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Lawyers and governments can do more for people with disabilities, says report

Lawyers, the wider legal community and governments could and should do more to help protect the rights of people with disabilities, according to a new report presented at the Annual Conference of the International Bar Association (IBA) in Sydney today.

Around one billion people – 15 percent of the global population – have some form of disability and experience discrimination in many areas of life, exacerbated by the barriers they face in accessing justice. Encouraging better reporting of crimes against people with disabilities, advocating against discriminatory laws and incorporating specialist training within legal education are a few of the actions the report calls on lawyers - and ultimately governments - to take to help combat this inequality.

The report is commissioned by the IBA Access to Justice and Legal Aid Committee and is researched and written by the Bingham Centre for the Rule of Law, part of the British Institute of International and Comparative Law. It draws on the UN Convention for the Rights of Persons with Disabilities, human rights law and the UN Sustainable Development Goals to analyse the challenges in accessing justice around the world for people with disabilities and identify how the legal community can best use their position, skills and expertise to overcome the barriers that still exist.

Andrew Mackenzie, Co-Vice Chair of the IBA Access to Justice and Legal Aid Committee says: "We wanted to research the issues concerning access to justice for people with disabilities around the world, so the report looks at examples from various jurisdictions. It is clear that more needs to be done to breakdown some of the additional barriers to access to justice often faced by those with disabilities. We hope this report will raise awareness of these issues and ultimately lead to enhanced access to justice for some of the more vulnerable in society."

One of the key issues raised by the report is the lack of disaggregated data on disability, as report co-author, Dr Julinda Beqiraj of the Bingham Centre for the Rule of Law explains: "To ensure access to justice for persons with disabilities, their needs should be properly considered when laws and policy are first drafted, and that can only happen if we have accurate evidence on the current situation, how their rights are affected, what works and what doesn't. At the moment, there are too many gaps in the data collected on people with disabilities in the justice system and these need to be filled."

The key findings of the report are:

- Crime against people with disabilities appears to be significantly underreported and lawyers working with these groups can help by encouraging greater reporting, to ensure policy in this area is based on accurate evidence.
- While litigation can effectively help overturn discriminatory laws, by intervening at an earlier stage, lawyers involved in advocacy can help to ensure laws that look likely to impact negatively against people with disabilities do not even enter the statute books.

- Litigation can only have a wider impact on discriminatory laws or practices where these can be evidenced, and that requires data, yet data gathered by many countries does still not include a break down in relation to people with disabilities.
- In many countries, where people with mental disabilities are deemed unfit to stand trial they are still deprived of their liberty through enforced hospitalisation and this is in conflict with human rights law. Further research and investigation is needed to resolve the conflicts between denial or restriction of legal capacity and human rights, with reference to different legal systems around the world.
- The treatment of and communication with people with disabilities during judicial proceedings are usually covered by voluntary guidelines, with these applied at best in an ad hoc fashion. These need to be strengthened into codes of practice to ensure they are consistent, structured and more binding.
- New technologies and the development of online dispute resolution can help people with disabilities overcome marginalisation in the justice system and the legal community needs to be open to the benefits they provide.

The report - *Access to justice for people with disabilities: From international principles to practice* – will be presented at the working session “Access to justice for persons with disabilities: an international review” at the Annual Conference of the International Bar Association with speakers from Australia, England and Wales, Scotland, Ghana, Uruguay and the USA.

Ends

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Notes to editors:

Details of the Committee’s working session at the IBA Annual Conference in Sydney: <https://www.int-bar.org/Conferences/conf673/ProgrammeSearch/Results/Detail.cfm?FunctionGuid=8108290D-86EC-4B91-9719-D45343B2B91F&Search=ListSessionsByCommittee>

The full report: (link to dropbox)

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The Bingham Centre for the Rule of Law is devoted to the study and promotion of the rule of law worldwide, defining and implementing the rule of law as a universal and practical concept that upholds respect for human dignity and enhances economic development and political stability. The Centre’s focus is on understanding and promoting the rule of law; considering the challenges it faces; providing an intellectual framework within which it can operate; and fashioning the practical tools to support it.

The IBA/ IBA Access to Justice and Legal Aid Committee aims to gather information from around the world on the barriers to access to justice in each jurisdiction and any ways in which these barriers are overcome, with specific emphasis on statutory schemes such as legal aid, publicising its findings with reports and events with a view to sharing and spreading good practice.