

BRIEF GUIDE



## **HUMAN RIGHTS OF WOMEN AND GIRLS WITH DISABILITIES:**

A Brief Guide to the Intersectional Approach  
through the Implementation of CEDAW and CRPD in Ukraine

Kyiv 2019

This Guide is designed to facilitate the work of women with disabilities, civil society actors including organizations of women and girls with disabilities, and other partners to implement the international and national commitments to gender equality and women's human rights through gender-responsive and disability-inclusive initiatives. It aims to assist in understanding of the intersectionality of human rights and provides practical recommendations for the implementation and monitoring of the implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD) and gender-responsive and disability inclusive initiatives. The overarching objective of this Guide is to support key stakeholders to help facilitate the full inclusion and meaningful participation of women and girls with disabilities.

Readers may also be interested in the methodological recommendations and practical measures to address the needs of women and girls with disabilities outlined in The Gender Accessibility Audit Toolkit.<sup>1</sup>

**UN Women** is the UN organization dedicated to gender equality and the empowerment of women. A global champion for women and girls, UN Women was established to accelerate progress on meeting their needs worldwide. UN Women supports UN Member States as they set global standards for achieving gender equality and works with governments and civil society to design laws, policies, programmes and services needed to implement these standards. It stands behind women's equal participation in all aspects of life, focusing on five priority areas: increasing women's leadership and participation;

ending violence against women; engaging women in all aspects of peace and security processes; enhancing women's economic empowerment; and making gender equality central to national development planning and budgeting. UN Women also coordinates and promotes the UN system's work in advancing gender equality.

UN Women adopts an inclusive and intersectional approach to support intergovernmental, operational and internal processes to advance the rights of women and girls with disabilities in all their diversity across all areas of its work.

The Guide was developed by UN Women Ukraine in partnership with the Ukrainian Public Association National Assembly of People with Disabilities.

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The views expressed in this publication are those of the authors and do not necessarily represent the views of UN Women, the United Nations or any of its affiliated organizations.

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<sup>1</sup> Gender Accessibility Audit Toolkit (UN Women, 2018). Available at: [http://www2.unwomen.org/-/media/field%20office%20eca/attachments/publications/2019/gender-accessibility-audit-eng\\_compressed.pdf?la=en&vs=29](http://www2.unwomen.org/-/media/field%20office%20eca/attachments/publications/2019/gender-accessibility-audit-eng_compressed.pdf?la=en&vs=29)

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*"I believe that the Committee on the Elimination of Discrimination against Women (CEDAW) should regularly take into account the needs of women and girls with disabilities in their work. We account for 20% of the total number of women in the world; at the same time, we are one of the poorest population groups that constantly suffer from acute forms of discrimination.*

*I also want to draw attention to intensive work of the Committee on the Elimination of Discrimination against Women in response to numerous cases of discrimination against women that have not been widely publicized. Such intensive work resulted in the development of guidelines for the participating State Parties to solve multiple discrimination issues and to enforce the principle "no one left behind". I want to play an active role in the process of enhanced cooperation between the treaty bodies of the United Nations, so that they can learn from each other and apply a coherent approach while moving forward in the same direction and solving common problems.*

*I also believe that we should make every effort to reflect the aspects of human diversity in the work of the Committee on the Elimination of All Forms of Discrimination against Women. In particular, to include people from groups which are invisible or ignored, such as women with disabilities. NOTHING ABOUT US WITHOUT US!"<sup>1</sup>*

**Ana Pelaez Narvaez,**

Former member of the CRPD Committee, an incoming member of the CEDAW Committee, the first woman with disabilities elected to the Committee in 2018 <sup>2</sup>

<sup>2</sup> European Disability Forum, "Ana Peláez Narváez is the first woman with a disability elected to the U.N. Committee on the Elimination of Discrimination against Women", 7 June 2018. Available at: <http://www.edf-fehp.org/newsroom/news/ana-pelaez-narvaez-first-woman-disability-elected-un-committee-elimination>

# OBJECTIVES AND TARGET AUDIENCE OF THE GUIDE

Disability, gender inequality and discrimination are closely interlinked. For example, while a significant portion of women and girls were born with disabilities, others become disabled as a result of exposure to gender-related risk factors, including lack of access to sexual and reproductive health services, exposure to violence and gender-biased intra-household distribution of resources. Furthermore, as a group of women that is far from being homogenous, women with disabilities often experience multiple forms of discrimination based on other factors in addition to gender and disability.

For gender equality and empowerment to become a reality for all women and girls, it is indispensable that specific concerns of women and girls with disabilities are mainstreamed across all areas of national development, as well as of recovery, security and peace in Ukraine. The overarching objective of this Guide is to support key stakeholders

to help facilitate the full inclusion and meaningful participation of women and girls with disabilities, as well as to protect their rights. The Guide aims to support the work of women and girls with disabilities, as well as civil society actors, including organizations of women and girls with disabilities, media and other partners to implement the international commitments, such as the Beijing Declaration and Platform for Action (BPfA), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of Persons with Disabilities (CRPD) and the 2030 Agenda on Sustainable Development, through gender-responsive and disability inclusive initiatives. It was designed to contribute to the efforts aimed at increasing awareness and understanding of the intersectionality of human rights, as well as at providing practical examples and recommendations for the implementation and monitoring of the implementation of CEDAW and CRPD in Ukraine.

## The rights of women with disabilities: key guiding international normative frameworks

Several international, national and regional norms and standards, including human rights treaties and outcomes of various global conferences, directly or implicitly call for the protection of human rights, inclusion and empowerment of all women and girls with disabilities across their life course. These include the Convention on

the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of Persons with Disabilities and its Optional Protocol (CRPD), the Beijing Declaration and Platform for Action, and the 2030 Agenda for Sustainable Development, among the others<sup>3</sup>.

<sup>3</sup> In addition to the key UN Human Rights treaties – CEDAW, CRPD and CRC – the human rights of women and girls with disabilities are reflected in the Beijing Declaration and Platform for Action, the 2030 Agenda for Sustainable Development, the Addis Ababa Action Agenda, the Sendai Framework for Disaster Risk Reduction 2015–2030, outcome of the World Humanitarian Summit, The Charter on Inclusion of Persons with Disabilities in Humanitarian Action, UN General Assembly Resolutions, the New York Declaration for Refugees and Migrants; Security Council Resolution 1325; Agreed Conclusions of the Commission on the Status of Women, etc.

## **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**

While CEDAW does not explicitly refer to women and girls with disabilities, the General Recommendation of the Committee on the Elimination of Discrimination Against Women No. 18 (a) notes that women with disabilities are doubly marginalized and recognizes the scarcity of data, and (b) calls on States Parties to provide this information in their periodic reports and ensure the participation of women and girls with disabilities in all areas of social and cultural life.<sup>4</sup>

In addition, in its General Recommendation No. 25, it provides an explanation of the compound discrimination: *'certain groups of women, in addition to suffering from discrimination directed against them as women, may also suffer from multiple forms of discrimination based on additional grounds such as race, ethnic or religious identity, disability, class, caste or other factors.'* The Committee notes further that *'such discrimination may affect these groups of women primarily, or to a different degree or in different ways than men.'*<sup>5</sup>

In other words, while all women face gender-based discrimination, certain groups of women, such as women with disabilities, face additional forms of discrimination because of other factors. Yet even the discrimination they face due to such factors is gender specific.

## **Convention on the Rights of Persons with Disabilities and its Optional Protocol (CRPD)**

CRPD includes equality between men and women as one of its general principles. Article 6 on women and girls with disabilities recognizes the multiple forms of discrimination faced by women and girls with disabilities, and calls for the full development, advancement and empowerment of women.<sup>6</sup> The General Comments on the Convention address issues that uniquely or disproportionately affect women and girls with disabilities, including the General Comment No. 3 on Article 6: Women with disabilities.

## **The Beijing Declaration and Platform for Action (BPfA)**

BPfA identifies specific actions to ensure the empowerment of women and girls with disabilities in various areas, bringing disability inclusion into the general efforts aimed to address the multiple barriers to empowerment and advancement faced by women and girls.

## **Sustainable Development Goals (SDGs)**

The 2030 Agenda for Sustainable Development recognizes that systematic mainstreaming of gender-based perspectives is crucial to making progress across all the Sustainable Development Goals and targets, and calls for the empowerment of persons with disabilities. The 2030 Agenda has a standalone goal of gender equality and the empowerment of all women and girls (Goal 5). It includes persons with disabilities in the

<sup>4</sup> UN Committee on the Elimination of Discrimination Against Women, General Recommendation #18: Disabled Women, 1991. Available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/GEC/4729&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/GEC/4729&Lang=en)

<sup>5</sup> UN Committee on the Elimination of Discrimination Against Women, General Recommendation #25: on Temporary Special Measures, 2004. Available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/GEC/3733&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/GEC/3733&Lang=en)

<sup>6</sup> United Nations, Convention on the Rights of Persons with Disabilities, 13 December 2006. Available at: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#3>

SDGs related to poverty, hunger education, washing, sanitation and hygiene, economic growth and employment, inequality, accessibility of human settlements, climate change, and data, monitoring and accountability.<sup>7</sup>

**Leaving No One Behind** – and reaching the furthest behind first – is the central promise of the 2030 Agenda. It means that Ukraine, as a UN member state that signed up to achieving the Sustainable Development Goals by 2030, committed to addressing inequalities and discrimination and to act to improve the circumstances of women and girls with disa-

bilities, as well as other women facing multiple forms of discrimination.

The Guide specifically focused on the interlinkages between the two human rights treaties on women's human rights and on the human rights of persons with disabilities: CEDAW and CRPD, respectively. This approach aims to consolidate the relevant entry points for collaborative actions between civil society and state institutions at the national and local levels and create an accessible and simplified source of information.

## Women and girls with disabilities: what is the issue?

It is estimated that more than one billion people in the world experience some form of disability, and that the average prevalence rate in the female population of 18 years and older is 19.2%, compared to 12% for males.<sup>8</sup>

Women with disabilities in Ukraine constitute a diverse group that differs not only in terms of severity and the cause of functional impairments, but also the place of residence (rural or urban), age, level of education, level of family responsibilities, etc.

In general, 2.8 million people with disabilities live in Ukraine, more than 1 million of whom are women of working age. Only a third of them have a job, and all others are in need of employment. 65% of women with disabilities visit a doctor less than once a year, 11% of them practice self-treatment, and 76% have no access to a gynecologist, as the doctor's cabinet is usually located higher than the first

floor with no elevator in the building. Each year, the number of single mothers with children with disabilities in Ukraine is increasing. In 2015, there were 154,000 single mothers with children with disabilities in Ukraine, and in 2017, this figure rose to 160,000.<sup>9</sup>

Women with disabilities are not a homogeneous group. Women experience various types of impairments, including physical, psychosocial, intellectual and sensory conditions that may or may not come with functional limitations.<sup>10</sup> In addition to this, the diverse group of women and girls with disabilities includes those of multiple and intersecting identities, such as having different ethnic, religious and racial backgrounds; refugee, migrant, asylum-seeking and internally displaced women; LGBTIQ+ persons; women living with or affected by HIV; young and older women; and widowed women, across all contexts. Systemic barriers and exclusion

<sup>7</sup> A/72/227, Report of the Secretary General on the Situation of Women and Girls with Disabilities and the Status of the Convention on the Rights of Persons with Disabilities and the Optional Protocol. Available at: <http://undocs.org/A/72/227>

<sup>8</sup> World Health Organization, World Report on Disability. Available at: [https://www.who.int/disabilities/world\\_report/2011/en/](https://www.who.int/disabilities/world_report/2011/en/)

<sup>9</sup> Verkhovna Rada of Ukraine, Parliamentary Hearings on the Prevention of and Addressing the Discriminations of Women from Vulnerable Social Groups, 10 October, 2018. Available from: [http://static.rada.gov.ua/zakon/new/par\\_sl/sl1010118.htm](http://static.rada.gov.ua/zakon/new/par_sl/sl1010118.htm)

<sup>10</sup> CRPD/C/GC/3, UN Committee on the Rights of Persons with Disabilities, General Comment #3, Article 6: Women and girls with disabilities. Available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en)

lead to lower economic and social status; increased risk of violence and abuse, including sexual violence; early and forced marriage, as well as harmful gender-based discriminatory practices; and barriers to access education, health care (including sexual and reproductive health), information and services, and justice, as well as civic and political participation. Women and girls who experience intersecting forms of discrimination also experience higher rates of unemployment and encounter other gender-based barriers such as precarious livelihoods, unequal access to and control over assets and resources, child care responsibilities, and a lack of access to maternity protection.<sup>11</sup>

Historically, in Ukraine as well as in other countries, persons with disabilities were seen as “patients”, their disability being equated to an infirmity. As a result, societal attitudes and responses to disability have been reduced to “fixing” and “curing” people, disregarding their will and preferences.<sup>12</sup> Coupled with charitable intentions prevalent in some societies, they would also be seen as in need of pity, condescension and “protection”, resulting in their dependence on the benefactors’ mercy. As a result, their position in the society has been that of weakness,

invisibility and ‘otherness’. Women and girls with disabilities would carry the double burden of prejudice, being subjected to discrimination and exclusion based on their gender, as well as their disability.<sup>13</sup> They would be at a particular disadvantage in the area of sexual and reproductive rights, being routinely subjected to violence and discrimination.<sup>14</sup>

### WOMEN AND GIRLS WITH DISABILITIES: AT A GLANCE

- One in five women live with a disability globally.<sup>15</sup>
- An estimated one in four households has a person with disability.<sup>16</sup>
- Women are more likely to become disabled throughout the course of their lives than men.<sup>17</sup>
- Women comprise up to three-quarters of persons with disabilities in low- and middle-income countries.<sup>18</sup>
- Prevalence of disability is higher among marginalized populations and people in rural areas.<sup>19</sup>

Despite the fast-growing international human rights normative framework since

<sup>11</sup> UN Women, “The Empowerment of Women and Girls with Disabilities: Towards Full and Effective Participation and Gender Equality” (UN Women, 2018). Available at: <http://www.unwomen.org/en/digital-library/publications/2018/12/the-empowerment-of-women-and-girls-with-disabilities>  
<sup>12</sup> A/73/161 Rights of Persons of Disabilities, Report of the Special Rapporteur on the Rights of Persons with Disabilities (16 July 2018), para 7. Available at: [https://www.ohchr.org/Documents/Issues/Disability/A\\_73\\_161\\_EN.pdf](https://www.ohchr.org/Documents/Issues/Disability/A_73_161_EN.pdf)

<sup>13</sup> CRPD/C/GC/3, General Comment #3, para 3, (25 November 2016). Available at: <https://www.ohchr.org/en/hrbodies/crpd/pages/gc.aspx>

<sup>14</sup> Ibid, para. 10. The Committee also notes with concern the issues such as: the prevalence of multiple discrimination and of intersecting discrimination against women with disabilities; the discrimination experienced by women and girls with disabilities on account of their gender, disability and other factors that are not sufficiently addressed in legislation and policies; the right to life; equal recognition before the law; the persistence of violence against women and girls with disabilities, including sexual violence and abuse; forced sterilization; female genital mutilation; sexual and economic exploitation; institutionalization; the lack of or insufficient participation of women with disabilities in decision-making processes in public and political life; the lack of inclusion of a gender perspective in disability policies; the lack of a disability-rights perspective in policies promoting gender equality; and the lack of or insufficient number of specific measures to promote the education and employment of women with disabilities.

<sup>15</sup> World Disability Report (WHO, World Bank, 2011). Available at: [https://www.who.int/disabilities/world\\_report/2011/report.pdf](https://www.who.int/disabilities/world_report/2011/report.pdf)

<sup>16</sup> Disability and the Millennium Development Goals: A Review of the MDG Process and Strategies for Inclusion of Disability Issues in Millennium Development Goal Efforts. (United Nations, 2011). Available at: [http://www.un.org/disabilities/documents/review\\_of\\_disability\\_and\\_the\\_mdgs.pdf](http://www.un.org/disabilities/documents/review_of_disability_and_the_mdgs.pdf)

<sup>17</sup> Gender and Disability Network, “Gender and Disability” (GADN, 2017). Available at: <http://gadnetwork.org/gender-and-disability/>

<sup>18</sup> Fact Sheet: Violence against Women and Girls with Disabilities (Plan International, 2013). Available at: [http://www.un.org/womenwatch/daw/csw/csw57/side\\_events/Fact%20sheet%20%20VAWG%20with%20disabilities%20FINAL%20.pdf](http://www.un.org/womenwatch/daw/csw/csw57/side_events/Fact%20sheet%20%20VAWG%20with%20disabilities%20FINAL%20.pdf)

<sup>19</sup> World Disability Report (WHO, World Bank, 2011). Available at: [https://www.who.int/disabilities/world\\_report/2011/report.pdf](https://www.who.int/disabilities/world_report/2011/report.pdf)



the adoption of the 1948 Universal Declaration of Human Rights, discrimination, violence and harmful practices against women continued to exist and further intensified. Women remained over-represented among poor and marginalized populations, and their access to resources continued being inadequate.

The rise of feminist thought, and the growth of the international women's movement created the momentum for debating the status of women through the lens of human rights, raising awareness about women's contribution to the society, the costs (including economic) of continuous discrimination and the urgent need for a policy shift at the international and national levels.

A preparatory work towards a new international treaty started in 1974, and the **UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)** was adopted in 1979. The Optional Protocol to the Convention was adopted in 1999. It sets out the procedure for considering complaints from individuals or groups against States Parties to the Protocol concerning the allegations of violation of the Convention rights.<sup>20</sup> As of December 2018, the Convention was ratified by 189 countries, and its Optional Protocol by 109 countries. Ukraine ratified the Convention in 1981<sup>21</sup>, and the Optional Protocol in 2003.

The Convention sets out minimal provisions for achieving equality between men and women, regardless of marital status, in all areas of political, economic and cultural life. The States Parties thereto must eliminate dis-

crimination against women through legal and political measures. This applies to all areas of life, all individuals and institutions. The implementation of the Convention is monitored by the CEDAW Committee, a body of 23 independent experts elected by the signatories of the Convention.

Article 18 of CEDAW obliges the State to prepare and submit a report on the implementation of the Convention, measures taken, and progress made "*within one year of the entry into force of the Convention for that State and thereafter at least every four years, and further whenever the Committee so requests*". As of December 2018, Ukraine has submitted to the Committee eight periodic reports. The last report concerned the period covering 2010-2013 and provided information on the situation in Ukraine in 2014, as of the time of submitting the report.<sup>22</sup> In its Concluding Observations, the Committee requested Ukraine to provide written information on the steps taken to implement a number of urgent recommendations in 2019, and to provide the 9<sup>th</sup> periodic report in 2021.

Although the CEDAW Convention contains no articles specifically related to women and girls with disabilities, the mainstreaming of disability has become possible thanks to the CEDAW Committee's continuous insistence on this issue. In 1991, the General Recommendation No. 18: Disabled Women was adopted<sup>23</sup>, outlining the Committee's interpretation of the CEDAW Convention for women and girls with disabilities. Issues pertaining to women and girls with disabilities have been consistently present in States Parties' reviews by the

<sup>20</sup> As of 2018, no complaints against Ukraine have been adjudicated by the CEDAW Committee

<sup>21</sup> United Nations, Treaty Series, vol. 1249, p. 13. Available at: [https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=en)

<sup>22</sup> The report of Ukraine was considered on 14 February 2017 by the CEDAW Committee [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1071&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1071&Lang=en)

<sup>23</sup> UN Committee on the Elimination of Discrimination Against Women General Recommendation #18: Disabled women issued at the Tenth session (1991). Available at: [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/INT\\_CEDAW\\_GEC\\_4729\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_4729_E.pdf)

CEDAW Committee and the Committee's jurisprudence.<sup>24</sup>

While the adoption of the CEDAW Convention was a significant step forward in addressing the rights of all women and girls, the development of the global disability discourse was still in progress and needed more time to mature and consolidate. Gradually, the approach to disability was starting to shift. Instead of obsolete concepts, according to which persons with disabilities were considered as "objects" of charity, medical treatment and paternalistic measures, a new human rights-based approach, reaffirming persons with disabilities as citizens and rights-holders, was introduced. It was consolidated in the **UN Convention on the Rights of Persons with Disabilities (CRPD)** adopted by the UN General Assembly in 2006.

The Convention establishes a set of binding obligations on the States Parties to take measures to guarantee persons with disabilities their human rights and full participation in the society on an equal basis with others. This revolutionary approach shifts the accent from impairment to the removal of environmental and attitudinal barriers, and the responsibility for action from the persons with disabilities themselves to the society in general and the decision-makers

in particular. The new approach is reflected in the very definition of persons with disabilities who *"include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others"*<sup>25</sup>.

The CRPD and its Optional Protocol<sup>26</sup> were ratified by the Verkhovna Rada of Ukraine in 2009 and entered into force on 06 March 2010<sup>27</sup>. By ratifying the Convention, Ukraine undertook a legal commitment to ensure and promote the full realization of all human rights of persons with disabilities within its jurisdiction, in particular, to adopt the necessary legislation and policies and to abolish legislation and policies that contradict the Convention, to mainstream the rights of persons with disabilities in all relevant policies and programs, to protect persons with disabilities from rights violations by third parties, to promote research and development that fosters autonomy and independence of persons with disabilities, and to promote the training of professionals in the human rights-based approach to disability.<sup>28</sup> In doing so, Ukraine shall actively engage persons with disabilities through their representative organizations,<sup>29</sup> reflecting the motto of the international disability community "Nothing about us without us".

<sup>24</sup> CEDAW Committee communications related to the protection of the rights of women with disabilities include CEDAW/C/57/D/34/2011, CEDAW/C/53/D/31/2011, CEDAW/C/50/D/22/2009, CEDAW/C/49/D/17/2008

<sup>25</sup> United Nations, Convention on the Rights of Persons with Disabilities, Article 1. <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/optional-protocol-to-the-convention-on-the-rights-of-persons-with-disabilities.html>

<sup>26</sup> The Optional Protocol to the CRPD is a separate treaty that recognises the competence of the UN Committee on the Rights of Persons with Disabilities to receive individual communications from victims of a CRPD right(s) violation. By ratifying the Optional Protocol, Ukraine has agreed to allow individuals subject to its jurisdictions to submit complaints to the Committee. As of December 2018, no such complaints against Ukraine have been received by the CRPD Committee.

<sup>27</sup> Ukrainian translation of the text of the Convention on the Rights of Persons with Disabilities available at: [https://zakon.rada.gov.ua/laws/show/995\\_g71](https://zakon.rada.gov.ua/laws/show/995_g71)

<sup>28</sup> United Nations, Convention on the Rights of Persons with Disabilities Article 4(1). <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/optional-protocol-to-the-convention-on-the-rights-of-persons-with-disabilities.html>

<sup>29</sup> United Nations, Convention on the Rights of Persons with Disabilities Article 4(3). <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/optional-protocol-to-the-convention-on-the-rights-of-persons-with-disabilities.html>

Recognizing multiple and intersecting discrimination experienced by women and girls with disabilities in most areas of life,<sup>30</sup> the Convention dedicates a full article (Article 6) to measures that must be taken to “ensure the full development, advancement and empowerment of women” and their enjoyment of human rights and freedoms. In addition, the situation of girls and women with disabilities is mainstreamed throughout the Convention in the areas such as combating stereotypes against women with disabilities (Article 8(1)(b)), freedom from gender-based violence and provision of gender-sensitive protection (Article 16), access to gender-sensitive health service, including sexual and repro-

ductive health (Article 25) and access to poverty reduction programs for women with disabilities (Article 28(2)(b)).

In 2015, Ukraine’s progress in fulfilling its commitments under the Convention was reviewed by the UN Committee on the Rights of Persons with Disabilities on the basis of the State Party report<sup>31</sup> and a thorough dialogue with representative organizations of persons with disabilities of Ukraine who submitted their shadow reports.<sup>32</sup> As a result of the review, the Committee released the Concluding Observations, highlighting both positive developments and the areas of concern and giving its recommendation for future action.

*"Traditionally, the policy towards women does not take into account the interests of women with disabilities, and the policy towards persons with disabilities does not include gender issues. But if you are a woman or a girl with a disability, you are faced with discrimination and obstacles because of your gender, disability or both signs at once,"*

**Theresia Degener,**

member of the Committee on the Rights of Persons with Disabilities, 2016.

*"Our General Comment also covers attitudes. For example, girls and young women with disabilities face not only prejudices encountered by persons with disabilities in general but are often constrained by traditional gender roles and barriers that can lead to situations where they receive less care and food than boys, or where their chances to get an education or training are much reduced and hence their future prospects of employment,"*

**Ana Pelaez,**

CRPD Committee member<sup>33</sup>

<sup>30</sup> World Disability Report (WHO, World Bank, 2011), p. 60. Available at: [https://www.who.int/disabilities/world\\_report/2011/report.pdf](https://www.who.int/disabilities/world_report/2011/report.pdf)

<sup>31</sup> CRPD/C/UKR/1 Report of Ukraine to the Committee on the Rights of Persons with Disabilities, 12 November 2012. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/212/18/PDF/G1421218.pdf?OpenElement>

<sup>32</sup> UN Committee on the Rights of Persons with Disabilities, “The “Lost” Rights...An alternative report by public organizations on compliance with the UN Convention on the Rights of Persons with Disabilities”, (Ukraine, 2012) Available at [https://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/UKR/INT\\_CRPD\\_NGO\\_UKR\\_15595\\_E.doc](https://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/UKR/INT_CRPD_NGO_UKR_15595_E.doc)

<sup>33</sup> Office of the United Nations High Commissioner on Human Rights, “Women and girls with disabilities need empowerment, not pity, UN experts tell States” (30 August 2018). Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20429>

## SITUATION OF WOMEN WITH DISABILITIES IN UKRAINE

“[...] women and girls with disabilities are often subject to discrimination and not always can enjoy their rights. This applies especially to women with psychic and mental disorders who live in social care institutions and in families and who experience violence, outrage and abuse, being unable to uphold their rights by themselves. [...] there is no official state data on gender violence against women with disabilities. The Law of Ukraine on Preventing Family Violence provides for no special procedures taking account of specificities of women with disabilities. In establishment of crisis centers (created by state administrations as advised by a specially designated executive authority) the needs of this population group are not considered. Awareness-raising work on these matters is not conducted.

[...] girls and women with disabilities are not sufficiently informed on the matters of reproductive health, family planning, and disability. The current state practice in this field does not regard this group as target. [...] that there are no professional psychological and medical consultations for women with various disability forms. Architectural inaccessibility of hospitals, medical services of substandard quality prevent women with disabilities from using the health care services on an equal basis with other women and exercising their right to have a family and be a mother. Health care staff is insufficiently informed on the needs of women with disabilities. "The Lost Rights",

Alternative report to the UN Committee on the Rights of Persons with Disabilities, 2012<sup>34</sup>

Despite systemic exclusion and discrimination of women and girls with disabilities in the country, little targeted attention has been paid to this problem by the state authorities. No baseline study to measure their situation has been conducted after the ratification of the Convention and, consequently, the National Target Program National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities<sup>35</sup> for the period up to 2020 does not provide a plan of action to address the situation of women and girls with disabilities<sup>36</sup>. As a result, they remain invisible in public policies, with issues such as reproductive health, family planning, enjoyment of political and civil rights receiving next to

no attention.

Whereas the international human rights treaties, such as CEDAW and CRPD, have become an integral part of the legal system of Ukraine upon their entry into force, the full realization of the protected rights may be challenged by the existing insufficient capacity of the national stakeholders to fully understand their obligations and to take appropriate measures.

Although obligations under these Conventions are addressed to States Parties, who are primarily responsible for taking action to fulfill these obligations, it is important to acknowledge the role that other ac-

<sup>34</sup>UN Committee on the Rights of Persons with Disabilities, “The “Lost” Rights...An alternative report by public organizations on compliance with the UN Convention on the Rights of Persons with Disabilities”, Translation into Ukrainian (2012). Available at: [http://ud.org.ua/images/pdf/zagubleni\\_prava.pdf](http://ud.org.ua/images/pdf/zagubleni_prava.pdf)  
<sup>35</sup>Ukraine, Resolution of the Cabinet of Ministers of Ukraine the Approval of the National Target Program “National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities till 2020, Resolution # 706 of 1 August 2012. Available at: <https://zakon.rada.gov.ua/laws/show/706-2012-%D0%BF>

<sup>36</sup>The term “invalid” is used in official documents whose terminology has not changed as of the time of preparing the materials of this guidebook.

tors, such as civil society organizations and women's groups, media, research and academic institutions, foundations and private entities, as well as networks of women and girls with disabilities and their representa-

tive organizations, can play in supporting progress towards full equality for women and girls with disabilities.

## INTERSECTIONALITY AND SYNERGIES BETWEEN CEDAW AND CRPD

The concept of intersecting discrimination recognizes that individuals do not experience discrimination as members of a homogenous group but, rather, as individuals with multidimensional layers of identities, statuses and life circumstances. The idea of intersectionality seeks to capture both the structural and dynamic consequences of interaction between two or more forms of discrimination or systems of subordination.<sup>37</sup> It acknowledges the living realities and experiences of heightened disadvantage of individuals caused by multiple and intersecting forms of discrimination, which requires targeted measures to be taken with respect to disaggregated data collection, consultation, policymaking, the enforcement of non-discrimination policies and the provision of effective remedies.<sup>38</sup>

When gender and disability intersect, women and girls with disabilities experience exclusion and marginalization, and this may be further exacerbated by other forms of discrimination, including those based on age, race, ethnicity, refugee status, sexual orientation and gender expres-

sion and identity, and geographic location, as well as type and severity of impairment.

An intersectional approach to policy and legal making, planning and budgeting recognizes that combining identities does not additionally increase one's burden; instead, it produces substantively distinct life experiences.<sup>39</sup> It aims to address concerns of women, recognizing that a one-size-fits-all programmatic approach is inadequate for recognizing the intra-gender differences among women.<sup>40</sup>

This approach requires recognizing women and girls with disabilities as actors and agents in developing strategies and solutions around their own realities and those of their wider communities, moving away from conceptual, policy and programming approaches which relate to marginalized women and girls primarily as beneficiaries to one which engages all women and girls with disabilities as rights holders.

From a normative perspective, CEDAW and CRPD represent, in their complexities and complementarities, the key frame-

<sup>37</sup> Gender and Racial Discrimination Report of the Expert Group Meeting, (UNDAW, OHCHR, UNIFEM, 2000). Available at: <http://www.un.org/womenwatch/daw/csw/genrac/report.htm>

<sup>38</sup> UN Committee on the Rights of Persons with Disabilities, General Comment #3, Article 6, para 16. Available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en)

<sup>39</sup> Association for Women's Rights in Development, "Intersectionality: A Tool for Gender and Economic Justice", (9 August 2004), p. 2.

<sup>40</sup> A/HRC/17/26/ Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo (2 May 2011). Available at: <https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/a-hrc-17-26.pdf>

work for promotion and protection of the rights of women and girls with disabilities and advancing their participation and inclusion.

The overview of the international standards follows the structure of the CEDAW Convention as the earliest international treaty directly addressing the rights of women and girls with disabilities. Recommendations received by Ukraine in the course of reviews by the UN Treaty bodies are presented and analyzed from the perspective of girls and women

with disabilities, ending with specific recommendations for action to the State Party and organizations of women and of persons with disabilities.

**It is important to stress from the outset that while CEDAW is an anti-discrimination convention, which specifically focuses on gender-based discrimination, CRPD is a comprehensive bill of all human rights. The difference and complementarity become apparent when comparing the purposes of the two treaties:**

### **CEDAW Article 3:**

**States Parties shall take in all fields [...] all appropriate measures [...] for the purpose of guaranteeing [women] the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.**

### **CRPD Article 1:**

**The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities [...].**

In other words, while CEDAW goes into significant details on understanding and eliminating gender-based discrimination, it only does so in relation to human rights enjoyed by women. The scope of CRPD is, at least

theoretically, broader as it applies to “all human rights”. Therefore, it is essential to review the two instruments together to widen and deepen our understanding of the state obligations vis-à-vis women with disabilities.

## CEDAW and CRPD on Non-Discrimination and Equality

Article 1 of CEDAW defines discrimination against women as **"any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, 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"**.

CRPD contains a similar definition of discrimination on the basis of disability, but with an important addition: **"It includes all forms of discrimination, including denial of reasonable accommodation"**.

**Women and girls with disabilities in Ukraine face various forms of discrimination:** violations of the right to education, high-quality medical services, creation of a family and marriage, employment, etc. Discrimination of this group of population often occurs at the legislative level, when regulatory documents, state programs, strategies do not take into account the issues of women and girls with disabilities.<sup>41</sup>

In the case of Ukraine, both CEDAW and CRPD Committees have expressed concern

about the inadequacy of prevention and protection against discrimination.

The Ukrainian national legislative framework on gender equality and non-discrimination is comprised of three key laws<sup>42</sup>:

1. The Law on Equal Rights and Opportunities for Women and Men adopted in 2005<sup>43</sup> was the first to include definitions of discrimination on the basis of sex and sexual harassment. To implement the CEDAW Concluding Observation, in 2017 the Law was amended with an updated definition of discrimination<sup>44</sup>.
2. The Law on the Principles of Prevention and Combating Discrimination in Ukraine was adopted in 2012 when the State was required to introduce a comprehensive anti-discrimination legislation to comply with EU Directives; it includes a broad definition of discrimination on a number of protected grounds.
3. The Law on Amendments to Certain Legislative Acts of Ukraine regarding Preventing and Countering Discrimination (2014).

The Law on the Principles of Prevention and Combating Discrimination permits the use of positive actions to accelerate progress towards equality for disadvantaged groups, and it also expands the mandate of the Ukrainian Parliament Commission-

<sup>41</sup> UN Committee on the Rights of Persons with Disabilities, "The "Lost" Rights...An alternative report by public organizations on compliance with the UN Convention on the Rights of Persons with Disabilities", (Ukraine, 2012) Available at [https://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/UKR/INT\\_CRPD\\_NGO\\_UKR\\_15595\\_E.doc](https://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/UKR/INT_CRPD_NGO_UKR_15595_E.doc)

<sup>42</sup> United States Agency for International Development, Gender Analysis Report USAID/Ukraine, (2017).

<sup>43</sup> Ukraine, The Law Equal Rights and Opportunities for Men and Women, Law #2866-IV of 7 January 2018. Available at: <https://zakon.rada.gov.ua/laws/show/2866-15>

<sup>44</sup> CEDAW/C/UKR/CO/8 Concluding Observations on the eighth periodic report of Ukraine, Committee on the Elimination of Discrimination against Women (3 March 2017). Available from <https://digitallibrary.un.org/record/1286284?ln=en>.

er for Human Rights to serve as a National Equality Body. The 2014 legislative amendments introduced important definitions of direct and indirect discrimination as well as discriminatory intent. The legal framework also requires draft laws to be subjected to analysis to ensure that they comply with the principle of equal rights and opportunities for women and men and that they are not discriminatory on any grounds.

Ukraine's gender equality and anti-discrimination legislation is generally considered inadequate in several respects: the body of anti-discrimination legislation is not harmonized, and discrimination occurring in the public and private spheres, as well as multiple intersecting forms of discrimination, are not adequately addressed<sup>45</sup>; the list of protected grounds is not comprehensive (specifically, there was strong opposition from some members of the Government to including sexual orientation and gender identity as grounds for discrimination)<sup>46</sup>; there is no shifting of the burden of proof in civil cases (meaning that in Ukraine the plaintiff must prove that the defendant acted with discriminatory intent); there are inadequate legal remedies (in particular, civil and administrative liability for acts of discrimination, including on the basis of sex, are not covered) and complaint mechanisms.<sup>47</sup>

In 2015, the CRPD Committee indicated in its Concluding Observations<sup>48</sup> that only a few cases related to discrimination the basis of disability, including multiple and

intersecting, have been considered by courts, and that no criminal proceedings have been initiated despite a welcome introduction of such an option into the Criminal Code.<sup>49</sup> The Committee also expressed its concern about the lack of consistent implementation of the principle of reasonable accommodation and the failure to apply sanctions.

In 2017, the CEDAW Committee shared its concern about the insufficient knowledge among the executive, legislative and judiciary branches of power of the concept of substantive gender equality and of the need to strengthen the accountability mechanisms. The two bodies agreed that more needs to be done to make the beneficiaries aware of their rights and facilitate access to legal remedies.

In sum, both treaty bodies recommended Ukraine:

- to extend the application of the principle of reasonable accommodation to all areas of life and make the failure to provide it punishable by law;
- to take all measures, including training of the judiciary and capacity-building of persons with disabilities and their organizations, necessary to foster the use of available legal remedies by persons with disabilities facing discrimination and inequality;
- to establish legislative mechanisms

<sup>45</sup> Ibid

<sup>46</sup> Ukrainian Parliament Commissioner for Human Rights, Shadow report on the implementation of the UN Convention on the Elimination of All Forms of Against Women by Ukraine, 2017.

<sup>47</sup> Ukrainian Parliament Commissioner for Human Rights, Shadow report on the implementation of the UN Convention on the Elimination of All Forms of Against Women by Ukraine, 2017.

<sup>48</sup> CRPD/C/UKR/CO/1, Concluding Observations on the initial report of Ukraine, Committee on the Rights of Persons with Disabilities (2 October 2015). from: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En)

<sup>49</sup> Article 161 of the Criminal Code carries punishment for discrimination on the grounds of race, color, ethnicity, social status, religious or political convictions, disabilitygender, or another status.



and include measures in its policies to prevent and protect persons with disabilities from multiple and intersecting forms of discrimination (CRPD CO 10);<sup>50</sup>

- to take measures to conduct, in cooperation with organizations of women and of persons with disabilities, comprehensive training of the civil servants, the judiciary, and the private sector on understanding and recognizing discrimination on the basis of gender and disability;
- to enhance women's awareness of their rights and the remedies available to them to claim violations of their rights under the Convention, and ensure that information on the Convention, the Optional Protocol and the Committee's general recommendations is provided to all women, including Roma women and rural women (CEDAW CO 21 D).<sup>51</sup>

While the primary responsibility for implementing the recommendations rests with state institutions, civil society and the organizations of women and of persons with disabilities can support the realization of these recommendations by:

- educating and raising awareness of women and girls with disabilities about direct and indirect discrimination, the mechanisms of reporting it and demanding its prevention by state officials, service providers etc. The educational

initiatives can be implemented in an accessible manner at schools, hospitals, cultural centers and shelters, and should target a broader audience;

- facilitating access of women and girls with disabilities to justice, including through free legal counseling in accessible formats, helping prepare legal submissions and filling out documents, or taking measures to protect the woman against repeat victimization (by providing her with anonymity, for example);
- participating in the design and roll-out of training on non-discrimination for the judiciary, civil servants and the public sector;
- establishing partnerships and cooperation with national institutions, local authorities, civil society organizations and international development partners for joint advocacy and awareness raising initiatives about equality and non-discrimination against women and girls with disabilities;
- analyzing and formulating the specific needs of women and girls with disabilities for their integration in the local development programs, plans and budgets. Evidence-based advocacy by the women's groups proved to be an effective strategy.

<sup>50</sup> CRPD/C/UKR/CO/1, Concluding Observations on the initial report of Ukraine, Committee on the Rights of Persons with Disabilities (2 October 2015). from: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En)

<sup>51</sup> CEDAW/C/UKR/CO/8 Concluding Observations on the eighth periodic report of Ukraine, Committee on the Elimination of Discrimination Against Women (3 March 2017). Available from <https://digitallibrary.un.org/record/1286284?ln=en>

## ACCESS TO JUSTICE FOR WOMEN WITH DISABILITIES: EXAMPLES

The issue in litigation was a lawsuit involving the establishment of the procedure for the use of residential premises. The decision of the Court of Appeals (reversing the decision of the local court) was based on the provisions of the national legislation on the status of persons with disabilities and Article 20 of the UN Convention on the Rights of Persons with Disabilities which establish the obligation of the state to take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities. The court protected the right of women with disability to facilitate the personal mobility to live in a room equipped with supportive devices. (the Judgment of Ivano-Frankivsk Oblast Court of Appeals dated 21 August 2015 (Case No. 0907/2-3248/11)).<sup>52</sup>

Example 2. The lawsuit filed by a woman with disability who was refused admission to a nightclub in Donetsk. The plaintiff was not allowed to enter the nightclub due to the lack of accommodation for persons with disabilities. The court found the refusal to admit the plaintiff to the nightclub to be discrimination on the grounds of disability: "failure to provide reasonable accommodation results in a violation of the law". Non-pecuniary damage in favor of the plaintiff: 2000 Ukrainian hryvnias.<sup>53</sup>

## Gender stereotyping as a human rights violation

Harmful gender stereotypes and stereotyping is a pervasive human rights violation. It is a frequent cause of discrimination against women and a contributing factor in violations of rights ranging from the right to an adequate standard of living through to the freedom from gender-based violence. Yet, despite the substantial harm they cause, gender stereotypes and gender stereotyping are often misunderstood.

The international human rights law framework prohibits gender stereotypes and stereotyping which undermine the enjoyment of human rights and fundamental freedoms. States have the obligation to eliminate discrimination

against women and men in all areas of their lives. This obligation requires States to take measures to address gender stereotypes both in public and private life, as well as to refrain from stereotyping.

A number of UN human rights mechanisms, including the CEDAW and CRPD Committees, have increasingly shed important light on the grave and systematic harms of gender stereotypes and gender stereotyping. Both CEDAW and CRPD contain express obligations concerning stereotypes/stereotyping. In addition, the international human rights treaty bodies have interpreted the rights to non-discrimination and equality to include those forms of discrimination and inequality that

<sup>52</sup> Ukraine, Court of Appeals for the Ivano-Frankivsk Oblast, Court Decision #0907/2-3248/11 of 21 August 2015. Available at: <http://reyestr.court.gov.ua/Review/48993013>

<sup>53</sup> Ukraine, Kalynivskyi Raion Court in the Donetsk Oblast, Court Decision #256/1473/13-ц of 29 May 2013. Available at: <http://www.reyestr.court.gov.ua/Review/32002298>

are rooted in stereotypes, including gender stereotypes<sup>54</sup>.

### HARMFUL GENDER STEREOTYPES

A harmful gender stereotype is a generalised view or preconception about attributes or characteristics that are or ought to be possessed by, or the roles that are or should be performed by, women and men, which, inter alia, limits their ability to develop their personal abilities, pursue their professional careers and make choices about their lives and life plans. Harmful stereotypes can be both hostile/negative (e.g., women are irrational) or seemingly benign (e.g., women are nurturing). It is therefore important that UN human rights mechanisms focus on harmful gender stereotypes, rather than negative gender stereotypes.

Gender stereotyping as a human rights violation, OHCHR Commissioned Report, 2013

### CEDAW ON GENDER STEREOTYPING

CEDAW became the first international treaty to establish human rights obligations specifically concerning stereotyping and gender stereotyping. Importantly, the CEDAW Committee has regularly considered the Convention's provisions in its constructive dialogue with States Parties and held States Parties accountable for their failure to implement them fully. The CEDAW Committee has recognized that there are implied obligations in each of CEDAW's substantive provisions to address gender stereotypes/stereotyping. It has also recog-

nized that the obligations of States Parties extend further still, to the rights and freedoms not explicitly covered by CEDAW but which are recognized under other treaties or customary international law and have an impact on the elimination of all forms of discrimination against women and the achievement of substantive equality.

Several provisions of CEDAW create explicit obligations to address harmful gender stereotypes and gender stereotyping:

- **Article 5** sets out the core obligations on stereotyping, and together, they form CEDAW's overarching legal framework for addressing stereotypes/stereotyping.

Article 5(a) requires States Parties to take "all appropriate measures" to "modify the social and cultural patterns of conduct of men and women" in an effort to eliminate practices that "are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women." It addresses both gender stereotypes that are based on a view of women as being inferior to men and sex-role stereotypes.

Article 5(b) requires States Parties to take "all appropriate measures" to ensure that: maternity is recognized as a social function in family education; and care for children is recognized as a common responsibility of women and men. It also seeks to modify and transform the stereotypical view that women (and not men) are carers.

<sup>54</sup> OHCHR, Gender Stereotyping As A Human Rights Violation, 2013. Available from: [https://www.ohchr.org/\\_layouts/15/WopiFrame.aspx?sourcedoc=/Documents/Issues/Women/WRGS/2013-Gender-Stereotyping-as-HR-Violation.docx&action=default&DefaultItemOpen=1](https://www.ohchr.org/_layouts/15/WopiFrame.aspx?sourcedoc=/Documents/Issues/Women/WRGS/2013-Gender-Stereotyping-as-HR-Violation.docx&action=default&DefaultItemOpen=1)

- **Article 2(f)** reinforces Article 5 by requiring States Parties to take “all appropriate measures” to “modify or abolish ... laws, regulations, customs and practices which constitute discrimination against women.”
- **The Preamble** frames the issue of stereotyping and, consequently, States Parties’ obligations to address gender stereotypes/stereotyping by acknowledging that the achievement of substantive equality will require States Parties to change “the traditional role of men as well as the role of women in society and in the family” and, in doing so, stresses the centrality of States Parties’ obligations in this area.

The CEDAW Committee also affirmed the importance of States Parties’ obligations in its General Recommendation No. 25 by identifying the obligation to “address prevailing gender relations and the persistence of gender-based stereotypes” as one of the obligations central to the achievement of substantive equality. This is an acknowledgment that the efforts to improve the women’s de facto position in society will only succeed, if they are also accompanied by measures to transform structural inequality that among the rest, stems from wrongful gender stereotyping.

## CRPD ON GENDER STEREOTYPING

CRPD is the only international human rights treaty other than CEDAW to contain express obligations concerning stereotyping:

- **Article 8(1)(b)** is the central provision in CRPD that outlines States Parties’ obligations regarding stereotypes/stereotyp-

ing<sup>55</sup>. It requires States Parties to adopt immediate, effective and appropriate measures to combat stereotypes, including compounded stereotypes, of people with disabilities. The use of the terms “immediate” and “effective” suggests that the measures must be adopted without delay and must be capable of bringing about change in practice. The “stereotypes” to which Article 8(1)(b) refers are those “relating to persons with disabilities, including those based on sex and age.”

- **Article 8(2)** provides guidance on the types of “appropriate” measures that States Parties should adopt to implement Article 8(1) of the Convention. Consistent with Article 8’s overarching focus on “awareness-raising,” the measures highlighted in Article 8(2) emphasize education and training initiatives. These measures include conducting public education campaigns, fostering an attitude of respect for the rights of persons with disabilities through the education system, encouraging the media to portray persons with disabilities in a manner consistent with the Convention, and promoting awareness-training programs.<sup>56</sup>
- **Article 4(1)(b)** strengthens Article 8(1)(b) by requiring States Parties to take all appropriate measures to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities. It requires States Parties to take all appropriate measures to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities.

<sup>55</sup> This provision also deals with prejudices and harmful practices, but the discussion in this section is limited to stereotyping.

<sup>56</sup> CRPD, arts. 8(2)(a)-8(2)(d).

Significantly, CRPD is concerned with disability stereotypes and **compounded disability stereotypes**, that is, stereotypes of persons with disabilities that intersect with other types of stereotypes (e.g., gender stereotypes) to produce specific stereotypes of different subgroups of people with disabilities, (e.g., women and girls with disabilities).

CRPD is the first international human rights treaty to impose an express obligation to address compounded stereotypes.<sup>57</sup> This is particularly significant for women and girls with a disability whose experiences of discrimination and other rights violations may differ from the experiences of men and other women due to the application or enforcement of compounded stereotypes<sup>58</sup>.

The manifestations of discrimination and gender stereotyping are many. There are certain jobs that are considered purely female or male; employment of women with disabilities requires significant costs associated with their mobility, and the employers are mostly reluctant to hire women with disabilities due to protectionist or stereotypical views and attitudes. Women with disabilities are often seen as burdensome to others, vulnerable, victims or inferior; portrayed as asexual or having a sexual abnormality, as well as sinister or mystical.<sup>59</sup>

Discriminatory attitudes, gender stereotypes, social norms, structural or systemic discrimination are still common in the soci-

ety. All this is reflected in the discriminatory policies, regulations and services specifically for women with disabilities or the lack of such.<sup>60</sup> Women with disabilities may face barriers (such as disbelief) when reporting violence; they are excluded from accessing services (including healthcare), prevented, either directly or indirectly, from forming relationships, having and raising children, etc. Due to systemic discrimination, women and girls with disabilities are often forgotten in social outreach programs. It is not surprising, therefore, that the international community of experts places special importance upon the elimination of stereotypes as a prerequisite for addressing discrimination. The 2018 Joint Statement by the CRPD and CEDAW Committees emphasizes:

*“States Parties should fulfill their obligations under Articles 5 and 8 of CEDAW and CRPD Conventions, respectively, by addressing the root causes of discrimination against women and persons with disabilities. This includes challenging discriminatory attitudes and fostering respect for the rights and dignity of persons with disabilities, in particular women with disabilities, as well as providing support to parents of children with disabilities in this regard.”<sup>61</sup>*

With regard to Ukraine, the CEDAW Committee has voiced its concerns about *“deeply rooted patriarchal attitudes and discriminatory stereotypes about the role and responsibilities of women and men in the family [in Ukraine], which perpetuate*

<sup>57</sup> Stephanie Ortoleva, “Women with Disabilities: The Forgotten Peace Builders” (2010) 33 Loy. L.A. Int’l & Comp. L. Rev. 83, at 91, 114 ;

<sup>58</sup> Kathleen Cornelsen, “Doubly Protected and Doubly Discriminated: The Paradox of Women with Disabilities After Conflict” (2012) 19 Wm. & Mary J. Women & L. 105, 119-120.

<sup>59</sup> UN Committee on the Rights of People with Disabilities, General Comment No 3 (2016) on women and girls with disabilities, CRPD/C/GC/3, 25 November 2016, para 47. <https://www.ohchr.org/en/hrbodies/crpd/pages/gc.aspx>

<sup>60</sup> *Ibid*, para 19.

<sup>61</sup> Guaranteeing sexual and reproductive health and rights for all women, in particular women with disabilities. Joint statement by the Committee on the Rights of Persons with Disabilities (CRPD) and the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), 29 August 2018. Available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/STA/8744&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT/CEDAW/STA/8744&Lang=en)

*the subordinate position of women in the family and society."*<sup>62</sup>

The CEDAW Committee recommends to Ukraine<sup>63</sup>:

- To implement a comprehensive strategy that involves active and consistent measures aimed at women and men from all strata in order to eliminate discriminatory stereotypes and patriarchal ideas about the roles and responsibilities of women and men in the family and society;
- To use innovative media-oriented approaches to deepen understanding of real equality of women and men, as well as to strengthen the positive and non-stereotypical views of women in all areas, with a particular emphasis on the education system.

The CRPD Committee recommends Ukraine<sup>64</sup>:

- to step up its efforts to raise the awareness of the public on the rights of persons with disabilities by conducting public campaigns and including the Convention in the curricula of schools and professional training of public officials and all professionals concerned;
- to adopt a human rights-based approach to disability in all its laws, policies and decisions;
- to educate and raise the awareness of its policymakers, professionals and the public in general on the rights of persons with disabilities;
- to train the judiciary and capacity-building of persons with disabilities and their organizations, necessary to foster the use of available legal remedies by per-

sons with disabilities facing discrimination and inequality;

- to establish mechanisms in its legislation and include measures in its policies to prevent and protect persons with disabilities from multiple and intersecting forms of discrimination;
- to ensure that all its policies and regulations on gender equality and combating gender-based violence address the situation of women and girls with disabilities.

Civil society organizations, women's groups and the organizations working with the rights of persons with disabilities can support the implementation of these recommendations by:

- organizing advocacy campaigns against gender-based discrimination, highlighting that gender stereotyping is a violation of human rights;
- conducting gender-based assessments and studies in various areas to generate evidence proving harmful impact of gender and compounded stereotypes on women and girls with disabilities;
- conducting trainings for different target groups to prevent gender and compounded stereotyping of women and girls with disabilities;
- carrying out educational work in kindergartens, schools and other educational institutions to prevent and combat harmful gender stereotypes and practices directed at persons with disabilities, and promote tolerance;
- building partnerships with media to increase outreach of the advocacy for gender equality and non-discrimination.

<sup>62</sup> CEDAW/C/UKR/CO/8 Concluding Observations on the eighth periodic report of Ukraine, Committee on the Elimination of Discrimination against Women (3 March 2017). Available from <https://digitallibrary.un.org/record/1286284?ln=en>

<sup>63</sup> Ibid.

<sup>64</sup> CRPD/C/UKR/CO/1, Concluding Observations on the initial report of Ukraine, Committee on the Rights of Persons with Disabilities (2 October 2015). Available from: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En)

## **PARTNERSHIPS WITH MEDIA TO IMPROVE PUBLIC PERCEPTION OF PERSONS WITH DISABILITIES IN NORTH MACEDONIA**

Polio Plus is an organization of persons with disabilities in North Macedonia with a strong competency in media awareness-raising and lobbying. One of their most provocative public campaigns was 'Nobody's Perfect', which publicly depicted icons of beauty and celebrities such as Venus de Milo, Spider-Man and Marilyn Monroe with prostheses. Its purpose was to challenge existing social representations of disability and present persons with disabilities as citizens with equal rights.

In parallel, Polio Plus works to raise awareness within the government: it launched an awareness-raising initiative targeting the North Macedonian parliament, which resulted in the establishment of the Inter-Parliamentary Lobby Group on disability to advocate for the introduction of legislation against disability-based discrimination.

This initiative was funded by a cross-section of donors from the private and public sectors at both national and international levels. Importantly, a number of national municipalities and enterprises participated in the project's financing, thus demonstrating their commitment to change and involvement.<sup>65</sup>

## **TRAFFICKING IN WOMEN AND GIRLS WITH DISABILITIES**

Article 6 of CEDAW requires the States to suppress all forms of trafficking in women by taking a range of measures, including legislative.

Although the CEDAW Committee acknowledged in its Concluding Observations (2017) the efforts undertaken by the government to combat trafficking and protect its victims, it at the same time expressed a serious concern that the growing unemployment, corruption, decline in living standards of the population, the ongoing crisis and insufficient implementation of

anti-trafficking legislation and action plans create favorable conditions for the alarming situation of widespread trafficking in the State party.

Earlier, the CRPD Committee expressed in its Concluding Observations (2015) similar concerns about trafficking, sexual abuse and exploitation of women with disabilities, as well as about the fact that laws and policies of the State party promoting the equality of women did not take into account the situation of women with disabilities.<sup>66</sup> The other areas of concern were sexual abuse and exploitation of girls and boys with disabilities and their trafficking abroad, as well as them being targeted for trafficking

<sup>65</sup> Making it Work, "How can Disabled People's Organizations use media to improve the perception of people with disabilities within society?", –Available at: <https://www.makingitwork-crpd.org/our-work/good-practices/how-can-disabled-peoples-organisations-use-media-improve-perception-people>  
<sup>66</sup> CRPD/C/UKR/CO/1, Concluding Observations on the initial report of Ukraine, Committee on the Rights of Persons with Disabilities (2 October 2015). Available from: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En)

of organs by organized crime groups.<sup>67</sup>

Both human rights treaty bodies put forward a number of recommendations to Ukraine regarding prevention and protection of women and girls with disabilities from trafficking:

The CEDAW Committee recommends Ukraine to<sup>68</sup>:

- enforce its legislation on trafficking in persons and increase the financial resources allocated for the implementation of laws and programs to combat trafficking;
- build the capacity of the judiciary, law enforcement officers, border control officers, social workers and health workers with respect to the early referral of victims of trafficking and gender-sensitive ways of working with them;
- address the root causes of trafficking by enhancing educational and economic opportunities for women and girls and their families, thereby reducing their vulnerability to exploitation by traffickers.

The CRPD Committee recommends Ukraine<sup>69</sup>:

- to conduct prompt and effective investigation into all reports of trafficking, sexual abuse and exploitation of women and girls with disabilities in institutions, and prosecute and adequately punish the perpetrators, as well as to take measures to provide remedies to victims of such crimes and ensure that all its policies and regulations on gender equality and combating gender-based violence address the situation of wom-

en and girls with disabilities;

- to revise its normative standards in order to provide access, including physical access, for all women and girls with disabilities who are subjected to violence to its shelters and services for victims of domestic violence;
- to take prompt measures to investigate the reports of sexual abuse, exploitation and trafficking of boys and girls in institutions, and prosecute and punish the perpetrators;
- to take measures to eliminate any risk of organ trafficking involving children with disabilities.

Civil society organizations, women's groups and the organizations working with the rights of persons with disabilities can support the implementation of these recommendations by:

- monitoring the implementation of the Law of Ukraine On Combating Trafficking in Human Beings (2011), including access of survivors to legal aid and to shelters, paying particular attention to women and girls with disabilities;
- advocating to improve the accessibility of services, including shelters and legal aid, to women and girls with disabilities;
- carrying out educational and awareness-raising initiatives in communities on the risks and consequences of trafficking in human beings targeting women and girls with disabilities and other members of the community;
- organizing trainings for legal aid centers, community advocates, human rights organizations on the intersectionality of rights of persons with disabilities and

<sup>67</sup> Ibid

<sup>68</sup> CEDAW/C/UKR/CO/8 Concluding Observations on the eighth periodic report of Ukraine, Committee on the Elimination of Discrimination against Women (3 March 2017). Available from <https://digitallibrary.un.org/record/1286284?ln=en>.

<sup>69</sup> CRPD/C/UKR/CO/1, Concluding Observations on the initial report of Ukraine, Committee on the Rights of Persons with Disabilities (2 October 2015). Available from: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En)



- women's human rights;
- supporting women and girls with disabilities in the judicial processes, particularly by facilitating access to a sign language interpreter, providing information in accessible formats, offering psychological counseling and peer support, etc.

## **EQUAL PARTICIPATION IN POLITICAL AND PUBLIC LIFE**

Article 7 of CEDAW provides for unacceptability of discrimination against women in political and public life of the country, and requires States Parties to the Convention to take appropriate measures to eliminate discrimination against women in these particular areas, to ensure that women have, on equal terms with men, the right to vote in all elections and to be elected to all publicly elected bodies; to participate in the formulation and implementation of government policies public offices and perform all public functions at all levels of government; to participate in all non-governmental organizations and associations concerned with the public and political life of the country. Article 8 of CEDAW complements the above, requiring the States to take all appropriate measures to ensure that women have, on equal terms with men and without any discrimination, an opportunity to represent their governments at the international level and to participate in the work of international organizations.

Both articles are reinforced by the provisions of the CEDAW General Recommendations No. 23 Political and public life and No.

25 On Temporary Special Measures, which brings attention to the multiple forms of discrimination faced by certain groups of women, in addition to discrimination against them as women, such as race, ethnic or religious identity, disability, age, class, caste or other factors. It requires States to take specific temporary special measures to eliminate such multiple forms of discrimination against women and its compounded negative impact on them.

CRPD places particular emphasis on participation of persons with disabilities and their representative organizations in political and public life. Namely, Article 29 protects their right in relation to public engagement and electoral affairs, whereas Article 4(3) contains a general obligation for the CRPD States Parties to actively involve representative organizations of persons with disabilities, including children, in all decisions that concern them.

The CRPD Committee notes that *“voices of women and girls with disabilities have historically been silenced, which is why they are disproportionately underrepresented in public decision-making. Owing to power imbalances and multiple discrimination, they have had fewer opportunities to establish or join organizations that can represent their needs as women, children and persons with disabilities.”*<sup>70</sup>

Systemic limitations, such as legislation relating to guardianship and architectural inaccessibility of political processes, result in women with disabilities being severely underrepresented in political life, particularly their right to vote and stand for elections.

<sup>70</sup> CRPD/C/GC/3, General Comment #3, Para 60 On women and girls with disabilities, 25 November 2016. Available at: <https://www.ohchr.org/en/hrbodies/crpd/pages/gc.aspx>

The CRPD Committee has systematically urged States Parties to take measures to make sure that women with disabilities are enabled for participation in public

decision-making (Armenia 2017<sup>71</sup>, Luxembourg 2017<sup>72</sup>, Seychelles 2018<sup>73</sup>).

### THE FINDINGS OF UKRAINIAN CIVIL SOCIETY CORROBORATE THE CRPD COMMITTEE'S OBSERVATIONS:

All-Ukrainian Public Association National Assembly of Persons with Disabilities of Ukraine conducted, with the assistance of the International Foundation for Election Systems and Poltava Regional Administration, an audit of 1,269 polling stations with regard to their accessibility for persons with disabilities and low-mobility groups. Only three polling stations were in compliance with the State Construction Standards.

That is, only in three cases could persons with disabilities feel equal as citizens and voters.<sup>74</sup>

In 2012, the Assembly reported that there were no women with disabilities represented in legislative and executive authorities or otherwise visibly involved in the decision-making processes.<sup>75</sup>

The CRPD Committee emphasizes the importance of State support to encouragement and facilitation of the establishment of organizations of women and girls with disabilities, as well as participation of women with disabilities in leadership roles of organizations of persons with disabilities.<sup>76</sup> The Committee goes

on to recommend that specific funds for organizations of women with disabilities and of children with disabilities be allocated to enable their effective participation in the process of drafting, developing and implementing laws and policies and in the monitoring framework.<sup>77</sup>

<sup>71</sup> CRPD/C/ARM/CO/1, Concluding Observations on the initial report of Armenia, Committee on the Rights of Persons with Disabilities, (8 May 2017). Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhspZQ2sppBOANJSxHHwrsEJbjcpUWkg%2bMk-KIITZvw7JK%2buYwfpBtdMIEVnF0fSZiwodb8OBMgU4q3E3dIH%2fykMw%2b%2ffid7FVuZavSvrxg%2bn0fK>

<sup>72</sup> CRPD/C/LUX/CO/1, Concluding Observations on the initial report of Luxembourg, Committee on the Rights of Persons with Disabilities, (10 October 2017). Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsvP%2bdTiDrgtVuqxAW%2b69tikIXBKK-WmNQXT%2fmo%2fEYFUOnby%2frpQIV67BUhoNbCdpCac7SIOMvANsJafd2PwWE94Ei7KuLj0qhi2PXCwnuevVb>

<sup>73</sup> CRPD/C/SYC/CO/1, Concluding Observations on the initial report of Seychelles, Committee on the Rights of Persons with Disabilities, (1 March 2018). Available at: [http://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/SYC/CRPD\\_C\\_SYC\\_CO\\_1\\_30547\\_E.docx](http://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/SYC/CRPD_C_SYC_CO_1_30547_E.docx)

<sup>74</sup> Report on the Results of the Audit of Accessibility for People with Disabilities of Polling Stations in the Poltava Oblast (National Assembly of People with Disabilities, 2016), Page 13. Available at: <http://naiu.org.ua/zvit-za-rezultatamy-audytu-vyborchih-dilnyts-poltavskoyi-oblasti-shhodo-yih-dostupnosti-dlya-osib-z-invalidnistyu-ta-inshyh-malomobilnyh-grup-naselennya/>

<sup>75</sup> UN Committee on the Rights of Persons with Disabilities, "The "Lost" Rights...An alternative report by public organizations on compliance with the UN Convention on the Rights of Persons with Disabilities", (Ukraine, 2012), Para 44. Available at [https://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/UKR/INT\\_CRPD\\_NGO\\_UKR\\_15595\\_E.doc](https://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/UKR/INT_CRPD_NGO_UKR_15595_E.doc)

<sup>76</sup> CRPD/C/GC/7, General Comment #7, paras 72-73 on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention, 21 September 2018. Available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD/C/GC/7&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD/C/GC/7&Lang=en)

<sup>77</sup> Ibid, para 61(c).

## **WOMEN WITH PSYCHOSOCIAL DISABILITIES GAIN GREATER PARTICIPATION IN PUBLIC LIFE IN MEXICO**

Despite the ratification by Mexico of all major international treaties governing human rights of women with disabilities, their participation in the country's political and public life remained limited. Women with disabilities were largely disempowered, isolated and under-represented in the public and political life, even within organizations of persons with disabilities.

To address the issue, the Disaster Recovery International (a US-based international NGO) created a representative organization of persons with psychosocial disabilities in Mexico City. To improve the representation of women, the group nominated one woman to champion the rights of women with psychosocial disabilities. Following an intensive training in community organizing, leadership, human rights, and mentorship by male leaders of the organization, she then taught her skills to other women within the movement and set up an informal women's group within the organization.

The initiative resulted in significant empowerment of all involved women, many of whom are now engaged in monitoring psychiatric institutions, public speaking and awareness raising. Thanks to the group's activities, women with psychosocial disabilities in Mexico City have regained their opportunities to make key decisions affecting their lives and seek peer support in times of crisis. They now feel accepted by their communities. The initiative also convinced their male colleagues and the general public in the added value of direct involvement of women with psychosocial disabilities in decision-making.<sup>78</sup>

<sup>78</sup> Making It Work, Capacity Development for Empowerment in Mexico City: Women with Psychosocial Disabilities Managing Peer Support, Advocacy and Self-Representation (Disability Rights International). Available at: <https://www.makingit-work-crpd.org/index.php/our-work/good-practices/capacity-development-empowerment-mexico-city-women-psychosocial>

Both treaty bodies have made ample recommendations to Ukraine, specifically to address the participation and political involvement gap between the general population and women with disabilities. These can be summed up as follows:

- to ensure that organizations of persons with disabilities, including women with disabilities, are de jure involved in all legislative, financial and policy decisions that may have an impact on persons with disabilities<sup>79</sup>;
- to amend the relevant laws so that all persons with disabilities, including women, can enjoy the right to vote and stand for election regardless of guardianship or other regimes<sup>80</sup>;
- to ensure, through legislative and other measures, the accessibility of ballots and election materials, and of polling stations<sup>81</sup>;
- to adopt a global strategy based on targeted measures, including training, gender-sensitive recruitment and special measures, including temporary special measures, to ensure that women are appointed to decision-making positions at both the national and local levels on an equal footing with their male counterparts<sup>82</sup>;
- to conduct awareness-raising activities for politicians, community leaders, journalists and the general public on the importance of women's participation in decision-making.<sup>83</sup>

Civil society organizations, women's groups and the organizations working with the rights of persons with disabilities can support the implementation of these recommendations by:

- taking actions to ensure that women and girls with disabilities equally participate in the programs on political and public life;
- ensuring that the organizations' decision-making bodies include women with disabilities, including in leadership positions;
- supporting women and girls with disabilities striving for leadership through community and volunteer organizations using resources of non-governmental organizations and local communities; advocacy campaigns, fund raising to support and conduct electoral campaigns for female candidates; mobilizing voices by providing citizens with information on the importance of electing female leaders;
- developing and implementing advocacy strategies and awareness raising initiatives that promote equality of men and women with disabilities in political and public life;
- developing and implementing targeted initiatives to empower, educate and encourage women with disabilities to run for elected positions, as well as promoting their representation in the government decision-making bodies at all levels;
- conducting accessibility audits of polling stations to ensure the rights of voters with disabilities;
- conducting seminars and trainings for various target groups to address disability issues, accessibility and universal design of polling stations;
- encouraging women and girls with disabilities to acquire higher education and use their potential to attain high positions in public, political and social life.

<sup>79</sup> CRPD/C/UKR/CO/1, Concluding Observations on the initial report of Ukraine, Committee on the Rights of Persons with Disabilities (2 October 2015), para 61, p. 9. Available from: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En)

<sup>80</sup> Ibid, para 55, p.8

<sup>81</sup> Ibid.

<sup>82</sup> CEDAW/C/UKR/CO/8 Concluding Observations on the eighth periodic report of Ukraine, Committee on the Elimination of Discrimination against Women (3 March 2017), Para 33, p.10. Available from <https://digitallibrary.un.org/record/1286284?ln=en>

<sup>83</sup> Ibid.

## **WOMEN WITH DISABILITIES INFLUENCE MUNICIPAL PLANNING IN KRAMATORSK, UKRAINE**

In 2017, Kramatorsk City Council in the conflict-affected Donetsk region of Ukraine allocated 8 million Ukrainian hryvnias (USD 275,000) to ensure accessibility of public services through the municipal accessibility program. This is a fourfold increase over the previous year's allocation.

The inclusion of gender-specific measures to the municipal accessibility program and its budgeting was a result of an effective advocacy campaign by women with disabilities based on findings of the Gender Accessibility Audit. In the partnership with and with the support by UN Women and the National Assembly of People with Disabilities, women with disabilities living in Kramatorsk audited buildings of 8 public institutions providing priority services for women, such as obstetrical and gynecological consultative centers, social protection centers, kindergartens etc. The identified information and communication challenges, as well as architectural and infrastructural barriers restricting access of women with disabilities to public services and causing their social isolation, marginalization and exclusion, informed the evidence-based advocacy of women with disabilities with local authorities. The advocacy campaign, supported by a set of concrete recommendations, resulted in the unprecedented allocation of municipal funds. Already in 2018, 25% of the committed budget was spent on eliminating the barriers to and increasing accessibility of public services for women and men with disabilities based on the Gender Accessibility Audit recommendations.

# EQUAL RIGHT TO ACQUIRE, CHANGE OR RETAIN A NATIONALITY

Article 9 of CEDAW appeals to State Parties to grant women equal rights with men to acquire, change or retain their nationality. They shall ensure, in particular, that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband. In accordance with this Article, women have equal rights with men with respect to the nationality of their children. Article 18(1) of the CRPD Convention echoes these obligations and protects the right of persons with disabilities to acquire and change a nationality and not to be deprived of one, arbitrarily or on the basis of disability; to retain the ability to obtain and possess an identification, and to enjoy the freedom of movement.

The CRPD Committee has identified that the main irregularities preventing persons with disabilities from enjoying these rights in different countries are:

- structural barriers and denial of reasonable accommodation in the process of obtaining identification documents (Armenia 2017 <sup>84</sup>);
- particular disadvantages during border checks due to prejudice regarding their disability and the lack of accessibility, aggravated by the current migration crisis (Slovakia 2016 <sup>85</sup>);
- denial of naturalization procedures to persons on the basis of a disability or a chronic illness (Ecuador 2014 <sup>86</sup>).

Although the UN human rights treaty bodies have not formulated any specific recommendations for Ukraine, a number of recommendations were derived from the nature of irregularities reported to the Committee, such as:

19. The Committee calls upon the State Party to ensure access to premises open to the public for persons with disabilities, including children, and especially deaf persons, blind persons and persons with intellectual disabilities, by providing sign language interpretation, Braille print signage, and augmentative and alternative communication, and all other accessible means, modes and formats of communication, such as pictograms. In doing so, the Committee recommends to consult its General Comment No. 2 (2014) on accessibility (art. 9).

<sup>84</sup> CRPD/C/ARM/CO/1, Concluding Observations on the initial report of Armenia, Committee on the Rights of Persons with Disabilities (8 May 2017). Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhspZQ2sppBOANJSxHHwrsEJbjcpUWkg%2bMk-KIITZvw7JK%2buYwfpBtdMIEVnF0fSZiwoddb8OBMgU4q3E3dIH%2fykMw%2ft43AXhUCDYLSeofReUVW0>

<sup>85</sup> CRPD/C/SVK/CO/1, Concluding Observations on the initial report of Slovakia, Committee on the Rights of Persons with Disabilities (17 May 2016). Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhspV%2bq2wB82cxwrVotBOWJsr-uUpS5Q9q%2f%2b4PqUC1g032rG1f%2b%2bWGWWZJDq6htoJ%2bbYAqiVre7GR2VVx%2fc14x6Nu7GajzF0L9DOJ05altHSID>

<sup>86</sup> CRPD/C/ECU/CO/1, Concluding Observations on the initial report of Ecuador, Committee on the Rights of Persons with Disabilities (27 October 2014). Available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=CRPD/C/ECU/CO/1&Lang=E>

41. The Committee calls upon the State Party to take measures to invest in Braille and audio publications as well as make available Ukrainian-language audio description and captioning of video content.<sup>87</sup>

Civil society organizations, women's groups and the organizations working with the rights of persons with disabilities can take the following steps to foster implementation of the rights of women and girls with disabilities in nationality-related matters:

- providing legal consultations to women with disabilities and their families concerning their right to obtain and retain a nationality, and to pass it on to their children;
- conducting public monitoring of the activities of immigration centers in different regions of Ukraine in the

context of providing accessible services for women and girls with disabilities;

- monitoring the access to registration of internally displaced women and girls with disabilities, with particular attention to the fact that women and men have equal access and are recognized as equal citizens in all processes of registration;
- developing, implementing and taking part in advocacy campaigns aimed at eliminating discrimination against women in citizenship issues;
- facilitating the provision of accessible information, including Easy Read and plain language formats accessible for all women with disabilities in the procedures concerning birth registration and citizenship.

<sup>87</sup> CRPD/C/UKR/CO/1, Concluding Observations on the initial report of Ukraine, Committee on the Rights of Persons with Disabilities (2 October 2015), Cos #19 and #41. Available from: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En)

# EQUAL ACCESS TO EDUCATION

Article 10 of CEDAW provides for elimination of discrimination against women in the field of education. The Article calls on States Parties to ensure, on the basis of equality of men and women: the same conditions for career and vocational guidance i at educational establishments of all categories and throughout life; elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education; the same opportunities to benefit from scholarships, access to education programs, information, sports, etc.

These standards should be read in conjunction with the provisions on the right to education set out in Article 24 of CRPD that recognizes the right of persons with disabilities to education without discrimination on the basis of equal opportunity. The CRPD Committee elaborates on elements that must be emphasized in developing measures to ensure that women and girls with disabilities enjoy their right to education:

“46. Article 6 recognizes that women and girls with disabilities are subject to multiple discrimination and that States Parties must adopt measures to ensure the equal enjoyment of their rights. [...] States Parties must identify and remove th[e] barriers [created by intersecting discrimination and exclusion], including gender-based violence and the lack of value placed on the education of women and girls, and put in place specific measures to ensure that the right to education is not impeded by gender and/or disability discrimination, stigma or prejudice. Harmful gender

and/or disability stereotypes in textbooks and curricula must be eliminated. Education plays a vital role in combating traditional notions of gender that perpetuate patriarchal and paternalistic societal frameworks. States Parties must ensure access for and the retention of girls and women with disabilities in education and rehabilitation services, as instruments for their development, advancement and empowerment.”<sup>88</sup>

In 2017, the CEDAW Committee expressed concern about the lack of comprehensive public policies and programs aimed to protect the right of girls and women with disabilities to inclusive education.<sup>89</sup> This concern echoed the comment made two years prior by the CRPD Committee who was concerned about the lack of disability mainstreaming in gender equality laws and policies of Ukraine.<sup>90</sup>

The crucial intersection between gender and disability in education has also been reflected by the global community in the Sustainable Development Goals, target 4.4 of which commits:

By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations.

Both CEDAW and CRPD set a path for the achievement of this target.

<sup>88</sup> CRPD/C/GC/4, General Comment #4 on the right to inclusive education, (25 November 2016). Available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/4&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/4&Lang=en)

<sup>89</sup> CEDAW/C/UKR/CO/8 Concluding Observations on the eighth periodic report of Ukraine, Committee on the Elimination of Discrimination against Women (3 March 2017), Para 43. Available from <https://digitallibrary.un.org/record/1286284?ln=en>

<sup>90</sup> CRPD/C/UKR/CO/1, Concluding Observations on the initial report of Ukraine, Committee on the Rights of Persons with Disabilities (2 October 2015), Para 11. Available from: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En)



Although Ukraine has not so far received recommendations from either Committee specifically dedicated to the rights of girls and women with disabilities in education, the ensemble of their recommendations on education must be considered through the lens of both disability and gender. As such, Ukraine is called to review its school curricula and textbooks to eliminate negative stereotypes of women and girls, present girls with disabilities in an empowering manner, and ensure that the same curricula applies to both boys and girls and that measures are taken to make the curricula and teaching materials accessible to girls with disabilities.<sup>91</sup> Ukraine should also ensure the availability of sufficient financial and human resources to train all teachers in inclusive education and develop a system of individual support for all learners with disabilities who require it.<sup>92</sup> Finally, specific measures need to be taken to prevent segregation and early drop-out of girls belonging to minorities (such as Roma and girls with disabilities) from education.

The CRPD General Comment on the right to inclusive education (2016) further elaborates on specific obligations that must be undertaken to ensure that all learners with disabilities, including girls and women, are able to enjoy their right to education. Reminding that “the education of persons with disabilities too often focuses on a deficit approach, on their actual or perceived impairment and on limiting opportunities to pre-defined and negative assumptions of their potential [...]”, the Committee calls on the States Parties to reform the system and build on the unique strengths and skills of all learners with disabilities.<sup>93</sup>

In practice, adopting such an approach means:

- ensuring that the legislation protects everyone’s right to inclusive education, including through a ‘non-rejection’ clause prohibiting the exclusion of children and adults from mainstream education on the basis of their impairment or speculations about their learning potential, and the provision of reasonable accommodation;
- adopting of a national strategy on transitioning from a segregated to inclusive system of education with a clear timeframe, division of responsibilities and allocated budget;
- training of future and current education professionals in inclusive education;
- ensuring availability of accessible and affordable teaching materials and techniques, assistive devices, and modes of communication to facilitate inclusive learning;
- collecting data on participation of girls and boys with disabilities in inclusive education and regular analysis of progress, regression and stagnation in the number of learners in inclusive education.

Additional recommendations can be drawn from the Beijing Platform for Action<sup>94</sup>.

### **BEIJING PLATFORM FOR ACTION RECOMMENDS THE GOVERNMENTS**

195 (a) organization of leadership and self-confidence training to help women and girls, in particular those with special needs, women with disabilities and women belonging to racial and ethnic minorities to build confidence in their own forces and encourage them to take leadership positions.

<sup>91</sup> CEDAW/C/UKR/CO/8 Concluding Observations on the eighth periodic report of Ukraine, Committee on the Elimination of Discrimination against Women (3 March 2017), Para p 35(a) and (b). Available from <https://digitallibrary.un.org/record/1286284?ln=en>

<sup>92</sup> CRPD/C/GC/4, General Comment #4 on the right to inclusive education, (25 November 2016), p 45. [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/4&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/4&Lang=en)

<sup>93</sup> Ibid, p 16.

<sup>94</sup> United Nations, Beijing Declaration and Platform for Action, 1995. Available at: <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>

Child-to-child (CtC) clubs in the Leonard Cheshire Disability Girls Education Challenge project in Kenya comprise children with and without disabilities. Such an inclusive approach made a significant contribution to the socialization of girls with disabilities. Children received training on life skills, including hygiene and self-care, as well as information about their sexual and reproductive health rights.

Some girls with disabilities took part in drama competitions advocating for disability rights. The CtC clubs have also been considered instrumental in promoting gender equality and reducing stigma and discrimination against girls with disabilities.

Since both girls and boys were trained on the rights of girls with disabilities, some of the boys have become champions for their rights. The boys and girls with disabilities together took part in commemoration of the International Day of Persons with Disabilities and Inclusive Education Day, highlighting the importance of equal rights and opportunities for girls and boys with disabilities.<sup>95</sup>

To contribute to the implementation of CEDAW's Article 10 and the Committee's related recommendations, women and girls with disabilities, as well as civil society organizations and human rights activists working with the rights of women and girls with disabilities may:

- take action to ensure equal participation of women and girls with disabilities in the development of the state and local policies that promote the right of persons with disabilities to education;
- develop and conduct advocacy campaigns and educational events promoting the importance of lifelong learning for women and girls with disabilities on an equal basis with men and boys;
- conduct public monitoring of the introduction of inclusive education at all levels of education;
- provide advisory assistance and

participate directly in conducting gender audits on the accessibility of educational institutions and reasonable accommodation;

- promote the availability of educational materials, the educational process for girls and boys, men and women with disabilities;
- provide legal assistance to girls and boys with disabilities and their parents to protect their right to education and to prevent their exclusion from the system of education on the basis of impairment;
- advocate for and promote the involvement of teachers / lecturers (women and men) with disabilities to work at educational institutions, in the public educational sector.

<sup>95</sup> United Nations, "Still Left Behind: Pathways to Inclusive Education for Girls with Disabilities", (Leonard Cheshire International, 2017), p 32. Available at: [https://www.leonardcheshire.org/sites/default/files/still\\_left\\_behind\\_-\\_pathways\\_to\\_inclusive\\_education\\_for\\_girls\\_with\\_disabilities\\_-\\_leonard\\_cheshire\\_disability\\_-\\_ungei.pdf](https://www.leonardcheshire.org/sites/default/files/still_left_behind_-_pathways_to_inclusive_education_for_girls_with_disabilities_-_leonard_cheshire_disability_-_ungei.pdf)

# EQUAL ACCESS TO EMPLOYMENT

Article 11 of CEDAW requires the States to take measures to eliminate discrimination against women in the field of employment. The state should ensure equal rights for women and men, in particular, the right to: work; the same employment opportunities and the application of the same criteria for selection in matters of employment; free choice of profession and employment; promotion, job security and all benefits and conditions of service; vocational training and retraining; equal remuneration and benefits; equal treatment in respect of work of equal value; social security, particularly in the cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave; protection of health and safe working conditions.

CRPD echoes these provisions and even adds a detailed legal framework concerning the right of persons with disabilities to work. It states that the right of persons with disabilities to work includes the right to the opportunity to gain a living by work freely chosen or accepted in a labor market and work environment that is open, inclusive and accessible to persons with disabilities, and sets out a non-exhaustive list of appropriate steps for States Parties to take, including through legislation, to safeguard and promote the realization of the right to work for all persons with disabilities.<sup>96</sup>

CRPD provides a number of key concepts in the understanding of implementation of the right to work for persons with disabili-

ties, such as prohibition of all discrimination on the basis of disability. This includes not only direct and indirect discrimination, but also harassment, discrimination by association of, for example, a mother without disability having a child with a disability, and failure to provide reasonable accommodation.

Reasonable accommodation in relation to employment may mean adjustments to the recruitment process, such as meeting the candidate's accessibility requirements during the interview, adaptations to the work facilities or procedures, such as allowing the person to work flexible hours or from home if appropriate or taking measures to protect the person from harassment or stereotyping by work colleagues by providing training and safe complaint procedures.

Article 2 of CRPD defines reasonable accommodation as *“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>97</sup>

While women with disabilities face many of the same challenges that affect all women, such as lack of equal access to employment, harassment in the workplace and lower

<sup>96</sup> United Nations, Convention on the Rights of Persons with Disabilities, 13 December 2006, Art 27(1)(a-k). Available at: <http://www.ohchr.org/EN/HR-Bodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx>

<sup>97</sup> Ibid., Art 2.

pay, they are often doubly disadvantaged as a result of difficulty of securing employment, extra disability-related costs and lack of control over their own property or finances due to legal restrictions often imposed on persons with disabilities. Women with disabilities are consistently underrepresented in all categories of employment, particularly management positions, while reliable data on employment of women with disabilities is rarely available.<sup>98</sup> Seeking redress against discrimination is often impossible for women with disabilities due to discriminatory attitudes dismissing their claims, as well as physical, information and communications barriers.<sup>99</sup>

Recognizing the double burden experienced by women with disabilities in the field of employment, the CEDAW Committee recommended Ukraine to: *“intensify its efforts to create an enabling environment for women to become economically independent, including by raising the awareness of employers in the public and private sectors of the prohibition of discrimination in employment against women, including women with disabilities, and to promote the entry of women into the formal economy, including through the provision of vocational and technical training.”*<sup>100</sup>

The Committee goes on to recommend *“to strengthen its efforts to provide women affected by conflict, including women with disabilities, widows and women heads of household, with sustainable economic op-*

*portunities and effectively address all barriers to the equitable participation of women in the labour market.”*<sup>101</sup>

The CRPD Committee echoes these recommendations by proposing, in its turn, to *“strengthen incentives for businesses and the public sector to employ persons with disabilities”*.<sup>102</sup>

Most other employment-related recommendations of the CEDAW Committee are also directly relevant to women and girls with disabilities, such as reinforcement of legislation to define and prohibit harassment in the workplace, or improvement of the access of women and girls to information technologies.

An analysis of recommendations of the UN human rights treaty bodies to other countries would be beneficial for guiding the national measures. For example, the CRPD Committee has consistently recommended adoption of strategies for the employment of persons with disabilities, especially women, in an open labor market in line with SDG target 8.5: *“by 2030 achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value”*. The recommendations included provision of reasonable accommodation, flexible time arrangements, appropriate training for work and measures to prevent harassment and other forms of

<sup>98</sup> A/HRC/22/25 Thematic study on the work and employment of persons with disabilities, Office of the United Nations High Commissioner for Human Rights (17 December 2012), para 24. Available at: [https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-25\\_en.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-25_en.pdf)

<sup>99</sup> CRPD/C/GC/3, UN Committee on the Rights of Persons with Disabilities, General Comment #3, Para 58: Women and girls with disabilities. Available at [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en)

<sup>100</sup> CEDAW/C/UKR/CO/8 Concluding Observations on the eighth periodic report of Ukraine, Committee on the Elimination of Discrimination against Women (3 March 2017), Para 37(a). Available from <https://digitallibrary.un.org/record/1286284?ln=en>

<sup>101</sup> Ibid, para 37(f).

<sup>102</sup> CRPD/C/UKR/CO/1 Concluding Observations on the initial report of Ukraine, Committee on the Rights of Persons with Disabilities (2 October 2015), Para 51. Available from: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En)

discrimination, including intersecting, at the workplace (Canada 2017<sup>103</sup>, Oman 2018<sup>104</sup>) or provision of incentives for the self-employment of women with disabilities (Luxembourg 2017<sup>105</sup>).

To sum up, the effective implementation of the right of women with disabilities to employment entails, at minimum, the introduction of the following measures:

- adoption of an effective legislative framework, which includes prohibition of all forms of discrimination, including harassment and denial of reasonable accommodation, in recruitment, continuance, career advancement and working conditions, and fair and equal rights to leave entitlements for women with disabilities and mothers of children with disabilities;
- abolition of legislation that includes impairment-based provisions such as “fitness to work” or excludes women with disabilities from certain categories of employment;
- introduction of appropriate policies and programs, including affirmative action programs, incentives, technical and financial assistance for employers and entrepreneurs with disabilities;
- adoption of a national employment strategy that mainstreams women with disabilities in public and private employment.

Civil society organizations, women’s groups and the organizations working with the rights of persons with disabilities can support the implementation of these recommendations by:

- raising awareness of women with disabilities, employers, state officials, employment centers, trade unions and the general public of the right of women with disabilities to employment, measures to eliminate all forms of discrimination, including harassment and denial of reasonable accommodation in the workplace;
- availing positive practices of the employment of women with disabilities as a part of technical assistance, and informing about the employers’ strategies for employment of women with disabilities;
- monitoring, disclosing and making public discriminatory practices regarding women with disabilities in the field of employment;
- supporting women who faced discrimination in employment on the basis of gender and disability, including before labor dispute committees and courts;
- supporting entrepreneurship of women with disabilities by organizing training, providing accessible facilities, communication platforms and support for child-care.

<sup>103</sup> CRPD/C/CAN/CO/1 Concluding Observations on the initial report of Canada, Committee on the Rights of Persons with Disabilities. Available from: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhshFUyvCoX405cFaiGbrIbL87R7e4hNB%2fgZKnTAU8Bqk7FK-CyFSQGUzS4dKwSRSD%2fCPUoSzW7oP9OI5IweGr%2br%2b4BxfPepTr81TRWwh5sMLV0>

<sup>104</sup> CRPD/C/OMN/CO/1 Concluding Observations on the initial report of Oman, Committee on the Rights of Persons with Disabilities. Available at: [http://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/OMN/CRPD\\_C\\_OMN\\_CO\\_1\\_30557\\_E.docx](http://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/OMN/CRPD_C_OMN_CO_1_30557_E.docx)

<sup>105</sup> CRPD/C/LUX/CO/1 Concluding Observations on the initial report of Luxembourg, Committee on the Rights of Persons with Disabilities. Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsvP%2bdTiDrgtVuqxAW%2b69tiKIXBKWmNQX-T%2fmo%2fEYFUOnby%2frpQIV67BUhoNbCdpCac7SIOMvANSJafd2PwWE94Ei7KuLj0qhi2PXCwnuevVb>

## EQUAL ACCESS TO HEALTH CARE

Article 12 of CEDAW prohibits any discrimination against women in the field of health care to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning. The Article obliges the States Parties to ensure for women appropriate services in relation to pregnancy, birth and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and breastfeeding.

The CRPD Convention has a broader take on the right to health for persons with disabilities, reaffirming in its Article 25 the right of all persons with disabilities to the highest attainable standard of health without discrimination on the basis of disabilities. This includes equitable access to mainstream health care and programs available to the public, as well as health services needed by persons with disabilities specifically due to their disabilities. The Convention specifically calls for health services that are gender-sensitive and include sexual and reproductive health.<sup>106</sup>

This provision is significant for women and girls with disabilities who have long been subjected to stereotypical attitudes concerning their sexuality and reproductive rights, discouraged or prevented from realizing their motherhood or denied accessible information about maternal health, contraceptives, family planning, sexually transmitted diseases, HIV, safe abortion,

fertility and cancer of reproductive organs. All that increases the risk of being subjected to sexual violence, particularly in the case of women with intellectual, deaf and deaf-blind women. The inaccessibility of medical equipment, such as mammogram machines and gynecological examination beds, as well as the unavailability of accessible and safe transport to health care facilities puts women with physical disabilities at risk of exclusion from health care services.<sup>107</sup>

The CRPD Convention places particular emphasis on ethical standards of health care and requires health professionals to provide persons with disabilities with quality health care and on the basis of free and informed consent.<sup>108</sup> This provision has been included to reflect the prevalence of forced interventions, such as sterilization, abortion, contraception, female genital mutilation, non-consensual surgery or treatment performed on intersex children and forced detention in a medical institution performed on many women with disabilities, particularly those with intellectual and psychosocial disabilities.<sup>109</sup>

The UN Special Rapporteur on the Rights of Persons with Disabilities echoes the concerns about sexual and reproductive rights of girls and women with disabilities and emphasizes the importance of establishing adequate legal and policy frameworks, empowering women and girls with disabilities and revising the attitudes of health care pro-

<sup>106</sup> United Nations, Convention on the Rights of Persons with Disabilities, Article 25(a) and (b). <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/optional-protocol-to-the-convention-on-the-rights-of-persons-with-disabilities.html>

<sup>107</sup> CRPD/C/GC/3, UN Committee on the Rights of Persons with Disabilities, General Comment #3, Paras 39-42: Women and girls with disabilities. Available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en)

<sup>108</sup> United Nations, Convention on the Rights of Persons with Disabilities, Article 25(d). <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/optional-protocol-to-the-convention-on-the-rights-of-persons-with-disabilities.html>

<sup>109</sup> CRPD/C/GC/3, UN Committee on the Rights of Persons with Disabilities, General Comment #3, Para 44: Women and girls with disabilities. Available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en)

professionals and services providers.<sup>110</sup>

The 2011 monitoring data by non-governmental organizations, including Berehynia, Autonomous Republic of Crimea confirmed that women with disabilities met significant challenges in the area of health care <sup>111</sup>:

- 65 % of women with disability visit a clinic less than once per year;
- 11% of them practice self-treatment
- 13.3% of women with disabilities encountered an inappropriate behavior and remarks by the doctors
- 18.9% of doctors noted that examination of such women causes difficulties
- 76% of women mentioned the absence of elevators and that the gynecologist's office is located higher than the first floor;
- 100% women with disabilities are not satisfied with the accessibility of medical services in their district or city.

This data confirms the lack of required conditions in healthcare institutions, thus impeding the provision of high-quality services for to women with disabilities.

In Ukraine, there is no maternity welfare center that would be architecturally accessible for women using wheelchairs, have an accessible entrance and modern medical equipment convenient for a woman with musculoskeletal disorders.

Women with visual impairments are not able to find their bearings in hospital without a guide as there are no accessibility elements for blind people; women with hearing loss have

a big problem communicating with doctors. Maternity hospitals are totally inaccessible as regards entrances, wards, and sanitary facilities, as there are no elevators in there.

Both CEDAW and CRPD Committees acknowledged particular hardships experienced by women and girls with disabilities in accessing health care services in Ukraine. In 2015, the CRPD Committee expressed a concern about a restricted access to information on sexual and reproductive health and family planning for women and girls with disabilities. It recommended to Ukraine to take measures to address

<sup>110</sup> United Nations, Sexual and reproductive health and rights of girls and young women with disabilities, (14 July 2017) para 61. Available at:[https://www.ohchr.org/Documents/Issues/Disability/A\\_72\\_133\\_EN.docx](https://www.ohchr.org/Documents/Issues/Disability/A_72_133_EN.docx)

<sup>111</sup> CRPD/C/GC/3, UN Committee on the Rights of Persons with Disabilities, General Comment #3, Paras 39-42: Women and girls with disabilities. Available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en)

these challenges in both urban and rural areas.<sup>112</sup> In 2017, the CEDAW Committee raised similar concerns in its Concluding Observations over a the lack of access to health care for women with disabilities, as well as about an the overall insufficient budget allocations for medical services, treatment of preventable diseases and prevention of substance abuse in relation to all women.

The CEDAW Committee recommended Ukraine to take the following measures, which would benefit women with disabilities among the rest:

- abolishing the practice of forced sterilization without free and informed consent of women with disabilities, and providing remedies for victims of forced sterilization;
- ensuring appropriate budget allocations to health services and improving women's access to high-quality health care and health-related services;
- ensuring equal access to and availability of mammograms and screening services to women throughout its territory;
- intensifying the implementation of strategies to combat HIV/AIDS, in particular, preventive strategies, and continuing the provision of free antiretroviral treatment to all women with HIV/AIDS, as well as strategies to combat alcoholism and drug consumption among women;
- providing effective access for women

and girls to health-care information and affordable services, in particular, regarding reproductive health and contraceptive methods; collecting disaggregated data and providing training to medical and health professionals, particularly in rural areas.

The 2015 CRPD Concluding Observations included the following recommendations:

- to ensure equal access of all persons with disabilities to timely and quality health care services both in rural and urban areas, including by providing access to medicines and rehabilitation services and providing information and services on sexual and reproductive health and family planning, especially to women and girls with disabilities;
- to provide effective access to medical information and ensure the availability of (medical) services for women and girls, in particular, regarding reproductive health;
- to provide training for health professionals, including in rural areas and residential institutions. This information should be made available in accessible formats, including alternative formats (Braille, sign language, easy-to-understand format), to reach women and girls with disabilities.

<sup>112</sup> CRPD/C/UKR/CO/1, Concluding Observations on the initial report of Ukraine, Committee on the Rights of Persons with Disabilities (2 October 2015), Paras 46-47. Available from: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En)



In addition to these Ukraine-specific recommendations, the government can draw inspiration from relevant recommendations that the CRPD Committee has given to other countries, such as the recommendations to Montenegro (2017):

47. The Committee recommends that the State Party adopt all necessary legislative and policy measures and action plans, and allocate adequate resources to their implementation in order to ensure that:

- a. all persons with disabilities have access to timely and quality health care services, including at the local level;
- b. sexual and reproductive health services and information are fully accessible to persons with disabilities, including by increasing the number of accessible gynecological chairs and ensuring that adequate information is provided in accessible formats and alternative methods of communication to all women and girls with disabilities concerning their sexual and reproductive rights;
- c. forced sterilization is fully prohibited un-

der all circumstances;

- d. professionals in mainstream health services receive training on the rights enshrined in the Convention that includes training on the right to free and informed consent with particular regard to reasonable accommodation, and that such training be also provided by persons with disabilities and their representative organizations;
- e. All health care and (?) services provided to persons with disabilities, including all mental health care and (?) services, are based on the free and informed consent of the individual concerned, that the third party consent is explicitly prohibited, and that any failure to act in line with the free and informed consent of the patient is punished.<sup>113</sup>

Civil society organizations, women's groups and the organizations working with the rights of persons with disabilities can partner with the state institutions in the implementation of these recommendations by:

- providing information about the rights of women and girls with disabilities, women's physical and mental health in accessible formats, including Braille, sign language and easy-to-understand language (in collaboration with public authorities and health care providers);
- organizing community outreach activities to inform women and girls with disabilities about their right to health, available resources, accessible and affordable health care facilities;
- making sure that these activities reach out to women and girls living in residential institutions;
- advising the local authorities and health care service providers on accessibility standards of healthcare institutions, and participating in local Accessibility Committees;
- providing training to healthcare professionals on human rights-based approach to disability in healthcare, such as informed consent etc;
- monitoring health care service provision to women and girls with disabilities, and collecting information about irregularities.

<sup>113</sup> CRPD/C/MNE/CO/1 Concluding Observations on the initial report of Montenegro, Committee on the Rights of Persons with Disabilities (22 September 2017). Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsrw3j2oJ%2bGlb0yisAHzPAX%2f-WwPAj00B7RMgwj%2brLdEMt1e4Ppu5TjBLMMR2qUGd9d2GhNd5CvW3v8dmUrNKyYNmz%2bWYUIM%2bePMRrHTMT%2f616T>

## RAISING AWARENESS ABOUT SEXUAL AND REPRODUCTIVE RIGHTS OF WOMEN WITH INTELLECTUAL DISABILITIES IN COLOMBIA

PROFAMILIA, the largest provider of sexual and reproductive health services in Colombia, received repeated requests from the guardians of women with intellectual and psychosocial disabilities to sterilize them, arguing that it would “protect” them against sexual abuse or violence. The same misconception was also common among the health professionals. While in general, the women and girls who have been sterilized were at a higher risk of being sexually abused. Therefore, the practice of a forced sterilization was quite common.

In consultation and partnership with the organizations of persons with disabilities and the legal clinic of the University of Los Andes, and based on the provision of CRPD, particularly legal capacity and protection of the integrity of the person with a disability, PROFAMILIA and the partners have implemented a number of strategic actions, including:

- awareness raising activities targeting health care professionals, the judiciary, families of women with disabilities, and persons with disabilities themselves;
- trainings for women and girls with disabilities on their reproductive health and rights, also targeting their family members;
- promotion of the autonomy and respect of the will and preferences of women with disabilities in sexual and reproductive health services;
- legal challenge of legal provisions on the guardianship regime and forced sterilization;
- introduction of changes and amendments to the Health Ministry’s resolution

regarding the protocols and registration practice of sterilization of persons with disabilities.

As a result, health professionals, particularly those providing sexual and reproductive services, have increased their awareness that sterilization is not a solution that could prevent sexual abuse and violence against women and girls with disabilities. Also, forced sterilization of women and girls with disabilities, who have been declared legally incapable, can only be undertaken with a judge’s order.

The judiciary and health care professionals are now better informed about sexual and reproductive rights of girls and women with disabilities, and that harmonization of the legislation with CRPD requires restoration of full legal capacity of all persons with disabilities. Importantly, the women and girls themselves and their families have received access to information, including ways on how to be safe from sexual abuse without undergoing an irreversible medical procedure.<sup>114</sup> Overall, this process brought about a decrease in the numbers of sterilizations performed on women with disabilities in Colombia.

*“I was never heard and never taken into account. Nobody asked me what I thought. But now, I know I can say what I think and if I don’t like something that’s happening, I can say it.”* Sonia Restrepo, a young woman with intellectual disability and participant of advocacy campaign in Colombia.<sup>115</sup>

<sup>114</sup> Making It Work. Advocacy for legal education in Colombia. Available at: <https://www.makingitwork-crpd.org/index.php/our-work/good-practices/advocacy-legal-education-colombia>

<sup>115</sup> Ibid

# ELIMINATION OF DISCRIMINATION IN ECONOMIC AND SOCIAL LIFE

Article 13 of CEDAW prohibits discrimination against women in other areas of economic and social life in order to ensure, on the basis of equality of men and women, the same rights to family benefits, bank loans, mortgages and other forms of financial credit, the right to participate in recreational activities, sports and all aspects of cultural life.

The scope of this Article partially intertwines with Articles 12, 28 and 30 of the CRPD Convention. Indeed, protection of the right to own or inherit property, to control own financial affairs or to have equal access to bank loans, mortgages and other forms of financial credit is particularly crucial for women with disabilities who are often deprived of these rights through patriarchal systems of substituted decision-making.<sup>116</sup>

Women with disabilities who, as a consequence of historical discrimination, are over-represented among poor people and denied the opportunity to earn income must be duly reflected in social protection and poverty reduction programs.<sup>117</sup> This particularly concerns older women with disabilities, those belonging to LGBTIQ community or living in rural areas. As a result of general invisibility and stigma, women and girls with disabilities are often excluded from participation in cultural life, recre-

ation, leisure and sport, which further perpetuates their isolation.

For women with disabilities, the right to participate in recreational activities, sports and cultural life protected by Article 13 of CEDAW is often conditional on the removal of barriers, such as financial, architectural or attitudinal. The CRPD Committee makes clear recommendations to Ukraine to address the increased risk of poverty of persons with disabilities by reviewing its budgetary allocations and increasing the disability pension,<sup>118</sup> and improve the accessibility of books and other copyrighted works for persons with disabilities by ratifying the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.<sup>119</sup>

In order for women and girls with disabilities in Ukraine to realize the right to equality in economic and social life, the State is urged to<sup>120</sup>:

- create an enabling environment for women to become economically independent, including by raising the awareness of employers in the public and private sectors about the prohibition of discrimination in employment against women, including women with disabilities, and to promote the entry of wom-

<sup>116</sup> CRPD/C/GC/3, UN Committee on the Rights of Persons with Disabilities, General Comment #3, Para 51: Women and girls with disabilities. Available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD/C/GC/3&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD/C/GC/3&Lang=en)

<sup>117</sup> Ibid, para 59.

<sup>118</sup> CRPD/C/UKR/CO/1, Concluding Observations on the initial report of Ukraine, Committee on the Rights of Persons with Disabilities (2 October 2015), Para 53. Available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD/C/UKR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD/C/UKR/CO/1&Lang=En)

<sup>119</sup> Ibid, para 57.

<sup>120</sup> CEDAW/C/UKR/CO/8 Concluding Observations on the eighth periodic report of Ukraine, Committee on the Elimination of Discrimination against Women (3 March 2017). Available from <https://digitalibrary.un.org/record/1286284?ln=en>

- en into the formal economy;
- adopt comprehensive policies and programs to protect the rights of women and girls with disabilities, ensure their equal access to social protection and promote their autonomy and access to community services;
- replace its guardianship and mental health law with supported decision-making mechanisms, and abolish all deprivation of legal capacity, both fully and partially, in relation to all persons with disabilities<sup>121</sup>, thus enabling all women with disabilities to freely make decisions about their lives and dispose of their income;
- improve women's and girls' access to information technologies by enrolling them in computer literacy programs and securing their access to new technologies;
- provide women affected by conflict, including women with disabilities, with sustainable economic opportunities and effectively address all barriers to women's equitable participation in the labor market.

Civil society organizations, women's groups and the organizations working with the rights of persons with disabilities can partner with the state institutions in the implementation of these recommendations by:

- developing models of economic support for women with disabilities, including by facilitating entrepreneurship of women with disabilities and their access to financial facilities;
- advocating for accessibility of poverty reduction and social assistance programs to all women with disabilities, including those at risk of exclusion on the basis of their age, sexual orientation, migration or internal displacement status, or other factors;
- conducting gender accessibility audits of cultural and sports facilities and institutions;
- promoting the access to services for girls and women with disabilities in the field of leisure, tourism, sports, as well as the access to cultural works, television programs, theater in accessible formats.

<sup>121</sup> CRPD/C/UKR/CO/1, Concluding Observations on the initial report of Ukraine, Committee on the Rights of Persons with Disabilities (2 October 2015). Available from: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En)

# EQUAL ACCESS TO JUSTICE

Article 15 of CEDAW accords to women the equality with men before the law. The State shall accord to women a legal capacity identical to that of men and the same opportunities to exercise that capacity, giving women equal rights to conclude contracts and to administer property, and shall treat them equally at all stages of procedure in courts and tribunals.

According to this Article, the State shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

The CEDAW General Recommendation 33 recognizes disability as one of the grounds for intersecting or compounded discrimination along with ethnicity/race, socioeconomic status, language, age, urban/rural location, which makes it more difficult for women from those groups to gain access to justice<sup>122</sup>. It further notes the six interrelated and essential components — justiciability, availability, accessibility, good-quality, accountability of justice systems, and provision of remedies for victims — as necessary to ensure access to justice. The Committee recognizes the basic elements of this approach as of universal relevance and of immediate application by the state<sup>123</sup>. On accessibility of justice systems, the Committee specifically requires the States to give special attention to the access to justice systems for women with disabilities, recommending a range of measures to

remove the barriers from physical to economic, information etc.<sup>124</sup>

These issues are echoed in a number of CRPD provisions, including Articles 12, 13 and 18. The central one is Article 12 that accords to all persons with disabilities the right to equal recognition before the law and reaffirms that all women and men with disabilities have full legal capacity in all aspects of life, including the right to vote, marry, find a family, act as a witness, and manage their assets and property. Full enjoyment of legal capacity enables women with disabilities to conduct a financial transaction, receive their disability pension directly (and not via the guardian), decide on the number and spacing of children and make political decisions, relying, if and when necessary, on a freely chosen support person whose job it is to act according to the woman's will and preferences.

Prompt abolition of guardianship laws and their replacement with supported decision-making systems is the main recommendation that the CRPD Committee makes in regard of to persons with disabilities deprived of their right to make financial decisions as a result of denial of legal capacity. Ukraine received such a recommendation in 2015:

27. The Committee calls upon the State Party to replace its guardianship and mental health law with supported decision-making mechanisms and abolish all deprivation of

<sup>122</sup> UN Committee on the Elimination of Discrimination Against Women, General Recommendation #33 On women's access to justice, 2015, para 8, p.4. Available at: [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/CEDAW\\_C\\_GC\\_33\\_7767\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_33_7767_E.pdf)

<sup>123</sup> Ibid. para 14, p.5

<sup>124</sup> Ibid., para 17, pp.7-8

legal capacity, both fully and partially, in relation to all persons with disabilities. The Committee further recommends that the State Party fully harmonize its provisions with article 12 of the Convention, as elaborated in the Committee's General Comment No. 1 and recognize the full legal capacity of all persons with all types of disability.<sup>125</sup>

The woman's enjoyment of her full legal capacity will give her better access to justice to defend her rights. The CRPD Convention acknowledges, however, that women with disabilities still face a number of barriers in accessing justice due to harmful stereotypes and prejudice about their capacity, discrimination, inaccessibility, lack of procedural and reasonable accommodations, complicated or degrading reporting procedures and fear of retributions.<sup>126</sup>

In 2015, the CRPD Committee noted with concern that the justice system in Ukraine is largely inaccessible for persons with disabilities as a result of inaccessible buildings and information, untrained professionals and the lack of accommodations. In this regard, it recommended Ukraine to:

"[...]ensure equal access to judicial and administrative proceedings for all persons with disabilities, including access to court buildings for persons with physical impairments and access to documents in accessible formats. It also recommends

that the State Party train judges, the police, penitentiary system officials and other personnel in the justice system on the rights enshrined in the Convention on the Rights of Persons with Disabilities."<sup>127</sup>

In 2017, the CEDAW Committee added to these concerns rampant corruption in the justice system, lack of legal aid and legal illiteracy of many women, recommending to urgently address these barriers.

In combination, the recommendations by the two human rights treaty bodies recommended Ukraine to:

- initiate full revision of legislation to replace the guardianship and mental health law with supported decision-making mechanisms and abolish all deprivation of legal capacity, both fully and partially, in relation to all persons with disabilities;
- ensure equal access to judicial and administrative proceedings for all women and men with disabilities, including access to court buildings for persons with physical impairments and access to documents in accessible formats;
- train judges, the police, penitentiary system officials and other personnel in the justice system on the rights enshrined in the Convention on the Rights of Persons with Disabilities and the Convention on the Elimination of All Forms of Discrimination against Women;
- design free legal aid schemes to facil-

<sup>125</sup> CRPD/C/UKR/CO/1, Concluding Observations on the initial report of Ukraine, Committee on the Rights of Persons with Disabilities (2 October 2015), Para 27. Available from: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En)

<sup>126</sup> CRPD/C/GC/3, UN Committee on the Rights of Persons with Disabilities, General Comment #3, Para 52: Women and girls with disabilities. Available at: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en)

<sup>127</sup> CRPD/C/UKR/CO/1, Concluding Observations on the initial report of Ukraine, Committee on the Rights of Persons with Disabilities (2 October 2015), Para 28-29. Available from: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/UKR/CO/1&Lang=En)

itate access to justice by marginalized groups, including women with disabilities;

- adopt gender-sensitive procedures to investigate sexual violence; conduct training and adopt gender-sensitive codes of conduct and protocols for the police and military; and build the capacity of the judiciary so as to ensure its independence, impartiality and integrity;
- combat corruption, continue to reform and strengthen the judicial system, including through the provision of systematic capacity-building to judges, prosecutors, lawyers, the police and other law enforcement officials on the CEDAW, the Committee's General Recommendations and its jurisprudence under the Optional Protocol;
- remove any possible barriers to women's access to justice, including by ensuring free legal aid and waiving court costs for women without sufficient means;
- allocate sufficient resources to the legal assistance fund, as well as to non-governmental organizations facilitating women's access to justice;
- address legal illiteracy of women with disabilities, providing them with accessible information in an appropriate format about their rights, available legal recourse and support to enable them to claim their rights;
- provide mandatory capacity-building programs for judges, prosecutors, police officers and other law enforcement officials on the strict application of legislation criminalizing violence against women and on gender sensitive pro-

cedures to work with women who are victims of violence, in particular women with disabilities.

Civil society organizations, women's groups and the organizations working with the rights of persons with disabilities can partner with the state institutions in the implementation of these recommendations by:

- developing and launching legal illiteracy of women and girls with disabilities, providing them with accessible information in an appropriate format about their rights, available legal recourse and support;
- advocating for the practical implementation of the amended the Law "on Preventing and Combating Domestic Violence" to make sure it's implemented in practice includes the needs of women with disabilities who survived domestic violence;
- participating in the development of gender- and disability-sensitive programs for training of judiciary and law enforcement officers;
- conducting gender accessibility audits of judicial institutions and court buildings, and of judicial and administrative proceedings;
- supporting women with disabilities' by providing affordable legal consultations and support;
- promoting access to the Internet and ICTs in order to enhance the access of women and girls with disabilities to the judicial system at all levels, including in rural areas.

In its COs on the 8th periodic report, the CEDAW Committee expressed concern about the prevalence in the State Party of violence against women, in particular, domestic and sexual violence, which remains underreported, and about the lack of statistics disaggregated by age and relationship between the victim and the perpetrator. The Committee recommended the strict application of legislation criminalizing violence against women and on gender sensitive procedures to deal (может, лучше «work»?) with women who are victims of (victimized by?) violence, in particular, women with disabilities. Also, Ukrainian

CSOs were concerned with (about?) prohibited access for women with disabilities to shelters based on their disability status. The National Assembly of People with Disabilities advocated the amendment of the Shelters Regulation to provide access to them for women with disabilities and remove physical barriers, and train specialists to provide services. The Cabinet of Ministers has adopted a new Regulations on Shelters<sup>128</sup> on 22 August 2018, which includes the provision of all services for women with disabilities who survived domestic violence. Today, it's important for the CSOs to monitor its proper implementation.

<sup>128</sup> Cabinet of Ministers, Resolution 655 on Regulation of Shelters for Survivors of Domestic Violence and Gender-Based Violence of 22 August 2018. Available from: [h](#)



## **ENHANCING ACCESS TO JUSTICE FOR GENDER-BASED VIOLENCE SURVIVORS WITH INTELLECTUAL DISABILITIES IN KENYA THROUGH INTEGRATED LEGAL AND PSYCHOSOCIAL SUPPORT SERVICE**

In Kenya, despite seemingly robust legislation, which includes the Sexual Offences Act (2006) and Protection against Domestic Violence Act (2015), access to justice and social services for survivors of intimate partner violence is difficult. A 2013 survey indicated that up to 57% of women and girls with intellectual disabilities have been sexually abused, with rape being the most prevalent form of abuse, representing 15% of all cases.

The Coalition on Violence Against Women (COVAW), a mainstream women's rights organization worked, in partnership with the Gender-Based Violence Recovery Centre at a national hospital, a network of pro bono lawyers and mental health professionals, to build the justice system's capacity to train lawyers, prosecutors, and police officers. Family members and social workers were also trained to become intermediaries and to assist survivors or witnesses of violence with intellectual disabilities with providing evidence to the authorities. The project made a review of the judicial procedural obligation. As a result, the proposals regarding reasonable accommodation for persons with intellectual disabilities in criminal proceedings, provision of sign language interpreters, physical guide assistance, and intermediaries were incorporated into the draft benchbooks for judges, which have since been validated.

This project led to the successful prosecution in two sexual violence cases involving minor girls with intellectual disabilities who also received support from COVAW. The organization is currently engaged in a civil litigation to hold the school and government accountable for failing to protect the girl.

Thanks to the project's awareness-raising activities, leaders and members of the community have become more supportive of survivors and now refer new cases to the project's partners.

The justice system itself has shown a genuine change in attitude. Although generally conservative, members of the judiciary and law enforcement are more aware of the need to provide support and reasonable accommodation to women and girls with intellectual disabilities who are victims of crime.<sup>129</sup>

<sup>129</sup> Making It Work, "Enhancing access to justice for gender-based violence survivors with intellectual disabilities in Kenya". Available at: <https://www.makingitwork-crpd.org/our-work/good-practices/enhancing-access-justice-gender-based-violence-survivors-intellectual>

# ELIMINATION OF DISCRIMINATION IN MARRIAGE AND FAMILY RELATIONS

Article 16 of CEDAW appeals to States Parties to take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations, including the same rights and responsibilities during marriage and after its dissolution, in matters relating to their children, the number of their children, and with regard to guardianship and adoption of children. Women should have an equal right to choose a family name, a profession and an occupation; the same rights in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property.

The CRPD Convention contains a similar provision in Article 23 “Respect for the home and the family”, whereby it protects the right of persons with disabilities to marry and to found a family on the basis of free and full consent, to decide on the number and spacing of their children and to retain their fertility on an equal basis with others. The same article also protects the right of children not to be separated from their parents on the basis of a disability of either the child or one or both of the parents and their right to be raised in a family-like setting. The latter provision is complemented by Article 18(2) “Liberty of movement and nationality”, which adds that children with disabilities shall be registered immediately after birth and have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know be cared for by their parents.

In Ukraine, the deep-rooted patriarchal

attitudes and discriminatory stereotypes concerning the roles and responsibilities of women and men in the family, which in general perpetuate women’s subordination within the family and society, also affects women and girls with disabilities and prevent them from exercising their rights to respect for the home and the family according to the CRPD Convention. Due to largely inaccessible social infrastructures, such as schools, hospitals, cultural venues, mothers with disabilities are often barred from participating in their children’s lives, such as accompanying the child on a medical visit, attending the school concert, etc.

Whereas neither the CEDAW nor CRPD Committee has formulated specific recommendations on women and girls with disabilities in relation to marriage and family, they both give helpful guidance to Ukraine on the path of achieving equality in this area, including by:

- strictly enforcing minimum marriage age of 18 years;
- putting in place a comprehensive strategy with proactive and sustainable measures targeting women and men at all levels of society to eliminate discriminatory stereotypes and patriarchal attitudes concerning the roles and responsibilities of women and men in the family and in society;
- making sure that mediation is not used in situations of domestic violence;
- adopting legislation requiring that gender-based violence against women in the domestic sphere be taken into account in child custody or visitation

decisions, and raising the awareness of the judiciary of the relationship between such violence and children's development);

- providing the necessary support to families with children with disabilities to guarantee children with disabilities the right to grow up in a family environment and the right to have a family life.

Ukraine is also invited to be guided by recommendations made to other States Parties to CRPD, in particular:

- abolishing all legislation and practices that discriminate against women with disabilities, particularly those under guardianship, in marriage and family matters; ensuring that information is provided in accessible formats to persons with disabilities on the right to marry and have a family, including information on reproductive health and rights; protecting the parental rights of persons with disabilities and ensuring that parents of children with disabilities are provided with adequate support and training to allow them to raise their children in the family home (Oman 2018 ).<sup>130</sup>

The Committee urges the State Party to review the procedures by which

women with disabilities are declared unfit mothers on the basis of disability and fully restore their rights to have a home and found a family, ensuring that they have the support necessary to make these rights effective (Serbia, 2016 ).<sup>131</sup>

Civil society organizations, women's groups and the organizations working with the rights of persons with disabilities can partner with the state institutions in the implementation of these recommendations by:

- conducting accessible educational activities among women and girls with disabilities with regard to their rights in marriage and family, reproductive behavior and family behavior;
- conducting advocacy campaigns to eliminate discriminatory laws and practices against women in the context of marriage and family;
- identifying and giving visibility to good practices of support to families of children with disabilities in the community;
- monitoring and reporting cases of discrimination against women in marriage and family to the bodies and services provided by law.

<sup>130</sup> CRPD/C/OMN/CitO/1 Concluding Observations in relation to the initial report of Oman, Committee on the Rights of People with Disabilities (2 March 2018). Available at: [http://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/OMN/CRPD\\_C\\_OMN\\_CO\\_1\\_30557\\_E.docx](http://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/OMN/CRPD_C_OMN_CO_1_30557_E.docx)

<sup>131</sup> CRPD/C/SRB/CO/1 Concluding Observations in relation to the initial report of Serbia, Committee on the Rights of People with Disabilities (26 May 2016). Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsgEjn0tpN1slCSGfbZH1tmIVuXyBZPbGDIZSoVtWXXi nHogAw4CuBQ02nW8U1fM4OBE5zLTZb5G%2fQUlrrlwrzBGDPieX03ucOQYdVqskHoP1>

# GLOSSARY

**Advocacy**<sup>132</sup>: Public support for or recommendation of a particular cause or policy.

**Disability**<sup>133</sup>: This is an evolving concept; it results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others.

**Discrimination against women**: Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the 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>134</sup>

**Discrimination on the basis of disability**<sup>135</sup>: 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.

**Empowerment of women and girls**<sup>136</sup>: This concept concerns their gaining power and control over their own lives. It involves awareness-raising, building self-confidence, expansion of choices, increased access to and control over resources and actions to transform the structures and institutions which reinforce and perpetuate gender discrimination and inequality. This implies that to be empowered they must not only have equal capabilities (such as education and health) and equal access to resources and opportunities (such as land and employment), but they must also have the agency to use these rights, capabilities, resources and opportunities to make strategic choices and decisions (such as provided through leadership opportunities and participation in political institutions). In addition, UNESCO explains, “No one can empower another: only the individual can empower herself or himself to make choices or to speak out. However, institutions including international cooperation agencies can support processes that can nurture self-empowerment of individuals or groups”. Inputs to promote the empowerment of women should facilitate women’s articulation of their needs and priorities and a more active role in promoting these interests and needs. Empowerment of women cannot be achieved in a vacuum; men must be brought along in the process of change. Empowerment should not be seen as a zero-sum game

<sup>132</sup> United Nations Uniterm. Available at: <https://unterm.un.org/UNTERM/Display/Record/ESCWA/NA?OriginalId=35afb1e4-0e8f-4d51-a817-2f53f-3691bae>

<sup>133</sup> United Nations, Convention on the Rights of Persons with Disabilities. Available at: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/optional-protocol-to-the-convention-on-the-rights-of-persons-with-disabilities.html>

<sup>134</sup> United Nations, Convention on the Elimination of All Forms of Discrimination Against Women. Available at: [www.un.org/womenwatch/daw/cedaw](http://www.un.org/womenwatch/daw/cedaw)

<sup>135</sup> United Nations, Convention on the Rights of Persons with Disabilities, Article 2. Available at: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/optional-protocol-to-the-convention-on-the-rights-of-persons-with-disabilities.html>

<sup>136</sup> Sources include UNICEF, UNFPA, UNDP, UN Women. “Gender Equality, UN Coherence and You”; Office of the Special Adviser on Gender Issues and the Advancement of Women (2001) “Important Concepts Underlying Gender Mainstreaming”; UNESCO GENIA Toolkit for Promoting Gender Equality in Education

where gains for women automatically imply losses for men. Increasing women's power in empowerment strategies does not refer to power over, or controlling forms of power, but rather to alternative forms of power: power to; power with and power from within which focus on utilizing individual and collective strengths to work towards common goals without coercion or domination.

**Gender**<sup>137</sup>: This refers to the roles, behaviors, activities, and attributes that a given society at a given time considers appropriate for men and women. In addition to the social attributes and opportunities associated with being male and female and the relationships between women and men and girls and boys, gender also refers to the relations between women and those between men. These attributes, opportunities and relationships are socially constructed and are learned through socialization processes. They are context/time-specific and changeable. Gender determines what is expected, allowed and valued in a woman or a man in a given context. In most societies there are differences and inequalities between women and men in responsibilities assigned, activities undertaken, access to and control over resources, as well as decision-making opportunities. Gender is part of the broader socio-cultural context, as are other important criteria for socio-cultural analysis including class, race, poverty level, ethnic group, sexual orientation, age, etc.

**Gender equality (Equality between women and men)**<sup>138</sup>: This refers to the equal rights, responsibilities and opportunities of women and men and girls and boys. Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration, recognizing the diversity of different groups of women and men. Gender equality is not a women's issue but should concern and fully engage men as well as women. Equality between women and men is seen both as a human rights issue and as a precondition for, and indicator of, sustainable people-centered development.

**Gender mainstreaming**<sup>139</sup> is the chosen approach of the United Nations system and international community toward realizing progress on women's and girl's rights, as a sub-set of human rights to which the United Nations dedicates itself. It is not a goal or objective on its own. It is a strategy for implementing greater equality for women and girls in relation to men and boys. Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programs, in all areas and at all levels. It is a way to make women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programs in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.

<sup>137</sup> Gender Equality Glossary, UN Women Training Center. Available at: <https://trainingcentre.unwomen.org/mod/glossary/view.php?id=36&mode=letter&hook=G&sortkey=&sortorder=>

<sup>138</sup> Ibid.

<sup>139</sup> Ibid.

**Multiple discrimination**<sup>140</sup>: This concept is used to describe the complexity of discrimination implicating more than one ground, also known as “additive,” “accumulative,” “compound,” “intersecting,” “complex bias” or “multi-dimensional inequalities.” Though the terminology may seem confusing, it tends to describe two situations: (1) situation where an individual is faced with more than one form of grounds-based discrimination (i.e. sex plus disability discrimination, or gender plus sexual orientation). In such circumstances, all women and all persons with disabilities (both male and female) are potentially subject to discrimination. (2) Situation where discrimination affects only those who are members of more than one group (i.e. only women with disabilities and not men with disabilities), also known as intersecting discrimination. Some groups of women who are discriminated against by gender may also experience the impact of other forms of discrimination on other grounds: race, ethnic or religious affiliation, disability, age, affiliation with a particular class or caste, etc. Such discrimination of different groups of society may affect, first of all, these groups of women, and its degree and manner of influence may differ from that one directed against men. State Parties should take specific temporary special measures to eliminate such various forms of discrimination against women and their collective negative consequences for them (CEDAW General Recommendation No. 25 on temporary special measures, article 4, paragraph 1). The United Nations Committee on the Elimination of Discrimination against Women (CEDAW), in its Recommendation No. 18, provides advices on addressing the problems faced by women with disabilities. In these recommendations, the Committee emphasizes the connection between gender and disability, that is, women with disabilities face discrimination on the basis of gender and, in addition, because of disability. The Committee also argues that women with disabilities are more likely to face discrimination than men with disabilities and women without disabilities. The United Nations Committee on the Rights of Persons with Disabilities (CRPD) also emphasizes the connection between gender and disability. It argues that the multiple and cross-cutting forms of gender-based discrimination and disability are the main factor that leads to the exclusion and marginalization of women and girls with disabilities.

**Persons with disabilities**<sup>141</sup>: This group includes those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

**Reasonable accommodation**<sup>142</sup> 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.

**Shadow/alternative/parallel Report** means submissions made by third parties (civil society organizations and coalitions thereof, national human rights institutions, individuals, etc)

<sup>140</sup> Ibid.

<sup>141</sup> United Nations, Convention on the Rights of Persons with Disabilities, Article 1. Available at: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/optional-protocol-to-the-convention-on-the-rights-of-persons-with-disabilities.html>

<sup>142</sup> Ibid., Article 2.

reporting on the state of implementation of the provisions of the Convention by an individual State Party. Shadow reports feed into the period review of the State Party by a UN Treaty body, and can be either public or confidential. Third parties wishing to input to a periodic review can do so also orally during private briefings organized by the respective Treaty body ahead of the constructive dialogue with the State Party.

**Universal design**<sup>143</sup> means the design of products, environments, programs and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

## Key International Tools on the Protection of the Rights of Women with Disabilities:

- Convention on the Rights of Persons with Disabilities and Optional Protocol (2006);
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990);
- United Nations Convention on the Rights of the Child (1989);
- United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984);
- United Nations Convention on the Elimination of All Forms of Discrimination against Women (1979);
- International Covenant on Economic, Social and Cultural Rights (1966);
- International Covenant on Civil and Political Rights (1966);
- United Nations Convention on the Elimination of All Forms of Racial Discrimination (1965);

## Key United Nations human rights mechanisms for the Protection of Women with Disabilities

- Treaty bodies
- Committee on Economic, Social and Cultural Rights (CESCR) ;
- Human Rights Committee (HRC) ;
- Committee on the Elimination of Racial Discrimination (CERD) ;
- Committee on the Elimination of Discrimination against Women (CEDAW) ;
- Committee against Torture (CAT) ;
- Committee on the Rights of the Child (CRC) ;
- Committee on the Rights of Migrants and their Families(Committee on the Protection of the Rights of All Migrant Workers and Members of their Families) (CMW) ;
- Committee on the Rights of Persons with Disabilities (CRPD)

<sup>143</sup> Ibid.

## General Comments on the Convention on the Rights of Persons with Disabilities

- General Comment No. 1 on Article 12: Equal recognition before the law. 11 April 2014
- General Comment No. 2 on Article 9: Accessibility. 11 April 2014
- General Comment No. 3 on Article 6: Women and girls with disabilities. 26 August 2016
- General Comment No. 4 on Article 24: Right to inclusive education. 26 August 2016
- General Comment No. 5 on Article 19: Living independently and being included in the community. 27 August 2017
- General Comment No. 6 on Article 5: Equality and non-discrimination. 9 March 2018
- General Comment No. 7 on Article 4.3 and 33.3: Participation with persons with disabilities in implementation and monitoring of the Convention. 21 September 2018.

## UN Human Rights Council's Special Procedures<sup>144</sup>

- Special Rapporteur on the Rights of Persons with Disabilities (annual reports<sup>145</sup>)
- Special Rapporteur on the Rights of Persons with Albinism
- Special Rapporteur on violence against women, its causes and consequences
- Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (annual reports<sup>146</sup>)

## Ukrainian National Legislation on the Protection of the Rights of Women with Disabilities:

- Law on Equal Rights and Opportunities of Men and Women; 2005;
- Law on Combating Trafficking in Human Beings; 2011;
- Law on the Fundamentals of Social Protection of Persons with Disabilities in Ukraine, 1991;
- Law on Rehabilitation of Persons with Disabilities (amended), 2005;
- Law on the Principles of Preventing and Combating Discrimination in Ukraine, 2012;
- National Human Rights Strategy and Action Plan, 2015

<sup>144</sup> The Special Rapporteurs are part of what is known as the Special Procedures of the Human Rights Council. Special Procedures (<http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcompage.aspx>), the largest body of independent experts in the UN Human Rights system, is the general name of the Council's independent fact-finding and monitoring mechanisms that address either specific country situations or thematic issues in all parts of the world. Special Procedures experts work on a voluntary basis; they are not UN staff and do not receive a salary for their work. They are independent from any government or organization and serve in their individual capacity.

<sup>145</sup> <https://www.ohchr.org/EN/Issues/Disability/SRDisabilities/Pages/Reports.aspx>

<sup>146</sup> <https://www.ohchr.org/EN/Issues/Health/Pages/AnnualReports.aspx>





