



**Convention on the Rights  
of Persons with Disabilities**

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**Committee on the Rights of Persons with Disabilities**

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**General comments and days of general discussion**

**General comment on Article 6: Women with disabilities**

**Draft prepared by the Committee**

The Draft general comment on Article 6 on Women with disabilities was prepared pursuant to Rule 47, paragraphs 1 and 2 of the Committee's Rules of Procedure (CRPD/C/1) and paragraph 54 of the Committee's Working Methods (CRPD/C/5/4).

1. The Committee on the Rights of Persons with Disabilities in accordance with Rule 47 of its Rules of Procedure<sup>1</sup> and para. 54–57 of its Working Methods<sup>2</sup> may prepare general comments based on the various articles and provisions of the Convention with a view to assisting States Parties in fulfilling their reporting obligations. This draft general comment is prepared based on that Rule.

## I. Introduction

2. Women and girls with disabilities have long been neglected by international and national disability policy and law. Traditionally, policies addressed to women have made disability invisible and policies on disability have forgotten gender, perpetuating the situation of multiple discrimination of women and girls with disabilities. Gradual changes occurred in the 1980s when women with disabilities organized themselves and participated in the International Year of Disabled Persons 1981, in the following UN Decade of Disabled Persons 1983–1992, and in most World Conferences on Women. In 1990 the Vienna seminar on Women with Disabilities was organized by the United Nations.<sup>3</sup> They were recognized as a marginalized group in the World Programme of Action of 1982<sup>4</sup> and in the Standard Rules on the Equalization of Persons with Disabilities of 1993<sup>5</sup>. While they could meet only informally at the 1985 World Conference on Women on Nairobi<sup>6</sup>, women with disabilities had their own forum alongside the Fourth World Conference on Women in Beijing 1995. The outcome documents, the Beijing Declaration and the Platform for Action mention women with disabilities in 38 of 361 paragraphs.<sup>7</sup> Today, several bodies of the United Nations human rights mechanism have addressed the situation of women and girls with disabilities.<sup>8</sup> However, most binding human rights instruments yet do not address human rights violations of women and girls with disabilities. With the exception of ILO

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<sup>1</sup> Committee on the Rights of Persons with Disabilities: Rules of Procedure, 5 June 2014, CRPD/C/1, p. 17;

<sup>2</sup> Committee on the Rights of Persons with Disabilities: Working Methods of the Committee on the Rights of Persons with Disabilities, 4 April 2011, CRPD/C/5/4, p. 7-8.

<sup>3</sup> Women and Disability, Some Issues, Seminar on Disabled Women (Vienna, Aug. 20-24, 1990) UN Doc. SDW/1990/wp.1 (1990)

<sup>4</sup> World Programme of Action concerning Disabled Persons, Report of the Secretary General, 15 Sept 1982, A/RES/37/351/Add.1, para II/2/45, p. 30.

<sup>5</sup> Standard Rules on the Equalization of Persons with Disabilities, Adopted by the United Nations General Assembly, forty-eighth session, resolution 48/96, annex, of 20 December 1993.

<sup>6</sup> Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi 15-26 July 1985; Unites Nations, New York, 1986, online: [http://www.5wwc.org/downloads/Report\\_of\\_WCW-1985.pdf](http://www.5wwc.org/downloads/Report_of_WCW-1985.pdf) [28 Jan 2015].

<sup>7</sup> Beijing Declaration and Platform for Action, The fourth World Conference on Women, online: <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf> [28 Jan 2015].

<sup>8</sup> E.g. Committee on the Elimination of Discrimination against Women: General Recommendation No. 18 on Disabled Women, Committee on the Rights of the Child: General comment No. 9, The rights of children with disabilities, 13 November 2007, CRC/C/GC/9/Corr.1; Committee on Economic, Social and Cultural Rights: General Comment No. 5, Persons with Disabilities, E/1995/22; Office of the High Commissioner for Human Rights: Thematic study on the issue of violence against women and girls and disability, 2012; ILO, Integrating women and girls with disabilities into mainstream vocational training – A practical guide, 1999; World Health Organization: Eliminating forced, coercive and otherwise involuntary sterilization. An interagency statement OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO (2014).

Convention No 159<sup>9</sup>, human rights treaties have ignored women and girls with disabilities. Article 6 CRPD is a response to this long time neglect. Empowering women with disabilities, by raising their self-confidence and increasing their power and authority to take decisions in all areas affecting their lives, is the key and most urgent issue of our times.

3. Gender equality and gender justice belong to the core of international human rights. The United Nations' Charter promotes universal respect for human rights for all without distinction as to sex among other categories. The Universal Declaration of Human Rights of 1948<sup>10</sup> as well as most core human rights treaties<sup>11</sup> explicitly prohibit discrimination and promote equality. The rights to equality and non-discrimination and equality along with the right to liberty are therefore characterized as the most fundamental human rights in modern international law. While sex or gender are always specifically referred to in non-discrimination and equality clauses, disability is rarely mentioned and usually falls under open clause formulas such as "any other status". Article 6 is the first binding equality provision in United Nations' human rights law that unequivocally outlaws discrimination on the basis of gender and disability.

4. While equality and non-discrimination have been the foundation of modern human rights, their notions have developed over the last decades. Whereas formal equality was the goal in the beginning, more comprehensive concepts, such as substantive equality and transformative equality, have evolved over time. This development is a reflection of human rights becoming truly universal and personalized. It acknowledges that human beings experience discrimination differently according to their statuses throughout life-cycle and that discrimination occurs in various forms, directly, indirectly, structurally or systemic, or multiple. Transformative equality as a concept acknowledges that positive action for change is necessary in order to overcome discrimination that is deeply interwoven in legal, political, economic and cultural structures of society.

5. Based on the initial reports of State Parties that the CRPD Committee has reviewed so far and taking into consideration the contributions to the half day of general discussion on women and girls with disabilities which took place during its 9th session in April 2013<sup>12</sup>, the Committee observes that there are three main subjects of concern with respect to the protection of human rights of women and girls with disabilities: (1) violence against women and girls with disabilities (2) restriction of sexual and reproductive rights of women with disabilities, including the right to motherhood and child-rearing responsibilities, and (3) intersectional discrimination against women and girls with disabilities.

6. Violence against women and girls with disabilities encompasses "violence accomplished by physical force, legal compulsion, economic coercion, intimidation, psychological manipulation, deception, and misinformation, and in which absence of free and informed consent is a key analytical component".<sup>13</sup> Women with disabilities face a confluence of violence which reflects both gender and sex-based and disability-based violence. It may be interpersonal violence or institutional and structural violence. Interpersonal violence includes such forms of abuse as economic, psychological, sexual,

<sup>9</sup> Art. 4 Convention concerning Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)

<sup>10</sup> Art. 1 and 2 UDHR

<sup>11</sup> Art. 3 CCPR, Art. 2 CDESCR, Art.1 and 2 CRC, Art. 1 CEDAW, Art. 7 CMW, Art. 2 CERD

<sup>12</sup> All contributions received during the celebration of half the day of general discussion on women and girls with disabilities were gathered by the Committee in a specific publication available on the Committee website in English and Spanish.

<sup>13</sup> Report of the Office of the United Nations High Commissioner for Human Rights (2012) (A/HRC/20/5). Thematic study on the issue of violence against women and girls and disability. Paragraph 4.

emotional, physical and verbal threats and actions. Institutional and structural violence is any form of structural inequality or institutional discrimination that maintains a woman in a subordinate position, whether physical or ideological, to other people within her family, household or community.<sup>14</sup> In terms of physical and psychological violence, women and girls with disabilities are victims of exploitation, violence and abuse (CRPD article 16), but are also subject to forms which are aggravated, amounting to cruel, inhuman or degrading treatment (CRPD article 15). According to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, certain forms of violence and abuse may be tantamount to cruel, inhuman or degrading treatment. Among these are cases of forced sterilisation or sterilisation without the direct consent of the woman involved, involuntary abortion, forced institutionalisation, and invasive and irreversible surgical practises without consent.<sup>15</sup> Sexual violence against women and girls with disabilities includes rape and sexual abuse in all scenarios within both state and non-state institutions, within family or the community. Institutionalized women and girls with disabilities are at a higher risk of violence than men or boys with disabilities. Women with disabilities may experience violence for longer periods of time due to inadequate pathways to safety. Violence may be based on gender or disability or both.

7. Women with disabilities are often treated as if they have no control or should have no control over their sexual and reproductive rights. Their choices often remain unheard and their decisions are substituted by legal representatives, thus violating their rights under article 12 CRPD.<sup>16</sup> Guardianship laws may allow forced sterilisations or forced termination of wanted pregnancies in the name of “best interest” standards. Thus, some jurisdictions have higher rates of imposing substituted decisions on women than on men<sup>17</sup>. Therefore, it is particularly important to reaffirm that the legal capacity of women and girls with disabilities should be recognised on an equal basis with others.<sup>18</sup> Women and girls with disabilities are particularly at risk of forced sterilisation, which is carried out without their consent for a number of reasons. Women and girls with disabilities are often not regarded by the community as sexual beings with reproductive and parenting rights. Mothers with disabilities are significantly overrepresented in child protection proceedings and likewise, they are disproportionately subject to the removal of their children by child protection authorities. Sexual rights are fundamentally entrenched in the human rights to, dignity, physical and mental integrity, private life, health and equality, in addition to the right to non-discrimination and with the physical and mental integrity on an equal basis with others. The main areas of concern to the Committee in respect of sexual and reproductive rights in the Convention are: forced abortion and forced sterilisation; lack of access to sexual and reproductive health services and to family planning information, services and methods; lack of access to HIV/AIDS services; sexual violence and denial of free and informed consent to any medical or other therapeutic treatment.

These practices violate human rights of women and girls with disabilities. Like all women, women with disabilities have the right to have control over and decide freely and

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<sup>14</sup> Report of the Special Rapporteur on violence against women, Paragraph 24, 25 and 26. 2011. A/HRC/17/26.

<sup>15</sup> See Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. 2013. A /HRC/22/53

<sup>16</sup> See World Health Organization: Eliminating forced, coercive and otherwise involuntary sterilization. An interagency statement OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO (2014).

<sup>17</sup> CRPD General Day of Discussion on Women and Girls with Disabilities (2013).

<sup>18</sup> Art. 12 CRPD and CRPD General Comment No 1, paragraph 31; Art. 15 CEDAW.

responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence.<sup>19</sup>

8. Women and girls with disabilities are often confronted with intersectional discrimination, which means that several forms of discrimination based on various layers of identity may intersect and produce new forms of discrimination which are unique and cannot be correctly understood by describing them as double or triple discrimination. Intersectionality is a form of multiple discrimination. Acknowledging intersectional or multiple discrimination helps to visualize human rights violations which remained unseen because discrimination was only viewed from one dimension such as ethnicity or skin colour, or gender or disability or sexual orientation or age or socio-economic situation. Most anti-discrimination laws and policies have this one-dimensional approach, in fact, many human rights treaties have this one-dimensional approach. However, human beings are not only men, women, intersexual or transgender, they also have ethnic, cultural and/or religious backgrounds, they may have an impairment or not and have other layers of identity, such as age and sexual orientation. Women and girls with disabilities are more likely to be subjected to forced interventions which infringe their reproductive rights such as forced sterilisation than women without disabilities and men with disabilities. They are more likely to be subject to guardianship proceedings for the formal removal of their legal capacity. This facilitates and may even authorise forced interventions. This non-consensual treatment is perpetrated against them on account of the interaction and intersection of their gender. The resulting myriad of violations of rights includes the right to non-discrimination, freedom from torture and ill-treatment, protection of personal integrity, right to legal capacity, right to family, right to health, to living independently and being included in the community, and access to justice. Similarly, girls with disabilities face intersectional discrimination on account of their age, gender, sex and disability when subjected to sexual assault. It is this intersection of identities which concurrently reflects and produces a perceived and actual situation of risk and exclusion which renders possible such an act. The perpetrator may target a girl with disabilities for any of the following reasons, and most likely due to a combination of them: because she is perceived to be innocent, weak, passive, unable or unlikely to speak out, or unlikely to be believed by others to be the object of a sexual assault. Such acts result in multiple violations of rights including protection from discrimination, freedom from torture and ill-treatment, protection from violence, abuse and exploitation, protection of personal integrity and access to justice.

9. Most States do not recognise multiple and intersectional discrimination. Often equality and anti-discrimination laws and provisions across the world categorise identity and require each protected characteristic to be dealt with in isolation. Such an approach is divorced from human experience, necessarily falls short of reflecting peoples' sense of self, and thus fails to protect their human dignity. In some jurisdictions, victims of discrimination can only bring a complaint of discrimination with respect to one ground because multiple and intersectional discrimination is not provided for in the law. In addition, where a remedy can be sought and obtained with respect to one aspect of the multidimensional discrimination, this fails to recognise the heightened disadvantage experienced by the victim, and the corresponding heightened damage caused, and cannot adequately provide redress nor restore their individual dignity. However, when intersectional discrimination is recognised in the law and infuses the determination of liability, it is more likely that it will also figure in the pronouncement of remedies. Some jurisdictions apply this practice and facilitate the bringing of complaints on multiple and intersectional grounds of discrimination, recognise the aggravating circumstances of such a

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<sup>19</sup> Declaration and Beijing Declaration and Platform for Action. The Fourth World Conference on Women, Beijing from 4 to 15 September 1995. Paragraph 96.

finding and ensure that the awards of damages are duly reflected in order to provide effective remedies which restore the full scope of injury and disadvantage caused by this form of discrimination.

10. The role of data collection and consultation is essential to ensure that intersections and interactions between and among groups, such as women and girls with disabilities, who are normally invisible in terms of policies with respect to women, persons with disabilities and non-discrimination, are exposed in order to ensure that laws and policies are better formulated and tailored, as well as being informed and evidence-based through consultations, to meet their specific needs and to uphold their rights in the context of their diverse lived experiences, as well as to eliminate decision-making based on stereotypes. Increasingly, treaty bodies<sup>20</sup> are calling on States to take notice of and address intersectional and multiple discrimination, within domestic jurisdictions, whereas the CRPD is the first treaty which addresses multiple discrimination explicitly.

11. The present general comment reflects an interpretation of article 6 which is premised on the general principles of the Convention, as outlined in article 3, namely, respect for inherent dignity, individual autonomy — including the freedom to make one's own choices —, and independence of persons; non-discrimination; full and effective participation and inclusion in society; respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; equality of opportunity; accessibility; equality between men and women; and respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

12. Article 6 of the Convention recognizes that women with disabilities all over the world are subject to multiple discrimination. In order to respect and protect human rights of women with disabilities, State Parties need to take active measures for ensuring gender and disability equality. States must take all appropriate measures to ensure that women with disabilities can fully develop, advance and be empowered for the purpose of exercising and enjoying all human rights enshrined in the CRPD. The legal nature of article 6 is thus cross-cutting in the sense that it accompanies all human rights enshrined in the Convention. All rights must be interpreted in light of article 6 and thus the multiple discrimination of women with disabilities needs to be taken into account when implementing the CRPD. State Parties are under a comprehensive obligation to read and implement the Convention with women and girls with disabilities in mind.

13. The cross-cutting nature of article 6 is accompanied by specific references to gender equality and gender justice throughout the Convention: Preamble para. p) lists various grounds of discriminations which might aggravate or multiply disability discrimination. Sex is mentioned among these. The list is open ended and includes "any other status." Preamble para s) emphasizes the need for gender mainstreaming in all efforts of implementation of the Convention. Article 3 (g) postulates that equality between women and men shall be considered as one of the core principles of the Convention. Article 8 para. b) demands that sex-based stereotypes, prejudices and harmful practises related to persons with disabilities be combated by State Parties. Article 16 and Preamble para. q) alert to the fact that women with disabilities are at higher risk of (sexual) violence, abuse and exploitation and demand that State Parties take all appropriate measures to protect women and girls with disabilities against these human rights violations. Article 25 demands that health services are gender sensitive and para a) requires State Parties to ensure, that all persons with disabilities are provided with the equal health care services, including in the area of reproductive and sexual health and population-based public health programmes.

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<sup>20</sup> Among others, CEDAW Committee Concluding Observations on Austria, CRC Committee Concluding Observations on Seychelles,

Article 28 on adequate standard of living and on social protection provides that State Parties must ensure that women with disabilities and girls with disabilities have equal access to social protection and poverty reduction programmes. Article 34 (4) provides that the CRPD should reflect a balanced gender representation.

14. Article 6 as a stand alone article on women with disabilities and the references to sex or gender in several other articles throughout the Convention manifest a two track approach to gender and disability. This twin-track approach seeks to ensure comprehensive and holistic recognition of women and girls with disabilities in the implementation of the Convention. Whereas the stand alone article reminds State Parties that specific measures need to be taken in order to ensure that women with disabilities are protected against multiple discrimination and can enjoy human rights and fundamental freedoms on an equal footing, the gender references in several articles of the treaty highlight the necessity of gender mainstreaming in disability policy. The fact that not all provisions of the Convention have explicit references to women with disabilities must, however, not be taken as an excuse for ignoring gender aspects in the implementation of these provisions. Article 6 has horizontal effect on all other provisions of the treaty.

## II. Normative content of article 6

### Article 6 paragraph 1

15. Article 6 paragraph 1 recognizes that women and girls with disabilities are subject to multiple discrimination on grounds of disability and sex, which might be aggravated by other grounds. Disability-based discrimination is defined as “any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.”<sup>21</sup> Discrimination against women is defined as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, or enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”<sup>22</sup>

16. The concept of reasonable accommodation in discrimination law was not widely known when CEDAW was adopted. But it has been applied to women with disabilities by CEDAW Committee.<sup>23</sup> While it is not included in the definition of sex-based discrimination according to CEDAW and it is linked to disability-based discrimination in this Convention, denial of reasonable accommodation on the basis of gender or disability may amount to discrimination under article 6. A core characteristic of multiple discrimination is its intersectional nature which means that more than one ground of discrimination is involved. Often it is impossible to separate the grounds in the context of discrimination. Which part of the discrimination is based on which ground is often impossible to tell. Further intersectional discrimination manifests itself as an entirely new form of discrimination. The Convention demands that State Parties guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.<sup>24</sup> Thus, denial of reasonable

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<sup>21</sup> Art. 2 CRPD

<sup>22</sup> Art. 1 CEDAW

<sup>23</sup> CEDAW/C/HUN/CO/7-8 (CEDAW, 2013) Hungary

<sup>24</sup> Art. 5 (2) CRPD

accommodation either on the ground of disability or on the basis of gender may amount to discrimination against women with disabilities.<sup>25</sup>

17. Multiple discrimination means discrimination based on more than one status. It might manifest itself as cumulative discrimination<sup>26</sup> in the sense that discrimination based on one ground is added to discrimination based on another ground and both forms of discriminations can be separated. But more often, the grounds for discrimination are inextricably linked<sup>27</sup> and cannot be separated. Thus, intersectional discrimination may lead to different or to another degree of discrimination or to new forms of discrimination not yet acknowledged by law, policy or in research.<sup>28</sup> Whether cumulative or intersectional, multiple discrimination often has aggravating or compounding effects. To recognize multiple discrimination means to recognize that persons experience discrimination not as members of a homogenous group but as individuals with different statuses and in different life circumstances. It means to acknowledge that multiple discrimination has unique and specific impact on individuals and merits particular consideration and remedying.<sup>29</sup>

18. Multiple discrimination might be based on disability and gender but also on any other ground. Preamble para p) lists a number of other grounds such as colour, language or religion. But the list is not exhaustive and includes “any other status”. The Convention protects persons with disabilities against all forms of discrimination on all grounds.<sup>30</sup> Thus, multiple discrimination against women with disabilities may be based on “race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age”<sup>31</sup> or, for instance on “marital status, sexual orientation and gender identity, health status, place of residence, economic or social situation.”<sup>32</sup>

19. Determination of (multiple) discrimination requires finding the right comparator. The equality principle as a fundamental human rights principle is inherently relative and context specific. With regard to multiple discrimination of women and girls with disabilities it is important to note that comparators can be either men or boys with disabilities or women or girls without disabilities or other groups depending on the status at stake. Justification of multiple discrimination – if applicable – requires justification on all grounds at stake.

20. Multiple discrimination can take all forms of discrimination: direct or indirect discrimination, denial of reasonable accommodation, structural and systemic discrimination. Direct discrimination applies when women or girls with disabilities are treated less favourably than another person in a similar situation for a reason related to a prohibited ground. It also includes detrimental acts or omissions on the basis of prohibited grounds where there is no comparable similar situation.<sup>33</sup>

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<sup>25</sup> Art. 2 CRPD defines the concept of reasonable accommodation and the extent to which it has to be provided: “ ‘Reasonable accommodation’ means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;”.

<sup>26</sup> CESCR General Comment No 20 para 17

<sup>27</sup> CEDAW General Recommendation No 28 para.18

<sup>28</sup> CERD General Recommendation 25 para. 2 & 3

<sup>29</sup> CESCR GC 20 para. 17

<sup>30</sup> Art. 5 (2), Art. 2 CRPD

<sup>31</sup> Preamble p) CRPD

<sup>32</sup> CESCR GC 20 para. 27 -35

<sup>33</sup> CESCR General Comment 20 para 10



Indirect discrimination means that law, policies or practices appear neutral at face value, but have a disproportionate impact<sup>34</sup> on women or girls with disabilities.

Denial of reasonable accommodation is discrimination if necessary and appropriate modification and adjustments are denied that do not impose a disproportionate or undue burden and are needed to ensure a woman or a girl with disabilities enjoy equal exercise of a human right or fundamental freedom.<sup>35</sup>

21. Structural or systemic discrimination is difficult to trace because discrimination is routed in hidden or overt patterns of institutional behaviour, cultural traditions and norms, rules and other social structures that lead to unfavourable “othering” of women and girls with disabilities. Systemic discriminations are persistent and pervasive disadvantages against women or girls with disabilities as a group.<sup>36</sup>

22. Multiple discrimination against women and girls with disabilities may take place in private and public sphere. International human rights law has long acknowledged State responsibility for private discrimination.<sup>37</sup> For State Parties to the CRPD it has been explicitly enunciated as general State Party obligations.<sup>38</sup> Women and girls with disabilities may experience multiple discrimination within family relations or by private social service providers. Particularly institutionalized women or girls with disabilities are at risk of violence, involuntary sterilization or other forms of intersectional discrimination.

## Article 6 paragraph 2

23. Paragraph 2 addresses the development, advancement and empowerment of women. It assumes that women can be ensured the rights designated in the Convention if the States Parties strive to achieve and promote these goals with appropriate means and in all of the fields addressed by the Convention.

24. While States Parties are afforded flexibility in determining how best to achieve the purpose of the Convention, they must take “all appropriate measures”. These may be legislative, educational, administrative, cultural, political or other measures. Measures are appropriate if they achieve the goal of guaranteeing women with disabilities the exercise and enjoyment of the human rights and fundamental freedoms set out in the Convention. Measures may be temporary or long term and should overcome *de jure* and *de facto* inequality. While temporary measures might be necessary to overcome structural and systemic multiple discrimination long, term measures might be necessary with regard to reasonable accommodations.

25. All measures must ensure the full development, advancement and empowerment of women with disabilities. Development and advancement relate to economic growth and eradication of poverty but are not limited to these fields. Women with disabilities need to develop with respect to all rights and fundamental freedoms enshrined in the Convention. While gender and disability sensitive development measures in the field of education, literacy, employment and relating to combating violence may be appropriate measures to ensure the full economic development of women with disabilities, additional measures are

<sup>34</sup> CESCR GC 20 para. 10

<sup>35</sup> Art. 2 CRPD

<sup>36</sup> CESCR GC 20 para. 12

<sup>37</sup> CCPR, GC 18 para. 9, CCPR para. 31, CESCR GC 20 para. 11, CEDAW GR 28 para. 9, CERD GR 25 para 1, 2;

<sup>38</sup> Art. 4 (1) (e) CRPD

necessary to ensure the full development of women with disabilities with regard to health and political and cultural participation for example.

26. Advancement goes beyond the goal of development in so far as measures must target the improvement of the situation of women with disabilities throughout their lifespan. It is not enough that women with disabilities are also recognized in development measures. Appropriate measures are those which are geared towards advancing the situation of women with disabilities in relation to their current situation and environment, in terms of human rights, fundamental freedoms and social development.

27. Ensuring empowerment of women with disabilities means to shift the paradigm from treating women and girls with disabilities as objects of pity to regarding them as right holders who are entitled to full and equal exercise of all human rights and fundamental freedoms.

### III. States parties' obligations

28. Obligations under article 6 are of immediate nature. The progressive realization clause<sup>39</sup> does not apply to non-discrimination duties. As such, the rights provided for in article 6 apply at the moment of ratification and are subject to immediate realization. Upon ratification, State Parties must immediately begin to take steps towards the realization of the rights in article 6. These steps must be deliberate, well-planned, and include the consultation and real, effective and meaningful participation of women and girls with disabilities and their representative organizations.

29. States Parties have to take measures to achieve formal, substantive and transformative equality for women and girls with disabilities. Whereas formal equality relates to legal equality and similar treatment, substantive equality refers to *de facto* equal opportunity without disadvantage for and oppression of women and girls with disabilities. Transformative equality in the context of disability and gender means removal of barriers and discriminative structures and institutions by undertaking positive action measures to bring about change.

30. State Parties to the Convention are under an immediate legal obligation to respect, to protect and to fulfil the rights of women and girls with disabilities under article 6 in order to guaranteeing them the enjoyment and exercise of all human rights and fundamental freedoms. These duties imply the undertaking of legal, administrative, educational and other measures.

31. The duty to respect requires State Parties not to take measures that undermine the full development, advancement and empowerment of women and girls with disabilities. As such, existing laws, regulations, customs and practices that constitute discrimination against women and girls with disabilities must be modified or abolished.<sup>40</sup> Laws that do not allow women with disabilities to marry or have children are frequent examples for such legal discrimination. Further, the duty to respect implies to refrain from engaging in any act or practice that is inconsistent with article 6 and to ensure that public authorities and institutions act in conformity with it.<sup>41</sup> Compliance with the Convention can be secured by employing gender and disability mainstreaming in all policies and programmes.<sup>42</sup>

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<sup>39</sup> Art. 4 (2) CRPD

<sup>40</sup> Art. 4 (1) (b) CRPD

<sup>41</sup> Art. 4 (1) (d) CRPD

<sup>42</sup> Art. 4 (1) (c) CRPD

32. The obligation to protect means that State Parties have to ensure that the rights of women and girls with disabilities are not infringed upon by private parties or organizations. Thus, State Parties must take all appropriate measures to eliminate discrimination against women and girls with disabilities by any person, organization or private enterprise.<sup>43</sup> They must exercise due diligence to prevent and sanction such discrimination. It also includes the duty to exercise due diligence in ensuring that the development, advancement and empowerment of women and girls with disabilities is not impeded by non-State actors, including social service providers.

Promoting the training of professionals and staff working with women and girls with disabilities on the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights<sup>44</sup> is part of this obligation. In particular State Parties must apply due diligence in protecting women and girls with disabilities against all forms of exploitation, violence and abuse through prevention, investigation, prosecution and punishment.<sup>45</sup>

33. The obligation to fulfil imposes an ongoing and dynamic duty to adopt and apply the measures needed to secure the development, advancement and empowerment of women and girls with disabilities. As such State Parties must determine a time-table for achieving equality for women and girls with disabilities. Educating and training women and girls with disabilities in civil, political, economic, social and cultural empowerment are important measures in this respect. Providing women and girls with disabilities with accessible information about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance and habilitation and rehabilitation support services and facilities<sup>46</sup> also falls under this duty. State Parties are further required to take affirmative action measures to advance women and girls through and in State agency, e.g. through gender and disability budgetary policy, or through the establishment of equality bodies (ministries, departments, ombudspersons) with a mandate to advance and empower women and girls with disabilities.

In order to analyze trends and determine the level of advancement and empowerment of women and girls with disabilities it is important to collect and analyze appropriate and accurate gender- and disability- disaggregated data, set benchmarks and indicators. Further, States Parties must facilitate women and girls with disabilities to organize themselves to do advocacy for their rights and to ensure equal access to justice, including accessible legal aid and advice and procedures for dealing with complaints against multiple discrimination.

#### **IV. Interrelation between the provisions addressing women and girls with disabilities and their link to other CRPD provisions.**

34. The horizontal nature of article 6 already ensures that it is inextricably linked to all other substantive provisions of the CRPD. Furthermore modern international law states that all human rights are universal, indivisible and interdependent and interrelated.<sup>47</sup> In addition

<sup>43</sup> Art. 4 (1) (e) CRPD

<sup>44</sup> Art. 4 (1) (i) CRPD

<sup>45</sup> CEDAW GR 28 para 19 ### CHECK

<sup>46</sup> Art. 4 (1) (h) CRPD

<sup>47</sup> Vienna Declaration and Programme of Action: Adopted by the World Conference on Human

to the articles that have an explicit reference to gender<sup>48</sup> the rights of women and girls with disabilities under article 6 are particularly interrelated with the following provisions.

### **Article 8-Awareness raising**

35. History, culture, attitudes and structures in the community, including the family, have served to stereotype women and girls with disabilities negatively, thus exacerbating isolation and social exclusion. Often women with disabilities are ignored or stereotyped from a medical and asexual perspective. Gender and disability stereotyping impedes the achievement of gender and disability equality and the empowerment of women and girls with disabilities. Article 8 calls upon State Parties to adopt immediate, effective and appropriate measures to combat disability and gender stereotypes.<sup>49</sup>

36. Stereotypes about women and girls with disabilities both result from and are the cause of deeply engrained attitudes, values, norms and prejudices. They are used to justify and maintain the historical relations of power of men over women as well as persons without disabilities over persons with disabilities. They limit the development, advancement and empowerment of women and girls with disabilities.

37. States parties should adopt effective education and awareness raising programs that inform about gender and disability equality and, the rights of women and girls in particular and combat respective stereotypes. Public and private mass media need to be encouraged to portray women and girls with disabilities in accordance with the spirit and the rights enshrined in the CRPD.

### **Article 9-Accessibility**

38. To ensure the rights of women and girls with disabilities, it is necessary to mainstream the gender perspective when designing, developing and executing urban planning policies for public and private facilities, based on accessibility, independence, sociability and habitability criteria. The built environment and urban design must be planned in accordance with civil safety standards to enable citizens to circulate on foot safely, while ensuring that groups at greater risk of violence and abuse (such as women, boys and girls, older people and persons with disabilities) feel safe and protected. Renewed measures are needed to train current and future professionals in the fields of architecture, design and engineering in universal accessibility, design for all and the gender perspective in architecture and construction.

39. Accessible sexual and reproductive health services, facilities and equipment are required such as contraceptive information, gynaecologist's examination beds and mammography equipment. All care services for women (and especially those related to health, motherhood, violence against women and childcare) must be fully accessible to women and girls with disabilities. Wheelchair users and those using crutches require space in waiting rooms including dressing and undressing areas. It is necessary to ensure universal accessibility, design for all and a gender perspective in products, objects, instruments, tools and devices in order to ensure that those used regularly by women and girls are also accessible to women and girls with disabilities. Particular attention should be paid to those related to the sexual health of women with disabilities and to motherhood (babies' bottles with handles, prams designed to be clipped on to wheelchairs or pushed

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<sup>48</sup> Mentioned supra para ##

<sup>49</sup> Art. 8 (1) (b) CRPD

with one hand, wheelchair-accessible nappy changers, and so on), and should be included in publicly-available catalogues at affordable cost.

40. Transportation should be accessible to all persons with disabilities to ensure autonomous mobility. Bearing in mind the facts that women comprise the majority of public transport users in comparison with their male peers, that women have more limited access to private vehicles than men, and that their daily travel patterns are more complex than men's, it is essential that in designing, developing and monitoring transport policies, the intersection of aspects related to disability and gender are considered in order to ensure women with disabilities equal opportunities and protection against discriminated. To this end, it is important to invite experts with disabilities to take part as consultants in all stages of the process. With regard to accessibility of means of transport, in view of the limited financial resources of women with disabilities, regulatory processes for measures to ensure persons with disabilities or with reduced mobility are able to use and enjoy means of transport must, in their implementation, take into consideration and give priority to greater use of various means of transport (coach, train, by air or by sea) at lower cost, not just in urban settings but also and especially in rural environments. Specialist transportation staff should receive training specifically in assisting women, and care should be taken to observe the basic rules regarding respect between the sexes. When women with disabilities travel with their sons or daughters, staff shall make available the required specific services for children where necessary (play areas, nappy-changing facilities, breast-feeding rooms, and so on).

### **Article 10-Right to life**

41. In societies where girls are valued less than boys, the investment in education, health care or job training that families are willing to make in girls are often substantially less than for boys with disabilities. Globally, it is widely acknowledged that the greatest impediment to the lives of young people with disabilities is prejudice, social isolation and discrimination. While all individuals with disability may be affected by this lifelong cycle of stigma and prejudice, coming from different cultural, linguistic and religious traditions, ethnic or minority status, can place females at increased risk. Girls are less likely than boys to receive care and food and are more likely to be left out of family interactions and activities. Girls and young women with disabilities confront not only the prejudice and inequities encountered by persons with disabilities in general, but are also constrained by traditional gender roles and barriers<sup>50</sup>.

### **Article 11-Humanitarian Assistance**

42. Situations of risk and humanitarian emergencies considerably jeopardise the safety and protection of women and girls with disabilities, notably reducing their chances of survival. Women and girls with disabilities are more at risk before, during and after the occurrence of risks such as armed conflict, occupation of territories, natural disasters and humanitarian emergencies. They are at increased risk of experiencing sexual violence, including rape, and abuse. Humanitarian aid efforts must prevent such situations and address them if they do occur, including provision health care and mental health services to overcome psychological trauma. Appropriate services for women and girls with disabilities in situations of risk and humanitarian emergency, based on their individual needs, should be made available and their accessibility should be secured by removing physical,

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<sup>50</sup> The State of the World's Children 2013. Children with Disabilities. UNICEF. Introduction.

communicative, social, cultural, economic, political and other barriers, including the expansion of quality services in rural and remote areas .

### **Article 12-Equal recognition before the law**

43. Women with disabilities must be able to exercise their legal capacity by taking their own decisions, including decisions on retaining their fertility, their right to motherhood, and to establish relationships. Effective measures must be adopted to provide women with disabilities access to the support they may require in exercising their legal capacity. Such support, when required, must be proportional to their individual and personal needs and abilities to take decisions on matters of daily life. They should also include trust-building activities to help women with disabilities to evaluate the implications and consequences of some of their actions or inactions. The guidelines of General Comment No 1 on article 12 apply.

### **Article 13-Access to justice**

44. Women and girls with disabilities' effective access to accessible, easy-to-use and safe justice must be ensured. They must be granted access at all stages of the process to support systems and technologies for the method of oral communication they choose, including sign language interpreters and guide-interpreters for people who are deafblind, in order to ensure proper communication with police and justice personnel. People providing personal assistance and/or caregivers may also be the person assaulting and abusing the woman or girl with disabilities. Thus, there is a need to ensure independent, accessible communication methods to enable the reporting of such situations and guarantee immediate temporary referral to comprehensive care centres until the case has been resolved. Appropriate information, training and awareness raising programs shall be ensured for women and girls with disabilities and mothers of boys and girls children with disabilities regarding their rights and fundamental freedoms and the opportunities they have to access justice, with a particular focus on those groups at greater risk of discrimination, such as women and girls with high support needs, women and girls and girls with disabilities in institutions, older women with disability, women and girls with disabilities who live in rural settings and indigenous women and girls with disabilities.

### **Article 17-Protecting the integrity of the person**

45. Many women and girls with disabilities are still denied the right to reproductive freedom under the pretext of their wellbeing. Forced sterilization, incest, female genital mutilation and coerced abortion are just some clear examples of violations of rights that many women and adolescents with disabilities experience, without giving their consent or fully understanding the intentions. These practises are a violation of fundamental rights, including the right to bodily integrity and to maintain control over one's reproductive health.<sup>51</sup> Women with disabilities need to give their full consent and fully understand the intentions to protect reproductive freedom. Legal frameworks need to be revised that regulate forced sterilisation, coerced abortion, forced contraception, female or intersex genital mutilation, informed consent and legal capacity in order to ensure reproductive rights for women and girls with disabilities.

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<sup>51</sup> World Health Organization: Eliminating forced, coercive and otherwise involuntary sterilization. An interagency statement OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO (2014).

46. It is the responsibility of medical practitioners to ensure that women and girls with disabilities are sufficiently informed about the fact that the surgery or medical intervention will lead to her being sterilised and the consequences of this for their future. States Parties should adopt necessary measures in terms of awareness, information and training for both the families of girls and women with disabilities who are at greatest risk of experiencing forced sterilisation, and practitioners, health professionals, and those involved in the legal field require training and information regarding those at greatest risk of forced sterilisation or coerced treatments.

### **Article 19-Independent Living**

47. Women and girls with disabilities have the right to live in the community, with choices equal to other people, and their full inclusion and participation in the community should be ensured. Equally, they have the right to choose their place of residence and where and with whom they live, and are not obliged to live in a particular living arrangement. The intersection of gender and faith, ethnic origin or culture can result in women with disabilities unable to exercise their right to choose their place of residence and with whom they live.

### **Article 21-Freedom of Expression**

48. Mainstream communication services, including services for violence against women and childcare services, must be provided in all languages and formats possible and be easily accessible and safe. If such services are provided by means of a telephone hotline or tele-assistance, they should also be accessible for deaf and deafblind women and girls. In addition, information related to reproductive rights must be accessible.<sup>52</sup>

### **Article 24-Education**

49. Education is one of the key determinant factors in the struggle against inequality, social exclusion and poverty. Girls and women with disabilities have high rates of illiteracy, school failure, absenteeism and drop-outs, due to environmental barriers and discrimination. These circumstances have major consequences as regards to social cohesion, engagement and behaviour. The only way to achieve a society which is more tightly interwoven, more mature, fairer and more willing to show solidarity, and in which the values of social cohesion take precedence over obstacles hindering universal engagement, is through the effective realization of basic rights, including the right to high-quality, inclusive and free-of-charge education. There is a need to promote inclusive education for girls and adolescents with disabilities in order to mitigate the clear disadvantage this population experiences in education, which in turn hinders their subsequent inclusion in the labour market and community of women with disabilities.

50. Girls and women with disabilities must be able to enjoy their right to education on an equal basis with others and receive an inclusive high quality education which is gender sensitive. The entire education community must be sensitive to the reality, diversity and intrinsic value of girls and women with disabilities, and the contribution they make to the society in which they live. Families and teaching staff must be given complementary training on the gender perspective applied to disability with a view to engendering respect

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<sup>52</sup> Committee on the Rights of Persons with Disabilities: General Comment No. 2 on Art. 9, 11 April 2014, CRPD/C/GC/2, para. 40.

for an appropriate portrayal of girls and women with disabilities, recognizing and respecting their human rights and focusing particularly on eradicating negative stereotypes which are deeply-held in society and hinder their development as people and full inclusion on equal terms as others. Education programmes must cater for the training needs of those girls and women with disabilities who are at greatest risk of exclusion (such as those with high support needs, migrants, those belonging to indigenous populations, those residing in rural areas and older women and illiterate women), ensure they receive proper attention, and combat school failure and drop-out by these groups. All educational facilities, including sanitary facilities must be accessible to women and girls with disabilities.

## **Article 27-Employment**

51. Considering the high unemployment and labour market inactivity rates among women with disabilities, it is necessary to develop both mainstream and positive actions targeting women with disabilities to promote training, job placements, access to employment, job retention, equal pay for equal work, accommodations in the work place and work-life balance. Women with disabilities must have the right, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and services to redress grievances. In addition, hygienic water and sanitation facilities in the workplace must be fully accessible to women with disabilities.

52. States Parties to the Convention should encourage women with disabilities to seek employment opportunities which enjoy decent salaries and working conditions. They should be given effective support to find, obtain, maintain or return to employment, through means such as, *inter alia*, monitoring programmes and contacts with employers, and legal protection against unfair dismissal on account of their disability.

53. At the same time, it is necessary to promote awareness-raising campaigns in order to overcome negative attitudes among employers towards women with disabilities by taking measures such as creating attractive traineeship schemes and briefing campaigns on existing subsidies and deductions available when hiring women with disabilities.

54. Furthermore, States Parties must boost measures to promote self-employment, entrepreneurship among women with disabilities, development of cooperatives or starting one's own business. These women with disabilities should have equal rights to financial assistance and should be viewed as fully-qualified entrepreneurs. Positive action measures should be provided in this regard to women with disabilities who are entrepreneurs by means of soft loans, micro-credits and non-returnable grants.

55. There is a need to carry out research on women with disabilities and their social and employment status, labour market developments, and the effective opportunities women with disabilities enjoy, to identify new sources of employment for them in emerging and competitive sectors.

56. Women with disabilities should be given accessible and relevant information on the mainstream labour market and the existing opportunities to secure employment in the public and private sectors, and offered guidance and assistance if required. Women with disabilities should receive quality training enabling them to opt for employment in the labour market in both the public and private sectors, and they should be offered specific opportunities for lifelong training with a view to gaining the necessary skills and qualifications in terms of responsibility, confidence-building and capabilities. When specific training is required, women with disabilities should not be placed at a disadvantage in relation to others. In addition, they must be given suitable access to all training



programmes, including technical and vocational guidance programmes, placement services and vocational and continuing training. Furthermore, their involvement should be actively encouraged.

57. States Parties should improve accessibility to childcare, in particular through financial support, and should strengthen public childcare systems and offer incentives to companies to set up childcare facilities on their premises. Women with disabilities and mothers of boys and girls with disabilities should have priority when such services are offered.

### **Article 32-International cooperation**

58. International cooperation and assistance are crucial for the realization of the right to gender disability equality. States that are not able to comply with their obligations and cannot realize the rights enshrined in article 6 due to a lack of resources must seek international cooperation and assistance. States that are in a position to do so must respond to such requests in good faith and in accordance with the international promise of giving 0.7% of their gross national income for international cooperation and assistance.<sup>53</sup>

59. States and individual donors have an obligation to comply with the human rights standards particularly with respect to women and girls with disabilities. To this end, international assistance should not function in a manner that reinforces or condones legal, procedural, practical or social barriers to the full development, advancement and empowerment of women and girls with disabilities. All strategies, programmes and projects need to be gender and disability sensitive and thus gender and disability mainstreaming must be applied.

60. Intergovernmental organizations, and in particular specialized UN agencies including OHCHR, UN Women, UNICEF, WHO, ILO and UNESCO, have a crucial role to play and contribution to make in the universal realization of equality rights and social development of women and girls with disabilities. They provide capacity strengthening, technical guidance and information.

## **IV. Article 33-Implementation at national level**

61. Repeal or reform all legislation which discriminates against women and girls with disabilities either directly or indirectly. This requires the abolition of legal provisions that deny women with disabilities to be regarded as a person before the law, including the right to marry and have a family, or regulations which allow involuntary sterilization. Criminal and civil laws for the protection against exploitation, violence and abuse need to be amended if they do not adequately protect women and girls with disabilities. Anti-discrimination legislation should be in place and need to be reformed, if multiple discrimination is not appropriately addressed. All anti-discriminatory legislative efforts need to be supported by running public cultural campaigns in parallel in order to strengthen the legal willpower to transform the discriminative attitudes entrenched in the culture.

62. Install gender- and disability-mainstreaming and -budgeting in all policies and programmes. In particular, the rights of women and girls with disabilities need to be respected and fulfilled in all programmes relating to combating and preventing violence and discrimination and promoting reproductive and sexual health.

<sup>53</sup> “International Development Strategy for the Second United Nations Development Decade”, UN General Assembly Resolution 2626 (XXV), 24 October 1970, paragraph 43

63. Investigate impediments against the development, advancement and empowerment of women and girls with disabilities, in particularly with respect to multiple discrimination, exploitation, violence and abuse and reproductive and sexual rights.

64. Ensure that women and girls with disabilities have access to justice and legal aid and are regarded as persons before the law on an equal basis with others.<sup>54</sup>

65. Guarantee appropriate forms of gender- and age-sensitive assistance and support for women and girls with disabilities who became the targets of violence, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. Ensure that protection services are age-, gender- and disability-sensitive.<sup>55</sup>

66. Establish a national machinery for the development, advancement and empowerment of women and girls with disabilities and ideally this should be linked to the national monitoring in accordance with article 33 CRPD. In particular, such a national machinery should be provided with the necessary resources to address multiple discrimination, reproductive and sexual rights and exploitation, violence and abuse.

67. Engage with women and girls with disabilities through their representative organisations, in drawing up and implementing legislation and policies and research towards the effective implementation of the CRPD, and in other decision-making processes on issues related to women and girls with disabilities. Networks and organisations of women and girls with disabilities need to be adequately facilitated.

68. Collect and analyze gender- and disability-sensitive data, set benchmarks and indicators in particular with respect to discrimination, exploitation, violence and abuse and reproductive and sexual health. At the same time, States Parties shall take all measures to incorporate women and girls with disabilities in the implementation of the Post 2015 Development Agenda, its sustainable development goals, targets and indicators

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<sup>54</sup> Art. 12 & 13CRPD

<sup>55</sup> Art. 16 (2) CRPD