

The International Disability Alliance (IDA) welcomes the opportunity to provide input to the Bureau of the United Nations (UN) General Assembly Open-Ended Working Group for the Purpose of Strengthening the Protection of the Human Rights of Older Persons on **the normative the right to work, examined at its eleventh session.**

IDA brings together over 1,100 organizations of persons with disabilities and their families from across eight global and six regional networks. The cornerstone of its work is the [UN Convention on the Rights of Persons with Disabilities](#) (the CRPD).

The CRPD represents a paradigm shift for persons with disabilities. It uses a social definition of disability, recognizing that disability “is an evolving concept and that disability 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.”<sup>1</sup>

Older persons with disabilities are often viewed by society as having deficits inherent to old age, rather than situating their disabilities within the context of society’s barriers to their full and effective participation. This social construction of older age can obscure an older person’s disability, leading to “a less extensive application of the CRPD in practice to older persons.”<sup>2</sup> The reverse may also be found. In many countries, more than half of all persons with disabilities are older.<sup>3</sup> The perception of being older can therefore be associated with the perception of disability. This may result in disability discrimination based on the perception of disability.<sup>4</sup>

This input highlights intersectionality between older persons and persons with disabilities on the right to work and access to the labor market. It outlines legal norms for persons with disabilities on equality and non-discrimination (Article 5) and work and employment (Article 27), emphasizing reasonable accommodation. There are many other rights that interact with these rights.

IDA recommends reaffirming these norms set out in the CRPD, elaborated by the Committee on the Rights of Persons with Disabilities (the Committee).

**Guiding Question 3:** *What are the measures that should be undertaken by the State to respect, protect and fulfil the right to work and access to the labor market for older persons?*

The CRPD obligates States Parties to safeguard and promote the realization of the right to work...by... prohibiting discrimination on the basis of disability with regard to all matters concerning employment.<sup>5</sup> States must recognize and take positive measures to address how older persons with disabilities face multiple and intersecting forms of discrimination that can be direct, indirect, or systemic.<sup>6</sup>

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<sup>1</sup> CRPD, Preamble paragraph (e). <https://tinyurl.com/2ajeazfy>

<sup>2</sup> OHCHR, *Update to the 2012 Analytical Outcome Study on the normative standards in international human rights law in relation to older persons, para 99 (2021)*. <https://tinyurl.com/msce7jxa>

<sup>3</sup> *Promoting Inclusion through Social Protection: Report on the World Social Situation 2018* p. 63 <https://tinyurl.com/2p8zpedb>

<sup>4</sup> Committee on the Rights of Persons with Disabilities’ Concluding Observations for Peru, CRPD/C/PER/CO/1 (2012), paras 28 and 29.

<sup>5</sup> CRPD, Article 27 Work and Employment <https://tinyurl.com/2e2jks5s>

<sup>6</sup> For example, it occurs directly, with age cutoffs for job applications; it occurs indirectly, with inflexible employer requirements for physical fitness tests; and it occurs systemically, such as with segregated systems of institutionalization.

In order to ensure equality and non-discrimination through reasonable accommodation as outlined in article 5 (3) of the CRPD, States parties should “Expressly recognize the denial of reasonable accommodation as discrimination and prohibit multiple and intersectional discrimination.”<sup>7</sup>

The Committee notes that older age is a potential ground for multiple and intersecting forms of discrimination in its General Comment No. 6 (2018) on equality and non-discrimination.<sup>8</sup> It calls on States parties to adopt specific measures with a view to achieving inclusive equality for older persons with disabilities, among others.

Access to adequate social protection must be provided which support older persons with disabilities to work by addressing the additional costs faced by them due to systemic and structural barriers. The Committee has also described how states should ensure that benefits are not lost if a person with a disability starts work,<sup>9</sup> and equal access to retirement benefits.<sup>10</sup> These may be areas where structural discrimination exists against older persons with disabilities in the workplace, risking loss of existing benefits or opportunities to contribute to future retirement in employment.

**Guiding Question 5** *How should the responsibilities of non-State parties such as private sector be defined in the context of the right to work and access the labour market for older persons?*

The CRPD obligates States Parties to “Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures.”<sup>11</sup> The Committee has also discussed that such promotion in the private sector is part of States Parties’ overall obligations to ensure reasonable accommodation.<sup>12</sup>

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<sup>7</sup> Committee on the Rights of Persons with Disabilities, para 67 (d), General Comment 6 on [Article 5: Equality and non-discrimination](#)

<sup>8</sup> Committee on the Rights of Persons with Disabilities’ General comment No. 6 (2018) on equality and non-discrimination, para 73 (o), <https://tinyurl.com/2p83snkd>

<sup>9</sup> Committee on the Rights of Persons with Disabilities, para 67 (c), General Comment 6 on [Article 5: Equality and non-discrimination](#); See, for example: <https://www.nolo.com/legal-encyclopedia/will-i-get-penalized-working-while-collecting-social-security-retirement.html>

<sup>10</sup> Committee on the Rights of Persons with Disabilities, para 67 (e), General Comment 6 on [Article 5: Equality and non-discrimination](#)

<sup>11</sup> CRPD, Article 27 1. (h) <https://tinyurl.com/2e2jks5s>

<sup>12</sup> Committee on the Rights of Persons with Disabilities, para 67 (f), General Comment 6 on [Article 5: Equality and non-discrimination](#)