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“Gender Mainstreaming in Municipalities: Sharing of the Nordic Experience”

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**The human rights' approach addressing
discrimination based on the intersection of
gender and disability**

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Objective and structure of my presentation

To argue about the intersectionality as a concept and tool for policy makers for implementing the human rights approach in public and political life

- **Fundamentals of human rights**
- **Equality, non-discrimination and participation**
- **Promotion of the political and civil participation of women, persons with disabilities and other representatives of civil society**

FUNDAMENTALS OF HUMAN RIGHTS & INTERNATIONAL HUMAN RIGHTS LAW

Universal Declaration of Human rights

- Article 1. All human beings are born free and equal in dignity and rights.
- Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination

Civil, Political, Social, Economic and Cultural Rights

The UN Conventions as human rights standards and obligations for States parties

DEFINITION OF DISCRIMINATION

Article 1 of CEDAW

the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field

Article 2 of the CRPD

"Discrimination on the basis of disability" means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;

DEFINITION OF INTERSECTIONAL DISCRIMINATION

Intersectional discrimination as the consequence of two or more combined grounds of discrimination. The concept also addresses the manner in which these combined factors contribute to creating layers of inequality (The UN Human Rights Office)

It occurs when somebody is discriminated against on several grounds at the same time and in such a way that these are inseparable; for instance forced sterilisation of Roma women is a case of intersectional discrimination on the basis of gender, ethnicity and poverty (EU Parliament Study)

The intersection on other grounds such as disability types, sexual orientation and gender identity, age, race, socio-economic status etc

Intersectionality is not addressed neither in equality laws nor policies and strategies

INTERSECTIONAL DISCRIMINATION ON THE GROUNDS OF GENDER AND DISABILITY

- Disabled people are more frequent users of healthcare services, as some forms of impairment require regular medical monitoring. Women with disabilities are more vulnerable to receive services of lower quality, particularly those with intellectual and/or psychosocial disabilities.
- Reproductive rights are often not granted to disabled women, while practices such as forced sterilization, or forced abortion are imposed on them.
- Women with disabilities are at a high risk of violence, Barriers to seeking help in situation of abuse include increased dependence (physical, emotional, financial) on the perpetrator, lack of information and difficulties in accessing relevant services, fear of institutionalization, comprehension and reactions by police or other professionals

Discrimination, Generated by the Intersection of Gender and Disability. The Study by the European Parliament, Directorate-General for Internal Policies, Policy Department Citizens' Rights and Constitutional Affairs, 2013

INTERSECTIONAL DISCRIMINATION ON THE GROUNDS OF GENDER AND DISABILITY

Disabled women are at the intersection of various forms of discrimination on the grounds of gender and disability. <...>

Are not consulted in the decision-making about matters relating to or affecting their lives, with decisions continuing to be made on their behalf

Invisibility of women with disabilities at all levels

An intersectionality approach is seen as the most appropriate tool to analyse the complexity of this phenomenon and inform future policies and legislation, which will ensure participation and realisation of disabled women's full potential.

Discrimination, Generated by the Intersection of Gender and Disability. The Study by the European Parliament, Directorate-General for Internal Policies, Policy Department Citizens' Rights and Constitutional Affairs, 2013

INTERSECTIONAL DISCRIMINATION ON THE GROUNDS OF GENDER AND DISABILITY

Intersectional discrimination against women with disabilities, on account of their gender, disability and other factors which are not sufficiently addressed in legislation and policies; the right to life, equal recognition before the law, the persistence of violence against women and girls with disabilities, including sexual violence and abuse, forced sterilization, female genital mutilation, sexual and economic exploitation; institutionalization, the lack of or insufficient participation of women with disabilities in decision-making processes in public and political life; the lack of inclusion of a gender perspective in disability policies, the lack of a disability rights perspective in gender policies; and the lack of or insufficient specific measures to promote the education and employment of women with disabilities

The General Comment No 3, by the Committee on the Rights of person with disabilities)

INTERSECTIONAL DISCRIMINATION ON THE GROUNDS OF GENDER AND DISABILITY

Direct discrimination when women with disabilities are treated less favourably than another person in a similar situation; the choices of women with disabilities, especially women with psychosocial or intellectual disabilities are often ignored. Forced contraception and sterilization, especially for women with psychosocial or intellectual disabilities and those in institutions

Indirect discrimination means that law, policies or practices appear neutral at face value, but have a disproportionate negative impact on women with disabilities. For example, healthcare facilities may appear neutral, but do not include accessible examination beds for gynaecological screening;

Discrimination by association applies where discrimination can occur based on association with a person with a disability (mother of a child with a disability may be discriminated against by a potential employer).

Denial of reasonable accommodation is discrimination if necessary and appropriate modification and adjustments are denied (denied reasonable accommodation if she cannot undergo a mammogram at a health centre due to the physical inaccessibility of the built environment). denied access to information and communication, including comprehensive sexuality education, sexual and reproductive health

Structural or systemic discrimination are hidden or overt patterns of discriminatory institutional behaviour, discriminatory cultural traditions, social norms and/or rules that maintains a woman in a subordinate position, considered as being asexual, incapable, irrational, lacking control and/or hypersexual,

INTERSECTIONAL DISCRIMINATION ON THE GROUNDS OF GENDER AND DISABILITY

Intersectional discrimination recognizes that individuals do not experience discrimination as members of a homogenous group but rather, as individuals with multidimensional layers of identities, statuses and life circumstances. It means acknowledging the lived realities and experiences of heightened disadvantage of individuals caused by multiple and intersecting forms of discrimination, which requires targeted measures with respect to disaggregated data collection, consultation, policymaking, enforceability of non-discrimination and provision of effective remedies.

EQUALITY AND NON-DISCRIMINATION ARE AT THE HEART OF HUMAN RIGHTS

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

Article 4

Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

EQUALITY AND NON-DISCRIMINATION AT THE HEART OF HUMAN RIGHTS

The Convention on the Rights of Persons with Disabilities of the UN: persons with disabilities as subjects of all human rights and fundamental freedoms

Article 1

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.

EQUALITY AND NON-DISCRIMINATION AT THE HEART OF HUMAN RIGHTS

Article 5 of the CRPD. Equality and Non-Discrimination

1. all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
2. prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
3. In order to promote equality and eliminate discrimination, take all appropriate steps to ensure that reasonable accommodation is provided.
4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

EQUALITY AND NON-DISCRIMINATION AT THE HEART OF HUMAN RIGHTS

Formal equality seeks to combat direct discrimination by treating persons in a similar situation similarly. It may help to combat negative stereotyping and prejudices, but it cannot offer solutions for the “dilemma of difference”, as it does not consider and embrace differences among human beings.

Substantive equality seeks to address structural and indirect discrimination and takes into account power relations. It acknowledges that the “dilemma of difference” entails both ignoring and acknowledging differences among human beings in order to achieve equality.

Inclusive equality is a new model of equality developed throughout the CRPD. It embraces a substantive model of equality and extends and elaborates on the content of equality in: (a) a fair redistributive dimension to address socioeconomic disadvantages; (b) a recognition dimension to combat stigma, stereotyping, prejudice and violence and to recognize the dignity of human beings and their intersectionality; (c) a participative dimension to reaffirm the social nature of people as members of social groups and the full recognition of humanity through inclusion in society; and (d) an accommodating dimension to make space for difference as a matter of human dignity.

CIVIL AND POLITICAL PARTICIPATION AS HUMAN RIGHT

International Covenant on Civil and Political Rights

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

CIVIL AND POLITICAL PARTICIPATION AS HUMAN RIGHT

Convention on the Elimination of All Forms of Discrimination against Women

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

CIVIL AND POLITICAL PARTICIPATION AS HUMAN RIGHT

Convention on the Rights of Persons with Disabilities

Article 29 - Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

- (a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives
- (b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
 - (i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;

PROMOTION OF CIVIL PARTICIPATION, CONSULTATIONS AND MEANINGFUL INVOLVEMENT INTO DECISION-MAKING

Include the obligation to closely consult and actively involve persons with disabilities, through their own organizations, in legal and regulatory frameworks and procedures across all levels and branches of Government. States parties should also consider consultations with and the involvement of persons with disabilities as a mandatory step prior to the approval of laws, regulations and policies, whether mainstream or disability specific. Therefore, consultations should begin in the early stages and provide an input to the final product in all decision-making processes. Consultations should include organizations representing the wide diversity of persons with disabilities, at the local, national, regional and international levels.

All persons with disabilities, without any form of exclusion based on the type of impairment, such as persons with psychosocial disabilities or persons with intellectual disabilities, can effectively and fully participate without discrimination on an equal basis with others. The right to participate in consultations should be recognized on an equal basis for all persons with disabilities, through their representative organizations irrespective of, for example, their sexual orientation and gender identity.

PROMOTION OF CIVIL PARTICIPATION, CONSULTATIONS AND MEANINGFUL INVOLVEMENT INTO DECISION-MAKING

To ensure the

- Establishment and regulation of formal consultation procedures
- accessibility for persons with disabilities to all facilities and procedures related to public decision-making and consultation
- transparency of consultation processes, the provision of appropriate and accessible information and early and continuous involvement
- close consultation and active involvement of organizations of persons with disabilities, which represent all persons with disabilities
- participation of organizations of persons with disabilities in monitoring processes, through independent monitoring frameworks
- support for organizations of persons with disabilities, through sufficient and independent funding and technical capacity-building
- Provision with meeting assistants and support persons, information in accessible formats
- duly inform participants of the outcome of the process

PROMOTION OF CIVIL PARTICIPATION, CONSULTATIONS AND MEANINGFUL INVOLVEMENT INTO DECISION-MAKING

- For the mainstreaming of disabilities and gender issues, awareness-raising of general population is needed as an overarching priority.
- Information, education and integration are the three facets of participation.
- Creating enabling environments when fostering a nondiscriminatory context for equal participation of all citizens in the social and political life of the community.
- Disability and feminist movements should work together to remove both structural and cultural barriers of equal participation of women with disabilities.
- The visibility of disabled women in the public arena needs to be increased.
- Training of relevant professionals dealing with people with disabilities
- Participatory research on the experience of discrimination of women with disabilities
- Give voice and representation, Self-advocacy



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