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Doubly Protected and Doubly Discriminated: The Paradox of Women with Disabilities After Conflict

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DOUBLY PROTECTED AND DOUBLY
DISCRIMINATED: THE PARADOX OF WOMEN
WITH DISABILITIES AFTER CONFLICT

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INTRODUCTION

Edna is a twenty-nine-year-old woman living in northern Uganda, an area of the nation in which people are beginning to

leave camps for internally displaced persons and build new lives as conflict abates.¹ Edna, however, is blind, partially deaf, and she suffers from an intellectual disability, all of which she received when the rebel group the Lord's Resistance Army burned down her home.² As a disabled woman, Edna is disproportionately affected by the Ugandan Civil War's violence, but her needs are also disproportionately ignored.³ She attempted to receive aid reserved for persons with disabilities, file a complaint for child neglect against her husband, and obtain medical services.⁴ Aid organizations and the Ugandan government ignored her first two grievances, and she can only obtain medical care with the help of her six-year-old daughter.⁵ With little to no avenues open to her for education or development assistance, Edna resorts to begging in order to support her children.⁶

Edna's situation is repeated as civil wars and other conflicts end or abate in nations throughout the globe. Women generally have a much higher prevalence of disability than men.⁷ Further, women with disabilities are more likely to face poverty, social exclusion, and violence, and women are more prone to develop disabilities because they are "last in line to access food, education, and health care."⁸ Conflict only exacerbates this situation. War creates an environment of instability and insecurity, resulting in infrastructure breakdown and social crisis.⁹ As an already marginalized social group, women with disabilities become more vulnerable in times of crisis.¹⁰ Conflict also

1. HUMAN RIGHTS WATCH, "AS IF WE WEREN'T HUMAN": DISCRIMINATION AND VIOLENCE AGAINST WOMEN WITH DISABILITIES IN NORTHERN UGANDA 5–6 (2010), available at <http://www.hrw.org/reports/2010/08/24/if-we-weren-t-human>.

2. *Id.* at 5.

3. *See id.* (discussing how Edna filled out a form to register as a disabled person, but did not receive special assistance).

4. *Id.*

5. *Id.*

6. *Id.*

7. WORLD HEALTH ORG. & THE WORLD BANK, SUMMARY WORLD REPORT ON DISABILITY 8 (2011), available at http://www.who.int/disabilities/world_report/2011/report/en/.

8. Rangita de Silva de Alwis, *Mining the Intersections: Advancing the Rights of Women and Children with Disabilities Within an Interrelated Web of Human Rights*, 18 PAC. RIM L. & POL'Y J. 293, 295–96 (2009) [hereinafter de Silva de Alwis, *Mining the Intersections*].

9. INT'L DISABILITY & DEV. CONSORTIUM, DISABILITY AND CONFLICT REPORT OF AN IDDC SEMINAR MAY 29TH–JUNE 4TH 2000 20 (2000), available at http://www.preventionweb.net/files/9147_iddcseminardisabilityandconflict200.pdf [hereinafter DISABILITY AND CONFLICT REPORT].

10. *See* INT'L FED'N OF RED CROSS & RED CRESCENT SOC'YS, WORLD DISASTERS REPORT 2007: FOCUS ON DISCRIMINATION 118 (2007), available at <http://www.ifrc.org/Global/Publications/disasters/WDR/WDR2007-English.pdf> [hereinafter WORLD DISASTERS REPORT] (stating that, as vulnerable groups, persons with disabilities and women become more vulnerable during crisis).

disables a large number of women through bombs, land-mines, and similar devices, and through the use of sexual violence as a weapon of war.¹¹

Two United Nations conventions focus on the rights of women with disabilities.¹² First, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) aims largely towards non-discrimination and emphasizes the equality of men and women in both the public and the private spheres.¹³ The United Nations General Assembly adopted the CEDAW in 1979 as an “international bill of rights for women.”¹⁴ There are currently 187 parties to the Convention.¹⁵ Second, the Convention on the Rights of Persons with Disabilities (CRPD) affirms that all individuals with disabilities enjoy human rights and fundamental freedoms.¹⁶ Adopted on December 13, 2006, there are currently 119 parties to the CRPD.¹⁷

Women with disabilities face disproportionate violence during conflict and are the subject of two United Nations conventions,¹⁸ so it seems that they should also be disproportionate targets of post-conflict aid and reconstruction. United Nations Security Council Resolution 1325 explicitly ensures that women have a place at the table during post-conflict peacebuilding and reconciliation.¹⁹ Despite

11. Stephanie Ortoleva, *Right Now!—Women with Disabilities Build Peace Post-Conflict*, 12, 16 (Apr. 2011), available at http://www.centerwomenpolicy.org/programs/waxmanfiduccia/documents/BFWFP_RightNow_WomenwithDisabilitiesBuildPeacePost-Conflict_StephanieOrtoleva.pdf [hereinafter Ortoleva, *Right Now!*].

12. See Convention on the Elimination of All Forms of Discrimination against Women at art. 2, *opened for signature* Dec. 18, 1979, 1249 U.N.T.S. 13 (entered into force Sept. 3, 1981) [hereinafter CEDAW]; United Nations Convention on the Rights of Persons with Disabilities, *opened for signature* Mar. 30, 2007, 993 U.N.T.S. 3 (entered into force May 3, 2008) [hereinafter CRPD].

13. See CEDAW, *supra* note 12, at art. 2; de Silva de Alwis, *Mining the Intersections*, *supra* note 8, at 302.

14. *Overview of the Convention*, CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (2009), <http://www.un.org/womenwatch/daw/cedaw/>.

15. *Status of Convention on the Elimination of All Forms of Discrimination Against Women*, UNITED NATIONS TREATY COLLECTION, available at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en (last visited Nov. 6, 2012).

16. CRPD, *supra* note 12.

17. *Status on the Convention on the Rights of Persons with Disabilities*, UNITED NATIONS TREATY COLLECTION, available at http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&lang=en.

18. See STEPHANIE ORTOLEVA, GENERAL DISCUSSION ON “PROTECTION OF WOMEN IN CONFLICT AND POST-CONFLICT SITUATIONS”—COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN 185 (2011), available at <http://www2.ohchr.org/english/bodies/cedaw/docs/Discussion2011/StephanieOrtoleva%20.pdf> [hereinafter ORTOLEVA, GENERAL DISCUSSION].

19. S.C. Res. 1325, U.N. Doc. S/RES/1325 (Oct. 31, 2000).

this, women with disabilities still largely do not take part in such processes and remain marginalized after war ends.²⁰

This Note discusses the paradox that women with disabilities are both disproportionately affected by war and conflict and disproportionately ignored in the process of post-conflict aid, justice, and development. This Note will examine the CEDAW and the CRPD as interdependent instruments which, when read in a complimentary manner, open up a space for the explicit empowerment of women with disabilities after conflict. This creates a guarantee that women with disabilities must not only be free from discrimination and treated equally, but also encouraged and permitted to act on their own behalf. Such an interpretation helps to ensure continued access to the political system after conflict ends.

Before examining the CEDAW and the CRPD, Part I will provide the necessary background by: first, examining the treatment of women and persons with disabilities generally as well as conflict's impact on these groups; second, providing a brief overview of post-conflict processes; and third, reflecting on the typical treatment of women with disabilities by states and nongovernmental organizations (NGOs) after a conflict ends. Part II serves as a brief introduction to the idea of women with disabilities as an intersectional identity. Part III, in turn, examines the CEDAW's and the CRPD's applications to women with disabilities. This part first provides a brief overview of each convention. It then turns to an examination of the interdependence of the CEDAW and the CRPD regarding women with disabilities, focusing on an analysis of how the conventions guarantee a woman with a disability's right to her own capacity and autonomy after the conflict.²¹ Part IV then looks at this conception of the rights conveyed by the CEDAW and the CRPD as applied to disabled women's access to post-conflict justice and development. This part first examines the application of such rights to specific problems women with disabilities often face after conflict, and secondly, it briefly addresses the utility of an interdependent conception of the CEDAW and the CRPD as an advocacy tool, suggesting that this offers a method of

20. Stephanie Ortoleva, *Women with Disabilities: The Forgotten Peace Builders*, 33 LOY. L.A. INT'L & COMP. L. REV. 83, 94 (2010) [hereinafter Ortoleva, *Women with Disabilities*].

21. Throughout this Note, I use the words "capacity," "autonomy," or "individual autonomy" to reference the idea that individuals should be able to provide for themselves, make and act on their own decisions, and exercise their rights without relying solely on the aid of others. This is meant to contrast the idea of victimhood, or the idea of a woman or individual with a disability as someone to be aided and taken care of rather than a person capable of acquiring the skills to act for herself to the fullest extent possible. Unless otherwise stated, capacity refers to this idea rather than only an individual's legal capacity.

influencing states that have not ratified or conformed to the conventions. Finally, this Note concludes by asserting that an interdependent reading of the CEDAW and the CRPD helps ensure that women with disabilities have a right to build their own individual agency rather than to simply access post-conflict aid.

I. THE SITUATION OF WOMEN AND PERSONS WITH DISABILITIES AFTER CONFLICT

A. *Women, Disability, and Conflict*

Although the campaign for equal rights of women is one of the United Nations' most intense and widespread movements,²² “[w]omen have not achieved equality with men in any country”; and they continue to suffer from unequal access to education and employment.²³ With its roots in the lack of equality between men and women, violence against women is also pervasive around the world. War only worsens this situation. During wartime, women confront additional issues men do not experience, including sexual violence, forced impregnation, and forced abortion.²⁴

Persons with disabilities also suffer from similar marginalization and lack of equality. With approximately 650 million people with disabilities worldwide, persons with disabilities are the world's largest minority.²⁵ They are disproportionately represented in poverty-stricken populations and more likely to be victims of violence, but they are less likely to obtain police assistance or legal protection.²⁶ Conflict exposes persons with disabilities to even greater risk and vulnerability as emergency planning often does not account for persons with disabilities when typical resource infrastructures break down.²⁷

As women and individuals with disabilities, women with disabilities belong to both of these disadvantaged groups. They experience “double discrimination,” facing exclusion based on their identity as

22. UNITED NATIONS DEPT' OF PUB. INFO., WOMEN: INTERNATIONAL WOMEN'S DAY, DPI/1878 (Jan. 1997), available at <http://www.un.org/ecosocdev/geninfo/women/womday97.htm>.

23. UNITED NATIONS DEPT' OF PUB. INFO., WOMEN: AT A GLANCE, DPI/1862/Rev.2 (May 1997), available at <http://www.un.org/ecosocdev/geninfo/women/women96.htm>.

24. Naomi R. Cahn, *Women in Post-Conflict Reconstruction: Dilemmas and Directions*, 12 WM. & MARY J. WOMEN & L. 335, 335–36 (2006).

25. *Some Facts About Persons with Disabilities*, UNITED NATIONS ENABLE (Aug. 2006), available at <http://www.un.org/disabilities/convention/pdfs/factsheet.pdf>.

26. *Id.*

27. See DISABILITY AND CONFLICT REPORT, *supra* note 9, at 20.

women and as persons with disabilities.²⁸ Women with disabilities contend with significantly more difficulties than any other group in almost every field, including employment, education, and health care.²⁹ They are at a higher risk of gender-based violence, sexual abuse, neglect, maltreatment, and exploitation even outside of the context of war-related violence.³⁰

Conflict and war generally create instability, insecurity, and fear in the population. Infrastructures often collapse, resources break down, and a forced reevaluation of priorities occurs. War, therefore, often harms existing structures of aid and assistance. Conflict also often produces a large number of displaced persons and refugees within nations.³¹ Even after conflict ends, many people remain in refugee camps and armed groups still possess weapons; there is usually little legal structure in a war torn nation.³² This makes it difficult to immediately remedy the infrastructural breakdown that occurred during the conflict itself.³³

Within this framework of government breakdown and insecurity, women with disabilities are repeatedly discounted or forgotten.³⁴ It becomes easy to ignore this population as they lose support systems during conflict, partially because internally displaced persons and female refugees with disabilities are often forced to leave behind wheelchairs, medications, and similar assistive devices during disasters.³⁵ This can make it more difficult for these women to act independently after the conflict to make their voices heard. Too many times, women with disabilities get lost in the shuffle, becoming more and more of an invisible population due to war's tendency to inflict a disruption in resources and a reevaluation of priorities.³⁶

Besides leading to the social exclusion of women with disabilities, war and conflict are two of the main factors responsible for the

28. Peter Blanck et al., *Defying Double Discrimination*, 8 GEO. J. INT'L AFF. 95, 95–96 (2007).

29. *Women and Girls with Disabilities*, UNITED NATIONS ENABLE, <http://www.un.org/disabilities/default.asp?id=1514> (last visited Nov. 6, 2012).

30. *Id.*

31. See *Global Statistics*, INTERNAL DISPLACEMENT MONITORING CENTRE (2010), [http://www.internal-displacement.org/8025708F004CE90B/\(httpPages\)/22FB1D4E2B196DAA802570BB005E787C?OpenDocument](http://www.internal-displacement.org/8025708F004CE90B/(httpPages)/22FB1D4E2B196DAA802570BB005E787C?OpenDocument) (last visited Nov. 6, 2012) (providing statistics on the number of displaced persons around the globe).

32. Cahn, *supra* note 24, at 341–42.

33. See *id.* at 344–45 (stating that post-conflict nations often lack reliable legal systems, government transparency, and other rights guarantees).

34. WOMEN'S COMM'N FOR REFUGEE WOMEN & CHILDREN, *DISABILITIES AMONG REFUGEES AND CONFLICT-AFFECTED POPULATIONS 6* (2008), available at http://www.womensrefugeecommission.org/docs/disab_fulll_report.pdf.

35. See Ortoleva, *Women with Disabilities*, *supra* note 20, at 94.

36. See Ortoleva, *Right Now!*, *supra* note 11, at 13.

increasing number of women with disabilities.³⁷ Living in violence-prone areas causes more women to suffer disabling injuries from land mines, bombs, combat, and other elements related to the conflict situation.³⁸ Persons with disabilities, especially women, are “particularly vulnerable to violence, exploitation and sexual abuse” in situations of social breakdown, most notably those stemming from disaster and violence.³⁹

The women disabled as a result of the conflict are often, in turn, ostracized from the community and experience the withdrawal of community support.⁴⁰ As a result, women with disabilities face increased dangers of physical and sexual abuse.⁴¹ Leaving their homes to participate in peace processes or to access justice systems only increases the likelihood of such abuse.⁴² The women may receive aid from international organizations, but they are often denied access to accommodations or assistance that would allow them to exercise their legal capacity.⁴³ Women with disabilities are more likely to experience the violence of conflict for a longer period of time because of these factors.⁴⁴

B. Post-Conflict Transitional Justice Processes

Because women with disabilities suffer such harm from conflict, they need greater access to post-conflict justice and development. The United Nations defines transitional justice as “the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.”⁴⁵ Applied in the postwar context, transitional justice is often referred to as “post-conflict justice.”⁴⁶ Post-conflict justice processes tend to incorporate several similar goals regardless of the national or cultural

37. See Ortoleva, *Women with Disabilities*, *supra* note 20, at 93.

38. ORTOLEVA, GENERAL DISCUSSION, *supra* note 18, at 191.

39. *Id.* at 192.

40. *Id.*

41. *Id.* at 196.

42. *Id.* at 196–97.

43. *Id.* at 197 (stating that women with disabilities are often excluded from political participation and it is often presumed that they are incapable of making legal decisions).

44. See ORTOLEVA, GENERAL DISCUSSION, *supra* note 18, at 189 (noting that women with disabilities are at higher risk of abuse and violence).

45. U.N. Secretary-General, Guidance Note of the Secretary-General: United Nations Approach to Transitional Justice, 2 (Mar. 2010), http://www.unrol.org/files/TJ_Guidance_Note_March_2010FINAL.pdf.

46. RACHEL KERR & EIRIN MOBEKK, PEACE AND JUSTICE: SEEKING ACCOUNTABILITY AFTER WAR 3 (2007).

context in which they occur. These objectives include: restoring and maintaining peace by establishing a system of individual accountability, deterring future violations, establishing a record of violations, promoting reconciliation, giving victims a means of redress, removing perpetrators, and providing support for future capacity-building efforts.⁴⁷

Though the objectives of post-conflict justice remain similar across borders, the methods and institutions the process utilizes are nuanced and varied. Considerations such as the available infrastructure, economic constraints, and political will influence exactly how post-conflict justice proceeds in a particular nation.⁴⁸ Postwar nations may use international bodies, such as international criminal tribunals or the International Criminal Court, to bring perpetrators to justice; alternatively, nations may rely on domestic trials, truth commissions, or indigenous forms of legal redress.⁴⁹

Typically, this post-conflict justice and the abovementioned mechanisms all focus on responding to past human rights violations and holding violators accountable for their acts.⁵⁰ However, justice in the context of postwar society also must contribute to the rebuilding of that society, necessitating the inclusion of restorative justice and social services.⁵¹ This means that social, economic, and development-based rights can and should be fostered and included in the post-conflict setting. However, they are often ignored in favor of responding to past violations of rights.⁵²

An approach to post-conflict justice that encompasses developmental justice as well as the traditional focus on accountability presents a more all-encompassing method to address post-conflict society.⁵³ It helps build local capacity and create a viable system for the rule of law after conflict has destroyed a nation's infrastructure. At the same time, it provides aid and developmental assistance to the entirety of the population.⁵⁴ Women with disabilities often do not have access to either form of transitional justice, despite the disproportionate harm they undergo during the conflict.⁵⁵

47. *Id.* at 4.

48. *Id.* at 10.

49. *Id.*

50. *Id.* at 3.

51. Cahn, *supra* note 24, at 338–39.

52. *Id.* at 340.

53. *See id.* at 338 (suggesting three distinct concepts of justice).

54. KERR & MOBEKK, *supra* note 46, at 176; Cahn, *supra* note 24, at 338–39.

55. *See* Ortoleva, *Women with Disabilities*, *supra* note 20, at 84 (arguing that women with disabilities face unique challenges and have a pressing need to be included in post-conflict peace processes).

C. Current and Popular Approaches to Women with Disabilities in Conflict Environments

Because of the disproportionate harm experienced during the conflict, women and girls with disabilities have unique needs that must be addressed as postwar society begins to focus on rebuilding. The post-conflict transition typically entails some degree of return to normalcy for the nation. However, this process of return to peacetime society regularly excludes the disabled woman.⁵⁶ In many societies and cultures, women are normally expected to be mothers or sex symbols.⁵⁷ The disabled woman may face difficulties in motherhood, and many cultures view her as asexual.⁵⁸ In the contemporary, non-conflict society, “[r]olelessness, the absence of sanctioned social roles and/or institutional means to achieve these roles, characterizes the circumstances of disabled women.”⁵⁹

Perhaps as a consequence of this inability to fit the disabled woman neatly into social stereotypes, one of the most common approaches to addressing women with disabilities post-conflict is to simply ignore them.⁶⁰ Development programs and assistance strategies often lack programming that addresses this exclusion of women with disabilities; they may provide assistance to women or persons with disabilities, but rarely both.⁶¹ States or governing bodies created post-conflict are similarly lax. There is a tendency to ignore the violence, abuse, and exploitation women with disabilities face.⁶²

Though often ignored, women with disabilities have a pronounced need to access post-conflict justice and development. They require access to health care and similar services because they suffer far greater incidences of sexual violence during the war.⁶³ They must utilize a variety of resources, such as housing assistance.⁶⁴ These women also

56. See Ortoleva, *Right Now!*, *supra* note 11, at 2.

57. Rodrigo Jiménez Sandoval, *Gender in the Convention on the Rights of Persons with Disabilities*, 60 ALA. L. REV. 1197, 1201 (2009).

58. *Id.*

59. Michele Fine & Adrienne Asch, *Disabled Women: Sexism Without the Pedestal*, 8 J. SOC. & SOC. WELFARE 233, 239 (1981).

60. See RANGITA DE SILVA DE ALWIS, THE INTERSECTIONS OF THE CEDAW AND CRPD: PUTTING WOMEN’S RIGHTS AND DISABILITY RIGHTS INTO ACTION IN FOUR ASIAN COUNTRIES 5 (2010) [hereinafter DE SILVA DE ALWIS, THE INTERSECTIONS].

61. Mobility International USA, Address to Disability NGOs on WILD Woman Program (Aug. 9, 2011).

62. DE SILVA DE ALWIS, THE INTERSECTIONS, *supra* note 60, at 5.

63. See ORTOLEVA, GENERAL DISCUSSION, *supra* note 18, at 191 (noting that disabled women have greater vulnerability to HIV infection because they are at increased risk of sexual assault).

64. *Id.* at 189 (explaining that women with disabilities struggle to access adequate housing, especially when housing is scarce post-conflict).

require recognition and development of their own capacity, permitting them to take a larger role in the process of post-conflict justice and peacebuilding.⁶⁵

Conceivably, states and aid organizations could target many of these unique needs through relief programs. For example, a state could build health clinics accessible to disabled women or assist them in making a complaint regarding wartime violence. Alternatively, aid organizations may build homes designated to be available only to women with disabilities. Such programs would be both beneficial and necessary, but these examples also tend to treat women with disabilities as merely victims in need of aid. There is no effort at sustained capacity-building to ensure these women can continue to take part in peacebuilding and development activities after programs end or aid groups leave.

These short examples all illustrate the other common approach to women with disabilities post-conflict. In this methodology, the medical and charity models of disability are often applied to women with disabilities.⁶⁶ In these models, there is not always substantial attention paid to providing education, training, or other assistance that would permit the disabled individual to effect independent action.⁶⁷ Further, these conceptions of disability view the disabled woman as the problem, rather than problematizing social prejudice and structures.⁶⁸ This means there is less effort to change the social and environmental barriers that make it difficult for women with disabilities to control their own lives.

Because women with disabilities are subjects of pity and sympathy, society and individuals view them as “passive recipients of development programs and assistance.”⁶⁹ This ignores the reality that many women with disabilities assume the role of ensuring family livelihood post-conflict, and these women have been active in grass-roots level peace movements.⁷⁰ Because these roles are ignored, there is less opportunity for women to engage actively with the post-conflict system.⁷¹ The justice system can more easily ignore their needs and

65. *Id.* at 197.

66. The medical model of disability views disability as a medical condition, and thus possessing inherent limitations. They become handicapped individuals excluded from society. Michael Ashley Stein & Penelope J.S. Stein, *Beyond Disability Civil Rights*, 58 HASTINGS L.J. 1203, 1206 (2007).

67. See *The Four Models*, HANDICAP INTERNATIONAL, <http://www.making-prsp-inclusive.org/en/6-disability/61-what-is-disability/611-the-four-models.html> (last visited Nov. 6, 2012).

68. See Stein & Stein, *supra* note 66, at 1206.

69. Ortoleva, *Women with Disabilities*, *supra* note 20, at 101.

70. Ortoleva, *Right Now!*, *supra* note 11, at 18.

71. See *id.*

concerns, providing little opportunity to seek redress for human rights violations.⁷²

II. DEFINING AN INTERSECTIONAL IDENTITY: WOMEN WITH DISABILITIES

The term “intersectionality” originated from the notion that everyone has multiple identities because a multitude of varied characteristics and experiences shapes every individual.⁷³ Because people have multiple identities, they then have multiple avenues for discrimination.⁷⁴ In this intersection, individuals face prejudice and discrimination that is more likely to be severe than either identity taken alone.⁷⁵ New forms of discrimination are created when two or more independent bases for discrimination combine.⁷⁶

In relation to women with disabilities, the use of the term “intersectionality” acknowledges that a woman with a disability will face discrimination founded on her gender and disability in all aspects of her life.⁷⁷ Policy makers and political leaders, in turn, often reinforce this new form of discrimination.⁷⁸ Women with disabilities are specifically vulnerable to discrimination in war and crisis, gender violence, and other areas based on their multiple identities.⁷⁹

Because the discrimination women with disabilities face stems from the intersection of multiple identities, it is necessary to interpret their rights by looking at the intersections of the CRPD and the CEDAW rather than largely continuing to compartmentalize the treaties. Though the CRPD does refer to multiple discriminations,⁸⁰ the rights of women are best protected when the CRPD is read concurrently with the guarantees protected by the CEDAW. Reading these two instruments in isolation from one another “risk[s] entrenching discrimination against women with disabilities.”⁸¹

72. *Id.*

73. See de Silva de Alwis, *Mining the Intersections*, *supra* note 8, at 294.

74. DAGMAR SCHIEK & ANNA LAWSON, *Introduction to EUROPEAN UNION NON-DISCRIMINATION LAW AND INTERSECTIONALITY: INVESTIGATING THE TRIANGLE OF RACIAL, GENDER, AND DISABILITY DISCRIMINATION 2* (Dagmar Schiek & Anna Lawson eds., 2011).

75. See *id.* (explaining that the term intersectionality was introduced to explain the unique situation of black women, who face discrimination because of both race and gender).

76. DANIEL STUBBS & SAINIMILI TAWAKE, UNITED NATIONS DEV. PROGRAMME, PACIFIC SISTERS WITH DISABILITIES: AT THE INTERSECTION OF DISCRIMINATION 11 (2009), available at http://www.undppc.org.fj/_resources/article/files/Final%20PSWD%20BOOKLET.pdf.

77. *Id.*

78. See *id.* at 31.

79. De Silva de Alwis, *Mining the Intersections*, *supra* note 8, at 295.

80. See, e.g., CRPD, *supra* note 12, at art. 6 (referring to the multiple discriminations faced by women with disabilities).

81. See STUBBS & TAWAKE, *supra* note 76, at 11.

III. THE CEDAW AND THE CRPD AS APPLIED TO WOMEN WITH DISABILITIES

A. *An Overview of the Conventions*

1. *The Convention on the Elimination of All Forms of Discrimination Against Women*

The CEDAW's overarching goal is the achievement of "de facto equality for women with men," and this focuses chiefly on the elimination of the discriminatory treatment of women.⁸² One of the CEDAW's key innovations lies in how it dictates that such discrimination should be addressed within society.⁸³ Instead of endorsing the idea that a state need only refrain from engaging in discriminatory behavior, the CEDAW asserts that states also maintain positive obligations.⁸⁴ States must work to identify and eliminate the causes of discrimination and modify social or cultural practices that are either "based on suppositions about the superiority of either of the sexes or on stereotyped roles of men and women."⁸⁵

From the CEDAW's view, part of its guarantee of equality is ensuring equal access for women. It guarantees equal access and opportunity in the political and public life, asserts that women must be able to elect and hold office on equal terms as men, and states that women have the same rights as men in the field of education.⁸⁶ The CEDAW expands these guarantees to the private sphere, but the state bears ultimate responsibility for any discrimination that takes place within the ratifying nation.⁸⁷ This helps guarantee women the right to non-discrimination, and thus equal access, in a range of human rights. NGOs, international organizations, and national women's groups can use the CEDAW as a tool to advocate for the inclusion of women in a comprehensive range of subjects.⁸⁸

82. Gerard Quinn et al., United Nations, *Human Rights and Disability: The Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability*, 166, U.N. Doc. HR/PUB/02/1 (2002), available at <http://www.ohchr.org/Documents/Publications/HRDisabilityen.pdf>.

83. *See id.*

84. Anne F. Bayefsky, *The CEDAW Convention: Its Contribution Today*, 94 PROCEEDINGS OF THE 101ST ANNUAL MEETING (AM. SOC'Y OF INT'L LAW) 197, 197 (2000).

85. Quinn et al., *supra* note 82, at 166.

86. CEDAW, *supra* note 12, at arts. 7–8, 10.

87. Quinn et al., *supra* note 82, at 166 ("The State bears ultimate responsibility for the regulatory environment in which private discrimination takes place.")

88. Bayefsky, *supra* note 84, at 198.

2. *The Convention on the Rights of Persons with Disabilities*

The CRPD is similar to the CEDAW in that one of its aims is to combat discrimination. While the CEDAW's obligation of non-discrimination focuses on legal measures as well as a duty to refrain from discriminatory acts, the CRPD also brings attention to additional aspects of this obligation. National governments must still adopt appropriate legislative measures and refrain from discriminatory acts.⁸⁹ Additionally, state parties are bound to promote accessibility and ensure reasonable accommodation is provided to persons with disabilities.⁹⁰

Beyond these facets of non-discrimination, the CRPD ensures the inclusion of persons with disabilities in the process of implementing the convention's rights.⁹¹ It requires that, "[i]n the development and implementation of legislation and policies to implement the present Convention . . . State Parties shall closely consult with and actively involve persons with disabilities"⁹² This language implicitly recognizes the capacity of persons with disabilities.

Article 12 of the CRPD guarantees equal protection before the law for persons with disabilities,⁹³ thus potentially creating a guarantee to legal capacity. The CRPD demands the recognition of full legal capacity for all persons with disabilities while recognizing that everyone needs some form of support to achieve that capacity.⁹⁴ This underlies all of the CRPD's other provisions.⁹⁵

Though the CRPD recognizes the need for assistance in some areas, the social model of disability underlies the convention. The preamble explicitly recognizes that disability is an evolving concept "result[ing] from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society"⁹⁶ Therefore, the needs of persons with disabilities cannot be addressed solely through aid or assistance.

89. CRPD, *supra* note 12, at arts. 4(1)(a), 4(1)(d).

90. *Id.* at arts. 4(1)(h), 5(3).

91. *Id.* at art. 4(3).

92. *Id.*

93. *Id.* at art. 12. See Amita Dhanda, *Legal Capacity in the Disability Rights Convention: Stranglehold of the Past or Lodestar for the Future?*, 34 SYRACUSE J. INT'L L. & COM. 429, 461 (2007).

94. Sandoval, *supra* note 57, at 1201.

95. See Dhanda, *supra* note 93, at 461 (arguing that reading the CRPD in a way other than one which guarantees full legal capacity to persons with disabilities undermines the meaning of many of these Convention articles).

96. CRPD, *supra* note 12, at pmb. (e).

Instead, the CRPD seeks to change environments and attitudes. It references the need to foster environments that maximize development.⁹⁷ Awareness-raising is a specific CRPD provision, requiring states to adopt measures that help foster attitudes of respect for persons with disabilities.⁹⁸ This indicates that states must actively work to change social attitudes and remove other barriers to the full participation of persons with disabilities. Simply ensuring that there is no explicit discrimination against persons with disabilities is not sufficient.

B. The Interdependency of the CEDAW and the CRPD as Regards Women with Disabilities

Even though there are no well-known international legal instruments solely protecting the rights of women with disabilities,⁹⁹ the intersecting rights guaranteed by the CEDAW and the CRPD work to ensure women's rights in the post-conflict context. They force recognition of the identity of the disabled woman, as each instrument acknowledges her unique situation and opens the door for more effectively tailored solutions. Each also contains guarantees of access and agency.¹⁰⁰ Reading the CEDAW and the CRPD together constructs a stronger right to access, capacity, and agency, meaning a guarantee that the disabled woman will be empowered to act on her own. This can help her to escape common paradigm of "victim in need of help" after the conflict ends.

1. Explicit Intersections

The CEDAW and the CRPD acknowledge women with disabilities by the inclusion of disability in the CEDAW and gender in the CRPD. While the CEDAW does not directly reference disability, Article 21 of the CEDAW empowers the Committee on the Elimination of All Forms of Discrimination Against Women to make recommendations and suggestions based on reports from state parties.¹⁰¹ Several of these recommendations mention women with disabilities. General Recommendation No. 18 recognizes the "double discrimination" women with disabilities face as a result of their social conditions,

97. *See, e.g., id.* at art. 24(3)(c).

98. *Id.* at art. 8(2)(b).

99. *See, e.g.,* RANGITA DE SILVA DE ALWIS, DISABILITY RIGHTS, GENDER, AND DEVELOPMENT: A RESOURCE TOOL FOR ACTION 1–9 (2008), available at <http://www.un.org/disabilities/documents/Publication/UNWCW%20MANUAL.pdf> (naming the eight core treaties for human rights) [hereinafter DE SILVA DE ALWIS, DISABILITY RIGHTS].

100. *See, e.g.,* CRPD, *supra* note 12, at art. 9; CEDAW, *supra* note 12, at arts. 10, 12.

101. CEDAW, *supra* note 12, at art. 21.

and it names them as a vulnerable group of special concern.¹⁰² General Recommendation No. 24 also recognizes the special health concerns of women with both physical and mental disabilities.¹⁰³

Unlike the CEDAW, the CRPD openly addresses women with disabilities. The Preamble recognizes that women and girls with disabilities are often at greater risk, and it emphasizes the need for a gender perspective in all disability programming.¹⁰⁴ The CRPD also states that women with disabilities face “multiple discrimination.”¹⁰⁵ By ratifying the CRPD, states recognize this double discrimination and take measures to address it. Therefore, both the CEDAW and the CRPD recognize women with disabilities, but neither accords them extensive attention.

2. *Recognizing a Compound Stereotype*

As both the CEDAW and the CRPD work to combat stereotypes, this concept provides one of the most obvious opportunities for intersectional analysis. Stereotype can be defined as “a generalized view or preconception of attributes or characteristics possessed by, or the roles that are or should be performed by, members of a particular group.”¹⁰⁶ Using stereotypes tends to produce generalizations and preconceptions that render consideration of individuals’ abilities, needs, and wishes unnecessary.¹⁰⁷ Women with disabilities are especially and uniquely vulnerable to “the imposition of social stereotypes of asexuality and passivity.”¹⁰⁸ For example, society often incorrectly views women with disabilities as barren and incompetent, unable to bear or raise children.¹⁰⁹ Cultural and social norms tend to create and reinforce these stereotypes regarding women, disabled persons, and women with disabilities.

Both the CEDAW and the CRPD address the effects of stereotypes on women and disabled persons.¹¹⁰ The CEDAW states that parties are obligated to combat stereotypes by eliminating “prejudices and customary and all other practices.”¹¹¹ The CEDAW mandates that

102. General Recommendation No. 18: Disabled Women, CEDAW Comm., 10th Sess., U.N. Doc. A/46/38 (Apr. 1, 1991).

103. General Recommendation No. 24: Women and Health, CEDAW Comm., 20th Sess., U.N. Doc. A/54/38 (Feb. 2, 1999).

104. CRPD, *supra* note 12, at pmb. (p)–(s).

105. *Id.* at art. 6(1).

106. REBECCA J. COOK & SIMONE CUSACK, GENDER STEREOTYPING: TRANSNATIONAL LEGAL PERSPECTIVES 9 (2010).

107. *See id.*

108. De Silva de Alwis, *Mining the Intersections*, *supra* note 8, at 296.

109. Sandoval, *supra* note 57, at 1201.

110. *See* CEDAW, *supra* note 12, at art. 5(a); CRPD, *supra* note 12, at art. 8(1).

111. CEDAW, *supra* note 12, at art. 5(a).

the state must modify social and cultural patterns that reinforce the widespread conception of women's inferiority to men.¹¹² Signing and ratifying the CEDAW means that a state commits to eliminating harmful gender stereotypes in law, legal and social structures, and institutions.¹¹³

Article 8 of the CRPD similarly asserts, "State Parties undertake to adopt immediate, effective and appropriate measures . . . [t]o combat stereotypes, prejudices and harmful practices relating to persons with disabilities . . ." ¹¹⁴ Such provisions are strikingly similar to Article 5(a) of the CEDAW.¹¹⁵ The CRPD even suggests that nations employ programs to raise social awareness of persons with disabilities in order to combat stereotypes.¹¹⁶

Examining the CRPD along with the CEDAW demonstrates that when a state obligates itself to eliminating harmful stereotypes and raising awareness, it must also acknowledge the unique stereotypes that collide in the body of the disabled individual. The CEDAW brings to the forefront the fact that damaging stereotypes perpetually work to reinforce the unjustified idea of inferiority and helplessness.¹¹⁷ The CRPD in turn recognizes that gender and disability stereotypes often coincide to create "a compound effect on women with disabilities."¹¹⁸ Article 8 clearly asserts that state parties must combat stereotypes relating to persons with disabilities, including those based on sex.¹¹⁹ The CRPD affirms that existing identity stereotypes intersect and interact to create new stereotypes that compound the disabled woman's double discrimination.¹²⁰

This recognition of multiple stereotypes allows the CRPD to show why women with disabilities are often absent from peace building or transitional justice efforts.¹²¹ It exposes the fact that stereotypes relating to women and disabled persons as separate populations coincide in the body of the disabled woman, making her uniquely invisible when the war ends. She becomes invisible along two lines of her identity: as a woman and as a disabled individual.

112. *See id.*

113. *See id.* at arts. 2, 5(a).

114. CRPD, *supra* note 12, at art. 8(1)(b).

115. *Compare id. with* CEDAW, *supra* note 12, at art. 5(a).

116. CRPD, *supra* note 12, at art. 8(2)(a)(ii). *See* ORTOLEVA, GENERAL DISCUSSION, *supra* note 18, at 21.

117. *See* CEDAW, *supra* note 12, at art. 10(c).

118. ORTOLEVA, GENERAL DISCUSSION, *supra* note 18, at 21.

119. CRPD, *supra* note 12, at art. 8(1)(b).

120. *See id.*

121. *See* Ortoleva, *Women with Disabilities*, *supra* note 20, at 91 (asserting that stereotypes regarding women with disabilities tend to reinforce a sense of powerlessness or rolelessness in the woman). The CRPD combats this conception by creating an explicit guarantee that a disabled woman must be able to know and assert her own rights, roles, and abilities in society. CRPD, *supra* note 12, at art. 6.

3. *The CEDAW as a Foundation*

To remedy the issue of disabled women's invisibility, the CEDAW first establishes an innovative foundation on which the CRPD is able to build. With its conception of an interlocking relationship between rights, the CEDAW began the explicit recognition of the idea of multiple identities across a spectrum of rights.¹²² There is a direct relationship between the rights of women and a myriad of other rights. Similarly, gender is not the defining characteristic of a woman; she has multiple other identities. For example, Article 14 of the CEDAW recognizes the special situation of rural women.¹²³ By implication, this article acknowledges that she identifies as both a woman and as a part of a rural community.¹²⁴

Furthermore, the CEDAW acknowledges an interlocking relationship between civil and political rights in conjunction with economic, social, and cultural rights.¹²⁵ States must modify cultural practices and guarantee rights such as education and employment,¹²⁶ but they still must address civil and political rights issues.¹²⁷ Gender emerges as a cross-cutting concern and demands that a gender analysis be mainstreamed into the implementation of other human rights.¹²⁸

The CRPD further advances the idea of multiple identities across dual spectrums of rights by submitting that disability is only one identity of many by which persons identify and claim rights.¹²⁹ While the CEDAW does not contain references to diversity or any similar word, the CRPD noticeably recognizes the diverse identities of persons with disabilities.¹³⁰ This includes references to gender and age identities.¹³¹

The CRPD develops the CEDAW's espousal of the interdependence of civil and political and economic, social, and cultural rights. The CRPD follows the CEDAW in making a specific, concerted effort to include both kinds of rights within its text. Significantly, the CRPD incorporates this blending of rights into its structure as well

122. See de Silva de Alwis, *Mining the Intersections*, *supra* note 8, at 305. See also Bayefsky, *supra* note 84, at 197–98 (stating that the CEDAW is innovative in its recognition of the interlocking relationship between rights and its emphasis on mainstreaming gender).

123. CEDAW, *supra* note 12, at art. 14.

124. See *id.*

125. See de Silva de Alwis, *Mining the Intersections*, *supra* note 8, at 305.

126. CEDAW, *supra* note 12, at arts. 5, 10, 11.

127. See, e.g., *id.* at art. 8 (stating that state parties must take measures to ensure women may participate in and represent their governments).

128. See Bayefsky, *supra* note 84, at 198.

129. See CRPD, *supra* note 12, at pmb. (i) (recognizing the diversity of disabled persons).

130. See, e.g., *id.*

131. *Id.* at arts. 6, 7.

as specific articles.¹³² More than simply mentioning that both categories of rights should be addressed, the CRPD often structures them as interdependent.¹³³ The CEDAW is unique in that several articles address multiple rights, but the CRPD completely breaks down this division.¹³⁴

These measures permit the CRPD to integrate other identities, such as gender, into all of the convention's interpretations and applications.¹³⁵ Although it is necessary to read disability into the text of the CEDAW, gender is automatically a part of all areas with which the CRPD is concerned.¹³⁶ Accordingly, the post-conflict justice framework cannot recognize women with disabilities only as "women" or a "persons with a disabilities." Instead, they are a part of both identities concurrently, laying claim to rights on this dual identity basis.

Reading the CRPD concurrently with the CEDAW also establishes that rights claimed on the basis of multiple identities place both positive and negative obligations on the signatory state. One of the CEDAW's most revolutionary aspects is its construction of gender rights as both positive and negative rights and obligations.¹³⁷ A state party to the CEDAW agrees to combat gender discrimination by refraining from discriminatory actions, as well as actively working to institute new policies and change old practices.¹³⁸ However, a state must also take positive steps toward achieving gender equality and eliminating discrimination.¹³⁹ A state must adopt legislation to embody new policies, institute affirmative action policies for women, and even actively work to change cultural practices.¹⁴⁰

The CRPD contains this same acknowledgment of positive and negative rights, but it firmly works to transform many negative obligations into positive rights.¹⁴¹ For example, it is typical to view a guarantee of equality before the law as an implicit assertion that a state cannot support policies or laws that effectively make groups unequal before the law. The CRPD creates an obligation on the part of states to take steps to make groups equal.¹⁴² In the context of women with disabilities, this implies that the state must take a

132. See Rosemary Kayess & Phillip French, *Out of Darkness Into Light? Introducing the Convention on the Rights of Persons with Disabilities*, 8 HUM. RTS. L. REV. 1, 32 (2008).

133. See *id.* at 32.

134. See *id.* at 33.

135. See Sandoval, *supra* note 57, at 1200.

136. See *id.*

137. Bayefsky, *supra* note 84, at 197.

138. See *id.*

139. CEDAW, *supra* note 12, at arts. 2(b), 4, 5.

140. *Id.*

141. See Kayess & French, *supra* note 132, at 32.

142. CRPD, *supra* note 12, at art. 13; see Kayess & French, *supra* note 132, at 23.

much more active role in ensuring their equality and access to the justice system. A state needs to work to bring such women into the post-conflict political system.

4. Access and Agency: A Complementary Reading of the CEDAW and the CRPD

Beyond drawing on and expanding these rights innovations first expressed in the CEDAW, the CRPD provides more explicit guarantees of an individual's ability to build their own capacity. This refers not just to legal capacity, but also to a guarantee to a wide-ranging skill set that permits full, autonomous participation across all aspects of life.¹⁴³

The CEDAW, of course, does not ignore such capacity-building.¹⁴⁴ In a very general sense, the CEDAW demonstrates a tendency to draw attention to the state as the main agent of change in regards to women's roles and statuses, and it is the state that primarily protects the individual woman from discrimination.¹⁴⁵ State parties have an obligation "[t]o establish legal protection of the rights of women on an equal basis with men . . ."¹⁴⁶ Governments should take "all appropriate measures . . . guaranteeing . . . [women] the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men."¹⁴⁷ The CEDAW guarantees women equal opportunities and the right to access.¹⁴⁸

The CEDAW's focus on state action, on the one hand, ensures that gender analysis is mainstreamed.¹⁴⁹ Article 15 explicitly guarantees women legal capacity equal to that of men, including the same opportunities to exercise that capacity.¹⁵⁰ Because the state is often obligated to include women in a wide range of legislative and other action, the CEDAW gives women, both with and without disabilities, a powerful advocacy tool.¹⁵¹ A woman or women's rights organization can point to the CEDAW to try and force a state to take action.

143. CRPD, *supra* note 12, at pmb. (v).

144. This is not to say that the CEDAW completely ignores the idea of individual capacity. It is intended to ensure women's equality with men, which necessarily entails some capacity-building exercises, and it contains explicit references to legal capacity. The convention also allows for the implementation of special measures intended to accelerate the development of gender equality. CEDAW, *supra* note 12, at arts. 4, 15.

145. *Id.* at intro. ¶ 4.

146. *Id.* at art. 2(c).

147. *Id.* at art. 3.

148. *See, e.g., id.* at art. 10 (ensuring equal rights in the education field).

149. Bayefsky, *supra* note 84, at 197.

150. CEDAW, *supra* note 12, at art. 15; ORTOLEVA, GENERAL DISCUSSION, *supra* note 18, at 22.

151. Bayefsky, *supra* note 84, at 198.

Because of the CEDAW, women with disabilities can assert a claim to be active participants in post-conflict processes.¹⁵²

On the other hand, a woman who is given “[t]he same opportunities for access” is not necessarily given the assistance, training, or other resources she needs to seek a job, care for herself and her family, or access systems of aid or justice.¹⁵³ Gender affects everything, including social development post-conflict, therefore, the CEDAW’s application in the area of post-conflict peacebuilding ensures that women are active participants in the process.¹⁵⁴ They are vital participants because gender is a cross-cutting issue.

The CRPD augments these guarantees of access, gender mainstreaming, and participation by tacitly creating a guarantee to skills and resources that are key to enabling women with disabilities the capacity to utilize such guarantees. As previously discussed, the CRPD embraces a social model of disability.¹⁵⁵ This view leads to the proposal that governments should work to remove any barriers that impede a disabled woman’s full participation in society.¹⁵⁶ Buildings and transport should be made accessible to her, education provided, medical services made readily available, and the state must work to eliminate prejudice.¹⁵⁷ In this way, the CRPD model augments the CEDAW’s strong guarantees of access by adding a viewpoint specific to disability access.

The CRPD’s model can also be seen from a different viewpoint. First, the CRPD contains an article imposing on state parties the obligation to institute awareness-raising measures.¹⁵⁸ This goes beyond simply eliminating stereotypes and prejudice. State parties must instead institute public awareness programs to recognize the skills of persons with disabilities, promote positive perceptions of persons with disabilities, and foster an attitude of respect.¹⁵⁹ It is not just eliminating negative portrayals; the state actively institutes positive representations of persons with disabilities.¹⁶⁰

Second, the CRPD has a marked tendency to place more autonomy in the hands of an individual with a disability.¹⁶¹ The social model and the CRPD largely reject the medical and charity conceptions of

152. Ortoleva, *Right Now!*, *supra* note 11, at 4.

153. CEDAW, *supra* note 12, at art. 10(e).

154. Ortoleva, *Right Now!*, *supra* note 11, at 4.

155. *See* discussion *supra* Part III.A.2.

156. *See* Stein & Stein, *supra* note 66, at 1206.

157. *The Four Models*, *supra* note 67.

158. CRPD, *supra* note 12, at art. 8.

159. *Id.* at art. 8(2).

160. *Id.* at art. 8(2)(a)(ii).

161. *See id.* at arts. 19–21 (affirming the right to independent living and community involvement, personal mobility, and freedom of expression and opinion).

disability, which see persons with disabilities as objects to be treated or aided.¹⁶² In contrast, the CRPD embraces the autonomy of disabled individuals. The implicit goal is achieving an individual's own agency, though assistance to develop that potential may be necessary.¹⁶³ A common part of an individual's conception of personal autonomy includes the right to act for oneself to the highest extent possible.¹⁶⁴ If a woman with a disability is similarly guaranteed such autonomy, it stands to reason that she must also have the right to be able to act on her own behalf.

Such autonomy and capacity must also be sustained over time. This is accomplished partially by eliminating prejudicial laws and practices, and it also entails ensuring a person with a disability achieves sustained participation in the decision-making process. The CRPD repeatedly works to build individual capacity, not simply to open up a space in which the disabled woman may act.¹⁶⁵ It also explicitly endorses "the freedom to make one's own choices, and independence of persons."¹⁶⁶ The CRPD obligates that persons with disabilities are able to act on their own behalf, creating an implicit guarantee regarding the provision and development of skills and resources that would permit this.¹⁶⁷ When conflict ends, states and other organizations can draw on this obligation to ensure that programs move beyond aiding women with disabilities in accessing justice and developmental aid. Instead, these programs should also provide skills training, education, and similar capacity-oriented activities.

IV. THE CEDAW AND THE CRPD APPLICATION IN ACCESSING POST-CONFLICT JUSTICE

Post-conflict justice is typically conceptualized as redressing wartime rights violations, bringing perpetrators to justice, or otherwise addressing rights violations through a judicial or quasi-judicial process.¹⁶⁸ Transitional justice also refers to developmental justice,

162. See *id.* at art. 8; *The Four Models*, *supra* note 67.

163. See Stein & Stein, *supra* note 66, at 1216.

164. See *Personal Autonomy*, STANFORD ENCYCLOPEDIA OF PHILOSOPHY (Sept. 12, 2008), <http://plato.stanford.edu/entries/personal-autonomy/> (last visited Nov. 6, 2012) ("To be autonomous is to be a law to oneself; autonomous agents are self-governing agents.").

165. Compare CEDAW, *supra* note 12, at art. 15, with CRPD, *supra* note 12, at art. 12.

166. CRPD, *supra* note 12, at art. 3(a).

167. See, e.g., *id.* at art. 8(2)(a)(iii).

168. For a discussion of the perpetrator and violation-oriented approach to transitional justice, see Miriam J. Aukerman, *Extraordinary Evil, Ordinary Crime: A Framework for Understanding Transitional Justice*, 15 HARV. HUM. RTS. J. 39 (2002); see also Ortoleva, *Women with Disabilities*, *supra* note 20, at 100 (discussing women with disabilities' difficulty approaching law enforcement personnel and other judicial organizations after the conflict).

such as social services and infrastructural rehabilitation.¹⁶⁹ Without this type of developmental justice, participation in criminal or other judicial proceedings is often very difficult.¹⁷⁰ This part will therefore treat both traditional judicially oriented justice and developmental justice as interdependent aspects of post-conflict justice.

A. Addressing the Current Paradigm of Invisibility and Victimhood of Women with Disabilities Post-Conflict

1. Acknowledging Existence: The Requirement of Recognition

Overwhelmingly, the largest obstacle women with disabilities face post-conflict is invisibility.¹⁷¹ State justice processes or aid programs disregard them or do not address their needs.¹⁷² In many societies this attitude arises at a time when conflict has deprived these women of their family and community support structure.¹⁷³ Without this support, there are few actors left to advocate for the women, and in most post-war nations the disabled woman lacks the resources that would allow her to act as her own advocate.¹⁷⁴ Because of this, it is first necessary that in any post-conflict program, countries or other actors recognize the existence of women with disabilities and their unique needs.

The CEDAW and the CRPD's treatment of stereotypes helps to draw the necessary attention to women with disabilities as a separate category that must also be included in post-conflict programs. The CEDAW acknowledges that women are identified by more than just gender, and the CRPD explicitly recognizes that intersecting identities, such as women and children with disabilities, exist as an identity of particular concern.¹⁷⁵ The conventions create an implicit requirement to look for such intersections in post-war society, as each acknowledge various intersecting identities' importance.

169. See discussion *supra* Part I.B.

170. CHRISTINE CHINKIN, THE PROTECTION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS POST-CONFLICT 4 (2009), available at http://www2.ohchr.org/english/issues/women/docs/Paper_Protection_ESCR.pdf.

171. See, e.g., HUMAN RIGHTS WATCH, *supra* note 1, at 9 (discussing problems of abandonment and women's inability to report rape due to a lack of communication mechanisms).

172. Mobility International USA, *supra* note 61.

173. HUMAN RIGHTS WATCH, *supra* note 1, at 6. Alternately, it is the family and community itself that tends to hide the disabled woman. DE SILVA DE ALWIS, DISABILITY RIGHTS, *supra* note 99, at 2–32 (“[D]isabled daughters are merely a drain on already stretched resources It is quite usual for a disabled woman to be hidden by her family.”) (internal citation omitted).

174. See Cahn, *supra* note 24, at 344.

175. See CEDAW, *supra* note 12, at art. 14; CRPD, *supra* note 12, at arts. 6, 7.

If a state ratifies both conventions, a responsibility rests with the government to realize the need to seek out and address the needs of women with disabilities as the conflict ends.¹⁷⁶ It cannot only address gender or disability issues. Instead of repeatedly ignoring women with disabilities' complaints, local councilors would have to take special notice of them.¹⁷⁷ States ratifying both the CEDAW and the CRPD are committed to take action in the social arena, rather than simply identifying and acknowledging women with disabilities as a distinct group.

2. Prejudice and Stigma: Addressing the Social Environment

Because women with disabilities are often further isolated and handicapped by social processes and attitudes, gaining access to post-conflict justice requires more than simple acknowledgment.¹⁷⁸ It is often extraordinarily difficult for her to access tribunals, courts, or other systems intended to address wartime rights violations.¹⁷⁹ Conflict stresses the infrastructure and often creates a dearth of reporting mechanisms or other quasi-judicial proceedings.¹⁸⁰ Long distances to travel and a lack of ramps or other accessibility devices prevent physical access.¹⁸¹ Additionally, many women with disabilities may be illiterate and communicate mainly through signs only their family and friends understand.¹⁸² War can deprive them of their main source of communication, or the conflict may turn these friends and family into perpetrators of rights violations, creating a further barrier.¹⁸³

These women also lack access to medical care, employment, food, and other necessities, making it even more challenging for them to access justice once the fighting ends.¹⁸⁴ Without obtaining these basic resources, participation in criminal, judicial, or other quasi-judicial proceedings often becomes "a luxury that they cannot afford."¹⁸⁵

176. CEDAW, *supra* note 12, at art. 2; CRPD, *supra* note 12, at art. 4.

177. *But see* HUMAN RIGHTS WATCH, *supra* note 1, at 26–27 (citing Interview with protection officer of humanitarian aid NGO, Kitgum, Uganda (May 19, 2010)) (stating that local councilors simply ignored the needs of women with disabilities or were otherwise unwilling to help them).

178. Cahn, *supra* note 24, at 345.

179. Ortoleva, *Right Now!*, *supra* note 11, at 14–15 (noting that women often lack the ability to participate in reintegration programs).

180. *See* DISABILITY AND CONFLICT REPORT, *supra* note 9, at 20. *See, e.g.*, HUMAN RIGHTS WATCH, *supra* note 1, at 36 (detailing the low number of police, judges, and magistrates in Uganda).

181. HUMAN RIGHTS WATCH, *supra* note 1, at 36.

182. *Id.*

183. *Id.*

184. *See* Ortoleva, *Right Now!*, *supra* note 11, at 13.

185. CHINKIN, *supra* note 170, at 4.

Even acting independently, the CEDAW and the CRPD appear to guarantee that this lack of access should not exist.¹⁸⁶ The CRPD specifically ensures access to justice on an equal basis with others, as well as physical access,¹⁸⁷ and the CEDAW Committee works to protect women from violence and ensure equal treatment in the realms of health and family.¹⁸⁸ Taken together, the conventions appear to provide complimentary guarantees to the capacity to access justice, as the CEDAW emphasizes access and the CRPD ensures individual capacity.¹⁸⁹ They implicitly mandate programs encouraging physical access, such as sign language training programs or provision of mobility devices.

Despite such guarantees of access, social prejudice and attitudes regarding women with disabilities continue to present an obstacle to the women's interaction with post-conflict justice and development. The disabled woman may be hidden at home due to cultural beliefs or practices,¹⁹⁰ suffer from social discrimination,¹⁹¹ or face other stigma related to the abuse and violation of her rights.¹⁹² Beyond social marginalization and invisibility, these patterns prevent women with disabilities from realizing their rights even exist.¹⁹³ They often fail to ask aid organizations for items necessary to accommodate their disability, instead requesting only those things that are widely available to all.¹⁹⁴ As a result, they often lack any knowledge of the services available or those items or services to which they are entitled.¹⁹⁵ If disabled women do not realize that they have rights to education, accessible information, or full participation in the community, they will likely experience greater difficulties developing the individual capacity that helps ensure sustained access to post-conflict justice and development resources.

186. See CEDAW, *supra* note 12, at art. 15(2); CRPD, *supra* note 12, at art. 12(3)–(4).

187. CRPD, *supra* note 12, at arts. 9, 13.

188. Rashida Manjoo & Calleigh McRaith, *Gender-Based Violence and Justice in Conflict and Post-Conflict Areas*, 44 CORNELL INT'L L.J. 11, 19–20 (2011); see, e.g., CEDAW, *supra* note 12, at arts. 12, 16.

189. See discussion *supra* Part III.B.2–3.

190. DE SILVA DE ALWIS, *DISABILITY RIGHTS*, *supra* note 99, at 2–32 (“It is quite usual for a disabled woman to be hidden by her family.”).

191. HUMAN RIGHTS WATCH, *supra* note 1, at 24 (“An overwhelming majority of women with disabilities told Human Rights Watch that they face frequent abuse from strangers, neighbors, and even family members. As a result, they are denied even basic rights such as food, clothing and shelter.”).

192. Manjoo & McRaith, *supra* note 188, at 17.

193. HUMAN RIGHTS WATCH, *supra* note 1, at 24.

194. *Id.* at 51 (citing Interview with humanitarian aid NGO, in Gulu, Uganda (Apr. 13, 2010)).

195. *Id.*

The CEDAW and the CRPD directly address this issue. Both assert that there is an obligation to combat prejudicial attitudes.¹⁹⁶ The state or other organizations, such as aid groups or NGOs, should work in the post-conflict environment to combat these attitudinal obstacles. In the post-conflict environment this could mean things such as incorporating educational training units on women with disabilities into legal training programs, or providing information, employment, training, or other productive outlets for women with disabilities.¹⁹⁷

Reading the CRPD in conjunction with the CEDAW reveals a responsibility beyond this elimination of prejudice. The CEDAW contains no references to awareness-raising, but the CRPD stresses actively promoting the abilities of individuals with disabilities.¹⁹⁸ States must combat prejudicial attitudes that prevent women's access to justice, but they also have to actively promote a disabled woman's own capacity to act.¹⁹⁹ Therefore, an awareness-raising campaign regarding the rights of women with disabilities would also need to specifically address the right to act for themselves. If a disabled woman is going to be able to act for herself and speak with her own voice, she needs the training, education, and other capacity-building resources that would permit her to do so.²⁰⁰ To secure such crucial training, post-conflict developmental resources therefore need to be specifically devoted to this aspect.

For example, the reintegration arm of disarmament, demobilization, and reintegration (DDR) programs could incorporate awareness-raising into reintegration programs instituted directly after the conflict ends. Though reintegration focuses on the process of adapting ex-combatants and their families to civilian life, it also entails broader undertakings such as assistance to internally displaced persons, community development, and enhancement of local capacity.²⁰¹ As the United Nations already highlights gender mainstreaming in like programs focused on social stigma,²⁰² this can also

196. CEDAW, *supra* note 12, at art. 5; CRPD, *supra* note 12, at art. 8.

197. *See, e.g., Afghanistan*, GLOBAL RIGHTS (Apr. 2011), available at http://www.globalrights.org/site/DocServer/04-2011_Afghanistan_Fact_Sheet_English.pdf?docID=12683 (highlighting the organization's women's legal services program).

198. CRPD, *supra* note 12, at pmb. (m).

199. *See* HUMAN RIGHTS WATCH, *supra* note 1, at 17, 68 (describing recommendations for the Ugandan government's treatment of disabled women).

200. *See id.* at 51 (discussing that women with disabilities in Uganda often did not know they could request items specific to their disability).

201. U.N. Secretary-General, *Report of the Secretary-General, The Role of the United Nations Peacekeeping in Disarmament, Demobilization and Reintegration: Rep. of the Secretary-General*, ¶ 6, U.N. Doc. S/2000/101 (Feb. 11, 2000).

202. *See, e.g., S.C. Res. 1325*, ¶ 13, U.N. Doc. S/RES/1325 (Oct. 31, 2000).

represent a method to incorporate women with disabilities. Gender incorporation is usually accomplished by either appointing advisors to focus on the unique need of a specific at-risk group, such as women, or thorough personnel training in how to fulfill international gender rights obligations.²⁰³ Addressing women with disabilities would then require, for example, an office focused on gender and disability, training in the intersection of gender and disabilities in international law, or local programs that emphasize the abilities of women with disabilities and their potential contributions in the post-conflict context. In post-conflict Uganda, this could mandate that a program focused on acclimating former Lord's Resistance Army soldiers include a unit on gender and disability in the already existent reintegration education.

3. *Ensuring Continued Access: Building Individual Capacity*

These guarantees in the CEDAW and the CRPD all seem to ensure recognition and social access for the disabled woman after the conflict. In reality, they often become a moot point.²⁰⁴ Stressed by the conflict, states allocate resources elsewhere, despite what seem to be binding guarantees in the CEDAW and the CRPD.²⁰⁵ The problem of continuing access to justice and development resources after the conflict remains, especially because such processes normally take years.²⁰⁶ This delay emphasizes the importance of drawing on the dual guarantees of access and agency encouraged by an interdependent reading of the CEDAW and the CRPD.

At the most basic level, a concurrent reading of the CEDAW and the CRPD accentuates that gender and disability should be a dominant part of long-term post-conflict development programming. The conventions acknowledge that gender and disability affect all aspects of life, so development agendas or programs intended to facilitate justice processes should have both a gender and a disability perspective. Many organizations include either a gender or a disability aspect in their programming.²⁰⁷ A World Bank program illustrates this point. The program, intended to assist in judicial reform, included a legal aid program meant to educate poor women about how

203. U.N. Secretary-General, *supra* note 201, ¶ 24.

204. See ORTOLEVA, GENERAL DISCUSSION, *supra* note 18, at 10.

205. See Ortoleva, *Right Now!*, *supra* note 11, at 12 (noting that disabled women have difficulty obtaining health care, housing, and services post-conflict).

206. See ORTOLEVA, GENERAL DISCUSSION, *supra* note 18, at 36.

207. See WORLD DISASTERS REPORT, *supra* note 10, at 91, 113.

to utilize the legal system.²⁰⁸ Women using this program were more likely to experience an increased sense of self-worth and continue to access the justice system independently without the program's aid.²⁰⁹

It is rarer to find states or aid organizations that include the viewpoint of gendered disability in their postwar programming.²¹⁰ Viewing the CEDAW and the CRPD as naturally linked helps to make a gendered perspective on disability more common. States ratifying the CRPD, or organizations professing support, would automatically commit themselves to empowering women with disabilities, and the CEDAW provides specific areas in which disabled women need such advancement and empowerment.²¹¹ Accordingly, states or organizations must then look to such areas in order to begin implementing a more gendered perspective on disability concerns.²¹² For example, women with disabilities are more likely to suffer sexual violence during the conflict,²¹³ so clinics may provide free health and health education services to them. Alternatively, legal aid services may receive specialized training that relates to how to both aid and empower women with disabilities who access such services.²¹⁴ This would entail not just filing a claim for a woman with a disability, but explaining the process and providing her with the knowledge necessary to continue to utilize any post-conflict justice systems. This lends the justice system greater sensitivity to the needs of women with disabilities asserting claims after the conflict.

Viewing the two conventions as complimentary accentuates a renewed emphasis on building the individual capacity of the disabled woman post-conflict. The CEDAW includes both negative and positive guarantees of rights.²¹⁵ In the post-conflict paradigm, the CEDAW's provisions still obligate the state or other actors to both refrain from discriminatory action and to work to change prejudicial policies. This includes instituting programs to prevent gender-based

208. Cahn, *supra* note 24, at 370 (citing THE WORLD BANK, IMPACT OF LEGAL AID: ECUADOR (2003), available at http://www-wds.worldbank.org/servlet/WDSContentServer/WDS/IB/2003/10/08/000012009_20031008144152/Rendered/PDF/269150English01of0Legal0Aid0scode09.pdf).

209. *Id.* at 370–71.

210. See Mobility International USA, *supra* note 61.

211. See e.g., CEDAW, *supra* note 12, at arts. 10, 12.

212. See de Silva de Alwis, *Mining the Intersections*, *supra* note 8, at 309–10.

213. HUMAN RIGHTS WATCH, *supra* note 1, at 7.

214. Cambodia, a post-conflict nation that has not yet ratified the CRPD, received many recommendations advocating for the establishment of free clinics to disabled women experiencing abuse as well as legal aid programs tailored to the abuse women with disabilities face. These came especially in light of Cambodia's draft disability bill that favored welfare and aid rather than an approach that worked to empower disabled individuals. DE SILVA DE ALWIS, *THE INTERSECTIONS*, *supra* note 60, at 14.

215. See Bayefsky, *supra* note 84, at 197.

violence, because such violence constitutes a form of discrimination interfering with equal rights, such as access to justice.²¹⁶ In addition, such a program would ensure that a woman could access the existing justice system in order to bring complaints for rights violations.

The CRPD, in turn, further adds to such a program. Because the CRPD creates obligations to actively make groups equal, this implies a requirement to bring victims of gender violence into the justice system. Gaining any kind of access to courts after the conflict ends is often a long process, both because of a war's tendency to break down infrastructures and because of cultural prejudice.²¹⁷ Because obtaining justice is such a long process, simply aiding a disabled woman in filing a complaint or accessing the post-conflict justice system on one occasion is unlikely to be sufficient. An ability to utilize the justice system in the long term would instead entail programs focused on developing individual capacity.²¹⁸

This need for long-term access implies two obligations. First, there must be developmental programs that ensure women with disabilities can provide for their fundamental needs. Second, there is a need to increase a disabled woman's understanding of the court system and her own rights within it, as well as any cultural barriers she would face. This, in turn, highlights the CRPD's emphasis on an individual's own agency. It stresses that the woman must do such things for herself, not just receive aid in reaching the tribunal or prosecuting the perpetrator.

The original program to prevent gender-based violence after the conflict assumes a new aspect. It now should include education and awareness aspects that empower the woman to advocate for herself, while at the same time educating the community about her rights and ability to do so. Further, there is an implicit need for more development-oriented aspects, such as teaching a profession or simply the necessary skills of everyday life. While the CEDAW equalizes the opportunity for access and supplies mechanisms of aid, the CRPD notes that this action demands that more attempts be made to help a woman be her own advocate.²¹⁹

216. *E.g.*, HUMAN RIGHTS WATCH, *supra* note 1, at 9; *see* General Recommendation No. 19, CEDAW Comm., 11th Sess., U.N. Doc. A/47/38 (1992); Manjoo & McRaith, *supra* note 188, at 19.

217. *See* Manjoo & McRaith, *supra* note 188, at 17 (explaining that women remain exceptionally vulnerable to sexual violence during and after conflict, and explaining the marriage-related stigmas related to gender-based violence).

218. *See, e.g.*, Chinkin, *supra* note 170, at 4.

219. *See, e.g.*, CRPD, *supra* note 12, at art. 4(3) (emphasizing the need to actively include and consult with persons with disabilities in developing and implementing legislation and policies).

Building on this paradigm, a disabled woman's access to justice in the form of judicial institutions or ad hoc tribunals will require more than just a development of her legal capacity. Ensuring her capability to act as her own agent and realize her rights are two important elements to add to the standard. The CEDAW creates an obligation of equal access to legal forums, education opportunities, and other similar resources that can help to build such capacity.²²⁰ The CRPD then dictates that such access consequently entails strengthening disabled women's abilities to successfully act for themselves and utilize such forums long after the conflict ends.²²¹ In the post-conflict setting, this means informing women with disabilities about programs targeted at them; including women with disabilities in community decision-making; and providing education, training, and resources that allow them to become their own advocates as the conflict recedes further into the past and aid programs end.²²²

B. The CEDAW and the CRPD as Advocacy Tools

The previous section addressed several specific aspects of post-conflict justice that need attention and suggested programs to introduce regarding women with disabilities. The ability to implement such programs inevitably depends on both the availability of resources, as well as the visibility of an affected group.²²³ Additionally, many nations have either not ratified the CEDAW and the CRPD, or ratified them with such substantial reservations as to render them significantly less powerful.²²⁴ These circumstances hold the possibility of making it extremely challenging to institute development programs targeted at women with disabilities. The reality of these difficulties demonstrates the need to briefly address the potential of the conventions as advocacy tools.

Various national-level groups employed the principles of the CEDAW and the CRPD to lobby for changes within national governments, though these efforts generally did not occur within the post-conflict context.²²⁵ The CEDAW is a powerful advocacy tool for women's groups in many nations, and the Ugandan constitution's

220. CEDAW, *supra* note 12, at arts. 10, 15.

221. *See* CRPD, *supra* note 12, at art. 3.

222. *See also* ORTOLEVA, GENERAL DISCUSSION, *supra* note 18, at 185 (noting the importance of ensuring that disabled women are integrated into all development activities).
223. Cahn, *supra* note 24, at 345–46 (discussing donor coordination).

224. *Status of Convention on Elimination of All Forms of Discrimination Against Women*, *supra* note 15 (listing all reservations made to CEDAW); *Status on the Convention on the Rights of Persons with Disabilities*, *supra* note 17 (listing all reservations made to the CRPD).

225. De Silva de Alwis, *Mining the Intersections*, *supra* note 8, at 310.

guarantees of women's political participation are the result of NGO lobbying efforts galvanized by the CEDAW's provisions.²²⁶ Advocacy activities centered around the CEDAW helped stimulate transformation in nations such as Zimbabwe, Croatia, Mauritius, Bangladesh, and the Philippines.²²⁷ The CRPD similarly helps to accelerate and expand the transmission of new conceptions of rights to the local level.²²⁸ Even in nations that have not ratified the CRPD, disabled persons organizations often advocate based on rights contained within it.²²⁹ Various European organizations have even suggested contemporaneously applying both treaties in their advocacy efforts.²³⁰

The CRPD expands transnational spaces, expediting the exchange of ideas between the local and the global.²³¹ Because the CEDAW and the CRPD should be seen as complementary, interdependent treaties addressing women with disabilities, both can be drawn on more explicitly in these transnational connections. This offers the opportunity for normative connections between both disability and gender advocacy groups.²³² In the post-conflict context, this potentially gives international advocacy groups principles around which to mobilize, and concrete ideas that empower local organizations after the war. Frequently, these local groups often already exist, even in the post-conflict context.²³³

Analyzing the CEDAW and the CRPD in a manner that guarantees women with disabilities both access to post-conflict justice and

226. UNITED NATIONS DEV. FUND FOR WOMEN, BRINGING EQUALITY HOME: IMPLEMENTING THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN 13–14 (Ilana Landsburg-Lewis ed., 1998) available at http://www.unifem.org/attachments/products/BringingEqualityHome_eng.pdf [hereinafter UNITED NATIONS DEV. FUND] (stating that NGOs successfully argued for the establishment of electoral gender quotas based on the CEDAW provisions).

227. Bayefsky, *supra* note 84, at 198 (citing UNITED NATIONS DEV. FUND, *supra* note 226, at 35–37); Afra Afsharipour, Note, *Empowering Ourselves: The Role of Women's NGOs in the Enforcement of The Women's Convention*, 99 COLUM. L. REV. 129, 156, 172 (1999).

228. De Silva de Alwis, *Mining the Intersections*, *supra* note 8, at 309.

229. See *The Disabled Are Left to Fend for Themselves in the Democratic Republic of Congo*, NEWSTIME AFRICA (Mar. 11, 2012), <http://www.newstimeafrica.com/archives/24592> [hereinafter *Disabled Are Left to Fend for Themselves*] (stating that the coordinator of the Democratic Republic of Congo disabled person's organization FENAPHACO laments the fact that the nation has yet to ratify the CRPD despite the fact that several programs seem to be based on rights contained within it).

230. See EUROPEAN CONFERENCE, RECOGNISING THE RIGHTS OF GIRLS AND WOMEN WITH DISABILITIES: AN ADDED VALUE FOR TOMORROW'S SOCIETY 45 (2007).

231. De Silva de Alwis, *Mining the Intersections*, *supra* note 8, at 309.

232. See *id.*

233. See NETWORK OF AFRICAN WOMEN WITH DISABILITIES, DIRECTORY OF NETWORKS AND ORGANIZATIONS OF AND FOR WOMEN WITH DISABILITIES IN AFRICA (Nov. 2009), available at http://diwa.ws/index.php?option=com_phocadownload&view=category&id=1&Itemid=65 (providing a list of the existing local advocacy organizations of disabled women, including those in post-conflict nations such as the Democratic Republic of Congo and Uganda).

development, as well as the training and capacity building that permits sustained engagement with the governing system, lends such groups a focal point around which to mobilize. International norms help to form and shape social movements, so viewing the CEDAW and the CRPD as containing intersecting and overlapping norms creates a point of common mobilization for a wide range of gender and disability groups and advocates.²³⁴ This, in turn, affects change from both within the post-conflict country and from an international perspective.²³⁵ Such advocacy is especially effective in light of the growing number of countries using international norms in interpreting their own national law.²³⁶

Forms of this idea of advocacy already exist in the Democratic Republic of Congo (DRC).²³⁷ The ongoing violence in the DRC has been characterized as the “world’s most lethal conflict since World War II,”²³⁸ and it has produced a large number of women with disabilities.²³⁹ Though most programs focused on disability do not solely target women with disabilities, they often assist these women in providing for themselves and their families.²⁴⁰ Advocacy efforts centered on rights in the CRPD have helped to gain government funding for such programs.²⁴¹ It is possible, however, to utilize both the CRPD and the CEDAW in this context. By utilizing the rights of both these conventions concurrently, groups may use them to increase the visibility of women with disabilities. This builds on the existing focus on developing individual capacity through skills training programs, while ensuring an equality of gender access to such programs already meant to serve persons with disabilities. In this way, the CEDAW and the CRPD have the potential to serve as key conventions conveying interlocking rights—even in nations that have not ratified them.

234. De Silva de Alwis, *Mining the Intersections*, *supra* note 8, at 309.

235. MARGARET E. KECK & KATHRYN SIKKINK, *ACTIVISTS BEYOND BORDERS: ADVOCACY NETWORKS IN INTERNATIONAL POLITICS 1* (Cornell Univ. Press, 1998).

236. De Silva de Alwis, *Mining the Intersections*, *supra* note 8, at 309.

237. *Disabled Are Left to Fend for Themselves*, *supra* note 229 (identifying the National Federation of Associations of People Living with a Disability in Congo and the League for the Defense of the Rights of Children and Students as advocacy groups for people with disabilities).

238. Simon Robinson & Vivienne Walt, *The Deadliest War in the World*, *TIME*, May 28, 2006, <http://www.time.com/time/magazine/article/0,9171,1198921,00.html>.

239. NATACHA DAVID, *WOMEN WITH DISABILITIES—DUAL DISCRIMINATION 19*, available at <http://ilo-mirror.library.cornell.edu/public/english/dialogue/actrav/publ/137/3.pdf>.

240. *Disabled Are Left to Fend for Themselves*, *supra* note 229 (quoting a disabled woman who utilized the National Training Institute for People with Disabilities to learn to bake the bread she sells to provide for her family).

241. *See id.*

CONCLUSION

As conflicts continue in many nations around the globe, it seems inevitable that women with disabilities will continue to feel the effects of such violence. Simply living in a nation experiencing violent conflict makes it difficult for anyone to avoid its consequences.²⁴² However, viewing the CEDAW and the CRPD as interdependent instruments ensures that the disabled woman's post-conflict invisibility, victimhood, and exclusion are not inevitable. These conventions convey not only her right to access necessary aid and assistance, but also the right to skills training, education, and other capacity-building resources.²⁴³ She is guaranteed the recognition and development of her own innate ability to act for herself to the farthest extent possible.²⁴⁴ In essence, a woman with a disability has the right to meaningfully participate in post-conflict society, to access the post-conflict system, and to exercise her own autonomy within it.

What remains to be seen is whether the guarantees contained within the CEDAW, the CRPD, and other international instruments will be respected in war-torn nations. The CEDAW and the CRPD create these guarantees of access and agency, but the problem of enforcing such rights remains.²⁴⁵ Although the conventions hold much potential for women with disabilities after conflict, only the efforts of international organizations, states, advocacy groups, and individuals around the world can lead to a true realization of the promises of the CEDAW and the CRPD.

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242. See ANKE HOFFLER, DEALING WITH THE CONSEQUENCES OF VIOLENT CONFLICTS IN AFRICA: BACKGROUND PAPER FOR THE AFRICAN DEVELOPMENT BANK REPORT 3 (2008), available at users.ox.ac.uk/~ball0144/consequences.pdf.

243. CRPD, *supra* note 12, at arts. 6, 9, 19–20, 24–28; CEDAW, *supra* note 12, at art. 10.

244. CRPD, *supra* note 12, at art. 16(4).

245. See de Silva de Alwis, *Mining the Intersections*, *supra* note 8, at 293–94 (noting the discriminatory enforcement of laws faced by disabled women in Asia).

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