

## **Open-ended Working Group on Ageing**

Ninth working session

### **Compilation working document**

#### **I. Normative content on the protection of the rights of older persons to equality and non-discrimination received from Member States, “A” Status National Human Rights Institutions and accredited non-governmental organizations**

##### **Dominican Republic**

The Dominican Republic promotes a new paradigm based on a rights approach for the comprehensive protection of older persons. The following rights are proposed:

- Equality and non-discrimination because of age
- Right to life and dignity of older persons
- Right to security and a life without any violence
- Equal recognition as a person before the law
- Right to stay in your family nucleus
- Right to social protection
- Right to integrity
- Right to security

##### **Germany**

The right to equality without discrimination is already derived at international level from standards laid down in human rights treaties, which are internationally binding for the contracting states. These include in particular Article 26 of the International Covenant on Civil and Political Rights (ICCPR), Article 2 of the International Covenant on economic, social and cultural Rights (ICESC)<sup>1</sup> and Article 3 of the Convention on the Rights of Persons with Disabilities (CRPD). In addition, at European level, Art. 14 ECHR in conjunction with the rights and freedoms under the ECHR<sup>2</sup> and Art. 20, 21 EU Fundamental Rights Charter (FRC)<sup>3</sup> also apply.

On the basis of this legal position, the following specific points are addressed for older people:

- Older people have the right to be treated equally before the law and the right to be protected against discrimination.<sup>4</sup>

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<sup>1</sup> *General Comments no. 6 (1995) and no. 20 (2009) of the UN Committee on Economic, Social and Cultural Rights explicitly state that the rights in the ICESC also apply for older people. The rights of older people are also anchored, for example, in GC 19 (2007) on Art. 9 ICESC - Social Security;*

<sup>2</sup> *In conjunction with the relevant case law of the European Court of Human Rights (ECtHR);*

<sup>3</sup> *In conjunction with the relevant case law of the European Court of Justice (ECJ);*

<sup>4</sup> *Cf. also: The Madrid International Plan of Action on Ageing (MIPAA) Art 5*

- Older people have the right to be able to exercise their rights and freedoms without discrimination on any grounds, including age.<sup>5</sup>
- Older people have the right to a life of dignity and independence and the right to participate in social and cultural life.<sup>6</sup>
- In order to fully exercise the right to participate in social and cultural life, older people must be supported by assistance services.<sup>7</sup>

On the basis of this legal position, the *Madrid International Plan of Action on Ageing (MIPAA)*, for example, contains further points: Older people can only exercise their right to a life without discrimination if the stereotypical images of ageing are replaced in the minds of everyone by realistic, differentiated images of ageing and if structural discrimination is prevented. Unrealistic stereotypical images of ageing lead to isolation and exclusion. Realistic images of ageing should reflect the current and future life situations of older people in the best possible way, so that older people can participate actively, inclusively and on an integrated basis in the society in which they live, just as they wish.<sup>8</sup>

## **Slovenia**

Proposed elements for normative content:

- Affirmation of the right to equality for older persons.
- Prohibition of discrimination on the basis of age and multiple or aggravated forms of discrimination, with special attention in the areas of employment, social protection, health and social care and autonomy.
- Obligation to take appropriate measures to address legislation, customs and practices that constitute discrimination against older persons.
- Obligation to provide assistance and support to older persons to ensure their access to justice.
- Provision allowing for specific measures to effectively achieve equality of older persons.
- Provisions allowing older persons in need of care the freedom to choose the social and health care provider and the services they want.

## **United Kingdom**

Proposed elements for normative content:

- Older persons are entitled to protection from discrimination, on the basis of their age or of other grounds, 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.
- Recognise that some older persons are subject to discrimination on the basis of multiple protected characteristics.

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<sup>5</sup> Cf. also: *Formulation of the recommendation of the Committee of Ministers of the Council of Europe – COE Recommendation CM/Rec (2014)2 Fig. II no. 6 and also MIPAA Art 5;*

<sup>6</sup> Art. 9, Art. 11 and Art. 15 ICESCR, cf. also: *EU Fundamental Rights Charter, Art 25;*

<sup>7</sup> *General Comment No. 21 of the UN Committee on Economic, Social and Cultural Rights, Fig. 28 in this.*

<sup>8</sup> Cf. *MIPAA Fig. 112 on Topic 4, "Images of Ageing".*

- States should promote equality in older age, which is the full participation and inclusion of older persons in all aspects of society based on the equal respect for the dignity of older persons.
- States should recognise that there may be legitimate and justified public policy reasons to provide for exceptions to the general principle of non-discrimination and the general requirement to promote equality, and to make it lawful to treat certain age groups either more or less favourably than other age groups in prescribed situations. Such exceptions should be proportionate and justified by evidence, and should not constitute an absolute bar on older persons accessing services.
- States should have due regard to the differential impact of their decisions, in particular age-based policies, on older persons.
- Protection from discrimination for older persons should be based on the question of whether a person has been treated less favourably because of their particular age group, rather than being conditional on their having crossed an artificial qualifying threshold.
- Positive action that is related to age and is legitimately intended to address disadvantage, a need or disproportionately low participation in an activity, should be allowed.
- When exercising their functions or considering the direct or indirect impact of public sector policy development and implementation on older persons, States should have due regard to the need to:
  - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- States should ensure effective access to justice for older persons on an equal basis with others, subject to appropriate tests; provide information on remedies and how to access them; and in order to help to ensure effective access to justice for older persons should promote appropriate training for those working in the field of administration of justice on their legal duties and responsibilities.

## **Zimbabwe**

- Existing gaps in international instruments on the care and protection of the aged contributed to discrimination and abuse against older persons.
- International human rights principles failed to explicitly recognize the aged as a category with distinct needs that requires special attention.
- It was imperative for a binding international instrument to be crafted to amalgamate all principles, actions and recommendations on the protection of the elderly and prohibit age-based discrimination.
- The proposed convention should be built upon the principles and guidelines articulated in the Madrid Plan of Action on Ageing.
- Equality and non-discrimination should be among the fundamental governing principles of the convention.
- The convention should contain:
  - Clear definitions of discrimination, neglect, abuse and violence.
  - Clarification of how human rights apply in old age.

- Ensure accountability of States.
- A framework for policy making.
- Legal standards that challenge and replace stigmatizing and dehumanizing ageist attitudes.
- An international framework for monitoring and reporting.

### **Joint submission: National human rights institutions of Germany and Poland**

Both institutions fully agree that an international binding instrument would provide the strongest protection for the rights of older persons.

Key elements of the rights to equality and non-discrimination for older persons

- We firstly wish to highlight the importance of referring to the non-discrimination provisions in the preamble of the new international instrument, which shall be introduced as a binding convention on human rights of older persons. The principles should be then defined in the preamble of the new instrument and the barriers in full enjoyment of human rights and fundamental freedoms should be identified.

What should be taken into account?

- Antidiscrimination clauses in already existing, regional human rights regimes should be analyzed.
- Discrimination is a barrier to the full enjoyment of human rights and fundamental freedoms and violates human dignity regardless of age.
- Indirect, systemic discrimination, caused by a failure to see the constant, stepwise change in individual conditions and its consequences which are likely to be foreseen, and included as an assumption in all states activities focused on creating more sustainable, age-friendly societies.
- Although the experience of age discrimination is a universal issue, ageing and being old in different regions of the world might pose different challenges for the national and local communities.
- The new instrument shall frame ageing as a natural process, which can be effectively supported in order to protect the right to dignity, with a focus on preserving the best quality of life in older age and living to their full potential at the same time allowing individuals and society to take advantage of/benefit from making societies more inclusive for older persons.
- State parties should be tasked with raising awareness on ageing and the rights of older persons. It shall be focused on its positive aspects, not avoiding indicating needs combined with the process of ageing.
- Discrimination on the grounds of age is based on stereotypes against older persons, perceived as vulnerable – the states should then be obliged to raise awareness, counteract negative stereotypes and prejudices. The potential and capabilities of older persons should be emphasized, as well as the value of the positive contribution which older persons bring to society.
- Violence against older persons might be motivated by prejudice and hatred – it is recommended to adopt legal measures e.g. changes within criminal law provisions by indicating age as grounds for discrimination.

What the anti-discrimination clause should include:

- The prohibition of it should cover all areas of life, private and public spheres and all rights set forth by law.
- All older persons, without any discrimination on the grounds of age, should be entitled to equal and effective legal protection against discrimination on all grounds.
- The obligation for the state to eliminate structural and institutional discrimination, which lead to the exclusion of older persons and denial of their human rights.
- Cumulative and intersectional discrimination, including a specific situation of older women, LGBTI persons, persons of foreign origin, persons with disabilities, persons of different beliefs and others
- Positive actions should be allowed – states may adopt measures with a view to ensuring full equality in practice for older persons.

### **Age Platform Europe**

In addition to enshrining this right in a specific provision, equality and non-discrimination should be one of the general principles of a future convention or related instrument. It should also be reiterated, articulated and advanced in various articles of a new instrument.

Personal scope: Defining older people only in terms of chronological age is too limited as being old/treated as an old person is also a social construct linked to social realities and perceptions. In addition, understanding of older age will vary according to policy field. For example, in employment, the experience of age discrimination starts as early as 50, if not earlier; access to social security systems is tied with pensionable age – 65; challenges in terms of availability, affordability of long-term care, often in late 70s. The right to equality and non-discrimination should not be based only on a definition of older persons through chronological criteria. The definition of older persons for the purposes of a new instrument could draw on the CRPD and the Council of Europe Recommendation(2014)2, focussing on societal barriers that in combination with old age impede the equal enjoyment of human rights

Material scope and state obligations: The right to equality and non-discrimination should draw on and reaffirm universal definitions that exist under international law<sup>9</sup>, as well as developing and articulating substantive elements particularly relevant for older persons.

In a first band of core content, the ban on discrimination as relates to older persons should include standard definitions derived from settled law, covering inter alia, direct, indirect discrimination, harassment, instruction to discriminate, victimisation, and discrimination by association, as well as other core elements.

In a second band, the right to equality and non-discrimination as related to older persons should include, and where relevant adapt, conceptual items included in the CRPD, in particular:

- An explicit recognition of equality before the law, equal legal capacity;
- Denial of reasonable accommodation as a form of discrimination, covering all aspects of life (i.e beyond employment);

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<sup>9</sup> CERD, CEDAW and CRPD

- A right to accessibility.

Third, the right to equality and non-discrimination as related to older persons might develop additional definitions and conceptions particular to older persons, for example exploring the meaning of perception of declining capacity, and the threat of unequal treatment arising from these.

The right to equality and non-discrimination should cover all areas of life:

- The right should cover systemic discrimination and ageism.
- The right should create the immediate obligation to abolish laws, policies and practices that are discriminatory, including an obligation to review age limits and exceptions to the rule of age equality, in order to evaluate the impact on older people's rights and to challenge ageist assumptions upon which age-based restrictions may lie.
- The right should cover all forms of multiple discrimination, possibly drawing on existing language, such as CRPD.
- The interpretation and implementation of the right should aim at achieving substantive and transformative equality, drawing on CEDAW and CRPD.
- States should have an obligation to provide reasonable accommodation to overcome barriers in the exercise of rights and to adopt positive measures that are necessary to achieve de facto equality.
- States should have an obligation to assist older people in seeking accountability and ensure access to justice and redress.

Challenges:

It must be recognized that no human rights treaty includes derogations to the rule of equality and non-discrimination and including general exceptions in a new treaty may weaken the protection on the ground of age. However, the interpretation of this right by treaty bodies allows for differential treatment on the basis of reasonable and objective justification.<sup>10</sup> It may therefore be sufficient to rely on this interpretation without explicitly providing for exceptions.

A distinction must be made between age-based criteria that are used to *facilitate* access to rights as opposed to those that are used to *restrict* access to rights. As a general rule differential treatment on the basis of age should promote the enjoyment of rights and not undermine human rights principles.

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

- A convention on the rights of older persons should address multiple and intersectional discrimination.<sup>1</sup> 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

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<sup>10</sup> General Comment No. 20, Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), 2009, para 13

persons experiencing multiple and intersectional discrimination based on age and disability.

- 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.<sup>ii</sup>
- 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.<sup>iii</sup>
- Multiple and intersectional discrimination against older women, including older disabled women, based on sex, should be particularly acknowledged, and taken into account transversally.<sup>iv</sup>
- 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.<sup>v</sup>

**HelpAge International & Joint submission by AGE Platform Europe, HelpAge International, The Law in the Service of the Elderly and the National Association of Community Legal Centres Australia**

Definition of discrimination: Discrimination against older persons is understood as any differential treatment, including but not limited to any distinction, exclusion, restriction or preference based directly or indirectly on age or any other ground, 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.

Affirmation of the right: Older persons have the right to equality and freedom from discrimination on the basis of their age or on any other ground, alone or in combination with another ground or grounds.

Scope of the right:

- The prohibition of, and guarantee of legal protection against, discrimination against older persons shall apply to every aspect of life without limitation.
- The right shall engage all forms of discrimination against older persons including direct, indirect, by association, by perception or imputation, incitement, vilification, victimization, harassment and denial of reasonable accommodation.

- Specific measures which are necessary to accelerate or achieve de facto equality of older persons shall not be considered discrimination.
- The grounds upon which intersectional and cumulative discrimination may occur shall be comprehensive.

States Parties shall undertake:

- To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against older persons;
- To take all appropriate steps to ensure formal and substantive equality of older persons, including but not limited to a duty to consider the differential impact of all their decisions, in particular age-based policies, on older persons;
- To prohibit and take all steps to eliminate intersectional discrimination, namely the combined effect of age and another personal characteristic or the combined effect of any two or more characteristics;
- To prohibit and take all steps to eliminate cumulative discrimination and victimisation, namely discrimination and or victimization on a number of occasions over time and or from multiple sources;
- To take all appropriate measures to ensure protection for particular groups of older persons who suffer discrimination and denial of rights on heightened or systemic basis and/or as a common experience;
- To take all appropriate steps to eliminate discrimination against an individual and any ageist institutional, systemic or structural practices which affect the human dignity of older persons;
- To take all appropriate steps to eliminate harmful ageist social norms and practices, including traditional practices, which affect the human rights and dignity of older persons;
- To ensure the access of older persons to tailored and comprehensive assistance in making claims and accessing justice;
- To ensure the access of older persons to redress and reparation for age discrimination, including where appropriate taking cumulative discrimination into account in any award of damages;
- To adopt immediate, effective and appropriate measures to promote information, research and public awareness around equality and non-discrimination against older persons, inter alia, by:
  - Raising awareness of the rights and capacities of older persons
  - Countering any discriminatory systemic ageist perceptions of, and practices towards, older persons
  - Promoting awareness of the benefits of age equality and of investing in older age
  - Promoting a positive image of ageing
  - Undertaking or promoting research on ageing and on issues particularly affecting older persons, and ensuring data is collected, disaggregated, analysed, utilised and disseminated by all ages, taking into account intersectionality
  - Providing accessible, appropriate information to older persons on their rights and entitlement to benefits and resources

- Engaging and making older persons partners and active participants in shaping social policies and public programmes which relate to their rights and interests
- Promoting intergenerational interactions and solidarity.

## **II. Other – examples of national legislation and policies on equality and non-discrimination**

### **France**

Legal frameworks of rights and liberties: France implemented an official Charter engaging social-medical structures to ensure equality, non-discrimination and the respect of human rights of its residents by the Act of 2nd January 2002 (Loi du 2 janvier 2002 rénovant l'action sociale (Art. L.311.3)). The principle of non-discrimination is listed as the first article of the Charter reflecting France deep commitment to the issue.

Explicit legal interdiction of discrimination based on age: The Charter for fundamental rights of the European Union, bringing together the fundamental rights protected in the EU, was proclaimed in 2000 and entered into force by the Treaty of Lisbon in 2009. Its principle of non-discrimination on grounds of age is the reference for the legal framework regarding equality and non-discrimination engagements in France. Its application was provided by its implementation in French national law in 2008 (Loi n° 2008-496 du 27 mai 2008 portant diverses dispositions d'adaptation au droit communautaire dans le domaine de la lutte contre les discriminations). The charter introduces the explicit interdiction of discrimination based on age.

Social connection between older people and the rest of society: Published on the 29th of December 2015 and entered into force on the 1st of January 2016, the Act on adapting society to an ageing population (Loi n° 2015-1776 du 28 décembre 2015 relative à l'adaptation de la société au vieillissement) breaks with the traditional, dependency-centered approach of policies on elderly age and marks a turning point in long-term care policies in France. In this perspective, the recent reform on national level aims for preventing actively discriminations of older people facing loss of autonomy by closing protection and prevention gaps. It is based on three pillars:

- Anticipating loss of autonomy prevention and combating isolation among elderly people;
- Supporting older people facing loss of autonomy;
- Adapting society to ageing.

The decree on preventing loss of autonomy of older people of 27th May 2016 increases better access to housing forms supporting autonomy for elder people. The initiative is a crucial step towards more equality in regard of housing conditions (Décret n° 2016-696 du 27 mai 2016 sur la mise à disposition des résidents locataires, de prestations minimales constituant un panier de services favorable au vieillissement comportant des actions de prévention de la perte d'autonomie).

Besides the policy perspective, France is willing to create an efficient institutional environment of governance structures guaranteeing good monitoring and practical advice concerning equality and non-discrimination in France. The decree of 7th September 2016 (décret n° 2016-1206 du 7 septembre 2016 sur la création du conseil départemental de la

citoyenneté et de l'autonomie (CDCA)) inaugurates the Departmental Council on Citizenship and Autonomy, created by the fusion of the Departmental Committee of Pensioners and Senior Citizens and the Council of Disabled Persons. The decree of 25th October 2016 (Décret n° 2016-1441 du 25 octobre 2016 sur la création du haut conseil de la famille de l'enfance et de l'âge) created the High Council on Families, Children and Senior Citizens on a national level. These two institutions create a network at local and national levels providing an effective institutional framework for monitoring and advisory.

## **Palestine**

The Palestinian Basic Law of 2003 guarantees equality for all and prohibits discrimination based on age. This is defined on the basis that everyone is equal in rights regardless of gender, age, religion, race, etc.

## **Poland**

Within the healthcare system in Poland the main role in monitoring any form of patient's discrimination in access to health services is delegated to Commissioner for Patient's Rights established on the basis of the Act of 6th November 2008 on Patient's Rights and the Commissioner for Patient's Rights.

Information available:

In most cases older people living in Poland have been obligatorily insured (in the universal health insurance system) and therefore they get access to all health care services as other insured people. The basket of health benefits has been defined by Ministry of Health and is mainly financed by National Health Fund. The guaranteed services address the needs of all groups of people, including older citizens. Uninsured older people could be voluntarily insured in the universal health insurance system.

There is also a special administrative procedure for uninsured people with a very low economic status, which could be applied to offer these people temporary access to all healthcare services, financed by a public payer.

Regarding the availability of, access to and quality of healthcare services for the elderly, there are no specific preferences for senior citizens, as it is mainly the seriousness of healthcare problem and severity or acuity of health condition that is a major factor determining the access to healthcare services. There are also no specific preferences nor schemes regarding the different quality of health services for the elderly.

Special measures and differential treatment:

Differential treatment based on old age is sometimes very justified in medicine. Therefore whole field of geriatric health services have been created. In Poland with ageing society the whole healthcare system must be reactive to demographical changes. This means that not only healthcare services but also healthcare education must include more services dedicated to older people or some existing services must be adjusted to the specificity of the elderly. Promotion of health and preventive care of older people are carried out on the basis of Public Health Act and regulation of the Council of Ministers regarding the National Health Program for 2016-2020 (hereinafter referred to as the NHP). In the NHP the Operational Objective

number 5 “Promotion of healthy and active aging” has been included. It is dedicated directly to the needs of people aged over 60.

Among the activities carried out within the framework of the NHP there are:

- Implementation of tasks to improve compliance with therapeutic recommendations.
- Training courses in reading food product labels.
- Training courses for dieticians in the field of knowledge about specific needs and dietary conditions of seniors (including prevention of weight loss and metabolic diseases).
- Conducting geriatric care training for the group of physiotherapists.
- Proposing a patient assessment scheme for patients aged 60 and more in hospital wards and on that basis carrying out a training course for medical staff.
- Health education in the prevention of injuries and in the promotion of safety.
- Education of employers in the field of creating and implementing health management programmes for aging employees within the workplace.
- Analysis of adequacy and effectiveness of healthcare services provided in relation to the identified health needs of older people.
- Extensive research into individual areas of the health condition of older people, including the quality of life related to health.

### **Centre for Gerontological Studies**

The National Policy on Older Persons was announced by the Government of India in the year 1999. It was a step in the right direction in pursuance of the UN General Assembly Resolution 47/5 to observe 1999 as International Year of Older Persons and in keeping with the assurances to older persons contained in the Constitution. The well-being of senior citizens is mandated in the Constitution of India under Article 41.

There is a need to take a serious look at the needs of the elderly in a more pragmatic and holistic manner. The one big issue that does not get enough attention today is that old people deserve dignity. Apart from ensuring appropriate medical help, there needs to be more awareness about common degenerative diseases like dementia so that family members, caregivers, and society at large are sensitised to the painful behavioural, physical, emotional and mental struggles of those who suffer from these diseases.

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<sup>i</sup> 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).

<sup>ii</sup> CRPD Articles 12, 14, 19, see references in endnotes for submission on Autonomy and Independence.

<sup>iii</sup> 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;

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- (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.

<sup>iv</sup> 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.

<sup>v</sup> See CRPD Art 5.4 cited above.