

# U4 Helpdesk Answer

U4 Helpdesk Answer 2022

## Corruption and the equal enjoyment of rights for persons with disabilities

The literature on the extent to which and how corruption affects persons with disabilities is very thin. Most of the secondary research that is available appears to be qualitative and testimonial in nature. Nonetheless, it indicates that people with disabilities are exposed to abuse by those that provide care, the embezzlement of funds intended to benefit persons with disabilities and extortion in the process of acquiring a disability certificate.

Based on consultations with organisations that work with or represent persons with disabilities, there is extensive first-hand evidence that persons with disabilities can be severely and disproportionately affected by corruption. This impact of this corruption is caused, enabled or exacerbated by discrimination against persons with disabilities.

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### RELATED MATERIAL

- [Defying Exclusion: Stories and Insights on the Links between Discrimination and Corruption](#)

# Query

Please provide a synthesis paper with an overview on the relationship between corruption and rights and inclusion of persons with disabilities. Please also discuss how disability perspectives can be included in corruption prevention programmes.

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## Caveat

The literature on the extent to which and how corruption affects persons with disabilities is very thin. Most of the secondary research available appears to be qualitative and testimonial in nature.

The challenges in documenting discriminatory corruption as it affects persons with disabilities is indicative of the fact that, for many disadvantaged communities, the lack of political, economic and

## MAIN POINTS

- The literature on corruption's impact on persons with disabilities is scant, but it indicates that persons with disabilities are exposed to corruption in a number of ways, including in the context of care provision, the embezzlement of funds intended to benefit persons with disabilities and extortion in the process of acquiring a disability certificate.
- Based on consultations with organisations of persons with disabilities, there is sufficient evidence to suggest that more broadly, discriminatory corruption affects persons with disabilities in four main ways.
- First, discrimination renders persons with disabilities more exposed to corrupt abuses of power. Second, corruption can take forms that are intrinsically discriminatory towards persons with disabilities. Third, discrimination results in the effects of corruption being disproportionately borne by persons with disabilities. Fourth, discrimination raises barriers to prevent victims of corruption from seeking justice, while corruption can inhibit efforts to investigate and overcome discrimination.
- Certain characteristics can make some persons with disabilities more exposed to corruption than others. Those include intellectual disabilities and psychosocial disabilities, while children, older persons and women with disabilities may experience more severe forms of discriminatory corruption.
- This intersection between disability status and other grounds should not be overlooked when seeking to sensitise anti-corruption programming to disability perspectives. There is a value and a need for anti-corruption programmes to take a comprehensive, holistic and intersectional approach in their design and delivery.

social representation at all levels they experience is mirrored by the dearth of scholarly or policy attention to the particular expressions of corruption and discrimination they encounter.

This Helpdesk Answer therefore goes beyond a standard literature review and seeks to articulate the experiences of persons with disabilities with corruption by drawing on insights gathered through consultations with organisations that work with or represent persons with disabilities.

The scarce nature of available evidence means that this Helpdesk Answer makes no claim to present an exhaustive discussion of the relationship between discrimination and corruption in respect of persons with disabilities. While the cases and examples discussed below are illustrative and necessarily selective, they are indicative of the different ways in which discriminatory corruption can affect persons with disabilities.

## Background: the link between corruption and discrimination

Corruption and discrimination are each major obstacles to the achievement of sustainable and inclusive development, but until recently they were largely understood in isolation from each other (Bullock and Jenkins 2020).

However, in 2021, a joint report produced by Transparency International and the Equal Rights Trust documented a direct, causal relationship between them. [Defying Exclusion: Stories and Insights on the Links between Discrimination and Corruption](#) explored for the first time how corruption and discrimination mutually reinforce each other, and how this feedback loop serves to leave marginalised communities and individuals even further behind.

While not all acts of corruption are discriminatory and not all acts of discrimination are corrupt, the report shows that discrimination can act as a causing, enabling or exacerbating factor in all phases of a corrupt interaction. The authors argue

that discrimination produces societal dynamics that foster corruption, render certain groups more vulnerable to corruption, ensure that the effects of corruption are not felt equally across society and prevent victims of corruption from seeking justice. This last point cuts both ways; corruption can also inhibit efforts to investigate and overcome discrimination (Transparency International and the Equal Rights Trust 2021: 13).

This led the authors to describe a specific type of corruption they termed discriminatory corruption, defined as the corrupt abuse of power that discriminates against people on the basis of age, disability, race, ethnicity, religion, belief, gender, sex or sexual orientation or other protected characteristics (Transparency International and the Equal Rights Trust 2021: 9-10).

This Helpdesk Answer adopts the conceptual framework developed in the [Defying Exclusion](#) report, which sets out the four distinct ways in which discrimination and corruption enable and exacerbate each other:

1. discrimination can result in greater exposure to corruption
2. certain forms of corruption are inherently discriminatory
3. discrimination can mean that corruption has a disproportionate impact on certain groups
4. discrimination presents barriers to challenging corruption, while corruption can obstruct victims of discrimination from accessing justice.

Six chapters in the [Defying Exclusion](#) report examined the interplay between discrimination and corruption on the basis of different grounds of discrimination: age; sex; sexual orientation, gender identity and expression; race and ethnicity; and religion or belief.

Individually, each case study documented unique manifestations of corruption depending on the ground of discrimination.

Collectively, the case studies demonstrated that the different or disproportionate experience of corruption among groups exposed to discrimination is the result of a causal relationship between discrimination and corruption. Indeed, the two phenomena appear to have an accelerant effect on each other, and the result of this compound effect is greater inequality (Transparency International and the Equal Rights Trust 2021).

### The vicious circle: how discrimination incentivises corrupt behaviour while eroding its constraints

The four interplays between corruption and discrimination described above set out how discrimination causes, enables or exacerbates the impact of corruption on marginalised groups.

However, it is also clear that discrimination facilitates corruption by the powerful as it incentivises corrupt behaviour on the part of perpetrators to exploit marginalised groups while simultaneously removing the political, legal and socio-economic constraints on this behaviour. In turn, corrupt practices reinforce existing patterns of discrimination.

#### **Discrimination incentivises corrupt behaviour**

In some senses, corruption can be seen as simply another form of or vehicle for discrimination, alongside other types of discrimination such as denial of access to goods or services, or barriers to accessing employment. Indeed, the costs of a transaction for victimised groups may be heightened through the addition of an illicit fee not simply because the recipient requires it but to humiliate, punish or otherwise reassert the gulf in social status between individuals from dominant communities and those from marginalised communities.

#### **Discrimination reduces the constraints on corrupt behaviour**

Given that marginalised groups generally face greater barriers in accessing justice, a corrupt official who intentionally preys on vulnerable individuals and communities is less likely to be

detected. Even where the official's corrupt behaviour does come to light, they are likely to have less to fear if they have only targeted individuals from marginalised groups. Exploiting these groups may be more socially acceptable, and any sanctions imposed consequentially less severe.

## How corruption affects persons with disabilities

A notable omission from the Defying Exclusion report is a dedicated chapter on persons with disabilities, which according to the authors “stems from the relative lack of existing research in this area and difficulties in identifying case studies of this form of discriminatory corruption” (Transparency International and the Equal Rights Trust 2021: 9).

The challenges in documenting discriminatory corruption as it affects persons with disabilities is perhaps indicative of the fact that, for many disadvantaged communities, the lack of representation they experience at all levels is mirrored by the dearth of scholarly or policy attention to the particular expressions of corruption and discrimination they encounter.

Indeed, the lack of relevant data has been lamented by the Stakeholder Group of Persons with Disabilities for Sustainable Development (2020), which has argued that, without sufficient data on persons with disabilities, it is extremely difficult to challenge the discrimination they and their representative organisations encounter.

Nonetheless, Defying Exclusion pointed to some first-hand evidence gathered during consultations with organisations of persons with disabilities that corruption within government can divert into private hands resources intended to fund assistive devices, accessibility measures and reasonable accommodation programmes, thus directly disadvantaging persons with disabilities (Transparency International and the Equal Rights Trust 2021: 79). Acts of corruption like these have the effect of denying persons with disabilities from

accessing their right to an adequate standard of living, which includes the availability of support services, assistance devices and technologies (UN CRPD 2017: para 13). Intuitively, this chimes with a body of research documenting that a lack of political, economic and social representation makes it more difficult for groups exposed to discrimination to avail their right to equal access to goods, services and opportunities (Equal Rights Trust 2018a: 159-187; Equal Rights Trust 2018b: 41-2, 166-8).

The remainder of this Helpdesk Answer builds on these limited initial findings to present evidence marshalled through a combination of a review of the global academic and policy literature on one hand, and further consultations held with organisations of persons with disability from countries including Kenya, Nigeria and Ukraine on the other hand.

Before proceeding, it is worth noting that certain characteristics might make some people with disabilities more exposed to the ill effects of corruption than others. The Committee on the Rights of Persons with Disabilities (CRPD) has observed that persons with intellectual disabilities, persons with psychosocial disabilities, and children, older persons and women with disabilities are particularly “exposed to systematic and structural discrimination” (United Nations Committee on the Rights of Persons with Disabilities 2021).

Distinctions between how corruption relates to different types of disability are not explored further in this Helpdesk Answer, chiefly due to the paucity of available studies, but this would be an area for further consideration.

## Discrimination can result in greater exposure to corruption

Groups exposed to discrimination tend to suffer from an above average risk of falling victim to coercive corruption, in which corrupt actors intentionally target them for exploitation. Both corruption and discrimination create and

perpetuate structural inequalities (United Nations Department of Economic and Social Affairs 2011; Zúñiga 2017). Such imbalances in political and economic power mean that discriminated groups are often disproportionately exposed to corruption due to their relative lack of voice.

While robust quantitative data is lacking, there is some evidence that persons with disabilities are more likely to encounter discriminatory corruption.

According to one estimate in the 2020 Sustainable Development Goals Report, data from 31 countries collected between 2014 and 2019 suggests that 30% of people with disabilities experienced discrimination in this period, with even higher levels reported by women with disabilities (United Nations 2020: 44).

Naturally, not all of these discriminatory incidents meet the criteria to qualify as discriminatory corruption, as an act of discrimination may lack the constitutive element of the abuse of entrusted power. However, there is some concerning evidence emerging from Mongolia that suggests that persons with disabilities are indeed more exposed to corruption than their fellow citizens.

The Independent Authority against Corruption (IAAC) in Mongolia conducts an annual survey to determine the perceptions and attitudes of people with disabilities towards corruption (Montsame 2021). The survey is conducted regularly with the aim of integrating the perspectives of persons with disabilities in the development of corruption prevention programmes. Data from the 2021 edition of the survey indicates a clear correlation between experience of corruption and disability status: 67% of those surveyed thought that those with disabilities suffer more from corruption than persons without disabilities, while 50% expressed the view that corruption is a driver of discrimination against persons disabilities (Montsame 2021).

Based on the survey results, the IAAC concluded that public officials frequently abuse their discretionary power to prey on people with

disabilities and target them with extortive demands for bribes in exchange for providing them access to essential services (Montsame 2021). According to the survey, the sectors in which persons with disabilities are most likely to encounter demands for bribes are healthcare, education and social services (Montsame 2021). This is perhaps unsurprising given that persons with disabilities are likely to have frequent contact with these sectors, but it is especially troubling given the international legal obligations of states to prohibit the discriminatory denial of services on the basis of disability (UN OHCHR 2006). Overall, the findings of the survey indicate how discrimination renders disadvantaged groups more vulnerable to corruption.

From the consultations held with organisations representing persons with disabilities, there are two areas in which persons with disabilities appear to be particularly exposed to corruption.

The first is the provision of care in institutional facilities, in which institutional factors can create a fertile climate for abuse against persons with disabilities, including corruption and extortion.

The second relates to the granting of disability status, which in many countries confers material benefits. Given that the decision whether to award this status to a given individual can be highly discretionary, it appears to be a hotbed of petty corruption.

### **Corruption in care facilities**

For the last two decades, international human rights law has banned the systematic institutionalisation and exclusion of persons with disabilities from the wider community (UN OHCHR 2006). Despite this, discriminatory laws and practices persist in relation to the institutionalisation of persons with disabilities, and in many parts of the world they are confined to – often inadequate – care facilities. Once confined to an institution, persons with disabilities can become more vulnerable to abuse than if they were living independently. Given this, UN OHCHR has regularly drawn attention to “the urgent need for

deinstitutionalisation of persons with disabilities” (UN OHCHR 2020: 24).

As observed by the United Nations Committee on the Rights of Persons with Disabilities (2017):

“Social exclusion also engenders stigma, segregation and discrimination, which can lead to violence, exploitation and abuse in addition to negative stereotypes that feed into a cycle of marginalisation of persons with disabilities.”

This discriminatory environment creates a permissive environment for a whole range of abusive practices and increases the risk that they go unchallenged. A range of research has demonstrated the presence of discrimination as a causal or enabling factor in the commission of corruption and other abuses of power in institutional settings. In Jordan, for instance, persons with mental disabilities have been documented to have experienced discriminatory torture and ill treatment in detention settings (Equal Rights Trust 2017).

In certain instances, individual duty bearers may be granted a great deal of discretion which has been shown to have resulted in different forms of abuse. Someone who requires regular assistance may rely on a person who is abusing them, and a perpetrator may use this power to threaten or coerce the person over whom they have a duty of care (RAINN no date). Paterson et al. (2011) have argued that, in certain contexts, institutional factors like a scarcity of resources and poor leadership may create a permissive environment for the neglect of service users in disability care centres. At the extreme, this may lead staff to take advantage of power imbalances and even be violent or coercive towards persons with disabilities.

There is also a gendered aspect to this which is particularly troubling, as noted by the United Nations Committee on the Rights of Persons with Disabilities (2017):

“Since institutions tend to isolate those who reside within them from the rest of the community, institutionalised women and girls with disabilities are further susceptible to gender-based violence, including forced sterilisation, sexual and physical abuse, emotional abuse and further isolation. They also face increased barriers to reporting such violence.”

Similarly, consultations held with organisations of persons with disabilities revealed some first-hand evidence that women with disabilities can be severely affected by obstacles when trying to access health facilities and can be subjected to derogatory treatment from service providers.

Conditions in institutional settings, such as understaffing and improper training of staff, risk creating a breeding ground for different forms of abuse and corrupt practices. Research by Paterson et al. (2011) uncovered how persons with disabilities, and especially those in institutional settings, may be exposed to extortive forms of corruption – such as demands for money in exchange for access to entitlements – due to power differentials between them and caregivers or nursing staff. Power asymmetries in such situations may mean that persons with disabilities struggle to blow the whistle on corruption or other forms of abuse by duty bearers.

To redress this power imbalance, the Council of Europe’s Committee on Social Affairs, Health and Sustainable Development (2021) has stated that:

“choice and control over the support needed to live and be included in the community are of paramount importance in the area of support services, in particular when it comes to personal assistance. As they know their own needs best, persons with disabilities must be the ones who hire,

employ, supervise and dismiss their own assistants and should be able to choose between different service providers. This is seen as important to make services more accountable and at the same time reduce the risk of abuse within care.”

Consultations held when researching this paper indicated that institutions housing persons with disabilities are typically run by private entities that profit from keeping people institutionalised.<sup>1</sup> As such, there was some suggestion that these private companies can be unwilling to allow people with disabilities to leave to live more independently in the wider community. One of the individuals consulted posited that these dynamics might even meet the threshold of corruption as the abuse of entrusted power for private gain.<sup>2</sup>

These challenges with regards to institutionalisation are also documented in the wider literature, which has emphasised the high proportion of public funding allocated to institutionalisation and the challenge of shifting resources tied up in institutions to community based support (Care Policy and Evaluation Centre, LSE 2021: 5).

This appears to be supported by the findings from a 2018 study undertaken by the European Union Agency for Fundamental Rights, which found that corruption was a barrier to deinstitutionalisation of persons with disabilities in EU Member States. This piece of research suggests the presence of a nexus between corruption and the discriminatory denial of rights for persons with disabilities, citing the influence of vested interests and of “instances of corruption, and reluctance on the part of providers of institutional services to change existing models” (European Union Agency for Fundamental Rights 2018: 37). Notably in one case reported in Slovakia, participants interviewed for the study pointed to the role of corruption in

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<sup>1</sup> Written input received from Facundo Chavez Penillas, human rights & disability adviser, UN OHCHR, 12 April 2022.

<sup>2</sup> Written input received from Facundo Chavez Penillas, human rights & disability adviser, UN OHCHR, 12 April 2022.

blocking deinstitutionalisation (European Union Agency for Fundamental Rights 2018: 43).

Collusive corruption between state officials and private sector providers can also deprive persons with disabilities of access to their rights. In one case in the United States, FBI wiretaps in 2002 caught Oklahoma's head care home official "demanding kickbacks after doctoring paperwork for a nursing home owner" (CBS News 2002). This was part of a highly organised scheme in which officials would tip off care homes before inspections, alter inspectors' reports and ignore serious violations. Unsurprisingly, the sector's ombudsman spoke of preventable deaths due to the "inhumane conditions" that were the direct result of this corruption. More recently, the billionaire owner of a chain of nursing homes across the United States was sentenced to 20 years in prison in 2019 for bribing doctors to refer people to his facilities as well as on charges of money laundering, kickbacks and obstruction of justice related to the operation of these institutions (Neumann 2020). While this is primarily a case of discriminatory corruption relating to older persons, it is a pertinent example of how collusive corruption could affect persons with disabilities, not least given the large number of older persons living with disabilities (Care Policy and Evaluation Centre, LSE 2021: 2).

Judging by documented instances affecting elderly people (Age UK 2015; Association of Certified Fraud Examiners 2019), it seems plausible that unscrupulous individuals could intentionally target persons with disabilities, seeking to defraud them or otherwise exploit them on the assumption that such behaviour is less likely to be detected and the sanctions imposed less severe.

### **Disability status**

Another way in which discriminatory dynamics expose persons with disabilities to corruption is in the area of obtaining official recognition of disability status.

The OHCHR Human Rights Monitoring Mission in Ukraine has cited in their research a recent media investigation that revealed "alleged cases of corruption implicating members of socio-medical

commissions who demand bribes for granting disability status" (UN OHCHR 2020; see also Suspilne TV 2020).

A study found that in rural South Africa, the most pernicious form of corruption affecting persons with disabilities was bureaucratic corruption and the lack of transparency that plagued the process of obtaining identity documents that would entitle the holder to disability grants (Neille and Penn 2015). This was found to have "far-reaching physical and emotional implications" for persons with disabilities, as individuals need to show proof of disability to qualify for disability grants, free healthcare or even to be admitted into schools or gain employment (Neille and Penn 2015: 10).

This problem was also noted by one person consulted for this paper who observed that, in their country, there have been examples where persons with disabilities have been asked to pay bribes by doctors at public hospitals who are tasked with assessing if the person has a disability. This assessment determines the entitlement of persons with disabilities to the card and therefore to a range of other benefits, including tax exemptions.

These cases suggest that systems developed for granting disability status grants are operated with limited oversight, creating an enabling environment for acts of petty corruption by individual duty bearers.

The fact that disability status can grant access to desirable resources can also make it prone to political contestation. In post-apartheid South Africa, Hansen and Sait (2011) report that there was some initial conceptual confusion over the terms "disability" and "discrimination" and who had the right to reparation grants. According to the study, this ultimately led to some people with disabilities who were not racially discriminated against under apartheid having to give back their grants once the law was revised. Following this, people with disabilities and the groups that represent them reported difficulties accessing grants and funds from the government (Hansen and Sait 2011).



Consultations held for this paper also generated evidence that clientelism and patronage networks undermine the integrity of disability support funds, with one person consulted noting that officials hand out funds intended to support persons with disabilities to people who are not eligible.<sup>3</sup> Research by KPO (Kenyan Paraplegic Organization), NTA (National Taxpayers Association) and KEFEADO (Kenya Female Advisory Organisation) (no date: 37) in Nairobi and Kisumu County, Kenya, found that the Access to Government Procurement Opportunities (AGPO) programme, which seeks to guarantee that 30% of government procurement opportunities are ringfenced for enterprises owned by women, young people and persons with disabilities, is abused by corrupt government officials who have falsely registered companies to persons with disabilities and women with the aim of winning procurement opportunities. These schemes have denied persons with disabilities the opportunity to properly benefit from resources intended for them.

## Certain forms of corruption are inherently discriminatory

In certain cases, corruption is based on the characteristic of the person and is therefore inherently discriminatory.

Coercive corruption is inherently discriminatory where groups sharing a protected characteristic are singled out or otherwise targeted for extortive forms of corruption on the basis of their status, identity or beliefs.

Collusive corruption can also be inherently discriminatory, such as where individuals who share a common characteristic, such as ethnicity, perpetrate a corrupt act designed to enrich or otherwise benefit them at the expense of groups not sharing that characteristic. Collusive corruption

can be profitable for “insiders”, but it invariably entails a wider negative cost to those not party to the arrangement. This can have serious detrimental consequences for discriminated communities.

Corruption is a practice that, fundamentally, involves the particularistic access to public goods on the basis of connections, power and resources. Marginalised groups may indirectly lose out to corruption as individuals belonging to dominant groups profit from forms of corruption, such as patronage networks that favour elite groups as a result of their identity. As marginalised communities are often excluded from the corridors of power and shut out of backroom horse-trading due to their status, identity or beliefs, it follows that groups exposed to discrimination are less likely to be the beneficiaries of the types of illicit transactions typical of collusive corruption, and are more likely to bear the cost.

Consultations held for this paper generated some evidence that persons with disabilities perceive forms of corruption that are inherently discriminatory against them.

Research by the Centre for Citizens with Disabilities (2019) in Nigeria indicates that persons with disabilities in Kaduna, Kano and Lagos see corruption as a vehicle for discrimination. In other words, persons with disabilities express the view that public officials single them out to leverage illicit fees *because* of their disability status, perhaps due to the fact that corrupt officials assume that the people lack recourse to justice or are unaware of their rights. Such assumptions are often unfounded. Nonetheless, such calculations on the part of crooked officials are premised on real and widespread discriminatory practices that marginalise persons with disabilities.

Sextortion can affect women with disabilities for two discriminatory reasons. Women with

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<sup>3</sup> Equal Rights Trust, Interview with Essy Atieno Olang, Communications Officer, KEFEADO (Kenya Female Advisory Organization), 11 April 2022.

disabilities face compounded forms of discrimination at the intersection of their sex/gender and disability status, which can mean they are targeted to a greater extent in sexual abuses of power. Second, widespread forms of discrimination and factors including barriers to inclusive employment in many societies mean that generally women with disabilities may possess fewer – or have less control over – financial assets. This can leave them less able to pay bribes in cash, which can lead corrupt individuals abusing their positions of authority to coerce and exploit women into sexual activities in lieu of cash bribes (Transparency International 2020).

## Discrimination means that the impact of corruption is felt disproportionately

Corruption is bad for society in general, but it hits certain groups harder than others. The impact of corruption is felt disproportionately across society, with the heaviest burden frequently being borne by groups exposed to discrimination (United Nations Development Fund for Women 2010; World Bank Group 2015). In the words of the Executive Director of the Kaduna State Rehabilitation Board in Nigeria, “though corruption has negative consequences on all segments of the society, its effects on people with disabilities [are] tragic” (Vanguard 2019).

Corruption is often the means by which certain groups and individuals are granted or denied access to goods, services and opportunities on the basis of their identity. This can be either collusive or coercive in nature.

### Collusive corruption

Collusive corruption may result in the diversion of resources away from the provision of public goods and services, which can affect more harshly those discriminated groups who require greater access to these services. By illicitly diverting finite public goods and resources to benefit more powerful groups, corruption has been shown to undermine the quality of and restrict access to these services (Trapnell, Jenkins and Chêne: 2017: 8).

Where corruption creates further scarcity in already strained social services or public health systems, it can prevent people from getting the essential health, educational or developmental services to which they are entitled to realise their rights. Given the reliance that many persons with disabilities have on public goods and services, such as health and education, these individuals are likely to suffer disproportionately from systemic corruption.

Consultations with the organisations of persons with disabilities for this paper suggest that the misappropriation of public funds in areas including healthcare can cause or further exacerbate disability as people are not able to access necessary treatment in a timely manner, resulting in long-term poor health and disability from preventable conditions. This is in spite of the commitments made by almost every state to respect, protect and fulfil the rights of persons with disabilities, and specifically by the 184 state signatories of the Convention on the Rights of Persons with Disabilities to provide “access to the necessary health services designed to minimise and prevent further disabilities” (UN OHCHR 2006: article 25(d)).

The Committee on the Rights of Persons with Disabilities has recently expressed concern about corrupt practices in the allocation and distribution of allowances or payments, income support and other funding schemes for persons with disabilities (UN OHCHR 2021). There are a range of examples that show how corrupt practices in government agencies can result in the embezzlement or misuse of funds earmarked for disability programmes.

For instance, a report about young people with disabilities in Nigeria included interviews with several experts who pointed to the pernicious role of corruption. One interviewee who had researched the topic concluded that “corrupt government officials divert money from that ministry, and people with disability hardly see 10% of those resources” (Asylos and ARC Foundation 2021: 297). The executive director of the Nigerian NGO Centre for Children's Health Education,

Orientation and Protection concurred, noting that “part of [the funding] is diverted by the officials because corruption is quite a systemic thing here” (Asylos and ARC Foundation 2021: 267).

Indeed, this is exemplified by a scandal that emerged in early 2021 in Nigeria when the executive secretary of the newly established National Commission for Persons with Disabilities was accused by civil society groups of embezzling 275 million Naira (US\$0.66 million), money that was intended to launch the commission’s work (Vanguard 2021).

To give another example, during the Ebola crisis in 2013, people with disabilities were reportedly some of the first groups to become neglected by health systems in West Africa that became overloaded by the crisis (Baisley 2015). Funds from disability programmes were reallocated towards pandemic prevention, and much of this was reportedly stolen by government bureaucrats and service providers (Baisley 2015).

In addition, consultations with disability rights advocates consistently indicated that persons with disabilities perceive that funds that are intended or signposted to support them are diverted or withheld.<sup>4</sup> Reportedly, in one case in Kaduna state in Nigeria, funds which were intended for rehabilitation centres and palliative care were misappropriated and much needed materials were sold off to line private pockets (Centre for Citizens with Disabilities 2019). Similarly, there are reports that, despite the insistence of state officials in Lagos, funds intended for persons with disabilities are stolen, and found that the supposed recipients were not even aware of the existence of these funds intended to benefit them (Centre for Citizens with Disabilities 2019).

One expert suggested that such corruption is enabled by a common accountability deficit in many countries, namely that mechanisms to track budget allocation to persons with disabilities are typically very weak or non-existent.<sup>5</sup> Hence, there is a lack of data that could be used to detect discrepancies between what persons with disabilities are entitled to and what they actually receive. These risks are heightened where application and reporting requirements for grant programmes intended to benefit people with disabilities are overly complex or opaque, or where there are loopholes that allow collusive behaviour between state agencies and private sector providers.

The Committee on the Rights of Persons with Disabilities has stressed that governments need to do more to “adopt legislative and administrative oversight and prevention measures to ensure transparency and accountability” (UN OHCHR, 2021: 6). The committee has also called for complaints mechanisms to be made fully accessible to persons with disabilities, and establish protection for those who report wrongdoing (see para 94(b) in United Nations Committee on the Rights of Persons with Disabilities 2018).

### **Coercive corruption**

The impacts of coercive corruption – where actors seek to extort goods, money, services or access to entitlements such as healthcare or education – are more severe or costly for discriminated groups who are reliant on these entitlements.

This is a well-documented problem for persons with disabilities. The administration of disability grants and transfers is often complicated, while “discriminatory attitudes among administrators and lack of skills and resources to process the claims of people with communication impairments can dissuade potential beneficiaries from applying and reduce the chance of success for those who do”

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<sup>4</sup> Equal Rights Trust, Interview with Essy Atieno Olang, communications officer, KEFEADO-Kenya Female Advisory Organization, 11 April 2022.

<sup>5</sup> Written input received from Facundo Chavez Penillas, human rights & disability adviser, UN OHCHR, 12 April 2022.

(Gooding and Marriot 2009: 690). This provides a permissive environment for corruption. Erb and Harriss-White (2002) documented cases in India where persons with disabilities eligible for grants were rejected because they were unable to pay the bribes requested by officials.

One expert consulted for this Helpdesk Answer pointed to problematic practices related to efforts to crack down on alleged cases of disability fraud. He noted that narratives around people illegitimately claiming disability benefits tend to relegate persons with disabilities to a fundamental category of suspicion and subject people claiming rights like reasonable accommodation to redundant and excessive eligibility checks.<sup>6</sup>

In South Africa around the turn of the millennium, allegations of corruption in disability grants led to the government ultimately reducing the number of recipients, withdrawing grants and introducing a narrower definition of disability (Hansen and Sait 2011: 97).

As such, political discourse around disability fraud can not only perpetrate harm against persons with disabilities but it can also divert attention from the actual determinants of corruption that affect persons with disabilities. Potentially, additional checks could even provide further opportunities for corrupt public officials to extort bribes or other undue advantages from persons with disabilities.

## Discrimination presents barriers to challenging corruption; corruption inhibits access to justice for victims of discrimination

The same reasons that make discriminated groups disproportionately exposed to corruption render them particularly unable to challenge it. Imbalances in political power, economic power and

a lack of voice can mean that groups exposed to discrimination are unable to access justice. In a similar vein, there are indications that corruption can prevent instances of discrimination being adequately investigated and sanctioned.

There is some evidence that this dynamic affects persons with disabilities. A study by the UN OHCHR in Ukraine found that “persons with disabilities are often denied their right to an effective remedy for the human rights violations they experience” (UN OHCHR 2020: 2).

There are many potential drivers behind the denial of access to justice to persons with disabilities, but a study in Nigeria indicates that corruption can act as one important barrier. Someone interviewed for a report by Asylos and the ARC Foundation (2021: 127) stated:

“there are no consequences for violating the rights of people with disabilities in Nigeria... Our judicial system is corrupt. Our judicial system does not work. It's highly ineffective. Therefore, there is no way anybody will be prosecuted for violating the rights of a disabled person. Because, first, the disabled person does not even have money to pay lawyers to advocate for him or her. So, those who violate the rights of the disabled are not held accountable.”

Corruption can also mean that cases never come to trial because law enforcement fails to investigate abuses against persons with disabilities. The executive director of the Nigerian NGO Centre for Children's Health Education, Orientation and Protection pointed out that (Asylos and the ARC Foundation 2021: 194):

“When cases are reported, the agencies involved do not take up the case or they are bribed to leave the case, or most of the time

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<sup>6</sup> Written input received from Facundo Chavez Penillas, human rights & disability adviser, UN OHCHR, 12 April 2022.

they are bribed, especially if the perpetrator has a higher economic power than the abused... this applies both to children in general and to children with disabilities. And abuse of rights of children with disabilities is even worse because those children are discriminated upon even within their family circles. So, when their rights are abused, the families, most of the time, do not think it's necessary to take up the enforcement of their rights.”

In Cameroon, participants in a 2019 study reported that, even where caregivers of children with disabilities were aware of their rights and knew where to report abuses, “abusers used their influence and money to corrupt the officials”, which led to cases being dropped and deterring others from reporting wrongdoing (Sightsavers 2021: 32).

Consultations held to inform this Helpdesk Answer likewise suggest that discrimination can prevent persons with disabilities from challenging corrupt abuses when it comes to the process of applying for disability cards.

The Rape, Abuse & Incest National Network (no date) observes that, currently, persons with disabilities often face challenges in accessing services to report wrongdoing. Even when they do make a report of sexual assault or abuse, discrimination can mean they are less likely to be taken seriously by the authorities (RAINN no date). It therefore critical to ensure that grievance mechanisms and reporting channels are made accessible to persons with disabilities and which are sensitive to their needs.

Ultimately, discrimination creates a permissive environment in which corrupt practices affecting persons with disabilities can go unchallenged, and acts of corruption by individuals in positions of authority prevent injustices perpetrated against these people from being prosecuted.

## Corruption, discrimination and the COVID-19 pandemic

There appears to be widespread consensus that state responses to the COVID-19 pandemic amplified existing patterns of discriminatory corruption affecting persons with disabilities, leading to these groups bearing an even more disproportionate burden of the social and economic costs of corruption.

Notably, the Disability Research Team at the Institute of Development Studies recently undertook research into the situation of persons with disabilities in Bangladesh, Kenya, Nigeria, Nepal and Uganda with respect to the COVID-19 pandemic (Wickenden et al. 2021). Based on narrative interviews with persons with disabilities, the study noted that:

“corruption by duty-bearers was reported in Kenya, Nigeria and Bangladesh, with specific concern about the lack of transparency of official relief efforts implemented to mitigate the COVID-19 impacts. Some participants perceived that many disabled people received inadequate social protection previously, and that the pandemic had worsened the situation, either because of their increased need, or the opportunities generated for fraud.”

As well as providing new vulnerabilities for embezzlement, fraud and misappropriation, the CRPD has noted that state responses to the pandemic have led to forced institutionalisation that has not only exposed persons with disabilities to a higher risk of contagion in crowded facilities but also rendered them more vulnerable to the extortive forms of corruption described above (United Nations Committee on the Rights of Persons with Disabilities 2021).

A briefing note published by UN Women (2022) provides testimonial evidence from women with disabilities living in Nigeria that corruption prevented an effective and equitable response to

the COVID-19 pandemic.

Based on consultations that took place during 16 focus groups and 10 individual interviews with women with disabilities in two Nigerian states of Lagos and Kano in June 2021, the authors note that (UN Women 2022: 5):

“corruption, at multiple levels, was seen as an additional problem that prevented an effective and equitable response to COVID-19. Many participants suggested that local distribution was one way of ensuring that all people were given the necessary support as traditional leaders know how many people with disabilities live in their communities. However, others expressed concern that village heads and grassroots leaders had not been distributing food evenly or according to need. In one case, it was felt that ‘leaders in the grassroots held onto it, all; of us in our area, nobody got any’.”

Consultations held to inform this Helpdesk Answer consistently indicated that state responses to the COVID-19 pandemic had exacerbated the phenomenon of discriminatory corruption as this affects persons with disabilities. Not only did the pandemic inhibit access to healthcare, habilitation and rehabilitation services, education, social protection and employment for persons with disabilities, it aggravated predatory forms of corruption that worsen their quality of life (UN OHCHR 2020).

Sadly, the lack of inclusion of persons with disabilities and consideration of their needs is not restricted to state responses to COVID-19 and associated relief efforts; in many countries it appears to be a feature of state programming and planning more generally.

## How disability perspectives can be included in corruption prevention programmes

This final section considers how anti-corruption programmes can be made more sensitive to the interests and needs of persons with disabilities. It combines analysis of the available literature with the consultations undertaken to consider various strategies for the inclusion of persons with disabilities in development programming. It groups findings into three broad themes pertinent to including disability perspectives: representation, awareness raising and participation.

It is important to note that corruption may affect persons with different types of disability in distinct ways. The United Nations Committee on the Rights of Persons with Disabilities (2021) has observed that people with intellectual disabilities and psychosocial disabilities might be more “exposed to systematic and structural discrimination” than people with physical disabilities, while children, older persons and women with disabilities could also be disproportionately affected.

This latter point is crucial, and the intersection between disability status and other grounds should not be overlooked when seeking to sensitise anti-corruption programming to disability perspectives.

This finding indicates the value of and need for anti-corruption programmes to adopt a comprehensive, holistic and intersectional approach, fully assessing the range of inequalities and ensuring the equal participation of persons with disabilities and all other groups at risk of discrimination, irrespective of their status, identity or beliefs.

It is with this consideration in mind that this paper is supplemented by an annex outlining the principal elements of the Equality by Design framework, developed by the Equal Rights Trust. This is an approach to project design and delivery

that aims to ensure that projects are equality sensitive in their delivery and appropriately equality focused in their aims and objectives.

Returning to the literature and the supplementary consultations, this paper synthesises the approaches taken to the inclusion of disability perspectives under three themes, explored in greater detail below: representation, awareness raising and participation.

## Representation

Without political, economic and social visibility, marginalised communities are less able to challenge coercive corrupt practices that deprive them of their needs and entitlements on the basis of their identity or seek recourse when they bear the cost of collusive corrupt arrangements to which they are not party.

The lack of representation of people with disabilities in decision-making processes makes it easier to overlook their particular needs (Dénes and Republikon Institute 2019).

This rings true at every level, from national politics – data from the United Kingdom and United States show that fewer than 1% of elected officials have a disability (National Council on Independent Living 2018) – to municipal planning processes.

The CRPD has argued that governments must do more to “guarantee the independence and autonomy of organisations of persons with disabilities to ensure their integrity and effective participation in public policy decision-making” (UN OHCHR 2021: 6).

The same logic applies to development agencies seeking to run anti-corruption and good governance programmes that could affect people with disabilities. Ensuring sufficient representation

of persons with disabilities in decision-making bodies is the first step towards inclusion.

## Awareness raising

A recurring theme in many of the consultations related to the lack of awareness of persons with disabilities about their entitlements. Interviewees suggested that, even where funds are available to support persons with disabilities, the level of uptake remains fairly low as people are not aware that the government has structures available to them to ensure economic justice.<sup>7</sup> To cite one example, a baseline survey undertaken by KPO (Kenyan Paraplegic Organization), NTA (National Taxpayers Association) and KEFEADO (Kenya Female Advisory Organisation) (no date: 31-32) in Nairobi and Kisumu, Kenya, found that half of those surveyed had no knowledge of the National Government Affirmative Action Fund (NGAAF), intended to support persons with disabilities and other disadvantaged groups to access financial facilities and enjoy their rights. It was further reported that this lack of awareness made it easier for corrupt officials to embezzle funds as people were not actively demanding the financial support to which they were entitled.

To tackle this issue, the Nigeria Centre for Citizens with Disabilities undertook an awareness raising project in collaboration with Action Aid, UK Aid and the Centre for Communication and Social Impact in the Nigerian states of Kaduna, Kano and Lagos. The purpose of the project was to sensitise persons with disabilities that they are disproportionately impacted by corruption, and specifically by the indirectly discriminatory denial of their rights to healthcare, education and other services. In addition, it sought to track relevant government programmes to generate data that could be used in awareness raising campaigns (Centre for Citizens with Disabilities 2019).

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<sup>7</sup> Equal Rights Trust, Interview with Essy Atieno Olang, communications officer, KEFEADO-Kenya Female Advisory Organization, 11 April 2022.

Moreover, a workshop was held under the umbrella of the Joint National Association of Persons with Disability and resulted in an advocacy campaign to urge the state government in Kaduna to endorse a bill intended to improve the situation of people with disabilities in the region (Akhaine 2019).

Transparency International Pakistan conducted an awareness raising campaign for persons with disabilities in 2019 as part of an effort to make the access to information regime more accessible to them. Over 60 people with disabilities in the Toba Tek Singh district have subsequently used freedom of information requests to secure disability certificates (Transparency International and Equal Rights Trust 2021: 86-7).

Beyond representation therefore, which will likely only engage a few, typically more articulate or elite individuals, concerted efforts to raise awareness on the part of persons with disabilities more generally about the effects of corruption, their entitlements and potential avenues of recourse are critical. Development agencies could consider also communicating clearly to persons with disabilities the expected outcomes of their intervention and familiarise these people with available complaints mechanisms to express dissatisfaction.

## Participation

Representation and awareness raising have one common goal: stimulating greater participation in decision-making processes that affect persons with disabilities.

A report produced by Sightsavers (2021: 11) set out recommendations for all programmes aimed at reducing the discrimination of persons with disabilities.

- People with disabilities and their representative organisations should be involved at all phases of the design and implementation of the programme, including in monitoring and evaluation, as well as in operational research.
- Programmes should specify the type of

discrimination they seek to tackle and specify which population groups they target.

- During the design phase of the intervention, assumptions about the forms and extent of discrimination should be avoided. Rather, baseline data should be collective in an inclusive and participatory fashion and used to inform programme design.
- Robust analysis of the contextual factors and drivers of discrimination is key, and attention should be paid to the intersection of disability with other individual characteristics. The resultant analysis should be validated by affected communities.

Many of these are equally valid for development practitioners considering how to ensure sufficient inclusion of persons with disabilities during the development and planning stage of anti-corruption programming (Greve 2017).

A briefing paper by UN Women intended to support countries design and implement disability inclusive programmes found that women with disabilities expressed high levels of trust in other women with disabilities. This trust translated into the widespread view among these women that if representatives of their community were involved in resource allocation and distribution, then they would be more likely to notified about available support and this assistance would be distributed more fairly (UN Women 2022: 5).

The paper thus recommends that women with disabilities should be involved in the design and delivery of programmes, that disability inclusion should be budgeted for at multiple levels, and that efforts should be made to improve accountability and “ensure that the intentions of government policy and programmes are realised at the local level” in partnership with women with disabilities, while organisations of persons with disabilities should play a key role in establishing accountability mechanisms (UN Women 2022: 7).



Participation could also help address another lacuna: the low capacity of most governments to collect disaggregated data relevant to persons with disabilities to guide policy and the allocation of resources (UN Women 2022: 7). Community generated data can provide essential information on the status of persons with disabilities and identify policy gaps and barriers faced by persons with disabilities to support policymakers to amend existing policies, regulations and programmes to fully and equally include persons with disabilities (Transparency International and Equal Rights Trust 2021: 84-5).

Finally, participatory approaches to the design of complaints and redress mechanisms can help ensure these are sufficiently inclusive. In Nigeria, the Centre for Citizens with Disabilities has provided training to persons with disabilities about how to lodge complaints about corruption in the public sector (Akhaine 2019). In the EU, the non-governmental human rights organisation Validity is developing “practical tools for people with disabilities who are victims of crime, to help ensure that they can participate actively in criminal justice processes” (Validity 2019).

## Annex 1: Equality by design

This annex outlines the principal elements of the Equality by Design framework, developed by the [Equal Rights Trust](#). This is an approach to project design and delivery that aims to ensure that projects are *equality sensitive* in their delivery and appropriately *equality focused* in their aims and objectives. The framework is intended to facilitate systematic consideration of the potential equality impacts – positive and negative – of project planning and design, and to provide for consistent engagement with, and participation by, marginalised and discriminated groups.

The Equality by Design framework consists of concrete actions – backed up by tools, systems and processes – in nine areas. These nine action areas are grouped into three groups of three, defined with reference to three overarching questions.

### 1) Who is involved in the project?

An equality sensitive approach to project design and delivery requires the meaningful engagement of all those groups exposed to discrimination who have a stake in the project. The project should take an intentional, inclusive and intersectional approach to identifying marginalised groups who may be affected – positively and negatively – by the project.

Having identified these groups, the implementers should engage with these groups, being attentive to barriers which might prevent engagement, and adopting an approach which is safe and sensitive, appropriate and accessible. Finally, the project should ensure that affected groups are not only informed or consulted but are meaningfully involved in the design, delivery and monitoring of the project and its activities.

### 2) How is the project implemented?

An equality sensitive approach requires consideration of the equality impacts – both positive and negative – of the project at every stage of the design, delivery and monitoring of a project. At the inception of a project (or as soon as possible

thereafter), project staff should be provided with training on international standards on equality law, so that they can understand and identify forms and patterns of discrimination, both in the issues which the project seeks to address, and in the way in which the project is delivered.

Each project activity should be subject to an equality impact assessment – involving consultations with identified stakeholder groups – to identify the potential equality impacts of the project. This assessment should be pre-emptory, participatory and data led; it should enable the identification of both potential positive and negative equality impacts, at both the institutional and programmatic levels.

Finally, project monitoring and evaluation should include an assessment of outcomes and impacts for all groups exposed to discrimination.

### 3) What does the project seek to achieve?

Not all projects are equality focused in their approach – indeed, many projects are not. However, an equality sensitive approach to project design and delivery requires a systematic consideration of the equality relevance of the project outcomes and objectives. Through engagement with stakeholder groups and equality impact assessment, implementers should identify whether and how the project's targeted outcomes could reduce inequality. Consideration should be given to all aspects of a project, but a focus on how capacity building, research and advocacy activities and outcomes engage with issues of inequality will be particularly useful.

In all cases, consideration should be given to the relevance of inequality as both a cause and a consequence of the project outcomes and objectives, and to the relevance of socio-economic and status based inequalities. As this indicates, while the principles under questions one and two are broadly universal, the actions to be taken under question three are necessarily project and context specific, and are therefore reliant on careful,

comprehensive and considered research and consistent consultation and engagement with identified stakeholder groups.

*To find out more, please email the Equal Rights Trust at [info@equalrightstrust.org](mailto:info@equalrightstrust.org).*

*The Equal Rights Trust is an international non-governmental organisation, which exists to eliminate all forms of discrimination and ensure that everyone can participate in society on an equal basis. It works in partnership with equality defenders – civil society organisations, lawyers and others committed to using law to create an equal world – providing them with the technical, strategic and practical support they need to work for the adoption and effective implementation of comprehensive equality laws. It also works with international partners to develop understanding of the role of equality laws in the realisation of rights, development and good governance, and to support them to integrate equality considerations into their projects and programmes.*

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## **KEYWORDS**

Persons with disabilities – disability – inclusion–discrimination

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