



**Center for the Human Rights of
Users and Survivors of Psychiatry**

**Equality and non-discrimination – Normative requirements – Submission to
9th Session Open Ended Working Group on Ageing***

1. A convention on the rights of older persons should address multiple and intersectional discrimination.¹ Disability is in no way synonymous with aging or being an older person, but older disabled persons must be taken into account as a subset of older persons experiencing multiple and intersectional discrimination based on age and disability.
2. As older disabled persons represent a substantial constituency, the convention must look to the CRPD and its jurisprudence as a guide to understanding disability within the human rights framework, so that older disabled persons can have benefit of this standard. A social model of disability does not permit segregation or marginalization of disabled persons based on a view that they cannot be accommodated in mainstream settings. Older disabled persons are not objects of care but rights holders on a basis of full equality with other older persons, younger persons with disabilities, and younger persons without disabilities. Older disabled persons should be taken into account transversally by considering how any provision of text relates to their situation. Their experiences and concerns need to be addressed within the social model and human rights framework of disability, with guarantees of equal legal capacity, liberty and security of the person, and the right to live independently and be included in the community.²
3. The convention should specify that community services for the general population, as well as both age-related and disability-related supports and services, must include older disabled persons on an equal basis and take account of their particular situations and intersectional discrimination. They must adhere to human rights principles including respect for individual autonomy and freedom to make one's own choices, and full and effective participation and inclusion in society.³
4. Multiple and intersectional discrimination against older women, including older disabled women, based on sex, should be particularly acknowledged, and taken into account transversally.⁴

5. The term 'special measures' has a negative connotation in the disability community. It is preferable to say 'specific measures' to refer to states' positive obligations towards a group that confronts discrimination.⁵

* The Center for the Human Rights of Users and Survivors of Psychiatry (CHRUSP) works for legal capacity for all, the abolition of committal, forced treatment and substitute decision-making, and creation of supports that respect individual choices and integrity. CHRUSP is a disabled people's organization and holds special consultative status with ECOSOC. Contact Tina Minkowitz, info@chrusp.org; website www.chrusp.org.

¹ CRPD Art 5

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

See also generally CRPD General Comment 6, CRPD/C/GC/6 (2017).

² CRPD Articles 12, 14, 19, see references in endnotes for submission on Autonomy and Independence.

³ CRPD Article 3

The principles of the present Convention shall be:

- (a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- (b) Non-discrimination;
- (c) Full and effective participation and inclusion in society;
- (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (e) Equality of opportunity;
- (f) Accessibility;
- (g) Equality between men and women;
- (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

⁴ CRPD Art 6

Article 6 Women with disabilities

1. States Parties recognize that women and girls with disabilities are subject to

multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.

2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

CRPD General Comment 3 paras 55 and 59

The right of women with disabilities to choose their place of residence may be adversely affected by cultural norms and patriarchal family values that limit autonomy and oblige them to live in a particular living arrangement. Thus, multiple discrimination can prevent the full and equal enjoyment of the right to live independently and to be included in the community. Age and impairment, separately or jointly, can increase the risk of institutionalization of older persons with disabilities. In addition, it has been widely documented that institutionalization may expose persons with disabilities to violence and abuse, with women with disabilities being particularly exposed.

As a consequence of discrimination, women represent a disproportionate percentage of the world's poor, which leads to a lack of choice and opportunities, especially in terms of formal employment income. Poverty is both a compounding factor and the result of multiple discrimination. Older women with disabilities especially face many difficulties in accessing adequate housing, are more likely to be institutionalized and do not have equal access to social protection and poverty reduction programmes.

⁵ See CRPD Art 5.4 cited above.