

POSITION STATEMENTS

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HUMAN AND CIVIL RIGHTS

All people have human rights and are entitled to the protection and benefits of the civil rights laws of their country. This includes people with intellectual and/or developmental disabilities¹ (IDD). They are entitled to exercise their rights and to have their human rights and civil rights respected. When their rights are violated, they are entitled to protection and rights restoration.

ISSUE

Freedom from discrimination is a basic human right. Yet today, and historically, the human and civil rights of people with IDD have been unjustifiably denied or limited.

People with IDD form a diverse group, sharing the same characteristics found in society at large. People with IDD can be found among people of any age, gender identity and expression, race and ethnicity, sexual orientation and sexuality, communication and expression, culture, language, faith or religion, location, economic status, immigration and legal residency status, familial status, support need, and among people who have other disabilities.

Many identities and lived experiences, including IDD, are socially marginalized. Those with IDD who have additional marginalized identities – including those related to race, ethnicity, LGBTQ+² status, and poverty – are least likely to have their rights respected, protected, and enforced. Those at the intersection of multiple marginalized identities are most likely to experience oppression and violation of their human and civil rights.

People with IDD have the right to share in the benefits and riches of society and the world as well as the right to make their own contributions to their communities and society. They have often been denied these rights and opportunities.

¹ Intellectual Disability (ID) is a lifelong condition where significant limitations in both intellectual functioning and adaptive behavior emerge during the developmental period (before adulthood).

Developmental Disabilities (DD), first defined in 1975 federal legislation now known as “The DD Act”, are a group of lifelong conditions that emerge during the developmental period and result in some level of functional limitation in learning, language, communication, cognition, behavior, socialization, or mobility. The most common DD conditions are intellectual disability, Down syndrome, autism, cerebral palsy, spina bifida, fetal alcohol syndrome, and fragile X syndrome.

The acronym “IDD” is used to describe a group that includes either people with both ID and another DD or a group that includes people with ID or another DD. The supports that people with IDD need to meet their goals vary in intensity from intermittent to pervasive.

² LGBTQ+ stands for lesbian, gay, bisexual, transgender, queer or questioning, and other expressions.

Human Rights

One of the purposes of the United Nations is to “reaffirm faith in fundamental human rights, in the dignity and worth of the human person ...”, as stated in its 1945 charter. The UN’s Universal Declaration of Human Rights (1948) includes recognition of the inherent dignity and worth of, and equal and inalienable rights of, all members of the human family as the foundation of freedom, justice, and peace in the world. The Declaration, which the United States ratified in 1992, holds that human rights should be protected by law.

A number of UN covenants address human rights, most notably the right to individual autonomy and independence and the right to make one’s own choices. Other human rights noted in the Declaration and later covenants³ include freedom from discrimination on the basis of disability; freedom from fear, torture, or inhuman or degrading treatment or punishment; and the right to accessibility and equality of opportunity for people with disabilities. They address self-determination, including control of own resources; availability of education for all; the right to work, fair wages, safe working conditions, and reasonable time off; and the right to be equal before the courts. Identified human rights are protected by civil rights laws of the various countries and enforced by governments, legal systems, and private actions.

Civil Rights

In the United States, civil rights are affirmed at the national level by the U.S. Constitution, the Bill of Rights, and the various civil rights laws. In practice, state and federal laws have failed to adequately protect or support people with disabilities and other marginalized identities. People with IDD, their families, and advocates filed numerous lawsuits, including class actions, over more than fifty years to enforce the rights of people with IDD at the state and federal levels.

In response, Congress has enacted many additional federal laws to establish, bolster, and further protect the civil rights of people with disabilities. Recent examples include Section 504 of the Rehabilitation Act, the Individuals with Disabilities Education Act (IDEA), the Civil Rights of Institutionalized Persons Act, the Americans with Disabilities Act (ADA) and its amendments, and provisions of the Affordable Care Act.

Regrettably, even with federal protections, people with IDD continue to face barriers to the full exercise and enjoyment of their human and civil rights, including:

- Discrimination in education, employment, housing, voting, transportation, and other programs and activities;
- Social and cultural attitudes of devaluation and fear;
- Prejudiced beliefs and implicit bias that promotes that people with IDD cannot and/or do not contribute to society or that they are unworthy of public funding;
- Societal failure to provide the supports wanted and needed for full community participation, equal opportunity, independent living, and economic self-sufficiency;
- Systems that value protection over freedom to exercise individual rights;
- Restraint, seclusion, use of aversives, and other forms of behavioral control masquerading as treatment;

³ The United States has not ratified all of these additional covenants or conventions.

- Reliance on prisons, jails, psychiatric, and other institutional facilities as a substitute for supporting people in successful community living;
- Barriers to economic independence that are built into existing programs, intentional or not;
- Underpayment for labor and services and denial of the means of economic self-sufficiency;
- Systemic barriers to culturally accessible and competent health care resulting in significant health disparities, including higher rates of treatable illness and death; and
- Legislation and regulations that restrict or limit access to voting or the ability to vote without undue barriers or hardship, including support to cast one's ballot.

POSITION

Human and civil rights are recognized by national or international laws, declarations, conventions, or standards. These rights include the right to life; liberty; equality; speech, assembly, and petition; dignity; self-determination; autonomy; family and reproduction; justice; community participation; property and finances; health; well-being; voting; equality of opportunity; choice; and bear arms. They also include freedom from unwarranted and unjustifiably extensive guardianship or conservatorship, restraints, seclusion, and aversive treatments.

People with IDD are richly diverse, sharing the same characteristics found in society at large. People with IDD can be found among people of any age, gender identity and expression, race and ethnicity, sexual orientation and sexuality, communication and expression, culture, language, faith or religion, location, economic status, immigration and legal residency status, familial status, support need, and among people who have other disabilities.

People with IDD have the same human rights as all people and are entitled to the same benefits and legal protection of their civil rights. They are entitled to exercise their rights and to have their human rights and civil rights respected. When their rights are violated, people with IDD are entitled to protection, rights restoration, and compensation for losses.

All people with intellectual and/or developmental disabilities have the right to accommodations, assistance, and supports they need to exercise and ensure their human and civil rights. Local, state, federal, and international governments must strongly enforce all human and civil rights.

Education of all key actors is important. It is imperative that responsible people, including law enforcement, educators, providers, direct support professionals, family members, and others are held accountable for negligent, deliberate, or unlawful harm to people with IDD caused by their actions or inactions. Harm can result from indifference and brutality. Both can result in severe consequences to people with IDD. One glaring example is the inhumane use of restraints, seclusion, and aversive treatments, which too often lead to death.

Policy makers must act to ensure that human rights are protected by law; that any gaps or failures in the law are corrected; and that laws are enforced by respectful and knowledgeable authorities.

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