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**Matters related to the implementation of the Convention:
round-table discussions**

Reaching the underrepresented groups of persons with disabilities

Note by the Secretariat

The present note was prepared by the Secretariat in consultation with United Nations entities, representatives of civil society and other relevant stakeholders to facilitate the round-table discussion on the theme “Reaching the underrepresented groups of persons with disabilities”. The Secretariat hereby transmits the note, as approved by the Bureau of the Conference of States Parties to the Convention on the Rights of Persons with Disabilities, to the Conference at its sixteenth session.

* [CRPD/CSP/2023/1](#).



I. Introduction

1. Various groups within the global community of persons with disabilities remain underrepresented in society, including among organizations of persons with disabilities. Their voices and perspectives are still largely excluded from decision-making processes at all levels. This underrepresentation is linked to and a result of the disadvantaged position of certain groups due to multiple forms of exclusion and discrimination based on, for example, disability, gender, age and ethnicity. This can present groups with barriers to benefiting from progress achieved thus far in the effective implementation of the Convention on the Rights of Persons with Disabilities¹ and the Optional Protocol thereto and from fully enjoying the rights and fundamental freedoms set out therein on an equal basis with others.

2. Underrepresented groups tend to be the most marginalized in terms of law, policy and practice. Members of those groups face disproportionately high levels of discrimination and stigma and are prevented from participating fully in all aspects of public life and enjoying their rights and their right to development. While this has an impact on their lives at the individual level, the entrenched exclusion and disadvantages of such groups also have implications for national and international development.

3. Although active participation in and contribution to the decision-making that affects the life of everyone constitute a long-established human right, persons with disabilities generally face obstacles to full and effective participation in decision-making related to education, poverty, discrimination and lack of accessibility of the physical environment, transportation, information and communications. Where mechanisms for participation do exist, accessibility of and full inclusion in consultation and decision-making processes are paramount for ensuring that their participation is meaningful and non-tokenistic.²

4. Based on the availability of existing data and research, the present background note focuses mainly on (a) women and girls with disabilities; (b) persons with psychosocial disabilities; (c) persons with intellectual disabilities; (d) Indigenous persons with disabilities; (e) children with disabilities; and (f) older persons with disabilities.

5. It is important to note that this list is not exhaustive. The lack of available and comparable data disaggregated by disability poses an ongoing challenge. Other disadvantaged groups requiring further attention and research would include, for instance, deafblind persons; refugees, migrants and asylum-seeking and displaced persons with disabilities; autistic persons; persons with disabilities living in rural areas; persons with disabilities living in poverty; persons with disabilities that affect a particularly small number of persons; and persons with disabilities who identify as members of ethnic or religious minorities.

6. Through the application of an intersectional lens, it is recognized that multiple factors strongly and often inextricably associated with a person's identity, which may individually constitute grounds for discrimination, in reality coexist, intersect and interact with each other, so that the effects of discrimination are compounded and

¹ General Assembly resolution [61/106](#) of 13 December 2006.

² See Joanne McVeigh and others, "Strengthening the participation of organisations of persons with disabilities in the decision-making of national government and the United Nations: further analyses of the International Disability Alliance Global Survey", *Disabilities*, vol. 1, No. 3 (3 August 2021), p. 203.

multilayered.³ In terms of policy, intersectionality mandates the formulation of specific and tailored interventions that target the multiple facets of exclusion and discrimination and entails consultation with such groups as an essential action.

7. Tackling the root causes and conditions of discrimination against underrepresented groups is a pathway towards achieving greater representation in civil society and inclusion in programmes, policy and decision-making processes. This is mutually reinforcing, since the greater the representation and inclusion, the greater the ability to eliminate discrimination effectively and appropriately. This background note therefore provides relevant information on the key challenges and barriers to the full and effective representation, inclusion and empowerment of underrepresented groups within the global community of persons with disabilities, with the aim of facilitating the round-table discussion.

II. Relevant international normative frameworks and policy instruments

8. The Convention on the Rights of Persons with Disabilities, the human rights treaty on the rights and freedoms of persons with disabilities, embodies a ground-breaking paradigm shift in the perception and conceptualization of persons with disabilities from a medicalized, paternalistic model of disability to a framework for the social understanding of disability, within which persons with disabilities are perceived as active rights holders interacting with the barriers to their participation in society.

9. Significantly for this background note, article 3 of the Convention (General principles) includes non-discrimination and respect for difference and acceptance of persons with disabilities as part of human diversity and humanity as general principles of the Convention. Moreover, article 5 (Equality and non-discrimination) establishes that all persons are equal before and under the law without any discrimination and that States parties to the Convention must prohibit all forms of discrimination on the basis of disability.

10. The Committee on the Rights of Persons with Disabilities has expanded on the significance of article 5 and the principles of equality and non-discrimination.⁴ Not providing reasonable accommodation constitutes discrimination. This notion is espoused by use of the phrase “on an equal basis with others” found throughout the Convention, which links all substantive rights to the non-discrimination principle and effectively constitutes a prerequisite for the full enjoyment by persons with disabilities of their rights and freedoms. Combating discrimination and promoting equality are thus, cross-cutting obligations.⁵ The Committee has elaborated on the meaning of intersectional discrimination as the simultaneous interaction between several grounds for discrimination which exposes certain individuals to specific and unique types of disadvantage and discrimination.⁶ The Committee’s recent guidelines

³ See Kimberle Crenshaw. “Demarginalizing the intersection of race and sex: a Black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics”, *University of Chicago Legal Forum*, vol. 1989. No. 1, article 8.

⁴ Committee on the Rights of Persons with Disabilities, general comment No. 6 (2018) on equality and non-discrimination.

⁵ *Ibid.*, paras. 7 and 12.

⁶ Committee on the Rights of Persons with Disabilities, general comment No. 3 (2016) on women and girls with disabilities.

on deinstitutionalization provides additional guidance for States parties to the Convention.⁷

11. Furthermore, the Committee has stressed the significance of article 12 (Equal recognition before the law) in relation to the principle of non-discrimination. The right to legal capacity constitutes a “threshold right”, meaning that it is necessary for enjoyment by persons with disabilities of nearly all other rights under the Convention, including the right to equality and non-discrimination under article 5. Moreover, the denial to persons with disabilities of participation in electoral and other political processes constitutes disability-based discrimination and is closely linked to the denial or restriction of legal capacity.⁸

12. With respect to participation in decision-making, under article 4 (3) of the Convention, States parties are obligated to closely consult with and actively involve persons with disabilities. Under article 33 (3), the participation of persons with disabilities in the monitoring process is foreseen.⁹ Regarding representative organizations, there are various provisions in the Convention that require their active involvement. Under article 29 (Participation in political and public life), States parties must support and engage with representative organizations in political decision-making processes. Pursuant to article 31 (Statistics and data collection), representative organizations and persons with disabilities must be closely involved and consulted in data-collection processes.¹⁰

13. The paradigm shift triggered by the Convention on the Rights of Persons with Disabilities and the notion that persons with disabilities are active agents of development have been embraced in the 2030 Agenda for Sustainable Development. Disability and persons with disabilities are explicitly referred to in the 2030 Agenda 11 times, including in five of the Sustainable Development Goals.¹¹ Realization of the Goals in a holistic manner is underpinned by the pledge to “leave no one behind”, including persons with disabilities and other disadvantaged groups, whereby disability is recognized as a cross-cutting issue across the Sustainable Development Goals. Importantly, the achievement of the 2030 Agenda must comply with the rights and standards set out in the Convention.

Women and girls with disabilities

14. Article 6 of the Convention (Women with disabilities) is focused on the specific rights of women and girls with disabilities. The Committee has clarified that as article 6 operates in a cross-cutting manner across all of the provisions of the Convention, States parties need to take into consideration the specific situation and rights of women and girls with disabilities when carrying out actions and policies to implement the Convention. Article 6 also reinforces the non-discrimination approach of the Convention overall.¹²

15. While the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly in 1979, does not refer explicitly to women

⁷ Committee on the Rights of Persons with Disabilities, guidelines on deinstitutionalization, including in emergencies (CRPD/C/5), 10 October 2022.

⁸ Committee on the Rights of Persons with Disabilities, general comment No. 6 (2018) on equality and non-discrimination, paras. 47 and 70.

⁹ See Committee on the Rights of Persons with Disabilities, general comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention.

¹⁰ Ibid., paras. 90–91.

¹¹ See United Nations, Department of Economic and Social Affairs, Disability, “#Envision2030: 17 goals to transform the world for persons with disabilities”.

¹² Committee on the Rights of Persons with Disabilities, general comment No. 3 (2016) on women and girls with disabilities.

and girls with disabilities, the Committee on the Elimination of Discrimination against Women has considered the specific situation of women and girls with disabilities, noting that they are marginalized in multiple and compounded ways owing to their gender, and the persistent problem of the lack of gender- and disability-disaggregated data.¹³

16. As mentioned above, the Committee has elucidated the importance of article 6 of the Convention on the Rights of Persons with Disabilities as bolstering the Convention's non-discrimination approach and has stated that States parties must adopt measures aimed at the development, advancement and empowerment of women and girls with disabilities. This can be achieved by adopting a "twin-track approach" through (a) the systematic mainstreaming of the rights of women and girls with disabilities in all national action plans, strategies and policies, for example, those relating to gender equality and health; and (b) formulating targeted interventions that are aimed specifically at women and girls with disabilities.¹⁴

17. In the framework of the 2030 Agenda, Sustainable Development Goal 5 calls for the elimination of all forms of discrimination and violence against all women and girls, including those with disabilities. Goal 5 also stresses the importance of their full and effective participation and equal opportunities in political, economic and public life.

18. The Beijing Declaration and Platform for Action identify specific actions to ensure the empowerment of women and girls with disabilities in various areas, including education, health, employment and data collection.¹⁵

Persons with actual or perceived psychosocial disabilities

19. The Convention includes provisions that apply directly to the situation of people with psychosocial disabilities. Most particularly, the prohibition of disability-based deprivation of liberty as set out in article 14 (1) ((b) of the Convention includes the prohibition of involuntary psychiatric commitment, among other forms of disability-based detention. The Committee has devoted a large part of its guidelines on article 14 to explaining the basis for the absolute prohibition of non-consensual hospitalization or treatment in the mental health system, including when such measures are said to be of an "emergency" nature or based on the supposed "danger to self or others" of the person concerned. The Committee, in paragraphs 7 and 42 of its general comment No. 1 (2014) on equal recognition before the law, paragraph 48 of its general comment No. 5 (2017) on living independently and being included in the community, and the guidelines on deinstitutionalization, including in emergencies, reiterates and further develops these human rights standards applicable to persons with actual or perceived psychosocial disabilities.

Indigenous persons with disabilities

20. Although the Convention on the Rights of Persons with Disabilities does not include a specific provision on the rights of Indigenous persons with disabilities, the preamble thereto does allude to their specific experiences of multiple or aggravated forms of discrimination. As mentioned above, the Convention adopts a

¹³ Committee on the Elimination of Discrimination against Women, general recommendation No. 18 (1991) on disabled women.

¹⁴ Committee on the Rights of Persons with Disabilities, general comment No. 3 (2016) on women and girls with disabilities, paras. 7 and 27.

¹⁵ See *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

non-discrimination approach in the implementation of its provisions, which entails giving special consideration to the situation of Indigenous persons with disabilities.

21. Although it is not a legally binding instrument, the United Nations Declaration on the Rights of Indigenous Peoples¹⁶ is the most comprehensive normative framework setting out the rights and freedoms of Indigenous Peoples to date. While specific reference to Indigenous persons with disabilities is made in articles 21 and 22 of the Declaration, all of the provisions of the Declaration apply to Indigenous persons with disabilities.¹⁷

22. Indigenous children are specifically referred to in article 30 of the Convention on the Rights of the Child.¹⁸ That article guarantees the right of Indigenous children, including those with disabilities, to enjoy their own culture, to profess and practise their own religion and to use their own language.

23. As a reflection of Indigenous Peoples' strong engagement in the process towards the 2030 Agenda, the outcome document (General Assembly resolution 70/1), entitled "Transforming our world: the 2030 Agenda for Sustainable Development", refers to Indigenous Peoples six times: three times in the political declaration, once in target 2.3 under Sustainable Development Goal 2, once in target 4.5 under Sustainable Development Goal 4 (and once in the section of the 2030 Agenda on follow-up and review which calls for Indigenous Peoples' participation.¹⁹

Children with disabilities

24. The Convention on the Rights of the Child, adopted in 1989, is the most significant and comprehensive human rights treaty devoted to setting out the rights of the child. The Convention is also the first international human rights instrument to include a specific provision on the rights of children with disabilities (article 23) as well as a non-discrimination provision which recognizes disability for the first time as prohibited grounds for discrimination (article 2).

25. The Committee on the Rights of the Child, in considering the specific situation of children with disabilities, has acknowledged the vulnerability of girls with disabilities to gender-based discrimination.²⁰ The Committee has stipulated that the obligations under the Convention on the Rights of the Child include the requirement that States parties take appropriate measures to ensure that all anti-discrimination legislation expressly prohibits discrimination on the grounds of disability.

26. The Committee on the Rights of Persons with Disabilities has stated that the principle of "the best interests of the child", enshrined in article 3 of the Convention on the Rights of the Child, includes the obligation to provide support measures to enable all children with disabilities to exercise their right to be heard in all procedures that affect them, including in political decision-making bodies and processes.²¹

27. With respect to sustainable development and children with disabilities, Sustainable Development Goal 4 calls for inclusive and equitable quality education for all. Goal 4 includes targets for eliminating gender disparities and inequities in education, including in relation to children with disabilities, and for establishing

¹⁶ General Assembly resolution 61/295 of 13 September 2007, annex.

¹⁷ United Nations, Department of Economic and Social Affairs, Indigenous Peoples.

¹⁸ Adopted by the General Assembly in its resolution 44/25 of 20 November 1989.

¹⁹ United Nations, Department of Economic and Social Affairs, Indigenous Peoples and the 2030 Agenda.

²⁰ Committee on the Rights of the Child, general comment No. 9 (2006) on the rights of children with disabilities.

²¹ Committee on the Rights of Persons with Disabilities, general comment No. 6 (2018) on equality and non-discrimination, para. 38.

educational facilities that are child- and disability-friendly and promote inclusive learning environments.²²

Older persons with disabilities

28. The specific rights of older persons, including those with disabilities, have not yet been codified in international human rights law.

29. In the preamble and article 8 (Awareness-raising) of the Convention on the Rights of Persons with Disabilities, age is referenced as a basis for aggravated forms of discrimination against persons with disabilities. Obligations to provide age-appropriate accommodations or services are set out in article 13 (Access to justice) and article 16 (Freedom from exploitation, violence and abuse) of the Convention. Older persons are referred to in relation specifically to access to health services in article 25 (Health) and specifically to access to social protection programmes and poverty reduction programmes in article 28 (Adequate standard of living and social protection).²³

30. The Committee, having considered the situation and rights of older persons with disabilities, has recommended that States adopt specific measures for older persons with disabilities²⁴ and has highlighted the obligation of States to consult with groups at risk of intersecting forms of discrimination, which includes older persons with disabilities.²⁵ In response to the human rights violations of the rights of older persons in a variety of institutions, the Committee has provided its guidance for States directed towards deinstitutionalization and creating support systems and services in the community.

31. All of the provisions of the Convention on the Elimination of All Forms of Discrimination against Women apply to older women with disabilities and the Committee on the Elimination of Discrimination against Women has recognized the compounded nature of the discrimination faced by older women with disabilities owing to the intersection of age, gender and disability.²⁶

32. The Inter-American Convention on Protecting the Human Rights of Older Persons, adopted in 2015, constitutes the first legally binding human rights instrument setting out the rights of older persons. With respect to older persons with disabilities, it contains a number of provisions that are in line with those of the Convention on the Rights of Persons with Disabilities.

33. With regard to the realization of the Sustainable Development Goals, the Special Rapporteur on the rights of persons with disabilities has stated that the Convention on the Rights of Persons with Disabilities “offers normative guidance” for achieving sustainable development for older persons with disabilities.²⁷

²² United Nations Children’s Fund (UNICEF), *Seen, Counted, Included: Using Data to Shed Light on the Well-being of Children with Disabilities* (New York, November 2021), p. 62.

²³ Report of the Special Rapporteur on the rights of persons with disabilities ([A/74/186](#)), para. 12.

²⁴ Committee on the Rights of Persons with Disabilities, general comment No. 6 (2018) on equality and non-discrimination, para. 73 (o).

²⁵ Committee on the Rights of Persons with Disabilities, general comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention.

²⁶ Committee on the Elimination of Discrimination against Women, general recommendation No. 27 (2010) on older women and the protection of their human rights, para. 13.

²⁷ Report of the Special Rapporteur on the rights of persons with disabilities ([A/74/186](#)), para. 17.

III. Key issues and challenges in reaching the underrepresented groups of persons with disabilities

34. Despite the enshrinement of the principles of equality and non-discrimination in articles 3 and 5 of the Convention on the Rights of Persons with Disabilities, the conditions and multiple forms of discrimination faced by underrepresented groups constitute persistent barriers to their full, meaningful and effective participation and inclusion in society and development, including in policy- and decision-making.

Women and girls with disabilities

35. It has been widely recognized that women and girls with disabilities continue to face barriers in most aspects of their lives. Systemic and structural marginalization due to historically unequal relations between men and women, as well as attitudinal and environmental barriers, prevents women and girls with disabilities from fully enjoying their rights under the Convention on the Rights of Persons with Disabilities on an equal basis with others.²⁸

36. The Committee has identified three main areas of concern with respect to the protection of the human rights of women and girls with disabilities: (a) violence; (b) sexual and reproductive health and rights; and (c) discrimination.²⁹

37. The exclusion and discrimination resulting from the intersection between disability and gender occur in different ways across all stages of the life cycle, presenting challenges that may be further compounded by other forms of exclusion, based, for example, on poverty or location. As a result, women and girls with disabilities are more likely, compared with their male counterparts as well as women and girls without disabilities, to experience aggravated discrimination and exclusion.³⁰

38. Recent data indicate that girls with disabilities are less likely than boys with disabilities to receive care and food at home, health care and assistive devices and vocational training. Further, despite research showing that all children with disabilities experience fewer opportunities than their peers without disabilities, family expectations for girls with disabilities are often lower than those for boys with disabilities,³¹ which affects the life chances of girls with disabilities as they progress into adulthood. Available data show, for example, that women with disabilities are less likely to be employed than men with disabilities and persons without disabilities.³²

39. The multifaceted historical discrimination faced by women and girls with disabilities stemming from the intersection between disability and gender limits their full and effective participation in decision-making and representation. While available data on women with disabilities in political leadership roles are limited, the data that are available suggest that representation remains extremely low and that, on average, women with disabilities are less likely to assume a position as a legislator,

²⁸ United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), “In brief: the empowerment of women and girls with disabilities - towards full and effective participation” (2019).

²⁹ Committee on the Rights of Persons with Disabilities, general comment No. 3 (2016) on women and girls with disabilities, para. 10.

³⁰ Ibid., para. 9.

³¹ United Nations Children’s Fund, *Seen, Counted, Included: Using Data to Shed Light on the Well-being of Children with Disabilities*, pp. 148–149.

³² United Nations, Department of Economic and Social Affairs, *Disability and Development Report 2018: Realizing the Sustainable Development Goals by, for and with Persons with Disabilities* (New York, 2019), p. 108.

senior official or manager than their peers without disabilities and men with or without disabilities.³³

40. The voices of women and girls with disabilities are often not reflected in national policies and programmes and an intersectional approach is lacking in policy and practice. The needs and specific challenges of women and girls with disabilities are largely omitted from the formulation, implementation and monitoring of policies, programmes and intergovernmental processes.³⁴

Persons with actual or perceived psychosocial disabilities

41. Persons with actual or perceived psychosocial disabilities are subject to widespread stigma and discrimination and are excluded from participating in many aspects of life owing to the persistence of laws that permit their segregation, discrimination and coercion. As a result of widespread stigmatization and discrimination, persons with psychosocial disabilities are vulnerable to becoming victims of violence. One in four persons with psychosocial disabilities experiences physical or sexual violence in any given year (a much higher rate than that for the rest of the population) and the rate for women and girls with psychosocial disabilities is even higher.³⁵

42. Involuntary commitment in mental health facilities carries with it the denial of an individual's legal capacity to decide about care, treatment and admission to a hospital or institution and contravenes the absolute ban on deprivation of liberty on the basis of impairment.³⁶ Non-consensual administration of drugs, electroshock or other psychiatric interventions, whether in institutions or through community treatment orders or third-party consent, not only violates the right to control one's own body and health,³⁷ but also constitutes an act of violence and severe discrimination which violates the right to be free from torture and other cruel, inhuman or degrading treatment or punishment.³⁸

43. Evidence indicates that in most countries, people with psychosocial disabilities are predominantly institutionalized instead of being accepted in their community and provided with support that respects their will and preferences.³⁹ Furthermore, they tend to be overrepresented in prisons and detention centres, a trend connected to the lack of disability-inclusive and accessible justice systems.⁴⁰

44. In terms of participation in political representation and decision-making processes, restrictive or exclusionary electoral or voting laws are applied

³³ Ibid., p. 110.

³⁴ UN-Women, "In brief: the empowerment of women and girls with disabilities – towards full and effective participation", p. 1.

³⁵ United Nations, Department of Economic and Social Affairs, *Disability and Development Report 2018* (New York, 2019), pp. 210 and 211.

³⁶ Committee on the Rights of Persons with Disabilities, general comment No. 1 (2014) on equal recognition before the law, para. 42.

³⁷ Committee on the Rights of Persons with Disabilities, general comment No. 3 (2016) on women and girls with disabilities, para. 32.

³⁸ Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment ([A/63/175](#)) of 28 July 2008, paras. 38–41, 47 and 49; report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment ([A/HRC/43/49](#)) of 20 March 2020, para. 37; and Committee on the Rights of Persons with Disabilities, general comment No. 1 (2014) on equal recognition before the law, para. 42.

³⁹ Committee on the Rights of Persons with Disabilities, general comment No. 6 (2018) on equality and non-discrimination.

⁴⁰ United Nations, Economic and Social Council, Permanent Forum on Indigenous Issues, "Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with regard to the full enjoyment of human rights and inclusion in development" ([E/C.19/2013/6](#)) of 5 February 2013, para. 33.

disproportionally to persons with psychosocial disabilities, a situation which the Committee has described as disability-based discrimination.⁴¹ In the *Disability and Development Report 2018*, it was observed that, among 167 countries, 87 per cent had legal restrictions in place on the right to vote of persons with psychosocial disabilities. With respect to the right to be elected to public office, an even greater number of countries had restrictions in place: in 91 per cent of 161 countries, persons with psychosocial disabilities face legal restrictions in exercising that right. In more than half of those countries, the restriction specifically targets persons with psychosocial disabilities.⁴² Such discriminatory laws make it impossible for greater representation of persons with psychosocial disabilities to be achieved.

Persons with intellectual disabilities

45. Persons with intellectual disabilities similarly experience widespread stigma and discrimination and are broadly excluded from participating in several aspects of life. Persons with intellectual disabilities are, for example, excluded from the labour force, as they are less likely to be employed,⁴³ and face a higher risk of violence, particularly women and girls with intellectual disabilities.⁴⁴

46. Persons with intellectual disabilities are also more likely to have their legal capacity denied or restricted, and to be thereby stripped of their right to support in making decisions and having control over their lives.⁴⁵ This is exacerbated by attitudinal barriers within the justice system, as well as the lack of accessibility of legal procedures and courtrooms where determinations on legal capacity are made. As a result, persons with intellectual disabilities are at higher risk of institutionalization. In most countries, care for persons with mental and intellectual disabilities is still heavily institutionalized.

Indigenous persons with disabilities

47. The limited available data indicate a higher prevalence of disability among Indigenous Peoples than among the non-Indigenous general population. This is linked to higher levels of poverty, increased exposure to environmental degradation, the impact of large projects such as mining and the higher risk of experiencing violence⁴⁶ and is perpetuated by the lack of data and attention given to the specific situation of Indigenous persons with disabilities at the international level.⁴⁷ Addressing the issues of disability rights and Indigenous rights in a synergistic manner is needed to effectively promote the rights of Indigenous persons with disabilities.

48. The following areas have nevertheless been identified where Indigenous persons with disabilities are particularly excluded and denied full enjoyment of their rights: political participation and representation, and equal access to justice, education, language and culture, as well as the specific situation of Indigenous women and children with disabilities. This is related to basic social services, for example, health care, including mental health and psychosocial well-being, education and lifelong learning opportunities, justice and social protection, which are not accessible and/or

⁴¹ Committee on the Rights of Persons with Disabilities, general comment No. 6 (2018) on equality and non-discrimination, para. 70.

⁴² United Nations, Department of Economic and Social Affairs, *Disability and Development Report 2018* (New York, 2019), p. 216.

⁴³ *Ibid.*, p. 211.

⁴⁴ *Ibid.*, p. 210.

⁴⁵ *Ibid.*

⁴⁶ “Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with regard to the full enjoyment of human rights and inclusion in development” (E/C.19/2013/6), pp. 3–4.

⁴⁷ *Ibid.*, p. 5.

culturally appropriate, placing Indigenous persons with disabilities at a heightened disadvantage compared with their non-Indigenous peers with disabilities.⁴⁸

49. Owing to the intersection among disability, gender and Indigenous identity, Indigenous women and girls with disabilities face multiple barriers in relation to education, health and employment. As a result, they experience higher school dropout and unemployment rates and experience disproportionately higher rates of sexual, physical, cultural and psychological violence; illness and death; poverty; and incarceration.⁴⁹

50. Indigenous persons with disabilities may also face attitudinal barriers such as stigma and prejudice within Indigenous communities and societies, linked to the imposition of the medical model of disability through assimilationist laws and practices. Strengthening Indigenous institutions through awareness-raising of the rights enshrined in the Convention on the Rights of Persons with Disabilities and capacity-building is crucial.⁵⁰

51. The data available on the participation of Indigenous persons with disabilities in consultation processes and decision-making, including within their own communities, notably very limited.⁵¹ It is vital that, with full respect for and sensitivity towards the culture, languages and way of life of Indigenous Peoples, Indigenous persons with disabilities be supported and provided with the full opportunity to participate in cultural and public life within their communities.⁵² This also extends to traditional justice systems, where accessibility is a precondition for the enjoyment by Indigenous persons with disabilities of their right to access to justice on an equal basis with others within their communities. Accessibility would include the availability of Indigenous and local sign languages and other accessible formats, such as easy-to-read presentations, for Indigenous languages.⁵³

Children with disabilities

52. Nearly 240 million children worldwide (1 in 10) have some form of disability.⁵⁴ Children with disabilities encounter social, cultural, attitudinal and physical barriers which prevent them from fully enjoying their rights and achieving full and effective representation, inclusion and empowerment on an equal basis with others.⁵⁵ Taking into account the needs and capacities evolving throughout childhood, children with disabilities are usually limited from participating in activities that cater to their spiritual, emotional and cultural development and well-being through practices of segregation associated, inter alia, with social stigma and fear which still prevail among local communities.⁵⁶

53. Children with disabilities face barriers in accessing education and quality health care and social services, which has a long-term impact on their future life prospects

⁴⁸ Ibid., p. 8.

⁴⁹ United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), International Disability Alliance and Indigenous Persons with Disabilities Global Network, “Indigenous women with disabilities” (2020), fact sheet.

⁵⁰ “Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with regard to the full enjoyment of human rights and inclusion in development” (E/C.19/2013/6), paras. 18–20.

⁵¹ Ibid., p. 7.

⁵² Ibid., p. 4.

⁵³ Ibid., p. 9.

⁵⁴ United Nations Children’s Fund (UNICEF), *Seen, Counted, Included: Using Data to Shed Light on the Well-being of Children with Disabilities* (November 2021).

⁵⁵ Committee on the Rights of the Child, general comment No. 9 (2006) on the rights of children with disabilities.

⁵⁶ Ibid., paras. 8 and 33.

and well-being. Children with disabilities are more likely to be out of school than children without disabilities.⁵⁷ Available evidence suggests that a disproportionately large number of Indigenous children with disabilities are out of school compared with their non-Indigenous peers.⁵⁸ Indigenous children with disabilities are further excluded as a result of the lack of culturally appropriate methods, as well as the lack or limited availability of education in Indigenous languages.⁵⁹

54. Girls with disabilities are at further increased risk of exclusion from education owing to gender-based discrimination, both within family structures and in the wider community. Within the family home, girls with disabilities are more likely to experience social isolation, segregation and exploitation, including through being excluded from family activities, prevented from leaving the home, forced to perform unpaid housework and forbidden from attending school.⁶⁰ A recent report by the United Nations Children's Fund (UNICEF) indicates that adolescent girls with disabilities, particularly those who live in the poorest households, are more likely to feel discriminated against.⁶¹

55. Children with disabilities are especially vulnerable to exposure to violence, within both family structures and institutional settings. Research indicates that children with disabilities who are in school experience significantly higher rates of bullying than children without disabilities.⁶²

56. Children with disabilities are particularly vulnerable to non-registration at birth, with the associated greater risk of neglect, institutionalization and even death.⁶³ Indigenous children with disabilities continue to face a disproportionately high risk of being separated from their families and placed in institutions or with non-Indigenous families.⁶⁴ The non-registration of children with disabilities also presents challenges for data collection, given that children with disabilities are frequently hidden by their families or caregivers.⁶⁵

57. With respect to representation and participation in decision-making processes, the Committee on the Rights of the Child stipulates that "it is essential that children with disabilities be heard in all procedures affecting them and that their views be respected in accordance with their evolving capacities".⁶⁶ Children with disabilities are at high risk of institutionalization; however, they are prevented from being heard when decisions regarding their care are made during separation and placement processes. Overall, the wishes and opinions of children with disabilities are not

⁵⁷ United Nations Children's Fund (UNICEF), *Seen, Counted, Included: Using Data to Shed Light on the Well-being of Children with Disabilities* (November 2021), p. 71.

⁵⁸ "Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with regard to the full enjoyment of human rights and inclusion in development" (E/C.19/2013/6), p. 9.

⁵⁹ Ibid.

⁶⁰ Committee on the Rights of Persons with Disabilities, general comment No. 3 (2016) on women and girls with disabilities, para. 36.

⁶¹ United Nations Children's Fund (UNICEF), *Seen, Counted, Included: Using Data to Shed Light on the Well-being of Children with Disabilities* (November 2021), p. 143.

⁶² Ibid., p. 102.

⁶³ Committee on the Rights of the Child, general comment No. 9 (2006) on the rights of children with disabilities, para. 35.

⁶⁴ "Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with regard to the full enjoyment of human rights and inclusion in development" (E/C.19/2013/6), p. 13.

⁶⁵ Committee on the Rights of the child, general comment No. 9 (2006) on the rights of children with disabilities, para. 19.

⁶⁶ Ibid., para. 32.

treated with the weight and seriousness they demand, given that those decisions have long-term ramifications for their well-being and future life prospects.⁶⁷

Older persons with disabilities

58. By 2050, the number of persons aged 65 years or over is expected to double.⁶⁸ Existing data on disability disaggregated by age, especially in low- and middle-income countries, are scarce.⁶⁹ The ageing process as related to disability is two-pronged: persons with disabilities are growing older and living longer owing to technological advances and improvements in health care; and many older persons acquire or develop disabilities as they age.

59. In a recent report by the Special Rapporteur on persons with disabilities, several human rights challenges affecting older persons with disabilities were identified, such as stigma and stereotypes; discrimination; denial of legal capacity; institutionalization; violence and abuse; and lack of adequate social protection.⁷⁰

60. According to the World Health Organization, close to 1 in 6 older persons have experienced elder abuse in a community setting in the past year, and abuse in institutions is just as prevalent.⁷¹ According to studies, having a physical, cognitive or mental impairment is a strong risk factor for abuse.⁷² Higher risks of institutionalization are directly linked to higher incidences of the imposition of guardians and involuntary treatment among older persons with disabilities compared with those without disabilities. Older persons with psychosocial disabilities are increasingly vulnerable to permanent institutionalization as they age, with diminished access to alternative mental health services or community support.⁷³

61. Older women with disabilities face additional barriers compared with their male counterparts. Women tend to live longer than men and make up a greater proportion of the older population in general, especially those aged 80 years or over.⁷⁴ Older women face discrimination, bias, and marginalization, as recognized by the Committee on the Elimination of Discrimination against Women,⁷⁵ a situation which is further compounded by disability. Specifically, compared with older men with disabilities and older women without disabilities, older women with disabilities are poorer; are more likely to suffer from violence, abuse and neglect; have greater unmet needs; and are more likely to be institutionalized and to have their legal capacity curtailed.⁷⁶

62. While social protection schemes are essential for maintaining decent living standards and well-being throughout life which includes late life, there are gaps and inconsistencies in the provision and coverage of social protection for older persons with disabilities. In many countries, older persons who have acquired a disability are

⁶⁷ Ibid., para. 48.

⁶⁸ *World Social Report 2023: Leaving No One Behind in an Ageing World* (United Nations publication, 2023), p. 3.

⁶⁹ United Nations, Economic and Social Council, Commission for Social Development, Report of the Secretary-General on the fourth review and appraisal of the Madrid International Plan of Action on Ageing, 2002 (E/CN.5/2023/6).

⁷⁰ Report of the Special Rapporteur on the rights of persons with disabilities (A/74/186), para. 18.

⁷¹ World Health Organization, Abuse of older people, fact sheet, 13 June 2022.

⁷² Report of the Special Rapporteur on the rights of persons with disabilities (A/74/186), para. 36.

⁷³ Ibid., para. 29.

⁷⁴ Ibid., para. 3.

⁷⁵ Committee on the Elimination of Discrimination against Women, general recommendation No. 27 (2010) on older women and the protection of their human rights.

⁷⁶ Report of the Special Rapporteur on the rights of persons with disabilities (A/74/186), paras. 9 and 31.

ineligible for and excluded from disability programmes.⁷⁷ Indigenous persons with disabilities are largely unaware of pension schemes that are disability-specific,⁷⁸ whereas older women with disabilities do not enjoy equal access to social protection and poverty reduction programmes or to adequate housing.⁷⁹ Older women in general tend to have fewer savings and assets in later life, owing to the cumulative effects of multiple forms of discrimination over the course of their lives, and experience difficulties in maintaining an adequate standard of living.⁸⁰

63. There is a dearth of data disaggregated by disability and age and data on the situation of older persons with autism and intellectual disabilities are especially lacking.⁸¹ Similarly, information on the needs and priorities of older women with disabilities is missing and their needs and priorities remain unmet and unaddressed.⁸² In recent years, with equity and sustainability at the forefront in civil society and policy discourse, ageing and disability are treated increasingly as two issues between which there can be synergies and there is an increasing understanding of the intersection between them. Greater exchange and coalition building between civil society movements advocating for the rights of persons with disabilities and those advocating for the rights of older persons could help promote inclusion and empowerment of older persons with disabilities.⁸³

Promising practices

64. *Coalition building and alliances within civil society for the promotion of the rights of persons with disabilities.* The Indigenous Persons with Disabilities Global Network was established in May 2012 with the aim of promoting and bolstering advocacy on the rights of Indigenous persons with disabilities at the global level. The Global Network also aims towards engaging with international and regional human rights and development processes.⁸⁴ National and regional networks have been founded for the purpose of promoting the rights of Indigenous persons with disabilities, for example, in Australia, Nepal, Nicaragua, Honduras and Costa Rica.⁸⁵

65. *Data collection.* Data are essential not only for understanding both the gaps and barriers faced by, and the enablers for, persons with disabilities but also for ensuring that policy is evidence-based. In this regard, efforts by UNICEF to compile and analyse data sets on the situation and participation of children with disabilities across the world is indeed positive. A recent report by UNICEF contains the largest compilation of statistics on the well-being of children with disabilities, building on data from more than 1,000 sources, including internationally comparable data from

⁷⁷ Ibid., para. 25.

⁷⁸ “Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with regard to the full enjoyment of human rights and inclusion in development” (E/C.19/2013/6), p. 12.

⁷⁹ Committee on the Rights of Persons with Disabilities, general comment No. 3 (2016) on women and girls with disabilities, para. 59.

⁸⁰ UN-Women, “In brief: gender, age and disability: addressing the intersection” (2022), p. 2.

⁸¹ Report of the Special Rapporteur on the rights of persons with disabilities (A/74/186), para. 22.

⁸² United Nations, General Assembly, Report of the Secretary-General on the follow-up to the International Year of Older Persons: Second World Assembly on Ageing (A/75/218) of 22 July 2020.

⁸³ Report of the Special Rapporteur on the rights of persons with disabilities (A/74/186), para. 6.

⁸⁴ International Work Group for Indigenous Affairs and others, *The Indigenous World 2021*, 35th ed., Dwayne Mamo, ed. (April 2021).

⁸⁵ “Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with regard to the full enjoyment of human rights and inclusion in development” (E/C.19/2013/6), pp. 7–8.

43 countries, in the areas of health, education and violence.⁸⁶ UNICEF and the Washington Group on Disability Statistics jointly developed the Module on Child Functioning for use in censuses and surveys in order to assess the prevalence and nature of functional difficulties among children.⁸⁷ The Module on Child Functioning is exemplary, as it was developed in consultation with organizations of persons with disabilities and has been endorsed by multiple United Nations entities, organizations of persons with disabilities and other stakeholders as a tool for gathering disability-disaggregated data for monitoring of the Sustainable Development Goals relating to children.⁸⁸ In the course of evaluating progress on the Sustainable Development Goals, citizen-generated data, such as community-driven data, are being used both to fill some existing gaps to inform policy- and decision-making and as complementary information, provided by citizens as well as civil societies and community-based organizations, including organizations of persons with disabilities, which can help better reflect the realities of underrepresented groups more broadly.

66. *Legal capacity.* Pioneering legislation has been passed in Costa Rica,⁸⁹ Peru,⁹⁰ Colombia,⁹¹ Austria⁹² and, most recently, Spain,⁹³ which abolished all forms of guardianship laws and substituted decision-making regimes. In addition, a number of countries have implemented pilot projects for instituting some form of supported decision-making.⁹⁴ These developments have been accompanied by reforms that move in the direction of abolishing involuntary measures in mental health care. In Peru for example, mental health legislation has been adopted to recognize and allow for some form of supported decision-making in relation to mental health admissions, a significant development particularly for persons with actual or perceived psychosocial disabilities, who are the most affected.⁹⁵

IV. Recommendations on the way forward

67. To promote the representation, inclusion and empowerment of persons with disabilities in all their diversity, the following policy recommendations may be considered:

(a) Adopt an intersectional approach in the design, implementation and monitoring of law, policy and practice. Ensure that public services are not only disability-inclusive, but also gender- and age-sensitive and culturally appropriate,

⁸⁶ United Nations Children's Fund (UNICEF), *Seen, Counted, Included: Using Data to Shed Light on the Well-being of Children with Disabilities* (November 2021).

⁸⁷ Ibid., p. 12.

⁸⁸ Ibid., p. 14.

⁸⁹ Costa Rica, Law No. 9379 of 30 August 2016 for the Promotion of the Personal Autonomy of Persons with Disabilities (Law).

⁹⁰ Peru, Legislative Decree No. 1384 of 3 September 2018 which Recognizes and Regulates the Legal Capacity of Persons with Disabilities on an Equal Basis.

⁹¹ Colombia, Law No. 1996 of 26 August 2019, by means of which the regime for the exercise of the legal capacity of persons with disabilities of legal age is established.

⁹² Austria, Second Protection of Adults Act (2. Erwachsenenschutz-Gesetz – 2. ErwSchG), which entered into force on 1 July 2018.

⁹³ Ley 8/2021 de 2 de junio, por la que se reforma la legislación civil y procesal para el apoyo a las personas con discapacidad en el ejercicio de su capacidad jurídica.

⁹⁴ Report of the Special Rapporteur on the rights of persons with disabilities (thematic study on the right of persons with disabilities to equal recognition before the law) ([A/HRC/37/56](#)) of 12 December 2017, p. 10, footnote 16.

⁹⁵ Alberto Vásquez Encalada, "The potential of the legal capacity law reform in Peru to transform mental health provision", in *Mental Health, Legal Capacity, and Human Rights*, Michael Ashley Stein and others, eds. (Cambridge, United Kingdom, Cambridge University Press, 2021), chap. 8, pp. 124–139.

including in the areas of education, health care, the justice sector and social protection;

(b) Improve data by instituting the collection, recording and analysis of high-quality, timely, accessible and reliable data disaggregated by disability, gender, age, Indigenous identity and other factors that are relevant to the national context and improve efforts to collect internationally comparable data. Improve the collection of qualitative data through participatory research utilizing an intersectional approach and which actively involves persons with disabilities and/or their representative organizations. Ensure that data-collection efforts are adequately budgeted for and reach underrepresented groups;

(c) Close protection gaps in anti-discrimination and equality legislation, including employment and labour laws, to adequately prevent and combat intersecting forms of discrimination, in particular as faced by women and girls with disabilities, children with disabilities, older persons with disabilities, Indigenous persons with disabilities and persons with psychosocial and/or intellectual disabilities. Ensure that workplace anti-discrimination policies, action plans and codes of conduct are adopted in both the public and private sectors, which are disability-inclusive and address the attitudinal barriers encountered by persons with disabilities;

(d) Repeal and abolish laws and practices that deny or restrict the legal capacity of persons with disabilities, particularly those who are most affected, namely, women, older persons and persons with psychosocial and/or intellectual disabilities;

(e) Make greater efforts to realize the right of persons with disabilities to live independently and to be included in the community on an equal basis with others and to fully, effectively and meaningfully participate in society and in the workplace, in alignment with the Convention on the Rights of Persons with Disabilities and the guidance of the Committee on the Rights of Persons with Disabilities, including particularly the Committee's general comment No. 5 (2017) on living independently and being included in the community and the guidelines on article 14 of the Convention on the right to liberty and security of persons with disabilities as well as the recently adopted guidelines on deinstitutionalization, including in emergencies. Enhance the accessibility of workplaces and work environments, including in terms of physical and digital accessibility, in partnership with the private sector and persons with disabilities and their representative organizations;

(f) Conduct awareness-raising campaigns on the rights of persons with disabilities under the Convention on the Rights of Persons with Disabilities, with the aim of combating stigma and harmful attitudes, stereotypes and behaviours. Ensure the dissemination of information on rights under international law frameworks related, inter alia, to disability, child rights, women's rights and Indigenous rights, which is accessible, gender-sensitive, age-appropriate and culturally appropriate. Ensure that easy-to-understand communication on disability-related rights, including the text of the Convention, is available in Indigenous languages;

(g) Actively engage and consult with civil society and organizations representing persons with disabilities in the design and development of laws and policies. Ensure that consultation processes are accessible, taking into account the diversity of persons with disabilities and their needs. Promote and create opportunities for coalition building and knowledge sharing among the various rights movements, including in relation to disability, women's rights, child rights, older persons' rights and Indigenous rights;

(h) Strengthen local community spaces, institutions and structures, including Indigenous community institutions, through capacity-building on mainstreaming

disability in the provision of services or support and on accessibility and the use of assistive technologies. Create enabling conditions through policies and funding opportunities for persons with disabilities and underrepresented groups for establishing representative organizations to foster their representation, inclusion and empowerment;

(i) Increase research and data collection on the specific situation of other disadvantaged groups among persons with disabilities, such as autistic persons, refugee, internally displaced, asylum-seeking and migrant persons with disabilities, deafblind persons, persons with disabilities living in rural areas and persons with disabilities living in poverty;

(j) Within the framework of the United Nations Disability Inclusion Strategy, undertake training for all organizations within the United Nations system on mainstreaming disability and intersectionality into policies and programmes and building awareness on the rights of persons with disabilities, including underrepresented groups, as appropriate;

(k) Strengthen international cooperation to ensure that an intersectional approach to disability inclusion and mainstreaming is adopted and implemented in programmes and actions towards the realization of the Sustainable Development Goals and the 2030 Agenda for Sustainable Development, including with respect to the mobilization and allocation of funds and resources, in particular in developing countries, where 80 per cent of persons with disabilities live. Facilitate the sharing of information, practices, tools and resources that are inclusive of and accessible to persons with disabilities among existing international processes and instruments.

V. Guiding questions

1. What are the main challenges and bottlenecks in mainstreaming disability and intersectionality in law, policy and practice at the national level?

2. Which priority areas need to be urgently addressed in order to combat discrimination against and inequality experienced by the most underrepresented groups of persons with disabilities?

3. What are some good practices and promising developments that foster the representation and inclusion of underrepresented groups of persons with disabilities in decision-making processes?

4. How can consultation processes, at the local, national and international levels, be made more inclusive and accessible for all persons with disabilities?

5. How can coalition building and the formation of transnational alliances among civil society with the disability movement be facilitated and built upon?

6. In what ways can technology be utilized to address the unique challenges faced by underrepresented groups of persons with disabilities in accessing education, employment and social services?

7. What policies and practices can be implemented to ensure that underrepresented groups of persons with disabilities, such as women and girls, Indigenous Peoples and persons living in rural or remote areas, are adequately represented and included in disability rights advocacy and policymaking at the local, national, and international levels?

8. What are the key factors that contribute to the marginalization and exclusion of persons with disabilities in developing countries and how can these factors be addressed through inclusive policies and practices?

9. What specific measures could be taken by Governments and the public and private sectors to remove all physical, informational and attitudinal barriers in the workplace and promote accessibility of workplaces, as well as facilitate equal opportunities for participation by all, particularly underrepresented groups of persons with disabilities?

10. How can international development organizations and donors effectively integrate disability rights into their policies and programmes to ensure that persons with disabilities are not left behind in the development process?
