



OLLSCOIL NA GAILLIMHE  
UNIVERSITY OF GALWAY



# CLOSING THE JUSTICE GAP

FOR WOMEN WITH  
INTELLECTUAL AND/OR  
PSYCHOSOCIAL DISABILITIES  
IN ASIA AND THE PACIFIC



RESEARCH STUDY

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The Closing the Justice Gap research was developed under the 'Enhancing Access to Justice for Women in Asia and the Pacific: Bridging the gap between formal and informal systems through women's empowerment and reduction of gender biases' programme, led in partnership with UN Women, the International Commission of Jurists (ICJ) and OHCHR and generously supported by the Swedish International Development Cooperation Agency (Sida).

# TABLE OF CONTENTS

<b>1. EXECUTIVE SUMMARY</b>	<b>7</b>
International Legal Framework	7
Legal Needs Survey and OECD Framework	8
Summary of Findings	9
Recommendations	11
<b>2. INTRODUCTION</b>	<b>12</b>
Context	12
Project Introduction	12
Co-Production and OECD Framework Production	13
Overview of Report	13
<b>3. TERMINOLOGY AND DISABILITY-SPECIFIC COMMUNICATIONS</b>	<b>14</b>
<b>4. INTERNATIONAL AND REGIONAL LEGAL FRAMEWORK</b>	<b>15</b>
CEDAW	15
CEDAW Ratification in Target Countries	16
CRPD	17
Conclusion	21
<b>5. DISABILITY IN ASIA AND THE PACIFIC</b>	<b>22</b>
Experience of Women with Disabilities in Asia and the Pacific	23
Regional Disability Initiatives	24
<b>6. CONDUCTING THE LEGAL NEEDS SURVEY</b>	<b>25</b>
Introduction to the Legal Needs Surveys and the OECD Framework	25
Co-Production	26
Overview of the OECD Framework	27
Legal Needs Survey Respondents	28
<b>7. OVERALL FINDINGS</b>	<b>31</b>
Legal Problems Identified by Respondents	31
How Respondents Resolved Problems	35
<b>8. COUNTRY-SPECIFIC FINDINGS: FIJI</b>	<b>36</b>
Existing Data on Disability	36
Findings of the Legal Needs Survey	38
Efforts to Resolve the Problems Experienced	41
Concluding Remarks	42
Recommendations to Close the Justice Gap for Women with Intellectual and/or Psychosocial Disabilities in Fiji	42

<b>9. COUNTRY-SPECIFIC FINDINGS: INDONESIA</b>	<b>43</b>
Existing Data on Disability	43
Findings of the Legal Needs Survey	46
Efforts to Resolve the Problems Experienced	49
Concluding Remarks	49
Recommendations to Close the Justice Gap for Women with Intellectual and/or Psychosocial Disabilities in Indonesia	50
<b>10. COUNTRY-SPECIFIC FINDINGS: NEPAL</b>	<b>52</b>
Existing Data on Disability	52
Findings of the Legal Needs Survey	54
Efforts to Resolve the Problems Experienced	58
Concluding Remarks	59
Recommendations to Close the Justice Gap for Women with Intellectual and/or Psychosocial Disabilities in Nepal	59
<b>11. COUNTRY-SPECIFIC FINDINGS: PHILIPPINES</b>	<b>61</b>
Existing Data on Disability	61
Findings of the Legal Needs Survey	66
Efforts to Resolve the Problems Experienced	67
Concluding Remarks	67
Recommendations to Close the Justice Gap for Women with Intellectual and/or Psychosocial Disabilities in the Philippines	
<b>12. CONCLUSIONS AND RECOMMENDATIONS</b>	<b>69</b>
Legal and Policy Barriers	72
Remove Social and Attitudinal Barriers	75
Address Information and Communication Barriers	77
Eliminate Physical Barriers	77
Short-Term Overall Recommendations	77
Long-Term Overall Recommendations	77
Further Research Recommendations	78
<b>13. APPENDICES</b>	<b>79</b>
Appendix 1: Partners	79
Appendix 2: Data Tables	81
Appendix 3: Examples of Problems Described in Part 2	102
Appendix 4: Explanations for Legal Capacity Questions	107
<b>BIBLIOGRAPHY AND FURTHER READING</b>	<b>110</b>

# ACKNOWLEDGEMENTS

This project was commissioned by UN Women, which provided support for the research team at the Centre for Disability Law and Policy and the Irish Centre for Human Rights at the University of Galway to conduct a legal needs survey of women with intellectual and/or psychosocial disabilities in the Asia-Pacific region. The research team would like to express our gratitude to the UN Women staff, particularly Laura-Lee Sage and Georgia Westaway, for their support of this project. The research team would also like to thank Joanna Forde for her administrative support, especially her hard work to ensure that our partner organizations were remunerated.

The research team would further like to thank all of our partners, organizations of persons with disabilities, disability rights activists, and self-advocates, for their invaluable contribution in facilitating and administering the legal needs survey in Fiji, Indonesia, Nepal, and the Philippines. This research could not have been completed without their commitment to administering the legal needs survey, and their passion for advancing the rights of women with disabilities in the region.

The research team expresses its gratitude to each of its partner organizations and individuals:

- Sera Osbourne, Psychiatric Survivor's Association (Fiji)
- Sisi Coalala, Pacific Disability Forum (Fiji)
- Agus Hasan Hidayat, Indonesia Revolution and Education for Social Inclusion (REMISI) (Indonesia)
- Dewi Tjakrawinata, Yayasan Peduli Sindroma Down Indonesia (YAPESDI) (Indonesia)
- Fransisca Ayu Larashati, Sasana Inklusi and Gerakan Advokasi Difabel (SIGAB) (Indonesia)
- Nurul Safitri, REMISI (Indonesia)
- Purwanti Sipora, SIGAB (Indonesia)
- Kamala Poudel, KOSHISH (Nepal)
- Sabitri Dahal, Enablement Nepal (Nepal)
- Mona Labitoria-Visperas, self-advocate (Philippines)

The research team would also like to thank the following people, who provided advice and assisted us in identifying partners to work with:

- Dwi Ariyani, Disability Rights Fund (Indonesia)
- Amba Selalkar, International Disability Alliance
- Pomi Moges, UN Women (Indonesia)
- Palmu Sherpa and Subha Ghale, UN Women (Nepal)
- Jona Ang, UN Women (Philippines)

We also extend our gratitude to Bhargavi Davar, Transforming Communities for Inclusion, Rosario Galarza, International Disability Alliance, and Martyna Balciunaite and Christian Finsterbusch from the Office of the High Commissioner for Human Rights (OHCHR) for their peer review of this research.

This research report has been developed with the support of the International Disability Alliance.

# ACRONYMS AND ABBREVIATIONS

<b>ASEAN</b>	Association of Southeast Asian Nations
<b>CEDAW</b>	Convention on the Elimination of all Forms of Discrimination Against Women
<b>COVID-19</b>	Coronavirus disease 2019
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>ER</b>	Easy Read
<b>GBV</b>	Gender-Based Violence
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>ICJ</b>	International Commission of Jurists
<b>LAPPCI</b>	Lembaga Advokasi dan Perlindungan Penyandang Cacat Indonesia
<b>LGBTQI</b>	Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex
<b>NGO</b>	Non-Governmental Organization
<b>OECD</b>	Organization for Economic Co-operation and Development
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>OP-CEDAW</b>	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
<b>OP-CRPD</b>	Optional Protocol to the Convention on the Rights of Persons with Disabilities
<b>OPD</b>	Organization of Persons with Disabilities
<b>REMISI</b>	Indonesia Revolution and Education for Social Inclusion
<b>SIGAB</b>	Sasana Inklusi and Gerakan Advokasi Difabel
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UNESCAP</b>	United Nations Economic and Social Commission for Asia and the Pacific
<b>UN Women</b>	United Nations Entity for Gender Equality and the Empowerment of Women
<b>UNPFA</b>	United Nations Population Fund
<b>WHO</b>	World Health Organization
<b>YAPESDI</b>	Yayasan Peduli Sindroma Down Indonesia

# 1. EXECUTIVE SUMMARY

There is a justice gap faced by women with intellectual and/or psychosocial disabilities in the Asia-Pacific region. Despite guarantees in domestic legal frameworks and the obligations contained within the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) and the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), there remain significant barriers to women with intellectual and/or psychosocial disabilities accessing justice. Among other examples, these women are denied respect for their legal decision-making, formally (e.g. through guardianship) or informally (e.g. through family members making decisions for them), face entrenched stigmatization and stereotyping that dehumanizes them, and endure a lack of rights knowledge among both duty bearers and rights holders.<sup>1</sup>

On this basis, the research team was commissioned by the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) to conduct a legal needs survey of women with intellectual and/or psychosocial disabilities in the Asia-Pacific region. The research team used a methodology adapted from well-established empirical tools developed by the Organization for Economic Co-operation and Development (OECD) to understand legal needs and access to justice.<sup>2</sup> To adapt the methodology to meet the particular needs of the target cohort, the research team worked in partnership with organizations of persons with disabilities (OPDs) and self-advocates in the Asia-Pacific region.

The aim of the legal needs survey conducted was to develop an evidence base that provides information for policymakers, researchers, justice actors, members of civil society, and others to better understand the everyday legal problems and justice experiences of women with intellectual and/or psychosocial disabilities in Asia and the Pacific. Prior to this research, such

evidence was largely lacking in the region. The evidence base created with this research provided findings from which the research team worked with in-country partners to create recommendations for reform that constitute a sustainable platform for achieving justice goals for women with intellectual and/or psychosocial disabilities in Asia and the Pacific.

The level of response to the survey was very high. Participation in the survey was open to adult women with intellectual and/or psychosocial disabilities in Fiji, Nepal, Indonesia and the Philippines, from 13 October to 11 November 2022. In total, **232 responses were received**, of which 72 per cent were from women with psychosocial disabilities, and 26 per cent from women with intellectual disabilities and 2 per cent indicated having both a psychosocial and intellectual disability.

## International Legal Framework

The project was guided by the Convention on the Rights of Persons with Disabilities, and the Convention on the Elimination of All Forms of Discrimination Against Women. The CRPD guarantees a wide range of civil and political, as well as economic, social and cultural rights for persons with disabilities. The CRPD does not create unique or new rights for persons with disabilities, rather it applies human rights affirmed in earlier instruments in the context of disability, setting out measures to address more comprehensively the specific challenges faced by persons with disabilities including accessibility (Article 9), equal recognition before the law (Article 12), access to justice (Article 13) and living independently and being included in the community (Article 19), and additional measures to ensure that women with disabilities are able to fully and equally enjoy all human rights and fundamental freedoms (Article 6).

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1. See, for example, the Concluding Observations from the UN Committee on the Rights of Persons with Disabilities for the State Reports of Nepal, Indonesia, and the Philippines: UN CRPD (United Nations Committee on the Rights of Persons with Disabilities). 2018. *Concluding observations on the initial report of Nepal*\*. CRPD/C/NPL/CO/1; UN CRPD (United Nations Committee on the Rights of Persons with Disabilities). 2022. *Concluding observations on the initial report of Indonesia*\*. CRPD/C/IDN/CO/1; UN CRPD (United Nations Committee on the Rights of Persons with Disabilities). 2018. *Concluding observations on the initial report of the Philippines*\*. CRPD/C/PHL/CO/1. As of January 2023, Fiji had not reported to the CRPD Committee.

2. More information about the OECD legal needs survey methodology can be found at OECD (Organization for Economic Co-operation and Development). 2019. *Legal Needs Survey and Access to Justice*. Paris: OECD.

The human rights of women and girls is a cross-cutting issue of all international human rights and development frameworks. The CEDAW specifically addresses women's human rights and gender equality and includes provisions affirming the equality of men and women, including in education (Article 10), employment (Article 11), health (Article 12), and legal capacity (Article 15), all of which also apply to women with disabilities.

The right to legal capacity and the right to access to justice have been particularly important in guiding the analysis of this research. These rights are provided for in Article 12 (equal recognition before the law) and Article 13 (access to justice) of the CRPD, and Article 15 (equality before the law) of the CEDAW. These rights are most directly related to legal needs, and to women with disabilities being recognized as legal actors and ensuring the exercise of their legal capacity in all aspects of life and the effective access to justice on an equal basis with others. Persons with intellectual and/or psychosocial disabilities have been most commonly denied their right to legal capacity on the inaccurate basis that they lack adequate cognition and rationality,<sup>3</sup> with women with intellectual and/or psychosocial disabilities disproportionately affected in this regard.<sup>4</sup>

## Legal Needs Survey and OECD Framework

The research team utilized the OECD framework because it is recognized as best practice in legal need survey development and it allowed for the production of a data set that is comparable to other data sets created using the OECD format.<sup>5</sup> To adapt the framework to meet the needs of women with intellectual and/or psychosocial disabilities in the Asia-Pacific region, questions were removed from the template or reworded to ensure accessibility for this diverse group of respondents. The legal needs survey was also translated into an Easy Read (also known as Easy-to-Read) (ER) format to facilitate understanding.

**Part 1 of the legal needs survey sought to understand whether respondents had experienced a legal problem during the previous two years in the following categories:**

- Consumer rights
- Land rights
- Housing
- Family and relationships
- Violence
- Work (including self-employment)
- Government (public services, workers, payments)
- Money (including control of personal finances)
- Health
- Education
- Other (any problems that did not fall under the preceding categories)

**Part 2 comprised a series of questions on how respondents resolved the problems they faced, exploring:**

- Level of impact the problem had on the respondent's life
- Whether the respondent shared the problem with someone (and, if so, with whom)
- Whether the respondent sought information to help to resolve the problem (and, if so, where)
- Whether the respondent sought advice (and, if not, why not)
- Any third party or justice actor used to help to resolve the problem
- The respondent's personal experience with the problem, and any subsequent difficulties, such as economic and personal hardship
- How the respondent described their problem

Whether the respondent's decision-making aimed at resolving the problem was respected (e.g. by legal professionals and other actors in their lives, such as family and community members).

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3. UN CRPD (United Nations Committee on the Rights of Persons with Disabilities). 2014. *General comment No. 1 (2014) Article 12: Equal recognition before the law*. CRPD/C/GC/1, para., 9; and Flynn, E. and A. Arstein-Kerslake. 2014. "Legislating personhood: Realising the right to support in exercising legal capacity." *International Journal of Law in Context* 10 (1), pp. 81-104.

4. UN Human Rights Council (United Nations Human Rights Council). 2017. *Report of the Special Rapporteur on the Rights of Persons with Disabilities*. A/HRC/37/56, para., 17; and Arstein-Kerslake, A. 2021. *Legal Capacity & Gender*. New York: Springer International Publishing.

5. OECD. *Legal Needs Survey and Access to Justice*.

6. Ersoy, A (Ed). 2017. *The impact of co-production: From community engagement to social justice*. Bristol: Bristol University Press.

7. Arstein-Kerslake, A., Maker, Y., Flynn, E., Ward, O., Bell, R., and T. Degener. 2020. "Introducing a human rights-based disability research methodology." *Human Rights Law Review* 20 (3), pp. 412-432.

8. OECD. *Legal Needs Survey and Access to Justice*, pp. 36.



Together, Parts 1 and 2 of the legal needs survey collected detailed data that allowed the research team to understand the legal needs of women with intellectual and/or psychosocial disabilities and how they access justice.

To adapt the OECD framework to the needs of women with intellectual and/or psychosocial disabilities in the Asia-Pacific region, the project utilized a co-production approach, in which the research team worked with partners in each target country – including regional OPDs and self-advocates. The research team designed, delivered, and disseminated the research collaboratively with the partner organizations.<sup>6</sup> This approach was used as it is recognized as best practice in disability research<sup>7</sup> and because the OECD framework also provides guidance indicating that legal needs surveys are most effective when civil society organizations (in this case, the OPDs and self-advocates) are involved in the process.<sup>8</sup> In addition, the expertise of the OPDs and self-advocates was essential to crafting the research in a way that would accurately capture the experiences of women with intellectual and/or psychosocial disabilities in Asia and the Pacific.

The initial draft of the legal needs survey was developed in conjunction with the partner organizations. The partners then validated the translated versions, provided information relating to relevant country-specific institutions and supplied country-specific photographs for the Easy Read version of the legal needs survey. The partners then sought participants and conducted the legal needs surveys in their respective countries, employing various different strategies to do so; ranging from home visits, distributing the link through social media, and making telephone calls to hosting a day-long event to complete the legal needs survey in person. Some partners chose to use their organization's staff and volunteers as enumerators, while others opted to employ external enumerators. The findings were analysed in collaboration with the respective partners and the final knowledge products, including the present report, were developed based on consultation with the partner organizations.

## Summary of Findings

As noted, the legal needs survey consisted of two parts, with Part 1 comprising a list of possible everyday legal problems that respondents may be facing and Part 2 asking questions about how respondents resolved these everyday problems. Legal problems faced by respondents pertained to various realms, including:

- Buying and selling goods
- Eviction from property
- Parental rights and custody of children
- Violence inside the home (including by a spouse, family member, or support person)
- Violence outside the home (such as workplace accidents, incorrect medical treatment, or violence at a medical facility)
- Unpaid wages
- Denial of reasonable accommodation in education and employment
- Denial of health care
- Forced psychiatric treatment
- Lack of inclusive education

The research team utilized a combination of quantitative and qualitative research methods to analyse the legal needs survey data. The quantitative data highlights the prevalence of legal problems faced by women with intellectual and/or psychosocial disabilities in Asia and the Pacific and the pervasive barriers to accessing justice. In total, 1,656 individual problems were indicated as being experienced by the respondents – an average of over seven legal problems per respondent. The qualitative analysis provides detail on the nature of these problems and points to the socio-legal issues which may be root causes.

Key findings from the quantitative and qualitative analyses:

- **96 per cent of respondents** reported that they had experienced a legal problem in the previous two years in at least one of the areas covered by the legal needs survey.
- Only **26 per cent of respondents** identified that their problem had been resolved, demonstrating how these issues may be systemic and that there may not be adequate legal supports or justice systems in place.

**96 per cent of respondents reported that they had experienced a legal problem in the previous 2 years in at least one of the areas covered by the legal needs survey**

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- Almost half (**49 per cent**) of respondents noted that the problem had a ‘significant impact’ on their life. They reported experiencing stress, ill-health or injury, and/or loss of confidence or fear when resolving the problem.
- Only **13 per cent of respondents** took the problem to a formal justice actor, such as a lawyer, police, or other actors in the legal system.
- The majority of those women with disabilities consulted, **77 per cent of respondents** chose to seek advice from community actors, such as family members, friends, peer supports, or self-advocacy groups. These findings indicate that the formal justice system is largely not being used by these women.
- The most common reasons that respondents gave for **not seeking formal legal advice** were that they thought it would be too stressful, followed by being scared to take action/get advice, and concerns about the financial cost involved.
- Respondents were frequently **hesitant to describe their problems as ‘legal’** – even when they had legal aspects. Instead, they often described them as ‘bad luck/part of life,’ as a ‘family or private matter,’ or as a ‘social or community matter.’ These findings may indicate a need for increased rights awareness among this population.
- Respondents also indicated, in various ways and throughout the legal needs survey, that their **legal decision-making is often not respected** by either formal legal professionals or family/community members. This indicates a need to focus on protection and guarantee of the exercise of the right to legal capacity.
- The **co-production approach was critical** for the development of a legal needs survey which would meet the needs of this cohort – deploying the OECD framework without adaptation would have led to significant gaps.

Several places throughout the legal needs survey provided opportunities for respondents to provide extra information – findings from these qualitative descriptions of the respondents’ experiences demonstrate how women with intellectual and/or psychosocial disabilities in Asia and the Pacific continuously face **systemic discrimination** during their life. This discrimination appears to have **devastating consequences** that manifest in respondents being unable to meet basic needs, due to lack of adequate education and employment, insufficient financial resources, and lack of respect for their legal decision-making. Access to justice does not appear to be the most pressing concern for these women, many of whom are not yet experiencing an adequate standard of living or the realization of some of the most basic human rights.

Overall, the research indicates that women with intellectual and/or psychosocial disabilities in Asia and the Pacific are experiencing **high levels of legal problems, with little support from formal legal systems and justice actors**. This appears to be due to a reluctance to identify the problems faced as ‘legal,’ as well as the women involved being fearful of legal and justice systems. These issues have implications for the broader right to access to justice for these women, as they appear to be engaging very little with the legal and justice systems that would facilitate such rights realization.

Many women with intellectual and/or psychosocial disabilities in Asia and the Pacific do not have their basic needs met – education, employment, adequate standard of living, and respect and recognition as legal decision-makers. The right of access to justice appears to be of secondary concern in this situation, with **many of these core basic needs lacking**.

As regards to successfully building the evidence base necessary to account for the needs of this group, production of the legal needs survey was only possible through the direct involvement of OPDs and self-advocates in adapting the OECD legal needs survey framework.

**Overall, the research indicates that women with intellectual and/or psychosocial disabilities in Asia and the Pacific are experiencing high levels of legal problems, with little support from formal legal or justice actors.**

## Recommendations

To close the justice gap, the barriers faced by women with intellectual and/or psychosocial disabilities when seeking justice must be removed in a manner that is attuned to the specific cultural contexts of the Asia-Pacific region. The recommendations included in this report are based on the findings of a literature review, the mapping of justice frameworks, and the legal needs survey results, as well as the inputs from partners in the target countries.

The recommendations are specific to the respective socio-legal context, including the profound societal stigmatization of persons with disabilities with respect to being able to make decisions or participate in legal activities that is evident in existing law, policy and practice. The recommendations have been developed to address legal and policy barriers, social and attitudinal barriers, and information and communication barriers in Fiji, Indonesia, Nepal and the Philippines.

Recommendations to address **legal and policy reform** in the region include abolishing laws deemed incompatible with the CRPD, including repealing or amending all laws, regulations, policies, guidelines and practices that directly or indirectly restrict the legal capacity of persons with disabilities, particularly women with intellectual and/or psychosocial disabilities. Cross-sectoral domestic laws must uphold the rights and obligations outlined in the CRPD and the CEDAW. The rights established in existing constitutions, laws, regulations, and policies must be implemented to further the protection and ensuring the exercise of the rights of women with intellectual and/or psychosocial disabilities. All legislative and policy efforts to guarantee the rights of persons with disabilities must have adequate budget and human resources for successful implementation. There must be clear timelines outlining specific department responsibilities and how to meet these goals. Bureaucracy cannot be a justification for failing to uphold the rights of women with intellectual and/or psychosocial disabilities.

Existing justice systems (both the facilities and services) must be accessible to all persons with disabilities, in accordance with the principle of universal design. This includes, among others, avenues for redress such as reporting to the police, attending a court/tribunal, or filing a case with a designated formal agency (e.g. Ombudsman) or enforcement authority (e.g. Consumer Protection Commission). In doing so, State obligations regarding procedural and reasonable accommodation must be met.

Recommendations targeted at **removing social and attitudinal barriers** are also detailed throughout this report. States are obligated under Article 8 of the CRPD to undertake appropriate awareness-raising activities regarding the rights of persons with disabilities, particularly against women with disabilities. Awareness-raising is paramount to successfully shift from the medical model of disability to the human rights-based approach to disability, as it seeks to combat the negative stigma and prejudice that forms a basis for discrimination against persons with disabilities. This includes targeted training for those working in the field of administration of justice, including police and prison staff, which is an obligation under Article 13(2) of the CRPD.

Recommendations to address the third overarching category of barriers detail strategies for **dismantling information and communication barriers**. Public information regarding the justice sector should be available in a variety of formats (audio, video, hard copy, large print, Easy Read, national sign language(s)). Diverse communication needs must be recognized when accessing information as part of legal proceedings.

When developing and implementing the legislation and policies to guarantee that persons with disabilities enjoy legal capacity on an equal basis with others and, where necessary, are provided with support and accommodations necessary to exercise legal capacity and are guaranteed with access to justice, states must closely **consult with and actively involve persons with disabilities**, including through their representative organizations. The rallying call of the disability rights movement, 'Nothing about us without us' must be respected in all reforms to close the justice gap.

## 2. INTRODUCTION

### Context

Historically, women with disabilities – particularly those with intellectual and/or psychosocial disabilities – have faced pervasive and systemic barriers in accessing justice and having their legal needs met.<sup>9</sup> In the Asia-Pacific region, as in many other world regions, domestic laws limit the right of women with disabilities to act on and exercise legal capacity. Stigma against this group is significant, and there is a lack of rights awareness among both women with disabilities and duty bearers.<sup>10</sup> Women with intellectual and/or psychosocial disabilities face additional and significant barriers to accessing justice. They experience multiple and intersecting forms of discrimination, based on their gender and disability. Despite the widespread ratification of the UN Convention on the Elimination of All Forms of Discrimination Against Women and the UN Convention on the Rights of Persons with Disabilities, and the increased advocacy work by organizations of persons with disabilities<sup>11</sup> and broader civil society, significant work remains to be done to realize the right to legal capacity and the right to access justice for women with intellectual and/or psychosocial disabilities in the Asia-Pacific region.

### Project Introduction

Recognizing the need to develop a deeper understanding of the legal needs of women with intellectual and/or psychosocial disabilities in Asia and the Pacific, the research team at the Centre for Disability Law and Policy and the Irish Centre for Human Rights at the University of Galway was commissioned under the regional programme ‘Enhancing Women’s Access to Justice in Asia and the Pacific,’ jointly implemented by UN Women, the Office of the United Nations High Commissioner for Human Rights (OHCHR), and the International Commission of Jurists (ICJ). The research team was requested to conduct a legal needs survey focusing on Fiji, Nepal, Indonesia, and the Philippines. The CEDAW and the CRPD were used as guideposts for understanding the right to access justice and related rights.

The objective of the legal needs survey was to better understand the barriers to the right to access to justice for women with intellectual and/or psychosocial disabilities in Asia and the Pacific. To narrow the scope of the research to this group, respondents were limited to women of majority age who identified as having an intellectual and/or psychosocial disability. This included women who come from diverse backgrounds and face other forms of intersectional discrimination. Overall, the legal needs survey aimed to create a robust evidence base for advocacy and reform efforts to break down barriers to the right of access to justice for this group.

UN Women chose to undertake a legal needs survey because such a survey serves as an investigative tool to explore the occurrence of justiciable problems from the perspective of those who face them. In this project, it allowed the researchers to gather evidence of the actual experiences of women with intellectual and/or psychosocial disabilities with legal needs – as opposed to simply gathering information from the legal professions and justice institutions tasked with meeting such needs. This form of research produces evidence of an individuals’ experiences, the legal needs they have, and the barriers that they are facing, constituting a comprehensive approach to identifying a range of justiciable problems in a particular region.<sup>12</sup>

The research team began the project by conducting a comprehensive literature review to fully understand the existing research in the area. This included a review of academic articles, reports from non-governmental organizations (NGOs), and the concluding observations of the United Nations human rights treaty bodies. An initial mapping of justice frameworks followed, examining the existing legal landscape on the rights of women with intellectual and/or psychosocial disabilities. This included a review of domestic disability legislation and broader human rights anti-discrimination legislation, but also provisions in cross-sectoral laws which limit the rights of women with intellectual and/or psychosocial disabilities,

9. Arstein-Kerslake. *Legal Capacity & Gender*.

10. See, for example, the Concluding Observations from the UN Committee on the Rights of Persons with Disabilities for the State Reports of Nepal, Indonesia, and the Philippines: UN CRPD. *Concluding observations on the initial report of Nepal\**; UN CRPD. *Concluding observations on the initial report of Indonesia\**; UN CRPD. *Concluding observations on the initial report of the Philippines\**. As of January 2023, Fiji had not reported to the CRPD Committee.

11. Organizations of Persons with Disabilities are representative organizations or groups of persons with disabilities, where persons with disabilities make up a majority of the overall staff, board, and volunteers at all levels of the organization.

12. OECD. *Legal Needs Survey and Access to Justice*.

such as disqualification from voting or serving on government boards. Following the literature review and justice framework mapping, the research team undertook a participatory process to develop and administer the legal needs survey alongside women with disabilities and their representative organizations in the target countries.

### Co-Production and OECD Framework

The research team worked collaboratively with partner organizations led by persons with disabilities and their supporters in each of the four target countries to adapt the legal needs survey framework established by the OECD.<sup>13</sup> This framework was chosen because it is recognized as one of the most well-developed legal needs survey frameworks. It has also been used widely in similar research, providing the potential for various data sets to be compared to those produced in this project. However, the OECD framework had never been used to assess the legal needs of women with intellectual and/or psychosocial disabilities in Asia and the Pacific – and, as such, significant adaptation was required to create a legal needs survey that met the needs of this group.

Mindful of the multiple barriers faced by women in the region, the research team was committed to providing a legal needs survey which functioned as a tool for empowerment and advocacy in the wider access to justice realm. This process required gender and disability sensitivity, coupled with cultural insight. For this reason, it was essential to engage in a co-production process with partner organizations in each of the target countries.

The project included at least one partner and/or partner organization in each target country. A detailed description of the full co-production process is provided below. The partner organizations were involved in the design, delivery, and dissemination of the legal needs survey and its findings. This approach was not only essential for developing the legal needs survey with the necessary sensitivity and insight, but also for complying with the obligations of the CRPD, which requires the participation of persons with disabilities and OPDs in all matters related to persons with disabilities, including when developing and implementing the legislation and policies to implement the CRPD, and in other decision-making processes concerning issues relating to persons with disabilities. It is also widely accepted best practice in disability research to engage in co-production.<sup>14</sup>

### Overview of Report

The present report sets forth the findings of the literature review and mapping of justice frameworks, before presenting the findings of the legal needs survey conducted. The findings of the literature and mapping of justice frameworks include a thorough description of the domestic legal landscape and barriers to accessing justice for each of the four target countries. The findings of the legal needs survey include a description of the legal needs survey methods in addition to the analysis, which paired quantitative and qualitative research strategies. The report concludes with recommendations for reform and how to move forward.

**The research team was committed to providing a legal needs survey which functioned as a tool for empowerment and advocacy in the wider access to justice realm.**

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13. Ibid.

14. Arstein-Kerslake et al., "Introducing a human rights-based disability research methodology," pp. 412-432.

### 3. TERMINOLOGY AND DISABILITY-SPECIFIC COMMUNICATIONS

Before discussing the findings of this research and their implications, it is important to address aspects of the terminology used in its production. For the purposes of this report, the terms ‘persons with disabilities’ and ‘women with disabilities’ were chosen. They are considered ‘person-first’ terms, because they put the individual before the impairment.<sup>15</sup> In addition, they are the terms used in the CRPD, which was developed and drafted by experts with disabilities and with unprecedented participation of persons with disabilities and OPDs, and reflects terminology that was similarly developed in a participatory process. Moreover, as the CRPD is part of the international legal framework for this project and is used as a guidepost for the right to access to justice and related rights, the choice was made to use terminology which is consistent with this international treaty.

In this participatory spirit, the project has followed the *UN Disability-Inclusive Communications Guidelines* to ensure that its outputs are both inclusive and accessible.<sup>16</sup> In line with the guiding principles of the CRPD (and the research ethos guiding this project), the *Guidelines* aim at reducing bias and discrimination in communications and promoting inclusion and participation. For this project, the research was conducted using the *Guidelines* to direct the research and ensure its participatory nature, avoid stereotypes and implicit bias, utilize an anti-ableist paradigm, and embrace the human rights model of disability. The actions taken in line with these goals were: ensuring accessible information created at all stages of the project – design, delivery, through to dissemination; encompassing intersectional considerations at all stages; facilitating reasonable accommodation at all stages; using person-first language; and keeping the research design and delivery open and flexible at all stages, so that changes could be made at any point, as necessary to ensure inclusivity and accessibility.

In regard to gender, it is important to note that initial references to gender and sex in human rights instruments were based on the binary model of gender (i.e. recognition of only two genders: male and female). However, modern understandings of gender have evolved to encompass a wide range of gender diversity. This research project has endeavoured to encompass this diversity and include all women, including trans women, as well as non-binary people, intersex people, and people of other genders. This includes any culturally specific conceptions of gender identity. Accordingly, the research team has endeavoured to use non-binary terminology and aimed throughout the research to employ language that reflects a diversity of genders.

**The research was conducted using the UN Disability-Inclusive Communication Guidelines to direct the research and ensure its participatory nature, avoid stereotypes and implicit bias, utilize an anti-ableist paradigm, and embrace the human rights model of disability.**

15. Blaska, J. 1993. “The power of language: Speak and write using “person first.” *Perspectives on Disability*. pp. 25-32.

16. UN (United Nations). 2022. *Disability-Inclusive Communications Guidelines*. New York: UN.

## 4. INTERNATIONAL AND REGIONAL LEGAL FRAMEWORKS

The project uses international human rights law as its legal framework – specifically focusing on the human rights of women with disabilities. The rights of women with disabilities are promoted and protected by all international human rights frameworks. They are protected based on the principles of non-discrimination and equality in the core international human rights instruments: the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

These principles are also incorporated into the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD).<sup>17</sup> The preambles of the CEDAW and the CRPD recall these principles and note that despite their existence, discrimination against women and persons with disabilities persists.<sup>18</sup> This project was specifically concerned with discrimination in the area of access to justice – covered under both the CEDAW and the CRPD.

### Convention on the Elimination of All Forms of Discrimination against Women

The UN Convention on the Elimination of All Forms of Discrimination against Women is an international human rights treaty specific to women’s rights and gender equality. It takes a broad view of both discrimination and equality, and seeks to eliminate discrimination against women in all areas of life.<sup>19</sup> The monitoring body for the CEDAW, the Committee on the Elimination of All Forms of Discrimination against Women,

favours a substantive equality approach (addressing the barriers to equality, and incorporating difference in outcome),<sup>20</sup> and has emphasized “that culture, tradition, religion, and community identity are no excuse for failure to address discrimination.”<sup>21</sup> These potential societal barriers were identified in the legal needs survey findings as impacting respondents in the Asia-Pacific region, described in more detail below.

In addition, the Preamble of the CEDAW notes how prescribed gender roles play a role in entrenching gender discrimination. Article 5(a) highlights this notion and requires States Parties to address social and cultural practices that are rooted in patriarchal societal norms. The CEDAW is not limited to state action, and also includes a duty for states to act on gender discrimination perpetrated by private actors. The CEDAW is not only powerful for its potential to change law and policy, but also for how local activists have used it to advocate for change within their communities.<sup>22</sup>

The CEDAW has noted the importance of using intersectionality to interpret state obligations.<sup>23</sup> Intersectionality is used to describe how a woman’s social and political identities (e.g. race, disability, caste, and gender) can intersect with different systems of oppression to create unique experiences of discrimination.<sup>24</sup> Recognition of intersectionality by the Committee on the Elimination of All Forms of Discrimination against Women is particularly relevant to this project, because it demonstrates an understanding and acknowledgment of the unique legal needs and access to justice issues that women with disabilities are likely facing. The legal needs survey results include testimonies of experiences of intersectional

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17. van Leeuwen, F. 2013. “Women’s Rights Are Human Rights.” In *Women’s Human Rights: CEDAW in International, Regional and National Law*. A. Hellum. Cambridge: Cambridge University Press, pp. 245-246; Bantekas, I. and L. Oette. 2020. *International Human Rights Law and Practice*. Cambridge: Cambridge University Press, pp. 508; Hellum, A. and H. Sinding Assen, “Introduction.” in *Women’s Human Rights: CEDAW in International, Regional and National Law*. A. Hellum. Cambridge: Cambridge University Press, pp. 1.
  18. Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981), 1249 UNTS 13, Preamble; Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3, Preamble.
  19. Rudolf, B., Freeman, M., and C. Chinkin (Eds.). 2012. *The UN Convention on the Elimination of All Forms of Discrimination against Women: A Commentary*. Oxford: Oxford University Press, pp. 121, 127 and 131.
  20. Nikolaidis, C. 2015. *The Right to Equality in European Human Rights Law: The Quest for Substance in the Jurisprudence of the European Courts*. Abingdon, Oxon; New York, N.Y: Routledge, pp. 11 - 21.
  21. Rudolf, B., Freeman, M., and C. Chinkin *The UN Convention on the Elimination of All Forms of Discrimination against Women*, pp. 148.
  22. *Ibid.*, pp. 121, 127 and 148.
  23. *Ibid.*, 136.
  24. Crenshaw, K. 1991. “Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color.” *Stanford Law Review* 43 (6), pp. 1241, 1244 and 1245; Flynn, E. 2015. *Disabled Justice? Access to Justice and the UN Convention on the Rights of Persons with Disabilities*. Farnham: Ashgate Publishing, 19.

discrimination, particularly regarding the intersection of disability and gender, but also caste, socio-economic status, rural and remote location, minority status, as well as others.

### Article 15 of the CEDAW: Equal Recognition before the Law

The most relevant article of the CEDAW for the aims of this project is Article 15, which guarantees the right to equal recognition before the law. This right is essential for the right to access justice as it includes the right to legal capacity, which is required for an individual to secure all other rights in law. Article 15 derives from the right to equality before the law under Article 6 of the UDHR and Article 16 of the ICCPR.<sup>25</sup> The CEDAW was the next international human rights treaty to expand on the right, and the first to explicitly refer to legal capacity and to specify legal standing and agency as two key components.<sup>26</sup> Additionally, Article 15 specifies that women should be equal to men before the law and have equal legal capacity.<sup>27</sup> In practice, the recognition of equal recognition before the law should result in non-discrimination in the broader justice or legal system, including law enforcement and civil, criminal, and administrative courts.<sup>28</sup> The CRPD has affirmed that Article 15 of the CEDAW applies to women with disabilities.<sup>29</sup>

During the drafting process, the inclusion of Article 15 was contentious as “it conflicted with national legal systems” which continue to deny legal standing, as well as agency and decision-making, to women in various way; for example, by restricting inheritance and contracting rights.<sup>30</sup> Article 15, and

the CEDAW more broadly, of course, applies to all women, including women with disabilities.<sup>31</sup> However, the needs of women with disabilities are not mentioned in the CEDAW in relation to the right to legal capacity. Nonetheless, it is fitting that the CEDAW was the first international human rights treaty to proclaim an autonomous right to legal capacity, as women – particularly women with disabilities – have historically had their legal capacity disproportionately denied compared to other groups.<sup>32</sup>

### CEDAW Ratification in Target Countries

All four of the countries targeted by this project have ratified and are legally bound by the CEDAW: Fiji ratified it in 1995, Indonesia in 1984, Nepal in 1991, and the Philippines in 1981.<sup>33</sup> Only Nepal (2007) and the Philippines (2003) have ratified the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP-CEDAW),<sup>34</sup> which allows individuals and groups to submit a communication to the Committee on the Elimination of Discrimination against Women.<sup>35</sup> Indonesia has signed the Protocol, and at the time of writing, Fiji has yet to sign or ratify this Protocol.<sup>36</sup>

**CEDAW was the first international human rights treaty to proclaim an autonomous right to legal capacity, as women.**

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25. Arstein-Kerslake, A. 2017. *Restoring Voice to People with Cognitive Disabilities: Realizing the Right to Equal Recognition Before the Law*. Cambridge: Cambridge University Press, pp. 6–7.
  26. *Ibid.*, 7; Arstein-Kerslake, *Legal Capacity & Gender*. 9.
  27. CEDAW, art 15(1), 15(2).
  28. Freeman, M., Chinkin, C., and B. Rudolf. 2012. “Article 15.” In *The UN Convention on the Elimination of All Forms of Discrimination against Women: A Commentary*. Freeman, M., Chinkin, C., and B. Rudolf (Eds.) Oxford: Oxford University Press, 431.
  29. UN CRPD, General comment No. 1, para., 35.
  30. Fraser, A. 1999. “Becoming Human: The Origins and Development of Women’s Human Rights.” *Human Rights Quarterly* 21 (4), pp. 853-899.
  31. UN CRPD, General comment No. 1. para., 35.
  32. Arstein-Kerslake, *Legal Capacity & Gender*. 22.
  33. United Nations Treaty Collection. N.d. “Chapter IV Human Rights: 8. Convention on the Elimination of All Form of Discrimination against Women.” Available from 12 April 2023. [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en).
  34. United Nations Treaty Collection. N.d. “Chapter IV Human Rights: 8. b Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.” Available from 12 April 2023. [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8-b&chapter=4&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&clang=en); United Nations Office of the High Commissioner for Human Rights. N.d. “Status of Ratification Dashboard: Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.” Available from 12 April 2023. <https://indicators.ohchr.org>.
  35. Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women (adopted 6 October 1999, entered into force 22 December 2000) 2131 UNTS 83, art 1, 2.
  36. See n (36).



## Convention on the Rights of Persons with Disabilities

The rights of women with disabilities are protected in the core human rights instruments and in the CEDAW, as mentioned above. However, there remained widespread concern that the rights of women with disabilities – and persons with disabilities more broadly, were not adequately enumerated in the existing human rights instruments, and that this omission could cause greater rights violations for this group. In particular, women with disabilities – historically and at present – face discrimination on the basis of both their gender and disability, and, accordingly, face discrimination and barriers in nearly every facet of life.<sup>37</sup>

Women with disabilities are more likely to face discrimination than men and boys with disabilities and women without disabilities.<sup>38</sup> In particular, women with disabilities have historically faced discrimination regarding education, employment opportunities, legal capacity, political participation, and autonomous living.<sup>39</sup> They are at greater risk of poverty, have on average less educational attainment, and are more likely to experience violence, exploitation and abuse compared to women without disabilities.<sup>40</sup>

Patriarchal societal and gender norms also perpetuate discrimination against and negative stereotyping of women with disabilities, as, for example, they are at risk of being viewed as being “unable to fulfil the traditional role of mother and caregiver.”<sup>41</sup> In this sense, they are at risk of being perceived as recipients of care and protection, as vulnerable (being perceived as reliant or defenceless), and passive or helpless.<sup>42</sup> The pervasive discrimination, stigma,

and stereotypes concerning women with disabilities described above (and throughout this report) contribute to the normalization of serious human rights violations against members of this group, including the denial of their right to legal capacity and their right to access to justice. For this reason, among others, the creation of a disability-specific treaty was deemed necessary, which would include provisions on the specific rights of women with disabilities.

The CRPD is the first international human rights treaty to recognize that persons with disabilities are rights holders.<sup>43</sup> It is widely accepted that the CRPD codified the human rights model of disability and aims to move beyond the medical model of disability.<sup>44</sup> The latter views disability as a personal impairment, and persons with disabilities as in need of a cure to conform to able-bodied society.<sup>45</sup> It neglects to consider how the social environment can create barriers.<sup>46</sup> The medical model views persons with disabilities as simply the object of charity, medical treatment, and social protection.<sup>47</sup> In contrast, the social model of disability centres on the idea that persons with disabilities face obstacles to participation in society due to barriers.<sup>48</sup>

The human rights model of disability prescribes 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.<sup>49</sup> The human rights model of disability goes further than both the medical and social models, specifically addressing the human dignity of persons with disabilities, and finding that absence of impairment is not a prerequisite to enjoyment of human rights.<sup>50</sup> The

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37. UN CRPD (United Nations Committee on the Rights of Persons with Disabilities). 2016. *General comment No. 3 on women and girls with disabilities*. CRPD/C/GC/3. para., 2.
  38. *Ibid.*, 9.
  39. *Ibid.*, 2..
  40. Mykitiuk, R, and E. Chadha. 2018. “Article 6: Women with Disabilities.” In *The UN Convention on the Rights of Persons with Disabilities: A Commentary*. I. Bantekas, M. Stein and D. Anastasiou (Eds.). Oxford, 193; and UN CRPD, General comment No. 3. para., 29.
  41. UN Human Rights Council (United Nations Human Rights Council). 2019. *Rights of persons with disabilities: Report of the Special Rapporteur on the rights of persons with disabilities*. A/HRC/40/54. para., 37.
  42. UN Human Rights Council, *Rights of persons with disabilities*. para., 47.
  43. Degener, T. 2016. “Disability in a Human Rights Context.” *Laws* 5 (3), pp.35 - 59; Mégret, F. 2008. “The Disabilities Convention: Human Rights of Persons with Disabilities or Disability Rights?” *Human Rights Quarterly* 30 (2), pp. 494, 500.
  44. Lawson, A. and A. Beckett. 2021. “The Social and Human Rights Models of Disability: Towards a Complementarity Thesis.” *The International Journal of Human Rights* 25 (2), pp. 348 - 362; Degener, “Disability in a Human Rights Context.”, 3.
  45. Degener, “Disability in a Human Rights Context.”, 2; Colbran, N. 2010. “Access to Justice Persons with Disabilities Indonesia: Background Assessment Report.”, 12.
  46. Wardana, A. and N. Dewi. 2017. “Moving Away From Paternalism: The New Law on Disability in Indonesia.” *Asia-Pacific Journal on Human Rights and the Law* 18 (2), pp. 172 - 174.
  47. Kusumastuti, P. R. Pradanasari A. Ratnawati. 2014. “The Problems of People with Disability in Indonesia and What Is Being Learned from the World Report on Disability.” *American Journal of Physical Medicine & Rehabilitation*. 93(1) pp. 67.
  48. Lawson, A. and M. Priestley. 2017. “The Social Model of Disability: Questions for Law and Legal Scholarship?” In *The Routledge Handbook of Disability Law and Human Rights*; P. Blanck and E. Flynn (Eds.). Abingdon, Oxon; New York, N.Y.: Routledge, pp. 4–5.
  49. CRPD, Preamble (e).
  50. Degener, “Disability in a Human Rights Context.”, pp. 3 - 4.

human rights model also includes both civil and political, and economic, social and cultural rights, which are reflected in the breadth of rights included in the CRPD.<sup>51</sup> The CRPD does not create unique or new rights for persons with disabilities, rather it applies human rights affirmed in earlier instruments in the context of disability, setting out measures to address more comprehensively the specific challenges faced by persons with disabilities including accessibility (Article 9), equal recognition before the law (Article 12), access to justice (Article 13) and living independently and being included in the community (Article 19). The CRPD was also the first international human rights instrument to (in Article 6) specifically address the intersectional disadvantage faced by women with disabilities and the individual rights and state obligations which are critical for overcoming that disadvantage. Article 6 of the CRPD, in combination with Article 12 on the right to legal capacity and Article 13 on the right to access to justice, create the international legal foundation for this research project.

### Article 6 of the CRPD: Women with Disabilities

Article 6 of the CRPD arose from women with disabilities being ignored in both disability-specific and gender-specific laws, and the lack of specific recognition of the rights of women and girls with disabilities.<sup>52</sup> The medical model of disability and viewing persons with disabilities as recipients of ‘charity’ prevented an analysis of the multiple and intersecting discrimination faced by women with disabilities, as it perpetuated an homogenous view of persons with disabilities as objects of charity or individuals in need of medical intervention.<sup>53</sup> Article 6 acknowledges disability as a unique experience of the individual and recognizes the barriers that may arise for the individual on the basis of gender, disability, and the intersection between these two aspects.<sup>54</sup>

As mentioned above, Article 6 is the only international instrument to provide specific protection for women and girls with disabilities;<sup>55</sup> although all women fall under the purview of the CEDAW, it does not make explicit mention of women and girls with disabilities and their needs are largely not addressed in the treaty.<sup>56</sup> Article 6 illustrates the transformative approach to equality embraced by the CRPD: States Parties must go beyond adopting anti-discrimination laws and empower women and girls with disabilities, by recognizing them as rights holders, empowering them, and allowing them to exercise their agency.<sup>57</sup>

Domestic policies must address the specific form of multiple discrimination faced by women with disabilities.<sup>58</sup> In doing so, barriers should be removed and discriminative structures dismantled.<sup>59</sup> This transformative approach is essential to ensuring access to justice for women with intellectual and/or psychosocial disabilities in Asia and the Pacific, because – as the findings below indicate – the barriers they face go far beyond discrimination and require a nuanced intersectional reform path which includes proactive state action.

### Article 12 of the CRPD: Equal Recognition before the Law

Article 12 of the CRPD follows on from Article 15 of the CEDAW and further enumerates the rights to equal recognition before the law and legal capacity. As mentioned above, these rights are inextricably linked to the right to access to justice, required as they are for the recognition of the individual as a holder of rights and as a legal decision-maker. Without such recognition, the individual is left without legal acknowledgement of their rights nor a means to enforce those rights. Therefore, an analysis of the right to equal recognition before the law and legal capacity is consequential to any analysis pertaining to access to justice issues.<sup>60</sup>

51. Ibid, pp. 4–5.

52. UN CRPD (United Nations Committee on the Rights of Persons with Disabilities). 2016. *General comment No. 3* (2016) Article 6: Women and girls with disabilities CRPD/C/GC/3, para., 3 - 7.

53. Mykitiuk and Chadha, “Article 6: Women with Disabilities.”, 172.

54. Ibid., 184; UN CRPD, General Comment No. 3, para., 2.

55. Mykitiuk and Chadha, “Article 6: Women with Disabilities.”, 172.

56. Della Fina, V., Cera, R., and G. Palmisano. 2017. *The United Nations Convention on the Rights of Persons with Disabilities*. Cham: Springer International Publishing, pp. 177 - 179.

57. UN CRPD, General Comment No. 3., para., 7.

58. Della Fina, V., Cera, R., and G. Palmisano. *The United Nations Convention on the Rights of Persons with Disabilities.*, 189.

59. Ibid., 191.

60. UN CRPD, General comment No. 1. para., 31.

Key components of Article 12 include the right to equal recognition as persons before the law, the right to legal capacity, a state obligation to provide support for exercising legal capacity, and a state obligation to ensure appropriate and effective safeguards for support in exercising legal capacity. In addition (drawing on the text of the CEDAW), as part of the right to exercise legal capacity, Article 12 explicitly includes the equal right to own or inherit property and exercise control over one's finances, and a prohibition on arbitrary deprivation of property.<sup>61</sup> However, the right to exercise legal capacity also includes a variety of other legal actions – such as, voting, marriage, medical decision-making, and any other action or inaction which may have legal consequences.<sup>62</sup> The paramount importance of the right to equal recognition before the law is reflected in its description as “the right to have rights.”<sup>63</sup>

Mental capacity and legal capacity have long been conflated under the medical model; persons with disabilities have been denied legal capacity on the inaccurate basis that they do not have sufficient mental capacity (or decision-making skills) to exercise legal capacity.<sup>64</sup> Disability – including intellectual and/or psychosocial disability – is highly diverse. Some persons with disabilities may require a greater degree of support to make their own decisions than others – in addition, there is significant evidence to indicate that even persons without disabilities often do not make ‘rational’ decisions – being frequently guided by emotion or instinct.<sup>65</sup> However, the law continues to grant legal capacity based on the often discriminatory illusion of rationality.

This emphasis on cognition and rationality has led to persons with intellectual and/or psychosocial disabilities being disproportionately affected by denial of legal capacity.<sup>66</sup> However, this stands contrary to how the right to legal capacity has developed in international law. As described above, this right has developed from the UDHR (Article 6), to its first legally binding form in the ICCPR (Article 16), and then its further elaboration in the CEDAW and the CRPD. The UDHR and ICCPR establish the right to legal capacity as a universal human right – applicable on an equal basis to all people – and the CEDAW establishes that it includes both standing and agency. The CRPD then solidifies this and provides more detail. Therefore, the right to legal capacity is

a universal right that refers to an individual's legal standing and legal decision-making.

Moreover, all people are equally entitled to the right – including persons with a disability that may be related to decision-making skills, such as intellectual and/or psychosocial disability. For this reason, it is critical that the right to legal capacity is respected for all, regardless of actual or perceived disability related to decision-making skills – and the State has an obligation to ensure that all persons have access to the support needed for the exercise of that legal capacity.<sup>67</sup> This is of immediate relevance to this research project as many of the findings, discussed in detail below, suggest that in the Asia-Pacific region, the right to legal capacity continues to be conflated with mental capacity (as it is in many other world regions) and that women with intellectual and/or psychosocial disabilities are facing widespread denial of their legal capacity in the form of denial of their legal decision-making either by formal justice actors (e.g. through guardianship) or informally (by family members or others).

It is also important to note that, globally, women and gender minorities with intellectual and/or psychosocial disabilities are disproportionately denied legal capacity. This occurs due to intersectional disadvantage caused by gender and disability-related discrimination and the overlapping consequences which arise from this disadvantage. In many parts of the Asia and the Pacific, women and gender minorities have long been inaccurately assumed to have diminished decision-making and rationality skills compared to men, with persons with disabilities also categorized as having inferior decision-making skills. This has led to disproportionate denial of legal capacity for members of these groups, in both formal legal settings and informal community settings.

Many women and gender minorities with intellectual and/or psychosocial disabilities are not in a socio-legal positions to exercise their legal capacity due to ableist, patriarchal societal norms. Examples of this can be seen in regard to institutional settings (mental health institutions as well as congregated residential settings for persons with intellectual disabilities); unemployment and financial hardship (leading to dependence on family or other community members and vulnerability due to lack of resources to engage independently

61. CRPD, art 12 (1-5).

62. Arstein-Kerslake, A. and E. Flynn. 2017. “The right to legal agency: domination, disability and the protections of Article 12 of the Convention on the Rights of Persons with Disabilities.” *International Journal of Law in Context* 13 (1), pp. 22-38.

63. UN Human Rights Council. *Report of the Special Rapporteur on the Rights of Persons with Disabilities*. para., 13.

64. Flynn and Arstein-Kerslake. “Legislating Personhood.” pp. 81-82.

65. Arstein-Kerslake, A. *Restoring Voice to People with Cognitive Disabilities: Realizing the Right to Equal Recognition Before the Law*.

66. *Ibid.*, 82; UN CRPD, General comment No. 1. para., 9.

67. Arstein-Kerslake, A. *Restoring Voice to People with Cognitive Disabilities: Realizing the Right to Equal Recognition Before the Law*.

in the community); and many other situations that leave the affected individual with neither recognition nor the legal capacity or freedom to exercise their legal capacity.<sup>68</sup> Detailed descriptions of domestic legislation and socio-legal situations which deny the legal capacity of women with intellectual and/or psychosocial disabilities in the target countries are presented in more detail below.

Article 12 of the CRPD is also interconnected with many other human rights, as an individual cannot enjoy human rights protection unless they are recognized as a rights holder in law.<sup>69</sup> The most relevant of those rights for this project is the right to access to justice.

### Article 13 of the CRPD: Access to Justice

Article 13 of the CRPD provides for the right to access to justice for persons with disabilities. It represents the first explicit acknowledgement of such a right in international human rights law.<sup>70</sup> Prior to this article, the rights to an effective remedy and fair trial were found in the core human rights treaties, alongside other related rights, such as political participation.<sup>71</sup> However, the right to access to justice is much broader. It refers to the opportunity for survivors of human rights violations to receive redress, and includes all fora and procedures involved in the administration of justice.<sup>72</sup> The encompassing definition is used to ensure that all forms of justice are included under its purview, including those pursued outside the formal legal system.<sup>73</sup>

This definition is important to understand when reflecting upon the legal needs survey findings, discussed further below, as they indicate that respondents frequently pursued justice outside of the adversarial justice system. This suggests that to protect the right to access to justice in the Asia and the Pacific, it is essential to consider how these alternative justice systems function and whether they offer an avenue for access to justice that is not available through the adversarial system.

It is necessary to distinguish between reasonable accommodation and procedural accommodation when discussing the right to access to justice. Article 2 of the CRPD provides the following definition:

*“Reasonable accommodation” means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.”<sup>74</sup>*

In terms of accessing justice, reasonable accommodation includes each of the different adjustments or adaptations necessary for persons with disabilities to participate in accessing justice on an equal basis to persons without disabilities.<sup>75</sup> However, this is only required if it does not impose a disproportionate or undue burden. Importantly, procedural accommodation does not contain the same limitation,<sup>76</sup> and can include any form of accommodation that is necessary for persons with disabilities to participate in accessing justice on an equal basis to others. The use of procedural accommodation as a means to ensure effective access to justice is a state obligation under Article 13(1) of the CRPD.

## Article 13 of the CRPD provides for the right to access to justice for persons with disabilities. It represents the first explicit acknowledgement of such a right in international human rights law.

68. Arstein-Kerslake, *Legal Capacity & Gender*.

69. Flynn and Arstein-Kerslake. “Legislating Personhood.”, pp. 81 - 87.

70. Flynn. *Disabled Justice?*, 21, 31 and 40; Kanter, A. 2015. *The Development of Disability Rights under International Law: From Charity to Human Rights*. Abingdon, Oxon; New York, N.Y.: Routledge, pp. 222; Flynn, E. 2017. “Article 13 [Access to Justice].” In *The United Nations Convention on the Rights of Persons with Disabilities*. Della Fina, V., Cera, R., and G. Palmisano (Eds.). Cham: Springer International Publishing, 282.

71. Flynn. *Disabled Justice?*, 21; Lord J., Guernsey K., Balfe J., Karr V., and A. deFranco. 2012. “Human Rights. Yes! Action and Advocacy on the Rights of Persons with Disabilities.” *Human Rights Education Series: Book 6*. Minneapolis: University of Minnesota Human Rights Center, 139.

72. Lord et al., “Human Rights. Yes!”, 137; Flynn, “Article 13 [Access to Justice].”, 282.

73. Flynn, “Article 13 [Access to Justice].”, 282.

74. United Nations Convention on the Rights of Persons with Disabilities (2006) Article 2.

75. Flynn. *Disabled Justice?*, 36.

76. UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2021. *Pacific Perspectives: Convention on the Rights of Persons with Disabilities: Overview of Compliance in Pacific Islands Legislation*. Bangkok: UNESCAP, 12.

The right to access to justice also demonstrates the ways in which human rights are indivisible, interconnected, and interrelated;<sup>77</sup> for instance, if a person with a disability who was denied the right to work filed a complaint within the justice system but the justice system was inaccessible, then there is a violation of both the right to access to justice and the right to work.<sup>78</sup> In a case where a woman with a disability is forcibly sterilized and proves unsuccessful in her subsequent attempts to seek legal redress or damages from the medical professionals who carried out the sterilization, she has experienced a violation, among others, of the right to bodily integrity, the right to exercise legal capacity in medical decision-making, and the right to access to justice.

In successfully facilitating persons to exercise their right to access to justice, local and domestic remedies are of particular importance, as they are often the most meaningful to victims. Where these remedies are not accessible, the international human rights system as a whole is weakened.<sup>79</sup> As is evident in the below discussion of the legal needs survey methods, this research project took an expansive view of the right to access to justice – due to its importance as a foundational element of the human rights system.

**This research project took an expansive view of the right to access to justice – due to its importance as a foundational element of the human rights system.**

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## CRPD Ratification in Target Countries

As with the CEDAW, all four target countries have ratified and are legally bound by the CRPD (Fiji in 2017, Indonesia in 2011, Nepal in 2010, and the Philippines in 2008).<sup>80</sup> Only Nepal has ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities (OP-CRPD),<sup>81</sup> which provides for the Committee on the Rights of Persons with Disabilities to receive communications regarding alleged violations of the treaty.<sup>82</sup>

## Conclusion

These instruments and the specific articles discussed above were used as guideposts for the research undertaken in the Asia-Pacific region. The legal needs survey was developed based on the definitions of these rights, and to specifically explore the barriers to these rights in Asia and the Pacific for women with intellectual and/or psychosocial disabilities. In the following sections, the legal needs survey methods are outlined, the findings are presented, and recommendations and conclusions are put forth for both each of the four target countries and the Asia-Pacific region at large.

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77. Lord et al., “Human Rights. Yes!”, 137.

78. Ibid.

79. Flynn. *Disabled Justice?*, 21.

80. United Nations Treaty Collection. N.d. “Chapter IV Human Rights: 15. Convention on the Rights of Persons with Disabilities” Accessed 15 February 2023. [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-15&chapter=4&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&clang=_en).

81. United Nations Treaty Collection. N.d. “Chapter IV Human Rights: 15. a Optional Protocol to the Convention on the Rights of Persons with Disabilities” Accessed 15 February 2023. [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-15-a&chapter=4&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15-a&chapter=4&clang=_en).

82. Optional Protocol to the Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2518 UNTS 283 (OP-CRPD), art 1.

## 5. DISABILITY IN ASIA AND THE PACIFIC

According to the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), one in six individuals in Asia and the Pacific have a disability.<sup>83</sup> This translates to more than 700 million persons with disabilities,<sup>84</sup> or 15 per cent of the region's total population.<sup>85</sup> The prevalence of disability in the different countries of the region varies greatly, due to different definitions and varying approaches to measuring disability;<sup>86</sup> for example, the share of population with a disability is 1 per cent in the Lao People's Democratic Republic, compared to 24 per cent in New Zealand.<sup>87</sup> The regional median disability rate is 4.4 per cent.<sup>88</sup>

The number of persons with disabilities is expected to increase due to various factors, including a rapidly aging population, a predicted rise in the frequency with which natural disasters occur, poor working conditions, and increased prevalence of chronic health conditions.<sup>89</sup> The lack of up-to-date, disaggregated data in relation to persons with disabilities

in Asia and the Pacific hinders assessment of socioeconomic needs, preventing the implementation of effective policies and programmes to promote disability inclusion.<sup>90</sup>

Throughout modern history, different models and paradigms have influenced how disability issues have been addressed. The medical model traces problems back to individual physiological limitations<sup>91</sup> and sees disability as a 'problem' that needs to be fixed.<sup>92</sup> On the other hand, the social model, which originated in the United Kingdom, whereby impaired individuals are 'disabled' by environmental and attitudinal barriers. Most recently, the human rights model of disability has sought to reconcile these two approaches, with an emphasis on intersectionality and natural human variation.<sup>93</sup> The latter is reflected in the person-first language of the CRPD, which recognizes an expansive definition of disability<sup>94</sup> and proclaims persons with disabilities as autonomous rights holders.<sup>95</sup>

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83. United Nations Economic and Social Commission for Asia and the Pacific. 2014. "Making the right real for persons with disabilities." Available from 12 April 2023. <https://www.unescap.org/sites/default/files/Disability-Factsheet.pdf>.
  84. UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2022. *A Three-Decade Journey Towards Inclusion: Assessing the State of Disability-Inclusive Development in Asia and the Pacific*. Bangkok: ESCAP, 2.
  85. United Nations Economic and Social Commission for Asia and the Pacific. N.d. "Social Development: Disability Inclusive Development." Available from 10 February 2023. <https://www.unescap.org/our-work/social-development/disability-inclusive-development>; UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2018. *Building Disability-Inclusive Societies in Asia and the Pacific: Assessing Progress of the Incheon Strategy*. Bangkok: UNESCAP, pp. 1 - iv.
  86. United Nations Economic and Social Commission for Asia and the Pacific. 2014. "Making the right real for persons with disabilities." Accessed 12 April 2023. <https://www.unescap.org/sites/default/files/Disability-Factsheet.pdf>; Saowalak Thongkuay. 2009. "Rights of Persons with Disabilities in the Asia-Pacific." Available from 12 April 2023. <https://www.hurights.or.jp/archives/focus/section2/2009/03/rights-of-persons-with-disabilities-in-the-asia-pacific.html>.
  87. UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2016. *Disability in Asia and the Pacific: The Facts*. Bangkok: UNESCAP, 4.
  88. Ibid.
  89. United Nations Economic and Social Commission for Asia and the Pacific. N.d. "Social Development: Disability Inclusive Development." Available from 10 February 2023. <https://www.unescap.org/our-work/social-development/disability-inclusive-development>.
  90. UNESCAP. *Disability in Asia and the Pacific: The Facts*.
  91. M. Oliver. 1990. "The Individual and Social Models of Disability." Paper presented at Joint Workshop of the Living Options Group and the Research Unit of the Royal College of Physicians on People with Established Locomotor Disabilities in Hospitals., 2.
  92. Arstein-Kerslake, A., Gooding, P., Mercer, S., Raymond, M., and B. McSherry. 2019. "Implementing a Participatory Human Rights-Based Research Methodology: The Unfitness to Plead Project." *Journal of Human Rights Practice* 11 (3), pp. 589 - 591.
  93. Degener. "Disability in a Human Rights Context.", 3.
  94. Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3 (CRPD), art 1.
  95. Degener. "Disability in a Human Rights Context.", 3.; Human Rights Council. *Report of the Special Rapporteur on the Rights of Persons with Disabilities*. para., 20.

Disability can also be understood in Asia and the Pacific through a different lens:<sup>96</sup> a religious or philosophical approach.<sup>97</sup> This model views disability as a result of past deeds.<sup>98</sup> Following this line of thinking, some individuals view disability “as a curse or punishment for previously committed sins of the parents.”<sup>99</sup> This thinking is commonly present in Nepal, where disability is widely perceived as punishment for actions in previous lives.<sup>100</sup> In Indonesia, disability is frequently viewed as “disgraceful,”<sup>101</sup> and in Fiji may be viewed as “evil or as a curse.”<sup>102</sup>

Despite the prevalence of the religious and philosophical model among individuals, public policy in the target countries tends to align with the medical/charity model.<sup>103</sup> This is the case in Indonesia; however, OPDs in the country use the social model.<sup>104</sup> OPDs across Asia and the Pacific have identified the paramount need for a societal shift in thinking regarding persons with disabilities.<sup>105</sup>

Stigma against persons with disabilities is profound in Asia and the Pacific.<sup>106</sup> A case in point, in Indonesia disability is synonymous with weakness and as a result, persons with disabilities are perceived as burdensome.<sup>107</sup> The stigma

often carries over to the family members of persons with disabilities, particularly for those with psychosocial disabilities as the religious or philosophical model views disability as a family problem, and not a problem that arises from societal barriers.<sup>108</sup> Stigma and discrimination against persons with disabilities is grounded in such negative social attitudes, which are then incorporated into public policy and law, continuing the cycle of discrimination and negative attitudes towards persons with disabilities.<sup>109</sup>

## Experience of Women with Disabilities in Asia and the Pacific

Women and girls with disabilities in Asia and the Pacific face intersectional discrimination on the basis of at least three socio-political identities: their gender identity, their disability, and their socioeconomic status (over 40 per cent live in poverty).<sup>110</sup> Many also face discrimination on the basis of their ethnicity (70 per cent of the world’s Indigenous population live in the region).<sup>111</sup> This was reflected in the legal needs survey results, with 39 per cent of total participants identifying as indigenous. This includes all (ten) respondents from Fiji with intellectual disabilities.

**Stigma and discrimination against women with disabilities is grounded in such negative social attitudes, which are then incorporated into public policy and law, continuing the cycle of discrimination.**

96. Wardana and Dewi. “Moving Away From Paternalism: The New Law on Disability in Indonesia.”, 175.

97. Ibid.

98. Ibid., pp. 175–176.

99. Colbran. “Access to Justice Persons with Disabilities Indonesia: Background Assessment Report.”, 11.

100. DRC (Disability Research Centre). N.d. *Nepal Disability Policy Review*. Kathmandu: DRC., 1.

101. Kusumastuti, P. R. Pradanasari, A. Ratnawati “The Problems of People with Disability in Indonesia and What is Being Learned From the World Report on Disability.”, 64.

102. UNFPA (United Nations Population Fund). 2022. *Women and Young People with Disabilities: A Needs Assessment of Sexual and Reproductive Health and Rights, Gender-Based Violence, and Access to Essential Services*. New York: UNFPA, 16.

103. Wardana and Dewi. “Moving Away From Paternalism: The New Law on Disability in Indonesia.”, pp. 176 - 183.

104. Ibid., 176.

105. UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2022. *Framework for Disability Policies and Strategies in Asia and the Pacific*. Bangkok: UNESCAP, 8.

106. Colbran. “Access to Justice Persons with Disabilities Indonesia: Background Assessment Report.”, pp. 5, 11 and 20; Carmona, M., and K. Donald. 2015. “Beyond Legal Empowerment: Improving Access to Justice from the Human Rights Perspective.” *The International Journal of Human Rights* 19 (3), pp. 242 - 254; Dhungana, B. 2006. “The Lives of Disabled Women in Nepal: Vulnerability Without Support.” *Disability & Society* 21(2), p. 133.

107. Colbran. “Access to Justice Persons with Disabilities Indonesia: Background Assessment Report.”, pp. 5 - 11.

108. Carney, T. 2011. “A Regional Disability Tribunal for Asia and the Pacific: Changing the Conversation to a “Conversation”?” *International Journal of Law in Context*. 7(3), pp. 319 - 324.

109. UNESCAP. *Pacific Perspectives*, 5.

110. UNESCAP. *Hidden Sisters*, 1; United Nations Enable. 2003-2004. “Proposal for a Comprehensive and Integral International Convention on Promotion and Protection of the Rights and Dignity of Persons with Disabilities.” Available from 13 April 2023. <https://www.un.org/esa/socdev/enable/rights/uncontrib-escap.htm>; Saowalak Thongkuay. 2009. “Rights of Persons with Disabilities in the Asia-Pacific.” Available from 12 April 2023. <https://www.hurights.or.jp/archives/focus/section2/2009/03/rights-of-persons-with-disabilities-in-the-asia-pacific.html>.

111. FAO (Food and Agricultural Organization of the United Nations). 2018. *Indigenous Peoples in the Asia-Pacific Region*. Bangkok: FAO, 1.

While women with disabilities are more likely to face violence, few report it for various reasons, among them a lack of confidence in the justice system and being unaware of how to receive help.<sup>112</sup> The vulnerability of women with disabilities in Asia and the Pacific is aptly summarized as follows: “Women with disabilities struggle to be recognized first as persons and then as disabled.”<sup>113</sup> Due to their marginalized status, women and girls with disabilities disproportionately risk isolation and violence,<sup>114</sup> including sexual and gender-based violence (GBV),<sup>115</sup> and their access to justice may be infringed due to communication and attitudinal barriers.<sup>116</sup>

Both attitudinal (e.g. entrenched stereotypes of women and persons with disabilities, lack of rights awareness among justice actors), financial (e.g. lack of legal aid) and physical barriers (e.g. the rural-urban divide, barriers to mobility) to women with disabilities accessing justice are present in Fiji, Indonesia, Nepal, and the Philippines. This has been noted in the academic literature and various concluding observations from the Committee on the Rights of Persons with Disabilities, and is reflected in the results of the legal needs survey presented in this document.

With regard to domestic law, across the Asia-Pacific region, there is a major gap between policy and practice in the four target countries. In spite of and contrary to national legislation and policy, women with disabilities in the target countries experience de facto discrimination and denial of their rights on a daily basis. Lack of implementation and poor enforcement is typical, driven by a lack of rights awareness, a lack of adequate resources and widespread social stigma.

## Regional Disability Initiatives

Different regional initiatives to enhance the rights of persons with disabilities have been pursued in Asia and the Pacific

during the past forty years. The Biwako Millennium Framework for Action towards an Inclusive, Barrier Free and Rights-Based Society for Persons with Disabilities was adopted during the first Asian and Pacific Decade of Persons with Disabilities 1993-2002.<sup>117</sup> UNESCAP adopted the Incheon Strategy during the second Asian and Pacific Decade of Persons with Disabilities 2003-2012.<sup>118</sup> Recent efforts to enhance the rights of persons with disabilities in the region include the Jakarta Declaration.

## Jakarta Declaration on the Asian and Pacific Decade of Persons with Disabilities 2023-2032

The Biwako Framework has twice been renewed, with the most recent iteration proclaimed in the form of the Jakarta Declaration on the Asian and Pacific Decade of Persons with Disabilities, 2023-2032.<sup>119</sup> The Jakarta Declaration reaffirmed the region’s commitment to disability-inclusive development and its relationship to the Sustainable Development Goals and further implementation of the Incheon Strategy.<sup>120</sup> It sets out six specific actions to promote and protect the rights of persons with disabilities, including harmonizing national legislation with the CRPD, paying special attention to the needs of women with disabilities, and the commitment to “promote a gender-responsive life cycle approach to developing and implementing disability-related policies and programs.”<sup>121</sup> Importantly for this research project, the Association of Southeast Asian Nations (ASEAN) Enabling Masterplan 2025 encourages all appropriate and legislative measures for equal access to justice, including legal aid for persons with disabilities and those involved in the administration of justice.<sup>122</sup> The Committee on the Rights of Persons with Disabilities has noted the importance of such frameworks in implementing the CRPD at national level.<sup>123</sup>

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112. Saowalak Thongkuay. 2009. “Rights of Persons with Disabilities in the Asia-Pacific.” Available from 12 April 2023. <https://www.hurights.or.jp/archives/focus/section2/2009/03/rights-of-persons-with-disabilities-in-the-asia-pacific.html>.
  113. UNESCAP. *Hidden Sisters.*, 3
  114. UNESCAP. *Pacific Perspectives.*, 22.
  115. Spalburg, N. 2021. “Access to Justice for women with disabilities” UN Women. 14 December. Available from 12 August 2022. <https://asiapacific.unwomen.org/en/news-and-events/stories/2021/12/access-to-justice-for-women-with-disabilities>.
  116. UNESCAP. *Pacific Perspectives.*, 22.
  117. UNESCAP. *Hidden Sisters.*, 3.
  118. United Nations Economic and Social Commission for Asia and the Pacific. 2019. “Incheon Strategy to “Make the Right Real” for persons with disabilities in Asia and the Pacific and Beijing declaration including the action plan to accelerate the implementation of the Incheon Strategy.” Available from 13 April 2023. <https://www.unescap.org/resources/incheon-strategy-make-right-real-persons-disabilities-asia-and-pacific-and-beijing>.
  119. UN ECOSOC (United Nations Economic and Social Council). 2022. *Jakarta Declaration on the Asian and Pacific Decade of Persons with Disabilities, 2023-2032*. ESCAP/APDDP/2022/L.4\*.
  120. United Nations Economic and Social Commission for Asia and the Pacific. 2022. “Governments adopt landmark Jakarta Declaration underscoring rights-based approach to disability-inclusive development in Asia and the Pacific.” Available from 13 April 2023. <https://www.unescap.org/news/governments-adopt-landmark-jakarta-declaration-underscoring-rights-based-approach-disability>.
  121. UN ECOSOC. *Jakarta Declaration*. para., 16.
  122. ASEAN (Association of Southeast Asian Nations). 2018. *ASEAN Enabling Masterplan 2025: Mainstreaming the Rights of Persons with Disabilities*. Jakarta: ASEAN, 9.
  123. UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2022. *Framework for Disability Policies and Strategies in Asia and the Pacific*. Bangkok: UNESCAP, 7.



## 6. CONDUCTING THE LEGAL NEEDS SURVEY

### Introduction to the Legal Needs Surveys and the OECD Framework

To understand the legal needs of women with intellectual and/or psychosocial disabilities in Asia and the Pacific and how they access justice, the access to justice issues facing this group were examined. To this end, a legal needs survey was carried out in four target countries: Fiji, Indonesia, Nepal and the Philippines. A legal needs survey was chosen for this research because this form of survey focuses on uncovering detailed information regarding the constitutive elements of accessing justice. In addition, legal needs surveys are concerned with the perspective of the person who has experienced problems with access to justice, rather than the perspective of the different institutions and actors who may help to resolve the problems.<sup>124</sup> Their primary concern is charting the experience of persons in asserting their legal needs.<sup>125</sup> This approach results in a unique data set that provides information on the heart of access to justice issues from a grassroots perspective.<sup>126</sup> Legal needs surveys can thus serve as a complementary tool to existing government data to provide a robust evidence base for law and policy change.<sup>127</sup>

Legal needs surveys are also a useful tool for creating a comprehensive picture of justice systems and different experiences in accessing justice.<sup>128</sup> Due to the entrenchment of codifying legal rules in nearly all areas of life, legal needs surveys involve broad data gathering on many different topics – including employment, housing, medical and education issues, and other areas.<sup>129</sup> Although many people may not identify the legal dimensions of everyday issues, ‘legal needs’ for the purposes of legal needs surveys can be defined as “when citizens (or businesses) require support from legal

services (broadly defined) in order to resolve problems which have a legal dimension.”<sup>130</sup> Some needs may become ‘legal’ depending on the individual’s personal context: a leaking roof could be addressed by a lawyer, or by the homeowner/tenant fixing it themselves.<sup>131</sup> Thus, the perception of a ‘legal’ need can be dependent on the specific individual facing the need/problem at hand. A legal needs survey attempts to capture as many legal needs as possible, to assess where gaps in justice systems exist and who is being negatively impacted by those gaps.

The research team used the legal needs survey framework developed by the OECD as the basis for this research. This choice was made because the OECD framework is one of the most well-developed frameworks in the field and its use in this project provided the future potential to compare the project data set and findings to other data sets and findings created with the OECD framework.

The OECD notes that its legal needs survey framework may need to be adapted for diverse contexts – in this case, women with intellectual and/or psychosocial disabilities in Asia and the Pacific.<sup>132</sup> The research team found that extensive adaptation was required, because the existing framework and templates did not fully encompass many of the core needs of this group. In addition, there was extensive accessibility adaptations that needed to be made to ensure that all members of the target group could understand and engage with the legal needs survey. To accurately undertake such adaptation, it was essential to work collaboratively with partner organizations in each of the four target countries using a co-production research strategy.

124. OECD. *Legal Needs Survey and Access to Justice.*, pp. 11-12.

125. *Ibid.*, 25.

126. *Ibid.*, pp. 11-12.

127. *Ibid.*, pp. 18, 37.

128. *Ibid.*, pp. 28-29.

129. *Ibid.*, pp. 15-16.

130. Pleasence, P. 2016. “‘Legal Need’ and Legal Needs Surveys: A Background Paper”. Technical materials to support Open Society Justice Initiative legal needs research. Paris: OECD, 1.

131. *Ibid.*

132. OECD. *Legal Needs Survey and Access to Justice.*, 106.

## Co-Production

Rather than viewing persons with disabilities as research objects, co-production envisions working with persons with disabilities to identify their needs and organize the research around these needs, to “foster the self-determination of historically marginalized groups.”<sup>133</sup> It recognizes the value in the lived experiences of persons with disabilities and the unique position they are in to contribute to disability research.<sup>134</sup> Ultimately, co-production is about working alongside persons with disabilities “as leaders and partners in research.”<sup>135</sup>

Co-production aligns with human rights-based research methodology, which provides “a robust platform for using research as a tool for advocacy and social change because it demands compliance with legally binding human rights instruments.”<sup>136</sup> Additionally, a human rights-based research methodology advances research that can provide solutions to social problems.<sup>137</sup> In the case of this project, the research aim was to gather information and develop recommendations on how to close the justice gap for women with intellectual and/or psychosocial disabilities in Asia and the Pacific – focusing specifically on Fiji, Indonesia, Nepal and the Philippines.

The co-production approach used in this project included developing, administering, and analysing the legal needs survey through a participatory process with OPDs and self-advocates. This aligns with recommendations from the OECD, as they recognize that legal needs surveys are most effective when civil society organizations, such as OPDs, are involved in the process.<sup>138</sup> The OPDs and self-advocate partners chosen for this project possess in-depth subject matter expertise and represent women with intellectual and/or psychosocial disabilities. Importantly, all partners were financially compensated for their work – and were not expected to volunteer their (often already stretched) resources or time.<sup>139</sup>

The initial draft of the legal needs survey was developed in conjunction with these partners via a series of online workshops. Based on this collaboration, several adaptations to the OECD framework were made; for example, adaption to make the framework text less ‘legalese’ and ensure accessibility for a diverse group of respondents. Two new questions for problems with health and education were added, on account of the importance of health and education for women with intellectual and/or psychosocial disabilities in the region and the many problems and human rights violations that arise from these areas.

The legal needs survey was offered in both Standard and Easy Read format, in five languages: English, Cebuano (Bisaya), Filipino (Tagalog), Fijian, and Nepali, to ensure accessibility for a diverse group of respondents. These languages were identified by the partner organizations as the languages most frequently used by respondents, enabling respondents to complete the legal needs survey in their native tongue or the language they are most comfortable with. The partners then validated the translated versions, provided information relating to relevant country-specific institutions and supplied country-specific photographs for the ER version. The research team worked remotely from Ireland to support the delivery of the legal needs surveys by the partners in the target countries. Once the research team gathered initial results, they were shared with partner organizations. The final knowledge products were developed based on consultation with the partner organizations.

The Easy Read format into which the legal needs survey was translated is used to improve communication and understanding. Use of this format is aimed at producing a version of a document that can be used by all people – including persons with disabilities, people whom use English as their second language, or people whom have difficulty with reading. Such a format conveys the same information as the standard version, albeit in an adapted format.<sup>140</sup>

133. Arstein-Kerslake. “Implementing a Participatory Human Rights-Based Research Methodology.”, pp. 592 - 595.

134. Montgomery, L. 2022. “Getting Our Voices Heard in Research: A Review of Peer Researcher’s Roles and Experiences on a Qualitative Study of Adult Safeguarding Policy.” *Research Involvement and Engagement*. 8 (1), 3.

135. Arstein-Kerslake. “Introducing a Human Rights-Based Disability Research Methodology.”, pp. 412 - 413.

136. *Ibid.*, 413.

137. Arstein-Kerslake. “Implementing a Participatory Human Rights-Based Research Methodology.”, 596.

138. OECD. *Legal Needs Survey and Access to Justice.*, 36.

139. Payment of civil society partners is also in line with a human rights research approach. For more information, see Arstein-Kerslake. “Implementing a Participatory Human Rights-Based Research Methodology.”, pp. 592 - 595.

140. Inclusion Ireland. 2011. *Make It Easy: A Guide to Preparing Easy to Read Information*. Dublin: Inclusion Ireland., 5.

Easy Read documents use:

- **Plain language:** Simple words and short sentences provide uncomplicated information in an accessible way. Written clearly, without relying on jargon or acronyms.
- **Images:** Each small section of text is accompanied by a corresponding picture conveying the same message. These are specific to the topic and audience,<sup>141</sup> for example, a picture of a woman dressed in white and wearing a stethoscope may feature alongside a question about visiting the doctor.

Due to the dearth of Easy Read resources in Fiji, Indonesia, Nepal, and the Philippines, the research team used generic images from an online library, stocked with images for common scenarios, featuring actors with disabilities from the United Kingdom.<sup>142</sup> Wherever possible, images of persons of colour were used. Partner organizations were able to supplement these with culturally sensitive and country-specific images (e.g. domestic court buildings, police officers in uniform, passports). The research team consulted closely with the stakeholder group to maximize the usability of the ER versions in translation.

The research team also suggested that many of the persons who preferred to use the Easy Read materials might also benefit from the option to use a support person when filling out the legal needs survey. This is a trusted individual who can assist persons with disabilities to process, retain and respond to relevant information. This is an interactive process, which may involve reading, speaking, and exploring key terminology, providing examples to strengthen understanding of how abstract concepts apply in everyday life. Support was provided on request, in accordance with the will and preference of a given participant.

## Overview of the OECD Framework

In line with the OECD framework, the legal needs survey consisted of two parts. Part 1 included a list of legal problems; described as 'everyday' problems, as the OECD recommends avoiding reference to 'legal problems' to help identify all possible justiciable problems.<sup>143</sup> These are the most important type of questions, as they indicate the scope of the legal needs survey.<sup>144</sup> Respondents were asked to limit their answers to problems experienced within the previous two years, as the

OECD identifies uses of a two-year period as best practice for legal needs surveys.<sup>145</sup>

**Part 1** comprised a series of questions about potential everyday problems, grouped under the following categories:

- Consumer rights
- Land rights
- Housing
- Family and relationships
- Violence
- Work (including self-employment)
- Government (anything to do with public services, workers, or payments)
- Money (including having control of personal finances and debt)
- Health
- Education
- Other (any potential problem that did not fall under the preceding categories)<sup>146</sup>

**Part 2** comprised a series of questions on how respondents resolved the problems they faced, exploring:

- Level of impact which the problem had on the respondent's life
- Whether the respondent shared the problem with someone (and, if so, with whom)
- Whether the respondent sought information to help to resolve the problem (and, if so, where)
- Whether the respondent sought advice (and, if not, why not)
- Any third party or justice actor used to help to resolve the problem
- The respondent's personal experience with the problem, and any subsequent difficulties, such as financial loss or problems with alcohol or drugs;
- How the respondent described their problem
- Whether the respondent's decision-making aimed at resolving the problem was respected

These questions were used to gather information regarding how respondents resolved justiciable problems. They were developed by the OECD based on previous legal needs surveys.<sup>147</sup> Part 2 was adapted from the longer-form OECD legal needs survey questionnaire.<sup>148</sup>

141. Ibid.

142. Photosymbols. 2023. "Welcome to Photosymbols." Available from 13 April 2023. <https://www.photosymbols.com/pages/home>.

143. OECD. *Legal Needs Survey and Access to Justice*, pp. 106, 159.

144. Ibid., 175.

145. Ibid., 107.

146. Ibid., 108.

147. Ibid., 106.

148. Ibid., pp. 174-193.

## Differences between the Standard and Easy Read Versions of the Legal Needs Survey

In converting the standard version of the legal needs survey into the Easy Read version, the research team was required to break down the questions in the Standard version to make them more accessible. This was done because a single question in the Standard version was used to ask about experiencing problems relating to one particular overarching category, such as problems relating to housing, followed by specific examples of housing problems (e.g. eviction, problems with neighbours) in parenthesis. Thus, the Easy Read version had more questions, as each question in the ER version is an example of a specific problem. The Standard version had 15 questions in total, whereas the ER version had 81 questions.

## Legal Needs Survey Respondents

The research team received a total of 232 eligible legal needs survey responses.<sup>149</sup> Physical copies of legal needs survey responses were received via courier, and online responses received via the electronic survey link on Microsoft Forms (Standard)/Google Forms (Easy Read). A total 72 per cent of

respondents identified as having a psychosocial disability, and 26 per cent identified as having an intellectual disability. Two per cent, indicated having both a psychosocial and intellectual disability, while less than 0.5 per cent identified as having a different disability. Both versions of the legal needs survey were used intensively, with 131 responses (56 per cent of all responses) received through the Standard version and 101 responses (44 per cent) through the Easy Read version. The average age of the legal needs survey respondents was 34 years.<sup>150</sup>

The research team’s goal was to receive 25 responses covering each type of disability in each target country, making for a total of 200 responses. This target was exceeded for some categories of disabilities/countries (e.g. psychosocial disability in Indonesia), but fell short for others (e.g. intellectual disability in Fiji). One reason for this is that the research team had three partner organizations based in Indonesia; two of these organizations focusing on women with psychosocial disabilities and had pre-existing relationships with a large pool of potential and interested respondents. For Nepal, the target of 50 responses was also exceeded, likely for the same reason: one particular partner administered the legal needs survey during home visits.

## A total 72 per cent of respondents identified as having a psychosocial disability, and 26 per cent identified as having an intellectual disability.

Country	Total Number of Responses Received	Psychosocial Disability	Intellectual Disability	Both	Other
Fiji	34	24	10	0	0
Indonesia	95	72	20	3	0
Nepal	57	32	25	0	0
Philippines	46	35	5	1	1

Overall, the majority of legal needs survey respondents were women with psychosocial disabilities (72 per cent). This reflects the challenges in reaching women with intellectual disabilities: no organization for women with intellectual disabilities exists in Nepal or the Philippines,

and the partners in Fiji are currently in the process of piloting their focus group for persons with intellectual disabilities and at the time of the consultation had limited connections to respondents with intellectual disabilities.

149. Three legal needs survey responses were ineligible as the respondent were below the age of eighteen and their responses were subsequently not included in the data analysis or given an identifier. Four legal needs survey responses from the Philippines did not identify which disability they have, but were included as they were part of the paper copies we received from the self-advocate and partner in the Philippines.

150. The legal needs survey’s eligibility criteria required that women be at least eighteen years of age.

## Definitions of Disability and the Paramount Importance of Self-Identification

The CRPD identifies disability as:

*“Persons with disabilities include 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.”<sup>151</sup>*

For the purposes of this report, the following key terms/definitions have been used:

- **Psychosocial disability:** Umbrella term denoting the experience of mental health problems, mental distress or trauma that in combination with various barriers hinders the full and effective participation in society on an equal basis with others. This category may include persons whom have been traditionally labelled/diagnosed with mental ‘disorders’ affecting their mood, perception, or ability to regulate emotions and behaviour.<sup>152</sup> Examples include bipolar disorder, schizophrenia, and depression.
- **Intellectual disability:** Used to describe a person who has certain limitations in cognitive functioning or skills. A type of developmental delay which manifests in childhood, in combination with various barriers, it may result in difficulties with communication, social skills, or daily living activities and fully participating in society on an equal basis with others.<sup>153</sup>

This project specifically focuses on the legal needs of women with intellectual and/or psychosocial disabilities. However, the research team would like to acknowledge that many women with disabilities experience multiple impairments, including physical and sensory impairments, which overlap and intersect; for example, one of the legal needs survey respondents identified as having a psychosocial disability and a visual impairment. Many women with existing impairments experience diagnostic overshadowing, whereby unusual behaviours or symptoms are attributed to an existing condition, without acknowledgement of potential co-morbidities.<sup>154</sup>

The research team did not utilize diagnostic tools nor standardized testing to vet respondents prior to participation. It was strongly felt that this would be inappropriate and unnecessary. The research team is committed to the inclusion of self-identified participants, in line with the social model of disability, as per the principles of emancipatory research.<sup>155</sup>

## Demographics

The OECD notes the importance of demographic data when examining the wider socio-political context relating to legal needs. Thus, the research team added optional demographic questions for respondents at the very beginning of the legal needs survey.<sup>156</sup> Moreover, it should be underlined that the information obtained is important for demonstrating the various experiences faced by women with intellectual and/or psychosocial disabilities in Asia and the Pacific, and highlight how the intersecting identities held by a woman with disabilities can shape her experience.

The legal needs survey asked questions about the following demographics:

- Type of disability (intellectual, psychosocial, both, or other)
- Country of residence
- Age
- Membership of a marginalized/minority group (in addition to disability)
- Nationality
- Location (urban/rural)
- Employment status
- Highest level of education attained

Of the total 232 respondents, 39 per cent identified as indigenous. Over half, 54 per cent, indicated residing in an urban area, with 39 per cent indicating residing in a rural area. Only three respondents, two respondents from the Philippines, and one from Nepal, or one per cent of all respondents, identified as being a member of the lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) community.

151. CRPD, art. 1.

152. Mental Health Europe. 2020. “Mental Health Europe Explained.” Available from 13 April 2023. <https://www.mhe-sme.org/mental-health-europe-explained/#1589352808116-ea747e0b-af09>.

153. Special Olympics. 2023. “What is Intellectual Disability?.” Available from 13 April 2023. <https://www.specialolympics.org/about/intellectual-disabilities/what-is-intellectual-disability>.

154. American Psychological Association. 2023. “Diagnostic Overshadowing.” Available from 13 April 2023. <https://dictionary.apa.org/diagnostic-overshadowing>.

155. Stone, E., and M. Priestley. 1996. “Parasites, Pawns and Partners: Disability Research and the Role of Non-Disabled Researchers.” *The British Journal of Sociology* 47(4), pp. 702, 705 and 706

156. OECD. *Legal Needs Survey and Access to Justice.*, pp. 125 - 128.

Nearly all respondents who included demographic information regarding nationality had the same nationality as their country of residence. Other identities indicated by respondents include youth (8 respondents, meaning aged between 19 and 30 years), Javanese (4 respondents) and visually impaired (1 respondent). The majority of responses from people who identified as Indigenous came from Indonesia: 52 per cent of Indonesian respondents identified as Indigenous. Each of the other three legal needs survey countries had similar proportions of Indigenous respondents: 29 per cent in Fiji, and 30 per cent in both Nepal and the Philippines. The proportion of Indigenous participants in the legal needs survey did not correspond to the proportion of Indigenous peoples within the respective national populations, and this oversized representation is likely due to the limited sample size of the legal needs survey. The target countries each have large populations and more respondents would have needed to be surveyed to reflect the proportions of Indigenous peoples in the respective national populations.

## Successes and Challenges

Key lessons have been learned throughout the process and findings of the legal needs survey. These lessons might be used to improve future legal needs survey methodologies for women with disabilities in Asia and the Pacific.

Firstly, co-production is an effective research strategy that should be employed when conducting research regarding persons with disabilities. Co-production recognizes the value in how the lived experience of persons with disabilities can contribute to research.<sup>157</sup> The expertise of the partner organizations was invaluable in adapting the OECD framework to the specific context of women with intellectual and/or psychosocial disabilities in each target country. Providing the partner organizations with significant financial compensation and resources from the project budget was essential for supporting their work and not unfairly burdening

the organizations with uncompensated work. Ultimately, the legal needs survey analysis and recommendations contained within this report would not have been possible without the efforts of the partners in collecting legal needs survey data.

Although it is a useful tool for comparing legal needs between different data sets, the OECD framework needed significant adaptation. It is largely not accessible to women with intellectual and/or psychosocial disabilities. Future research could complement the results of this legal needs survey by engaging in a more open-ended, conversation-style survey, guided by human rights frameworks and informed by personal experiences, to gather detailed information about specific problems. In doing so, researchers could develop a clearer picture of the problems respondents experienced, and why.

Overall, co-production is a best practice for disability research that should be continued with any further research in this area. Qualitative research, through the use of open-ended interviews, is suggested for additional reference, to gain detailed information about the legal needs of women with intellectual and/or psychosocial disabilities in Asia and the Pacific.

## Conclusion

The overall methods of the project included a guiding co-production approach and use of the OECD framework as the basis for the legal needs survey. While there were challenges in adapting the OECD framework to address the needs of women with intellectual and/or psychosocial disabilities in Asia and the Pacific, ultimately, these methods have produced a robust evidence base for moving toward addressing key legal needs issues for this group.

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157. Montgomery. "Getting Our Voices Heard in Research.", 3.

# 7. OVERALL FINDINGS

In this section of the report, the key findings across the four target countries included in the legal needs survey are highlighted, to identify overall themes and trends in the data. Important differences between the findings in the various countries are also identified in this section. Each of the overarching problem areas identified is illustrated through quotations from participants, to highlight some of the main concerns reported. Key strategies used by respondents to resolve the problems identified are presented in the final part of this section.

## Legal Problems Identified by Respondents

Some 96 per cent of respondents indicated experiencing a legal problem in the two years prior to consultation. In other words, all but 10 respondents experienced at least one identifiable justiciable problem in the previous two years. Furthermore, almost half (49 per cent) of respondents noted that the problem had a “significant impact” on their lives.

Respondents identified a total of 1,656 problems in the following areas:



**Consumer Rights, Land, Housing:**  
316 problems (19 per cent of responses)



**Family, Relationships, Violence:**  
429 problems (26 per cent of responses)



**Work, Government, Money:**  
473 problems (29 per cent of responses)



**Health, Education, Other:**  
438 problems (26 per cent of responses)



## CONSUMER RIGHTS, LAND, HOUSING

This section of the legal needs survey asked questions about problems relating to Consumer Rights, Land, and Housing, such as problems with:

- Buying and selling goods
- Obtaining a refund
- Landlord relationships
- Eviction
- Experiences of housing insecurity, including homelessness

Problems with housing were among those most frequently identified by participants in this section, including the impact of climate crises and humanitarian emergencies on access to housing. The following quotations express some of the challenges faced by participants:

- “My house collapsed due to a hurricane and became uninhabitable.” – Indonesia, psychosocial disability, 30s, urban, Indigenous.
- “Possibility of house being collapsed and the loss of crops due to landslides.” – Nepal, psychosocial, 20s, rural, Dalit.
- “I thought it [housing] won’t be recovered after earthquake.” – Nepal, psychosocial disability, 30s, rural, Indigenous.
- “Our house is made up of mud and destroyed by earthquake, who will support us to reconstruct.” – Nepal, intellectual disability, 30s, urban, Indigenous.

Other challenges faced by participants in this section included difficulties in exercising legal capacity and dealing with bureaucracy to secure the necessary documentation, and not having concerns about inadequate housing dealt with by those responsible:

- “Difficulties in obtaining land and building permits.” – Indonesia, psychosocial disability, 20s, rural.
- “We live in old house which is nearly damaged, nobody listen to us.” – Nepal, intellectual disability, 30s, urban, Indigenous.

These responses involve human rights enshrined in international human rights treaties, including Article 19 (living independently and being included in the community) and Article 28 (adequate standard of living and social protection)

of the CRPD. While no single article of the CRPD can be said to address consumer rights, the protection against disability-based discrimination in Article 5, and the legal capacity to create, modify or extinguish legal relationships (including consumer contracts) in Article 12 are particularly relevant here.



## FAMILY, RELATIONSHIPS, VIOLENCE

This section of the legal needs survey asked questions about problems relating to Family, Relationships, and Violence, such as problems with:

- Marriage or civil partnership
- Parental rights and custody of children
- Supporting elderly parents and relatives
- Law or policies denying the right to sexual decision-making, including consent to sex
- Forced sterilization
- Violence inside the home, including injuries caused by a spouse, family member, or support person
- Violence outside the home, such as an accident at work, incorrect medical treatment, or violence at a medical facility

Sexual violence was among the problems in this section most frequently reported by participants. This is illustrated in the following quotations:

- “The problem is about rape.” – Indonesia, intellectual and psychosocial disability, 20s, rural.
- “I was being raped by my neighbour.” – Indonesia, intellectual and psychosocial disability, 19, Indigenous.

At times, the ‘solution’ arrived at by communities resulted in the women marrying partners who had raped them, while at other times the criminal justice system was engaged:

- “Unregistered marriage with the rapists.” – Indonesia, intellectual disability, 20s, rural, Indigenous.
- “I was being raped three times by a person who is taking care of my house, but he ended up in jail.” – Indonesia, psychosocial disability, 30s, urban, Indigenous.

Denial of parental rights for mothers was also a major issue identified in this section, along with living in restrictive environments where decisions about sexual and intimate relationships was not permitted, as evidenced in the following quotations:

- “I don’t have any child yet, I wonder why. It makes me sad, worried, and anxious. It triggers my depression.” – Indonesia, psychosocial disability, 40s, rural, Indigenous.

- “I have problems raising my child because of my disability. My family is taking care of my child.” – Indonesia, intellectual and psychosocial disability, 19, Indigenous.
- “My family is restrictive and does not allow me to make my own decisions, even if it is about my privacy.” – Indonesia, psychosocial disability, 20s, urban.

These responses involve human rights enshrined in international human rights treaties, including Articles 16 (freedom from exploitation, violence and abuse) and Article 23 (respect for home and the family) of the CRPD. The intersection of gender and disability-based discrimination is evident across all of the responses, where the combination of patriarchal and ableist legal systems and societal norms deny women access to justice for these issues.



## WORK, GOVERNMENT, MONEY

This section of the legal needs survey asked questions about problems relating to Work, Government and Money, such as problems with:

- Unpaid wages
- Poor working conditions, including denial of reasonable accommodation
- Forced labour
- Receiving government benefits, including disability allowance and disability pension
- Interacting with government workers, including treatment by the police or workers in national, regional or local government offices

On the subject of work, participants reported problems in finding employment, and experiencing a combination of disability and gender-based discrimination in the workplace:

- “Difficult to get a job.” – Indonesia, psychosocial disability, 30s, urban, Indigenous.
- “I was abused by my former boss so I resigned.” – Indonesia, psychosocial disability, 30s, urban, Indigenous.

Many participants reported problems in obtaining sufficient income to provide for themselves and their families. While most participants did not provide further information on the nature of their financial difficulties, some reported being restricted by their families from accessing their money, or being unable to access any income support from the State or other sources:

- “No money income.” – Indonesia, psychosocial disability, 30s, urban, Indigenous.



- “I was not authorized to use my own money, I felt that my life was restricted and always controlled by my family.” – Indonesia, psychosocial disability, 30s, urban.
- “My siblings and I ran out of money to support my mother [who has late stage dementia].” – Indonesia, psychosocial disability, 30s, urban, Indigenous.

Within this section, participants also reported difficulties faced in dealing with official government services and bureaucracy, including in obtaining identity documents or confirmation of legal proceedings:

- “I have not received an official certificate of divorce from the government.” – Indonesia, psychosocial disability, 40s, rural, Indigenous.
- “I have not got my identity card yet.” – Indonesia, intellectual disability, 18, rural, Indigenous.

These responses involve human rights enshrined in international human rights treaties, including Article 27 (the right to work and protection from exploitative working conditions), Article 28 (adequate standard of living and social protection), and Article 12(5) (the right to manage their financial affairs) of the CRPD.



## HEALTH, EDUCATION

This section of the legal needs survey asked questions about problems relating to Health and Education, such as problems with:

- Denial of health care
- Forced treatment
- Lack of access to health care, including sexual and reproductive health services
- Denial, exclusion or lack of access from any level of education
- Lack of reasonable accommodation
- Lack of inclusive education
- Lack of access to appropriate communication methods

Many respondents reported denial of health care, often related to prejudice towards persons with psychosocial disabilities, and the impact that this denial had on other aspects of their life, including access to education:

- “Being denied services at health facility, being treated differently because of the sickness I have and therefore cannot return to school.” – Fiji, psychosocial disability, 20s, urban.
- “Denied health care services due to my illness, the stigma associated with mental illness.” – Fiji, psychosocial disability, 20s, urban.

Forced psychiatric treatment was also a frequently reported problem, especially by women with psychosocial disabilities. Some participants noted the involvement of law enforcement officials in admitting them to treatment facilities, whereas others were subjected to forced treatment at the request of their families:

- “I was arrested and taken to a mental rehabilitation centre.” – Indonesia, psychosocial disability, 30s, urban.
- “Forced psychiatric treatment by family.” – Indonesia, psychosocial disability, 30s, urban.

Other problems relating to health identified by respondents included poor treatment by health care professionals and difficulties in obtaining insurance coverage, especially in the case of women with psychosocial disabilities:

- “Having my sickness relapse a couple of times, and lack of understanding by certified medical reps in attending to me.” – Fiji, psychosocial disability and visual impairment, 40s, urban.
- “Injuries caused by attempted suicide are not covered by health insurance.” – Indonesia, psychosocial disability, 30s, rural.

**Some women with disabilities noted the involvement of law enforcement officials in admitting them to treatment facilities, whereas others were subjected to forced treatment at the request of their families.**

With respect to education, a significant share of respondents (13 per cent) reported attending a special school for persons with disabilities. While none of these participants perceived attending a special school as a problem, some indirectly discussed problems arising from special schools, such as denial of admittance to a regular school, being unable to achieve a certain level of education (i.e. only attending school up to a certain grade), or remaining in classes specifically geared towards the needs of persons with intellectual disabilities.

These responses involve human rights enshrined in international human rights treaties, including Article 24 (the right to education) and Article 25 (the right to health) of the CRPD. In particular, the right to informed consent to treatment under Article 25 of the CRPD was frequently denied to participants, as well as the denial of inclusive education for those placed in segregated special school systems, impacting their other rights, including limiting their access to employment following completion of their education (Article 27 of the CRPD), and in turn, access to income needed to sustain an adequate standard of living (Article 28 of the CRPD).

### Other: An Overarching Category to Capture Remaining Problems

In addition to the specific problem areas identified above, the legal needs survey included an open 'Other' category to allow for respondents to provide details on any other problems related to their legal needs, or human rights, not addressed under previous questions. In their responses to this question, many participants detailed a problem that may have been more accurately described as part of an existing category. However, the research team strived to record the data as the participants originally intended. Some examples of responses under this category include:

- “I want to study in grade 11 as I passed grade 10, but I had to stay in an intellectual disability class.” (**Education**) – Nepal, intellectual disability, 30s, rural, Indigenous.
- “Want to marry, but couldn’t get married.” (**Family**) – Intellectual disability, 30s, rural.
- “The government of Nepal should address all those who have disability identity cards” (**Government**) – Nepal, psychosocial disability, 20s, rural.
- “Nobody is willing to give me employment opportunities as I can dance” (**Work**) – Nepal, intellectual disability, 20s, urban, Indigenous.

### “I want to stay in my own home. I don’t want to stay as a burden to my family.” – Nepal, intellectual disability, 30s, rural.

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This category also allowed respondents space to include, or expand upon, additional issues, including providing insight into the particular sociocultural context, details of personal aspirations, and reflections on disability rights. A range of these issues are identified in the following quotations:

- “When exactly [will] the CRPD be implemented in Nepal in true respects?” – Nepal, psychosocial disability, 40s, urban, LGBTQI.
- “Cannot decide for ourselves. No support system. Cannot live independently.” – Nepal, intellectual disability, 30s, urban, Indigenous.
- “I want to stay in my own home. I don’t want to stay as a burden to my family.” – Nepal, intellectual disability, 30s, rural.
- “My future is insecure. After death of my mom, who will take care of me?” – Nepal, intellectual disability, urban, Indigenous.

The responses to these sections of the legal needs survey demonstrate the plethora of legal needs that respondents have and how they implicate the states’ international human rights obligations. Accordingly, the CRPD and the CEDAW can be used to provide a pathway for advancing the rights of women with intellectual and/or psychosocial disabilities in Asia and the Pacific to access justice, discussed further in the recommendations of this report.

The final part of this section of the report provides insight into how respondents resolved, attempted to resolve, or decided not to attempt to resolve the problems they reported experiencing in the various areas.

## How Respondents Resolved Problems

### Key Findings

Only 26 per cent of respondents identified that their problem had been resolved, meaning that, at the time of completing the legal needs survey, **74 per cent of respondents had not resolved the problems experienced during the previous 2 years**. However, 72 per cent of respondents did share their problem with someone, with respondents most often (31 per cent) confiding in household member(s), or other friend(s) or family member(s). **Only 13 per cent took the problem to a formal justice actor**, with the majority (77 per cent) choosing to instead seek advice from (1) family, friends or acquaintances, (2) peer support or a self-advocacy groups, and/or (3) community or religious leaders or organizations.

Seeking information from a website or ‘app’ was the most common strategy (44 per cent) to better understand the problem. Additionally, 52 per cent of respondents received assistance from an individual or organization, with 31 per cent choosing to obtain assistance from family, friends, or acquaintances.

The most common reasons for not seeking legal advice included thinking it would be too stressful (13 per cent), followed by being scared to take action/obtain advice (10 per cent), and being concerned about the financial cost involved (9 per cent).

The most common method used to resolve problems was communicating with the other party involved (33 per cent). Many respondents did not ask other individuals or

organizations for help in resolving the problem, as the second most frequently provided response involved no negotiation or third-party involvement (23 per cent). Similarly, as regards how resolution to the problem was ultimately brought about, 21 per cent respondents reported that they moved beyond reach of the problem (e.g. moved house or city), with a further 20 per cent reporting that the problem became resolved of its own accord.

Some **73 per cent of respondents felt that the outcome of the problem was not fair** to everybody concerned. Similarly, 69 per cent of respondents felt that the process to resolve the problem was also not fair to everybody concerned.

In terms of the financial implications of resolving the problem, the most common expense was telephone calls and correspondence (20 per cent), followed by travel (e.g. bus fares or petrol to visit an adviser) (15 per cent). However, 16 per cent of respondents reported that no expense was incurred in their efforts to resolve the problem. In many cases, this may have been because the participants did not have any money that could be spent on resolving the problem.

Respondents most frequently described the problems faced as bad luck/part of life (31 per cent), followed by as a family or private matter (18 per cent) and as a social or community matter (14 per cent). Individuals reported various personal experiences relating the consequences of the problem faced. In this regard, stress was the most consequence most frequently reported (31 per cent), followed by ill-health or injury (14 per cent) and loss of confidence or fear (12 per cent).

**Respondents were frequently hesitant to describe their problems as ‘legal’ – even when they had legal aspects. Instead, they often described them as ‘bad luck/part of life,’ as a ‘family or private matter,’ or as a ‘social or community matter.’ These findings may indicate a need for increased rights awareness among this population.**

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## 8. COUNTRY-SPECIFIC FINDINGS: FIJI

Prior to analysing the findings of the legal needs survey in Fiji, it is important to set the context for the experiences of women with intellectual and/or psychosocial disabilities by examining existing data, some key laws affecting this community, and previously completed research in this field.

### Existing Data on Disability

According to data collected in the 2017 census, 13.7 per cent of Fijians have a disability.<sup>158</sup> There is no disaggregated data specifying the percentage of women with a disability,<sup>159</sup> nor any breakdown of the percentages of persons with intellectual and/or psychosocial disabilities in the country. According to civil society and UN reports, women with disabilities have lower levels of education and employment rates compared to men with disabilities in Fiji, and they are perceived as being excluded from occupying typical social roles, including becoming a mother.<sup>160</sup>

### Domestic Law

Persons with disabilities in Fiji are referenced in Section 42 of the Constitution of the Republic of Fiji 2013, which guarantees “reasonable access” to transport, public places, information, as well as disability-specific services, in addition to a prohibition of discrimination on the basis of disability.<sup>161</sup> Persons with disabilities are entitled to adapted infrastructure, working arrangements, general rules and constitutional protections for accessibility. The constitutional guarantee to accessibility is noteworthy, including the use of appropriate communication methods such as braille or sign language, physical accessibility, and “the right of reasonable access to materials, substances and devices relating to a person’s disability.”<sup>162</sup>

However, there is a significant caveat in this regard. Typically, the Constitution is the touchstone from which all other national laws are derived. However, with regard to disability rights, these provisions may be limited or superseded by other laws.<sup>163</sup> It can be argued that a constitution illustrates an “observed place in society [...] forming a vision for the relationship between a State and its citizens.”<sup>164</sup> This seems to reaffirm the idea that Fijians with disabilities are second-class citizens who enjoy limited rights in comparison with their peers. An example in this regard can be drawn from Section 23(3), which guarantees the right to vote for citizens over the age of 18. However, this right can be taken away if an individual is to be declared of ‘unsound mind.’ No definition of ‘unsound mind’ is included. The Committee on the Rights of Persons with Disabilities (2018) has recognized the link between denial of voting rights and denial or restriction of legal capacity.<sup>165</sup> Persons with psychosocial and/or intellectual disabilities are disproportionately affected.<sup>166</sup>

### Domestic Human Rights Legislation

Under the Human Rights and Anti-Discrimination Commission Act 2009, disability discrimination is forbidden, and the definition of disability is analogous to that contained in Article 1 of the CRPD. Following the ratification of the CRPD in 2017, Fiji enacted the Rights of Persons with Disabilities Act in 2018.<sup>167</sup> The Act includes a variety of provisions that are similar to the Preamble and substantive articles of the CRPD, including those relating to equal recognition of legal capacity and access to justice.<sup>168</sup> Section 28(1) provides that all persons with disabilities shall enjoy all of the rights in Chapter 2 of the Constitution of the Republic of Fiji on an

158. UNFPA. *Women and Young People with Disabilities.*, 9.

159. *Ibid.*

160. Pacific Women and Australian Aid. 2021. “Thematic Brief: Inclusion of Pacific Women with Disabilities” Pacific Women, pp. 2–3.

161. UNFPA. *Women and Young People with Disabilities.*, 9.

162. UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2022. *Harmonization of National Laws with the Convention on the Rights of Persons with Disabilities: Overview of Trends in Asia and the Pacific.* Bangkok: UNESCAP, 53.

163. See Section 42(3): ‘To the extent that it is necessary, a law or an administrative action taken under a law may limit, or may authorise the limitation of, the rights set out in this section’.

164. Kavanagh, J. 2018. *Constitutional Law in Ireland.* Dublin: Clarus Press, 3.

165. UN CRPD (United Nations Committee on the Rights of Persons with Disabilities). 2018. *General comment No. 6 on equality and non-discrimination.* CRPD/C/GC/6. para., 70(a).

166. Della Fina. *The United Nations Convention on the Rights of Persons with Disabilities.*, 531.

167. UNFPA. *Women and Young People with Disabilities.*, 9.

168. See sections 32, 33; UNESCAP. *Harmonization of National Laws.*, 23.

equal basis with others, yet it does not appear to address the limitations contained within the Constitution described above. Interestingly, Section 33 of the Act distinguishes between reasonable and procedural accommodations; the latter is not limited to that which does not impose a “disproportionate or undue” burden.<sup>169</sup> In other words, the cost need not be relative to the means of the state body and can cause as much disruption to proceedings as is necessary.

A 2022 report from UNESCAP on harmonization of domestic laws with the CRPD identified the Rights of Persons with Disabilities Act as a best practice.<sup>170</sup> Notwithstanding the achievement of recognizing these rights in law, there remain concerns regarding its implementation: there are no provisions in the Rights of Persons with Disabilities Act itself regarding implementation, and stakeholders have failed to identify how the Act is being implemented in practice, or how other legislation is being reformed to comply with the Act.<sup>171</sup> Accordingly, other domestic legislative reforms must occur to ensure full compliance with the CRPD; for example, there are other sectoral laws which are implicated by the CRPD that should be reformed.<sup>172</sup>

### Other Relevant Legislation

Along with a positive emphasis on community treatment, Section 24(2) of Fiji’s Mental Health Act 2010 expressly forbids the detention of persons with psychosocial disabilities on the basis of mental disorder alone. Grounds for detention are only present in cases where in regard to a person with a diagnosed mental disorder there is deemed a likelihood of serious harm (to self or others) and a likelihood of serious deterioration which warrants admission to a medical facility for appropriate treatment. The CRPD is referenced in Section 4, Principles of the Act. The Principles of the Act include ensuring mental health assessment in accordance with international principles, to provide the least restrictive type of mental health care, and to ensure respect for human rights (Section 4(2)).

Numerous other laws in Fiji reference ‘psychological capacity,’ ‘unsound mind,’ or ‘mental impairment’ as grounds for restricting the rights of persons with intellectual and/or psychosocial disabilities.<sup>173</sup> This demonstrates the importance of a cross-sectoral legislative review to eliminate provisions that discriminate and disenfranchise persons with disabilities, particularly persons with intellectual and/or psychosocial disabilities.

Increased reference to the rights of persons with disabilities in various pieces of cross-sectoral legislation and the prohibition of detention based on mental disorder in the mental health legislation, coupled with the Rights of Persons with Disabilities Act, demonstrates how Fijian law is moving away from the medical model of disability towards a human rights model. However, as the following section of the present report will demonstrate, more work remains to be done, as barriers to accessing justice for women with disabilities in Fiji remain.

### Existing Research on Women with Disabilities

A 2022 report commissioned by the United Nations Population Fund (UNPFA) highlighted three areas in which women with disabilities in Fiji face significant barriers that represent their unique intersectional identities as women with disabilities: 1) sexual and reproductive health, 2) legal capacity, and 3) gender-based violence.<sup>174</sup> Attitudinal and societal barriers contribute to the severity of the issues and denial of rights, as women are not socialized to speak about these issues.<sup>175</sup> In terms of gender-based violence, reporting of cases is discouraged (including by family members), and even when they are reported, actors in the justice system may ignore them or not take them seriously – particularly in cases involving Deaf women and women with psychosocial disabilities.<sup>176</sup> Reporting of GBV incidents is rare, as indeed simply discussing the issue is taboo and reporting it to the authorities is even more stigmatized.<sup>177</sup> Shame is one reason why discussing GBV is considered taboo, particularly if the perpetrator is a member of the family or local community, with reporting seen as bringing “shame to the family and the community.”<sup>178</sup>

169. UNESCAP. *Pacific Perspectives*, 12.

170. UNESCAP. *Harmonization of National Laws*, 3.

171. UNPFA. *Women and Young People with Disabilities*, pp. 9-10.

172. UNESCAP. *Harmonization of National Laws*, 26.

173. This includes who can be an approved adoptive parent (Section 10 *Adoption Act 2020*); who is deemed competent as a witness in civil proceedings (Section 7 *Civil Evidence Act 2002*); who is considered criminally responsible (Section 28, 241, 243, 244 *Crimes Act 2009*, section 3(2), 104, 105, 108 and 109 of the *Criminal Procedure Act 2009*); who can apply for an order under the *Domestic Violence Act* (Section 19); who is eligible to vote (Section 3(2) of the Electoral (Registration of Voters) Act 2012); who can administer their own financial affairs (Section 2, 20 of the *Fiji Public Trustee Corporation Act 2006*); and who can serve on different boards and governing authorities to oversee compliance with legislation (Section 4 *Housing Act 1955*).

174. United Nations Population Fund (n 105) 3.

175. *Ibid.*, pp. 16-17.

176. *Ibid.*, pp. 3, 15.

177. *Ibid.*, 3.

178. *Ibid.*, 16.

In cases where GBV is reported to law enforcement, the complaint is frequently disregarded, or the person making the complaint is referred to 'informal reconciliation procedures'.<sup>179</sup> These practices contribute to a culture of impunity surrounding GBV; the perpetrator may continue to be violent following reconciliation, or, in the rare event that the case makes it to court, justice officials may sympathize with the perpetrator and dismiss the case.<sup>180</sup> Geographic barriers are also present, as accessing support for GBV is even more difficult in rural areas, and may require travelling to multiple islands.<sup>181</sup> Compounding the attitudinal and geographic barriers is the fact that some remote islands do not have a police presence, "which can make it virtually impossible to report GBV or access justice."<sup>182</sup> The Committee on the Elimination of All Forms of Discrimination against Women (2018) has identified these barriers and has expressed concern, as the prevalence of GBV is the highest in the region.<sup>183</sup>

The second major issue faced by women with disabilities is denial of their legal capacity through substitute decision-making. This occurs both formally and informally, with many decisions being made by family members, partners, support persons, or medical professionals.<sup>184</sup> Informal substitute decision-making is particularly damaging, as persons make decisions on behalf of a person with disabilities without any legal authorization or safeguards for doing so.<sup>185</sup> Women with intellectual and/or psychosocial disabilities are acutely affected by informal substitute-decision making;<sup>186</sup> for example, women with disabilities have been sterilized and prescribed birth control pills without their knowledge or consent – a violation of both their right to informed consent to medical care under Article 25(d) of the CRPD and of their right to have their decision-making recognized under Article 12(2).<sup>187</sup>

Women with disabilities in Fiji face stigma and harmful stereotypes.<sup>188</sup> The unique form of discrimination arising from the intersection between gender and disability that Fijian women with disabilities face is reflected in misconceptions regarding their role within society and the family; they are denied sexual autonomy, the freedom to marry, and to right to have children.<sup>189</sup> In other words, they are viewed as a recipient of care, rather than as a provider of care. For Fijian women with disabilities, intersectional discrimination means that they are excluded from occupying typical social roles. Compared to men with disabilities in Fiji, they have lower levels of educational attainment, lower employment rates, and higher levels of social isolation.<sup>190</sup>

The situation regarding disability issues in Fiji demonstrate how both societal barriers (e.g. stigma, informal substitute-decision making) and legal barriers (e.g. lack of rights awareness and adequate police presence) play a role in shaping disability discrimination when accessing justice. It also shows how both of these types of barriers need to be addressed to close the justice gap for women with intellectual and/or psychosocial disabilities.

### Findings of the Legal Needs Survey

In general, the Fijian data is similar to that of the other target countries. Demographically, nearly one third of respondents identified as Indigenous (29 per cent). The vast majority (91 per cent) lived in rural areas and there were no respondents who identified as being part of the LGBTQI community. It is important to note that the data set from Fiji was smaller than the other three countries, and comparatively higher percentage shares may be a result of this.

Country	Total Number of Responses Received	Psychosocial Disability	Intellectual Disability	Both	Other
Fiji	34	24	10	0	0

179. Ibid., 3.

180. Ibid., 15.

181. Ibid., 3.

182. Ibid., 19.

183. Ibid., 11. UN CEDAW (United Nations Committee on the Elimination of Discrimination against Women). 2018. *Concluding observations on the fifth periodic report of Fiji\**. CEDAW/C/FJI/CO/5, para., 27.

184. UNFPA. *Women and Young People with Disabilities*, pp. 8 - 14.

185. Ibid., 8.

186. Ibid., 14.

187. Ibid.

188. Ibid., 3.

189. Ibid., 16.

190. Pacific Women. 2021. *Thematic Brief: Inclusion of Pacific women with disabilities*. Suva: Pacific Women, pp. 2-3.

The challenges faced by women with intellectual and/or psychosocial disabilities in Fiji are reflected in the frequency with which the respective problems were identified.

Respondents identified **a total of 134 problems in the following areas:**



**Consumer Rights, Land, Housing**  
(18 per cent of responses)



**Family, Relationships, Violence**  
(27 per cent of responses)



**Work, Government, Money**  
(19.5 per cent of responses)



**Health, Education, Other**  
(49.5 per cent of responses)

The areas in which problems were most frequently identified were Health (17 per cent), Violence (14 per cent), Housing (13 per cent) and Education (13 per cent). The areas in which the least number of problems were identified were Money (debt) (0 responses), Money (management) (0.4 per cent) and Other (0.4 per cent)



**CONSUMER RIGHTS,  
LAND, HOUSING**

In this section of the legal needs survey, the problems identified related to Consumer Rights (5 per cent), Land (3 per cent) and Housing (13 per cent). Housing was the problem most frequently identified in this section, and included issues with landlords, eviction, and experiences of housing insecurity, including homelessness. Respondents did not elaborate in great detail the exact nature of the housing problems they experienced, but some noted issues with buying property or land on which to build housing:

- “Purchasing of property.” – Fiji, psychosocial disability, 30s, urban.
- “Trying to get a piece of land to build my own property.” – Fiji, psychosocial disability, 30s, rural.

In some instances, there was a clear overlap between issues related to housing and land, but respondents were more likely to describe the problem as relating to housing, rather than land. It is notable how few problems were identified in relation to consumer rights, which may indicate that women with disabilities do not frequently engage in buying and selling goods and services. However, the data from Fiji in this legal needs survey represents a comparatively small sample, so this finding may not represent the full extent of barriers experienced in this area.



**FAMILY, RELATIONSHIPS, VIOLENCE**

In this section of the legal needs survey, the individual area in which problems were most frequently identified was Violence (indicated in 14 per cent of responses), with violence inside the home accounting for 5 per cent and violence outside the home 9 per cent of responses. Again, respondents provided little to no detail on the exact nature of the problems experienced. This may in part be related to cultural and societal barriers to disclosing the nature of violence experienced. One respondent did identify the following issue in this section:

- “Verbal and physical abuse by siblings; physical abuse and teasing by sibling.” – Fiji, intellectual disability, urban, Indigenous.

It is worth noting how few respondents identified problems related to violence inside the home in this section, compared to how significant this problem is for women with disabilities in Fiji according to existing research. As discussed above, women with disabilities who experience domestic violence face cultural barriers to accessing justice, due to the entrenchment of patriarchal societal norms and gender stereotypes in Fijian society.<sup>191</sup> The power of these central aspects of Fijian society manifest in beliefs such as that a man can physically abuse his female partner if he “has a justifiable reason.”<sup>192</sup> This results in domestic violence being perceived as a ‘family problem,’<sup>193</sup> rather than a legal or criminal justice problem. Consequently, criminal charges are rarely pursued, unless there is external pressure from the victim’s family or advocacy groups.<sup>194</sup>

191. UN CEDAW. *Concluding observations on the fifth periodic report of Fiji\**, para., 20.

192. AI (Amnesty International). 2010. *Fiji: Submission to the Committee on the Elimination of Discrimination against Women*. London: AI, 12.

193. Ibid.

194. Ibid.

Family accounted for eight per cent of responses in this section and relationships accounted for five per cent of problems. Very little detail was provided on the nature of these family or relationship problems, but one respondent did describe:

- “Having my parental rights violated and being abused in houses I have lived in.” – Fiji, psychosocial disability, 30s, rural.

Again, this demonstrates the interconnected nature of problems relating to family, relationships, and violence for women with intellectual and/or psychosocial disabilities in Fiji compared to the findings in the other countries included in this legal needs survey.

The intersection of gender and disability is additionally present in the problems identified, and represent the specific legal needs of women with disabilities and how they can vary from women without disabilities and/or men with disabilities. Illustration of this can be drawn from the identification of the following answers and problems that relate to the greater (unpaid) care work done by women, harmful gender stereotypes that entrench the normalization and acceptance of GBV and patriarchal societal norms:

- “Physical disability cannot look after elderly but can run errands.” – Fiji, intellectual disability, 20s, urban, Indigenous.
- [In relation to relationships] “Not relevant due to culture and beliefs.” – Fiji, intellectual disability, 20s, urban, Indigenous.



## WORK, GOVERNMENT, MONEY

The biggest problem identified in this section was with government workers (8 per cent), followed by work (5 per cent), then government payments and government/public services both (3 per cent). It is interesting to note how few problems related to employment – which may reflect the high rate of unemployment among women with intellectual and/or psychosocial disabilities in Fiji. If respondents had little to no experience of employment, they may not have answered yes when asked to identify any problems they had relating to employment, even though respondents in other countries did identify a lack of employment opportunities as a problem in responding to this question. It is also worth noting that the only respondent to answer yes to the question about money management was a woman with an intellectual disability who answered yes to the question about money being taken away by caregivers in the Easy Read version.



## HEALTH, EDUCATION, OTHER

Health was the individual area in which problems were most frequently identified in this section of the legal needs survey, cited in 17 per cent of responses, with Education accounting for 13 per cent and only 0.5 per cent of respondents answering in the affirmative the open ‘Other’ question intended to cover any other problem not mentioned elsewhere in the legal needs survey. In many cases, only limited information on the exact nature of these problems was provided by respondents:

- “Having my sickness relapse a couple of times, and lack of understanding by certified medical reps in attending to me.” – Fiji, psychosocial disability, 40s, urban.
- “Being denied services at health facility, being treated differently because of the sickness I have and therefore cannot return to school.” – Fiji, psychosocial disability, 20s, urban.

For the problems occurring in the education realm, while only limited information was provided on the nature of the problems, there was some evidence of the interconnectedness of these problems with those identified in response to the health question, as the previous quotation illustrates. Further, one respondent stated:

- “I do not get to go to school.” – Fiji, psychosocial disability, 40s, urban.

This could be interpreted to mean that for women with intellectual and/or psychosocial disabilities accessing any form of education in Fiji presents multiple barriers. All 10 Fijian respondents who identified as having an intellectual disability reported that they had attended a special school for persons with disabilities, but did not identify this as a problem.

The response to the ‘Other’ question provided more information on the housing challenges experienced by the same respondent quoted in the previous example above:

- “Trying to build my own home, as currently my family and I have moved from where we used to stay before and are sheltering under a big tarpaulin due to ill-treatment, stigmatization and abuse.” – Fiji, psychosocial disability, 40s urban.

These problems are interconnecting and relate to broader challenges experienced by women with disabilities in Fiji; for example, many respondents indicated problems relating to their lack of autonomy or independence, caused by informal denial of their legal capacity, such as family members making



medical decisions on their behalf or preventing them from leaving the family home. The following answers illustrate this:

- “Any time I happen to access any services, because of my appearance and the way I speak, they automatically judge that I am not fit to make my own decisions.” – Fiji, psychosocial disability, 20s, urban.
- “When I wish to voice the things I am going through with my family, I am not listened to and just taken lightly.” – Fiji, psychosocial disability, 50s, urban.
- “Any time I happen to voice my opinions, people automatically think that I am not fit to make my own decisions” – Fiji, psychosocial disability, 20s, urban.
- “I am disabled, I should not say anything” – Fiji, intellectual disability, 20s, urban, Indigenous.
- [In relation to consumer rights] “I don’t do any of those things; most of the things are done by my mother.” – Fiji, intellectual disability, 20s, urban, Indigenous.
- “I hardly go to the shop and always need supervision when selling.” – Fiji, intellectual disability, 20s, urban, Indigenous.
- “I can only go to the nearest shop to home.” – Fiji, intellectual disability, urban, Indigenous.

The final questions in the legal needs survey inquired as to whether the respondent’s decisions were respected and whether they were listened to. Some 65 per cent of Fijian respondents indicated that their decision-making was not respected, with 63 per cent indicating that they were not listened to, despite the guarantees contained in Article 12 of the CRPD and Fiji’s domestic disability law.

In summary, the women consulted did not describe explicit ‘legal needs’ or ‘legal problems’ per se, such as filing for divorce or being involved in criminal proceedings. Instead, they described ongoing incidents based in stigma and discrimination that prevent them from meeting basic needs and realizing their fundamental human rights.

## Efforts to Resolve the Problems Experienced

While for the most part respondents in Fiji attempted to resolve problems in similar ways to respondents in the other

legal needs survey countries, there are some key differences. The legal needs survey showed that 52 per cent obtained information to better understand the problem. Specifically, 27 per cent obtained information from a leaflet, book, or self-help guide. In contrast, taking the four target countries as a whole, only 17 per cent of respondents obtained information in this way.

Among respondents to the Fiji country legal needs survey, 54 per cent shared the problem faced with a household member, a family member, or a friend. In particular, 28 per cent noted that they shared their problem with someone ‘other’ but did not specify with whom. This comprises a significantly larger proportion than the 8 per cent of respondents who chose ‘other’ across the four target countries overall, and may indicate that there is a country-specific person with whom they shared their problem, such as a village headman.

In attempting to resolve the problem faced, 65 per cent of respondents did not obtain assistance from a person or organization, compared to an overall legal needs survey figure of 43 per cent. This may relate to the broader sociocultural context of not seeking help, particularly in the case of gender-based violence.<sup>195</sup> Research from the 2022 UNPFA-commissioned publication, mentioned above in the *Existing Research on Women with Disabilities* section of the present report, found that the likelihood of women and girls with disabilities reporting violence and pursuing justice increases in instances where they are supported by a trusted person and where service providers develop relationships with the survivors.<sup>196</sup>

The percentage of problems remaining unresolved is higher than the percentage for the legal needs survey overall, which, again, may indicate the overall context in Fiji as fostering hesitancy among women with intellectual and/or psychosocial disabilities to seek help. More respondents in Fiji reported being harassed, threatened, or assaulted because of the problem faced, compared to other countries. The main reasons given by respondents for not seeking assistance in Fiji contrasted with the overall results:

- 29 per cent thought it would be too stressful (compared to 13 per cent overall)
- 15 per cent were scared to take action/get advice (compared to 10 per cent overall)

195. Reporting of gender-based violence to police, health and social services remains low in Fiji due to stigma, fear, shame, high levels of community tolerance of violence, inadequate response from police and legal services, and lack of access to services in some rural areas and smaller communities, with limited options or support to escape the violence (see Ministry of Women, Children & Poverty Alleviation. 2018. *Fiji National Service Delivery Protocol for Responding to Cases of Gender Based Violence*. Suva: Ministry of Women, Children & Poverty Alleviation). This is despite 64 per cent of Fijian women experiencing physical and/or sexual violence or both by a husband or intimate partner in their lifetime, almost double the global average (see Fiji Women’s Crisis Centre. 2013. *Somebody’s Life, Everybody’s Business! National Research on Women’s Health and Life Experiences in Fiji (2010/2011): A Summary* exploring the prevalence, incidence and attitudes to intimate partner violence in Fiji. Suva: Fiji Women’s Crisis Centre).

196. UNPFA. *Women and Young People with Disabilities*, 15.

Respondents in Fiji indicated that they experienced stress (41 per cent) and fear or loss of confidence (15 per cent) as a consequence of the problem faced. Similarly, 36 per cent of respondents reported that the problem impacted them significantly, and 36 per cent of respondents identified that resolution of the problem was ultimately brought about by moving away from the problem, with 32 per cent noting that the problem became resolved of its own accord.

## Concluding Remarks

Overall, respondents in Fiji were most likely to describe the problem they experienced as bad luck/part of life (41 per cent), a family or private matter (17 per cent), an economic matter (14 per cent), a legal issue (13 per cent), or a social or community matter (13 per cent). The problems identified highlight the intersectional experiences of discrimination faced by women with intellectual and/or psychosocial disabilities in Fiji, and the combined impact of ableist and paternalistic attitudes on understanding their human rights and taking action to remedy any rights violations.

## Recommendations to Close the Justice Gap for Women with Intellectual and/or Psychosocial Disabilities in Fiji

The recommendations for Fiji were developed through dialogue between the research team and the in-country partner organizations. Thus, the recommendations may at certain points focus less on issues identified in the findings of the legal needs survey, given the small sample of participants reached, and more on overarching priorities identified by those closest to the context, in regard to those steps they consider would be meaningful to achieving greater human rights compliance and access to justice for women with intellectual and/or psychosocial disabilities.

The following recommendations offer a road map for different avenues to dismantling barriers to women with intellectual and/or psychosocial disabilities accessing justice in Fiji and raising awareness on the human rights of persons with disabilities more broadly.

### Fiji: Short-Term Recommendations

- **Engage in awareness-raising** to combat gender stereotyping and stigmatization, especially for women and girls with disabilities. The data from Fiji demonstrates that women are more likely to engage in unpaid care work and have their contributions to the family devalued. Existing research also suggests that women with disabilities are more likely to experience GBV.
- Establish a **strategy to tackle myths and misconceptions** concerning the role of women with disabilities as mothers,

wives and daughters (e.g. through visual storytelling). Take an inclusive approach to education, with campaigns to reiterate the positive part that men and boys can play in sustaining a feminist movement that is disability inclusive.

- **Assess local and culturally specific access to justice mechanisms** to ensure that they are accessible to women with all types of disabilities. A high proportion of the data came from Indigenous women in rural areas. Enable a dialogue with village headmen and members of the local community to reflect on the process and how it could be improved to meet the specific needs of women with intellectual and/or psychosocial disabilities.
- **Amend legislation** to remove all provisions relating to guardianship for adults with disabilities in Fiji, and all other references to 'unsound mind' or 'incapacity' that limit the right of persons with disabilities to equal recognition before the law.

### Fiji: Long-Term Recommendations

- **Establish a system of supported decision-making** that enables persons with disabilities to exercise their legal rights. Enable relevant persons to avail of tailored, flexible support from a trusted individual with whom they have a rapport, with that person possessing an understanding of their lived experience to date, existing circle of support, and future aspirations. Appoint an independent person unaffiliated with previous oppressive regimes.
- **Provide training for decision-making assistants** to ensure they are operating under the human rights model of disability, guided by the will and preference of the person. Normalize the provision of support in a local, non-medical, non-legal setting of the affected person's choosing.

Recognize that decision-making skills can vary by topic (health care, finances), with each person having a unique threshold for support, dependent upon their current state of mind and the extent to which the decision will impact their life (short term, medium term, long term).

- **Strengthen access** for persons with disabilities living in rural and remote areas, especially those experiencing poverty.
- **Adapt existing initiatives** to find a resolution at local level, develop new schemes to bring problem resolution a step closer for those facing obstacles such as unreliable public transport or difficulty in taking time off work to attend faraway proceedings (e.g. mobile courts).
- **Explore alternatives to formal police** presence in rural communities, such as restorative justice practices and local Indigenous justice traditions.

## 9. COUNTRY-SPECIFIC FINDINGS: INDONESIA

Before analysing the findings of the legal needs survey in Indonesia, it is important to set the context for the experiences of women with intellectual and/or psychosocial disabilities by examining existing data, some key laws affecting this community, and previously completed research in this field.

### Existing Data on Disability

Several changes to data collection on disability have been implemented in the past decade to address the historic underreporting of disability in Indonesia. A 2021 UN report<sup>197</sup> highlighted that the share of the Indonesian population living with disability according to official government figures had previously varied between 4 per cent and 5 per cent, in stark contrast to the global average of 15 per cent. The report noted that one of the main reasons for this underreporting is the stigma associated with disability in Indonesian society at large, which means that many of those living with disability will not indicate that this is the case, alongside problems concerning the different definitions of disability used by official sources in collecting data. Census data in Indonesia shows that the incidence of disability is similar for men and women – 4.6 per cent of women have a disability compared with 3.9 per cent of men; meaning that 54 per cent of persons with disabilities are women.<sup>198</sup>

### Domestic Law

#### Indonesia's Constitution of 1945, Reinstated in 1959, with Amendments through 2002

Chapter XA of the 1945 Constitution of the Republic of Indonesia includes a list of constitutionally protected human rights (largely civil and political rights). Article 27 recognizes that all citizens are equal before the law and Article 28D articulates the right to equal treatment before the law. The Indonesian Constitution makes no specific reference to disability.

### Domestic Human Rights Legislation

Indonesia's modern human rights legislation excluded disability as a protected ground of discrimination under Article 1(3) of the Law on Human Rights (No. 39/1999). However, the Law on Human Rights did include equal recognition of legal capacity in Article 29(2), the right to justice in Article 17, and a broad right to enjoy human rights without discrimination in Article 3(3). With the adoption of Law No. 8/2016 on Disabilities, Indonesia redefines disability in accordance with the CRPD. It repeals Law No. 4 of 1997 concerning Persons with Disabilities.<sup>199</sup> In its most recent Concluding Observations on Indonesia (2022), the UN Committee on the Rights of Persons with Disabilities criticized the lack of an effective coordinating mechanism to ensure implementation of this law at all levels of government, including the autonomous regions.<sup>200</sup>

### Other Relevant Legislation

#### Article 433 of the Civil Code

Despite the promise of Law No. 9/2016 on Disabilities, the Civil Code allows for persons with intellectual and/or psychosocial disabilities to be placed under guardianship:

“An adult, who is in a continuous state of simple-mindedness, insanity or rage, shall be placed under conservatorship, notwithstanding that he might have mental capacity from time to time.”

Such forms of substitute decision-making are forbidden under Article 12 of the Convention on the Rights of Persons with Disabilities. Article 433 of the Civil Code is currently being challenged in the Constitutional Court.<sup>201</sup> Petitioners argue that Article 433 of the Civil Code is incompatible with Article 28D(1) of the 1945 Constitution regarding the recognition of equality before the law, as it uses disability as an excuse to deny the person their legal capacity.<sup>202</sup> It erroneously conflates

197. United Nations Indonesia. 2021. Disability Data in Indonesia. Jakarta: United Nations Indonesia., pp. 24-25.

198. Australia Indonesia Partnership for Economic Governance. 2017. *Disability in Indonesia: What can we learn from the data?*. Canberra: Australia Indonesia Partnership for Economic Governance, 11.

199. International Labour Organization. 1996-2014. “Indonesia (1) > Disabled workers.” Available from 13 April 2023. [https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=103080&p\\_count=1&p\\_classification=08.01](https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=103080&p_count=1&p_classification=08.01).

200. UN CRPD. *Concluding observations on the initial report of Indonesia\**, para., 6(b).

201. The Constitutional Court of the Republic of Indonesia. 2023. “Court Delays Hearing of Civil Code Provision on Persons with Disabilities.” Available from 13 April 2023. <https://en.mkri.id/news/details/2023-02-14/Court%20Delays%20Hearing%20of%20Civil%20Code%20Provision%20on%20Persons%20with%20Disabilities>.

202. Ibid.

mental and legal capacity to impose conservatorship on all persons with intellectual and/or psychosocial disabilities. The Committee on the Rights of Persons with Disabilities has stressed the difference between mental and legal capacity.<sup>203</sup> Article 433 contributes to the stigma against persons with intellectual and/or psychosocial disabilities.<sup>204</sup> Advocacy efforts are underway to encourage the Constitutional Court to find in favour of the petitioners and repeal Article 433 and recognize the full legal capacity of persons with psychosocial disabilities, in accordance with Article 12 of the CRPD.

Furthermore, the provisions of Government Regulation No. 39 of 2020 on Reasonable Accommodation in the Judicial Process for Persons with Disabilities are only applicable to those cases taken within the criminal justice system, and do not apply to civil court cases, including those taken in the guardianship court.<sup>205</sup> This regulation has been criticized by OPDs, as representatives of persons with psychosocial disabilities were not involved in its development.<sup>206</sup> OPDs also report that there is no training on access to justice for persons with disabilities available for individuals working in the administration of justice.<sup>207</sup>

As such, those under guardianship are unfairly disadvantaged and unable to take cases or receive due process via the civil system. This situation is also mirrored in the Indonesian Mental Health Act 2014, which deems persons with psychosocial disabilities “incompetent,” allows for their detention in a mental health facility or social care institution without judicial review and denies an individual’s right to informed consent to treatment under Article 25(d) of the CRPD. Despite being outlawed since 1977, pasung (shackling) persists as a form of treatment.<sup>208</sup>

The Indonesian Mental Health Act 2014 mandates that the Government of Indonesia must provide mental health services at all levels (including accessible community-based services), train mental health professionals, raise awareness of the rights of persons with psychosocial disabilities, and provide accountability for abuses, such as shackling.<sup>209</sup> However, there remains a pressing need to implement the Indonesian Mental Health Act 2014 in a manner which respects the rights of persons with psychosocial disabilities, including through the immediate reform of provisions that deny their legal capacity and right to informed consent for treatment.

### Law on Sexual Violence Crimes

In April 2022, sexual violence legislation was adopted in Indonesia which includes important protections for women with disabilities. It recognizes the witness testimony of persons with disabilities as equivalent to persons without disabilities and ensures accessibility in courts.<sup>210</sup> Witnesses requiring personal assistance are entitled to this based on Government Regulation No. 39 of 2020 on Reasonable Accommodation in the Judicial Process for Persons with Disabilities.

Importantly, the legislation clarified that marital rape is a crime, which is excluded from the current Criminal Code.<sup>211</sup> It also requires both training for law enforcement officials on sexual violence and knowledge for a human rights and gender perspective.<sup>212</sup> Police are now required to investigate all reports of sexual violence.<sup>213</sup> This is promising legislation, and will hopefully help to close the justice gap.

203. UN CRPD, General comment No. 1. para., 13.

204. The Constitutional Court of the Republic of Indonesia. “Court Delays Hearing of Civil Code Provision on Persons with Disabilities.” <https://en.mkri.id/news/details/2023-02-14/Court%20Delays%20Hearing%20of%20Civil%20Code%20Provision%20on%20Persons%20with%20Disabilities>.

205. Ibid.

206. IMHA (Indonesian Mental Health Association). 2022. *The Forgotten People: Respond to the List of Issue (LOI) on the Situation of Persons with Psychosocial Disabilities in Indonesia*. Jakarta: IMHA.

207. Ibid.

208. For detail, see HRW (Human Rights Watch). 2016. *Living in Hell: Abuses against People with Psychosocial Disabilities In Indonesia*. New York: Human Rights Watch.

209. Sharma, K. 2014. “Break the Shackles of Stigma on Mental Health Care in Indonesia.” Human Rights Watch. 16 September. Available from 13 April 2023. <https://www.hrw.org/news/2014/09/16/break-shackles-stigma-mental-health-care-indonesia>.

210. Amalia, Y. and A. Hidayat. 2022. “Rights of Victims of Sexual Violence with Disabilities Based on Law Number 12 of 2022.” *Indonesian Journal of Law and Policy Studies* 3 (1), 83.

211. Llewellyn, A. 2022. “Explainer: Why is Indonesia’s Sexual Violence Law so important?.” *Al Jazeera*. 14 April. Available from 13 April 2023. <https://www.aljazeera.com/news/2022/4/14/explainer-why-is-indonesias-sexual-violence-law-so-important>.

212. International Commission of Jurists. 2022. “Indonesia: the ICJ welcomes the Indonesian Parliament’s landmark adoption of legislation on sexual violence.” Available from 13 April 2023. <https://www.icj.org/indonesia-the-icj-welcomes-the-indonesian-parliaments-landmark-adoption-of-legislation-on-sexual-violence/>.

213. Llewellyn, A. “Explainer: Why is Indonesia’s Sexual Violence Law so important?.” <https://www.aljazeera.com/news/2022/4/14/explainer-why-is-indonesias-sexual-violence-law-so-important>.

In its recent concluding observations (2022), the UN Committee further recommended that Indonesia:

- a) Repeal or amend legislation that discriminates against women with disabilities, including Law No. 1 of 1974, concerning marriage, and Article 6(3) and Article 6(7) of Lampung Province regulation No. 17 of 2014, on exclusive breastfeeding;
- b) Mainstream the rights of women and girls with disabilities in gender-related legislation and policies, and mainstream a gender perspective in disability-related legislation and policies, in close consultation with and with the active involvement of women and girls with disabilities;
- c) Include an intersectional analysis for women and girls with disabilities, including those from Indigenous groups, ethnic and religious minorities, and rural areas and remote islands, across all policy areas, including education, family, employment, justice and health.<sup>214</sup>

### Existing Research on Women with Disabilities

The situation of persons with disabilities in Indonesia is dire. Individuals with psychosocial disabilities are particularly vulnerable to human rights violations, as there is a widespread practice of shackling to contain persons with disabilities within their homes,<sup>215</sup> including women and girls.<sup>216</sup> Systemic violence is present in institutional settings.<sup>217</sup> Women with disabilities are particularly disadvantaged, experiencing poverty, poor living conditions, and gender-based violence.<sup>218</sup>

Women with intellectual disabilities in particular are subjected to rape.<sup>219</sup>

Existing research demonstrates that in Indonesia persons with psychosocial disabilities are most likely to be victims of discrimination, but least likely to pursue justice to vindicate their rights.<sup>220</sup> Individuals confined to 'social care mental institutions' who face violence or abuse are unable to access justice due to the lack of a complaints mechanism.<sup>221</sup> Women and children with disabilities are particularly affected by violence, which is exacerbated by the lack of available remedies.<sup>222</sup> They face intersectional discrimination when seeking justice, as gender stereotypes are present and justice officials have not received gender-sensitive training on hearing GBV cases.<sup>223</sup> Women with disabilities are systematically denied reproductive freedom, subjected to forced contraception and forced sterilization.<sup>224</sup>

The promise of legal aid remains largely illusory, despite legal representation being guaranteed in the Criminal Procedure Code. Some persons with disabilities have utilized complaints mechanisms offered by the national human rights institution or the Ombudsman, but knowledge of these procedures is limited.<sup>225</sup> One Indonesian OPD, Lembaga Advokasi dan Perlindungan Penyandang Cacat Indonesia (LAPPCI), provides free legal aid to persons with disabilities.<sup>226</sup>

Additionally, the participation of women with disabilities in the criminal justice system may be threatened by intimidation from criminals or law enforcement.<sup>227</sup> Second, OPDs report that they receive neither the procedural accommodation nor the reasonable accommodation they are entitled to under Article 13(1) of the CRPD: there are barriers to them presenting evidence, there is no adequate translation,<sup>228</sup> and they are deprived of their legal capacity.<sup>229</sup>

214. UN CRPD. *Concluding observations on the initial report of Indonesia\**, para., 12(c).

215. HRW (Human Rights Watch). Human Rights Watch Submission on Indonesia to the Committee on the Rights of Persons with Disabilities 27th Session (2022). New York: HRW; Sharma, K. "Break the Shackles of Stigma on Mental Health Care in Indonesia." <https://www.hrw.org/news/2014/09/16/break-shackles-stigma-mental-health-care-indonesia>.

216. UN CEDAW (United Nations Committee on the Elimination of All Forms of Discrimination against Women). 2021. *Concluding observations on the eight periodic report of Indonesia\**. CEDAW/C/IDN/CO/8. para., 43 (e).

217. UN CRPD. *Concluding observations on the initial report of Indonesia\**, para., 36(b).

218. Safitri, D. 2022. "Disability in Indonesia — from Charity to Human Rights." Asia & the Pacific Policy Society Policy Forum. 23 June. Available from 13 April 2023. <https://www.policyforum.net/disability-in-indonesia-from-charity-to-human-rights/>.

219. Amalia and Hidayat. "Rights of Victims of Sexual Violence with Disabilities Based on Law Number 12 of 2022.", 75.

220. Colbran. "Access to Justice Persons with Disabilities Indonesia.", 35.

221. IMHA (Indonesian Mental Health Association). The Forgotten People: Respond to the List of Issue (LOI) on the Situation of Persons with Psychosocial Disabilities in Indonesia.

222. UN CRPD. *Concluding observations on the initial report of Indonesia\**, para., 38(b).

223. UN CEDAW. *Concluding observations on the eight periodic report of Indonesia\**, para., 15(a).

224. UN CRPD. *Concluding observations on the initial report of Indonesia\**, para., 40.

225. Colbran. "Access to Justice Persons with Disabilities Indonesia.", 6.

226. *Ibid.*, 32.

227. Wulandari, C. 2018. "Access to Justice for the Disability Women as Victims in the Criminal Justice System." SHS Web of Conferences 54, 1.

228. *Ibid.*

229. *Ibid.*

Existing research therefore demonstrates the numerous barriers to access to justice for persons with disabilities in Indonesia, including lack of rights knowledge, low levels of sensitivity towards the rights of persons with disabilities and the inaccessibility of legal aid and justice buildings.<sup>230</sup> Barriers are thus both attitudinal and physical, with discriminatory attitudes among justice actors, including court staff, constituting a significant issue in this regard.<sup>231</sup>

## Findings of the Legal Needs Survey





Indonesia had the largest group of legal needs survey respondents among the countries included in this legal needs survey. It is noteworthy that Indonesia also had the most legal needs survey respondents who identified as Indigenous (52

per cent). This percentage share is higher than the estimated percentage of Indigenous people in the national population (19-26 per cent).<sup>232</sup> There were more urban respondents (73 per cent) than rural (27 per cent). No respondents explicitly identified as members of the LGBTQI community, however, one partner organization did interview trans women, and reference to trans women-specific issues are seen in some responses, including respondents indicating being frequently evicted due to their gender identity and complicated gender identity recognition. Four respondents additionally identified specifically as Javanese, and eight as youth (which, as one partner organization explained, comprises individuals aged 19 to 30 years).

Country	Total Number of Responses Received	Psychosocial Disability	Intellectual Disability	Both	Other
Indonesia	95	72	20	3	0

The challenges faced by women with intellectual and/or psychosocial disabilities in Indonesia are reflected in the frequency with which the respective problems were identified.

Respondents identified **a total of 567 problems in the following areas:**

-  **Consumer Rights, Land, Housing**  
(12 per cent of responses)
-  **Family, Relationships, Violence**  
(45 per cent of responses)
-  **Work, Government, Money**  
(28 per cent of responses)
-  **Health, Education, Other**  
(27 per cent of responses)

The individual areas in which problems were most frequently identified were Violence (20 per cent total, comprised of 11 per cent violence outside the home and 9 per cent violence inside the home), Education (13 per cent), and Family (9 per cent).



### CONSUMER RIGHTS, LAND, HOUSING

In this section of the legal needs survey, the individual area in which problems were most frequently identified was Housing (indicated in six per cent of responses), followed by Consumer Rights (five per cent), Land (one per cent). No specific information was provided on the nature of the consumer rights problems experienced. However, in respect to land and housing there was evidence of the interaction between climate crises and housing for some participants; for example, one respondent noted:

- “My house collapsed due to a hurricane and became uninhabitable.” – Indonesia, psychosocial disability, 30s, urban, Indigenous.

230. Colbran. “Access to Justice Persons with Disabilities Indonesia.”, 6.

231. UN CRPD. *Concluding observations on the initial report of Indonesia\**, para., 32.

232. IWGIA. 2021. “Indigenous peoples in Indonesia.” Available from 13 April 2023. <https://www.iwgia.org/en/indonesia/4224-iw-2021-indonesia.html>.

Other issues identified in this section related to the challenges of navigating government bureaucracies to obtain documents needed to buy land or build housing:

- “Difficulties in obtaining land and building permits.” – Indonesia, psychosocial disability, 20s, rural.



## FAMILY, RELATIONSHIPS, VIOLENCE

In this section of the legal needs survey, Violence was the individual areas in which problems were most frequently identified (indicated in 20 per cent of responses), with violence inside the home accounting for 9 per cent and violence outside the home 11 per cent of responses. Family accounted for problems indicated in nine per cent of responses and problems related to Relationships accounted for six per cent of responses. The problems identified in this section amounted to almost half (45 per cent) of the total problems identified in Indonesian responses to the legal needs survey.

Sexual violence was among the problems in this section most frequently reported by participants. This is illustrated in the following quotations:

- “The problem is about rape.” – Indonesia, intellectual and psychosocial disability, 20s, rural.
- “I was being raped by my neighbour.” – Indonesia, intellectual and psychosocial disability, 19, Indigenous.
- “Repeated divorce and domestic violence.” – Indonesia, psychosocial disability, 30s, urban.

In some instances, the ‘solution’ arrived at by communities resulted in the women marrying partners who had raped them; while in other instances, the criminal justice system was engaged:

- “Unregistered marriage with the rapists.” – Indonesia, intellectual disability, 20s, rural, Indigenous.
- “I was raped three times by a person who was taking care of my house, but he ended up in jail.” – Indonesia, psychosocial disability, 30s, urban, Indigenous.

With respect to violence, some respondents identified forced psychiatric treatment as a form of violence:

- “Forced psychiatric treatment by family.” – Indonesia, psychosocial disability, 31, urban.
- “Threatened, subjected to forced treatment, prevented by family from establishing a relationship and many more.” – Indonesia, psychosocial disability, 30s, urban.

Others reported experiencing physical and emotional abuse from family members or partners:

- “Getting threats from ex-husband.” – Indonesia, psychosocial disability, 56, urban.

Some reports of violence at work were also recorded:

- “I was abused by my former boss.” – Indonesia, psychosocial disability, 33, urban, Indigenous.

Denial of parental rights for mothers was also a major issue identified in this section, as evidenced in the following quotations:

- “I have problems raising my child because of my disability. My family is taking care of my child.” – Indonesia, intellectual and psychosocial disability, 19, Indigenous.
- My illness was always used as a weapon by my ex-husband to take custody of my children.” – Indonesia, psychosocial disability, 30s, urban.

Divorce and relationship breakdown also featured in this section:

- “I had problems with my husband that ended in divorce, and the one who provides for my children is my mother.” – Indonesia, psychosocial disability, urban, Indigenous, other (identified as “people with mental disorders”).

Living in restrictive environments where respondent decision-making about sexual and intimate relationships was not permitted was a problem frequently reported in this section:

- “Forbidden to marry by my loved ones.” – Indonesia, psychosocial disability, rural.
- “I was prevented from remarrying by my family, I was also locked in a room by my own family.” – Indonesia, psychosocial disability, 50s, urban.
- “My family is restrictive and does not allow me to make my own decisions, even if it is about my privacy.” – Indonesia, psychosocial disability, 20s, urban.
- “Difficulty maintaining good relationships and communication with family as well as romantic relationships” – Indonesia, psychosocial disability, 20s, urban.

Finally, some participants listed barriers to providing for older family members:

- “I ran out of money to support our parents.” – Indonesia, psychosocial disability, 33, urban, Indigenous.



## WORK, GOVERNMENT, MONEY

The individual area in which problems were most frequently identified in this section of the legal needs survey was Work (cited in eight per cent of responses), followed by Government (employees) and Government (public services) (five per cent each), Money (debt) (four per cent), and Government (payments) and Money (management) (three per cent each).

With respect to work, many respondents reported being unemployed:

- “I don’t have a job. My parents don’t let me work.” – Indonesia, intellectual disability, 20s, rural.
- “Difficult to get a job.” – Indonesia, psychosocial disability, 30s, urban, Indigenous.
- “Never worked before.” – Indonesia, intellectual disability, 30s, urban.

Others reported leaving employment due to abuse or discrimination:

- “I was abused by my former boss, so I resigned.” – Indonesia, psychosocial disability, 30s, urban, Indigenous.
- “Poor working environment conditions.” – Indonesia, psychosocial disability, 50s, rural.
- “My boss verbally ridiculed me by mentioning my problems, calling me abnormal and often asking me in public if I still do self-harm or suicide attempts.” – Indonesia, psychosocial disability, 20s, urban.

In response to the ‘Other’ question at the end of the legal needs survey, some participants noted further issues related to work, including the need for reasonable accommodation and accessibility, as well as acknowledging gender-specific dimensions related to formal employment and informal caring responsibilities:

- “Fair treatment in the world of work, the process of transferring jobs when the old place is no longer possible to get a supportive environment, the right to voice opinions is limited to certain environments.” – Indonesia, psychosocial disability, 41, urban.
- “Work problems at the office that make me stressed and depressed, as well as work at home such as washing, ironing and others.” – Indonesia, psychosocial disability, 56, urban.

Participants also reported barriers in accessing government services and social assistance:

- “Many, ranging from not getting social assistance, poor government services and lack of information about accessing services.” – Indonesia, psychosocial disability, 30, urban.

One issue of note concerning government and public services were barriers related to gender recognition:

- “Complicated gender identity recognition, complicated administrative issues and unobtainable social assistance.” – Indonesia, psychosocial disability, urban, LGBTQI.

In regard to debt and money management, several participants reported being prevented by law from managing their personal finances or prevented from doing so by their families. These responses indicate the complex web of formal and informal legal capacity denials related to financial decision-making:

- “Considered wasteful and unable to manage finances, so my rights are restricted.” – Indonesia, psychosocial disability, 50s, urban.
- “My finances are often managed by my children.” – Indonesia, psychosocial disability, 50s, urban.
- “Not allowed to manage your own money.” – Indonesia, psychosocial disability, urban.



## HEALTH, EDUCATION, OTHER

Education was the area in which problems were most frequently identified in this section of the legal needs survey, accounting for 13 per cent of the responses received, with Health representing six per cent of responses and ‘Other’ representing eight per cent. Most participants reported being excluded from education altogether, or not being supported to progress to their desired level of education, as evidenced in the following quotations:

- “I didn’t go to school. I’m a person with mental disorders.” – Indonesia, intellectual disability, 22, urban, youth.
- “My latest education was in 5th grade at elementary school.” – Indonesia, intellectual disability, 22, rural, Indigenous.



- “Never been to school.” – Indonesia, intellectual disability, 30, urban, youth.

Many of the issues related to health were specific to psychosocial disabilities, including denial of insurance and the forced psychiatric treatment issues previously discussed under Violence:

- “Injuries caused by attempted suicide are not covered by health insurance.” – Indonesia, psychosocial disability, 30s, rural.
- “Forced psychiatric treatment by family.” – Indonesia, psychosocial disability.
- “Threatened, subjected to forced treatment.” – Indonesia, psychosocial disability, 30s, urban.
- “Getting ridiculed after treatment.” – Indonesia, psychosocial disability, 30s, urban.
- “I was arrested and taken to a mental rehabilitation centre.” – Indonesia, psychosocial disability, 30s, urban.
- “Received involuntary treatment, and was treated for 14 days.” – Indonesia, psychosocial disability, 30s, urban.

Among the issues listed in response to the ‘Other’ question (accounting for eight per cent of responses) were additional issues relating to areas already covered in the legal needs survey, especially Violence, Family and Relationships. New topics introduced here included explicit recognition of informal guardianship and living in institutional environments:

- “Indirect or informal guardianship. The family has always been restrictive.” – Indonesia, psychosocial disability, 34, urban.
- “Informal guardianship of day-to-day decisions.” – Indonesia, psychosocial disability, 33, urban.
- “Living in an institution.” – Indonesia, psychosocial disability, 24, rural.

### Efforts to Resolve the Problems Experienced

For Indonesia, only 35 per cent of problems were resolved, with **65 per cent of problems going unresolved**. The share of problems resolved in Indonesia is higher than in Fiji (17 per cent) and Nepal (10 per cent), and comparable to that for the Philippines (29 per cent). Indonesia was the only target country where respondents frequently used the formal justice system to seek help: **21 per cent of problems were ultimately brought about by a court (or tribunal) judgment**. This number is likely higher for Indonesia because the main activity of

the in-country partner organization SIGAB is to help persons with disabilities bring legal cases and **access formal, legal, justice**. Using informal strategies to seek justice nonetheless occurred in Indonesia at similar rates to those for Fiji and the Philippines, with 22 per cent of respondents moving beyond the reach of the problem faced, and 20 per cent indicating that the problem became resolved of its own accord. Some 39 per cent of respondents identified that they communicated with the other party involved to resolve the problem.

Respondents frequently interacted with people in their personal networks and organizations to discuss and resolve the problem faced: **87 per cent shared the problem with someone, and 64 per cent obtained assistance from a person or organization to resolve the problem**. As a consequence of the problem faced, 39 per cent of respondents experienced stress, 16 per cent reported loss of confidence or fear, and 13 per cent cited ill-health or injury. The main reasons given by respondents for not seeking assistance were thinking that they did not need advice (14 per cent), concern about the financial cost involved (11 per cent), and concern about the time it would take (10 per cent).

### Concluding Remarks

These findings demonstrate how the rights of women with intellectual and/or psychosocial disabilities in Indonesia are violated formally, in the public sphere by state actors, but also informally, such as in the home, by family members.

In summary, the findings demonstrate how respondents in Indonesia experienced a wide variety of human rights violations. These violations occurred across a range of rights guaranteed in articles of the CRPD, including Article 12 (right to equal recognition before the law), Article 14 (right to liberty and security of the person), Article 15 (freedom from torture or cruel, inhuman or degrading treatment or punishment), Article 19 (living independently and being included in the community), Article 23 (respect for home and the family), Article 24 (right to education) and Article 27 (right to work).

Respondents tended to not describe specific and clear ‘legal needs,’ such as using the family court system to gain custody of children. Instead, the problems identified illustrate human rights violations which are broader manifestations of stigma and discrimination preventing respondents from meeting basic needs and realizing their fundamental human rights. The prevalence of responses relating to violence illustrate a significant need to protect the freedom of women with intellectual and/or psychosocial disabilities from violence, exploitation, and abuse guaranteed in Article 16 of the CRPD and broadly reflects the marginalized status of persons with disabilities within Indonesian society.

## Recommendations to Close the Justice Gap for Women with Intellectual and/or Psychosocial Disabilities in Indonesia

The recommendations for Indonesia were developed through dialogue between the research team and the in-country partner organizations. Thus, the recommendations may at certain points focus less on issues identified in the findings of the legal needs survey, given the small sample of participants reached, and more on overarching priorities identified by those closest to the context, in regard to those steps they consider would be meaningful to achieving greater human rights compliance and access to justice for women with intellectual and/or psychosocial disabilities.

The following recommendations offer a road map for different avenues to dismantling barriers to women with intellectual and/or psychosocial disabilities accessing justice in Indonesia and raising awareness on the human rights of persons with disabilities more broadly.

### Indonesia: Short-Term Recommendations

- **Assess existing methods of data collection** relating to persons with disabilities. Develop a strategy for gathering disaggregated data and demographic information which can be used to create a picture of the existing population (e.g. by age, gender, type of impairment, living situation, family status) and forecast the need for additional resources/infrastructure in key areas (e.g. health care, education, employment).
- **Consult with OPDs to establish ways of supporting existing efforts** (e.g. peer support, self-advocacy networks). Discuss how these initiatives can be scaled up to reach target audiences (women with disabilities and their families) or adapted for the general population (e.g. human rights education at a community level, media campaigns to target common misconceptions or everyday discrimination).
- **Recognize** institutionalization as a form of violence against persons with disabilities. Establish a framework to expedite community development and social inclusion of persons with intellectual and/or psychosocial disabilities.
- **Incorporate an interdepartmental approach** with a plan overseen by the Ministry of Social Affairs. Essential elements of this plan should include a step-by-step timescale with details of resource reallocation to achieve the goals laid out therein: preventing the institutionalization of persons living in the community through human rights education; providing monetary assistance, additional services and supports to at-risk groups and their families; and placing a moratorium on the building of new institutions, or investment in existing institutions (bar essential maintenance to ensure the safety of residents).
- **Implement the recommendations on access to justice issued by the Committee on the Rights of Persons with Disabilities (2022)**, identified as an urgent measure, following Indonesia's initial report. This should include adopting an action plan which outlines measures to eliminate all barriers that prevent persons with disabilities from accessing justice, providing procedural and age-appropriate accommodation, supplying access to all forms of communication throughout legal proceedings (including braille, sign language, Easy Read, and audio and video transcription), and increasing the provision of training on the CRPD to all officials involved in the formal and informal justice system, including in rural areas and remote islands. In doing so, an intersectional and gender-responsive approach to the implementation of the recommendations should be taken and the justice needs of women with intellectual and/or psychosocial disabilities considered and included.
- **Eliminate** the use of devaluing and stigmatizing language for persons with disabilities in law and policy, including the term 'penyandang cacat' ('people with defects'), by repealing or amending any legislation that uses such terms, such as the Law No.11/2009 on Social Welfare and the Law No. 11/2020 on Job Creation. Stigmatizing and dehumanizing language entrenched in law and public policy legitimizes the profound social stigma faced by persons with disabilities in Indonesia, and must be removed to advance a human rights model of disability which respects and recognizes the inherent dignity and human rights of persons with disabilities, including intellectual and/or psychosocial disabilities.

## Indonesia: Long-Term Recommendations

- **Amend the Civil Code and the Indonesian Mental Health Act 2014** to abolish formal guardianship for adults on the basis of disability.
- **Address informal guardianship by strengthening the capacity of persons with disabilities to exercise their right to equal recognition before the law.**
  - Strengthen the knowledge of persons with disabilities and their families regarding the human rights model of disability and what it means for decision-making in the context of everyday life.
  - Enforce the **recognition of persons with disabilities as rights holders** in the public sphere through training.
  - Establish a **system of supported decision-making** (see above) which prohibits coercive control, emphasizing instead the role of self-directed, flexible decision-making supports which are accessible to all.
- **Realize deinstitutionalization** for all persons with disabilities in Indonesia through the closure of all residential settings in the public and private sector, in accordance with the Committee on the Rights of Persons with Disabilities' Guidelines on deinstitutionalization, including in emergencies (2022).
- **Recognize that persons with disabilities cannot choose to remain in an institution.** Persons with disabilities, including women with intellectual and/or psychosocial disabilities, must be provided with all necessary means to enable them to exercise choice and control over their lives, including supported decision-making. Support residents to take an active role in the transition process (e.g. in choosing where they would like to live, and with whom). Carry out the transition to independent living for the remaining residents, including those with multiple disabilities and/or high support needs.
- Provide deinstitutionalized persons with the support needed to exercise their **rights under Article 19** of the CRPD (e.g. personal assistance and/or social protection).
- **Acknowledge the lasting harms caused** by state actors and others in perpetuating decades of institutionalization, and establish a redress scheme for affected individuals and their families.

# 10. COUNTRY-SPECIFIC FINDINGS: NEPAL

Before analysing the findings of the legal needs survey in Nepal, it is important to set the context for the experiences of women with intellectual and/or psychosocial disabilities by examining existing data, some key laws affecting this group, and previously completed research in this field.

## Existing Data on Disability

As in the other legal needs survey countries, the available statistics appear to underestimate the prevalence of disability in Nepal. There is a dearth of up-to-date, disaggregated information. The 2011 census estimated that the rate of disability among the population could be as low as 1.94 per cent, while the *National Living Standards Survey* published that same year indicated a rate of 3.6 per cent. A more recent survey conducted using the Washington Group questions<sup>233</sup> indicated 14.5 per cent of respondents as having a disability.<sup>234</sup>

Persons with disabilities are more likely to have lower incomes than persons without disabilities. During the Coronavirus disease 2019 (COVID-19) pandemic, many women with disabilities in Nepal experienced a drop in family income (76 per cent), food insecurity (40 per cent) as well as interruption to personal care services (32 per cent), medical or assistive device services (27 per cent) or therapeutic services (17 per cent) during lockdown.<sup>235</sup>

## Domestic Law

### The Constitution of Nepal of 2015

Section 18(1) of the Constitution of Nepal of 2015 specifies that all citizens are equal before the law. The rights of persons with disabilities are explicitly stated in Section 18(2) of the 2015 Constitution concerning equality and includes disability as a prohibited ground for discrimination, and in

Section 42 concerning social justice. Section 42(3) also notes a specific right to dignity and equal access to social services and facilities for persons with physical impairments. While referring to sexual and gender minorities, this section makes a derogatory reference to “socially backwards women.” This arbitrary distinction serves to undermine the section as a whole, to diminish and devalue the contribution of this so-called group, rather than promote inclusion and community development.

## Domestic Human Rights Legislation

The Act Relating to Rights of Persons with Disabilities 2074 (2017) defines a person with a disability as “a person who has long-term physical, mental, intellectual or sensory disability or functional impairments or existing barriers that may hinder his or her full and effective participation in social life on an equal basis with others.” This Act prohibits discrimination on the basis of disability, stating that “no person with disability shall be subjected to discrimination on the basis of disability or be deprived of personal liberty.” Section 15 of the Act also provides for persons with disabilities’ right of access to services, facilities and justice. It specifically acknowledges that persons with disabilities shall have the right to free legal aid in order to ensure that they have access to justice. This goes a step further than the Legal Aid Act 2054 (1997), which had no specific provisions for this group. While sign language interpretation should be provided in court according to this Act, those with visual impairments, psychosocial and/or intellectual disabilities are often left without appropriate support, in what has been described as a failure of the procedural justice mechanism to “realise disability diversity.”<sup>236</sup>

233. The Washington Group questions are a group of questions designed to collect accurate data on disability to provide comparable data on disability globally. For more information, please see Washington Group on Disability Statistics. 2023. “About the Washington Group.” Available from 13 April 2023. <https://www.washingtongroup-disability.com>.

234. IDS (Institute of Development Studies). 2020. *Disability Inclusive Development Nepal Situational Analysis*. Falmer: IDS., 12.

235. HI (Handicap International). 2020. *Rapid Needs Assessment: An Inclusive Response to Covid 19 in Nepal*. Lyon: HI.

236. Wagle, K., and B. Upadhyaya. 2017. “Contextual Analysis of the Implementation of Article 13 (Access to Justice) of the Convention on the Rights of Persons with Disabilities in Nepal.” Study opportunity granted by the Open Society Foundation and Alliance for Social Dialogue. Kathmandu: Enablement Nepal., 22.

This Act contains provisions for key areas, many of which reflect the articles of the CRPD, including Article 13 on access to justice. However, the Act has also been criticized by OPDs such as KOSHISH, as it does not provide for any rights regarding supported decision-making mechanisms and focuses more on guardianship provisions,<sup>237</sup> as discussed in the following section in regard to the current Civil Code (also updated in 2017). The Act has made provision for the formation of a National Disability Directive Committee, charged with coordination, supervision and promotion of rights, services and protection of persons with disabilities. As of July 2020, the Committee had been formed under the Ministry of Women, Children and Senior Citizens.<sup>238</sup>

### Other Relevant Legislation

The Civil Code 2074 (2017) makes provision for the entitlement of persons with disabilities to non-discrimination, members of this group may also be declared “unsound of mind” under the Code, and thus stripped of their competency before the law and placed under guardianship. This discrepancy clearly contravenes Article 12(2) of the CRPD which specifies that all persons with disabilities are entitled to equal recognition before the law.<sup>239</sup> Similarly, there is a corresponding provision in Section 17 of the Criminal Code whereby an act done by consent of a guardian may not be considered an offence. This provision does not recognize the legal capacity of persons with disabilities in a criminal justice context and the Committee on the Rights of Persons with Disabilities has called on Nepal to reform this law in its Concluding Observations (2018).<sup>240</sup>

Section 4(E) of the Public Health Services Act 2075 (2018) references the delivery of mental health care. Charting the policy path ahead, the National Mental Health Strategy 2020 provides a comprehensive overview of Nepal’s mental

health care plans. Key components of the Strategy include the provision of integrated health care at both primary and secondary level. While rights-based advocacy has grown following adoption of the CRPD, OPDs continue to have but limited involvement in policymaking.<sup>241</sup>

The references to mental health treatment in the Act Relating to Rights of Persons with Disabilities 2074 (2017) do not go far enough in this regard. While the Act does contain a general prohibition on disability-specific deprivation of liberty (Section 36), it also allows for consent to admission to community mental health treatment centres to be provided by families or guardians on behalf of persons with psychosocial disabilities (Section 35). Ultimately, OPDs and the Committee on the Rights of Persons with Disabilities have called on Nepal to introduce comprehensive reform of its existing mental health and guardianship laws to reflect the values of the CRPD.<sup>242</sup>

The Domestic Violence (Offence and Punishment) Act 2009 allows for survivors of abuse to seek protection from and prosecution of perpetrators through the court system. However, barriers remain for women in their pursuit of justice. In 2017, the UN Human Rights Committee received a complaint of violations under the ICCPR regarding these barriers.<sup>243</sup> They urged the State to extend the statute of limitations on rape. Reform of Section 229(2) of the Penal Code 2017 resulted in the extension of the statute of limitations of 1 year or 3 years for special cases (including persons with disabilities and older persons).<sup>244</sup> Section 219(4) of the Criminal Code Bill recognizes marital rape, albeit with a maximum penalty of 5 years, compared with 20 years’ imprisonment for committing rape outside of marriage. This appears to designate the former as a lesser crime, perpetuating rather than dismantling patriarchal norms.<sup>245</sup>

237. KOSHISH. 2020. *Submission to the United Nations Universal Periodic Review 37th Session (Third Cycle) of the UPR Working Group of the Human Rights Council Concerning Human Rights of Persons with Psychosocial Disability and Other Under-represented Disabilities in Nepal*. Lalitpur: KOSHISH.

238. KOSHISH. 2021. “Representation on National Disability Directive Committee.” Available from 13 April 2023. <https://www.koshishnepal.org/advocacy-awareness-program-detail/>.

239. CRPD, art 12(2).

240. UN CRPD. *Concluding observations on the initial report of Nepal\**, para., 22

241. WHO (World Health Organization). 2022. *WHO Special Initiative Mental Health Assessment Situation Assessment Nepal*. Geneva: WHO., 3.

242. KOSHISH 2020. *Submission to the United Nations Universal Periodic Review 37th Session (Third Cycle) of the UPR Working Group of the Human Rights Council Concerning Human Rights of Persons with Psychosocial Disability and Other Under-represented Disabilities in Nepal*. Lalitpur: KOSHISH

243. UN HRC (United Nations Human Rights Committee). 2017. *Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2245/2013 \* , \*\**. CCPR/C/119/D/2245/2013.

244. United Nations Development Programme. 2022. “Lawmakers Hold Public Dialogues Over the Statute of Limitations in Rape Cases.” Available from 13 April 2023. <https://www.undp.org/nepal/news/lawmakers-hold-public-dialogues-over-statute-limitations-rape-cases>.

245. My República. 2021. “Marriage is No License to Rape.” Available from 13 April 2023. <https://myrepublica.nagariknetwork.com/news/marriage-is-no-license-to-rape/>.

### Existing Research on Women with Disabilities

The intersection of disability and gender is acutely felt by women with disabilities in Nepal. Discrimination persists in Nepali society on the basis of caste, class, ethnicity, gender, and geographic location.<sup>246</sup> Patriarchal societal norms dictate the status of women in Nepal, as they are simply not viewed as equal to men, and consequently are not viewed as having the same opportunities to access justice as men.<sup>247</sup> This is reflected in the few services offered to persons with disabilities being provided to and oriented towards men with disabilities.<sup>248</sup> Although there are legislative provisions pertaining to disability, the idea that women with disabilities have equal rights to men is not entrenched in societal thinking.<sup>249</sup> Women with disabilities in Nepal are unable to fully realize their right to access justice. Facilities such as police stations are physically inaccessible, and women do not trust the criminal justice system to protect them.<sup>250</sup>

In their joint reply to the *List of Issues in relation to the initial report of Nepal* (2018), the Nepal Indigenous Disabled Association, the National Indigenous Women with Disabilities Association Nepal, and the Asia Indigenous Peoples Pact noted lack of accessibility, underreporting of violence, lack of educational materials or proceedings in the native language, and barriers to mobility as significant barriers to justice for Indigenous women with disabilities in Nepal.<sup>251</sup> They also noted the importance of disability awareness training, together with intercultural awareness, to help advance the right of Indigenous women to access justice. These concerns are also reflected in the Concluding Observations issued by the Committee on the Rights of Persons with Disabilities to Nepal in 2018.

The Committee urged the State Party to consult with representative organizations of women and girls with disabilities, to use those consultations as a basis to ensure the participation of this group in political and public life, and to implement law reform and policy change, particularly in regard to the family life, education, health and employment of women and girls with disabilities. The Committee also recommended that Nepal combat discriminatory practices, as specified in the Three-Year Interim Plan (2010–2013), which focuses on policy, legal and institutional reform to eliminate all forms of discrimination affecting women and girls. The Committee further recommended that Nepal strengthen and implement appropriate legislation and provide for accessible monitoring and reporting mechanisms to detect, prevent and combat all forms of violence, including sexual violence, against women and girls with disabilities.

### Findings of the Legal Needs Survey

Broadly speaking, the Nepali data set aligns with those of the other target countries; 65 per cent of participants came from rural areas, 30 per cent identified as Indigenous, and 1.75 per cent indicated being a member of the LGBTQI community. Nepal was the only one of the target countries in which respondents identified their caste status as another marginalized identity which they held. Some 126 castes exist in Nepal, with status dictated by birth. Despite the strengthening of constitutional protections and the introduction of the Caste Based Discrimination (Offences and Punishments) Act 2011, widespread stigma and violence on the basis of caste persists.<sup>252</sup>

Country	Total Number of Responses Received	Psychosocial Disability	Intellectual Disability	Both	Other
Nepal	57	31	25	1	0

246. Puri, M., Mistra, G., and S. Hawkes. 2015. "Hidden Voices: Prevalence and Risk Factors for Violence against Women with Disabilities in Nepal." *BMC Public Health* 15 (1), 1.

247. Dhungana. "The Lives of Disabled Women in Nepal: Vulnerability Without Support.," 134.

248. *Ibid.*, 135.

249. *Ibid.*, 137.

250. Puri. "Hidden Voices.," 10.

251. Nepal Indigenous Disabled Association, National Indigenous Women with Disabilities Association, and Asia Indigenous Peoples Pact. 2022. *The Rights of Indigenous Persons with Disabilities in Nepal: Reply from Indigenous Persons with Disabilities Organizations to the List of Issues in relation to the initial Report of Nepal.*

252. UN News. 2020. "More 'can and must' be done to eliminate caste based discrimination in Nepal." 29 May. Available from 13 April 2023. <https://news.un.org/en/story/2020/05/1065102>.

As this aspect of identity is unique to Nepal, the research team decided that information on caste identification would not be sought from respondents via a separate question, as the OECD indicates the importance of having standard and comparable demographic questions.<sup>253</sup> In this regard, 24 per cent of respondents identified their caste in answering the legal needs survey:

- 6 respondents identified as Brahmin (upper caste)
- 5 respondents identified as Chhetri (upper caste)
- 3 respondents identified as Dalit (lowest caste, so-called 'untouchable')

The challenges faced by women with intellectual and/or psychosocial disabilities in Nepal are reflected in the frequency with which the respective problems were identified.

Respondents identified a total of 727 problems in the following areas:



**Consumer Rights, Land, Housing**  
(23 per cent of responses)



**Family, Relationships, Violence**  
(21 per cent of responses)



**Work, Government, Money**  
(32 per cent of responses)



**Health, Education, Other**  
(24 per cent of responses)

It is worth noting that although Nepal was not the target country with the highest number of respondents (this was Indonesia), it was the country with the greatest total number of problems identified by respondents. The individual areas in which problems were most frequently identified were Health (12 per cent), Housing (10 per cent) and Violence (nine per cent total, comprised of four per cent violence inside the home and five per cent violence outside the home).

The areas in which problems were least frequently identified were Money (debt) (four per cent) and Other (four per cent). As discussed below, most of the issues identified under the 'Other' category, apart from those which related to problems previously identified in the other sections of the legal needs survey, related to the general lack of support systems for persons with disabilities in Nepal. It is also important to note that in many of the responses, Nepali enumerators taking the information from respondents wrote in the third

person about what the respondents were saying. This was particularly the case in regard to women with psychosocial disabilities who completed the legal needs survey through enumerators.



## CONSUMER RIGHTS, LAND, HOUSING

In this section of the legal needs survey, the breakdown of problems identified by frequency was 7 per cent of responses for Consumer Rights, 6 per cent for Land, and 10 per cent for Housing. With respect to consumer rights, respondents identified predatory lending practices or being defrauded when buying or selling goods and services:

- "Lot of money was collected saying that she will be provided [with a mixer, a rice cooker, and a freezer], but nothing provided." – Nepal, psychosocial disability, 40s.
- "Produced vegetables, they sold in the market through mediator and don't even get half of the sale price." – Nepal, psychosocial disability, rural.
- "Defrauded while buying things." – Nepal, intellectual and psychosocial disability, 20s, urban.
- "I experienced a problem while buying things, the money was not returned." – Nepal, psychosocial disability, 40s, urban, Indigenous.
- "Vendor tries to impose their choices on me, considering me to be mad, since I am on medication for the psychosocial disability." – Nepal, psychosocial disability, 40s, urban, LGBTQI.

Similar problems with fraud, as well as informal denial of legal capacity related to inheritance, were identified in the responses regarding land:

- "All decision need to made by her and due to her gender, others took extra money when she bought lands." – Nepal, psychosocial disability, 40s.
- "The family has not divided land and property." – Nepal, psychosocial disability, 20s, rural.

For problems relating to housing, a wide range of issues were identified. These included poor quality housing and forced living situations:

- "When we live in old house which is nearly damaged, nobody listens to us." – Nepal, intellectual disability, 30s, urban, Indigenous.

253. OECD. *Legal Needs Survey and Access to Justice.*, 125.

- “Due to low income from husband, was forced to stay in a single room along with two sons and father and mother-in-law, and her husband’s regular sexual relationship makes it difficult to stay in that room.” – Nepal, psychosocial disability, 40s.
- “Wanted to live in a flat but my family forced me to live with family.” – Nepal, psychosocial disability, 40s, urban.

Other respondents shared that they experienced housing insecurity and were at risk of becoming homeless:

- “I don’t know with whom I will stay, I am afraid my family members will abandon me.” – Nepal, intellectual disability, 50s, rural.
- “I want to stay in my own home. I don’t want to stay as a burden to my family.” – Nepal, intellectual disability, 31, rural, Chhetri.

A final issue identified in the responses to the housing question was being prevented from moving into different housing by a spouse or other family member(s):

- “Not allowed by husband to go anywhere and if she sometimes goes to the paternal house then husband does not speak to her for at least two weeks.” – Nepal, psychosocial disability, 40s.
- “I want to stay far from my home in another district, but my parents do not allow me.” – Nepal, psychosocial disability, 30s, rural.



## FAMILY, RELATIONSHIPS, VIOLENCE

In this section of the legal needs survey, the individual area in which problems were most frequently identified was Violence (nine per cent of responses, with violence inside the home accounting for four per cent and violence outside the home for five per cent). Problems with Family were also a major issue for respondents, accounting for seven per cent of responses, with problems regarding Relationships representing five per cent of responses.

Violence, including sexual violence perpetrated by their husband, was reported by several respondents:

- “By husband – physical and mental stress.” – Nepal, psychosocial disability, 40s.
- “Husband’s forceful nature for sexual relationship.” – Nepal, psychosocial disability, 40s.

Verbal harassment and emotional abuse from both family members and strangers were also reported in this section:

- [Relating what a bully said to her] “Why you are still alive, you are not capable to do any work?” – Nepal, psychosocial disability, 20s, urban.

- “Many disrespect me, they laugh at me and my daughters.” – Nepal, intellectual disability, 60s, rural, Dalit.
- “Wandering streets, harassed by many people, etc.” – Nepal, psychosocial disability, 30s, rural.
- “My parent used to say to me, nobody trusts my words and [they] don’t love me.” – Nepal, intellectual disability, 30s, rural, Indigenous.

Respondents also reported both formal and informal legal capacity denial in regard to relationships:

- “I need guardian’s permission before marriage.” – Nepal, psychosocial disability, 40s, urban, LGBTQI.
- “Not able to give a divorce nor able to take any legal steps.” – Nepal, psychosocial disability, 40s.
- “Want to marry, but couldn’t get married.” – Nepal, intellectual disability, 31, rural, Chhetri.

Early marriage was identified by some respondents as a specific problem:

- “An early marriage, and later her father obtained citizenship by lying about her age and got married.” – Nepal, psychosocial disability, 40s, rural.
- “Got married earlier and had children. Her mother-in-law scolds her all the time and no support from husband either.” – Nepal, psychosocial disability, 20s, rural.

One respondent reported that her marriage had ended as a result of her disability:

- “He got married to another girl due to my condition.” – Nepal, psychosocial disability, 30s, rural.

Caring responsibilities for both children and elderly parents were identified as problems in this section:

- “Her father got another wife and did not care the elder wife and she bring her to the place she stays and supported her in treatment but not properly which was more stress for her.” – Nepal, psychosocial disability, 40s.
- “My two daughters used to live with my husband, and he doesn’t allow me to stay with my daughters.” – Nepal, psychosocial disability, 30s, rural.
- “Whenever she took her [autistic] son outside, people used to scold him because of unusual behaviour, and so he did not wish to go outside and she needed to give more time to watch the son, and sometimes she is not able to give enough time to him.” – Nepal, psychosocial disability, 40s, urban.





## WORK, GOVERNMENT, MONEY

In this section, work was the most commonly reported problem accounting for eight per cent of responses with government workers and government and public services each accounting for six per cent of responses, money management and government payments each accounting for five per cent of responses and debt accounting for four per cent of responses.

Most of the responses related to work demonstrated that respondents were unemployed and faced disability discrimination when seeking employment:

- “Nobody is willing to give me employment opportunities as I can dance.” – Nepal, intellectual disability, 20s, urban, Indigenous.
- “Staying at home no employment.” – Nepal, intellectual disability, 26, rural, Brahmin.

Problems related to government workers, and government and public services included difficulties in obtaining disability identity cards and related income supports:

- “Do not have citizenship so cannot receive any entitlements from the government.” – Nepal, psychosocial disability, 40s, urban, LGBT.
- “No advantage of White disability card, No allowance and no other services for it.” – Nepal, psychosocial disability, 40s, urban.
- “I don’t have my disability identity cards and don’t receive any allowance.” – Nepal, psychosocial disability, 50s, rural.

One respondent also identified a problem with corruption when attempting to access public services:

- “Experienced corruption. Illicit sexual favours sought.” – Nepal, psychosocial disability, 40s, urban, LGBTQ.

Another identified issues with money management:

- “Due to economical problems [credit score] we were denied to get a loan.” – Nepal, psychosocial disability, 30s, rural.

Several respondents identified issues with debt:

- “I’m having major financial issues right now.” – Nepal, psychosocial disability, 30s, rural.
- “I have no source of income currently.” – Nepal, psychosocial disability, 40s, urban.
- “Owner [debt collector] is asking for money.” – Nepal, psychosocial disability, 40s, urban, Indigenous.



## HEALTH, EDUCATION, OTHER

In this section of the legal needs survey, Health was the individual area in which problems were most frequently identified (12 per cent of responses), followed by Education (8 per cent) and Other (4 per cent).

Within the health section, many respondents reported being denied health care, or indicated that doctors acted as gatekeepers for other social supports and denied them access to these supports, deeming their disabilities insufficient to warrant it:

- “Denied by doctors, saying there is no problem.” – Nepal, psychosocial disability, 40s.
- “Not recommended by doctors to receive disability card.” – Nepal, psychosocial disability, 30s, rural.

Several respondents with psychosocial disabilities reported that mental health was not prioritized within the health care system:

- “Mental health-related checkups aren’t that prioritized.” – Nepal, psychosocial disability, 41, rural.
- “There is a situation of not being able to get easily and free medicines for mental health.” – Nepal, psychosocial disability, 26, rural, Dalit.

Some respondents reported problems relating to sexual and reproductive health:

- “Mental stress and problems due to abortion.” – Nepal, psychosocial disability, 20s, rural, Dalit.

Legal capacity barriers to accessing health care were also reported by respondents:

- “Government hospitals need guardian permission before giving me services, even in dental and other emergencies!” – Nepal, psychosocial disability, 40s, urban, LGBTQ.

With respect to education, respondents reported being excluded, diverted to segregated education, and not being able to attain the desired level of education:

- “I want to study in grade 11 as I passed grade 10, but I had to stay in an intellectual disability class.” – Nepal, intellectual disability, 31, rural, Indigenous.

Some respondents also commented on the interconnected relationship between education and employment, and on how exclusion from education impacted their employment prospects and ability to maintain an adequate standard of living and health:

- “I am not able to study, cannot earn money and my health worsens.” – Nepal, intellectual disability, 31, rural, Chhetri.
- “I want to live independently in my house, studying a higher degree, and [gain] employment.” – Nepal, intellectual disability, 27, rural, Chhetri.

In response to the ‘Other’ question, respondents frequently described experiences of formal and informal denial of legal capacity, alongside widespread societal attitudes that hold that women with intellectual and/or psychosocial disabilities should not be allowed to make decisions for themselves:

- “No one listens to me at home, and I need to listen to my husband every time.” – Nepal, psychosocial disability, rural.
- I’m not allowed to take my own decisions. My family members always take my life decisions.” – Nepal, psychosocial disability, 30s, urban, Indigenous.
- “My relatives and family act like I can’t decide anything.” – Nepal, psychosocial disability, 30s, rural.

Respondents also commented in this section on the need to develop support systems for persons with disabilities in general, and women with intellectual and/or psychosocial disabilities in particular:

- “The problem of support system and caregiving. This facility is not provided by the government.” – Nepal, intellectual disability, 19, rural, Indigenous.
- “My future is insecure. After the death of my mom, who will take care of me?” – Nepal, intellectual disability, urban, Indigenous.
- “Cannot decide for ourselves. No support system. Cannot live independently.” – Nepal, intellectual disability, 33, urban, Indigenous.

## Efforts to Resolve the Problems Experienced

Respondents in Nepal attempted to resolve problems in similar ways to respondents in the other legal needs survey countries. However, there are some key differences: 10 per cent of problems were resolved, **90 per cent going unresolved** (the highest number of unresolved problems for any of the target countries). It was common for participants to experience many problems over an extended period of time – **77 per cent of respondents reported that the problem faced had a significant impact** on them.

Some **91 per cent of respondents shared the problem with someone** (the highest number for any of the target countries), with 59 per cent sharing the problem with a household member or other friend or family member. Participants rarely distinguished between household members and extended family in this regard, attributable to prevailing cultural norms in Nepal (e.g. multi-generational homes, in which it is typical to care for one’s elderly parents and/or rely on them for child-rearing support). Another 13 per cent of respondents shared their problem with a member of their community.

**More than half (53 per cent) of respondents obtained information** to better understand the problem they faced. Of these respondents, 50 per cent obtained information from television, video, or radio, and 22 per cent obtained information from a leaflet, book, or self-help guide. This proportion is unusually high compared to the other legal needs survey countries and may suggest that these forms of media could be useful for awareness-raising initiatives.

It is important to note that 30 per cent of respondents did not obtain assistance from any person or organization. Of the 70 per cent who did, 34 per cent received assistance from a peer support or self-advocacy group, demonstrating the importance of rights awareness and coalition-building among persons with disabilities and OPDs.

The main reasons for not seeking legal assistance cited by respondents were thinking it would be too stressful (16 per cent), being too scared to take action/get advice (16 per cent), and concern about the financial cost involved (10 per cent). Similarly, 31 per cent described the problem faced as bad luck/part of life.

Nepali participants preferred not to engage with formal justice systems, with 33 per cent of respondents preferring direct communication with the other party. A further 19 per cent of problems identified were resolved by a decision or intervention by a formal body. This led to poor outcomes and the continuation of many problems, with the majority of participants inclined to indicate that they had not learned anything from the experience.

## Concluding Remarks

During the legal needs survey, it became apparent that much more must be done to safeguard the rights of Nepali women with disabilities and improve their quality of life. Participants grappled with paternalistic attitudes and a lack of autonomy or independence, with husbands, brothers or parents controlling their finances. This power imbalance was also evident in their relationships with formal authorities, with participants suffering discrimination and denial of services at the hands of members of the ward office and the office of land revenue, banking officials and school staff.

The strong influence of culture and religion resulted in stigma, with two respondents relying on dhams and jhakris (religious gurus or shamans) to perform rituals to exorcise evil spirits. The participants normalized this practice as another form of treatment. However, it is important to highlight the harmful implications of conventionalizing disability as a spiritual affliction, rather than as a typical part of the human condition. Derogatory references to mental illness coupled with internalized ableism and a widespread lack of understanding leave no doubt that Nepal remains in the grip of the medical model of disability.

While de facto denial of legal capacity was apparent in the way in which decisions made by respondents were not respected by others in their society, legal problems came second to financial concerns. Participants were for the most part preoccupied with poor standards of living, unable to meet basic needs.

## Recommendations to Close the Justice Gap for Women with Intellectual and/or Psychosocial Disabilities in Nepal

The recommendations for Nepal were developed through dialogue between the research team and the in-country partner organizations. Thus, the recommendations may at certain points focus less on issues identified in the findings of the legal needs survey, given the small sample of participants reached, and more on overarching priorities identified by those closest to the context, in regard to those steps they consider would be meaningful to achieving greater human rights compliance and access to justice for women with intellectual and/or psychosocial disabilities.

The following recommendations offer a road map for different avenues to dismantling barriers to women with intellectual and/or psychosocial disabilities accessing justice in Nepal and raising awareness on the human rights of persons with disabilities more broadly.

## Nepal: Short-Term Recommendations

- **Review all existing legislation to consider implications for the inclusion of all women with disabilities** in Nepali society. This should include review of the language and spirit of the law, as well as the scope for effective enforcement and monitoring. In reviewing the legislation, special attention should be paid to ‘neutral’ laws that are applied generally, but which in fact may have a disproportionate impact on women, persons with disabilities, and/or women with disabilities.
- **Consider the implications of existing provisions** in light of the human rights model of disability and the adjustments which must be made accordingly. Outline the consequences for community inclusion and local development under Article 19 of the CRPD. Establish what the consequences would look like in practice, including by outlining a plan for resource allocation, such as using Section 30 of the Disability Act 2074 (2017) relating to the establishment of rehabilitation centres as a form of housing.
- **Assess the knowledge gaps** that exist for persons with disabilities with regard to their human rights. Consider the accessibility of existing popular media platforms (e.g. television and radio platforms) for the target groups – rural women, Dalit women, girls with disabilities, Indigenous women, those with low literacy, and domestic violence survivors.
- **Discuss how ongoing education initiatives can be adapted** to disseminate information to combat stereotypes and stigma.
- **Develop a strategy to establish good practice for awareness raising** at every level including through the use of inclusive language and positive imaging.

## Nepal: Long-Term Recommendations

- **Establish a supported decision-making paradigm** that is compliant with the CRPD obligations under Article 12. This must involve revoking all legislation which allows for the placement of an adult with a disability under guardianship. Broadly speaking, this means setting aside the ‘best interest’ model in favour of a person-centred approach, which is aligned with will and preference. There is no single strategy for legal capacity reform. Any reform should take place after extensive consultation with national OPDs, to establish a system of supported decision-making that is effective within Nepal’s unique cultural context. Notwithstanding, international best practice examples do offer a useful guide in this regard:
  - **Distinguish the concepts of ‘legal capacity’ as personal agency and ‘mental capacity’ as decision-making skills.**

- **Recognize that all citizens may require additional support at some stage.** Emphasize that mental capacity can fluctuate and supports may be subject to change over time.
- **Establish that no former legal guardian should take on the role of decision-making support.** The operating principles must reflect the values of the CRPD, eliminating the possibility of further human rights violations. Relevant persons must appoint a trusted individual of their own free will. Where no one is willing or able to take on this role, there should be an option to appoint an external adviser.
- **Address inherent power imbalances through trust and self-determination:** allow the affected person to avail of optional, tiered, self-directed support across different areas of their lives (i.e. different decision-making assistants for health care, finance). This will help the affected person to develop wider circles of support, providing target assistance only where necessary. This approach will also prevent one single person from exercising unchecked control over every aspect of the affected person's life.
- **Establish a new independent body to oversee the implementation of the above measures.** This will require the appointment of decision-making support, and the making, amendment and dissolution of support agreements. This must include a complaints mechanism.
- **Provide targeted training for public duty bearers** to enhance their practical knowledge and understanding of disability rights, to dismantle attitudinal and informational barriers facing women with intellectual and/or psychosocial disabilities in Nepal. Members of the judiciary, police, and administrators must be aware of their obligations under the CRPD to respect, protect and fulfil the rights of persons with disabilities through the provision of public services to persons with disabilities.
- **Update policies to reflect legislative change,** to improve engagement with the justice system (e.g. combatting low reporting of sexual violence). All women with disabilities must be assured of being welcomed and taken seriously when they wish to exercise their rights at the municipal level and beyond.
- **Amend the Disability Act 2074 (2017) to give discretionary powers to public administrators at the local level.** Minimize the bureaucracy associated with the application process for receiving a disability identity card.
- **Expand the criteria for evidence of disability** so that the decision is not entirely dependent on the recommendation of the Ward Office but instead encompasses the perspective of other key personnel whom are likely to know someone well over a longer period of time and can make a fair assessment of their needs (e.g. doctor, teacher, employer). Combined with additional safeguards for appeal, these additional options for supplementary information should ensure that everyone who identifies as having a disability can be recognized as such.

# 11. COUNTRY-SPECIFIC FINDINGS: PHILIPPINES

Before analysing the findings of the legal needs survey in the Philippines, it is important to set the context for the experiences of women with intellectual and/or psychosocial disabilities by examining existing data, some key laws affecting this community, and previously completed research in this field.

## Existing Data on Disability

Similar to the other target countries, data collection challenges exist in the Philippines. The National Disability Prevalence Survey (2016) found that the overall disability rate is 12 per cent, with women more likely to experience ‘moderate’ and ‘severe’ disability than men.<sup>254</sup> In contrast, the *World Report on Disability from the World Health Organization* (WHO) found the rate to be 28.8 per cent.<sup>255</sup> The marked difference between these two figures arises from the use of different methods for measuring disability. The Committee on the Rights of Persons with Disabilities (2018) has expressed concern regarding the lack of disaggregated data to inform disability policy.<sup>256</sup>

## Domestic Law

### The Constitution of the Republic of the Philippines

The 1987 Constitution of the Republic of the Philippines contains no specific provisions to safeguard the rights of persons with disabilities in particular. The Bill of Rights is outlined in Article 3, containing a variety of civil and political rights, including equal protection of the laws in Section 1. It does not contain the right to access justice or an explicit prohibition against disability discrimination. However, Section 11 does address economic barriers to accessing justice, as it provides for adequate legal assistance for those experiencing poverty.<sup>257</sup> Article 5, Section 2 provides for the secrecy of the ballot and mandates Congress to design a voting process for persons with disabilities without personal assistance. Article 29(a)(iii) of the CRPD allows for assistance in voting, in conjunction with the support decision-making framework introduced in Article 12 of that treaty.<sup>258</sup>

Article 2, Section 14 of the 1987 Constitution of the Republic of the Philippines guarantees the fundamental equality before the law of women and men. More broadly speaking, Article 2, Section 11 reads “The State values the dignity of every human person and guarantees full respect for human rights.” Article 8 includes provisions under the broad heading ‘Social Justice and Human Rights.’ Section 1 of this article notes the priority of enhancing “the right of all the people to human dignity, reduce social, economic political inequalities, and remove cultural inequities” and Section 11 calls for taking a priority approach to the needs of marginalized groups, including persons with disabilities.

### Magna Carta for Disabled Persons

Republic Act 7277, also known as the Magna Carta for Disabled Persons, was enacted in 1992. Despite subsequent amendments, it remains couched in the medical model of disability, with an impairment-based definition of disability and derogatory reference to “mentally retarded” children. Although the medical model is present in the legislation, the Magna Carta for Disabled Persons does articulate rights which are present in the CRPD, including in:

- Section 5: Equal Opportunity for Employment
- Section 12: Access to Quality Education
- Section 29: System of Voting
- Section 30: Right to Assemble
- Section 31: Right to Organize
- Section 32: Discrimination on Employment

Section 25 of the Magna Carta for Disabled Persons provides for the attainment of a barrier-free environment to enable access in both public and private buildings, detailed in *Batas Pambansa Bilang 344* (informally referred to as the ‘Accessibility Law’).<sup>259</sup>

254. Philippine Statistics Authority. 2019. “Press Release: Disability Spares No One: A New Perspective.” Available from 13 April 2023. <https://psa.gov.ph/sites/default/files/attachments/ird/pressrelease/Press%20Release%20NDPS.pdf>.

255. WHO (World Health Organization). 2011. “World Report on Disability.” Geneva: WHO, pp. 21-22 and 274.

256. UN CRPD. *Concluding observations on the initial report of the Philippines\**, para., 49, 56 and 57.

257. Section 11 reads: ‘Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.’

258. Della Fina. *The United Nations Convention on the Rights of Persons with Disabilities*. pp. 534-535.

259. Details of places and buildings that must be accessible are outlined in Section 1 of the Act.

However, the Magna Carta for Disabled Persons also includes ‘rights’ which are incompatible with the principles of the CRPD, under:

- Section 14: Special Education
- Section 18: National Health Program (wherein “prevention of disability” is a stated aim)
- Section 19: Rehabilitation Centers
- Section 20: Health Services (including a focus on preventing disability and interventions aimed at “medical treatment and rehabilitation”)
- Section 21: Auxilliary Social Services (for marginalized persons, to “restore their social functioning”).

Amendments to the Act in 2017 introduced a variety of concessions and discounts for persons with disabilities and mandated a change in language, from “disabled persons” to “persons with disabilities.” However, not all of the changes made enhance the rights of persons with disabilities, as Section 33(a) specifies that for tax purposes persons with disabilities shall be treated as dependents.

Overall, the legislation perpetuates a system of oppression which has been used to exclude and disempower persons with disabilities, including in respect to special education and sheltered employment. The Philippines has attempted to diversify its workforce, mandating that five per cent of certain governments be filled by persons with disabilities. Yet, it remains to be seen how this target has been revised and reaffirmed via current policy.

Chapter VII of the Magna Carta for Disabled Persons promotes political rights, notably including the right to form OPDs and peer support networks for advocacy purposes. Section 40 also recognizes the role of local government units in promoting local OPDs. However, there is no recognition of the right to access to justice or equal recognition before the law. Without these fundamental protections, the Philippines cannot uphold the obligations of the CRPD, which it ratified in 2008.

## Magna Carta of Women

The Republic Act No. 9710, also known as the Magna Carta of Women, was enacted in 2009 and is the main domestic

law pertaining to the rights of women. Section 2 of the Magna Carta of Women references the importance of ensuring the substantive equality of women and men and notes the role of “the abolition of the unequal structures and practices that perpetuate discrimination and inequality.” It also notes the duties of the State to respect, protect, and fulfil<sup>260</sup> the human rights of women, including women with disabilities. The definition of discrimination against women in Section 4 recognizes intersectional discrimination and how discrimination can be compounded on the basis of gender and disability.

While the Magna Carta of Women contains no explicit reference to access to justice or legal capacity, it does note the role of increased female staff in the criminal justice system for cases of gender-based violence, setting out a goal of 50 per cent of staff to be women for services availed of by victims of GBV.<sup>261</sup> Additionally, it requires under Section 9(c) that all staff working in the field of GBV complete mandatory training on both human rights and gender.

## Mental Health Act

The Mental Health Act (Republic Act No. 11036) was enacted in 2018 in response to the large number of persons with psychosocial disabilities and high suicide rate, generally speaking. Prior to its enactment, the Philippines had no mental health legislation. As there was no legal framework, many persons with psychosocial disabilities were involuntarily admitted to psychiatric facilities by family members.<sup>262</sup> Section 2 of the Act affirms the rights of “persons affected by mental health conditions” and requires that mental health services be free from coercion. Sections 2 and 5 further state that the Philippines will comply with its obligations under the CRPD.

The Act mandates that all persons must give informed consent before receiving treatment, and that all persons are presumed to have legal capacity.<sup>263</sup> However, under Section 13, the Act allows the continuation of the practice of treatment without informed consent during “psychiatric or neurologic emergencies,” which is not compliant with the requirements of the CRPD. The Mental Health Act should

260. International human rights law has recognized a three-pronged framework for how States should implement their treaty obligations in practice with the following elements: 1) duty to respect; 2) duty to protect; and 3) duty to fulfil. The duty to respect refers to the negative obligation to refrain from actions that would violate human rights, the duty to protect is the positive obligation for States to ensure that human rights violations do not occur within its jurisdictions and the duty to fulfil introduces the idea that States should take positive measures to have greater protection of rights, such as passing domestic legislation that implement international human rights law treaty obligations. For more information, Mégret, F. 2014. “Nature of Obligations.” In *International Human Rights Law*. D. Moeckli, S. Shah, S. Sivakumaran, and D.J. Harris (Eds). Oxford: Oxford University Press, pp. 101-103.

261. See Section 9A.

262. Lally, J., Samaniego, R., and J. Tully. 2019. “Mental Health Legislation in the Philippines: Philippine Mental Health Act.” *BJPsych International* 16 (3), 65.

263. See Section 5(m), Section 8.

be comprehensively and meaningfully implemented to ensure respect for the rights of persons with psychosocial disabilities, including through the amendment of provisions that deny their legal capacity and right to informed consent for treatment, to have a positive impact on the life of their community, and to inclusion.

### Other Relevant Legislation

Legal capacity denial for persons with disabilities continues to be permitted under Filipino law. This is demonstrated in Articles 37-39 of Chapter 1 of the Civil Code, which limits the right to act under the law for persons with psychosocial, intellectual or multiple impairments. Substituted decision-making regimes such as this result in the stripping of one’s legal agency, contrary to the provisions of Article 12 of the CRPD. Denial of legal capacity is also present in Articles 798-800 of Chapter 2 of the Civil Code relating to the power to make wills.

Section 92 of the Family Code allows for “incompetent persons” – including those deemed to be of unsound mind – to be placed under guardianship at the municipal court level. With an emphasis on diagnosis coupled with a “test” of one’s ability to manage property and personal affairs independently. This classification bears hallmarks of both the ‘status’ and ‘functional’ approaches, which are incompatible with the CRPD.<sup>264</sup> As a whole, the domestic legislation needs comprehensive reform to move away from conflating legal capacity (an intrinsic right) with decision-making capacity (subject to natural fluctuation, requiring varying levels of support).<sup>265</sup>

### Existing Research on Women with Disabilities

The Philippines was one of the first States in the region to ratify the CRPD, but significant barriers to implementation

remain; for example, the Philippines does not have anti-discrimination legislation protecting persons with disabilities.<sup>266</sup> In its concluding observations in the initial report on the Philippines (2018), the Committee on the Rights of Persons with Disabilities noted with concern the barriers to access to justice, including societal attitudes and the lack of adequate sign language interpretation. The Committee recommended that the Philippines take steps to adopt both age-appropriate and procedural accommodation and improve training for law enforcement officials.<sup>267</sup> It also identified a lack of remedy regarding discrimination cases on the basis of disability.<sup>268</sup>

In 2016, the Committee on the Elimination of Discrimination against Women had also noted with concern the barriers to accessing justice for women in the Philippines, including the role of gender stereotypes, and how this particularly affects women with varying intersecting identities, including women with disabilities.<sup>269</sup> This was found to be aggravated by gender-insensitive procedures within the justice system.<sup>270</sup>

### Findings of the Legal Needs Survey

The data set from the Philippines was the most unique of the target countries surveyed. Most of the respondents were from rural areas (77 per cent) and the Philippines was the only country to have more than one respondent identify as a member of the LGBTQI community (2 respondents identified as such). Some 30 per cent of respondents identified as Indigenous. This is higher than the estimated percentage share of Indigenous peoples in the population of the Philippines overall (estimated at between 10-20 per cent).<sup>271</sup> The Philippines had the lowest proportion of respondents with intellectual disabilities among all of the target countries, likely reflecting the fact that no OPD for persons with intellectual disabilities currently exists in the country.

Country	Total Number of Responses Received	Psychosocial Disability	Intellectual Disability	Both	Other
Philippines	46	35	5	1	1

264. UN CRPD, General comment No. 1. para., 15.

265. Ibid., para., 17.

266. Cruz, J. 2017. “Understanding CRPD Implementation in the Philippines.” In *Making Disability Rights Real in Southeast Asia: Implementing the UN Convention on the Rights of Persons with Disabilities in ASEAN*. D. Cogburn and T. Reuter (Eds.). Lanham: Lexington Books., pp. 25; Ancha, C. 2022. “Gender and Disability: The Experiences of Microaggressions Against Women with Disabilities in the Philippines.” *The European Journal of Development Research* 34 (6), pp. 2688-2689.

267. UN CRPD, *Concluding observations on the initial report of the Philippines\**, paras., 26-27.

268. Ibid., para., 10.

269. UN CEDAW (United Nations Committee on the Elimination of All Forms of Discrimination against Women). 2016. *Concluding observations on the combined seventh and eighth periodic reports of the Philippines\**. CEDAW/C/PHL/CO/7-8. para., 14(b).

270. Ibid., para., 14(d).

271. IWGIA. N.d. “Indigenous peoples in Philippines.” Available from 13 April 2023. <https://www.iwgia.org/en/philippines.html>.

It is important to note that for the Philippines data set (more so than for the data sets of the other three target countries), many legal needs surveys were not completed in full, and even less detail (compared to the other countries surveyed) was provided on the nature of the problems experienced. Thus, it is more difficult to discern patterns in the data set and draw definitive conclusions.

The challenges faced by women with intellectual and/or psychosocial disabilities in Indonesia are reflected in the frequency with which the respective problems were identified.

Respondents identified **a total of 307 problems in the following areas:**



**Consumer Rights, Land, Housing**  
(25 per cent of responses)



**Family, Relationships, Violence**  
(17 per cent of responses)



**Work, Government, Money**  
(29 per cent of responses)



**Health, Education, Other**  
(38 per cent of responses)

The individual areas in which problems were most frequently identified were Health (accounting for 14 per cent of responses), Education (11 per cent), and Violence (11 per cent) – comprised of violence inside the home (four per cent) and violence outside the home (seven per cent). The areas in which problems were least frequently identified were Money (management) (three per cent) and Other (three per cent), Government (workers) (two per cent) and Relationships (one per cent).



## CONSUMER RIGHTS, LAND, HOUSING

In this section of the legal needs survey, the problems identified related to Consumer Rights (accounting for seven per cent of responses), Land (10 per cent) and Housing (eight per cent). With respect to consumer rights, most respondents were not sure of their rights when buying or selling goods or services, with some respondents indicating that others make decisions in this area on their behalf, an indicator of informal denial of legal capacity:

- “My husband is in charge in this matter.” – Philippines, psychosocial disability, 40s, rural.

For problems related to land, respondents answered in the affirmative to questions about problems buying and selling land, land dispossession, environmental damage, man-made damage, land transfers and permits, but provided no further detail on the nature of these problems. In describing problems related to housing, several respondents using the Easy Read version of the legal needs survey stated that they experienced forced living situations and problems moving out of their family home, without elaborating in detail.

With respect to housing, respondents identified problems with poor quality housing, and also difficulties in obtaining better housing, due to lack of employment or necessary financial resources:

- “I have a family poor house.” – Philippines, intellectual disability, rural, LGBTQI.
- “I’m jobless and stay in our house.” – Philippines, psychosocial disability, 41, rural.

Some respondents expressed their dissatisfaction with where they currently lived and their inability to move out or find a new place to live:

- “I’m always at home.” – Philippines, psychosocial disability, 30s, rural.
- “I’m just staying in our house with my family.” – Philippines, psychosocial disability, 40s, rural.

Another respondent shared that they would not be allowed to make a decision about housing because this is an issue for their parents to decide:

- “My parents are the ones responsible in that matter.” – Philippines, psychosocial disability, 30s, rural.

These responses demonstrate an intertwining of the respondents’ rights to legal capacity and to live independently and be included in their communities under Article 19 of the CRPD, the realization of each of which appeared to be far removed from the day-to-day realities experienced by the respondents.

In this section, similar to responses from other target countries, respondents discussed the impact of flooding on their homes (the severity of which is likely exacerbated by the effects of climate change):

- “Flooding from the Bulacan.” – Philippines, intellectual disability, 30s, LGBTQI.
- “Yes – flooding.” – Philippines, psychosocial disability, 30s, rural, Indigenous.





## FAMILY, RELATIONSHIPS, VIOLENCE

In this section of the legal needs survey, the individual area in which problems were most frequently identified was Violence (indicated in 11 per cent of responses), with violence inside the home accounting for four per cent and violence outside the home accounting for seven per cent of responses. However, respondents provided very little detail on the violence experienced:

- [In relation to violence inside the home] “Yes because my disability.” – Philippines, intellectual disability, 20s, rural.
- [In relation to unfair or discriminatory treatment at work] “Yes, bullied.” – Philippines, disability not identified, 23, rural.

Problems concerning Family were also an issue for respondents, accounting for five per cent of responses, with problems concerning Relationships representing only one per cent of responses. The latter represents the lowest percentage of problems for this area among any of the target countries. Some respondents used this section to describe their family status and lack of family support:

- “I’m single and at the same time I’m an orphan.” – Philippines, psychosocial disability, 50s, rural.

While others gave positive examples of being able to marry and start a family:

- “We are happily married and we have our own children.”; “I’m okay living with my family.” – Philippines, psychosocial disability, 40s, rural.

Problems accessing child support were identified by one respondent in this section:

- “Child support.” – Philippines, psychosocial disability, 30s, rural.

The responses received in this section reflect an overall focus on the need for greater financial supports for women with intellectual and/or psychosocial disabilities in the Philippines to help them meet their basic needs.



## WORK, GOVERNMENT, MONEY

In this section the biggest problem identified was work (9 per cent), followed by debt (seven per cent), government and public services (five per cent), government payments and money management (three per cent) and problems with government workers representing two per cent of problems identified.

Problems related to work tended to concern difficulties in finding employment:

- “I’m not working.” – Philippines, psychosocial disability, 40s, rural.
- “I’m jobless.” – Philippines, psychosocial disability, 30s, rural.

However, some respondents also identified gender discrimination in employment with respect to equal pay:

- “Lack of equal pay (gender bias, diversity).” – Philippines, psychosocial disability, 30s, rural.

It is worth noting that the frequency with which problems in the Philippines were identified in the area Money (debt) was the highest among any of the target countries surveyed. In some cases, respondents identified problems with debt and money management in relation to medical expenses, which overlaps with responses provided in the Health section, the area in which Filipino respondents identified problems with the highest frequency overall:

- “My medicine bill.” – Philippines, psychosocial disability, 30s.
- “Financial problem, for my medicine.” – Philippines, psychosocial disability, 20s, rural.
- “About financial support to buy my medicine, and our foods.” – Philippines, psychosocial disability, 50s, rural, Indigenous.

Other problems identified related to a lack of support via government payments, and difficulties in securing public services due to a lack of financial resources:

- “I have no money.” – Philippines, intellectual disability, 30s, Indigenous, LGBTQI.
- “About finances in our everyday life.” – Philippines, psychosocial disability, 30s, rural, Indigenous.



## HEALTH, EDUCATION, OTHER

Health represented the individual area in which problems were most frequently identified, for both this section of the legal needs survey and the Philippines country legal needs survey overall – indicated in 14 per cent of responses. Education also accounted for a significant proportion of problems (11 per cent), with only three per cent of problems related under the Other area.

With respect to health, the problems listed typically included a denial of access to needed health care or long delays in securing requested health services:

- “Yes, sometime my case is almost a month to go to mental hospital.” – Philippines, Intellectual disability, 23, rural.

However, the respondent in this case did not identify any problems related to receiving health care in what seems to be a segregated environment, and perhaps one in which forced treatment may have been permitted, contrary to Article 14 and Article 25 of the CRPD.

Other problems identified related to the cost of health care and medicine in particular:

- “Financial problem for buying medicine.” – Philippines, psychosocial disability, 24, rural.

Several respondents using the Easy Read version of the legal needs survey also answered in the affirmative when asked whether the problem related to “support to make health care decisions.”

Regarding problems related to education, most respondents reported that they had not attained the desired level of education:

- “I’m only an elementary graduate.” – Philippines, psychosocial disability, 41, rural.
- “I just finished my elementary.” – Philippines, psychosocial disability, 37, rural.

One respondent reported unfair treatment from teachers in the education system due to her disability:

- “The instructor embarrassed me in front of the class.” – Philippines, psychosocial disability, 43, urban.

The inability of respondents to progress to their desired levels of education as evidenced in responses to this section is also interlinked with difficulties faced by respondents in finding work and being able to generate sufficient income to meet their basic needs, as identified in responses to earlier sections of the legal needs survey.

In the ‘Other’ section, respondents mostly focused on the need for financial and social supports:

- “Mostly financial problem.” – Philippines, psychosocial disability, 34, rural.

One respondent also shared a broader issue they face in their day-to-day life:

- “Lack of self-confidence.” – Philippines, psychosocial disability, 37, rural.

This can perhaps be attributed to the impact of ableist and patriarchal societal assumptions as detailed throughout the legal needs survey, indicating that women with intellectual and/or psychosocial disabilities are viewed as being unable to make life decisions for themselves.

## Efforts to Resolve the Problems Experienced

Respondents in the Philippines share both similarities and differences in their efforts to resolve the problems identified, compared to the data collected in Fiji, Indonesia, and Nepal. Respondents reported that 29 per cent of problems were resolved, with 71 per cent going unresolved, compared to 17 per cent in Fiji, 35 per cent in Indonesia and 10 per cent in Nepal.

Only 20 per cent of respondents reported that the problem faced had a significant impact on them, a smaller share than in any of the other target countries (36 per cent in Fiji, 55 per cent in Indonesia, and 77 per cent in Nepal). Over one quarter (26 per cent) of respondents described the problem faced as bad luck/part of life, 19 per cent cited it as a family or private matter, and 15 per cent indicated it as an economic problem. The relatively high frequency with which problems were described as being economic in nature is unique to the Philippines, but demonstrates the overall finding in the Philippines that the women consulted tended to primarily be concerned with meeting basic needs. In attempting to resolve the problem faced, 49 per cent of respondents shared the problem with someone: specifically, 57 per cent shared the problem with a household member or other friend or family member

Another finding unique to the Philippines is that 61 per cent of respondents did not obtain information to better understand the problem and 76 per cent did not receive assistance from a person or organization. Of the 39 per cent who did seek information to better understand the problem:

- 39 per cent obtained information from a website or ‘app’
- 35 per cent obtained information from television, video or radio
- 14 per cent obtained information from newspapers or magazines
- 12 per cent obtained information from a leaflet, book or self-help guide

The significant number of respondents seeking information from television, video, or radio is unique to the Philippines and Nepal (50 per cent), compared to 26 per cent in Fiji and 14 per cent in Indonesia.

Of the 24 per cent who did receive assistance from a person or organization:

- 39 per cent received assistance from family, friends, or acquaintances
- 10 per cent received assistance from peer support or self-advocacy group

- 10 per cent from a community or religious leader or organization, an NGO/OPD/charity, or trusted person or organization

The top three reasons for not seeking assistance were also unique to the Philippines:

- 16 per cent indicated 'other' and did not specify further
- 13 per cent had no dispute with anybody/thought the other side was right
- 11 per cent thought it would be too stressful

These reasons for not seeking assistance may be demonstrative of the broader socio-legal context for women with intellectual and/or psychosocial disabilities in the Philippines, and the inability of these women to prioritize access to justice issues, until basic needs and financial security are met.

In attempting to resolve the problem faced, 22 per cent communicated with the party involved and 30 per cent involved no negotiation or third-party involvement. Respondents identified the problems as being ultimately being resolved through the problem becoming resolved of its own accord (27 per cent), or the respondent and/or all other parties giving up on attempting to resolve the problem (25 per cent). **Only 1 respondent identified that the problem was ultimately resolved by a court or tribunal judgment.** Two respondents noted that the problem was resolved through a decision or intervention by another formal authority, and five noted that it was resolved through mediation, conciliation, or arbitration. Thus, **83 per cent problems were resolved informally**, either by giving up on attempting to resolve the problem, ignoring the problem, moving beyond the reach of the problem, or communicating with another party involved. This data shows that **women with intellectual and/or psychosocial disabilities in the Philippines preferred to resolve problems in informal ways, rather than through the formal justice system.**

## Concluding Remarks

Only 29 per cent of problems were identified as resolved. This demonstrates that there is a gap regarding accessing both formal and informal justice for the justiciable problems experienced by respondents. The results from the Philippines were unique, as they had the most responses from rural areas (77 per cent), which may have influenced the prevalence of issues concerning consumer rights and land compared to the other legal needs survey countries. The Philippines was also the only legal needs survey country in which a significant number of problems regarding bankruptcy were identified. Financial issues – particularly not having sufficient financial

resources to meet basic needs – were paramount in the Philippines. These results demonstrate the importance of ensuring that women with intellectual and/or psychosocial disabilities in the Philippines enjoy the fundamental rights they are entitled to, including Article 12 (equal recognition before the law), Article 23 (respect for home and the family), Article 24 (right to education), Article 27 (right to work) and Article 28 (adequate standard of living and social protection) of the CRPD.

## Recommendations to Close the Justice Gap for Women with Intellectual and/or Psychosocial Disabilities in the Philippines

The recommendations for the Philippines were developed through dialogue between the research team and our in-country partner. Thus, the recommendations may at certain points focus less on issues identified in the findings of the legal needs survey, given the small sample of participants reached, and more on overarching priorities identified by those closest to the context, in regard to those steps they consider would be meaningful to achieving greater human rights compliance and access to justice for women with intellectual and/or psychosocial disabilities.

The following recommendations offer a road map for different avenues to dismantling barriers to women with intellectual and/or psychosocial disabilities accessing justice in the Philippines and raising awareness on the human rights of persons with disabilities more broadly.

### Philippines: Short-Term Recommendations

- **Evaluate existing access to justice initiatives** for persons with disabilities, such as the use of mobile courts to address the urban divide.
- **Allocate funds to expand or reconfigure existing pilot projects** for use in the medium or long term.
- **Accept new proposals for short-term projects**, especially those put forward by persons with disabilities and their representative organizations to address the needs of persons facing intersectional discrimination.
- **Strengthen awareness raising at grassroots level**, especially on informal denial of legal capacity and the need for support to live independently and be included in the community.
- **Engage with OPDs** to discover pressing issues and discuss effective solutions (e.g. posters in public spaces denouncing hate crime).

- **Disseminate information through existing channels**, within public spaces: schools, hospitals, workplaces, churches.
- **Collaborate with actors at every level to provide community outreach and targeted interventions.**

## Philippines: Long-Term Recommendations

- **Establish a programme for inclusive employment and targeted training** for women with disabilities, including opportunities for paid work experience or internships. The Philippines data identified a relatively high number of respondents who were unemployed or not looking for work. To change this situation in a way that empowers women with disabilities and enables this group to reach their potential and increase their contribution to Filipino society, the following actions should be taken:
  - **Develop disaggregated data** to distinguish those who are engaged in other work (stay-at-home parent, volunteer, retired) from those who never had the chance to enter the job market due to their disability.
  - **Create a strategy to raise awareness of the right to work** (Article 27 of the CRPD) and the important role that persons with disabilities can play as active members of workforce. Provide targeted information for relevant persons (e.g. employers, employees, families, educators).
  - **Provide specialist support** to help persons with disabilities in identifying, seeking out and taking up opportunities that arise. This could include career guidance in schools, grants for persons with disabilities who wish to engage in further education, upskilling, access to dedicated recruitment professionals, mentoring programmes, and peer support overseeing each stage of the process.
  - **Grant access to funds for assistive technology and personal assistance** to help persons with disabilities to achieve maximum productivity.
- **Ensure adequate regional development.** Provide quality infrastructure and services for persons in rural and remote areas.
- **Conduct an analysis of the needs of persons with disabilities by location** (including in emergency situations) and redistribute resources accordingly.
- Invest in **technologies that promote accessibility and limit the carbon footprint** (e.g. teleworking, telehealth).
- **Consider the role of decentralization** in ensuring improved wealth distribution, employment opportunities and local service provision.
- **Oversee the delivery of health care** (including mental health care) to ensure alignment with the principles of Article 25 of the CRPD.
- **Monitor the private health care sector** to ensure access to quality services for persons with disabilities in low-income households (e.g. upholding the 20 per cent discount for medicines, and medical and dental services under the Magna Carta for Disabled Persons).

## 12. CONCLUSIONS AND RECOMMENDATIONS

The legal needs survey has provided valuable insight into the experiences of women with intellectual and/or psychosocial disabilities in Asia and the Pacific. In particular, it highlighted how these women experience many enduring issues, including a denial of legal capacity and access to justice, lack of education and employment opportunities, and denial of health care. All of these problems stem from and are framed by a social context of poverty, gender-based discrimination and exclusion experienced by women with intellectual and/or psychosocial disabilities. States need to work to combat ableist and discriminatory attitudes, commit to providing inclusive education and employment for all, and build a society where all individuals can live independent and autonomous lives. Overall, the legal needs survey results demonstrate the need for reform to close the justice gap for women with intellectual and/or psychosocial disabilities in Asia and the Pacific.

The most prominent findings of the legal needs survey:

- 96 per cent of respondents reported experiencing a problem during the previous two years (in at least one of the areas covered by the legal needs survey). **In other words, all but 10 respondents had experienced at least one identifiable justiciable problem.**

**All of these problems stem from and are framed by a social context of poverty, gender-based discrimination and exclusion experienced by women with intellectual and/or psychosocial disabilities.**

- A disproportionate number of the problems identified did not fall into any one particular section, with a fairly broad distribution of problems across the different categories. This demonstrates that many of **the legal needs of women with intellectual and/or psychosocial disabilities are pervasive and cross-cutting**, involving all areas of life and human rights. The percentage proportions of the types of problems most frequently identified by respondents breaks down thus:

Health (of all responses)	11%
Education	11%
Housing	9%
Family	8%
Violence Outside The Home	8%
Work	8%
Violence Inside The Home	6%
Consumer Rights	6%
Relationships	5%
Land	5%
Government (workers)	5%
Government (public services)	5%
Other	5%
Government (payments)	4%
Money (debt)	4%
Money (management)	4%

- **74 per cent of problems remained unresolved**, demonstrating how the issues faced may be systemic: women with intellectual and/or psychosocial disabilities continuously face legal, attitudinal, and physical barriers to accessing justice. Respondents described complex problems that will not be resolved by ‘quick fix’ solutions – instead, they are demonstrative of larger societal issues that will take a whole-of-government and a whole-of-society approach to close the justice gap for this population.
- Responses indicated that women are more likely to seek help from their family, friends, or peer support or self-advocacy group rather than lawyers, police, or other actors within the legal system. Some **77 per cent of respondents chose to seek advice from a community actor, rather than go through the formal legal justice system**. This may reflect the larger systemic barriers that women with intellectual and/or psychosocial disabilities face when engaging with the formal justice system, such as discrimination and stigma on the part of law enforcement, and inaccessible court proceedings.
- For the 26 per cent of problems identified as being resolved, 33 per cent respondents communicated with the other party involved to resolve the problem. **Only 13 per cent of respondents used the formal justice system to resolve the problem faced**. This may signify that woman with intellectual and/or psychosocial disabilities do not see a reasonable prospect of success in resolving problems through the formal justice system, and instead attempt to resolve them by their own means.
- **Problems were infrequently described as ‘legal,’ with respondents most frequently describing their problems as bad luck/part of life**, followed (in terms of frequency) by describing them as a family or private matter, or as a social or community matter. This description elucidates how in many cases the problems faced do not necessarily lead to a distinctly legal need (e.g. require use of the family court to gain formal, legal custody of children), but rather tend to take the form of day-to-day problems that prevent respondents from meeting basic needs and realising their human rights, including Article 12 (right to equal recognition before the law), Article 24(2)(b) (right to inclusive education), Article 25 (right to health), Article 27 (right to work), and Article 28 (right to an adequate standard of living and social protection) of the CRPD.

These findings demonstrate that the formal justice system is not often engaged by women with intellectual and/or psychosocial disabilities to resolve justiciable problems. Although respondents answered in the affirmative questions regarding knowledge of rights and responsibilities, the legal needs survey responses as a whole indicate that this rights knowledge does not extend to potential solutions for justiciable problems. In other words, respondents know what they are experiencing constitutes a problem, but they are nonetheless unable to resolve it.

Some important country-specific findings:

- In **Fiji**, 65 per cent of respondents did not receive assistance from a person or organization in attempting to resolve the problem faced. This could be evidence of women with intellectual and/or psychosocial disabilities not knowing where to go to seek help, or a lack of accessible services for women with disabilities.
- The prominence of violence inside the home (9 per cent) and violence outside the home (11 per cent) is unique to **Indonesia**. Indonesia was also the only target country where respondents frequently used the formal justice system to seek help: 21 per cent of problems were ultimately resolved by a court (or tribunal) judgment, although this likely reflects the fact that one of the partner organizations that distributed the legal needs survey runs a legal aid clinic.
- In **Nepal**, 90 per cent of problems remained unresolved, the highest percentage among all of the legal needs survey countries (compared to a resolution rate of 76 per cent across the legal needs survey overall). In seeking information to resolve the problem, 50 per cent of Nepali respondents obtained information to resolve the problem from television, video, or radio, the highest proportion among all target countries.
- In the **Philippines**, 61 per cent of respondents did not obtain information to better understand the problem faced, and 76 per cent of respondents did not receive assistance from a person or organization to help to resolve the problem.

The variations in country results described above, and in the country-specific findings detailed in this report document, demonstrate how solutions to closing the justice gap will not be the same for each country surveyed. Although there will be some overall recommendations (detailed below), each country’s unique socio-legal context requires appropriate country-specific recommendations to advance the right to access justice for women with intellectual and/or psychosocial disabilities.

One aspect which is common to each of the four target countries is that women with disabilities must be enabled to recognize that they are not alone in facing their problems, and that they deserve to lead dignified lives and have their decisions respected. This means capitalizing on existing mechanisms, advocacy networks and circles of support to engage in capacity-building at local and regional level. By raising awareness of international human rights law within the community, persons with disabilities can gain the knowledge and confidence to engage with the justice system as rights holders. The organizations that the research team worked with regularly conduct pioneering work to advance the rights of women with intellectual and/or psychosocial disabilities to access justice, constituting a sturdy base for further work in this area.

Through the literature review, the mapping of justice frameworks, and the legal needs survey results, this report has described the barriers to women with intellectual and/or psychosocial disabilities accessing justice in Asia and the Pacific. The recommendations that follow were developed based on these findings, and subsequent discussions with partner organizations involved in the legal needs survey, to advise the respective governments on how to eliminate these barriers. They are also highly consistent with the International Principles and Guidelines on Access to Justice for Persons with Disabilities (2020), endorsed by the ICJ, the International Disability Alliance, and the United Nations Development Programme (UNDP).

Furthermore, the recommendations are specific to the respective cultural and regional contexts of the target countries and the Asia-Pacific region, including contexts characterized by the frequent presence of profound stigma against persons with disabilities,<sup>272</sup> and the perception that disability is punishment for the deeds of previous lives or “evil or a curse.”<sup>273</sup> The pervasive prejudice and discrimination faced by persons with disabilities leads to these negative attitudes being entrenched in public policy and law. Even where the rights of persons with disabilities are guaranteed in domestic law and in the CRPD, they are frequently infringed.

Therefore, raising awareness of the rights of persons with disabilities is paramount to ensuring that the rights of this group are upheld in Asia and the Pacific. The literature regarding employment rates for women with disabilities in the region, coupled with the legal needs survey finding that respondents are extremely concerned about having the financial resources to meet their basic needs, necessitated recommendations that focused on access to employment and work opportunities. The recommendations also take an intersectional approach, and recognize the multiple and intersectional experiences of discrimination faced by women with disabilities.

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272. Colbran. “Access to Justice Persons with Disabilities Indonesia.”, pp. 5, 11 and 20; Carmona. “Beyond Legal Empowerment: Improving Access to Justice from the Human Rights Perspective.”, pp. 242 - 254; Dhungana. “The Lives of Disabled Women in Nepal: Vulnerability Without Support.”, 13; UNESCAP. *Pacific Perspectives.*, 5.

273. Disability Research Centre. *Nepal Disability Policy Review.*, 1; UNFPA. *Women and Young People with Disabilities.*, 16.

# Recommendations

## Legal and Policy Barriers

### Meaningful Implementation and Compliance with International Human Rights Treaties

**Comprehensively review and reform the national legal framework** to ensure internal consistency and full alignment with the values of the UN human rights treaty body system, including recognizing intersectional discrimination. This should include the amendment or removal of legislation (colonial or otherwise) which contradicts or seeks to undermine the rights and obligations established by the CRPD and the CEDAW.

**The rights protected in the CRPD must be made available, justiciable, and enforceable at domestic level.** In particular, law reform should take a historical and contextual perspective which recognizes the legacy of colonial laws<sup>274</sup> which established a regime of incapacity for persons with intellectual and/or psychosocial disabilities, which must be dismantled to achieve compliance with human rights norms.

- Importantly, this must include **review of all sectoral laws**, as some laws can superficially appear ‘neutral’ and apply to everyone but in fact have a disproportionate impact on women and girls with intellectual and/or psychosocial disabilities. In other words, law reform needs to extend beyond disability legislation to comply with the CRPD, and must occur across all sectors, for example health care (including mental health laws that provide for forced psychiatric treatment), education, and employment legislation.
- The right to equal recognition before the law and equal recognition of legal capacity codified in Article 12 of the CRPD must be meaningfully implemented in domestic law. This requires **a shift from formal substitute decision-making** through mechanisms such as guardianship and conservatorship to supported decision-making, whereby persons with disabilities are empowered to make decisions and understand their choices in accordance with their will and preferences and human rights norms (as opposed to that which is subjectively deemed to be in their best interest).

States should **encourage and develop community-based supported decision-making**, including by making use of social networks (family, friends, and schools), court representatives, formal organizations, peer support and community members.

States must **invest further in community-based supports** which can be used to cultivate the exercise of legal capacity and avoid institutionalization.

States must **develop training for persons with disabilities**, so that they can determine the level of supports they would like and when support in decision-making is no longer needed. At its core, supported decision-making should provide for protection of all human rights and should be available to all at no or little cost.

- In accordance with Articles 15 and 25(d) of the CRPD, prohibit the use of forced and coerced treatment in law, and impose criminal and financial penalties as a means of enforcement.

**Reform domestic mental health laws** to recognize the rights of persons with psychosocial disabilities. Any mental health law that permits involuntary commitment on the basis of disability violates the CRPD and should be abolished.

- Realize Article 19 of the CRPD by achieving deinstitutionalization for all persons with disabilities through the closure of all residential settings in the public and private sector, consistent with the Committee on the Rights of Persons with Disabilities Guidelines on deinstitutionalization, including in emergencies (2022).

**Provide deinstitutionalized persons with the support** needed to exercise their rights under Article 19 to live independently and be included in the community.

**Acknowledge the lasting harms caused** by state actors and others in perpetuating decades of institutionalization. Establish a redress scheme for all affected individuals and their families, including ‘historical’ cases, in accordance with Principle 11(b) of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

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274. For more on this subject, see Arstein-Kerslake, A., Maker, Y., Richardson, S., and A. Deutschmann. 2023. “Criminalisation of Sex with Cognitively Disabled People in Commonwealth Countries: A colonial remnant that interferes with the human right to sexual agency.” *International Journal of Disability and Social Justice* (Forthcoming May/June 2023).



- **Realize reproductive justice for women with intellectual and/or psychosocial disabilities.**

**Ensure respect for and safeguarding of the rights of women with intellectual and/or psychosocial disabilities to marry and have children**, as provided for in Article 23 of the CRPD.

In law, **eliminate forced contraception and forced sterilization** of women with disabilities, and enforce these provisions through criminal and financial sanctions.

**Ensure informed consent and respect and protection for the decision-making skills of women with intellectual and/or psychosocial disabilities** in legislation, as per Articles 12, 17, 23, and 25 of the CRPD.

- States should **commit to changing existing domestic laws to comply with the CRPD**, by making them more operational, providing clear budgeting and resources for implementation, and procedures for monitoring and evaluation of relevant laws.
- **In accordance with Article 4(3) of the CRPD, States should consult with persons with disabilities and OPDs** through meaningful participation when reviewing laws to comply with the rights of persons with disabilities. Persons with disabilities and OPDs should be adequately remunerated for their contributions and acknowledged as experts in the field, uniquely positioned to contribute to policy reform, possessing lived experience that is a valuable source of evidence for progressive realization of such reform.

**States should ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities**, which provides for victims of disability rights violations to submit complaints to the Committee on the Rights of Persons with Disabilities.

The establishment of this individual complaints mechanism via the Committee must be accompanied by successful efforts to **strengthen existing local and domestic frameworks for the resolution of legal problems**, as these avenue for problem resolution are the most meaningful to victims;<sup>275</sup> for instance, the following domestic legal mechanisms could be used to pursue local accountability, upholding all human rights obligations, including those contained in the CRPD and the CEDAW:

- Village headmen in Fiji
- Local village justice system in Indonesia
- Local judicial committees in Nepal
- *Barangay* justice system in the Philippines

**States should meaningfully implement the concluding observations of all 10 UN human rights treaty bodies**, including, but not limited to, the Committee on the Rights of Persons with Disabilities and the Committee on the Elimination of All Forms of Discrimination Against Women; other treaty bodies work recognizing the rights of persons with disabilities, and demonstrating how human rights are interlinked and interconnected, such as the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee against Torture, the Committee on the Rights of the Child, and the Committee on the Elimination of All Forms of Racial Discrimination. The treaty bodies are composed of independent experts and are thus a valuable source of knowledge when ensuring domestic law complies with international human rights standards.

**Establish a national mechanism for reporting and follow-up** to coordinate treaty body reporting and implement the recommendations.

**States should remove any reservations to international human rights law treaties**, particularly the CEDAW, regarding religion and family law,<sup>276</sup> as reservations threaten the efficacy of the UN human rights system more broadly.

States should **take positive measures to meaningfully transpose the rights contained in international human rights law** into domestic legal systems.

**States should examine how existing laws can be used to better achieve access to justice**, as part of the commitment to meaningfully implement existing commitments. This should include an examination of the exercise of legal capacity by women with intellectual and/or psychosocial disabilities, and may involve using extant common law or traditional law instruments (e.g. power of attorney or a notarized registered agreement between associations of persons), while meaningful consultations are undertaken with persons with disabilities about whether new forms of legal recognition for support agreements are also required.

275. Flynn, *Disabled Justice?*, 21.

276. Bantekas, I., and L. Oette. 2020. *International Human Rights Law and Practice*. Cambridge: Cambridge University Press, pp. 513-514.

## Reform of Domestic Law and Policy

**Make use of rights-respecting policies and attitudes in existing constitutions, laws, regulations, and policies.** The partner organizations noted that the rights of persons with disabilities are broadly acknowledged in legislation, but often not implemented on the ground.

**Consider how the rights of women with intellectual and/or psychosocial disabilities may derogate** from various pieces of cross-sectoral legislation, through the erroneous conflation of mental and legal capacity, which is contrary to Article 12 of the CRPD:

- **Comprehensively examine legislation for any reference to mental capacity as a prerequisite** for rights or other legal powers and responsibilities, including through the use of terms such as ‘unsound mind,’ ‘incapacity,’ or ‘disability.’ In doing so, examine all aspects of legal capacity, including in political participation and public life, and health care (including sexual and reproductive health care and rights); for examples see:
  - Mental capacity as a prerequisite to not be subject to guardianship, Article 433 of Indonesia’s Civil Code, Chapter 6 of Nepal’s Civil Code 2074 (2017), and Section 92 of the Family Code of the Philippines.
  - Mental capacity restricts who can be an approved adoptive parent and who is deemed competent as a witness in civil proceedings in Fiji (Section 10 of the Adoption Act 2020, Sections 28, 241, 243, 244 of the Crimes Act 2009, Sections 3(2), 104, 105, 108, 109 of the Criminal Procedure Act 2009).

**Ensure that existing justice systems are accessible** at regional, national and local level for all persons with disabilities, including in regard to the unique legal needs of women with intellectual and/or psychosocial disabilities. This should include the provision of options for redress, such as reporting to the police, attending a court/tribunal or filing a case with a designated formal agency (e.g. Ombudsman) or enforcement authority (e.g. Consumer Protection Commission).

- In doing so, **obligations regarding procedural and reasonable accommodation must be met**, including:
  - Ensuring courtrooms and other relevant buildings are physically accessible
  - Making court documents available in different communication formats, including braille

- Allowing private testimony via video or in judges’ chambers
  - Providing extra time for giving testimony
  - Allowing personal assistance
  - Recognizing different communication methods
  - Providing adequate interpretation, including professional sign language interpretation
  - Providing accessible communication and information
  - Other assistive methods<sup>277</sup>
- **Supported decision-making should be ensured** as an additional form of procedural accommodation, including in cases where a person needs support to make a decision related to the justice system, such as entering a plea.<sup>278</sup>

**Develop and refine a comprehensive national strategy which takes an intersectional, interdisciplinary, action-based and human rights-based approach to disability, and which is gender-responsive and culturally sensitive.** This requires the participation and accountability of every government department and civil servant to achieve substantive equality for persons with disabilities in every aspect of society, across the life course, with a view to ensuring gender diversity and sensitivity. To be effective, this strategy must:

- **Establish clear goals** to be achieved within a specified timeframe, with actors subject to periodic review.
- **Provide adequate budgets** and human resources for implementation.
- **Set out clear timelines** which outline specific department responsibilities, and how fulfilment of these responsibilities will be achieved.
- **Instate evaluation mechanisms** for periodic review of the strategy’s progress, which should include identification of any changes necessary to better advance implementation.

**Develop a national strategy for advancing the rights of women with intellectual and/or psychosocial disabilities** and consider women with intellectual and/or psychosocial disabilities in the application of existing legislation, policies, and regulations, which requires more effective national and local level government coordination of existing legislation, policies, and regulations.

The executive branch must **empower government departments with the appropriate financial and human resources to work together collaboratively**, such as through the establishment of working groups, to protect and advance the rights of women with intellectual and/or

277. UN CRPD. General comment No. 1, para., 39; UNESCAP. *Pacific Perspectives.*, pp. 12; Kanter. *The Development of Disability Rights under International Law.*, 222.

278. UNESCAP. *Pacific Perspectives.*, 12.

psychosocial disabilities across all government departments and responsibilities. Bureaucracy cannot be a justification for failing to meet the cross-departmental needs of women with intellectual and/or psychosocial disabilities.

**Establish a fair and flexible system for the provision of legal aid.** Where means-tested legal aid is not applicable on socioeconomic grounds, allow for the allocation of an independent advocate for the benefit of those with disabilities or additional support needs (e.g. domestic violence survivors).

**Create a national implementation and monitoring body in accordance with Article 33 of the CRPD** to oversee implementation and compliance with this international treaty. The body must advocate for changes to existing laws which make them more operational, clear budgeting and resources for implementation, and (effective and efficient) procedures for monitoring and evaluation of relevant laws.

### Meaningful Engagement and Consultation with Persons with Disabilities

**Remove legal and policy barriers in tandem with meaningful collaboration with persons with disabilities,** as they are the experts, including women with intellectual and/or psychosocial disabilities. The rallying call of the disability rights movement, ‘Nothing about us without us’ must be respected.

**States should support the involvement of persons with disabilities – including women with intellectual and/or psychosocial disabilities – in the international human rights monitoring mechanisms.** Persons with disabilities and OPDs should be actively involved in the Universal Periodic Review and treaty body reporting, to bring a disability focus to all human rights issues. The involvement of persons with disabilities and OPDs should not be ensured solely in relation to the Committee on the Rights of Persons with Disabilities, but also with regard to the Committee on the Elimination of Discrimination against Women, the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Committee against Torture, and the Committee on the Elimination of Discrimination against Women, demonstrating the indivisibility of human rights.

### Develop and Promote Alternatives to the Formal Justice System

**States should, in collaboration with persons with disabilities and OPDs, explore and support community processes as justice interventions** which address the experiences of intersectional discrimination and unique problems faced by persons with disabilities, including women with intellectual and/or psychosocial disabilities. These processes should take a broad approach to justice and address more issues than simply those pertaining to crime and criminal justice – including access to the law (such as domestic disability rights legislation), justice system participation, legal education, and political participation. Ultimately, community justice processes should allow affected persons, including women with intellectual and/or psychosocial disabilities, to vindicate their rights and resolve problems in a fair and just manner.<sup>279</sup> This is in line with the findings of the legal needs survey and will help close the justice gap.

**Explore alternatives to the formal, adversarial, mainstream legal system,** such as restorative justice (which focuses on repairing the harm between the victim and offender), Indigenous justice mechanisms, community-based working groups (e.g. Indonesian pokjas centred on the justice needs of women)<sup>280</sup> and alternative dispute resolution mechanisms.

### Remove Social and Attitudinal Barriers

Promote respect for the rights of persons with disabilities, including through **raising awareness of the rights of persons with disabilities and combatting stereotypes,** prejudice, and harmful practices. Article 8 of the CRPD extends to the public and private sphere, meaning that both governments and private enterprises must raise awareness of the rights of persons with disabilities. In particular, **individuals without disabilities should act as allies and raise awareness of the rights of persons with disabilities,** as the marginalized group should not be the only stakeholder advocating for and educating regarding their rights. Awareness-raising is integral to successfully shifting from the medical model to the human rights model of disability, as “it targets the underlying attitudes, values, and beliefs that are the root of human rights violations.”<sup>281</sup> This applies to women with intellectual and/or psychosocial disabilities, including in regard to the recognition of the multiple and intersecting forms of discrimination they face, articulated in Article 6 of the CRPD.

279. Flynn. *Disabled Justice?*, pp. 3 and 12.

280. UN Women (United Nations Entity for Gender Equality and the Empowerment of Women). 2022. *Justice for Women, Justice for All: Advancing the Community-Based Justice Model in Indonesia*. New York: UN Women, 1.

281. UN Human Rights Council (UN Human Rights Council). 2019. *Awareness-raising under Article 8 of the Convention on the Rights of Persons with Disabilities*. A/HRC/43/27. para., 5.

**Instil in persons with disabilities from a young age, knowledge of their innate worth and human dignity**, with targeted training for women, girls and other gender minorities.

**Equip persons with disabilities with knowledge and skills to promote and protect their rights** as citizens with disabilities. Enable persons with disabilities to apply the principles of the CRPD in everyday life, navigate the opportunities and challenges of their identity, and develop self-advocacy skills through peer support and community engagement, including in regard to recognizing and reporting rights violations.

**Provide targeted training for persons close to those with a disability**, including, but not limited to, circles of support which include parents/guardians, carers, teachers, colleagues, health and welfare professionals, disability service providers, and public administrators. Training should furnish the target persons with a basic understanding of how to move beyond the medical model of disability, applying human rights principles (including gender equality) in the context of their interactions with the rights holder and other relevant parties.

**Undertake a campaign to raise awareness of the human rights model of disability in the community.** This should be done with the goal of targeting the core causes of the stigmatization of persons with disabilities. The campaign should promote disability as a natural part of human diversity, and the importance of interdependence, while reiterating that persons with disabilities are capable of making worthwhile contributions and playing an active role in the community (school, workplace, family, town). Place an emphasis on 'myth busting' to promote inclusion and combat stigma. Utilize multimedia formats (television, video, radio, websites, leaflets) and build on existing local networks to provide space for learning and development throughout the public sphere. Age-appropriate information must be provided to children and youth as part of the national curriculum to foster tolerance, empathy and, above all, respect towards their peers. This should be complemented by an awareness campaign on gender equality which addresses the multiple and intersectional forms of discrimination faced by women with disabilities.

**Provide targeted training for justice actors on addressing the rights of persons with disabilities**, including women with intellectual and/or psychosocial disabilities, in the legal system, reaching social workers, public administrators, police, lawyers, judges, court clerks, etc. This is a state obligation under Article 13(2) of the CRPD. Training must provide attendees with a practical understanding of the right of equal recognition before the law (exercising legal capacity). This includes their role in upholding supported decision-making and reasonable accommodation within the justice system. Moreover, there should be mandated disability training for all service providers, not just those working in the justice system, including professionals working in health, education and employment.

**Address social stigma and dangerous misconceptions about persons with disabilities** which have allowed inappropriate traditional practices to continue, particularly in rural and remote areas (e.g. shackling (Indonesia) and *dhami* and *jhakri* (Nepal)). This should be achieved through a dual approach, combining awareness-raising on culturally sensitive alternatives for community-based treatment with strict enforcement of the laws that safeguard bodily autonomy and integrity. Ultimately, the social stigma and dangerous misconceptions should be addressed to combat paternalistic cultures and the perception of persons with disabilities (particularly persons with psychosocial disabilities) as less than fully human; a situation which justifies the informal denial of the rights of women with intellectual and/or psychosocial disabilities, such as the informal denial of legal capacity illustrated in the legal needs survey results.

**Encourage reporting of crimes perpetrated against women with disabilities** to the police and the formal criminal justice system. Even if those affected ultimately do not choose to press formal criminal charges, filing a police report will form a government record of the violence and mean that it should be included in criminal justice system statistics. This will help to increase data collection regarding women with disabilities and should be used to inform policy reform.

**Take steps to ensure the equal rights of women with intellectual and/or psychosocial disabilities to political participation** as per Article 29 of the CRPD, including the right to be elected to political office and to be meaningfully represented in decision-making systems.

## Address Information and Communication Barriers

**Establish best practice guidelines for the creation of Easy Read materials across the justice sector.** Ensure that public information is available in a variety of formats (audio, video, hard copy, large print). This should include development of robust digital accessibility standards for all public services websites, which must be compatible with screen readers.

**Key documents relating to matters of identity and social security, registration of life events (births, deaths, marriage, education, employment) must be made available in alternative formats upon request, with support available to complete the necessary forms.**

**Recognize the diverse communication needs of persons with disabilities when accessing information as part of legal proceedings.** This should include recognition of those with multiple disabilities, or other disability identities, such as Deaf persons and children of Deaf adults who use sign language, non-verbal individuals who use assisted and augmented communication, those with intellectual disabilities who may benefit from Easy Read, those with low literacy who may benefit from plain language materials, and those who are participating in proceedings through a language which is not their first language and may benefit from foreign translation texts or interpretation.

**Allocate sufficient resources (including extra time for translation) to enable persons with disabilities to observe, understand and participate in legal proceedings, and effectively communicate their will and preference throughout.** This may necessitate the recruitment of sign language interpreters or support persons.

**Make government and public services more accessible,** including by expanding access to health care, disability rights and gender-sensitive training for government workers, including court staff and members of the judiciary, and guaranteeing the rights to access inclusive education and employment.

## Eliminate Physical Barriers

**Ensure universal design and maximize accessibility within buildings that form part of the wider justice system (e.g. municipal offices, police station, courthouses).** This should include, but not be limited to step-free entrances, elevators, clear signage, adequate lighting, hearing aid induction loops, etc. Established evacuation procedures must also be in place, with adequate space for persons with disabilities to take refuge in the event an emergency.

## Short-Term Overall Recommendations

**States should commit to the human rights model of disability, beginning with a shift in language.** Reference to stigmatizing language in legislation and policies must be removed. States should use person-first language in accordance with Article 1 of the CRPD.

**Set up partnerships with persons with disabilities and OPDs to explore how to best introduce support decision-making in the community.**

**Increase resources and capacity-building for OPDs – governments should commit to funding OPDs, especially if they are working and consulting with OPDs. OPDs and persons with disabilities cannot undertake unpaid work.**

## Long-Term Overall Recommendations

**States should collect enhanced disaggregated data, through censuses or disability-specific surveys, to provide an evidence base for policy reform to comply with the CRPD, in accordance with Article 31 of the CRPD.**

**Establish and resource adequately a mechanism for national implementation and monitoring of the CRPD, in accordance with Article 33 of the CRPD. Article 33 applies equally to federal states.**

**Create a robust rights-respecting culture that encourages and empowers persons with disabilities and their organizations to build coalitions and advocate for their rights, including through the UN human rights treaty body system, in accordance with Articles 4(3) and of the CRPD.**

**Introduce a system of supported decision-making which empowers persons with disabilities to make their own decisions, with the assistance of designated support persons and in accordance with their will and preferences.**

## Further Research Recommendations

**Include further intersectional analysis on the basis of gender and disability in future research and policy development** on the subject, to fully understand access to justice issues for women with intellectual and/or psychosocial disabilities in Asia and the Pacific. This intersectional analysis should address in depth the intersection between disability, gender, class, race, ethnicity and, in the case of Nepal, caste, as well as how this affects access to justice for women with intellectual and/or psychosocial disabilities. Intersectional analysis is necessary to fully capture the justice needs of all women with intellectual and/or psychosocial disabilities and how these needs can vary based on the individual's unique political identities and the socio-legal context in which they live.

**Further research should conduct a comprehensive review of the different aspects of legal capacity** and how it is denied for women with intellectual and/or psychosocial disabilities in many areas of life and legal rights, including in political participation and public life, health care (particularly sexual and reproductive health care and mental health care), and relationships. This legal needs survey identified legal capacity and respecting the decision-making ability of women with intellectual and/or psychosocial disabilities as a key barrier to accessing justice.

**Legal needs surveys should be completed in other world regions**, such as the Middle East and North Africa, and Latin America and the Caribbean. Access to justice is an issue that intimately affects all women with intellectual and/or psychosocial disabilities worldwide and this research will contribute to global progress in embracing the human rights model of disability encapsulated by the CRPD.

# 13. APPENDICES

Below is a list of appendices which further contextualise how the LNS (and subsequent data analysis) were carried out. If you would like further information, or to view the materials used please visit: <https://www.universityofgalway.ie/centre-disability-law-policy/research/projects/current/unwomenproject/>

## APPENDIX 1: PARTNERS

By working with partners in a process of co-production, OPDs could infuse their personal expertise and lived experience of members into the process. OPDs were empowered to administer the legal needs survey in ways that they deemed most useful to their respondents, such as the use of WhatsApp and online peer support groups to effectively and efficiently reach women within their networks and directly provide the support needed to women participating. The following section describes how the various partners in each target country administered the legal needs survey.

### Fiji

The primary contact in Fiji is the Pacific Disability Forum (PDF), who assisted the Fijian Psychiatric Survivor's Association (PSA) and the focus group for persons with intellectual disabilities. The research team discussed with PDF the best way to complete the legal needs survey. No external facilitators were hired.

PSA worked to collect legal needs surveys from women with psychosocial disabilities. They conducted the legal needs survey during both home visits and through phone calls. The use of home visits allowed them to visit members in urban areas, maritime, and some in the outlying/rural areas. This approach allowed PSA to collect legal needs surveys from a diverse range of geographic location and age groups. PSA visited and called 35 members, and received 24 responses from women with psychosocial disabilities. The remaining 10 members decided to abstain from completing the legal needs survey.

The office staff at the PSA administered the legal needs survey. They had reviewed the legal needs survey questionnaire prior to administering it. Positive feedback regarding the legal needs survey's theme was received from the respondents PSA engaged with, as they noted that access to justice is not discussed in Fiji. As described by PSA's office manager and legal needs survey partner:

Many women with psychosocial disability face a lot of access to justice issues but due to the culture, religion, stigma they

prefer to be quiet about it as they feel it is stressful going through a system that will never give them justice and also with the fear that they will lose their homes, children and loved ones if they voice out their grievances."

### Indonesia

The team worked alongside three partner organizations in Indonesia: YAPESDI (Indonesia Down Syndrome Care Foundation), SIGAB Indonesia and REMISI (Indonesia Revolution and Education for Social Inclusion). As will be described in detail below, each partner in Indonesia opted to use enumerators who the respondents would be familiar with and have a pre-existing relationship, through the organization's work. For example, SIGAB had a pre-existing relationship with respondents through their work regarding access to justice for persons with disabilities. Through these pre-existing relationships, partners have developed a rapport and good communication strategies with potential respondents.

**YAPESDI** conducted the legal needs survey using a hybrid online and in-person format, in a group workshop format. Ten respondents were present in-person and two joined online. There was one main surveyor present and three coaches/support persons. The organization's staff noted that overall, the Easy Read legal needs survey was acceptable, but some questions were not relevant to the respondent's situation who largely remain living with their parents as their guardian. The legal needs survey was completed in approximately six hours.

**SIGAB Indonesia** completed the legal needs survey in-person, in Yogyakarta and Boyolali (Central Java), and Surakarta (Solo). SIGAB administered the legal needs survey individually to respondents. To aid the legal needs survey process, SIGAB brought objects that represented different legal needs survey questions to help respondents understand the legal needs survey questions, such as identity cards, marriage books, and birth certificates. SIGAB also drew upon the support of respondent's families and had a family member present during the legal needs survey. The family members also

assisted in understanding the legal needs survey questions. They completed the legal needs survey in the language of the respondent's choice, and simplified the languages and sentences in the legal needs survey to facilitate understanding. It is unclear if the presence of family members affected or influenced the responses.

It took SIGAB approximately three hours to individually complete the legal needs survey for each respondent (unlike YAPESDI who completed in a group workshop setting). With 23 responses from SIGAB, this results in SIGAB taking approximately 69 hours to finish the legal needs survey. After the legal needs survey was completed, their staff copied the legal needs survey responses from the paper copies in the digital forms. In doing so, they also translated the responses from Indonesian to English. SIGAB's approach was thus incredibly time-intensive, and demonstrates the importance of having well-resourced partners (in terms of both financial and human resources) in order to obtain quality data from a wide variety of participants.

**REMISI** opted for a hybrid approach, as they conducted the legal needs surveys both online and in-person. After the legal needs survey first went live, they shared the link to various WhatsApp groups for their participants in their peer support group programme. They also hosted an online peer support group for women with disabilities to fill in the legal needs survey together.

Two of REMISI's staff members, visited women with psychosocial disabilities at home to do the legal needs survey. One staff member also collected data from respondents in a university and trans-women community that REMISI had previously collaborated with. They noted that it was easier for REMISI's staff to collect data for the legal needs survey as they are familiar with people from their peer support programme or peer counselling. REMISI's volunteers helped transpose the data from physical copies of the legal needs survey to the online link, prior to sending the paper copies to Galway.

Respondents noted that the legal needs survey was too long, and that it was not related or they needed help understanding the question. Two questions in Part 2 of the legal needs survey were met with particular concern: the question that asked about lawyers, courts, or arbiters (Questions 8 [what happened as part of the problem or solving it out] and 11 [how the problem outcome was ultimately brought about]) and the amount of money (Questions 14-15 [payment type and amount]) they spent trying to resolve the problem. Respondents did not specify why they were concerned about these two question, but it is possible that they were not well-received due to the focus on the formal justice system, rather than the use of alternative, informal problem resolution in the community and among respondent's personal social circles.

## Nepal

The team worked alongside two partner organizations in Nepal: Enablement Nepal (an independent not-for-profit organization established to promote the rights of persons with disabilities) and KOSHISH (an organization of persons with psychosocial disabilities).

**Enablement Nepal** carried out the legal needs survey in four hub cities: Kathmandu, Pokhara, Sindhuli, and Okhaldunga. Most of the legal needs survey was carried by meeting in-person while few were through phone calls. The snowballing method was applied for sampling. As expected, many respondents opted to have a supporter present when completing the legal needs survey.

**KOSHISH** divided the legal needs survey questionnaires in seven lots, one for each Province.<sup>282</sup> Teams at these Provinces completed the legal needs survey as per their lot each and sent the questionnaires to the central office in Kathmandu. The facilitators surveyed the women directly, once in a while, caregivers helped to provide an answer. KOSHISH opted to employ psychiatrists to be enumerators for the legal needs survey.

For logistical purposes, the legal needs survey appears to have been tagged on as an additional task for a home visit (by KOSHISH and the psychiatrists) that had already been arranged with other objectives in mind. The stakeholders noted that the abrupt shifts in topic may have disturbed respondents. Given the lengthy and complex nature of the legal needs survey, it may have been better to do it separately to minimize the likelihood of respondents being overwhelmed.

## The Philippines

The team engaged with one self-advocate from the Philippines, **Mona Visperas**. Mona began the legal needs survey distribution by sharing the legal needs survey on social media. In doing so, she aimed to reach respondents from different parts of the country, particularly hard to reach populations such as those living in rural areas. She shared the link on various Facebook pages for persons with disabilities and mental health groups, direct messages, and text messages to government contacts, leaders, and personalities.

Mona also collaborated with her local Persons with Disability Affairs Office and the president of the Barangay (the smallest unit of local government in the Philippines) to reach potential respondent with both psychosocial and intellectual disabilities. Ultimately, 46 responses were collected from the Philippines. These participants were mostly women with psychosocial disabilities, who were known to Mona through peer support networks.

282. The seven provinces of Nepal are Koshi, Madesh, Bagmati, Gandaki, Lumbini, Karnali, and Sudurpashchim.



## APPENDIX 2: DATA TABLES

### Part 1: What Types of Problems Did Respondents Experience?

#### Section 1: Consumer Rights, Land, and Housing

Fiji		
Type of Problem	No. of Respondents Affected	Legal Needs Survey Format
<b>Consumer Rights</b>	4	Standard
Buying and Selling Goods	3	Easy Read
Paying Bills	0	Easy Read
Hiring Tradespeople	0	Easy Read
<b>Land</b>	2	Standard
Buying and Selling Land	1	Easy Read
Dispossession	0	Easy Read
Environmental Damage	0	Easy Read
Man-Made Disaster	0	Easy Read
Land Transfers and Permits	1	Easy Read
<b>Housing</b>	5	Standard
Forced Living Situation	2	Easy Read
Landlord	1	Easy Read
Neighbour/Tenant	3	Easy Read
Moving Out of Family Home	3	Easy Read
Support at Home	4	Easy Read

Indonesia		
Type of Problem	No. of Respondents Affected	Legal Needs Survey Format
<b>Consumer Rights</b>	11	Standard
Buying and Selling Goods	11	Easy Read
Paying Bills	3	Easy Read
Hiring Tradespeople	2	Easy Read
<b>Land</b>	4	Standard
Buying and Selling Land	1	Easy Read
Dispossession	0	Easy Read
Environmental Damage	1	Easy Read
Man-Made Disaster	0	Easy Read
Land Transfers and Permits	1	Easy Read
<b>Housing</b>	12	Standard
Forced Living Situation	7	Easy Read
Landlord	1	Easy Read
Neighbour/Tenant	1	Easy Read
Moving Out of Family Home	2	Easy Read
Support at Home	10	Easy Read

Nepal		
Type of Problem	No. of Respondents Affected	Legal Needs Survey Format
<b>Consumer Rights</b>	24	Standard
Buying and Selling Goods	13	Easy Read
Paying Bills	7	Easy Read
Hiring Tradespeople	5	Easy Read
<b>Land</b>	22	Standard
Buying and Selling Land	4	Easy Read
Dispossession	1	Easy Read
Environmental Damage	3	Easy Read
Man-Made Disaster	7	Easy Read
Land Transfers and Permits	3	Easy Read
<b>Housing</b>	22	Standard
Forced Living Situation	5	Easy Read
Landlord	3	Easy Read
Neighbour/Tenant	9	Easy Read
Moving Out of Family Home	11	Easy Read
Support at Home	21	Easy Read

Philippines		
Type of Problem	No. of Respondents Affected	Legal Needs Survey Format
<b>Consumer Rights</b>	11	Standard
Buying and Selling Goods	3	Easy Read
Paying Bills	2	Easy Read
Hiring Tradespeople	1	Easy Read
<b>Land</b>	3	Standard
Buying and Selling Land	3	Easy Read
Dispossession	3	Easy Read
Environmental Damage	5	Easy Read
Man-Made Disaster	5	Easy Read
Land Transfers and Permits	4	Easy Read
<b>Housing</b>	3	Standard
Forced Living Situation	2	Easy Read
Landlord	3	Easy Read
Neighbour/Tenant	4	Easy Read
Moving Out of Family Home	3	Easy Read
Support at Home	5	Easy Read

## Section 2: Family, Relationships, Violence

Fiji		
Type of Problem	No. of Respondents Affected	Legal Needs Survey Format
<b>Family</b>	8	Standard
Marriage and Partnership	1	Easy Read
Children	0	Easy Read
Children Removed From Your Care	0	Easy Read
Adoption	0	Easy Read
Guardianship of Children	0	Easy Read
Care of Elderly Family Members	2	Easy Read
<b>Relationships</b>	3	Standard
Relationships and Sex (Family)	1	Easy Read
Relationships and Sex (Law)	0	Easy Read
Stigma in Dating	3	Easy Read
Forced Sterilization	0	Easy Read
<b>Violence Inside the Home</b>	4	Standard
Hurt by Spouse	0	Easy Read
Hurt by Family Member	3	Easy Read
Hurt by Support Person	0	Easy Read
<b>Violence Outside the Home</b>	2	Standard
Residential Institution	1	Easy Read
At Work	0	Easy Read
Coercion	1	Easy Read
Restraint	1	Easy Read
Bullying/Harassment/Verbal Abuse	7	Easy Read

Indonesia		
Type of Problem	No. of Respondents Affected	Legal Needs Survey Format
<b>Family</b>	33	Standard
Marriage and Partnership	7	Easy Read
Children	0	Easy Read
Children Removed From Your Care	1	Easy Read
Adoption	1	Easy Read
Guardianship of Children	0	Easy Read
Care of Elderly Family Members	9	Easy Read
<b>Relationships</b>	24	Standard
Relationships and Sex (Family)	3	Easy Read
Relationships and Sex (Law)	2	Easy Read
Stigma in Dating	6	Easy Read
Forced Sterilization	0	Easy Read
<b>Violence Inside the Home</b>	24	Standard
Hurt by Spouse	7	Easy Read
Hurt by Family Member	11	Easy Read
Hurt by Support Person	7	Easy Read

<b>Violence Outside the Home</b>	18	Standard
Residential Institution	2	Easy Read
At Work	4	Easy Read
Coercion	13	Easy Read
Restraint	6	Easy Read
Bullying/Harassment/Verbal Abuse	18	Easy Read

<b>Nepal</b>		
<b>Type of Problem</b>	<b>No. of Respondents Affected</b>	<b>Legal Needs Survey Format</b>
<b>Family</b>	23	Standard
Marriage and Partnership	6	Easy Read
Children	1	Easy Read
Children Removed From Your Care	4	Easy Read
Adoption	1	Easy Read
Guardianship of Children	11	Easy Read
Care of Elderly Family Members	8	Easy Read
<b>Relationships</b>	22	Standard
Relationships and Sex (Family)	3	Easy Read
Relationships and Sex (Law)	1	Easy Read
Stigma in Dating	6	Easy Read
Forced Sterilization	1	Easy Read
<b>Violence Inside the Home</b>	14	Standard
Hurt by Spouse	8	Easy Read
Hurt by Family Member	6	Easy Read
Hurt by Support Person	4	Easy Read
<b>Violence Outside the Home</b>	12	Standard
Residential Institution	2	Easy Read
At Work	0	Easy Read
Coercion	1	Easy Read
Restraint	5	Easy Read
Bullying/Harassment/Verbal Abuse	15	Easy Read

<b>Philippines</b>		
<b>Type of Problem</b>	<b>No. of Respondents Affected</b>	<b>Legal Needs Survey Format</b>
<b>Family</b>	6	Standard
Marriage and Partnership	1	Easy Read
Children	0	Easy Read
Children Removed From Your Care	1	Easy Read
Adoption	1	Easy Read
Guardianship of Children	0	Easy Read
Care of Elderly Family Members	4	Easy Read
<b>Relationships</b>	0	Standard
Relationships and Sex (Family)	3	Easy Read
Relationships and Sex (Law)	0	Easy Read

Stigma in Dating	0	Easy Read
Forced Sterilization	0	Easy Read
<b>Violence Inside the Home</b>	3	Standard
Hurt by Spouse	1	Easy Read
Hurt by Family Member	1	Easy Read
Hurt by Support Person	4	Easy Read
<b>Violence Outside the Home</b>	2	Standard
Residential Institution	1	Easy Read
At Work	1	Easy Read
Coercion	2	Easy Read
Restraint	4	Easy Read
Bullying/Harassment/Verbal Abuse	7	Easy Read

### Section 3: Work, Government, Money

Fiji		
Type of Problem	No. of Respondents Affected	Legal Needs Survey Format
<b>Work</b>	4	Standard
Problems at Work	1	Easy Read
Fired	0	Easy Read
Problems Getting Paid	1	Easy Read
Poor Work Conditions	0	Easy Read
Reasonable Accommodation	0	Easy Read
Unfair/Discriminatory Treatment	1	Easy Read
Training/Guidance	0	Easy Read
Setting (Sheltered Workshop)	0	Easy Read
<b>Government (payments)</b>	3	Standard
Problems with Government Payments	1	Easy Read
<b>Government Workers</b>	7	Standard
Problems with Government Workers	2	Easy Read
Unfair/Discriminatory Treatment	1	Easy Read
Police	1	Easy Read
Immigration Staff	0	Easy Read
Politicians	0	Easy Read
<b>Government (public services)</b>	2	Standard
Citizenship/Residency	0	Easy Read
Gender Identity	1	Easy Read
ID Cards	0	Easy Read
Voting	1	Easy Read
Examinations	0	Easy Read
Taxes	0	Easy Read
Other Government Bodies	0	Easy Read
<b>Money (debt)</b>	0	Standard
Paying Debt	0	Easy Read
Debt Collectors	0	Easy Read

Debt Collection in Court	0	Easy Read
Bankruptcy	0	Easy Read
<b>Money (management)</b>	0	Standard
Opening Bank Account	0	Easy Read
Insurance	0	Easy Read
Banking Charges	0	Easy Read
Credit Rating	0	Easy Read
Life Assurance/Pension	0	Easy Read
Caregivers Taking Money	1	Easy Read

Indonesia		
Type of Problem	No. of Respondents Affected	Legal Needs Survey Format
<b>Work</b>	26	Standard
Problems at Work	2	Easy Read
Fired	2	Easy Read
Problems Getting Paid	2	Easy Read
Poor Work Conditions	4	Easy Read
Reasonable Accommodation	2	Easy Read
Unfair/Discriminatory Treatment	3	Easy Read
Training/Guidance	4	Easy Read
Setting (Sheltered Workshop)	0	Easy Read
<b>Government (payments)</b>	15	Standard
Problems with Government Payments	1	Easy Read
<b>Government Workers</b>	20	Standard
Problems with Government Workers	1	Easy Read
Unfair/Discriminatory Treatment	2	Easy Read
Police	3	Easy Read
Immigration Staff	0	Easy Read
Politicians	0	Easy Read
<b>Government (public services)</b>	17	Standard
Citizenship/Residency	1	Easy Read
Gender Identity	0	Easy Read
ID Cards	0	Easy Read
Voting	3	Easy Read
Examinations	4	Easy Read
Taxes	0	Easy Read
Other Government Bodies	1	Easy Read
<b>Money (debt)</b>	16	Standard
Paying Debt	3	Easy Read
Debt Collectors	2	Easy Read
Debt Collection in Court	0	Easy Read
Bankruptcy	2	Easy Read
<b>Money (management)</b>	10	Standard
Opening Bank Account	1	Easy Read
Insurance	1	Easy Read

Banking Charges	0	Easy Read
Credit Rating	1	Easy Read
Life Assurance/Pension	2	Easy Read
Caregivers Taking Money	2	Easy Read

<b>Nepal</b>		
<b>Type of Problem</b>	<b>No. of Respondents Affected</b>	<b>Legal Needs Survey Format</b>
<b>Work</b>	17	Standard
Problems at Work	10	Easy Read
Fired	1	Easy Read
Problems Getting Paid	5	Easy Read
Poor Work Conditions	4	Easy Read
Reasonable Accommodation	1	Easy Read
Unfair/Discriminatory Treatment	10	Easy Read
Training/Guidance	7	Easy Read
Setting (Sheltered Workshop)	1	Easy Read
<b>Government (payments)</b>	21	Standard
Problems with Government Payments	13	Easy Read
<b>Government Workers</b>	19	Standard
Problems with Government Workers	5	Easy Read
Unfair/Discriminatory Treatment	9	Easy Read
Police	4	Easy Read
Immigration Staff	2	Easy Read
Politicians	2	Easy Read
<b>Government (public services)</b>	23	Standard
Citizenship/Residency	4	Easy Read
Gender Identity	2	Easy Read
ID Cards	6	Easy Read
Voting	3	Easy Read
Examinations	1	Easy Read
Taxes	1	Easy Read
Other Government Bodies	3	Easy Read
<b>Money (debt)</b>	9	Standard
Paying Debt	6	Easy Read
Debt Collectors	4	Easy Read
Debt Collection in Court	0	Easy Read
Bankruptcy	8	Easy Read
<b>Money (management)</b>	22	Standard
Opening Bank Account	4	Easy Read
Insurance	1	Easy Read
Banking Charges	1	Easy Read
Credit Rating	4	Easy Read
Life Assurance/Pension	0	Easy Read
Caregivers Taking Money	3	Easy Read

Philippines		
Type of Problem	No. of Respondents Affected	Legal Needs Survey Format
<b>Work</b>	2	Standard
Problems at Work	4	Easy Read
Fired	0	Easy Read
Problems Getting Paid	3	Easy Read
Poor Work Conditions	5	Easy Read
Reasonable Accommodation	2	Easy Read
Unfair/Discriminatory Treatment	3	Easy Read
Training/Guidance	1	Easy Read
Setting (Sheltered Workshop)	2	Easy Read
<b>Government (payments)</b>	2	Standard
Problems with Government Payments	4	Easy Read
<b>Government Workers</b>	0	Standard
Problems with Government Workers	1	Easy Read
Unfair/Discriminatory Treatment	1	Easy Read
Police	1	Easy Read
Immigration Staff	0	Easy Read
Politicians	1	Easy Read
<b>Government (public services)</b>	No	Standard
Citizenship/Residency	1	Easy Read
Gender Identity	5	Easy Read
ID Cards	1	Easy Read
Voting	2	Easy Read
Examinations	1	Easy Read
Taxes	1	Easy Read
Other Government Bodies	0	Easy Read
<b>Money (debt)</b>	2	Standard
Paying Debt	6	Easy Read
Debt Collectors	1	Easy Read
Debt Collection in Court	0	Easy Read
Bankruptcy	7	Easy Read
<b>Money (management)</b>	0	Standard
Opening Bank Account	1	Easy Read
Insurance	0	Easy Read
Banking Charges	1	Easy Read
Credit Rating	3	Easy Read
Life Assurance/Pension	2	Easy Read
Caregivers Taking Money	1	Easy Read



## Section 4: Health, Education, Other

Fiji		
Type of Problem	No. of Respondents Affected	Legal Needs Survey Format
<b>Health</b>	14	Standard
Denial of Health Care	1	Easy Read
Health Care Without Consent or Knowledge	0	Easy Read
Support to Make Health Care Decisions	1	Easy Read
Told You Have/Do Not Have a Disease	1	Easy Read
Unfair/Discriminatory Treatment Due to Disability	3	Easy Read
Not Able to Get Health Care When You Need It	0	Easy Read
Vaccines	0	Easy Read
Sexual and Reproductive Health Care	2	Easy Read
Health Screening	0	Easy Read
Health Insurance	1	Easy Read
<b>Education</b>	1	Standard
Problems Getting Your Education	2	Easy Read
Unfair/Discriminatory Treatment Due to Disability	2	Easy Read
Reasonable Accommodation	0	Easy Read
Scholarships, Grants, Loans	0	Easy Read
School Staff	1	Easy Read
Special Schools	10	Easy Read
Violence by School Staff	1	Easy Read
Communication in Education	0	Easy Read
<b>Other</b>	1	Standard
Other	0	Easy Read

Indonesia		
Type of Problem	No. of Respondents Affected	Legal Needs Survey Format
<b>Health</b>	16	Standard
Denial of Health Care	2	Easy Read
Health Care Without Consent or Knowledge	1	Easy Read
Support to Make Health Care Decisions	2	Easy Read
Told You Have/Do Not Have a Disease	1	Easy Read
Unfair/Discriminatory Treatment Due to Disability	0	Easy Read
Not Able to Get Health Care When You Need It	1	Easy Read
Vaccines	4	Easy Read
Sexual and Reproductive Health Care	1	Easy Read
Health Screening	1	Easy Read

Health Insurance	4	Easy Read
<b>Education</b>	8	Standard
Problems Getting Your Education	12	Easy Read
Unfair/Discriminatory Treatment Due to Disability	11	Easy Read
Reasonable Accommodation	9	Easy Read
Scholarships, Grants, Loans	1	Easy Read
School Staff	8	Easy Read
Special Schools	15	Easy Read
Violence by School Staff	2	Easy Read
Communication in Education	6	Easy Read
<b>Other</b>	38	Standard
Other	8	Easy Read

<b>Nepal</b>		
<b>Type of Problem</b>	<b>No. of Respondents Affected</b>	<b>Legal Needs Survey Format</b>
<b>Health</b>	24	Standard
Denial of Health Care	8	Easy Read
Health Care Without Consent or Knowledge	6	Easy Read
Support to Make Health Care Decisions	4	Easy Read
Told You Have/Do Not Have a Disease	8	Easy Read
Unfair/Discriminatory Treatment Due to Disability	6	Easy Read
Not Able to Get Health Care When You Need It	11	Easy Read
Vaccines	2	Easy Read
Sexual and Reproductive Health Care	8	Easy Read
Health Screening	7	Easy Read
Health Insurance	3	Easy Read
<b>Education</b>	23	Standard
Problems Getting Your Education	9	Easy Read
Unfair/Discriminatory Treatment Due to Disability	5	Easy Read
Reasonable Accommodation	4	Easy Read
Scholarships, Grants, Loans	6	Easy Read
School Staff	2	Easy Read
Special Schools	1	Easy Read
Violence by School Staff	7	Easy Read
Communication in Education	1	Easy Read
<b>Other</b>	18	Standard
Other	14	Easy Read

Philippines		
Type of Problem	No. of Respondents Affected	Legal Needs Survey Format
<b>Health</b>	6	Standard
Denial of Health Care	5	Easy Read
Health Care Without Consent or Knowledge	4	Easy Read
Support to Make Health Care Decisions	3	Easy Read
Told You Have/Do Not Have a Disease	2	Easy Read
Unfair/Discriminatory Treatment Due to Disability	1	Easy Read
Not Able to Get Health Care When You Need It	2	Easy Read
Vaccines	3	Easy Read
Sexual and Reproductive Health Care	2	Easy Read
Health Screening	4	Easy Read
Health Insurance	2	Easy Read
<b>Education</b>	2	Standard
Problems Getting Your Education	5	Easy Read
Unfair/Discriminatory Treatment Due to Disability	2	Easy Read
Reasonable Accommodation	3	Easy Read
Scholarships, Grants, Loans	2	Easy Read
School Staff	2	Easy Read
Special Schools	7	Easy Read
Violence by School Staff	1	Easy Read
Communication in Education	3	Easy Read
<b>Other</b>	2	Standard
Other	6	Easy Read

## Part 1: How Respondents Resolved Problems

### Problem Section

Section	Fiji	Indonesia	Nepal	Philippines	Total
Consumer Rights, Land, Housing	15	21	12	16	66 (17%)
Family, Relationships, Violence	21	63	20	17	121 (31%)
Work, Government, Money	16	50	26	13	103 (26%)
Health, Education, Other	22	42	22	15	101 (26%)

### Question 1 - Number of Problems

Number of Problems - ER	Fiji	Indonesia	Nepal	Philippines	Total
Haven't had many problems	20	19	13	1	53 (37%)
A few problems	6	18	6	5	35 (24%)
Many problems	6	10	40	0	56 (39%)

Number of Problems - Standard	Fiji	Indonesia	Nepal	Philippines	Total
A few of ups and downs	1	0	0	0	1
1	29	9	5	3	46
2	11	17	3	2	33
3	1	3	0	3	7
4	0	0	4	2	6
5	0	0	0	1	1
4-5	0	1	0	0	1
Yes	0	3	0	0	3
None	0	3	0	0	3
Several times/more than 1 time/often/very many/there are so many	0	66	31	0	97
Rarely/not much/not often/sometimes	0	9	0	0	9

### Question 2 – Level of Impact

Level of Impact	Fiji	Indonesia	Nepal	Philippines	Total
Significant impact	26	90	57	14	187 (49%)
Some impact	30	41	16	40	127 (33%)
Not much impact	17	33	1	17	68 (18%)

### Question 3 – What was the problem about?

This was an open-ended qualitative question. Respondents were allowed to provide short answers in any form.

### Question 4 – Did you share the problem with someone?

Did you share the problem with someone?	Fiji	Indonesia	Nepal	Philippines	Total
Yes	22	142	70	40	274 (71%)
No	41	22	7	41	111 (29%)

### Question 4A – Who did you share the problem with?

Who did you share the problem with?	Fiji	Indonesia	Nepal	Philippines	Total
Household member(s) (e.g., immediate family, roommates)	11	68	43	37	159 (31%)
Other friend(s) or family member(s)	14	99	31	16	160 (31%)
Work colleague(s)	2	19	8	6	35 (7%)
Neighbour(s)	1	18	15	12	46 (9%)
Community	5	35	16	10	66 (13%)
Other	13	5	12	12	42 (8%)

### Question 5 – Did you get information to better understand the problem?

Did you get information to better understand the problem?	Fiji	Indonesia	Nepal	Philippines	Total
Yes	34	114	39	32	219 (57%)
No	31	50	34	50	165 (43%)

### Question 5A – Where did you get the information from?

Where did you get the information from?	Fiji	Indonesia	Nepal	Philippines	Total
A website or 'app'	30	106	12	22	170 (44%)
A leaflet, book or self-help guide	33	9	15	7	64 (17%)
Newspapers or magazines	29	3	7	8	47 (12%)
Television, video or radio	32	19	34	20	105 (27%)
Community	5	35	16	10	66 (13%)
Other	13	5	12	12	42 (8%)

### Question 6 – Did you get assistance from a person or organization?

Did you get assistance from a person or organization?	Fiji	Indonesia	Nepal	Philippines	Total
Yes	22	104	45	19	190 (52%)
No	41	59	19	59	178 (48%)

### Question 6A – Where did you get the assistance from?

Who did you get the assistance from?	Fiji	Indonesia	Nepal	Philippines	Total
Family, friends or acquaintances (excluding people whose job is to advise on problems such as these; please mention these people in their professional capacity) (specify)	6	76	30	26	138 (31%)

Peer support or self-advocacy group (specify)	19	66	38	10	133 (30%)
A lawyer, professional adviser, advice service or advice helpline (such as [examples] (specify))	3	18	7	3	31 (7%)
A court [or tribunal] or other dispute resolution organization (such as [examples]) or the police (specify)	0	0	1	4	5 (1%)
A national, regional or municipal government department, agency, council or a politician (specify)	0	11	5	5	21 (5%)
Your employer, a trade union, a professional or trade association (such as [examples]) (specify)	2	1	2	4	9 (2%)
A health, welfare, financial services or other professional (specify)	1	12	9	4	26 (6%)
A community or religious leader or organization, an [NGO/DPO/charity], or trusted person or organization (specify)	13	28	21	10	72 (16%)
Any other person or organization (specify)	2	4	0	0	6 (1%)

**Question 7 – If you didn’t obtain independent advice to help to resolve the problem, explain why you didn’t.**

Independent advice – why not?	Fiji	Indonesia	Nepal	Philippines	Total
No dispute with anybody/thought other side was right	2	11	7	18	38 (7%)
Problem resolved without need to get advice	3	15	0	6	24 (4%)
Did not think needed advice	5	26	3	7	41 (7%)
Did not think problem important enough	0	14	0	3	17 (3%)
Concerned about the time it would take	4	19	13	9	45 (8%)
Concerned about the financial cost	4	20	15	11	50 (9%)
Advisers were too far away	1	10	11	5	27 (5%)
Thought it would be too stressful	19	11	25	15	70 (13%)
Thought it would damage relationship with other side	3	13	11	9	36 (7%)
Was scared to take action/get advice	10	10	24	10	54 (10%)
Didn’t know where/how to get advice	3	8	10	10	31 (6%)
Didn’t think it would make any difference to outcome	5	10	10	9	34 (6%)
Had tried seeking advice before and not found it useful	3	12	15	7	37 (7%)
Other (SPECIFY)	3	5	8	22	43 (8%)

**Question 8 – Did any of the following things happen as part of the problem or sorting it out?**

Did any of the following things happen as part of the problem or sorting it out?	Fiji	Indonesia	Nepal	Philippines	Total
You communicated with the other party	10	43	19	16	88 (33%)
You or the other party made a claim to, or made use of, a court or tribunal	2	3	1	3	9 (3%)
You or the other party made a claim to, or made use of, an [Indigenous/ customary] dispute resolution process	0	0	1	1	2 (1%)
The problem was reported to the police or other prosecution authority	0	6	6	6	18 (7%)
You or the other party turned to, or action was taken by, a formal designated authority or enforcement agency	0	1	0	0	1
You or the other party turned to, or action was taken by, another State authority	2	6	1	2	11 (4%)
You or the other party turned to, or action was taken by, a religious authority	0	5	3	9	17 (6%)
You or the other party turned to, or action was taken by, a community leader or organization	14	12	15	7	48 (18%)
You participated in formal mediation, conciliation or arbitration	0	2	2	3	7 (3%)
You or the other party made use of a formal appeals process operated by the other party or independently	0	0	0	4	4 (2%)
You, the other party or somebody else turned to, or action was taken by, another third party for adjudication, mediation or intervention	0	1	0	0	1
There was no negotiation or third party involvement	3	31	4	22	60 (23%)

**Question 9 - Did you, or somebody acting on your behalf, do anything else to help you better understand or resolve the problem, such as communicate with the other party, obtain or organize evidence, or make an insurance claim?**

Did you get information to better understand the problem?	Fiji	Indonesia	Nepal	Philippines	Total
Yes	19	60	45	23	147 (42%)
No	39	92	26	50	207 (58%)

### Question 9A – If yes, what happened?

Other Action – What	Fiji	Indonesia	Nepal	Philippines	Total
Communicated with the other party	7	45	38	10	100 (54%)
Obtained or organized evidence	10	24	4	2	38 (21%)
Made an insurance claim	0	6	4	5	15 (8%)
Other (specify)	1	9	15	7	32 (17%)

### Question 10 – Is the problem ongoing or has it been resolved?

Is the problem ongoing or has it been resolved?	Fiji	Indonesia	Nepal	Philippines	Total
Ongoing	13	46	41	23	123 (35%)
Too Early to Say	16	24	10	25	75 (21%)
Done With- Problem Persists But All Have Given Up Trying to Resolve It Further	5	29	19	12	65 (18%)
Done With- Resolved	7	53	8	25	93 (26%)

### Question 11 – Which of the following statements best reflects how the problem outcome was ultimately brought about?

The problem outcome was ultimately brought about by ...	Fiji	Indonesia	Nepal	Philippines	Total
A court (or tribunal) judgment	2	27	1	1	31 (13%)
A decision or intervention by another formal authority	0	6	1	2	9 (4%)
Mediation, conciliation or arbitration	0	6	1	5	12 (5%)
Action by another third party	3	9	0	3	15 (6%)
Agreement between you and the other party	1	6	14	3	24 (10%)
You, or the person you had the problem with, independently doing what the other party wanted	1	9	5	4	19 (8%)
The problem sorting itself out	8	26	0	13	47 (20%)
Your moving away from the problem (e.g. moving home, changing job)	9	28	9	5	51 (21%)
You and/or all other parties giving up trying to resolve the problem	1	10	7	12	30 (13%)

### Question 12 – Do you feel the outcome was basically fair to everybody concerned?

Do you feel the outcome was basically fair to everybody concerned?	Fiji	Indonesia	Nepal	Philippines	Total
Fair	3	33	8	32	76 (27%)
Not Fair	39	108	50	12	209 (73%)

### Question 13 – Regardless of the outcome of this problem, do you feel the process through which the outcome was reached was basically fair or unfair to everybody concerned?

Do you feel the process was basically fair to everybody concerned?	Fiji	Indonesia	Nepal	Philippines	Total
Fair	4	45	13	27	89 (31%)
Not Fair	45	95	50	12	202 (69%)



**Question 14 - Excluding indirect payments – such as insurance premiums or membership subscriptions – but including payments made by family members and friends, [did you/have you], personally [have/had] to pay for any of the following in order to resolve the problem:**

What have you had to pay for to resolve the problem?	Fiji	Indonesia	Nepal	Philippines	Total
Lawyer and other adviser fees	1	5	15	5	26 (12%)
Court, mediation or other administrative fees	0	7	4	3	14 (6%)
Telephone calls and correspondence	3	13	13	15	44 (20%)
Collecting information or obtaining evidence (including reimbursement of witnesses' costs)	0	8	3	4	15 (7%)
Travel (e.g. bus fares or petrol to visit an adviser)	9	13	5	6	33 (15%)
Lost business or salary, from taking time off work (e.g. to obtain advice)	0	5	7	7	19 (9%)
Bribes/kick-backs (Remember, your answer is confidential)	0	7	0	2	9 (4%)
Incidental domestic costs (e.g. childcare)	1	5	3	13	22 (10%)
We did not have to pay	10	16	7	1	34 (16%)

**Question 15 - Approximately how much [did you have/have you had] to pay for any of the items above?**

Fijian Dollar	Euro (approximate)	US Dollar (approximate)
100	43	46.30
100 monthly	43	46.30
200	86	92.60
200 for 3 months	86	92.60
Between 100-150	43-65	46.30-69.99
Between 100-200	43-86	46.30-92.60
500	217	233.66
Between 5k to 8k	between apx. 2169 - 3470 Euro	2335.54-3736.43

Indonesian Rupiah	Euro (approximate)	US Dollar (approximate)
100	0	0
500	0	0
200,000/month	0.12/month	0.13/month
500,000/month	0.31/month	0.33/month
1 million	0.61	0.66
More than 1 million	More than 0.61	More than 0.66
1.5 million	0.91	0.98
2 million	1.22	1.31
3 million	1.82	1.96
4 million	2.46	2.65
Approximately 5 million	3	3.23
Approximately 5 – 10 million	3-6	3.23-6.46
Maybe 10 million	6.08	6.55

15 million	9.11	9.81
25 million	15.19	16.35
>100 million	61.55	66.27
300 million	184	198.11

Nepalese Rupee	Euro (approximate)	US Dollar (approximate)
5,000	37	39.98
20,000	148	159.93
50,000	596	644.06
60,000	716	773.73
More than 1 lakh	742	801.83
100,000	1193	1289.19
1-3.5 lakh	1193 – 4175	1289.19 - 4511.63
2 lakhs	1484	1603.65
3 lakhs	2227	2406.56
4 lakh	4770	5164.33
5-6 lakh	3711 – 4453	4010.22 – 4812.05
Almost more than 9 lakh	10,734	11599.48

Philippine Peso	Euro (approximate)	US Dollar (approximate)
1000	16.86	18.16
10000	169	182.05
30000	506	545.06
60000	1011	1089.04

- US\$200
- Nothing
- Can't remember
- I don't know
- Small amount
- Regular cellphone load
- Electric and water bills
- My mother/father/parents/brother pay for it (varying levels of awareness re: amounts)

**Question 16 - Which of the following describe the problem? You can choose more than one option, or none.**

Problem Description	Fiji	Indonesia	Nepal	Philippines	Total
Bad luck/part of life	47	101	53	32	233 (31%)
Bureaucratic	0	24	8	5	37 (5%)
A family or private matter	20	70	21	23	134 (18%)
Legal	15	52	16	11	94 (13%)
Political	0	2	23	3	28 (4%)
A social or community matter	15	61	19	16	101 (14%)
Economic	16	24	26	19	85 (11%)
None of these	2	13	5	14	34 (5%)

**Question 17 - To what extent do you agree or disagree with the following statements about the problem?**

I understood my legal rights and responsibilities	
<b>Fiji</b>	
Strongly agree	22
Mainly agree	33
Mainly disagree	1
Strongly disagree	1
<b>Indonesia</b>	
Strongly agree	43
Mainly agree	64
Mainly disagree	15
Strongly disagree	1
<b>Nepal</b>	
Strongly agree	9
Mainly agree	29
Mainly disagree	28
Strongly disagree	23
<b>Philippines</b>	
Strongly agree	14
Mainly agree	33
Mainly disagree	4
Strongly disagree	5
<b>Total</b>	
Strongly agree	99 (30%)
Mainly agree	162 (49%)
Mainly disagree	57 (17%)
Strongly disagree	12 (4%)

I was able/have been able to get all the expert help I needed	
<b>Fiji</b>	
Strongly agree	18
Mainly agree	35
Mainly disagree	3
Strongly disagree	0
<b>Indonesia</b>	
Strongly agree	50
Mainly agree	76
Mainly disagree	19
Strongly disagree	1
<b>Nepal</b>	
Strongly agree	12
Mainly agree	22
Mainly disagree	32
Strongly disagree	5
<b>Philippines</b>	
Strongly agree	12
Mainly agree	32
Mainly disagree	7
Strongly disagree	4
<b>Total</b>	
Strongly agree	92 (28%)
Mainly agree	165 (50%)
Mainly disagree	61 (19%)
Strongly disagree	10 (3%)

I was/am confident I could/can achieve a fair outcome	
<b>Fiji</b>	
Strongly agree	21
Mainly agree	33
Mainly disagree	0
Strongly disagree	3
<b>Indonesia</b>	
Strongly agree	35
Mainly agree	64
Mainly disagree	21
Strongly disagree	19
<b>Nepal</b>	
Strongly agree	9
Mainly agree	15
Mainly disagree	37
Strongly disagree	8

<b>Philippines</b>	
Strongly agree	16
Mainly agree	36
Mainly disagree	4
Strongly disagree	2
<b>Total</b>	
Strongly agree	81 (25%)
Mainly agree	148 (46%)
Mainly disagree	62 (19%)
Strongly disagree	32 (10%)

#### Question 18 – Did you experience any of the following as part of or as a result of the problem?

Personal Experience (What happened because of the problem)	Fiji	Indonesia	Nepal	Philippines	Total
Ill-health or injury	6	29	35	17	87 (14%)
Stress	33	86	30	46	195 (31%)
Damage to a family relationship	3	16	22	7	48 (8%)
Being harassed, threatened or assaulted	13	20	22	8	63 (10%)
Damage to your property	0	1	18	5	24 (4%)
Loss of employment	2	11	6	2	21 (3%)
Having to move home	4	7	9	1	21 (3%)
Financial loss	3	14	15	16	48 (8%)
Loss of confidence or fear	12	35	11	15	73 (12%)
Problems to do with your education	4	4	5	8	21 (3%)
Problems with alcohol or drugs	1	0	14	4	19 (3%)

#### Question 19 – At any time, did you feel that your decisions related to the problem were not being listened

Decision Respected	Fiji	Indonesia	Nepal	Philippines	Total
Yes	18 (35%)	26 (19%)	41 (72%)	9 (16%)	94 (31%)
No	34 (65%)	109 (81%)	16 (28%)	46 (84%)	205 (69%)

#### Question 20 – Were you ever told that you could not make decisions related to this problem because of an actual or perceived disability?

Listened to	Fiji	Indonesia	Nepal	Philippines	Total
Yes	17 (37%)	29 (23%)	47 (72%)	12 (20%)	105 (35%)
No	29 (63%)	96 (77%)	18 (28%)	48 (80%)	191 (65%)

**Question 21 – Finally, can you tell me roughly what year the problem started?**

Problem Start	Fiji	Indonesia	Nepal	Philippines	Total
1999-2004	0	5	0	2	7
2005-2009	0	1	0	1	2
2010-2014	0	4	2	0	6
2015-2019	0	34	8	4	46
2020	22	29	5	1	57
2021	14	29	7	4	54
2022	4	7	0	8	19
Annually	0	2	0	0	2
I don't remember/forgotten	2	4	2	0	8
Year not specified	3	11		21	35
From the past/long time/from childhood	0	0	47	0	47
Self-completion	0	1	0	0	1

**Question 22 – And, if it is concluded, when did you an everybody else give up all actions to resolve the problem?**

Problem End	Fiji	Indonesia	Nepal	Philippines	Total
2000-2004	0	0	0	1	1
2005-2009	0	0	0	1	1
2010-2014	0	2	0	0	2
2015-2019	0	12	0	0	12
2020	1	0	0	0	1
2021	0	1	0	1	2
2022	4	3	0	3	10
Year not specified	0	0	0	15	15
Not concluded/unfinished	13	15	44	0	72
I don't know/forgotten	0	23	1	0	24
Solved	4	0	2	0	6
No/never/none/N/A/nothing	9	21	2	16	48
I don't give up	2	5	0	2	9

**Question 22A – And when did it formally conclude?**

Formal Conclusion	Fiji	Indonesia	Nepal	Philippines	Total
2015-2019	0	1	0	0	1
2020	1	10	0	0	11
2021	0	16	0	1	17
2022	3	10	0	3	16
Year not specified	0	0	0	1	1
Yes	0	0	0	3	3
No/never/none/N/A/nothing	9	0	0	18	27
Ongoing/unfinished/not concluded	4	47	56	1	108
It ended immediately	0	0	0	2	2
Not finished but I consider it done	0	5	3	0	8
Solved itself	0	3	1	0	4
I don't know	0	3	0	0	3

## APPENDIX 3: EXAMPLES OF PROBLEMS DESCRIBED IN PART 2

### CONSUMER RIGHTS, LAND, HOUSING

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BROAD PROBLEM THEME	PROBLEM EXAMPLE
Self-Employment	“Selling and marketing of products/home made goods”
Housing	“Moving from the housing to the village” “Experiencing homelessness for two months” “Issues with lease” “Often kicked out by some homeowners, on the basis of their transgender identity” “Forced to live away from family due to coercion” “Fear of family members abandoning them and consequent homelessness” “No place to live” “House collapsed due to a hurricane and it became inhospitable”
Property Ownership	“Purchasing property” “Trying to get a piece of land to build my own property and wanting to shift away from where I used to stay but lack of support” “Property division and injury sustained” “Prevented by family from selling the building she owned” “Difficulties in obtaining land and building permits” “Sale of property and management” “The family and other parties did not divide the inheritance fairly according to the will”

### FAMILY, RELATIONSHIPS, VIOLENCE

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BROAD PROBLEM THEME	PROBLEM EXAMPLE
Controlling Family Members and Lack of Autonomy	“My family is restrictive and does not allow me to make my own decisions, even if it is about my privacy.” “Forced into marriage, not considered family, and shunned by family” “I was prevented from remarrying by my family, I was also locked in a room by my own family.” “Forbidden to marry by my loved ones” “Disowned by family” “Problems with family due to restraint” “Family pressure” “Quarrels with family over personal issues” “Serious family problems” “Family and community acceptance” “Prevented by family from establishing a relationship and many more”

## Gender-Based Violence

“Violence, harassment, assault and threats”  
“Getting threats from ex-husband”  
“Violence”  
“Bullying”  
“Infidelity”  
“Rape”  
“Unregistered marriages”  
“Divorce”  
“Husband’s forceful nature for sexual relationship”  
“My husband married another woman”  
“Due to mental health condition, my husband misbehaves with me”  
“Trauma”  
“Not having the full support from my partner and also my son was physically assaulted”  
“Being victimized due to the disability acquired.”  
“Physical, verbal and emotional abuse”  
“Abduction”  
“Abandonment”  
“Pregnancy as a result of rape”  
“Frequent psychological abuse, pressure and threats”  
“Subject to forced treatment”  
“Physical injuries, mental health stress”  
“Fall injuries, didn’t receive treatment at the right time, wandering streets, harassed by many people etc.”

## Relationships

“Difficulty maintaining good relationships and communication with family as well as romantic relationships”  
“Poor relationship with mother-in-law”  
“No relationship”  
“Relationship problems with family”  
“Relationships with others”  
“Friendship problems”  
“Wedding plans always postponed”

## Support – Personal and to Family

“Caregiver matter; my mother and my sibling died”  
“Provide support to my elderly in-laws”  
“Caring responsibilities for disabled child”  
“I have problems raising my child because of my disability. My family is taking care of my child.”

<b>Parenting</b>	<p>“Welfare and family issues”</p> <p>“Having my parental rights violated”</p> <p>“Child support”</p> <p>“Support for dependents”</p>
<b>Romantic and Sexual Relationships</b>	<p>“Me being prohibited from having a relationship. And also I think I feel the same way of not wanting it, cause I don’t know if I’ll be accepted with my disability”</p> <p>“My relationship is affected due to my identity”</p> <p>“Entering same sex relationship”</p> <p>“Romantic and sexual preferences (sex pests)”</p> <p>“Mental health stress and problems due to abortion”</p> <p>“Sexual and reproductive health”</p>
<b>Stress, Isolation, Depression</b>	<p>“Mental and emotional pain”</p> <p>“I worry about the future of my family. I don’t know who will take care of me in my old age. I don’t have any child yet, I wonder why. It makes me sad, worried, and anxious. It triggers my depression.”</p> <p>“Associated with socialization and isolation”</p> <p>“Problems with my family and some other people in the neighborhood that made me depressed”</p> <p>“Difficulty managing money, emotions and also parenting”</p> <p>“Bullying on social media”</p>
<b>Legal Recognition</b>	<p>“Lack of government documents- official certificate of divorce and identity card”</p> <p>“Government documents lost by family - my mother has late stage dementia, many of my family documents were lost by my mother, my siblings and I ran out of money to support my mother, it was difficult to sell one of my mother’s assets (district court process, government process, lost documents process)”</p>

## **WORK, GOVERNMENT, MONEY**

<b>BROAD PROBLEM THEME</b>	<b>PROBLEM EXAMPLE</b>
Employment	<p>“Fired”</p> <p>“Self-employment”</p> <p>“Loss of work as there was no reasonable accommodation”</p> <p>“Difficult to get a job”</p> <p>“Discrimination at work”</p> <p>“Job pressure, bullying”</p> <p>“No proper support at my work place and also from my family at the time I was working, I accumulated stress and depression as part of it”</p> <p>“Unfair treatment at work”</p> <p>“No work in 2020”</p> <p>“Very difficult to work”</p>



“Problems at work that make conditions uncomfortable”

“Poor working environment conditions”

“I don’t have a job. My parents don’t let me work.”

“Staying at home, no employment”

“Concentration and focus at work”

“Workplace sexual harassment and problem solving/case settlement”

“Did not get support from the company owner in solving problems with large state institutions; I was betrayed by a co-worker, which led to my trial by a major institution of this country”

“Insurance”

“Opening a shop”

“Abused by former boss”

“Poor provision of service by civil servants when I want to seek their help”

“Interaction and Services approach by either government or any public services”

“At times accessing Government and public services can be hard cause of the stigma associated with Psychosocial Disability, I am treated differently”

“Discrimination from local government officers and offices”

“Abuse by government workers – Police”

“Boarding the public bus and using the Bus concession card to tap, the driver asked me to prove with identification that I am a Psychiatric ex patient (Psychosocial Disability)”

**Barriers to Accessing Government Services**

**Living Wage and Financial Issues**

“Finance”

“Financial problems- difficult to fulfil basic needs”

“Government assistance not sufficient to help me”

“Disability allowance currently receive is less

Due to financial problems, I could not continue my work.”

“Not enough money for basic needs”

“Inadequate salary to cover basic needs”

“No money”

“Insufficient income”

“Lack of equal pay (gender bias, diversity)”

“The poor financial situation has made it difficult to run the household. Problem occur in medication and children’s due to the financial crisis.”

“Difficulty supporting myself”

**Legal Recognition**

“Related to getting my citizenship”

## HEALTH, EDUCATION, OTHER

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BROAD PROBLEM THEME	PROBLEM EXAMPLE
Health Care – Accessibility	“Accessing health facility, services and no availability of medication”
	“Trying to access medical services with representatives being helpful and understanding towards my illness and also the impact of the COVID-19 lockdown”
	“Accessing health facilities. Servicing is poor and many times medicine I need has to be bought from pharmacy. Already there is not sufficient support from the government as Disability Allowance is only \$90 per month, transportation is costly, etc.”
	“Lack of access to health services as my kids are main priority and many times I lose focus on my wellbeing”
	“Medical professionals refusing to give persons with disabilities discounts”
Health Care – Support	“Financial barriers to medication”
	“Lack of support in relation to my health and medical condition” “Lack of health support for decision-making”
Mental Health – Experiences and Injuries	“I had pancreatic surgery and it affected my work life, my emotional and mental wellbeing”
	“Injuries caused by attempted suicide are not covered by BPJS health insurance”
	“Bipolar disorder”
	“Confined myself, couldn’t think straight, wouldn’t eat, couldn’t sleep, worst of all, I hated myself.”
	“Mental misbehaviour”
	“Both mental and physical issues. Due to mental health condition, I got my leg fractured.”
Health Care – General	“Medication”
	“Sexual reproductive health service”

## APPENDIX 4: EXPLANATIONS FOR LEGAL CAPACITY QUESTIONS

### EXPLAIN (DECISION RESPECTED):

#### Stigma and Judgement

“At any time I happen to access any services, in terms of my appearance and the way I speak, they automatically judge that I am not fit to make my own decisions”

“At any time I happen to voice my opinions, people automatically think that I am not fit to make my own decisions”

“Yes, being a person who suffers from psychosocial disability comes with its stigmatization comes with many more things.”

“Yes, because of the stigma associated with psychosocial disability.”

“Me being mentally affected”

“For I am sick and not mentally stable”

“When I say I’m a Psychiatric ex-patient”

#### Denial of Legal Capacity

“When I seek support it comes with conditions”

“Yes but in a parable way and indirect manner.”

“Yes through behaviours”

“At times through body languages”

“Yes, I should listen to my elders”

“I am disable I should not say anything”

“Sometimes at home I was told not to say anything”

“Because I am BPD; Yes. Because I have a mental disability, I’m considered wishy-washy.”

“When I want to move, I can’t because I have a mental disability”

“Because I was underestimated by my family and friends”

“Because of comparison and lack of affection”

“No legal capacity”

“Not considered sufficient in making decisions, I was only told to be quiet.”

“My illness was always used as a weapon by my ex-husband to take custody of my children.”

“Not considered a person who can make good decisions”

“Considered immature in making decisions”

“Because it is considered a psychologically unstable condition”

“Considered wasteful and unable to manage finances so my rights are restricted”

“They don’t trust my decisions because I’m considered an emotional person.”

“I was told that I didn’t need to make my own decisions and that I had to abide by their decisions.”

“Considered immature in making decisions, often considered wasteful or decisions that they consider wrong”

“By friends and husband saying not able to do anything.”

“I’m not allowed to take my own decision. My family members always take my life’s decision.”

“My relatives and family act like I can’t decide anything.”

“I was told that I can’t do anything good in life because of my disability”

“My parent used to say to me, nobody trust my words and don’t love me.”

“Didn’t allow to construct a house”

“When I wasn’t allowed to open a shop”

“When I wasn’t allowed to study (go to school)”

“Persons with an intellectual disability treated as giving sympathy and inequality, treated as children and think that we cannot decide ourselves.”

#### **EXPLAIN (LISTENED TO):**

##### **Denial of Legal Capacity**

“Yes, because I have disability.”

“Yes, I am disabled”

“The other party does not hear”

“Being perceived as not making good decisions”

“I am not considered mature enough to make my own decisions”

“The other party does not consider”

“Not heard in court”

“Because my decisions are always considered wrong”

“Listened to, but never considered”

“For me, my father decides”

##### **Stigma**

“Yes, because of the stigma associated with psychosocial disability.”

“At any time I happen to access any services, in terms of my appearance and the way I speak, they automatically judge that I am not fit to make my own decisions “

“At any time I happen to voice my opinion, people automatically think that I am not fit to make my own decisions”

“Because thought that everybody would know about my condition.”

“Due to my disability, I get ignored”

“Felt unheard and thought I would not get help.”

“No one took my decision seriously”

“Sometimes no one listen to me at home”

“Step-mom do not understand me”

“When I try to explain myself to anyone that offered to give help and in the midst of listening they tend to show expression that it was a false interest

“When I seek support it comes with conditions”

“When I wish to voice the things I am going through with my family, I am not listened to and just taken lightly”

“Because I have a mental disability, if I have an opinion it will be considered rebellious and crazy; Yes. Because I’m BPD and considered crazy”

“I have no power because I am being blamed by big institutions in this country while I am just an ordinary citizen.”

“I am always assumed to be at fault I am not given the right to answer and make decisions; Not being listened to I am always assumed to be guilty I am not given the right to answer and make decisions.”

“Often not heard by family”

“Considered immature”

“Just pretend to listen”

“Nobody listen to me, they take it lightly”

“I felt it often that my problems are not heard”

“My problems are not heard by anyone”

#### **Lost Confidence in System**

“Yes, because I had lost confidence in the system mostly because (Law - Police Officers) of the stigmatization that we receive in accessing there services.”

“There aren’t any disabled-friendly places to share problems”

“The responsible person to discriminate was not found guilty.”

“No one listens at home and need to listen every time from husband.”

“Many times when I follow up with applications, I am ill treated”

“Confused about where to go for help after being fired from work due to a mental health condition”

“Confused about how and to whom to express opinions on this issue”

“Lack of programmes that are accessible and easily understandable to different sectors/needs”

#### **Effects of Not Being Heard**

“I was not heard and it affected me tapping or accessing appropriate help and services”

“I felt like I was intimidated”

“When I was in the psychiatric hospital, my right to speak out was denied. I was even forcibly injected and restrained by several nurses.”

#### **Reference to Religion**

“When face with problems, I never share it, but I pray for Gods intervention”

# BIBLIOGRAPHY AND FURTHER READING

## PRIMARY SOURCES

### International Treaties

Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981), 1249 UNTS 13 (CEDAW)

Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3 (CRPD)

Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women (adopted 6 October 1999, entered into force 22 December 2000) 2131 UNTS 83 (OP-CEDAW)

Optional Protocol to the Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2518 UNTS 283 (OP-CRPD)

### Table of International Instruments

ECOSOC/Jakarta Declaration on the Asian and Pacific Decade of Persons with Disabilities, 2023-2032' ESCAP/APDDP/2022/L.4\* (2 September 2022)

UN Committee on the Rights of Persons with Disabilities, 'General comment No. 1 (2014) Article 12: Equal recognition before the law' (19 May 2014) CRPD/C/GC/1

UN CRPD (United Nations Committee on the Rights of Persons with Disabilities). 2016. General comment No. 3 on women and girls with disabilities. CRPD/C/GC/3

UN Committee on the Rights of Persons with Disabilities, 'General comment No. 6 (2018) on equality and non-discrimination\*\*' (26 April 2018) CRPD/C/GC/6

### Table of Legislation

#### Fiji

*Constitution of the Republic of Fiji 2013*

*Adoption Act 2020*

*Civil Evidence Act 2002*

*Crimes Act 2009*

*Criminal Procedure Act 2009*

*Domestic Violence Act 2009*

*Electoral (Registration of Voters) Act 2012*

*Employment Relations Act 2007*

*Fiji Public Trustee Corporation Act 2006*

*HIV/AIDS Act 2011*

*Housing Act 1955*

*Human Rights and Anti-Discrimination Commission Act 2009*

*Mental Health Act 2010*

*Rights of Persons with Disabilities Act 2018*

#### Indonesia

*Indonesia's Constitution of 1945, Reinstated in 1959, with Amendments through 2002*

*Civil Code*

*Indonesian Mental Health Act 2014*

*Law on Disabilities (No. 8/2016)*

*Law on Human Rights (No. 39/1999)*

*Law on Sexual Violence Crimes (No. 12/2022)*

#### Nepal

*The Constitution of Nepal of 2015*

*Act Relating to Rights of Persons with Disabilities, 2074 (2017)*

*Legal Aid Act 2054 (1997)*

*Civil Code 2074 (2017)*

*Criminal Code 2074 (2017)*

*Public Health Services Act 2075 (2018)*

#### The Philippines

*1987 Constitution of the Republic of the Philippines*

*Batas Pambansa Bilang 344 (An Act to Enhance the Mobility of Disabled Persons by Requiring Certain Buildings, Institutions, Establishments and Public Utilities to install Facilities and Other Devices) (1982)*

*Civil Code, Chapter 1 (Art. 37-39), Chapter 2 (Art. 798-800)*

*Family Code, Section 92*

*Magna Carta for Disabled Persons (Republic Act 7277) (1992)*

*Magna Carta of Women (Republic Act No. 9710) (2009)*

*Mental Health Act (Republic Act No. 11036) (2018)*

#### United Nations Documents

UN CEDAW (United Nations Committee on the Elimination of All Forms of Discrimination against Women). 2021. *Concluding observations on the eight periodic report of Indonesia\**. CEDAW/C/IDN/CO/8

UN CEDAW (United Nations Committee on the Elimination of All Forms of Discrimination against Women). 2016. *Concluding observations on the combined seventh and eighth periodic reports of the Philippines\**. CEDAW/C/PHL/CO/7-8

UN CEDAW (United Nations Committee on the Elimination of Discrimination against Women). 2018. *Concluding observations on the fifth periodic report of Fiji\**. CEDAW/C/FJI/CO/5

UN CRPD (United Nations Committee on the Rights of Persons with Disabilities). 2018. *Concluding observations on the initial report of Nepal\**. CRPD/C/NPL/CO/1

UN CRPD (United Nations Committee on the Rights of Persons with Disabilities). 2022. *Concluding observations on the initial report of Indonesia\**. CRPD/C/IDN/CO/1

UN CRPD (United Nations Committee on the Rights of Persons with Disabilities). 2018. *Concluding observations on the initial report of the Philippines\**. CRPD/C/PHL/CO/1

UN ECOSOC (United Nations Economic and Social Council). 2022. *Jakarta Declaration on the Asian and Pacific Decade of Persons with Disabilities, 2023-2032*. ESCAP/APDDP/2022/L.4\*

UN HRC (United Nations Human Rights Committee). 2017. *Views adopted by the Committee under article 5 (4) of the Optional Protocol*, concerning communication No. 2245/2013 \*, \*\*, CCPR/C/119/D/2245/2013

UN Human Rights Council (United Nations Human Rights Council). 2017. *Report of the Special Rapporteur on the Rights of Persons with Disabilities*. A/HRC/37/56

UN Human Rights Council (United Nations Human Rights Council). 2019. *Awareness-raising under Article 8 of the Convention on the Rights of Persons with Disabilities*. A/HRC/43/27

UN Human Rights Council (United Nations Human Rights Council). 2019. *Rights of persons with disabilities: Report of the Special Rapporteur on the rights of persons with disabilities*. A/HRC/40/54

## Books

Arstein-Kerslake, A. 2017. *Restoring Voice to People with Cognitive Disabilities: Realizing the Right to Equal Recognition Before the Law*. Cambridge: Cambridge University Press

Arstein-Kerslake, A. 2021. *Legal Capacity and Gender*. New York: Springer International Publishing.

Bantekas, I. and L. Oette. 2020. *International Human Rights Law and Practice*. Cambridge: Cambridge University Press

Della Fina, V., Cera, R., and G. Palmisano. 2017. *The United Nations Convention on the Rights of Persons with Disabilities*. Cham: Springer International Publishing

Ersoy, A (Ed). 2017. *The impact of co-production: From community engagement to social justice*. Bristol: Bristol University Press

Flynn, E. 2015. *Disabled Justice? Access to Justice and the UN Convention on the Rights of Persons with Disabilities*. Farnham: Ashgate Publishing

Kanter, A. *The Development of Disability Rights under International Law: From Charity to Human Rights*. Abingdon, Oxon; New York, N.Y.: Routledge

Kavanagh, J. 2018. *Constitutional Law in Ireland*. Dublin: Clarus Press

Nikolaidis, C. 2015. *The Right to Equality in European Human Rights Law: The Quest for Substance in the Jurisprudence of the European Courts*. Abingdon, Oxon; New York, N.Y.: Routledge

Rudolf, B., Freeman, M., and C. Chinkin (Eds.). 2012. *The UN Convention on the Elimination of All Forms of Discrimination against Women: A Commentary*. Oxford: Oxford University Press

## Book Chapters

Cruz, J. 2017. "Understanding CRPD Implementation in the Philippines." In *Making Disability Rights Real in Southeast Asia: Implementing the UN Convention on the Rights of Persons with Disabilities in ASEAN*. D. Cogburn and T. Reuter (Eds.). Lanham: Lexington Books.

Flynn, E. 2017. "Article 13 [Access to Justice]." In *The United Nations Convention on the Rights of Persons with Disabilities*. Della Fina, V., Cera, R., and G. Palmisano (Eds.). Cham: Springer International Publishing

Freeman, M., Chinkin, C., and B. Rudolf. 2012. "Article 15." In *The UN Convention on the Elimination of All Forms of Discrimination against Women: A Commentary*. Freeman, M., Chinkin, C., and B. Rudolf (Eds.) Oxford: Oxford University Press

Hellum, A. and H. Sinding Assen, "Introduction." in *Women's Human Rights: CEDAW in International, Regional and National Law*. A. Hellum. Cambridge: Cambridge University Press

Lawson, A. and M. Priestley. 2017. "The Social Model of Disability: Questions for Law and Legal Scholarship?" In *The Routledge Handbook of Disability Law and Human Rights*; P. Blanck and E. Flynn (Eds.). Abingdon, Oxon; New York, N.Y.: Routledge

Mégret, F. 2014. "Nature of Obligations." In *International Human Rights Law*. D. Moeckli, S. Shah, S. Sivakumaran, and D.J. Harris (Eds). Oxford: Oxford University Press

Mykitiuk, R, and E. Chadha. 2018. "Article 6: Women with Disabilities." In *The UN Convention on the Rights of Persons with Disabilities: A Commentary*. I. Bantekas, M. Stein and D. Anastasiou (Eds.). Oxford

van Leeuwen, F. 2013. "Women's Rights Are Human Rights." In *Women's Human Rights: CEDAW in International, Regional and National Law*. A. Hellum. Cambridge: Cambridge University Press

## Journal Articles

Amalia, Y. and A. Hidayat. 2022. "Rights of Victims of Sexual Violence with Disabilities Based on Law Number 12 of 2022." *Indonesian Journal of Law and Policy Studies* 3(1)

Ancha, C. 2022. "Gender and Disability: The Experiences of Microaggressions Against Women with Disabilities in the Philippines." *The European Journal of Development Research* 34(6)

Arstein-Kerslake, A. and E. Flynn. 2017. "The right to legal agency: domination, disability and the protections of Article 12 of the Convention on the Rights of Persons with Disabilities." *International Journal of Law in Context* 13(1)

Arstein-Kerslake, A., Gooding, P., Mercer, S., Raymond, M., and B. McSherry. 2019. "Implementing a Participatory Human Rights-Based Research Methodology: The Unfitness to Plead Project." *Journal of Human Rights Practice* 11(3)

Arstein-Kerslake, A., Maker, Y., Richardson, S., and A. Deutschmann. 2023. "Criminalisation of Sex with Cognitively Disabled People in Commonwealth Countries: A colonial remnant that interferes with the human right to sexual agency." *International Journal of Disability and Social Justice* (Forthcoming May/June 2023)

Arstein-Kerslake, A., Y. Maker, E. Flynn, O. Ward, R. Bell, and T Degener. 2020. Introducing a human rights-based disability research methodology." *Human Rights Law Review* 20(3), pp. 412-432.

Blaska, J. 1993. "The power of language: Speak and write using "person first." *Perspectives on Disability*

Carmona, M., and K. Donald. 2015. "Beyond Legal Empowerment: Improving Access to Justice from the Human Rights Perspective." *The International Journal of Human Rights* 19(3)

Carney, T. 2011. "A Regional Disability Tribunal for Asia and the Pacific: Changing the Conversation to a "Conversation"?" *International Journal of Law in Context*. 7(3)

Crenshaw, K. 1991. "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color." *Stanford Law Review* 43(6)

Degener, T. 2016. "Disability in a Human Rights Context." *Laws* 5(3)

Dhungana, B. 2006. "The Lives of Disabled Women in Nepal: Vulnerability Without Support." *Disability and Society* 21(2)

Flynn, E. and A. Arstein-Kerslake. 2014. "Legislating personhood: Realising the right to support in exercising legal capacity." *International Journal of Law in Context* 10 (1)

Fraser, A. 1999. "Becoming Human: The Origins and Development of Women's Human Rights." *Human Rights Quarterly* 21(4)

Kusumastuti, P. R. Pradanasari A. Ratnawati. 2014. "The Problems of People with Disability in Indonesia and What Is Being Learned from the World Report on Disability." *American Journal of Physical Medicine and Rehabilitation*. 93(1)

Lally, J., Samaniego, R., and J. Tully. 2019. "Mental Health Legislation in the Philippines: Philippine Mental Health Act." *BJPsych International* 16(3)

Lawson, A. and A. Beckett. 2021. "The Social and Human Rights Models of Disability: Towards a Complementarity Thesis." *The International Journal of Human Rights* 25(2)

Mégret F. 2008. "The Disabilities Convention: Towards a Holistic Concept of Rights." *The International Journal of Human Rights* 12(2)

Mégret, F. 2008. "The Disabilities Convention: Human Rights of Persons with Disabilities or Disability Rights?" *Human Rights Quarterly* 30(2)

Montgomery, L. 2022. "Getting Our Voices Heard in Research: A Review of Peer Researcher's Roles and Experiences on a Qualitative Study of Adult Safeguarding Policy." *Research Involvement and Engagement*. 8(1)

Puri, M., Mistra, G., and S. Hawkes. 2015. "Hidden Voices: Prevalence and Risk Factors for Violence against Women with Disabilities in Nepal." *BMC Public Health* 15(1)

Stone, E., and M. Priestley. 1996. "Parasites, Pawns and Partners: Disability Research and the Role of Non-Disabled Researchers." *The British Journal of Sociology* 47(4)



Wardana, A. and N. Dewi. 2017. "Moving Away From Paternalism: The New Law on Disability in Indonesia." *Asia-Pacific Journal on Human Rights and the Law* 18(2)

Wulandari, C. 2018. "Access to Justice for the Disability Women as Victims in the Criminal Justice System." *SHS Web of Conferences* 54

## Reports

AI (Amnesty International). 2010. *Fiji: Submission to the Committee on the Elimination of Discrimination against Women*. London: AI

ASEAN (Association of Southeast Asian Nations). 2018. *ASEAN Enabling Masterplan 2025: Mainstreaming the Rights of Persons with Disabilities*. Jakarta: ASEAN

Australia Indonesia Partnership for Economic Governance. 2017. *Disability in Indonesia: What can we learn from the data?*. Canberra: Australia Indonesia Partnership for Economic Governance

Colbran, N. 2010. "Access to Justice Persons with Disabilities Indonesia: Background Assessment Report."

DRC (Disability Research Centre). N.d. *Nepal Disability Policy Review*. Kathmandu: DRC

FAO (Food and Agricultural Organization of the United Nations). 2018. *Indigenous Peoples in the Asia-Pacific Region*. Bangkok: FAO.

Fiji Women's Crisis Centre. 2013. *Somebody's Life, Everybody's Business! National Research on Women's Health and Life Experiences in Fiji (2010/2011): A Summary exploring the prevalence, incidence and attitudes to intimate partner violence in Fiji*. Suva: Fiji Women's Crisis Centre

HI (Handicap International). 2020. *Rapid Needs Assessment: An Inclusive Response to Covid 19 in Nepal*

IDS (Institute of Development Studies). 2020. *Disability Inclusive Development Nepal Situational Analysis*. Falmer: IDS

IMHA (Indonesian Mental Health Association). 2022. *The Forgotten People: Respond to the List of Issue (LOI) on the Situation of Persons with Psychosocial Disabilities in Indonesia*. Jakarta: IMHA

Inclusion Ireland. 2011. *Make It Easy: A Guide to Preparing Easy to Read Information*. Dublin: Inclusion Ireland

KOSHISH. 2020. *Submission to the United Nations Universal Periodic Review 37th Session (Third Cycle) of the UPR Working Group of the Human Rights Council Concerning Human Rights of Persons with Psychosocial Disability and Other Under-represented Disabilities in Nepal*. Lalitpur: KOSHISH.

Lord J., Guernsey K., Balfe J., Karr V., and A. deFranco. 2012. "Human Rights. Yes! Action and Advocacy on the Rights of Persons with Disabilities." *Human Rights Education Series: Book 6*. Minneapolis: University of Minnesota Human Rights Center

M. Oliver. 1990. "The Individual and Social Models of Disability." *Paper presented at Joint Workshop of the Living Options Group and the Research Unit of the Royal College of Physicians on People with Established Locomotor Disabilities in Hospitals*

Ministry of Women, Children and Poverty Alleviation. 2018. *Fiji National Service Delivery Protocol for Responding to Cases of Gender Based Violence*. Suva: Ministry of Women, Children and Poverty Alleviation

Nepal Indigenous Disabled Association, National Indigenous Women with Disabilities Association, and Asia Indigenous Peoples Pact. 2022. *The Rights of Indigenous Persons with Disabilities in Nepal: Reply from Indigenous Persons with Disabilities Organizations to the List of Issues in relation to the initial Report of Nepal*.

OECD (Organization for Economic Co-operation and Development). 2019. *Legal Needs Survey and Access to Justice Paris*: OECD.

Pacific Women. 2021. *Thematic Brief: Inclusion of Pacific women with disabilities*. Suva: Pacific Women

Pleasence, P. 2016. "'Legal Need' and Legal Needs Surveys: A Background Paper". *Technical materials to support Open Society Justice Initiative legal needs research*. Paris: OECD

UN (United Nations). 2022. *Disability-Inclusive Communications Guidelines*. New York: UN

UN Women (United Nations Entity for Gender Equality and the Empowerment of Women). 2022. *Justice for Women, Justice for All: Advancing the Community-Based Justice Model in Indonesia*. New York: UN Women

UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2021. *Pacific Perspectives: Convention on the Rights of Persons with Disabilities: Overview of Compliance in Pacific Islands Legislation*. Bangkok: UNESCAP

UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2022. *A Three-Decade Journey Towards Inclusion: Assessing the State of Disability-Inclusive Development in Asia and the Pacific*. Bangkok: ESCAP

UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2018. *Building Disability-Inclusive Societies in Asia and the Pacific: Assessing Progress of the Incheon Strategy*. Bangkok: UNESCAP

UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2016. *Disability in Asia and the Pacific: The Facts*. Bangkok: UNESCAP

UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 1995. *Hidden Sisters: Women and Girls with Disabilities in the Asian and Pacific Region*. Bangkok: UNESCAP

UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2022. *Framework for Disability Policies and Strategies in Asia and the Pacific*. Bangkok: UNESCAP

UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2022. *Framework for Disability Policies and Strategies in Asia and the Pacific*. Bangkok: UNESCAP

UNESCAP (United Nations Economic and Social Commission for Asia and the Pacific). 2022. *Harmonization of National Laws with the Convention on the Rights of Persons with Disabilities: Overview of Trends in Asia and the Pacific*. Bangkok: UNESCAP

UNFPA (United Nations Population Fund). 2022. *Women and Young People with Disabilities: A Needs Assessment of Sexual and Reproductive Health and Rights, Gender-Based Violence, and Access to Essential Services*. New York: UNFPA

United Nations Indonesia. 2021. *Disability Data in Indonesia*. Jakarta: United Nations Indonesia

Wagle, K., and B. Upadhyaya. 2017. "Contextual Analysis of the Implementation of Article 13 (Access to Justice) of the Convention on the Rights of Persons with Disabilities in Nepal." Study opportunity granted by the Open Society Foundation and Alliance for Social Dialogue. Kathmandu: Enablement Nepal

WHO (World Health Organization). 2011. *World Report on Disability*. Geneva: WHO

WHO (World Health Organization). 2022. *WHO Special Initiative Mental Health Assessment Situation Assessment Nepal*. Geneva: WHO

## Online Articles

Llewellyn, A. 2022. "Explainer: Why is Indonesia's Sexual Violence Law so important?" Al Jazeera. 14 April. Available from 13 April 2023. <https://www.aljazeera.com/news/2022/4/14/explainer-why-is-indonesias-sexual-violence-law-so-important>.

Safitri, D. 2022. "Disability in Indonesia — from Charity to Human Rights." Asia and the Pacific Policy Society Policy Forum. 23 June. Available from 13 April 2023. <https://www.policyforum.net/disability-in-indonesia-from-charity-to-human-rights/>.

Sharma, K. 2014. "Break the Shackles of Stigma on Mental Health Care in Indonesia." Human Rights Watch. 16 September. Available from 13 April 2023. <https://www.hrw.org/news/2014/09/16/break-shackles-stigma-mental-health-care-indonesia>.

## Websites

American Psychological Association. 2023. "Diagnostic Overshadowing." Available from 13 April 2023. <https://dictionary.apa.org/diagnostic-overshadowing>.

International Commission of Jurists. 2022. "Indonesia: the ICJ welcomes the Indonesian Parliament's landmark adoption of legislation on sexual violence." Available from 13 April 2023. <https://www.icj.org/indonesia-the-icj-welcomes-the-indonesian-parliaments-landmark-adoption-of-legislation-on-sexual-violence/>.

International Labour Organization. 1996-2014. "Indonesia (1) > Disabled workers." Available from 13 April 2023. [https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=103080&p\\_count=1&p\\_classification=08.01](https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=103080&p_count=1&p_classification=08.01).

IWGIA. 2021. "Indigenous peoples in Indonesia." Available from 13 April 2023. <https://www.iwgia.org/en/indonesia/4224-iw-2021-indonesia.html>.

IWGIA. N.d. "Indigenous peoples in Philippines." Available from 13 April 2023. <https://www.iwgia.org/en/philippines.html>.

KOSHISH. 2021. "Representation on National Disability Directive Committee." Available from 13 April 2023. <https://www.koshishnepal.org/advocacy-awareness-program-detail/>.

Mental Health Europe. 2020. "Mental Health Europe Explained." Available from 13 April 2023. <https://www.mhe-sme.org/mental-health-europe-explained/#1589352808116-ea747e0b-af09>.

My República. 2021. "Marriage is No License to Rape." Available from 13 April 2023. <https://myrepublica.nagariknetwork.com/news/marriage-is-no-license-to-rape/>.

Philippine Statistics Authority. 2019. "Press Release: Disability Spares No One: A New Perspective." Available from 13 April 2023. <https://psa.gov.ph/sites/default/files/attachments/ird/pressrelease/Press%20Release%20NDPS.pdf>.

Photosymbols. 2023. "Welcome to Photosymbols." Available from 13 April 2023. <https://www.photosymbols.com/pages/home>.

Saowalak Thongkuay. 2009. "Rights of Persons with Disabilities in the Asia-Pacific." Available from 12 April 2023. <https://www.hurights.or.jp/archives/focus/section2/2009/03/rights-of-persons-with-disabilities-in-the-asia-pacific.html>.

Special Olympics. 2023. "What is Intellectual Disability?." Available from 13 April 2023. <https://www.specialolympics.org/about/intellectual-disabilities/what-is-intellectual-disability>.

The Constitutional Court of the Republic of Indonesia. 2023. "Court Delays Hearing of Civil Code Provision on Persons with Disabilities." Available from 13 April 2023. <https://en.mkri.id/news/details/2023-02-14/Court%20Delays%20Hearing%20of%20Civil%20Code%20Provision%20on%20Persons%20with%20Disabilities>.

UN News. 29 May 2020. "More 'can and must' be done to eliminate caste based discrimination in Nepal." Available from 13 April 2023. <https://news.un.org/en/story/2020/05/1065102>

United Nations Development Programme. 2022. "Lawmakers Hold Public Dialogues Over the Statute of Limitations in Rape Cases." Available from 13 April 2023. <https://www.undp.org/nepal/news/lawmakers-hold-public-dialogues-over-statute-limitations-rape-cases>.

United Nations Economic and Social Commission for Asia and the Pacific. 2014. "Making the right real for persons with disabilities." Available from 12 April 2023. <https://www.unescap.org/sites/default/files/Disability-Factsheet.pdf>.

United Nations Economic and Social Commission for Asia and the Pacific. N.d. "Social Development: Disability Inclusive Development." Available from 10 February 2023. <https://www.unescap.org/our-work/social-development/disability-inclusive-development>

United Nations Economic and Social Commission for Asia and the Pacific. 2019. "Incheon Strategy to "Make the Right Real" for persons with disabilities in Asia and the Pacific and Beijing declaration including the action plan to accelerate the implementation of the Incheon Strategy." Available from 13 April 2023. <https://www.unescap.org/resources/incheon-strategy-make-right-real-persons-disabilities-asia-and-pacific-and-beijing>.

United Nations Economic and Social Commission for Asia and the Pacific. 2022. "Governments adopt landmark Jakarta Declaration underscoring rights-based approach to disability-inclusive development in Asia and the Pacific." Available from 13 April 2023. <https://www.unescap.org/news/governments-adopt-landmark-jakarta-declaration-underscoring-rights-based-approach-disability>.

United Nations Enable. 2003-2004. "Proposal for a Comprehensive and Integral International Convention on Promotion and Protection of the Rights and Dignity of Persons with Disabilities." Available from 13 April 2023. <https://www.un.org/esa/socdev/enable/rights/uncontrib-escap.htm>

United Nations Office of the High Commissioner for Human Rights. N.d. "Status of Ratification Dashboard: Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women." Available from 15 February 2023. <https://indicators.ohchr.org>.

United Nations Treaty Collection. N.d. "Chapter IV Human Rights: 15. Convention on the Rights of Persons with Disabilities" Available from 15 February 2023. [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-15&chapter=4&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&clang=_en).

United Nations Treaty Collection. N.d. "Chapter IV Human Rights: 8. Convention on the Elimination of All Form of Discrimination against Women." Available from 15 February 2023. [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=_en)

United Nations Treaty Collection. N.d. "Chapter IV Human Rights: 8. b Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women." Available from 15 February 2023. [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8-b&chapter=4&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&clang=_en);

Washington Group on Disability Statistics. 2023. "About the Washington Group." Available from 13 April 2023. <https://www.washingtongroup-disability.com>.

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