Fundamental Constitutional Rights and Policy Approaches for Persons with Disabilities in 193 UN Member States

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Presenter Disclosures

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• The following personal financial relationships with commercial interests relevant to this presentation existed during the past 12 months:

<No relationships to disclose. >
Objectives

1. *Identify* fundamental rights of persons with disabilities in constitutions of 193 countries
2. *Compare* relevant rights and national policies for adults and children with disabilities
3. *Discuss* the relevance of constitutional provisions, legal and policy approaches
Social Determinants of Health

• “... avoidable health inequalities, arise because of the circumstances in which people grow, live, work, and age ... The conditions in which people live and die are, in turn, shaped by political, social, and economic forces.” (WHO Commission on Social Determinants of Health, 2008)
Fundamental Human Rights

• “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of . . . disability . . .”

(Universal Declaration on Human Rights, Art. 25(1), 1948)
A Series of Movements

• 1975: Declaration on the Rights of Disabled Persons
• 1989: Convention on the Rights of the Child
  ➢ Article 2 & 23
• 1993: UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities
• 2006: UN Convention on the Rights of Persons with Disabilities
UN Convention on the Rights Of Persons with Disabilities (CRPD)

• “To ensure and promote full realization of all human rights and fundamental freedoms for all persons with disabilities” (CRPD, Art. 4)

• Including rights to general equality and non-discrimination, and in civil, social, cultural, economic and political spheres
Who has ratified the CRPD?

157 UN Member States as of October 2015
Barriers Facing Persons with Disabilities

• Lower access to education
• Marginalization in employment
• Inadequate access to health care services
• Restrictions in exercising legal capacity
Why Constitutions?

• Embody fundamental rights
• Provide more permanent guarantees
• Shape social norms
• Provide legal basis to challenge discrimination and adopt laws promoting access to equal rights
What is WORLD?

• The WORLD Policy Analysis Center (WORLD) aims to improve the quantity and quality of globally comparative data on laws and policies affecting health, development, well-being and equity

• Data on +1000 policies in 193 countries
Overview of WORLD Priority Areas

✓ Childhood
✓ Marriage
✓ Equal Rights and Discrimination
✓ Health
✓ Poverty
✓ Education
✓ Gender
✓ Disability
✓ Aging
✓ Adult Labor and Working Conditions

-and many more-
WORLD Methodology

- Coding in original language
- National legal sources from global compendiums
- Reviewed in comparative, consistent, systematic way
- Quality Checks
Analysis on Constitutional Rights of Persons with Disabilities

- Quantitative database on constitutional rights
- Analyzing disability terminology
  - General disabilities
  - Mental disabilities
  - Physical disabilities
- Analyzing strength of rights
Does the constitution take at least one approach to equity on the basis of disability?

Source: WORLD Policy Analysis Center, Constitutions Database, 2014
Constitutional Rights over Time

Guarantees to equity and non-discrimination for persons with disabilities by year of adoption
Social and Economic Rights

• Right to Education
  ➢ 28% of constitutions include specific guarantees

• Right to Health
  ➢ 26% of constitutions include specific guarantees

• Right to Work
  ➢ 18% of constitutions include specific guarantees
Civil Rights

- Right to liberty
- Right to freedom of movement
- Right to freedom of expression
  - 9% of constitutions include specific guarantees
  - 19% of constitutions allow for exceptions to right to liberty (e.g. due to “unsound mind”)
Political Rights

• Right to vote
  ➢ 22% of constitutions include specific guarantees
  ➢ 22% of constitutions allow for exceptions

• Right to hold legislative office
  ➢ 21% of constitutions include specific guarantees
  ➢ 31% of constitutions allow for exceptions
Is inclusive education available for children with disabilities?

- No public special education
- Low degree of integration
- At least medium degree of integration
- High degree of integration

Source: WORLD Policy Analysis Center, Education Database, 2014
Points for Discussion

• Global status of access to equal rights
• Changes in protections over time
• The role of constitutions, laws and policies
• Areas for future research, e.g.:
  ➢ Examination of relevant case law
  ➢ Barriers to full implementation
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