

# Indigenous Women with Disabilities

## IN NUMBERS

The United Nations Permanent Forum on Indigenous Issues estimates that there are more than 370 million indigenous peoples around the world.<sup>1</sup> Complementing this data, indigenous women's organizations estimate that approximately 50 percent—roughly 185 million of the total indigenous population are women.<sup>2</sup> The World Report on Disabilities estimates that 15 percent of the world's population has a disability, on average.<sup>3</sup> If this percentage is applied to the estimated 185 million indigenous women worldwide, it would be reasonable to place the number of indigenous women with disabilities at 28 million.

This would be a conservative estimate, however, given that disability rates are higher among women (19 versus 12 percent in men)<sup>4</sup> and also among indigenous women in different countries (ranging from 22 percent among Aboriginal women in Canada to 47 percent among Aboriginal women in Australia).<sup>5</sup>



**“Empowering [indigenous women with disabilities] means that we must be at the table making decisions about the issues that affect us.”**

PRATIMA GURUNG, AN ACTIVIST FOR THE RIGHTS OF INDIGENOUS PEOPLES AND WOMEN WITH DISABILITIES IN NEPAL AND ASIA, MEMBER OF THE STEERING COMMITTEE OF THE INDIGENOUS PERSONS WITH DISABILITIES GLOBAL NETWORK.

## WHY ARE DISABILITY RATES HIGHER FOR THESE GROUPS?

Women suffer higher rates of depression and anxiety.<sup>6</sup> This has been linked to gender discrimination and gender-based role expectations as well as poverty, malnutrition, violence, pressure of work and disproportionate care burdens.<sup>7</sup> Other contributing factors include women's lack of access to sexual and reproductive health services, exposure to violence and harmful practices, and

male-centered household distribution of resources.<sup>8</sup> Among indigenous peoples, higher rates of disability have been linked to poverty, violence, and greater exposure to environmental degradation and extractive industries such as mining.<sup>9</sup> The legacy of colonization has also been linked to psychosocial disabilities and intergenerational trauma.

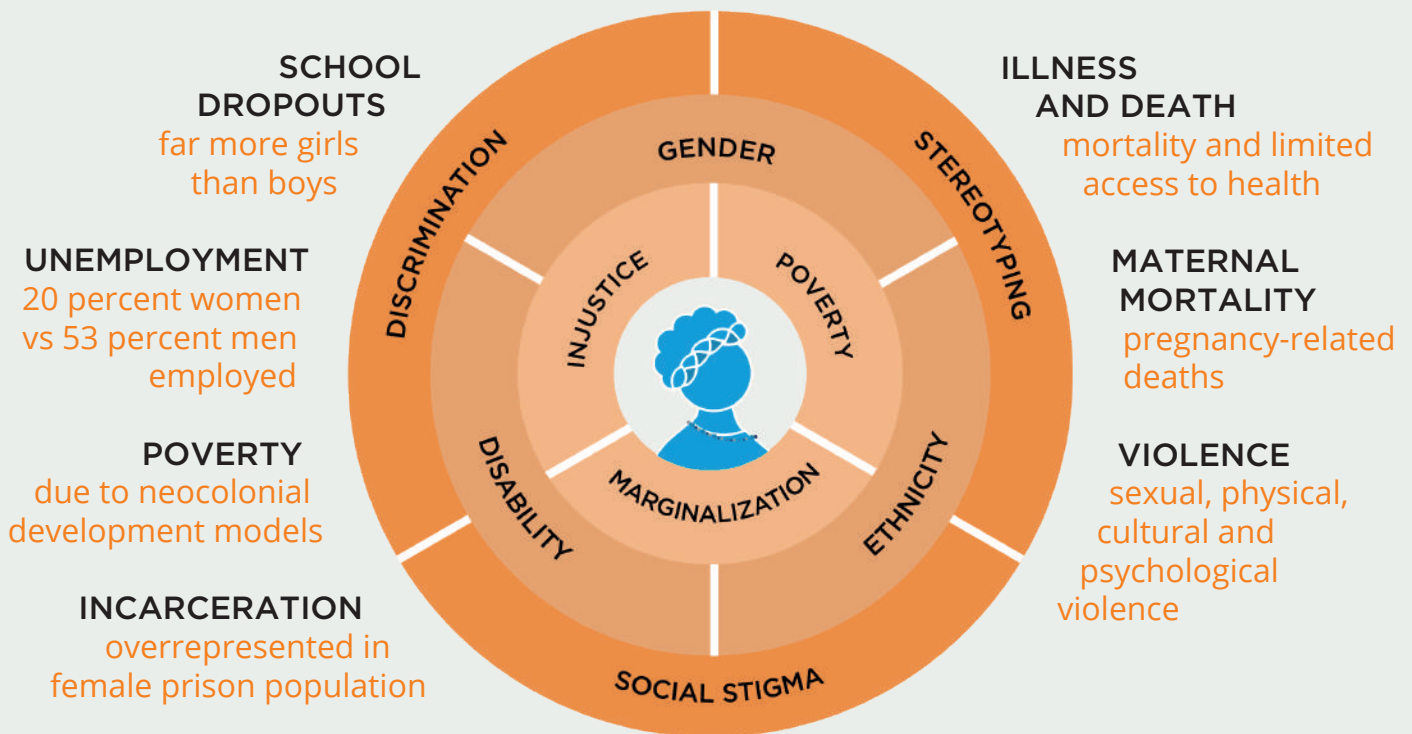


## INTERSECTIONALITY

Poverty, injustice and marginalization are compounded when gender, ethnicity and disability overlap. For indigenous women with disabilities, this triple intersection

multiplies the barriers they face in accessing resources or services. They also suffer discrimination, stereotyping and social stigma and experience higher-than-average rates of:

### INDIGINEOUS WOMEN AND GIRLS WITH DISABILITIES SUFFER AT HIGHER RATES OF...



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## School abandonment

Of an estimated 58 million out-of-school children at the primary level, one-third have a disability,<sup>10</sup> and girls are far less likely than boys to attend school.<sup>11</sup>

In addition, more than half of all children out of school around the world are from minority or indigenous groups.<sup>12</sup>

## Unemployment

Data for 51 countries shows that only 20 percent of women with disabilities are employed compared with 53 percent of men with disabilities and 30 percent of women without disabilities.<sup>13</sup>

In Canada, the unemployment rate for indigenous peoples is twice as high as the rate for the non-indigenous.<sup>14</sup>

## Poverty

As many as 33 percent of all people living in extreme rural poverty are from indigenous communities.<sup>15</sup> In low and middle-income countries, women are estimated to comprise up to 75 percent of persons with disabilities.<sup>16</sup> In some cases, development models are blamed for causing poverty among indigenous persons with disabilities.

## Incarceration

While fewer women than men go to jail, indigenous and women with disabilities are overrepresented.

In the United States, 49 percent of women and 39 percent of men in jail report having a disability.<sup>17</sup>

In Australia, Aboriginal women make up less than 3 percent of the female population, but account for 35 percent of all women prisoners.<sup>18</sup>

## Illness and death

Persons with disability face serious challenges in gaining access to health services, leading to decreased life

expectancy, while indigenous peoples have a lower level of access to health and greater unmet needs than the general population, meaning that their health outcomes and life expectancies are worse.<sup>19</sup>

## Maternal mortality

Indigenous women and girls have higher rates of maternal mortality, teen pregnancy and sexually transmitted diseases, including HIV/AIDS.<sup>20</sup>

In both Panama and Russia, indigenous women are six times more likely to die in childbirth than the non-indigenous.<sup>21</sup>

Girls with disabilities are also two to three times more likely to experience early pregnancy.<sup>22</sup>

## Violence against women

Evidence shows that girls and women with disabilities face a higher risk of violence than those without disabilities<sup>23</sup> and that they are more likely to be victims of sexual violence.<sup>24</sup>

More than 33 percent of indigenous women are raped during their lifetime<sup>25</sup> while almost 80 percent of women with disabilities have experienced violence and are four times more likely than other women to suffer sexual violence.<sup>26</sup>

Women and girls with disabilities are also two to three times more likely to be child brides and undergo female genital mutilation.<sup>27</sup> They are also subjected to other forms of harmful practices, such as 'virgin testing', and 'virgin rapes',<sup>28</sup> and experience neglect linked to son preference, extreme dietary restrictions, as well as infanticide, forced sterilization and abortion.<sup>29</sup>

The violence experienced by indigenous women and girls is intimately linked to colonization which has led to the "implosion and severe dysfunction of many indigenous communities and cultures and subsequent increased rates of violence against women and girls".<sup>30</sup>

## INTERNATIONAL HUMAN RIGHTS LAW AND STATE OBLIGATIONS

A number of international human rights instruments serve to promote and protect the rights of indigenous women with disabilities.

- The 2007 UN Declaration on the Rights of Indigenous Peoples (UNDRIP) is the most comprehensive global agreement on indigenous people's rights. Articles 21 and 22 specify that "particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities."

Other international human rights treaties include:

- The Convention on the Rights of Persons with Disabilities (CRPD)
- The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Although it makes no reference to indigenous or women with disabilities in particular, in 1991, the CEDAW Committee introduced General Recommendation 18 on women with disabilities. In its General Recommendation 25 on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures, the Committee acknowledged that "certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple forms of discrimination based on additional grounds such as race, ethnic or religious identity, disability, age, class, caste or other factors. ... States Parties may need to take specific temporary special measures to eliminate such multiple forms of discrimination against women and its compounded negative impact on them."<sup>31</sup>
- The Convention on the Rights of the Child (CRC) is considered the most inclusive of all human rights treaties. It specifically refers to the rights of children with disabilities (Article 23) and those from minorities or indigenous groups (Article 30). It has a general non-discrimination provision (Article 2)—the first in a human rights treaty to specifically acknowledge disability as a ground for non-discrimination. The CRC Committee's General

Comment 9 (on the rights of children with disabilities) and General Comment 11 (on indigenous children) also go into greater detail than any similar UN treaty body document on how to address the rights of these doubly vulnerable groups, including children with disabilities from minorities or indigenous groups.<sup>32</sup>

The 2030 Agenda for Sustainable Development equally provides a roadmap with promising targets and commitments to gather better data. Sustainable Development Goal (SDG) 10 pledges to "empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status" while SDG 17 seeks to "increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts."<sup>33</sup>



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**The key to success in anything we do is persistence and knowing with certainty that we possess full rights, that if we are denied these rights, we must not only claim them, but also fight for them and for our convictions, until we succeed in making our dreams a reality.**

CRISTINA FRANCISCO REYES, AN ACTIVIST FOR WOMEN LIVING WITH DISABILITIES IN THE DOMINICAN REPUBLIC, AND FOUNDER OF THE CIRCLE OF WOMEN WITH DISABILITIES (CIMUDIS).

## RECOMMENDATIONS

To live up to the obligations enshrined in various international human rights treaties, States must take active steps to address and prevent discrimination, violence and inaccessibility faced by indigenous women with disabilities.

### Improving data and statistics

The 2030 Agenda commits States to meet targets for all nations, peoples and segments of society, and to undertake the necessary level of data disaggregation to monitor progress in ensuring no one is left behind.

This will require collecting specific indicators in household surveys on ethnicity, gender and disability. Data-gathering has generally been met with resistance from some indigenous communities due to instances of governments historically using data on ethnicity to identify populations for assimilation or persecution.<sup>34</sup> Therefore, appropriate safeguards are needed.

Definitions are also needed to ensure harmonization of data collection and comparability of outcomes. This can be done for example, by using questions developed by the Washington Group on Disability Statistics. Although 125 countries and territories collected data on persons with disabilities between 2005 and 2014,<sup>35</sup> the definition of disability has not been standardized, meaning data across countries are not comparable and thus inadequate for global monitoring.<sup>36</sup> The short set of Washington Group questions has been adopted for household surveys and censuses by statistical offices in 69 countries.<sup>37</sup>

**Making Every Women and Girl Count** is a UN Women flagship programme that aims to bring about a radical shift in how gender statistics are used, created, analysed and promoted at the global, regional and national levels.

### Laws, policies and services

In addition to improving data, ensuring rights and equality for indigenous women with disabilities will require:



comprehensive efforts, laws and policy reforms, devised in consultation with those affected,



enhanced financing for inclusive public services that are physically, financially and culturally accessible,



specific gender, culture and disability awareness-raising and training for legal and social service-providers;

These can be achieved through:

**Self-determination:** Specific legislation, policies and programmes aimed at the whole population should be respectful of the right of indigenous peoples to self-determination.<sup>38</sup>

“Where the classic anti-discrimination approach treats people equally, irrespective of gender, culture and race, the multicultural anti-discrimination approach claims that when cultural differences are disregarded, this will often deny people their equality. Differential treatment is thus necessary to ensure that people are being treated the same.”<sup>39</sup> At the same time, careful scrutiny of cultural traditions and customs is needed in order not to compromise individual members’ rights when respecting collective rights.<sup>40</sup> Self-determination includes being able to make one’s own decisions. When a legal or medical representative is appointed to make decisions on one’s behalf (common among persons with psychosocial and intellectual disabilities), this practice has legitimized and facilitated harmful practices, such as coercion, institutionalization and sterilization.<sup>41</sup>



**Participation in decision-making:** For policies and services to be culturally sensitive and relevant, indigenous women with disabilities must be involved in their design.

The right to take part in decision-making processes is protected under both the CRDP and UNDRIP, through Articles on participating in life-affecting decisions (Articles 4 (3) and 29 of the Convention, in addition to Articles 33 (3), 18 and 19 of the Declaration), the right to participate in political and public life (Article 29 and paragraph 7 of the Convention and Articles 5 and 11 of the Declaration). Article 20 of the Declaration sets out the right of indigenous peoples to maintain and develop their political, economic and social systems or institutions. For indigenous women with disabilities living outside their communities, it is important that general organizations of persons with disabilities include them as members, learn how to advocate on their behalf in a culturally appropriate way and exchange knowledge and experience.<sup>42</sup>

**States should create opportunities that meaningfully include persons with disabilities, indigenous peoples and their organizations in the review of existing programmes and policies and in preparing comprehensive plans for implementing human rights instruments.**

**Intersecting forms of discrimination:** Indigenous women with disabilities face unique exclusions and discrimination in the availability and quality of services as compared with other persons of only one group.

For example, indigenous girls with disabilities may be hindered from attending school if facilities are not accessible and if instruction is not available in their mother tongue. Under Canada's Indian Act, an indigenous woman lost her "Indian status" when she married a non-Indian while indigenous men who "married out" were unaffected. In 1981, the UN Human Rights Committee ruled in *Lovelace vs. Canada* that the law was in violation of the International Covenant on Civil and Political Rights. Overcoming such exclusions will require targeted legislation and public policies that address intersectionality.

**Access to justice:** Both general and traditional justice systems need to be accessible to indigenous women with disabilities..

This includes ensuring the physical, environmental, communicational and informational accessibility of all aspects of the administration of justice. Procedural accommodations should also be provided. A handful of jurisdictions have applied accessible modes of communication for indigenous people and persons with disabilities, including the use of, and training on, different modes of questioning that are sensitive to the language styles and structures of indigenous groups, such as Aboriginal English,<sup>43</sup> as well as sign language, or plain language for persons with intellectual disabilities.<sup>44</sup> Gender sensitivity, as well as disability-awareness training, coupled with rights-based and intercultural approaches, must also be provided to all staff in charge of the administration of justice, in consultation with indigenous women with disabilities. Furthermore, the International Disability Alliance argues that access to justice for indigenous women and girls with disabilities also needs to consider restorative justice and reconciliation for harm perpetrated against communities—whether this stems from historical injustice which has fragmented or destroyed indigenous communities, or harm perpetrated by private actors such as multinational corporations.<sup>45</sup>

**Education and culture:** Schools must be transformed—through infrastructure, learning and teaching to ensure that indigenous women and girls with disabilities can access their right to education.

The Convention on Economic, Social and Cultural Rights guarantees the right to education and participation in cultural life (Articles 13 and 14) while the CRPD clearly establishes that all children with disabilities have the right to be part of the general education system, and be provided with the necessary reasonable accommodation (Article 24). Inclusive educational models are neither prohibitively expensive nor impractical and their benefits extend far beyond children with disabilities themselves.<sup>46</sup> Special attention must also be given to providing education within indigenous communities, given the harmful legacy of assimilation policies that placed children in residential schools, far from their families and communities.

**Access to health:** States have an obligation to ensure that indigenous women and adolescent girls enjoy equal access to health, reproductive rights and other public services.

In the design of intercultural health systems, it will be important to ensure that full (physical and communication-al) accessibility to persons with disabilities is part of construction arrangements. Furthermore, the right to self-determination in the context of access to health implies creating conditions for the full and effective participation of indigenous peoples in the design and management of health systems, which will require adequate attention paid to the situation of indigenous persons with disabilities.<sup>47</sup>

**At the 2014 Permanent Forum on Indigenous Peoples, Olga Montufar Contreras, of the Fundación Paso a Paso in Mexico's indigenous community of Reyes de Acaxochitlan, called attention to resistance to including people with disabilities within indigenous communities, citing infanticide or abandonment of children with disabilities as a problem to be overcome.**

**Adequate standard of living:** Indigenous persons with disabilities often lack basic necessities of life such as food, clothing, sanitation, assistive devices, mobility aids and health and rehabilitation services.

Limited availability of disability skills training and disability workers, employment programmes, job skills training and transition-to-employment programmes often results in indigenous persons with disabilities lacking the skills required to earn a living.<sup>48</sup>

**States must identify and address all obstacles preventing mobility and integration. This will require allocating resources to develop accessible and appropriate community-based services and support within indigenous communities, as well as community development projects that are conceived and led by indigenous people, including women with disabilities.**

**Preventing violence:** States must actively acknowledge and prevent all forms of violence against indigenous women and girls with disabilities, whether at home, in schools, residential institutions or in disability services.

Both indigenous women and women with disabilities are often at increased risk of having their children removed because of assumptions by child protection authorities regarding their competence as parents. This is coupled by lack of support for parents and lack of access to adequate legal representation and assistance in judicial proceedings.<sup>49</sup> States must therefore eliminate laws and practices which infringe on reproductive rights and the right of indigenous women and girls with disabilities to reside in their family environment, including third party decision-making by parents, spouses, family, guardians, doctors and courts.<sup>50</sup> States should equally ensure that staff are trained to provide services in culturally appropriate ways. Empowering indigenous women with disabilities is necessary, and awareness raising is also needed in this regard, as indigenous communities often have reason to believe that empowerment as an imposition from the West.<sup>51</sup>

**Vulnerability to disasters:** Article 11 of CRPD highlights that persons with disabilities are especially vulnerable and must be assisted and protected in situations of natural and human-caused emergencies.

The risk of exposure of indigenous persons with disabilities to such emergencies is also elevated because indigenous peoples often live in areas at a higher risk of climate change, armed conflict, and exploitation by extractive industries. Initiatives that seek to make indigenous women with disabilities more resilient to such challenges need to be inclusive and fully participatory. Protocols, including those foreseeing the displacement of communities, need to encompass actions targeting and involving indigenous persons with disabilities, and have the full, free, prior and informed consent of indigenous peoples.<sup>52</sup> In this regard, the Hyogo Framework for Action, which refers to the "disabled", states clearly that the information should incorporate relevant traditional and indigenous knowledge and cultural heritage and be tailored to different target audiences, taking into account cultural and social factors.

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