



United Nations

Report of the Committee on the Rights of Persons with Disabilities

**Seventeenth session
(20 March–12 April 2017)**

**Eighteenth session
(14–31 August 2017)**

**Nineteenth session
(14 February–9 March 2018)**

**Twentieth session
(27 August–21 September 2018)**

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I. Organizational and other matters

A. States parties to the Convention

1. As at 21 September 2018, the closing date of the twentieth session of the Committee on the Rights of Persons with Disabilities, there were 177 parties to the Convention on the Rights of Persons with Disabilities and 92 States parties to the Optional Protocol thereto. The lists of States parties to these instruments are available on the website of the Office of Legal Affairs of the Secretariat.¹

B. Meetings and sessions

2. The Committee held its seventeenth session from 20 March to 12 April 2017, its eighteenth session from 14 to 31 August 2017, its nineteenth session from 14 February to 9 March 2018 and its twentieth session from 27 August to 21 September 2018. The seventh session of the Committee's pre-sessional working group was held from 13 to 20 March 2017, its eighth session from 4 to 8 September 2017, its ninth session from 12 to 16 March 2018 and its tenth session from 24 to 27 September 2018. All the sessions of the Committee were held in Geneva.

C. Membership and attendance

3. The Committee is composed of 18 independent experts. A list of Committee members, indicating the duration of their terms of office, is available on the Committee's web page.²

D. Election of officers

4. On 20 March 2017, during the Committee's seventeenth session, the following members were elected for a term of two years:

Chair: Theresia Degener (Germany)

Vice-Chairs: Danlami Umaru Basharu (Nigeria)
Coomaravel Pyaneandee (Mauritius)
Damjan Tatić (Serbia)

Rapporteur: Kim Hyung Shik (Republic of Korea)

E. Drafting of general comments

5. During its eighteenth session, the Committee adopted its general comment No. 5 (2017) on living independently and being included in the community. At the same session, the Committee held a day of general discussion on the right of persons with disabilities to equality and non-discrimination. At its nineteenth session, the Committee adopted its general comment No. 6 (2018) on equality and non-discrimination. At the same session, the Committee endorsed a draft general comment on articles 4 (3) and 33 (3) of the Convention. At the eleventh session of the Conference of States Parties to the Convention, held in New York, the Committee held a day of general discussion on articles 4 (3) and 33 (3). At its twentieth session, the Committee adopted its general comment No. 7 (2018) on

¹ See https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&clang=_en.

² See www.ohchr.org/EN/HRBodies/CRPD/Pages/Membership.aspx.

the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention.

F. Statements of the Committee

6. At its seventeenth session, the Committee adopted statements on achieving gender balance and equitable geographic distribution in the election of members of the Committee, and on the situation of persons with disabilities affected by disasters in Colombia, Ecuador and Peru. The Committee also adopted a joint statement with the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on addressing disabilities in large-scale movements of refugees and migrants. At its nineteenth session, the Committee adopted statements on promoting inclusive urban development and on the International Day of Sign Languages. The Committee also adopted a joint declaration with the Global Alliance of National Human Rights Institutions on monitoring article 19 of the Convention at the national level. At its twentieth session, the Committee adopted a joint statement with the Committee on the Elimination of Discrimination against Women on guaranteeing sexual and reproductive health and rights for all women, in particular women with disabilities. The Committee adopted a statement calling on States parties to the Convention that were also member States of the Council of Europe to oppose the adoption of the draft additional protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine. The Committee decided to endorse the statement on human rights defenders prepared by a group of Chairs, Vice-Chairs and members of the human rights treaty bodies, together with the Special Rapporteur on the situation of human rights defenders.³

G. Accessibility of information

7. Remote captioning was available in all the Committee's public meetings and in some private meetings, at times facilitated by organizations of persons with disabilities. International Sign interpretation and webcasting were available in the Committee's public meetings. National sign language interpretation was provided during the dialogues with 14 States parties to the Convention. Russian sign language interpretation was provided in all public and private meetings during the seventeenth to nineteenth sessions. Documentation in Braille was available to members of the Committee upon request. Through a project in collaboration with the United Nations Office at Geneva, 14 core documents of the Committee were commissioned in plain English and posted on the Committee's website in advance of the twentieth session. At the same session, five general reference documents of the Committee in plain English were commissioned. The Committee also interacted with the Human Rights Council task force on secretariat services, accessibility for persons with disabilities and use of information technology and with the Special Envoy of the Secretary-General on Disability and Accessibility to promote accessibility across the United Nations.

H. Adoption of the report

8. At its 473rd meeting, the Committee adopted its fifth biennial report to the General Assembly and the Economic and Social Council, covering its seventeenth, eighteenth, nineteenth and twentieth sessions.

II. Methods of work

9. At its nineteenth session, the Committee decided to amend its working methods to clarify further the matter of confidentiality for third parties invited to participate in its private meetings. At its twentieth session, the Committee adopted a new time policy for its

³ Available at www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDStatements.aspx.

interactive dialogues with States parties with a view to maximizing the time available and making dialogues more interactive and productive, in accordance with General Assembly resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system.

III. Consideration of reports submitted in accordance with article 35 of the Convention

10. The Committee adopted concluding observations on the initial reports submitted by the following States parties: Algeria (CRPD/C/DZA/CO/1), Armenia (CRPD/C/ARM/CO/1), Bosnia and Herzegovina (CRPD/C/BIH/CO/1), Bulgaria (CRPD/C/BGR/CO/1), Canada (CRPD/C/CAN/CO/1), Cyprus (CRPD/C/CYP/CO/1), Haiti (CRPD/C/HTI/CO/1), Honduras (CRPD/C/HND/CO/1), Iran (Islamic Republic of) (CRPD/C/IRN/CO/1), Jordan (CRPD/C/JOR/CO/1), Latvia (CRPD/C/LVA/CO/1), Luxembourg (CRPD/C/LUX/CO/1), Malta (CRPD/C/MLT/CO/1), Montenegro (CRPD/C/MNE/CO/1), Morocco (CRPD/C/MAR/CO/1), Nepal (CRPD/C/NPL/CO/1), Oman (CRPD/C/OMN/CO/1), Panama (CRPD/C/PAN/CO/1), Philippines (CRPD/C/PHL/CO/1), Poland (CRPD/C/POL/CO/1), Republic of Moldova (CRPD/C/MDA/CO/1), Russian Federation (CRPD/C/RUS/CO/1), Seychelles (CRPD/C/SYC/CO/1), Slovenia (CRPD/C/SVN/CO/1), South Africa (CRPD/C/ZAF/CO/1), Sudan (CRPD/C/SDN/CO/1), the former Yugoslav Republic of Macedonia (CRPD/C/MKD/CO/1) and United Kingdom of Great Britain and Northern Ireland (CRPD/C/GBR/CO/1).

IV. Activities carried out under the Optional Protocol to the Convention on the Rights of Persons with Disabilities

11. During the reporting period, the Committee registered 18 communications. The Committee found violations in eight communications: *X v. United Republic of Tanzania* (CRPD/C/18/D/22/2014), *Makarov v. Lithuania* (CRPD/C/18/D/30/2015), *Given v. Australia* (CRPD/C/19/D/19/2014), *Bacher v. Austria* (CRPD/C/19/D/26/2014), *Y v. United Republic of Tanzania* (CRPD/C/20/D/23/2014), *J.H. v. Australia* (CRPD/C/20/D/35/2016), *Domina and Bendtsen v. Denmark* (CRPD/C/20/D/39/2017) and *Al Adam v. Saudi Arabia* (CRPD/C/20/D/38/2016). The Committee declared four communications inadmissible: *D.R. v. Australia* (CRPD/C/17/D/14/2013), *L.M.L. v. United Kingdom of Great Britain and Northern Ireland* (CRPD/C/17/D/27/2015), *D.L. v. Sweden* (CRPD/C/17/D/31/2015) and *E.O.J. et al. v. Sweden* (CRPD/C/18/D/28/2015). The Committee decided to discontinue two communications: *Rodríguez Arias v. Spain* (CRPD/C/17/D/33/2015) and *M.R. v. Australia* (CRPD/C/18/D/16/2013).

12. At its seventeenth session, the Committee decided to continue the follow-up procedure for the implementation of its Views with regard to *Nyusti and Takács v. Hungary* (CRPD/C/9/D/1/2010), *Budjosó et al. v. Hungary* (CRPD/C/10/D/4/2011) and *F v. Austria* (CRPD/C/14/D/21/2014) and to send new letters to the States parties concerned to request additional information on the measures taken to implement the Committee's recommendations. At its nineteenth session, the Committee decided to continue the follow-up procedure in all communications and to send follow-up letters to the States parties concerned to provide guidance on the Committee's expectations in terms of the implementation of its recommendations.

13. The Committee conducted activities under articles 6 and 7 of the Optional Protocol (inquiry procedure) with respect to two States parties to the Convention. At its eighteenth

session, it adopted the inquiry report with respect to one State party, and considered the observations provided by both States parties.⁴

V. Cooperation with relevant bodies

A. Cooperation with other United Nations organs and departments

14. The Committee continued its interaction with other human rights treaty bodies and with United Nations agencies and programmes, particularly concerning the adoption of a human rights-based approach to disability in efforts to achieve the 2030 Agenda for Sustainable Development. The Committee held regular meetings with the Special Rapporteur on the rights of persons with disabilities.

B. Cooperation with other relevant bodies

15. The Committee continued to engage with national human rights institutions, independent monitoring frameworks and regional organizations during the reporting period. At its nineteenth session, the Committee held its first annual interactive debate with national human rights institutions, which focused on sharing their practices in monitoring article 19 of the Convention and on the participation of persons with disabilities in monitoring activities at the national level. The Committee continued to attach great importance to the participation of organizations of persons with disabilities and civil society organizations in its activities.

16. Along with the Special Rapporteur on the rights of persons with disabilities and the Special Envoy of the Secretary-General on Disability and Accessibility, the Committee organized and participated in several events at its twentieth session to commemorate 10 years of the Committee's work.

VI. Conference of States Parties to the Convention

17. The Committee was officially represented by its Chair at the tenth and eleventh sessions of the Conference of States Parties to the Convention, held in New York, in 2017 and 2018 respectively.

⁴ The Committee's report and the State party's observations are available at www.ohchr.org/EN/HRBodies/CRPD/Pages/InquiryProcedure.aspx.

Annex

Ten years of the work of the Committee on the Rights of Persons with Disabilities

I. Introduction

1. The Convention on the Rights of Persons with Disabilities has been the most swiftly ratified international human rights treaty, with 161 signatories and 177 ratifications as at September 2018. The Committee on the Rights of Persons with Disabilities monitors the implementation of the Convention and the Optional Protocol thereto. Between February 2009 and September 2018, the Committee held 20 sessions, meeting twice a year. It holds an annual session of the Conference of States Parties to the Convention, in New York, at which States parties consider matters of implementation. The work of the Committee is dense and diverse. The present report contains an overview of its first 10 years of work and a reiteration of the way in which the provisions of the Convention should be understood.

II. Work of the Committee

A. General comments and guidelines

2. General comments guide States parties' implementation of the Convention. The Committee has adopted seven general comments, namely general comment No. 1 (2014) on equal recognition before the law, general comment No. 2 (2014) on accessibility, general comment No. 3 (2016) on women and girls with disabilities, general comment No. 4 (2016) on the right to inclusive education, general comment No. 5 (2017) on living independently and being included in the community, general comment No. 6 (2018) on equality and non-discrimination and 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.

3. The Committee also adopts guidelines, which are useful tools to understand the Convention and engage with the Committee. As at September 2018, the Committee had adopted reporting guidelines (CRPD/C/2/3; A/66/55, annex V) and revised guidelines on periodic reporting (CRPD/C/3), guidelines on communications (CRPD/C/5/3/Rev.1), guidelines on the participation of organizations of persons with disabilities and civil society organizations in the work of the Committee (CRPD/C/11/2, annex II), guidelines on the procedure for follow-up to concluding observations (CRPD/C/12/2, annex II), guidelines on the right to liberty and security of persons with disabilities (A/72/55, annex) and guidelines on independent monitoring frameworks (CRPD/C/1/Rev.1, annex).

B. Consideration of reports submitted by States parties

4. The Committee examines reports submitted by States parties under article 35 of the Convention, and adopts concluding observations with recommendations for better implementation of the Convention. The Committee has considered 75 States parties' reports, including one of a regional integration organization, the European Union. It produced lists of issues and concluding observations in relation to each of the reports considered.

5. The initial review of all States parties by the Committee is ongoing. The periodic review that follows the initial review may be conducted through the simplified reporting procedure, which was adopted by the Committee in 2013. In their periodic reports, States parties report on the implementation of the recommendations issued in the Committee's concluding observations and new developments.

C. Follow-up to concluding observations

6. In its concluding observations, the Committee identifies topics of concern on which States parties are recommended to focus. The Committee may request written information on the implementation of these recommendations as part of a follow-up procedure, described in its working methods (CRPD/C/5/4, paras. 19–22) and in the guidelines on the procedure for follow-up to concluding observations (CRPD/C/12/2, annex II).

7. The Committee considered follow-up activities in relation to concluding observations at its thirteenth and nineteenth sessions. Because the amount of time allocated to considering such follow-up activities is scarce, reports on follow-up will be considered once a year or once every two years.

III. Activities under the Optional Protocol

A. Views on communications

8. Under the Optional Protocol to the Convention, a State party to the Convention and the Optional Protocol recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State party of the provisions of the Convention. As at July 2018, the Committee had considered 24 communications, of which 2 had been deemed inadmissible and discontinued. Another 22 cases were still pending examination by the Committee.

9. The majority of the communications concerned issues of discrimination, accessibility, access to justice and participation in political and public life.¹ Other violations concerned articles 12, 14–17, 19, 21 and 25–27 of the Convention.

B. Follow-up procedure for the implementation of Views

10. The Committee follows up on the implementation of its Views concerning individual communications and, as at March 2018, had adopted nine interim follow-up reports establishing the measures that States parties should take to give effect to its Views.² The reports describe measures taken by the States parties and include authors' comments and recommendations from the Special Rapporteur on follow-up to Views.

11. As at its sixteenth session, the Committee had followed up on the implementation of nine Views. It had discontinued the follow-up procedure in two cases, one case with satisfactory measures taken by the State (*X v. Argentina*, CRPD/C/11/D/8/2012) and the other with unsatisfactory measures (*H.M. v. Sweden*, CRPD/C/7/D/3/2011). In another case, the Committee had discontinued the follow-up procedure regarding the individual recommendation but not regarding the implementation of its general recommendations (*Gröninger et al. v. Germany*, CRPD/C/D/2/2010).

¹ See *H.M. v. Sweden* (CRPD/C/7/D/3/2011), *Nyusti and Takács v. Hungary* (CRPD/C/9/D/1/2010), *Bujdosó et al. v. Hungary* (CRPD/C/10/D/4/2011), *X v. Argentina* (CRPD/C/11/D/8/2012), *Jungelin v. Sweden* (CRPD/C/12/D/5/2011), *A.M. v. Australia* (CRPD/C/13/D/12/2013), *F v. Austria* (CRPD/C/14/D/21/2014), *Beasley v. Australia* (CRPD/C/15/D/11/2013), *Lockrey v. Australia* (CRPD/C/15/D/13/2013), *Noble v. Australia* (CRPD/C/16/D/7/2012), *X v. United Republic of Tanzania* (CRPD/C/18/D/22/2014), *Makarov v. Lithuania* (CRPD/C/18/D/30/2015), *Given v. Australia* (CRPD/C/19/D/19/2014) and *Bacher v. Austria* (CRPD/C/19/D/26/2014).

² See https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx?Lang=en&TreatyID=4&DocTypeID=138.

C. Inquiry procedure

12. The Committee has undertaken two inquiries under article 6 of the Optional Protocol. Its inquiry against the United Kingdom of Great Britain and Northern Ireland (CRPD/C/15/4) concerned alleged violations of articles 19, 27 and 28 and the negative impact of social welfare reforms on the rights of persons with disabilities. Its inquiry against Spain (CRPD/C/ESP/IR/1) concerned alleged violations of article 24 of the Convention through the alleged structural exclusion and segregation of persons with disabilities from the mainstream education system on the basis of disability. In both inquiries, the Committee concluded that there was reliable evidence that indicated grave or systematic violations of the Convention by the two States parties.

IV. Overview of the Committee's jurisprudence

A. Understanding the rights of persons with disabilities

1. The human rights model of disability

13. The Convention reflects the shift from the medical and charity models of disability – which focus on personal impairments as the cause of social exclusion and persons with disabilities as objects to be “protected” – to the human rights model. The preamble and article 1 of the Convention reflect a new understanding of disability as a social construct whereby it is societal barriers, rather than personal impairments, that exclude persons with disabilities.

14. States parties must transition from the medical model to the human rights model of disability. Failure to understand and implement the human rights model of disability is the major cause of exclusion of persons with disabilities. States parties should adopt the human rights model of disability and introduce or implement legislation and organize training based on it.³

15. States parties should understand and implement the human rights model of disability. The human rights model of disability does not allow the exclusion of persons with disabilities from society for any reason, including the kind and amount of support services required.⁴ This point was reiterated in the Committee's Views on communication *S.C. v. Brazil* (CRPD/C/12/D/10/2013), and general comment No. 6, according to which the human rights model of disability requires that the diversity of persons with disabilities are taken into account since disability is one of several layers of identity (para. 9).

2. Application of a human rights-based approach to disability

16. The Committee applies a human rights-based approach to disability, which focuses on persons with disabilities and acknowledges them as full rights holders. There has been some confusion between the two concepts of the human rights model of disability and a human rights-based approach to disability, which are interrelated since the failure to adopt a human rights model of disability means that persons with disabilities are not recognized as full rights holders. States parties must take a human rights-based approach in applying the provisions of the Convention. They must promote, protect and fulfil the human rights of women and girls with disabilities using a human rights-based approach, which entails promoting the participation of women with disabilities in public decision-making.⁵ States parties should define eligibility criteria and procedures for accessing support services in a non-discriminatory way, following a human rights-based approach.⁶

³ A/66/55, annex IX, para. 3; see also general comment No. 4.

⁴ General comment No. 5, para. 60.

⁵ General comment No. 3, paras. 7 and 23.

⁶ General comment No. 5, paras. 61 and 71 and general comment No. 6, para. 59.

17. The Committee's concluding observations and the revised guidelines on periodic reporting refer to the need to implement the Convention using a human rights-based approach. This approach should also be used in efforts to implement the Sustainable Development Goals.

B. Principal obligations of States parties

1. General obligations (article 4)

18. General obligations can be divided into the following: a duty to respect, such as by modifying existing laws that constitute discrimination against persons with disabilities and refraining from engaging in acts or practice that are inconsistent with the Convention; a duty to protect, such as by taking appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise; and a duty to fulfil, such as by taking all the appropriate legislative, administrative and other measures necessary to implement the rights recognized in the Convention.

2. Progressive realization of economic, social and cultural rights (article 4 (2))

19. States parties must take measures to the maximum of their available resources to achieve progressively the full realization of economic, social and cultural rights. Initial reports should mention which rights States parties undertake to implement progressively, and which they commit to implementing immediately. States parties should refrain from letting economic and financial instabilities affect the full enjoyment of the rights of persons with disabilities (A/66/55, annex IX, para. 6).

20. Progressive realization means that States parties have a specific and continuing obligation to move effectively and expeditiously towards the full realization of the rights in question, in accordance with the overall objectives of the Convention.⁷ Progressive realization does not apply to obligations that are immediately applicable, such as those under article 12,⁸ and the duty to provide reasonable accommodation.⁹ States parties have a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each aspect of the right in question.

21. Progressive realization entails a presumption that retrogressive measures, which deprive persons with disabilities of existing rights, will not be taken.¹⁰ When retrogressive measures are taken, States parties should demonstrate that they have been introduced after careful consideration of all alternatives and that such measures are duly justified, in the context of the use of the maximum available resources of the State party (CRPD/C/15/4, para. 46).

3. National implementation and monitoring (article 33)

22. The Committee has explained how to monitor specific articles of the Convention, such as articles 9 (accessibility), 19 (living independently and being included in the community), and 24 (education), including in its guidelines on independent monitoring frameworks and their participation in the work of the Committee (CRPD/C/1/Rev.1, annex). Given that monitoring frameworks must be independent, national human rights institutions have a crucial role in practice in implementing and monitoring the Convention. The Committee has held meetings with national human rights institutions and national independent monitoring mechanisms (see, for example, CRPD/C/12/2, annex V), which have been encouraged to engage in the work of the Committee at all stages of the reporting procedure and in the context of days of general discussion, general comments, communication and inquiry procedures under the Optional Protocol and capacity-building activities.

⁷ General comment No. 4, para. 40.

⁸ General comment No. 1, para. 30.

⁹ General comment No. 4, para. 31 and general comment No. 5, para. 46.

¹⁰ General comment No. 5, para. 44.

4. Awareness-raising (article 8)

23. Awareness-raising is one of the preconditions for the effective implementation of the Convention.¹¹ It is necessary to raise awareness among persons with disabilities of their rights, as well as among professionals and the general public to prevent and eliminate discrimination and to combat stereotypes, prejudices and harmful practices, including deep-rooted cultural beliefs, negative attitudes, bullying, cyberbullying, hate crimes and discriminatory language.

24. All the general comments mention awareness-raising. Insufficiency or lack of awareness has been identified as a factor that can lead to lack of accessibility and structural or systemic discrimination linked to stereotypes, misconceptions, prejudices and harmful practices relating to persons with disabilities. Training of all relevant stakeholders on the rights of persons with disabilities and the Convention, such as the rights to accessibility and reasonable accommodation, is essential. Awareness-raising activities should be conducted in cooperation with organizations of persons with disabilities.¹² The media should also portray persons with disabilities in a manner consistent with the purpose of the Convention and modify harmful views of persons with disabilities.¹³

5. Statistics and data collection (article 31)

25. The collection and analysis of disaggregated data and statistics by States parties is essential for the effective implementation and monitoring of the various articles of the Convention.¹⁴ States parties should collect data using surveys and other forms of analysis, and data collected should be broad and cover statistics, narratives and indicators.¹⁵ Data should be disaggregated systematically on the basis of disability and intersectional categories, including age, sex and other relevant factors. The Committee has recommended that these relevant factors should include disaggregation by race, ethnicity, indigenous status, religion, migrant status, location or place of residence, socioeconomic status, employment status, income and sexual orientation. Differentiation should be made according to impairment, gender, sex, gender identity, ethnicity, religion, age or other layers of identity.¹⁶ Organizations of persons with disabilities should be involved in the full process of data collection, including design, analysis and dissemination.¹⁷ States parties should use the set of questions and tools developed by the Washington Group on Disability Statistics for the collection of comparable disability statistics.

6. International cooperation (article 32)

26. International cooperation should be used as a tool to advance the rights of persons with disabilities and implement the Convention and to promote accessibility and universal design. International cooperation can be used to develop accessibility standards in collaboration with other States parties, international organizations and agencies. It is also a way of exchanging information and know-how and sharing good practices. All international cooperation efforts must be inclusive of and accessible to persons with disabilities and be guided by the Convention.¹⁸

27. International cooperation measures developed by States parties must comply with the Convention. Public funds cannot be used to perpetuate inequalities. Investments and projects undertaken as part of international cooperation must not contribute to the

¹¹ General comment No. 2, para. 35.

¹² General comment No. 6, para. 73 (f).

¹³ General comment No. 6, para. 39.

¹⁴ General comment No. 4, para. 4 (d).

¹⁵ General comment No. 5, para. 68.

¹⁶ General comment No. 6, para. 34.

¹⁷ CRPD/C/3, para. 33 (c).

¹⁸ General comment No. 2, paras. 27 and 47; general comment No. 4, para. 43; and general comment No. 6, para. 72.

perpetuation of barriers. States parties must ensure that post-disaster recovery investments are not used to rebuild barriers, such as institutional settings for persons with disabilities.¹⁹

C. The role of persons with disabilities and their representative organizations

1. Participation of persons with disabilities in the implementation and monitoring of the Convention at national level (articles 4 (3) and 33 (3))

28. Persons with disabilities play a fundamental role in the implementation and monitoring of the Convention and in the advancement of the rights of persons with disabilities. States parties must consult and involve persons with disabilities, through their representative organizations, in the design, implementation and monitoring of all programmes that have an impact on their lives, including in the development and implementation of legislation, policies and all other decision-making processes related to specific areas on issues concerning them, and in the monitoring of the Convention. Organizations of persons with disabilities are those that comprise a majority of persons with disabilities – at least half their membership – and that are governed, led and directed by persons with disabilities.²⁰

29. States parties should ensure that the diverse range of persons with disabilities are involved in the implementation and monitoring of the Convention (A/66/55, annex IX, para. 4). States parties must promote the participation of organizations of women with disabilities, beyond disability-specific consultative bodies and mechanisms, as they have been historically underrepresented in the disability movement and have encountered many barriers to participation in public decision-making.²¹

30. Decision makers at all levels must actively involve and consult the full range of persons with disabilities, through their representative organizations, including organizations of women with disabilities, older persons with disabilities, children with disabilities and persons with psychosocial or intellectual disabilities.²² Such organizations represent the vast diversity of persons with disabilities in society, in addition to the above, including autistic persons, persons with a genetic or neurological condition, persons with rare and chronic diseases, persons with albinism, lesbian, gay, bisexual, transgender and intersex persons, indigenous peoples, members of rural communities, victims of armed conflicts and persons from an ethnic minority or migrant background.²³

31. Organizations of persons with disabilities should be involved in the development, implementation and monitoring of accessibility standards at the national and international levels; the development of an equality policy and strategy; specific measures for affirmative action; the formulation of deinstitutionalization strategies, including transitional plans; the development of support services and investment of resources in support services within the community; the design, implementation, monitoring and evaluation of legislation and policies related to all the stages of emergencies; awareness-raising programmes and activities; capacity-building programmes; the collection and analysis of data; the monitoring of inclusive education; and the process of political participation at the national, regional and international levels.²⁴

32. States parties should ensure the impartiality, autonomy and sustainable funding of organizations of persons with disabilities. Adequate funding should be provided in order to enable them to fulfil their role under articles 4 (3) and 33 (3) of the Convention and the

¹⁹ General comment No. 5, paras. 65 and 96.

²⁰ See general comment No. 7; see also general comment No. 1, para. 50 (c), and CRPD/C/11/2, annex II, para. 3.

²¹ General comment No. 3, para. 23.

²² General comment No. 5, para. 70.

²³ General comment No. 6, para. 33.

²⁴ General comment No. 2, paras. 25, 30 and 47; general comment No. 4, para. 12; general comment No. 5, paras. 42, 56, 77 and 97; general comment No. 6, paras. 29, 46, 70 (d), 71 and 73 (f) and (j).

funding framework should not impact their independence. States parties should provide adequate funding for activities, projects and programmes that are designed and implemented by organizations of persons with disabilities for the enhancement of their rights. States parties should support capacity-building for organizations of persons with disabilities, including through funding.

2. Participation of persons with disabilities in the work of the Committee

33. The guidelines on the participation of organizations of persons with disabilities and civil society organizations in the work of the Committee (CRPD/C/11/2, annex II) provide detailed information on how such organizations can participate in the reporting procedure for the review of States parties' reports, in the drafting of general comments, in days of general discussion and in the procedures concerning communications and inquiries.

34. The Committee has condemned all acts of intimidation and reprisal towards individuals and organizations for their contribution to the work of the Committee. It has appointed, from among its members, a focal point on reprisals with the mandate to follow up and provide advice on situations involving such cases (*ibid.*, para. 33). To ensure the safety of human rights defenders, organizations may request their written submissions or participation in briefings to be confidential.

D. Main cross-cutting issues

1. Equality, non-discrimination and reasonable accommodation (article 5)

Inclusive equality and non-discrimination

35. Equality and non-discrimination form the basis of the Convention and are two of its main principles. They constitute principles and rights, a cornerstone of the international protection guaranteed by the Convention and an interpretative tool for all the other principles and rights enshrined therein.²⁵ Promoting equality and tackling discriminations are obligations of immediate application, in both the public and the private sectors. General comment No. 6 is the main interpretative document on article 5 of the Convention. It advances a concept of inclusive equality (para. 11):

Inclusive equality is a new model of equality developed throughout the Convention. It embraces a substantive model of equality and extends and elaborates on the content of equality in: (a) a fair redistributive dimension to address socioeconomic disadvantages; (b) a recognition dimension to combat stigma, stereotyping, prejudice and violence and to recognize the dignity of human beings and their intersectionality; (c) a participative dimension to reaffirm the social nature of people as members of social groups and the full recognition of humanity through inclusion in society; and (d) an accommodating dimension to make space for difference as a matter of human dignity.

Prohibition of all forms of discrimination on the basis of disability

36. Article 2 of the Convention states that “discrimination on the basis of disability” includes all forms of discrimination, including denial of reasonable accommodation. The Committee, in its general comments, has elaborated on the various forms of discrimination on the basis of disability. Direct discrimination, indirect discrimination, discrimination by association, denial of reasonable accommodation, structural, or systemic, discrimination, harassment, multiple discrimination and intersectional discrimination are explicitly prohibited.²⁶

²⁵ General comment No. 6, para. 12.

²⁶ General comment No. 3, para. 17, and general comment No. 6, paras. 18 and 19.

37. As at July 2018, of the 24 individual communications that had been examined by the Committee, 7 constituted discrimination based on disability.²⁷ Violations of article 5 concerned failure to provide reasonable accommodation, denial of access to information and communications technology and to facilities and services open to the public on an equal basis with others, arbitrary detention based on disability, and failure to take all necessary measures to prevent, efficiently investigate and punish acts of violence.

Reasonable accommodation

38. Reasonable accommodation is defined in article 2 of the Convention and mentioned under articles 5, 14, 24 and 27. Reasonable accommodation has been included in the Committee's concluding observations under articles 6, 8, 9, 11, 12, 13, 15, 16, 18, 19, 21, 25, 28 and 29.

39. The Committee has stressed the distinction between reasonable accommodation and accessibility, procedural accommodation, specific measures (including affirmative action measures) and support measures such as the provision of personal assistants or support to exercise legal capacity. Contrary to the former measures, reasonable accommodation is an *ex nunc* duty, applicable directly to individuals and bound by a possible excessive or unjustifiable burden on the accommodating party.²⁸

40. "Reasonableness" is understood to be the result of a contextual test that involves an analysis of the relevance and the effectiveness of the accommodation and the expected goal of countering discrimination, and the Committee has stressed that the definition of what is proportionate varies according to the context.²⁹ The Committee has provided guidance on key elements for implementing the duty to provide reasonable accommodation.³⁰

2. Accessibility (article 9)

41. Accessibility is referred to throughout the Convention and is a precondition for persons with disabilities to live independently and participate fully and equally. While general comment No. 2 is the principal document in which the Committee elaborates on accessibility, that topic is addressed in all general comments and concluding observations and in six Views.³¹

Accessibility, universal design and reasonable accommodation

42. Accessibility encompasses the physical environment, transport, information and communication, and services. The right to accessibility is consistent with the prohibition of discrimination: persons with disabilities should have equal access to all goods, products and services that are open or provided to the public. Such products and services open to the public, regardless of whether they are owned and/or provided by a public authority or a private company, must be accessible to all. The right to access is ensured through strict implementation of accessibility standards. Barriers to access should be removed gradually in a systematic and continuously monitored manner, with the aim of achieving full accessibility.

43. Universal design, defined in article 2 of the Convention, is a component of accessibility, aimed at making society accessible for all. Applying universal design to all new goods, products, facilities, technologies and services should ensure full, equal and unrestricted access for all potential consumers and contribute to the creation of an unrestricted chain of movement for an individual from one space to another, including

²⁷ *H.M. v. Sweden, Jungelin v. Sweden, F. v. Austria, Beasley v. Australia, Lockrey v. Australia, Noble v. Australia and X v. United Republic of Tanzania.*

²⁸ General comment No. 2, paras. 25–26 and 34, and general comment No. 6, paras. 24 and 25 (b), (c) and (d).

²⁹ General comment No. 4, paras. 28 and 30.

³⁰ General comment No. 6, para. 40.

³¹ *Nyusti and Takács v. Hungary, X v. Argentina, F. v. Austria, Beasley v. Australia, Lockrey v. Australia and Bacher v. Austria.*

movement inside particular spaces, with no barriers. Accessibility is related to groups and, contrary to reasonable accommodation, the duty to provide accessibility is an *ex ante* duty and is unconditional.

44. Accessibility also entails the removal of existing barriers using definite time frames and with adequate resources. States parties should adopt and review accessibility legislation and public procurement laws to incorporate accessibility requirements, establish minimum standards on accessibility and develop an effective monitoring framework with efficient monitoring bodies with adequate capacity and appropriate mandates so that plans, strategies and standardization measures are implemented and enforced.

45. Disability laws often exclude information and communications technology, and umbrella term that includes any information and communications device or application and its content. Laws should include information and communications technology that encompass a wide range of access technologies. Since 2014, the Committee has been recommending that States parties should comply with the Web Content Accessibility Guidelines. Information and communications should be in accessible formats, including Braille, sign language, captioning, Easy Read and augmentative and alternative modes of communication. Under article 30, the Committee has recommended that States parties should ratify and implement the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

Accessibility of the work of the Committee

46. A report on accessibility of the meetings of the Committee was commissioned in 2012 and prepared by AbilityNet, Microsoft and Middlesex University. The Committee included accessibility in its working methods, adopted in 2011, noting that its documents would be disseminated in all accessible formats (see [CRPD/C/5/4](#)). Some general comments are available in Easy Read or plain language on its website. On Committee's days of general discussion, the Secretariat ensures accessibility logistics, reasonable adjustments and support for the effective participation of all participants (*ibid.*, para. 62). Sign language interpretation and captioning are provided at the Committee's public meetings.

3. Diversity of persons with disabilities

47. States parties should recognize the diversity of persons with disabilities and address the multitudes of barriers faced by the various groups of persons with all types of impairments.

Persons with all types of impairments

48. The human rights model of disability is based on an understanding of disability that, contrary to the medical model, does not reduce persons with disabilities to their impairment. However, this does not preclude recognition that persons with different impairments may face different barriers in society. The classification of disability, for specific purposes, must be human rights-based and not exclude certain groups of persons with disabilities.³²

49. The Committee has referred to persons with physical disabilities/mobility impairments, persons with intellectual disabilities, persons with psychosocial disabilities and persons with sensory impairments, including persons with hearing impairments (deaf or hard of hearing), persons with visual impairments (blind or visually impaired), and, sporadically, signing deaf persons or deafblind persons.³³ Among the Views adopted by the Committee, two cases concerned persons with hearing impairments (*Beasley v. Australia* and *Lockrey v. Australia*), three cases concerned persons with visual impairments (*Nyusti and Takács v. Hungary*, *Jungelin v. Sweden* and *F v. Austria*), three cases concerned

³² See general comment No. 6.

³³ General comment No. 2, para. 7; see also, for example, [CRPD/C/ARG/CO/1](#), [CRPD/C/UGA/CO/1](#) and [CRPD/C/BEL/CO/1](#).

persons with intellectual or psychosocial disabilities (*Bujdosó et al. v. Hungary*; *Noble v. Australia*, concerning an indigenous person with an intellectual disability; and *Bacher v. Austria*, concerning Down syndrome and autism), four cases concerned persons with mobility impairment (*A.F. v. Italy* (CRPD/C/13/D/9/2012), *Makarov v. Lithuania*, *Given v. Australia* and *Bacher v. Austria*), one case concerned a person with albinism (*X v. United Republic of Tanzania*), another case concerned a person with multiple impairments (*X v. Argentina*, concerning cognitive disorder, partial loss of vision and reduced mobility) and another concerned a person with degenerative illness (*H.M. v. Sweden*).

50. The Committee has also referred in its general comments and concluding observations to persons with autism and persons with albinism.³⁴ It has occasionally mentioned “complex physical disabilities”,³⁵ cognitive impairment, motor impairment, multiple forms of disabilities, neurological and cognitive conditions, persons affected by leprosy, and persons with neurodegenerative conditions, including Alzheimer’s, dementia and multiple sclerosis.³⁶

Intersectionality: various groups of persons with disabilities

51. Disability is one of several layers of identity, and recognition of the various groups of persons with disabilities is important in terms of addressing intersectional and multiple forms of discrimination (see general comment No. 6). The Committee has recognized the rights of many groups of persons with disabilities, including the following: women; girls and boys; children; young people; older persons; minority, ethnic, religious and/or linguistic groups (including Roma); indigenous people; migrants, refugees and asylum seekers; non-nationals; people living in remote or rural areas; lesbian, gay, bisexual, transgender, queer and intersex persons; persons of African descent; and other relevant very specific groups, such as Aboriginal and Torres Strait Islander people in Australia and Afro-Ecuadorian and Montubio people in Ecuador.³⁷

4. Gender

52. The Committee recognizes gender as a component of the diversity of persons with disabilities and a factor on the basis of which intersectional or multiple discrimination occurs, particularly affecting women with disabilities.³⁸ The Committee has stressed that women and girls with disabilities face barriers in most areas of life, particularly gender-based discrimination and violence, including forced sterilization, sexual and physical abuse, and isolation.³⁹

53. The Committee has adopted an advanced definition of gender, whereby “sex” refers to biological differences and “gender” refers to the characteristics that a society or culture views as masculine or feminine.⁴⁰ It has also referred to gender identity and gender expression.⁴¹ Gender equality and references to women with disabilities must be understood in a progressive fashion. Women with disabilities are not a homogenous group and include, among others, transgender women and intersex persons.⁴²

³⁴ For example, general comment No. 3, paras. 5 and 30; general comment No. 4, paras. 6 and 35; CRPD/C/NZL/CO/1, para. 7; and CRPD/C/UGA/CO/1, paras. 8, 15 and 51.

³⁵ CRPD/C/SVK/CO/1, para. 60.

³⁶ For example, general comment No. 4, paras. 6 and 35; CRPD/C/BRA/CO/1, para. 54; CRPD/C/CAN/CO/1, para. 12; CRPD/C/CHN/CO/1, paras. 31–32; CRPD/C/NZL/CO/1, para. 7; CRPD/C/OMN/CO/1, para. 48; CRPD/C/SLV/CO/1, para. 11; CRPD/C/TKM/CO/1, para. 24; and CRPD/C/UKR/CO/1, para. 22.

³⁷ For example, general comment No. 3, para. 5; general comment No. 5, para. 23; CRPD/C/AUS/CO/1, para. 12; CRPD/C/BRA/CO/1, para. 13; CRPD/C/CAN/CO/1, para. 20; CRPD/C/COL/CO/1, para. 57; CRPD/C/CYP/CO/1, para. 16; CRPD/C/ECU/CO/1, para. 53; CRPD/C/HUN/CO/1, para. 42; and CRPD/C/SRB/CO/1, para. 59.

³⁸ General comment No. 1, para. 35, and general comment No. 2, para. 29.

³⁹ General comment No. 3, para. 2, and general comment No. 5, paras. 72, 74 and 83.

⁴⁰ General comment No. 3, para. 4 (b).

⁴¹ General comment No. 5, paras. 8 and 60, and general comment No. 6, paras. 21 and 34.

⁴² General comment No. 3, para. 5.

54. To ensure gender equality and the rights of women and girls with disabilities, States parties should consider gender when developing accessibility measures; providing health care, particularly reproductive care, including gynaecological and obstetric services; addressing stigma, prejudice and violence; and ensuring the realization of the rights to education and to live independently and be included in the community.⁴³ In that context, all measures and monitoring of them must be gender-sensitive.⁴⁴ The Committee has also emphasized that women and girls with disabilities should be involved in the design, implementation and monitoring of all programmes that have an impact on their lives, and that States parties need to promote the inclusion of women with disabilities in future elections of the Committee.⁴⁵

E. Topics addressed by the Committee

1. Adequate standard of living and social protection (article 28)

55. Mainstream and disability-specific social protection measures and services must be provided in an accessible manner, and social housing programmes should offer housing that is accessible to persons with disabilities.⁴⁶ States parties must ensure access to appropriate and affordable services, devices and other assistance for impairment-related requirements, especially for persons with disabilities who live in poverty. The Committee takes the view that it would be contrary to the Convention for persons with disabilities to have to pay disability-related expenses themselves.

56. In its report on the inquiry concerning the United Kingdom of Great Britain and Northern Ireland (CRPD/C/15/4), the Committee noted that the obligation to ensure the access of persons with disabilities to quality, adequate, acceptable and adaptable social protection programmes was of immediate effect. It stressed that measures aimed at facilitating the inclusion in the labour market of beneficiaries of social security should include transitional arrangements to ensure income protection while they reached a certain threshold and sustainability in their wages, and that they should become eligible again without delay if they lost their jobs. Welfare reform and austerity measures must not disproportionately and/or adversely affect the rights of persons with disabilities. Family-based assessments for application and eligibility to receive social security assistance should be replaced with an individual-based assessment, and discriminatory criteria based on the cause of the impairment, in particular for war-related and non-war-related disabilities, should be repealed.⁴⁷

2. Access to justice and procedural accommodation (article 13)

57. States parties have an obligation to ensure that persons with disabilities have access to justice on an equal basis with others.⁴⁸ Ensuring accessibility and reasonable accommodation and the right to legal capacity is essential to ensuring access to justice. Beyond recognition of legal capacity, States parties must ensure that persons with disabilities have access to legal representation and that police officers, social workers and other first responders give the same weight to complaints and statements from persons with disabilities as they would to others.⁴⁹ In *Noble v. Australia*, the Committee affirmed that the State party's decision to declare the author unfit to plead, on the basis of intellectual

⁴³ General comment No. 2, paras. 29 and 40; general comment No. 4, para. 46; general comment No. 5, paras. 23, 35 and 72; and general comment No. 6, para. 66.

⁴⁴ General comment No. 5, paras. 83 and 86.

⁴⁵ General comment No. 3, para. 63 (c); see also the Committee's statement on achieving gender balance and equitable geographical representation in the elections of members of the Committee, adopted during its seventeenth session, held from 20 March to 12 April 2017.

⁴⁶ General comment No. 2, para. 42.

⁴⁷ CRPD/C/CHN/CO/1, para. 80, and CRPD/C/BIH/CO/1, para. 51.

⁴⁸ See *A.M. v. Australia*; *Beasley v. Australia*; *Lockrey v. Australia*; *Noble v. Australia*; *X v. United Republic of Tanzania*; and *Makarov v. Lithuania*.

⁴⁹ General comment No. 1, paras. 38–39; general comment No. 2, para. 37; and general comment No. 3, para. 52.

disability, and its failure to provide adequate support or accommodation for the author to exercise his legal capacity constituted a violation of article 13.

58. Reasonable accommodation is distinct from procedural accommodation, also referred to as procedural adjustments. Unlike reasonable accommodation, procedural accommodation and age-appropriate accommodation are not limited by disproportionality.⁵⁰ States parties must ensure accessibility, procedural accommodation and reasonable accommodation, and other forms of support, so that persons with disabilities have full access to the justice system. Procedural accommodation may include recognizing diverse communication methods, allowing video testimony in certain situations and providing professional sign language interpretation and other assistive methods.⁵¹ The Committee has taken the view that States parties' failure to provide sign language interpretation and real-time steno captioning to deaf persons who are summoned as jurors is in violation of the Convention.⁵²

3. Liberty and security of the person (article 14) and living independently and being included in the community (article 19): towards deinstitutionalization

59. All persons with disabilities, especially persons with intellectual or psychosocial disabilities, are entitled to liberty and security pursuant to article 14 of the Convention. The right to liberty is one of the most precious rights to which everyone is entitled. The Committee has stressed its importance through its statement on article 14 (CRPD/C/12/2, annex IV), adopted in 2014, and its guidelines on the right to liberty and security of persons with disabilities (A/72/55, annex). The Committee has established that detention of persons on the basis of their actual or perceived impairment, including on the basis of perceived danger to themselves or to others, is prohibited. This includes detention in mental health or other types of institutions, including detention based on declarations of unfitness to stand trial or incapacity to be found criminally responsible in criminal justice systems. When persons with disabilities are detained, States parties must ensure that places of detention are accessible and provide humane living conditions and must implement monitoring and review mechanisms of their conditions (*ibid.*, paras. 3, 6–9, 16–17 and 19).

60. The right to liberty is connected to the right to live independently and be included in society. The Committee has expressed strong concerns about the institutionalization of persons with disabilities and requested that States parties adopt deinstitutionalization strategies and programmes. The Committee has defined institutionalized settings and stressed that deinstitutionalization measures must be accompanied by comprehensive service and community development programmes.⁵³

4. Equal recognition before the law and supported decision-making (article 12)

61. Equality before the law is indispensable for the exercise of other human rights. Article 12, which is subject to immediate application, describes elements that States parties must consider. The denial of the right to legal capacity based on disability, particularly under guardianship, conservatorship and mental health laws, is discriminatory and is prohibited. In all areas of law, the right of persons with disabilities to legal capacity must not be restricted on an unequal basis with others. All persons with disabilities, including persons with intellectual or psychosocial disabilities, have the same legal capacity to exercise their rights as others, particularly the right to vote, the right to marry and found a family, reproductive rights, parental rights, the rights to give consent for intimate relationships and medical treatment, and the right to liberty.

62. The human rights model of disability, in the context of the right to equal recognition before the law, implies a shift from the substitute decision-making paradigm to one based on supported decision-making. States parties must provide persons with disabilities with access to support in the exercise of their legal capacity, with full respect for their rights,

⁵⁰ General comment No. 6, para. 51.

⁵¹ General comment No. 1, para. 39.

⁵² See *Beasley v. Australia* and *Lockrey v. Australia*.

⁵³ General comment No. 5, paras. 16 and 33.

will and preferences. If, after significant efforts have been made, it is not practicable to determine the will and preferences of an individual, the “best interpretation of will and preferences” must replace the “best interests” determinations. States parties must create appropriate and effective safeguards for the exercise of legal capacity, which should include protection against undue influence.⁵⁴

5. Right to life, and freedom from abuse, violence and harmful practices in all settings (articles 10, 16, 17)

63. States parties should take measures to eliminate practices of “compassionate killing” and “honour killings” and ritual crimes perpetrated against children and adults with disabilities, and violent crimes perpetrated against persons with albinism.⁵⁵ States parties should adopt, monitor and enforce all possible measures to identify causes of death, including suicide,⁵⁶ and to ensure that persons with disabilities are not subject to arbitrary deprivation of life, given that persons with psychosocial or intellectual disabilities may face a greater risk of death penalty due to lack of procedural accommodation in criminal proceedings.

64. Regarding the termination or withdrawal of life-sustaining treatment and care, the Committee has underlined that the application of substitute decision-making is inconsistent with the right to life of persons with disabilities. States parties should ensure that people who seek an assisted death have access to alternative courses of action and to a dignified life made possible with appropriate palliative care, disability support, home care and other social measures that support human flourishing. States should also prevent, identify and address situations of risk of suicide in persons with disabilities.⁵⁷

65. The Committee has condemned all types of violence against persons with disabilities and recommended that States parties adopt measures to prevent, investigate and sanction acts of violence. Such acts encompass harassment, including bullying and cyberbullying; corporal punishment, of adults and children; sexual violence, including marital rape and incest; and violence in institutional settings.⁵⁸ While the Committee used to refer to domestic violence, it now frequently refers to “violence within and outside the home”, as not all cases of violence within the home are domestic violence.⁵⁹ As noted in the case *X v. United Republic of Tanzania*, States parties must take all necessary measures to prevent, investigate and punish acts of violence against persons with disabilities. States parties should ensure the availability of accessible and inclusive support services, including confidential complaint mechanisms, shelters and other support measures. The Committee has encouraged member States of the Council of Europe to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, most commonly referred to as the Istanbul Convention.⁶⁰

⁵⁴ General comment No. 1, paras. 3, 20, 21, 22, 27 and 29.

⁵⁵ For example, [CRPD/C/BOL/CO/1](#), para. 23; [CRPD/C/GAB/CO/1](#), para. 25; [CRPD/C/KEN/CO/1](#), para. 20; and [CRPD/C/OMN/CO/1](#), para. 22.

⁵⁶ For example, [CRPD/C/CYP/CO/1](#), para. 30.

⁵⁷ For example, [CRPD/C/CAN/CO/1](#), para. 24; [CRPD/C/CHN/CO/1](#), paras. 63–64; [CRPD/C/ESP/CO/1](#), paras. 29–30; [CRPD/C/GBR/CO/1](#), para. 26; and [CRPD/C/SWE/CO/1](#), para. 30.

⁵⁸ For example, general comment No. 4, para. 51; [CRPD/C/ARE/CO/1](#), paras. 31–32; [CRPD/C/BIH/CO/1](#), paras. 30–31; [CRPD/C/CAN/CO/1](#), para. 24; [CRPD/C/CYP/CO/1](#), para. 40; [CRPD/C/LVA/CO/1](#), paras. 28–29; [CRPD/C/MNE/CO/1](#), para. 13 (d); [CRPD/C/NZL/CO/1](#), paras. 49–50; and [CRPD/C/QAT/CO/1](#), para. 30.

⁵⁹ For example, [CRPD/C/DNK/CO/1](#), para. 40, and [CRPD/C/LUX/CO/1](#), para. 33.

⁶⁰ For example, [CRPD/C/CYP/CO/1](#), para. 40, and [CRPD/C/ITA/CO/1](#), para. 44.

6. Health (article 25), habilitation and rehabilitation (article 26) and prohibition of forced placement and treatment (articles 12 and 14 to 17)

Access to health, including sexual and reproductive health and rights, and habilitation and rehabilitation

66. States parties must not deny persons with disabilities access to health care or to habilitation and rehabilitation, including concerning their sexual and reproductive health and rights and their mental health.

67. Health-care services must be accessible to persons with disabilities and account for the gender dimension of accessibility.⁶¹ General health facilities and services must be not only accessible, but also available, adaptable and acceptable for persons with disabilities in their communities, including the support required by some persons with disabilities during hospitalization, surgery and medical consultations. The provision of nurses, physiotherapists, psychiatrists and psychologists, in hospitals and at home, is a part of the fulfilment of States parties' obligations to provide health care.⁶² In *H.M. v. Sweden*, the Committee found that the Convention had been violated when the local municipality had refused to grant a building permit to the author – who had a degenerative condition and could not leave her home without great risk – for the purposes of installing a hydrotherapy pool on her property for rehabilitation and maintenance of her health.⁶³

68. The Committee referred to “reproductive rights” in its first general comment, then successively to “sexual and reproductive health and rights” in its subsequent concluding observations and general comments. Ensuring such rights is particularly important, especially for women with disabilities, as they are often victims of stereotypes that portray them as asexual or hyper sexual, or not able to consent to sexual intercourse.⁶⁴ States parties should ensure the sexual and reproductive health and rights of persons with disabilities. They should ensure that information on sexual and reproductive health and rights is provided to persons with disabilities, including information on HIV/AIDS and other sexually transmitted infections, and that women with disabilities have access to services for safe abortion on an equal basis with others.⁶⁵

Prohibition of involuntary treatment and placement

69. Consistent with articles 12, 14 and 15 of the Convention, all forms of involuntary treatment and detention in health facilities based on the alleged dangerousness of the person or other elements based on the person's impairment are prohibited. The Committee has emphasized that forced treatment by psychiatric and other health and medical professionals constitutes a violation of articles 12, 17, 15, and 16.⁶⁶ The Committee has also stressed that involuntary or non-consensual commitment in mental health institutions and non-consensual treatment during deprivation of liberty are violations of the Convention.⁶⁷ The Committee opposed the adoption of a draft additional protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the

⁶¹ General comment No. 2, para. 40.

⁶² General comment No. 5, para. 89.

⁶³ The State party had failed to provide reasonable accommodation and to fulfil its obligations concerning non-discrimination, the right to live independently and be included in the community, and the rights to health and rehabilitation, in violation of articles 5 (1), 5 (3), 19 (b), 25 and 26, read alone and in conjunction with articles 3 (b), (d) and (e) and 4 (1) (d) of the Convention.

⁶⁴ General comment No. 1, para. 35, and general comment No. 3, para. 38.

⁶⁵ For example, [CRPD/C/CAN/CO/1](#), paras. 45–46, and [CRPD/C/HTI/CO/1](#), para. 45.

⁶⁶ General comment No. 1, para. 42.

⁶⁷ “Guidelines on article 14 of the Convention on the Rights of Persons with Disabilities: the right to liberty and security of persons with disabilities”, adopted during the Committee's fourteenth session, held from 17 August to 4 September 2015, paras. 10–11.

Application of Biology and Medicine, of the Council of Europe, on the grounds that it was contrary to the letter and spirit of the Convention.⁶⁸

70. States parties should prohibit all forms of forced sterilization and medical or hormone-based interventions, such as lobotomy or the Ashley treatment; forced and coerced abortion; non-consensual birth control; forced drugging, including to “control the sexual behaviour” of persons with disabilities; and forced electroshock treatment.⁶⁹ The Committee also condemned female genital mutilation and surgery or treatment performed on intersex children without their informed consent, taking the view that such practices amounted to torture or cruel, inhuman or degrading treatment or punishment.⁷⁰

7. Inclusive education (article 24)

71. The fact that in its earliest concluding observations, the Committee did not explicitly state that all forms of segregated education were prohibited caused confusion as to whether specialized schools for children with disabilities could be acceptable in some situations.⁷¹ Since then, the Committee has been explicitly stating that exclusionary and segregated education constitutes a form of discrimination based on disability, in violation of the Convention. The Committee has defined inclusive education in detail, noting that it requires an in-depth transformation of education systems in legislation, policy and the mechanisms for financing, administering, designing, delivering and monitoring education.⁷² States parties should move away from segregated education towards inclusive education; the Committee has stressed that while this obligation is subject to progressive realization, States parties must immediately ensure that children with disabilities are not excluded from enrolling in regular schools and provide them with reasonable accommodation.⁷³

72. In its report on the inquiry concerning Spain (CRPD/C/ESP/IR/1), issued in July 2018, the Committee found that the State party had perpetuated a structural pattern of discriminatory exclusion and educational segregation on grounds of disability, which disproportionately and particularly affected persons with intellectual or psychosocial disabilities and persons with multiple disabilities. The Committee recalled that an inclusive system based on the right to non-discrimination and equal opportunities required the abolition of the separate education system for students with disabilities (ibid., paras. 74 and 81).

8. Situation of risk and emergencies (article 11)

73. The Committee has adopted eight statements relevant to article 11, six of which relate to the specific situations of persons with disabilities in countries affected by past or ongoing disasters or armed conflicts.⁷⁴ At the international level, it has advocated for disability inclusion in the context of the Third World Conference on Disaster Risk Reduction and the World Humanitarian Summit.⁷⁵

74. The Committee elaborated on article 11 in its general comments Nos. 2, 5 and 6 in particular. The principle of non-discrimination must be ensured in all situations of risk and humanitarian emergency, particularly regarding equal access to basic necessities, such as

⁶⁸ See “Statement by the Committee on the Rights of Persons with Disabilities calling States parties to oppose the draft Additional Protocol to the Oviedo Convention”, adopted during the Committee’s twentieth session, held from 27 August to 21 September 2018.

⁶⁹ For example, general comment No. 6, para. 7, and CRPD/C/RUS/CO/1, para. 34.

⁷⁰ General comment No. 3, para. 44.

⁷¹ See, for example, CRPD/C/ESP/CO/1, para. 44 (b).

⁷² General comment No. 4, paras. 9–12.

⁷³ For example, general comment No. 4, paras. 40–41; CRPD/C/CYP/CO/1, para. 50; and CRPD/C/KEN/CO/1, para. 44.

⁷⁴ A/66/55, annexes XI, XII, XIII, and XIV; statement on the situation of persons with disabilities affected by disasters in Peru, Ecuador and Colombia, adopted during the Committee’s seventeenth session; and statement on persons with disabilities being forgotten victims of the Syrian conflict.

⁷⁵ Statement on disability inclusion in the Third World Conference on Disaster Risk Reduction, adopted during the Committee’s twelfth session (15 September to 3 October 2014), and statement on disability inclusion for the World Humanitarian Summit, adopted during the Committee’s fourteenth session.

water, sanitation, food and shelter.⁷⁶ Emergency services must be accessible to persons with disabilities and support services must be included in all disaster risk management activities.⁷⁷ Accessibility must be incorporated as a priority in post-disaster reconstruction efforts. Since September 2015, the Committee has systematically recommended that States parties implement the Sendai Framework for Disaster Risk Reduction 2015–2030.

9. Work and employment (article 27)

75. Accessibility, reasonable accommodation and support measures necessary to enable persons with disabilities to fully access work and employment are covered in general comments Nos. 2 (para. 41), 3 (para. 58), 5 (para. 91) and 6 (para. 67). States parties should facilitate the transition away from segregated work environments and ensure that persons with disabilities are paid no less than the minimum wage and do not lose the benefit of disability allowances when they start working.

76. States parties must adopt affirmative action measures, including providing incentives, to increase the employment of persons with disabilities in the public and private sectors, such as through the introduction of quota systems with effective enforcement mechanisms and sanctions for non-compliance.⁷⁸ Affirmative measures such as integration subsidies should not turn into indirect discrimination when difficulties encountered by employers in claiming the subsidies put applicants with disabilities in a disadvantageous position.⁷⁹ Persons with disabilities should be protected, on an equal basis with others, from forced or compulsory labour, exploitation and harassment in the workplace.⁸⁰

F. Leaving no one behind: the rights of persons with disabilities in the international development agenda

77. In the discussions on the post-2015 development agenda, the Committee advocated for the inclusion of the rights of persons with disabilities. To be sustainable, it said, development goals should be rooted in a human rights-based approach, and the international community should take into account the enjoyment by all persons with disabilities of their civil, political, economic, social and cultural rights.⁸¹ In January 2014, it stressed similar points when addressing Member States participating in the eighth session of the Open Working Group of the General Assembly on Sustainable Development Goals.

78. Since the adoption of the 2030 Agenda for Sustainable Development, the Committee has included references to it and the Sustainable Development Goals in its general comments and concluding observations. States parties should mainstream the rights of persons with disabilities in their implementation and monitoring of the 2030 Agenda at all levels, and ensure that disability-inclusive indicators are developed and used in a manner consistent with it.⁸²

⁷⁶ General comment No. 6, paras. 43–44.

⁷⁷ General comment No. 2, para. 36, and general comment No. 5, para. 79.

⁷⁸ For example, [CRPD/C/15/4](#), para. 22; [CRPD/C/HRV/CO/1](#), para. 42; [CRPD/C/KEN/CO/1](#), para. 48; and [CRPD/C/PRY/CO/1](#), para. 64.

⁷⁹ See *Gröninger et al. v. Germany*.

⁸⁰ For example, [CRPD/C/15/4](#), para. 25, and [CRPD/C/MEX/CO/1](#), para. 52.

⁸¹ See the Committee's statement on including the rights of persons with disabilities in the post-2015 agenda on disability and development (May 2013).

⁸² General comment No. 6, para. 71; see also, for example, [CRPD/C/PAN/CO/1](#), para. 63.