and people without disabilities. Rather, it explicitly recognises that children do not have the same status as adults. Its aim is to establish recognition, and responsibility for implementation of the human rights of every child, including both those rights which they share with adults and those additional rights to which they are entitled by virtue of their greater vulnerability. Its focus on discrimination is to emphasise that all the human rights it embodies must apply without discrimination to all children irrespective of circumstance, including disability, sex or age. Non-discrimination is a right, but it is also a core principle according to which the CRC must be implemented, rather than the inherent objective of the treaty as a whole, which is the case in respect of CEDAW and CRPD.



Syria, 2012
A female teacher helps Grade 2 student Duuaa Tounnes, who is blind, assemble a wooden puzzle during a class in Al Walidia Basic School in the north-eastern Homs Municipality, near the Syria-Lebanon border. Children with disabilities attend integrated classes at the school, assisted by specially trained teachers. UNICEF supports teacher-training on inclusive education at the school.
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Viet Nam, 2012
Nguyen Trung Nghia age 11 (left), Nguyen Da Hoa age 14 (middle) and Trinh Anh Quoc age 13 (right) attend a vocational class making beaded necklaces at the Centre Supporting the Development of Inclusive Education for Children with Disabilities, located in the Nguyen Dinh Chieu Special School's compound in Da Nang - Vietnam. Hoa and Quoc have a learning impairment and Nghia has low vision.
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Because each of the three Conventions provides a different focus, they need to be understood collectively in order to gain a comprehensive understanding of the human rights of all children with disabilities, and the associated obligations on States to respect, fulfil and protect those rights. The provisions in the three Conventions overlap in many areas and serve to reinforce each other. Additionally, in some instances, one convention addresses an issue of concern to women or children, or to disability that the other does not. Consequently, reading them together enriches the potential for promotion and protection of rights. The conventions are complementary and mutually reinforcing. However, it is important to understand the unique contribution of each Convention.

The CRC in its entirety can be seen as a framework of principles, entitlements and obligations designed to promote the optimum well being and development of the child throughout the period of childhood and beyond. Indeed, during the process of drafting the CRPD, many governments argued that the inclusion of measures focused on children were unnecessary as they were already adequately protected by the CRC. However, a focus limited to the CRC will fail to address the additional and detailed obligations elaborated in the CRPD, and thereby undermine the potential to hold States to account in respect of children with disabilities. Likewise, relying exclusively on the CRPD will mean that the holistic nature of the CRC rights for all children will not be adequately understood. Lack of awareness of CEDAW will diminish understanding of the significant double jeopardy experienced by girls with disabilities, and the associated obligations to address gender discrimination. Furthermore, it is important to be familiar with the analyses, general comments, general recommendations, and findings from general days of discussion produced by all the Committees which add significant depth and understanding to the interpretations of the articles in the respective Conventions.¹⁷ The following section provides an illustration of how the three Conventions complement and reinforce each other in respect of three key areas of rights. Comparable analyses could also be undertaken, for example, in respect of rights to health, education, protection from violence, play, or access to justice.

Understanding capacity

Most societies have a presumption of legal incapacity in respect of children's decision-making, whether expressed formally or informally within their legal frameworks. Likewise, a presumption of capacity usually exists once a person reaches adulthood, at whatever age the law determines that to take place. However, these presumptions of capacity are often denied for people with disabilities, sometimes also for women, and commonly bear little relationship to actual capacity in respect of children. Additionally, different groups of children are often treated with differing levels of respect for their capacities. In many cultures, for example, girls are significantly discriminated against within families, and afforded fewer opportunities for exercising autonomy, or making decisions affecting their lives. Many children with disabilities are assumed to have lower competencies and less capacity to learn or take responsibility for themselves. This commonly leads to over-protection and lack of opportunities for independence and the exercise of rights.

All three Conventions therefore address this issue of legal capacity. Article 5 of the CRC states that parents have the right and the responsibility to provide direction and guidance to their children. However, it goes on to state that such guidance must be *'appropriate'*, be directed to *'the exercise by the child of their rights'*, and be provided *'in a manner consistent with their evolving capacities'*. This unique provision in international law thereby recognises that children aged between 0–18 years cannot all be treated exactly the same. As they acquire competencies, they require less guidance and direction and are increasingly able to take responsibility for their own decisions. It therefore introduces significant challenges to the traditional assumptions about the status of children in most societies. It emphasises that although parents are vested with rights on behalf of the child to enable him or her to realise their rights, they only extend for so long as the child is unable to exercise those rights for her or himself. Childhood is not a fixed status – the treatment of children must be consistent with their level of understanding and competence.

The general principle of independent decision-making is also recognised in the CRPD. Article 3 of the CRPD

includes, as one of its underlying principles, respect for 'individual autonomy including the freedom to make one's own choices, and independence of persons'. It thereby challenges the traditional discriminatory treatment of people with disabilities by which they are widely denied the right to exercise autonomy. However, as an absolute principle, it cannot apply to all children, for whom the concept of evolving capacities must be recognised.

Article 3 therefore also includes a principle of recognition of the evolving capacities of children. The implication of this provision in the CRPD is that efforts must be made to provide children with disabilities with:

- support to strengthen their capacities for independent decision making;
- recognition of and respect for the capacities they have;
- protection from responsibilities and decisions inappropriate to their age and maturity.

In so doing it demands an end to discriminatory attitudes and practices which fail to acknowledge the evolving capacities of children with disabilities, and places a much greater emphasis on creating opportunities for children with disabilities to influence and inform decisions that affect their lives. Given the barriers children with disabilities have to overcome to achieve recognition of their capacity to exercise their rights, the re-affirmation of the obligation in the CRPD provides a stronger basis from which to advocate for the specific measures necessary to ensure its implementation.

Although CEDAW does not explicitly address the issue of capacity in respect of children, it does emphasise, in Article 15, the obligation to ensure equality in respect of legal capacity and therefore necessitates that States remove any differentiation in legislation, policy or treatment between boys and girls, including those with disabilities, in respect of capacity.

Inclusion and participation

Inclusion and participation at every level of society is not only a fundamental human right, but it is a means of realising other rights: unless people, including children with disabilities, have a voice, they cannot inform public policy, challenge rights violations, nor hold States accountable. The CRC recognises the importance of participation and introduces a provision in Article 12 that

every child capable of forming a view has the right to express that view on all matters of concern to him or her and have it taken seriously in accordance with age and maturity. The Committee on the Rights of the Child has elaborated the measures needed for States to give effect to Article 12 in a General Comment.¹⁸ It stresses that the right applies to children from the earliest ages, and to the widest possible interpretation of matters of concern. Since the adoption of the CRC in 1989, this provision has given rise to a significant investment in enabling the voices of children to be heard – in civil and criminal courts, in health care, in schools, in local communities and in the arena of policy making and government. It has begun to challenge the perception of children as passive recipients of adult protection, and to promote recognition that they are active agents, both capable of and entitled to influence the world around them.

However, although the provision necessarily applies equally to children with disabilities, in reality, they have often been excluded from opportunities to express their views. Barriers in the physical environment, communications and transportation, together with prevailing assumptions of incompetence, invisibility in public spaces, exclusion from school, lack of awareness, over-protection and lack of sensitivity on the part of professionals working with children, have all contributed to this marginalisation.

Article 7 of the CRPD therefore demands that the right to be heard must be respected for children with disabilities on an equal basis with other children and that they must be 'provided with disability and age-appropriate assistance to realise that right.' Furthermore, the CRPD includes a broad range of provisions that require States to remove the barriers that impede effective or meaningful participation. It demands a commitment to comprehensive awareness-raising to combat stereotypes, prejudices and harmful attitudes. States must also take appropriate measures to ensure access to buildings, services, transport and communications, and to guarantee the right to participate in public life and civil society on an equal basis with others.

Beyond the general barriers to participation faced by children with disabilities, girls face a double jeopardy. Not only does their impairment render them vulnerable to exclusion, but it is compounded by discrimination against

them because they are girls. Legal, cultural, social and economic barriers can impede their participation on an equal basis with boys. CEDAW, therefore, places demands on States that they introduce specific measures to ensure that girls have the same opportunities as boys to be heard in decisions governments make and the way they carry them out, to participate in NGOs and civil society.

Only by addressing the overarching principle of participation in the CRC, together with the dedicated measures in both CRPD and CEDAW, will it be possible to realise the rights of all children with disabilities to be included, listened to and taken seriously in all arenas of their lives.

Respecting family life

The right to family life, although widely upheld in societies throughout the world as the ideal environment in which to bring up children, is, nevertheless, denied for many millions of children with disabilities. A combination of ignorance, discrimination, poverty, inadequate social protection and community based services, means that children with disabilities are often placed in institutions, rejected by extended families or isolated and excluded within their own family. Each of the three treaties contributes a different focus on the family, while all endorse its importance in the lives of children.

The CRC provides the basic framework affirming the right of every child in respect of family life. The Preamble recognises the family as the fundamental group of society providing the optimum environment for children to grow up in. In a number of articles it stresses the right to preserve family relations (Article 8), and not to be separated from parents unless necessary for the best interests of the child (Article 9). It places obligations on States to provide the necessary support and services to enable parents to provide adequate care for the child (Article 18). It also requires that any alternative care provided, in the event of parents being unable to care for the child, can include foster care, adoption or institutional care, but must have regard to continuity in the child's upbringing, and respect his or her ethnic, religious, cultural and linguistic background (Article 20). Clearly the general principles of non-discrimination, including on grounds of disability, the

best interests of the child, the right of the child to be heard, and the child's right to optimum development must inform the commitment to respect family life. The CRPD considerably strengthens these provisions in respect of children with disabilities. Article 23 insists that children with disabilities have equal rights with respect to family life, and places specific obligations on States to prevent concealment, abandonment, neglect and segregation of children with disabilities through the provision of information, services and support. It emphasises that a child must never be separated from parents on the basis of a disability of either the child or the parents. It also places a much stronger emphasis than the CRC or CEDAW in requiring that where a family is unable to care for a child, every effort must be made to place the child within the wider family or within the community in a family setting. In other words, it insists that States move away from policies of placing children with disabilities in institutional care. CEDAW, however, does emphasise that in any decision relating to wardship or adoption, the best interests of the child must be paramount.

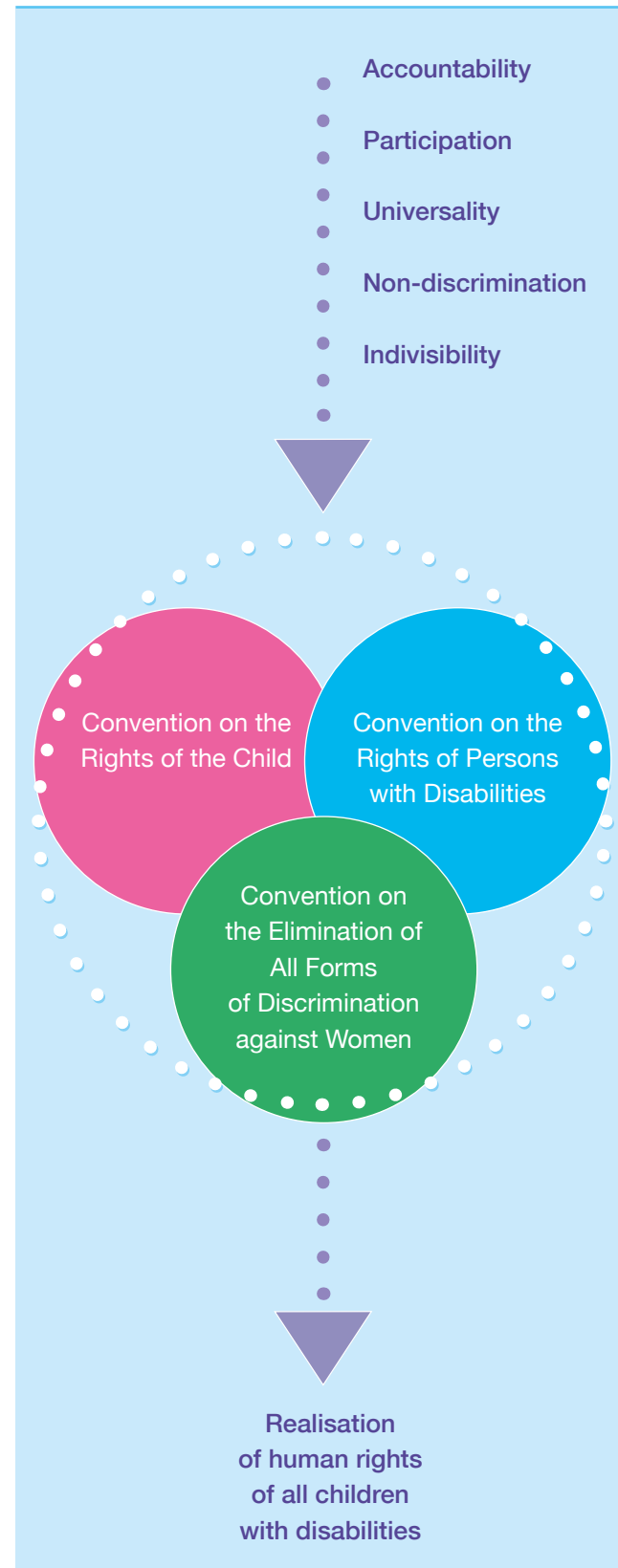
All three treaties introduce an additional relevant provision in relation to family life. Article 24 of the CRC includes a general provision that States must provide family planning education and services. Article 16 of CEDAW provides that women have the same rights as men to determine the number of children they have, and to have equal access to family planning services. This means, by implication, that both adolescent boys and girls with disabilities must be afforded equal access to such services. Article 25 of the CRPD introduces a comparable obligation to eliminate discrimination in order that people with disabilities have equal rights to found a family and decide on the number of their children, as well as accessing the same range, quality and standard of sexual and reproductive health programmes as provided to other persons. However, it also includes a provision, not present in the other two treaties, that people with disabilities, including children, are able to retain their fertility on an equal basis with others. This provision was introduced to protect girls and women with disabilities from forced sterilisation, a practice common in many countries, and often justified on grounds of avoiding the inconvenience of menstruation and preventing unwanted pregnancy.¹⁹ States are now required to take all necessary measures to bring an end to this practice.

Conclusion

Human rights are universal. They are indivisible, interdependent and apply without discrimination to every human being. However, experience has demonstrated all too powerfully that assertions of principle alone will not achieve the changes necessary to ensure that those human rights are a reality for all. Many millions of people are rendered invisible by virtue of age, sex, disability or other status. The International Covenants on civil and political, and social, economic and cultural rights, which together with the Universal Declaration of Human Rights form the International Bill of Human Rights, were understood at the time of adoption in 1966 to provide a comprehensive framework of rights for all people. However, it soon became apparent that despite the universal intent, there was a need for additional protections, developed through CEDAW, to ensure the equal realisation of rights for women and girls, who continued to experience discrimination and exclusion. The CRC was deemed necessary because the rights embodied in the Covenants failed to give sufficient consideration to the situation of children. And the CRC, while providing a dedicated and comprehensive framework of the rights of children, does not address the very significant barriers that children with disabilities experience in realising those rights. The CRPD was also necessary in order to elaborate the measures needed to remove those multiple barriers, and enable children with disabilities to achieve equality with other children. There is synergy between the Conventions. Understanding these synergies and utilising them for effective advocacy is vital if the struggle for dignity, justice, protection and equality for all children with disabilities, both boys and girls, is to become a reality not a dream.

Appendix 1

A holistic approach to the rights of children with disabilities



Appendix 2

Table comparing the three Conventions

CRC	CRPD	CEDAW
Definition		
Article 1 – for the purposes of the UNCRC, a child is defined as every person below the age of 18 years.	Article 1 – the CRPD applies to all persons, including all children, with disabilities, including those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, can prevent their ability to participate equally in society.	
Non-discrimination (a general principle of the UNCRC)		
Article 2 – the right to non-discrimination on any grounds, including disability, and the obligation of States to take all appropriate measures to protect children from all forms of discrimination.	Article 2 – defines discrimination on the basis of disability as any exclusion or restriction which prevents the realisation of rights on an equal basis with others. Article 3 – non-discrimination, equality of opportunity and equality between men/boys and women/girls are general principles of the CRPD. Article 4 – duty on States to eliminate discrimination. Article 5 – prohibition of discrimination on grounds of disability, and obligation on States to provide reasonable accommodation to promote equality and eliminate discrimination. Article 6 – obligation to take measures to address the multiple discrimination faced by women and girls with disabilities. Article 8 – States must adopt wide-ranging measures to raise awareness of the rights of people with disabilities, combat prejudice and discrimination, promote positive images of disability, encourage respect for people with disabilities in the education system and provide awareness training on disability.	Article 1 – defines discrimination as directly or indirectly treating girls and women differently from boys or men in a way that prevents them realising their rights. Article 2 – States must not allow discrimination against girls and women, legislation is needed to protect them from discrimination, all laws and policies must be based on equality between girls and women and boys and men, and there should be sanctions in place for discriminating against girls and women. Article 5 – States must take action to challenge stereotypes about girls and women, or attitudes which reinforce ideas of boys and men being superior.
Best interests (a general principle of the UNCRC)		
Article 3 – the best interests of the child must be a primary consideration in all actions concerning children taken by public and private bodies. Services, facilities and institutions caring for children must comply with appropriate standards in respect of health, safety, quality of staff and proper supervision.	Article 7 – reaffirms that the best interests of the child with disabilities must be a primary consideration. Article 16 – all facilities and programmes for people, including children with disabilities, must be monitored by independent authorities.	

CRC	CRPD	CEDAW
Implementation		
Article 4 – obligation on States to take all appropriate legislative, administrative and other measures to implement the UNCRC. With social, economic and cultural rights, measures must be taken to the maximum extent of available resources.	Article 4 – sets out detailed obligations to take all appropriate measures to implement the CRPD, including: <ul style="list-style-type: none"> legislation; protection of rights of people, including children with disabilities in all policies and programmes; avoidance of actions inconsistent with the CRPD; measures to eliminate discrimination; promotion of universal design, research into new technologies and provision of information and services on available aids and devices; training professionals on the CRPD consulting with people with disabilities, including children, on all legislation and policies to implement the CRPD; with regard to economic, social and cultural rights, implementation to the maximum of available resources. 	Article 3 – obligations on States to take action in respect of political, social, economic and cultural fields to ensure that the rights of girls and women are implemented. Article 4 – States should introduce special measures to end discrimination against girls and women, until such time as equality is achieved.
Evolving capacities		
Article 5 – parents, or other caregivers, have rights and responsibilities to provide direction to children to enable them to exercise their rights. Any direction and guidance must be appropriate and take account of the evolving capacities of the child.	Article 3 – respect for the evolving capacities of children with disabilities is a general principle of the CRPD, and must be considered in the implementation of all other rights.	
Right to life (a general principle of the UNCRC)		
Article 6 – the right to life of every child and the obligation on States to ensure the maximum possible survival and development of the child.	Article 10 – reaffirms the right to life and the obligation to take all measures to ensure that it is respected on an equal basis for people, including children, with disabilities. Article 25 – States must not discriminate against people with disabilities by denying them healthcare or food or fluids.	
Right to a name and nationality		
Article 7 – every child must be registered after birth, and has the right to a name, to acquire a nationality and to be cared for by his or her parents.	Article 18 – affirms these rights for children with disabilities.	
Right to identity		
Article 8 – the right to preserve identity, name and family relations.	Article 3 – affirms the right of children with disabilities to preserve their identity.	Article 9 – girls and women have the right to a nationality and to change it if they want. Women’s nationality must not be changed just because she is married or if a husband changes nationality, and women have equal rights to pass their nationality on to their children
Non-separation from parents		
Article 9 – children must not be separated from parents against their will unless necessary for their best interests.	Article 23 – children with disabilities have equal rights to family life, and must not be separated from parents against their will unless necessary for their best interests. In addition, a child must never be separated from parents because the parent or the child has a disability.	

CRC	CRPD	CEDAW
Family reunification		
Article 10 – States must deal humanely with applications for children to leave or enter a State to be reunified with family members	Article 18 – people with disabilities, including families with a child with a disability, have the right to liberty of movement, and to choose their residence and nationality on an equal basis with others.	
Illicit transfer of children		
Article 11 – States must take measures to protect children from being transferred or not returned from abroad, including through bilateral and multilateral agreements. Article 35 – States must adopt national, bilateral and multilateral agreements to prevent the sale and trafficking of children.		
Right express views (a general principle of the UNCRC)		
Article 12 – the right of every child capable of forming a view, to express views and have them given due weight in accordance with age and maturity. Article 23 – right to active participation within the community.	Article 3 – full and effective participation is a general principle of the CRPD. Article 7 – affirms the right of children with disabilities to express views and have them given due weight in accordance with age and maturity, on an equal basis with other children. They must be provided with disability and age-appropriate support to realise this right.	Article 7 – girls and women have the right to participate in decisions made by governments and in NGOs. Article 8 – girls and women have the right to represent their country and participate in the work of international organisations.
Freedom of expression and opinion, and access to information		
Article 13 – right to freedom of expression, and to receive and impart information and ideas through all forms of media. Article 17 – the right to access information from a wide range of sources, and the obligation of States to encourage access through international co-operation, production of children’s books, regard by the media for linguistic minorities, and development of guidelines to protect children from harmful media. Article 42 – States must take active measures to make the Convention widely known to both adults and children.	Article 21 – affirms the right to freedom of expression and requires that States take all appropriate measures to ensure that people including children with disabilities can exercise the right including by providing information in accessible formats, facilitating and promoting the use of, for example, sign language and Braille, and encouraging private entities and the media to make information accessible.	
Religious, personal and social freedom		
Article 14 – right to freedom of thought, conscience and religion. Article 15 – freedom of association and peaceful assembly.	Article 29 – right of people with disabilities to participation in political and public life. States must promote the opportunity for people with disabilities, including children, to participate in non-governmental organisations, and form and join their own organisations.	

CRC	CRPD	CEDAW
Right to privacy		
Article 16 – right to protection from arbitrary interference with privacy, family, home or correspondence.	Article 22 – people, including children, with disabilities have the same right to privacy as everyone else, including privacy in respect of personal, health and rehabilitation information.	
Family responsibilities and support		
Article 18 – both parents have equal responsibilities for their children and should have children’s best interests as their primary concern. States must provide assistance, support and services to help parents bring up their children.	Article 23 – States must provide appropriate assistance to parents with disabilities to help them care for their children. Children with disabilities have equal rights to family life and States must provide early information, services and support to children with disabilities and their families to prevent concealment, abandonment, neglect and segregation.	
Protection from all forms of violence		
Article 19 – children have the right to protection from all forms of violence, neglect, exploitation and abuse, and States must take all appropriate measures to protect them from such violence.	Article 16 – affirms the right to protection from violence, and requires States to provide forms of support to people with disabilities to help them avoid violence and abuse, and it must be accessible and appropriate to children with disabilities, as well as gender sensitive. All protection services must be age, gender and disability sensitive. States must introduce child focused legislation and policies to ensure that violence against children with disabilities is identified, investigated and prosecuted where appropriate.	
Alternative care		
Article 20 – children who cannot live with their family are entitled to protection and assistance by the State, and efforts must be made to provide stability for children and to show respect for their ethnic, religious, cultural and linguistic background. Article 21 – where adoption is recognised or permitted by a State, they must ensure that appropriate safeguards exist, and that the best interests of the child is the paramount consideration.	Article 23 – where the family cannot care for a child with a disability, States must ‘undertake every effort’ to avoid institutionalisation: alternative care should be sought within the wider family or in the community in a family setting. States must ensure the rights and responsibilities of people with disabilities to guardianship, wardship, trusteeship and adoption of children. In all cases, the best interests of the child must be paramount.	
Refugee children		
Article 22 – children seeking refugee status must receive appropriate protection and assistance to enable them to realise their rights	Article 29 – right of people with disabilities to participation in political and public life. States must promote the opportunity for people with disabilities, including children, to participate in non-governmental organisations, and form and join their own organisations.	

CRC	CRPD	CEDAW
Children with disabilities		
Article 23 – leading article in the UNCRC for the rights of children with disabilities. Children with disabilities are entitled to a life in conditions which enable them to become independent and participate actively in their community. They are entitled to special care which should be free of charge, wherever possible, and which ensures access to education, training, healthcare, rehabilitation, and preparation for employment and recreation. These services should be provided in a way which enables the child to achieve the fullest possible integration and development. States should also promote international co-operation to enable developing countries to improve their capacities and experience. <i>(See following boxes for details on health and education rights).</i>	The CRPD builds on Article 23 of the UNCRC by the introduction of obligations to remove the barriers that prevent the social inclusion and independence of people with disabilities, including children, for example: Article 3 – establishes a general principle that people, including children with disabilities have the right to full and effective participation and inclusion in society. Article 9 – requires States to make the physical environment, transport, information and communications accessible to people with disabilities. Article 19 – the right to live in the community, and to access to community-based services and facilities to support their community living. Article 20 – requires States to support personal mobility for people with disabilities. Article 26 – requires States to provide comprehensive habilitation and rehabilitation services which begin at the earliest possible age, and support participation and inclusion in the community and all aspects of society.	
Health and prevention of disability		
Article 24 – the right to the best possible health and access to healthcare services. Specifically, States must take the following measures: <ul style="list-style-type: none"> • Diminish child mortality. • Ensure provision of medical care with emphasis on primary care. • Combat disease and nutrition, including through provision of food, clean drinking water, and taking account dangers of environmental pollution. • Ensure pre- and post-natal care for mothers. • Ensure access to education in child health and nutrition, hygiene and environmental sanitation and prevention of accidents. • Abolish harmful traditional practices. • Encourage international co-operation. 	Article 25 – States must ensure the right to the best possible standard of health, access to, and quality of healthcare without discrimination on the grounds of disability. Health services must include access to sexual and reproductive health programmes, and services to minimise and prevent further disabilities. Services must be provided as close as possible to people’s homes.	Article 12 – girls and women have the right to equality in access to health care and must not be discriminated against.
Review of treatment and care		
Article 25 – right of children who have been placed for care, protection or treatment to regular reviews of their treatment and all other aspects of their care.		

CRC	CRPD	CEDAW
Adequate standard of living and social protection		
<p>Article 26 – right to benefit from social security.</p> <p>Article 27 – right to an adequate standard of living for physical, mental, spiritual, moral and social development. While parents have primary responsibility to provide the conditions for the child’s development, States must take appropriate measures to support parents, including through programmes for nutrition, clothing and housing. States must also introduce all appropriate measures to provide recovery of maintenance when parents separate.</p>	<p>Article 28 – right of people, including children, with disabilities to an adequate standard of living including food, clothing and housing and to continuous improvement of living conditions. States must take appropriate steps to secure this right without discrimination on the ground of disability.</p> <p>States must recognise the right of people with disabilities to social protection without discrimination and take appropriate steps to ensure access to:</p> <ul style="list-style-type: none"> • clean water on an equal basis with others; • assistance for disability-related needs; • social protection and poverty reduction programmes, particularly for women and girls; • help with disability-related expenses; • access to public housing. 	
Education		
<p>Article 28 – right to education on the basis of equality of opportunity. States must:</p> <ul style="list-style-type: none"> • make primary education compulsory and free to all; • make secondary school available and accessible to every child and take measures to make it free; • make higher education accessible to all on basis of capacity; • make vocational information available and accessible to all children; • take measures to increase attendance and reduce drop-outs. <p>All appropriate measures must be taken to ensure that school discipline respects children’s dignity and complies with other rights in the UNCRC, and States must encourage international co-operation.</p> <p>Article 29 – education must be directed to development of child to the fullest potential, respect for human rights, respect for child’s parents and their values, the values of their own and others’ societies, preparation of the child for life in a free society and respect for the natural environment.</p>	<p>Article 24 – affirms the right of persons with disabilities to inclusive education, at all levels, without discrimination and on the basis of equality of opportunity. States must ensure that children with disabilities:</p> <ul style="list-style-type: none"> • are not excluded from the general education system and can access inclusive, quality and free primary and secondary education on an equal basis with others in the communities in which they live; • are provided with reasonable accommodation of their needs; • receive the support they need within the general education system; • are provided with individualised support measures, consistent with full inclusion. <p>States must also take measures to enable people with disabilities to participate equally in education and their communities by supporting learning of all alternative forms of communication, and enabling deaf, blind and deafblind children to learn in the most appropriate languages and modes and in environments that maximise their development.</p> <p>The education system must enable people with disabilities to achieve full development of their personality, talents, creativity and mental and physical abilities, a sense of dignity and self-worth, respect for human rights and effective participation in society.</p>	<p>Article 10 – States must end discrimination against girls and women in education. Girls and women have equal right to every aspect of education – for example, career guidance, studies and schools, examinations, teaching staff school building and equipment, scholarships and grants, sports and physical education. States must make efforts to prevent girls dropping out of school.</p>
Respect for language and culture		
<p>Article 30 – children must not be denied the right to enjoy their own culture, practise their religion and use their own language.</p>	<p>Article 30 – people with disabilities are entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign language and deaf culture.</p>	

CRC	CRPD	CEDAW
Play, leisure, culture and sport		
<p>Article 31 – right to rest, leisure, play and recreation activities appropriate to the age of the child and to participate in cultural life.</p>	<p>Article 30 – right of people with disabilities, including children, to take part on an equal basis with others in cultural life through provision of accessible cultural materials and places of cultural performances and services. States must take appropriate measures to enable people with disabilities to develop their creative potential. They must also ensure that children with disabilities have equal access with other children to play, recreation and leisure, and to both mainstream and disability-specific sporting activities, including in the school system.</p>	<p>Article 13 – girls and women have the rights, as boys and men have, to sports and cultural life.</p>
Protection from exploitation and harm		
<p>Article 33 – States must take measures to protect children from both illicit use of, and involvement in, the production and trafficking of drugs.</p> <p>Article 34 – States must take all necessary measures to protect children from all forms of sexual exploitation and sexual abuse.</p> <p>Article 36 – States must protect children from all other forms of exploitation harmful to their wellbeing.</p>		<p>Article 6 – States must take action to end trafficking and prostitution of girls and women.</p>
Freedom from torture and cruel, inhuman and degrading treatment		
<p>Article 37 – no child must be subjected to torture, or cruel, inhuman or degrading treatment.</p> <p>No child must be deprived of liberty arbitrarily and any detention must be only as a measure of last resort and for the shortest appropriate period of time. Children deprived of liberty must be treated with humanity and respect for dignity, and separated from adults. They must have prompt access to legal and other appropriate assistance, and the right to challenge the legality of their deprivation of liberty.</p>	<p>Article 15 – affirms the right to freedom from torture, and cruel, inhuman and degrading treatment for people with disabilities, including children, and adds that they must not be subjected to medical or scientific experimentation without their consent. States must take all effective measures to prevent people with disabilities, on an equal basis with others, experiencing such treatment.</p> <p>Article 17 – people with disabilities have the right to respect for physical and mental integrity on an equal basis with others.</p> <p>Article 14 – States must ensure that persons with disabilities enjoy the right to liberty on an equal basis with others and where they are deprived of liberty, they must have human rights guarantees on an equal basis with others. The existence of a disability shall in no case justify a deprivation of liberty.</p>	
Situations of risk, conflict and humanitarian emergencies		
<p>Article 38 – States must take all feasible measures to protect children in situations of armed conflict.</p> <p><i>(See also Optional Protocol on Children and Armed Conflict.)</i></p>	<p>Article 11 – States must take all necessary measures to ensure the protection and safety of people, including children, with disabilities in situations of armed conflict, humanitarian emergencies, and occurrence of natural disasters.</p>	

CRC	CRPD	CEDAW
Recovery and reintegration		
<p>Article 39 – States must take all appropriate measures to promote the recovery and reintegration of children who have experienced violence, neglect, exploitation, torture, punishment or armed conflict. These measures must foster the health, self-respect and dignity of the child.</p>	<p>Article 16 – States must take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and reintegration of people with disabilities who have experienced exploitation, violence and abuse, including in the provision of any care services. These measures must foster the health, self-respect and dignity of the person, and take account of the specific needs of women and children.</p>	
Access to justice		
<p>Article 40 – right of the child accused of a crime to be treated with respect and dignity and in accordance with his or her age, and the importance of promoting reintegration.</p> <p>Every accused child is entitled to:</p> <ul style="list-style-type: none"> • be presumed innocent until proved guilty; • be informed promptly of any charges and to have legal representation; • have access to a fair hearing; • not be compelled to give evidence; • be able to appeal; • to have a free interpreter where necessary; • to have privacy respected. <p>States must establish separate criminal justice systems for children, a minimum age of criminal responsibility, and measures for diverting children from the courts. A range of dispositions must be available as alternatives to custody, including probation, foster care, and education programmes which promote children's wellbeing and are appropriate to their circumstances and offence.</p>	<p>Article 13 – States must ensure that people with disabilities have access to justice on the same basis as others. Children with disabilities must be provided with disability- and age-appropriate support to enable them to participate at all stages in any legal proceedings affecting them. Staff working in the justice system must have appropriate training to enable them to ensure effective justice for people with disabilities.</p>	<p>Article 15 – girls and women, and boys and girls, are equal before the law, and must be recognised as having the same legal capacity.</p>

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- ¹⁶ Charlton, J. (1998), Nothing About Us Without Us: Disability, Oppression and Empowerment, Berkeley, University of California Press. Oliver, M. (1990), The Politics of Disablement, London, MacMillan.
- ¹⁷ For a more detailed analysis of the CRPD, see Lansdown G (2009) See Me Hear Me: A guide to using the CRPD to promote the rights of children, Save the Children, London.
- ¹⁸ Committee on the Rights of the Child, General Comment NO.12, The Right of the Child to be Heard, CRC/C/GC/1, 20 July 2009.
- ¹⁹ see, for example, Sterilization of Women and Girls with Disabilities, www.stoptortureinhealthcare.org

