



Organization: Transforming Communities for Inclusion (TCI Global)

Contribution to the zero draft guidelines on intersectional discrimination against women

TCI is a global, membership-based organization of persons with psychosocial disabilities (OPD) with 28 members from 21 countries. TCI forecasts a future in which all human rights and full freedoms of persons with psychosocial disabilities are realized and we are guided by the extraordinary vision of the CRPD.

TCI welcomes the Committee's initiative to develop Guidelines on intersectional discrimination against women, adolescents and girls with disabilities. We appreciate the draft's strong recognition that women and girls with disabilities are not a homogeneous group, and that intersectional discrimination is structural, systemic and shaped by unequal power relations across law, policy, institutions, families, communities and public life. We also welcome the attention given to several areas which are also crucial for persons with psychosocial disabilities including legal capacity, institutionalization, sexual and reproductive rights, access to justice, humanitarian contexts and climate change.

At the same time, we would strongly recommend that the Guidelines could be further strengthened by more explicitly reflecting the experiences of women, adolescents and girls with psychosocial disabilities. In particular, the draft should more consistently name the systems of oppression such as sanism, medical model of disability, psychiatric violence, informal and family-based substitute decision-making, and the use of psychiatric histories or diagnostic labels to undermine autonomy and legal capacity of persons with psychosocial disabilities. These are central ways in which intersectional discrimination is deeply experienced by our constituency.

TCI recognizes that the primary scope of the Guidelines is intersectional discrimination against women, adolescents and girls with disabilities. However, since the draft already refers to gender-diverse persons with disabilities in several places, we suggest that the Guidelines clarify how these references are understood and ensure that they are applied consistently where relevant. This would help avoid treating gender-diverse community as an add-on.

TCI also appreciates that the Committee is developing both Guidelines on intersectional discrimination and Guidelines on disability-based violence. Given the close relationship between these two processes, we suggest that the two documents should cross-reference and reinforce each other, while maintaining conceptual clarity between discrimination and violence. This is important to avoid confusion in implementation, advocacy and accountability. While intersectional discrimination may create the conditions for violence, enable impunity, or itself amount to violence in certain circumstances, not every discriminatory act will necessarily meet the threshold of violence. The Guidelines should therefore clarify the relationship between intersectional discrimination, disability-based violence, abuse and ill-treatment, and ensure that both documents provide coherent and mutually reinforcing guidance to States parties, OPDs, monitoring bodies and justice actors. We have also provided the same comment on the other set of guidelines.

The recommendations to States parties are important, but some could be made more concrete and implementable. TCI suggests strengthening them with clearer obligations-based language so that there is clear guidance for State Parties to implement. In our comments, we have suggested some repetition across themes such as legal capacity, institutionalization and coercion. Please note that this is intentional because these issues cut across several rights and are important to highlight in all the relevant places.

Specific feedback on the draft Guidelines

Comment / proposal to paragraph 22: For persons with psychosocial disabilities, intersectional discrimination is not just sustained and promoted through formal legal frameworks and policies, but through familial, informal decision-making systems.

Please add the following sentence towards the end ‘Such power relations may also operate through informal and customary decision-making systems that restrict the autonomy, legal capacity and participation of women, adolescents and girls with disabilities outside formal legal frameworks.’

Comment /proposal to paragraph 28:

Please make the following addition in the paragraph: Women and girls with disabilities experience a continuum of gender-based and disability-based violence, across private and

public spheres, particularly in institutional, closed and segregated settings. For women, adolescents and girls with psychosocial disabilities, this includes involuntary hospitalization, forced treatment, forced medication, chemical restraint, seclusion, physical and mechanical restraint, community treatment orders and other coercive psychiatric interventions, which constitute forms of violence, abuse and ill-treatment and have gendered impacts. Intersecting stereotypes concerning women's sexuality, submissiveness and dependency, combined with ableist assumptions..

Please add after the last sentence of paragraph 28: 'Coercive psychiatric interventions may also reproduce dynamics of control, bodily violation and powerlessness already experienced by survivors of violence, thereby causing retraumatization and compounding intersectional harm, particularly for women, adolescents and girls with psychosocial disabilities.'

Comment /proposal to paragraph 31: Online/digital violence can also affect women and girls with psychosocial disabilities in differing ways, and this paragraph can be strengthened by highlighting those as well. For persons with psychosocial disabilities, health records (often psychiatric histories) are misused, weaponized to undermine or control our autonomy, credibility and deny decision making.

Towards the end, please add: 'For women, adolescents and girls with psychosocial disabilities, online/digital harm may include the exposure, misuse or weaponization of psychiatric diagnoses, mental health histories, health records and 'risk' narratives. Such information may be used to control autonomy, undermine credibility, deny legal capacity, and produce structural discrediting across healthcare, education, employment, policing, family or property disputes, housing, immigration, courts and digital spaces.'

Comment /proposal to paragraph 33: The link between how guardianship and substituted decision-making increases digital risk is not clearly explained. We suggest making the following edits.

Revise the first two sentences in this way. 'The intersection of gender stereotypes and ableist assumptions increases targeting, particularly for those relying on digital tools for communication, support, advocacy or access to services. These risks are heightened for women and girls subjected to guardianship or other substitute decision-making regimes, where guardians, family members, caregivers or service providers may control access to devices, passwords, online communication, digital records, complaints mechanisms and remedies.'

Comment /proposal to paragraph 34: Denial of legal capacity through discriminatory laws and pathologizing distress of women and girls with psychosocial disabilities to question the

capacity and credibility is a strong experience of this constituency. Hence, the following edits are made to highlight and focus on these aspects of discrimination.

Please add the following (highlighted text): Intersectional discrimination significantly restricts access to justice for women and girls with disabilities. Barriers include denial of legal capacity, owing to discriminatory legislation and the continued use of mental capacity frameworks, particularly against persons with psychosocial and persons with intellectual disabilities,..'

Please add the following as the last sentence: 'For women and girls with psychosocial disabilities, distress, trauma or dissent is often framed as pathology, risk or incapacity. Psychiatric histories and diagnostic labels may then be used to question their credibility, consent, testimony and legal standing.'

Comment /proposal to paragraph 35: Please make the following edits: The denial of legal capacity is embedded in the ~~often inherent to~~ processes of institutionalization,.

Comment /proposal to paragraph 36: Please delete 'victim' and replace by 'survivor'. Please delete 'mental disabilities' and replace by 'psychosocial disabilities'

Comment /proposal to paragraph 38: Please write 'as women with psychosocial and women with intellectual disabilities'.

Paragraph 38 should also mention that for women and girls with psychosocial disabilities, mental health legislations that uphold provisions for substituted decision making and coercive practices, cancel out any protection offered by equality laws or anti-discrimination laws. Additionally, it is pertinent to also highlight how informal guardianship is practiced against women, adolescents and girls with psychosocial disabilities and how it perpetuates substituted decision making.

Add this sentence towards the end. 'In many contexts, mental health legislations further undermine access to justice by authorizing disability-based detention, forced treatment and substitute decision making, even where equality or anti-discrimination laws formally prohibit disability-based discrimination. This contradiction codifies coercion into laws and frames it as care, protection, treatment necessity, risk management or best interests.'

Comment /proposal to paragraph 38: Please also add this text at the end: 'Informal and family-based forms of substitute decision-making should also be explicitly recognized. In many contexts, women, adolescents and girls with disabilities, particularly those with psychosocial disabilities, are not formally placed under guardianship but are nevertheless treated as being under the authority or ownership of fathers, brothers, husbands, elders, caregivers or community authorities, resulting in denial of decision-making power in relation to all aspects of this lives.'

Comment /proposal to paragraph 39:

- Please add 'and the denial of legal capacity' after disability-based stereotypes:
- Please add 'while also being perceived primarily as recipients of care rather than rights holders' after health care and family life;
- Please add 'psychiatric profiling may result in their physical health concerns being dismissed, misattributed to psychosocial disability, or redirected to psychiatric care even when they seek general or reproductive healthcare' after ..healthcare in remote and rural areas.

Comment /proposal to paragraph 40: Please add 'as well as by the frequent disbelief or discrediting of their complaints and testimonies' after guardianship and substitute decision-making regimes. Please add 'medical model of disability' after intersecting patriarchal, ableist.

Comment /proposal to paragraph 41: Please add 'trauma informed' after lack disability-inclusive. Please add 'For women and girls with psychosocial disabilities, psychiatric histories are used to undermine their consent, question reproductive choices, parenting capacity and credibility in healthcare settings' after early marriage and teenage pregnancy.

Comment /proposal to paragraph 43:

Please add the following after institutional, closed and segregated settings '....including psychiatric hospitals, residential institutions, social care homes operating as institutions, involuntary hospitalization, forced treatment in hospitals or community settings, community treatment orders, coercive community-based mental health regimes, and institutional forms of service provision in a person's own home.'

Please also add after the first sentence: 'Institutionalization and deprivation of liberty may also occur informally within homes and family settings, particularly where women, adolescents and girls with psychosocial disabilities are confined, isolated, denied mobility, prevented from accessing services or social contact, or subjected to complete family control under the language of protection, shame, honour, care or family burden.'

Please add 'and through the language of risk, protection, treatment, or family burden' after guardianship and substitute decision-making regimes. Also, please clarify the point one economic exploitation, either it needs a bridge sentence explaining the connection or it could be covered elsewhere in the guidelines.

Comment/proposal to paragraph 44: Please add 'The Committee has also recognized institutionalization as a form of violence and has clarified, including through its Guidelines on Deinstitutionalization, the obligations of States to end institutionalization and ensure access to community-based support.' after decision-making regimes enable these abuses.

Comment/proposal to paragraph 45: Please define both adultism and childism; Please add the following sentence towards the end. 'For girls and adolescents with psychosocial disabilities, distress, trauma or non-conforming behaviour is often treated as pathology or misconduct, leading to punitive discipline, segregation, psychiatric referral, institutionalization or denial of reasonable accommodation.'

Comment/proposal to paragraph 46: Please add 'provide reasonable accommodation (including psychosocial supports, including flexible attendance, rest breaks, quiet spaces, examination flexibility, protection from bullying, and participation in decisions about support)' after gender-responsive school environments.

Comment/proposal to paragraph 48: Please add 'including situations where disability benefits, social protection payments, stipends, wages, inheritance, land, property or compensation are collected, controlled or appropriated by family members, guardians or caregivers without the free and informed consent of the woman, adolescent or girl with disability concerned' after financial exploitation.

Comment/proposal to paragraph 49: Please remove 'mothers with disabilities' and replace it with 'Women with disabilities, including mothers with disabilities and mothers who perform caregiving for other family members, with or without disability'. Mothers of persons with disabilities reinforces that we are only care receivers and a 'special group' in that regard.

Comment/proposal to paragraph 50: Please add this as an additional sentence 'Institutionalization, guardianship and substituted decision-making further deepen economic exclusion by depriving women with disabilities, particularly women with psychosocial disabilities, of control over income, benefits, property, housing, employment, contracts and financial decision-making'.

Comment/proposal to paragraph 59: Please add another point on 'Climate responses, adaptation measures and loss and damage mechanisms often fail to address the rights of women, adolescents and girls with disabilities, including those in institutional, residential, humanitarian and other closed settings. In the absence of accessible, rights-based and community-based support, climate-related displacement, poverty and support network disruption can increase the risk of institutionalization, family separation, coercive interventions and denial of independent living.'

Comment/proposal to paragraph 61:

- Point (a); Please add 'including structured and periodic reviews of laws, policies, budgets and services, participatory assessments, accessible consultations' after age-appropriate frameworks.
- Point (b): Please add 'colonialism, sanism' after racism.

- Point (c): Please add 'and leadership' after meaningful participation
- Point (d). Please remove predictable and instead add 'flexible, core, sustained multi-year funding'.

Comment/proposal to paragraph 62:

- Point (a): Please remove 'Implement early identification and removal', please add 'Review, identify and repeal/abolish'; please add 'including mental health and related legislations' after discriminatory laws.
- Point (b): Remove the current text and replace it with 'Adopt time-bound deinstitutionalization plans to close institutions, end new admissions and redirect funding from institutional settings towards rights-based, voluntary, peer-led, non-coercive and inclusive community-based support systems and services, including housing, personal assistance, supported decision-making and crisis support, to enable persons with disabilities to live independently and be included in the community.'
- Point (d): Please add 'in their design, delivery and monitoring' after women with disabilities are actively involved.
- Point (e): Please edit the text as 'Establish accessible, gender- and disability-responsive systems to identify and respond early to risks of violence, exploitation and abuse against women, adolescents and girls with disabilities, ensuring survivor-centered, voluntary, confidential and non-coercive protection mechanisms that respect legal capacity, will and preferences.'
- Point (f): Please add 'with appropriate privacy and data protection safeguards' after data collection systems.

Comment/proposal to paragraph 64:

- Point (e): Please add 'as well as laws or practices that deny legal capacity on the basis of disability.' after gender or disability.
- Point (f): Please add 'end new admissions' after accelerate deinstitutionalization.
- Point (g): Please add 'protection from retaliation' after survivor-centered support

Comment/proposal to paragraph 66: Please add 'budgets and programmes' after legislation and policies; Please add 'with adequate resources and accessibility measures' after temporary specific measures; Please add ', including through their representative organizations in design, implementation, monitoring and evaluation of laws, policies and programmes and in' after women, adolescents and girls with disabilities.

Comment/proposal to C (Harmful practices): Please elaborate or give examples of harmful practices so it is clear what is being discussed in that section.

Comment/proposal to paragraph 68: Please add ‘autonomy, credibility’ after capacity; Please add ‘foster respect for their rights and inherent dignity along with promoting’ after adolescents and girls with disabilities; Please add as the last sentence ‘Such strategies should include audits of laws, policies to check for stereotypes promotion, media and public campaigns; disability- and gender-responsive education curricula; binding media and advertising guidelines.’

Comment/proposal to paragraph 69: Please add ‘institutionalization’ after guardianship; Please add ‘harmful cultural practices’ after patriarchal norms.

Comment/proposal for points B,C,D: As they are all covering awareness raising, they could either be combined or have ‘awareness raising’ as a stand-alone point covering both addressing stereotypes and harmful practices. In its current formulation, it sounds repetitive and may create confusion.

Comment/proposal to paragraph 71:

- Point (a): Please add ‘climate change contexts’ after humanitarian response
- Point (b): Please add ‘confidential, survivor centered’ after settings by establishing accessible; Please add ‘voluntary, non-coercive’ after gender- and disability-responsive; Please add ‘personal assistance, peer support, supported decision-making and community based’ after the availability of assistive devices; Please remove recovery and resilience and replace it with ‘wellbeing, healing and rebuilding efforts’ after networks to promote.
- Point (c): Please expand on or just mention all pillars of National Action Plans on Women, Peace and Security.
- Point (d): Please add ‘accountability, reparations’ after core of truth-seeking.

Please add one additional point under this section: ‘Ensure that disaster risk reduction, early warning, evacuation, shelter, relief distribution and climate adaptation systems are accessible, gender- and disability-responsive, and designed with women, adolescents and girls with disabilities and their representative organizations, including by ensuring accessible information, communication support, reasonable accommodation, personal assistance and protection from separation, institutionalization and coercion during emergencies.’

Comment/proposal to paragraph 72: Please add after first sentence: ‘States parties should also ensure that informal or community justice systems, community dispute resolution forums, family councils, religious authorities and other informal decision-making structures are not used to deny the legal capacity of women, adolescents and girls with disabilities.’

Please add 'communication support, protection from retaliation' after reasonable accommodation; Please add 'including guarantees of non-repetition' after ableist assumptions.

Please consider adding standalone sections on Articles 15, 16 and 19, covering freedom from torture and ill-treatment, freedom from exploitation, violence and abuse, and the right to live independently and be included in the community. Given the centrality of violence, abuse, institutionalization and coercion in the lives of women, adolescents and girls with disabilities, particularly those with psychosocial disabilities, these rights require fuller treatment in the guidelines, including in relation to involuntary hospitalization, forced treatment, restraint, seclusion, community-based coercion, disability-based deprivation of liberty, deinstitutionalization and access to rights-based community support.

Comment/proposal to paragraph 74: Please add 'exclusion or denial of reasonable accommodation' after at all levels without segregation; Please add 'ensure safe and non-coercive learning environments free from bullying, violence, restraint and seclusion' after gender-responsive individualized support.

Comment/proposal to paragraph 75:

- Point (a): Please replace sterilization with 'voluntary sterilization based on free and informed consent'
- Point (b): Please add 'including for women, adolescents and girls in institutional, residential, detention, humanitarian and other closed settings' after sexual and reproductive health services'; Please add 'hypersexual' after asexual.
- Point (c): Please remove where the person is deprived of legal capacity and replace it with 'domestic law claims to restrict or deny legal capacity'. The wording should avoid suggesting that denial of legal capacity is a valid status. Even where national law says that a person's legal capacity is restricted, this should not allow someone else to replace the person's own free and informed consent.
- Point (d): Please add 'and with confidentiality, reasonable accommodation and accessible information guaranteed' after international human rights standards.

Please add 2 additional points to this section:

'Ensuring accessible, confidential and effective complaint and redress mechanisms for violations of sexual and reproductive health and rights, including forced or coerced interventions, denial of services and breaches of confidentiality within healthcare settings.'

'Ensuring mandatory training and accountability for health-care providers on disability rights, gender equality, legal capacity, free and informed consent, dispelling stereotypes, respectful, trauma informed communication and non-discrimination.'

Comment/proposal to paragraph 76: Please add 'in recruitment, retention, promotion and conditions of work' after sanction discrimination; Please add 'skills development, entrepreneurship' after and ensure access to; Please add 'with protection from retaliation' after remedy mechanisms.

Comment/proposal on point J: Please change the title to 'Adequate standard of living and social protection' in line with Article 28 of the Convention.

Comment/proposal on 77: Please remove 'mothers of persons with disabilities' and replace with 'mothers with disabilities'; Please add 'disability-related support and services' after clothing and housing; Please add 'and ensure that poverty, lack of support or housing insecurity are never used to justify institutionalization, family separation or denial of independent living' after economic violence.

Comment/proposal on 81: Please remove 'through the issuance of visa for such purposes' and replace with 'addressing visa restrictions, inaccessible travel, denial of reasonable accommodation and inadequate funding'.