**Women Enabled International**

**Comments to the CRPD Committee:**

**Draft General Comment on the right of persons with disabilities to work and employment**

1. **Introduction**

[Women Enabled International](http://www.WomenEnabled.org) (WEI) appreciates the opportunity to submit these written comments to the Committee on the Rights of Persons with Disabilities (CRPD Committee) regarding its Draft General Comment on the right of persons with disabilities to work and employment (Draft General Comment). WEI is an international non-governmental organization that works to advance rights at the intersection of gender and disability to respond to the lived experiences of women and girls with disabilities, promote inclusion and participation, and achieve transformative equality.

Women, girls, and gender non-conforming persons with disabilities experience unique barriers to fulfilling their right to work and employment due to discrimination based on both their gender and disability, among other statuses. The intersectional discrimination they face has a negative impact on the exercise of their right to work and employment and, consequently, women with disabilities are more often excluded from the labor market when compared to both men with disabilities and other women.[[1]](#endnote-1) They are also overrepresented in precarious employment, often outside of the formal work sector,[[2]](#endnote-2) receive unequal remuneration for work of equal value, and are frequently denied reasonable accommodations.[[3]](#endnote-3)

WEI appreciates that the CRPD Committee will dedicate its next General Comment to the right to work and employment under the Convention on the Rights of Persons with Disabilities (CRPD). This submission provides concrete suggestions about how to amend the Draft General Comment to place a greater emphasis on rights issues at the intersection of gender and disability in the context of work and employment. For more detailed background information about these issues and relevant human rights standards, we kindly refer you to WEI’s submission to the Day of General Discussion on Article 27.

*Please note that, to ensure the accessibility of this document to those using screen readers, we have included both the paragraphs in its current form and suggested amended paragraphs. Suggested amendments are marked in italics and highlighted in yellow for ease of identification.*

1. **WEI’s Recommendations on the Draft General Comment**
2. **Section III: Normative Content**

As the CRPD Committee recognizes throughout the Draft General Comment, women and gender non-conforming persons with disabilities face multiple and intersectional discrimination in the world of work. Even when employment initiatives are developed to fully include persons with disabilities in the workplace, such initiatives do not target women with disabilities, whereas policies to promote female employment are often not inclusive of disability.[[4]](#endnote-4) Acknowledging this intersectional discrimination throughout the Draft General Comment is key to addressing the multiple layers of discrimination women with disabilities may experience, including on the grounds of disability and gender.

**Paragraph 25**

In paragraph 25, the CRPD Committee uses the term “double discrimination” when referencing the discrimination experienced by women with disabilities in the workplace, because of their gender and disability. However, individuals may experience gender and disability discrimination both multiply and intersectionally, meaning that the kinds of discrimination they experience may be distinct from those experienced by others of the same gender or other persons with disabilities.[[5]](#endnote-5) Women and gender non-conforming persons with disabilities may also experience discrimination on other grounds in the world of work. As such, the terminology “double discrimination” does not fully capture the experience of women and gender non-conforming persons with disabilities.

*Current Paragraph*

Women and gender non-conforming persons with disabilities face an intersection of gender and disability-related barriers in attitudes, circumstances and work itself. These include compounded effects of double-discrimination that limit opportunities to work, increased risk of violence and harassment in the workplace, as well as other barriers.

*Suggested Amended Paragraph*

Women and gender non-conforming persons with disabilities face an intersection of gender and disability-related barriers in attitudes, circumstances and work itself. These include compounded effects of *multiple and intersectional* discrimination that limit opportunities to work, increased risk of violence and harassment in the workplace, as well as other barriers.

**Paragraph 31**

Women with disabilities are frequently affected by the gender and disability pay gaps,[[6]](#endnote-6) which lead to significant differences in remuneration for work of equal value. To tackle this issue, there must be specific guidance to States on how to identify work of equal value, considering that employees, including women with disabilities, should not only have equal remuneration when they perform the same or similar jobs but also when their work is completely different but of equal value, when assessed by objective criteria.[[7]](#endnote-7) Nonetheless, the Draft General Comment does not include an explanation of what would the objective criteria be. In an Observation adopted in 2018 regarding Sri Lanka, the International Labour Organization (ILO) states that "measures taken to ensure that the rates of wages fixed by the wages boards are based on objective criteria free from gender bias (such as qualifications, effort, responsibilities, and conditions of work), so that work predominantly done by women, as well as skills considered to be "female" (such as, for example, manual dexterity and those required in the caring professions) are not undervalued or even overlooked, compared to work predominantly done by men or skills traditionally considered to be "male" skills (such as heavy lifting)."[[8]](#endnote-8) In this regard, WEI recommends that the CRPD Committee details the objective criteria utilized to identify work of equal value.

*Current Paragraph*

Workers with disabilities have the right to receive equal remuneration when they perform the same or similar jobs as workers without disabilities. Further, their remuneration should also be equal even when their work is completely different but nonetheless of equal value. The value of work is assessed by objective criteria. States Parties should ensure that segregated workplaces in the process of transitioning are not exempt from paying the minimum wage and ensure they are not paying below the minimum wage.

*Suggested Amended Paragraph*

Workers with disabilities have the right to receive equal remuneration when they perform the same or similar jobs as workers without disabilities. Further, their remuneration should also be equal even when their work is completely different but nonetheless of equal value. The value of work is assessed by objective criteria *such as qualifications, effort, responsibilities, and conditions of work*, *and is free from gender bias.* States Parties should ensure that segregated workplaces in the process of transitioning are not exempt from paying the minimum wage and ensure they are not paying below the minimum wage.

1. **Section IV: States Parties Obligations**

The Draft General Comment brings a gender perspective to the right to work and employment. The States Parties' obligations, however, merely mention women and gender non-conforming persons with disabilities. As currently written, the intersectional discrimination women with disabilities face is not sufficiently addressed in the obligations, and it is important to detail the relevant mechanisms available to combat this discrimination. Therefore, we suggest amending or substituting the following paragraphs

**Paragraph 63**

*Current Paragraph*

The obligation to protect requires States Parties to take all appropriate measures to eliminate discrimination on the basis of disability perpetrated by private non-State actors, for example, private business enterprises, trade unions, and all members of society from interfering with article 27 guarantees. The Committee has included, in its jurisprudence, reference to measures to address multiple and intersectional discrimination. The measures include adopting legislation, policies and programmes that explicitly recognize multiple discrimination to ensure complaints made on this basis of discrimination are considered in determining both liability and remedies, establishing a framework for data collection relevant to combating the intersectional discrimination faced by women and girls with disabilities, permitting complaints on more than one ground, establishing higher levels of compensation for victims, and imposing higher penalties for perpetrators, strengthening anti-discrimination laws to address intersectional discrimination, examining the appropriateness of current structures used to deal with intersectional discrimination and adopting effective and specific measures to prevent intersectional forms of discrimination against women and girls and developing comprehensive and transparent participation of organizations representing persons with disabilities, including those experiencing intersectional discrimination.

*Suggested Amended Paragraph*

The obligation to protect requires States parties to take all appropriate measures to eliminate discrimination on the basis of disability perpetrated by private non-State actors, for example, private business enterprises, trade unions and all members of society from interfering with article 27 guarantees. The Committee has included, in its jurisprudence, reference to measures to address multiple and intersectional discrimination. The measures include adopting legislation, policies and programmes that explicitly recognize multiple discrimination to ensure complaints made on this basis of discrimination are considered in determining both liability and remedies, establishing a framework for data collection relevant to combating the intersectional discrimination faced by women and girls with disabilities *such as by collecting data related to employment disaggregated by sex, gender, age, and disability*, permitting complaints on more than one ground, establishing higher levels of compensation for victims, and imposing higher penalties for perpetrators, *imposing measures to tackle the disability and gender pay gaps*, strengthening anti-discrimination laws to address intersectional discrimination, examining the appropriateness of current structures used to deal with intersectional discrimination and adopting effective and specific measures to prevent intersectional forms of discrimination against women and girls and developing comprehensive and transparent participation of organizations representing persons with disabilities, including those experiencing intersectional discrimination. *The obligation to protect further requires States Parties to monitor employer policies on the prevention and response to harassment while requiring that employers provide training to their staff and raise awareness on how to identify and report harassment and discrimination, as well as collect data on the matter.*

**Paragraph 64**

Unlike the other paragraphs included in this section, Paragraph 64 does not refer to a general obligation of States parties. On the contrary, it describes the situation of women with disabilities regarding the informal economy and unpaid work. Therefore, WEI suggests that this paragraph be moved to the section on either Normative Content (after para. 33) or Relationship with other specific articles of the Convention (as part of para. 80). We further suggest including a new paragraph in this section to address obligations related the intersection of gender and disability.

*Current Paragraph*

Women with disabilities are at great risk of exploitation in the informal economy and in unpaid work. Women generally are often overrepresented in the informal economy, unpaid home workers and family businesses, which in turn exacerbates inequalities in areas such as remuneration, health and safety, rest, leisure and paid leave. Women with disabilities are even more at risk. Young people with disabilities may be a greater risk of exploitation in the formal economy through inappropriate use of unpaid internships and training programmes.

*Suggested Amended Paragraph (move after para. 33 or integrate within para, 80)*

Women with disabilities are at great risk of exploitation in the informal economy and in unpaid work. Women generally are often overrepresented in the informal economy, unpaid home workers and family businesses, which in turn exacerbates inequalities in areas such as remuneration, health and safety, rest, leisure and paid leave, *including parental leave.* Women with disabilities are even more at risk *of facing such inequalities in the world of work*. Young people with disabilities may be a greater risk of exploitation in the formal economy through inappropriate use of unpaid internships and training programmes.

**Add new paragraph to substitute paragraph 64**

*The obligation to protect requires States Parties to tackle discrimination at the intersection of gender and disability related to employment and work. This includes taking all appropriate measures to eliminate exploitation of women and gender non-conforming persons with disabilities in the informal economy and unpaid work. These measures include ensuring parental leave rights for all; adopting affirmative actions to increase the number of women with disabilities in the formal work sector; guaranteeing access to education and training; and adopting laws and policies to allow for sufficient paid parental leave, affordable, accessible, appropriate, and quality childcare, and social protection that does not negatively affect pregnant persons or those who must take leave to meet caregiving obligations. States Parties must also monitor employer policies related to pregnancy and parental leave, to avoid gender bias and ensure opportunities for pregnant persons at the workplace on an equal basis as others. Additionally, States Parties must develop laws and policies to ensure that employers prevent and respond to gender-based violence efficiently and promote a paradigm shift related to cultural and societal norms that contribute to gender-based violence.*

1. **Section V: Relationship with other specific articles of the Convention**

**Paragraph 80**

As currently written, this paragraph – focused on the relationship between Article 6 and Article 27 – is in a different format than surrounding paragraphs addressing the relationship between Article 27 and other articles of the CRPD. To ensure alignment of this paragraph with other similar paragraphs, we suggest the following revision.

*Current Paragraph*

Addressing the multiple discrimination that women with disabilities (article 6) face in work includes substantial efforts to address structures and attitudes that affect women with disabilities in work and through the employment cycle. Women with disabilities face unique barriers to equal participation in the workplace that States parties must address. These includes sexual harassment, unequal pay for work of equal value and the lack of access to seek redress because of discriminatory attitudes dismissing their claims, as well as physical, information and communication barriers.

*Suggested Amended Paragraph*

*Article 6 on women with disabilities requires States Parties to address the multiple and intersectional discrimination that women with disabilities face in work, including by undertaking* substantial efforts to address structures and attitudes that affect women with disabilities in work and through the employment cycle. Women with disabilities face unique barriers to equal participation in the workplace that States parties must address. These includes sexual harassment, unequal pay for work of equal value and the lack of access to seek redress because of discriminatory attitudes dismissing their claims, as well as physical, information and communication barriers.

**Paragraph 85**

WEI recommends bringing a gender perspective to the paragraph dedicated to the relationship between Articles 27 and 16, to highlight the importance of employment and economic independence to escape violence and abandon toxic relationships, which disproportionately affects women, including women with disabilities.[[9]](#endnote-9)

*Current Paragraph*

Article 16 on freedom from exploitation, violence and abuse – requires State parties to adopt due diligence frameworks to combat exploitation of persons with disabilities through begging and protect persons with disabilities from exploitation, violence and abuse. Incorporating a disability perspective into its legislation, strategies and programmes in this area includes incorporating references in legislation, accessible services and in-service training of police, prosecutors, judges, and inspectors and ensuring sufficient resources for their implementation and monitoring.

*Suggested Amended Paragraph*

Article 16 on freedom from exploitation, violence and abuse – requires State parties to adopt due diligence frameworks to combat exploitation of persons with disabilities through begging and protect persons with disabilities from exploitation, violence and abuse. Incorporating a disability perspective into its legislation, strategies and programmes in this area includes incorporating references in legislation, accessible services and in-service training of police, prosecutors, judges, and inspectors and ensuring sufficient resources for their implementation and monitoring. *In addition, it requires States parties to recognize the importance of economic independence in escaping violence, including gender-based violence, and the importance of access to decent work and a living wage, provided without discrimination, towards ensuring that economic independence.*

**Paragraph 95**

WEI recommends disaggregating data related to work and employment not only by disability but also sex, gender, and age, to conduct intersectional analysis to show how multiple forms of discrimination and inequality may shape access to employment.

*Current Paragraph*

Article 31 on statistics and data collection—data, statistics, research, and reporting in the world of work (formal and informal economy) should be disaggregated on the basis of disability, multi and intersectional discrimination, and include information on barriers related to self-employment and entrepreneurship. State parties need to understand and assess the situation of persons with disabilities in and out of work, with particular attention to the relevance and efficacy of State measures to promote employment in the formal and informal economy. The data collection framework should take into account the conceptual and methodological framework set out in Human Rights Indicators: A Guide to Measurement and Implementation.

*Suggested Amended Paragraph*

Article 31 on statistics and data collection—data, statistics, research, and reporting in the world of work (formal and informal economy) should be disaggregated on the basis of *sex, gender, age, and disability*, multi and intersectional discrimination and include information on barriers related to self-employment and entrepreneurship. State parties need to understand and assess the situation of persons with disabilities in and out of work, with particular attention to the relevance and efficacy of State measures to promote employment in the formal and informal economy. The data collection framework should take into account the conceptual and methodological framework set out in Human Rights Indicators: A Guide to Measurement and Implementation.

Thank you for your consideration of this submission. If you have any questions or would like further clarification on any point outlined above, please do not hesitate to contact Alana Carvalho, [a.carvalho@womenenabled.org](mailto:a.carvalho@womenenabled.org), and Amanda McRae, [a.mcrae@womenenabled.org](mailto:a.mcrae@womenenabled.org).

1. European Parliament, *Study on Discrimination and Access to Employment for Female Workers with Disabilities* 14 (2017), <http://www.europarl.europa.eu/RegData/etudes/STUD/2017/602067/IPOL_STU(2017)602067_EN.pdf>. [↑](#endnote-ref-1)
2. Lena Morgon Banks, Calum Davey, Tom Shakespeare, et al, *Disability-inclusive responses to COVID-19: Lessons learnt from research on social protection in low- and middle-income countries*, 137 World Development 1, 1-2 (2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7455235/>. [↑](#endnote-ref-2)
3. Arthur O’Rilley, *The right to decent work of persons with disabilities* – ILO working paper no. 14, 11 (2003), <https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_bk_pb_93_en.pdf>. [↑](#endnote-ref-3)
4. *Id.* at 40. [↑](#endnote-ref-4)
5. *See, e.g.*,Colleen Sheppard, *Multiple Discrimination in the World of Work*, 25 (2011), <http://ilo.ch/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_170015.pdf>. [↑](#endnote-ref-5)
6. TUC, *Disability employment and pay gaps 2019 - TUC proposals for legislative and workplace change* 12 (2019), <https://www.tuc.org.uk/sites/default/files/2019-11/Disability%20doc%20%28003%29%20%28003%29_2.pdf>. [↑](#endnote-ref-6)
7. Committee on Economic, Social and Cultural Rights (ESCR Committee), *Right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights)*, ¶ 12, U.N. Doc. E/C.12/GC/23 (2016). [↑](#endnote-ref-7)
8. International Labour Organization, *Observation of the Committee of Experts on the Application of Conventions and Recommendations*, Article 2 (2018), <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3959246>. [↑](#endnote-ref-8)
9. United Nations Office for the Coordination of Humanitarian Affairs, *Gender-based violence: Financial independence and economic empowerment key to survivors' recovery* (2019), <https://www.unocha.org/story/gender-based-violence-financial-independence-and-economic-empowerment-key-survivors-recovery>. [↑](#endnote-ref-9)