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Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Thematic study on the issue of violence against women and girls and disability

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present study, submitted pursuant to paragraph 11 of Human Rights Council resolution 17/11, examines the causes and manifestations of violence against women and girls with disabilities. It analyses national legislation, policies and programmes for the protection and prevention of violence against women and girls with disabilities. It highlights the remaining challenges in addressing the root causes of violence against women and girls with disabilities and incorporating women and girls with disabilities into gender-based violence programmes. The study concludes with recommendations on legislative, administrative, policy and programmatic measures to address violence against women and girls with disabilities, with emphasis on the need for a holistic approach aimed at eliminating discrimination against women and girls with disabilities, promoting their autonomy and addressing specific risk factors that expose them to violence.

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I. Introduction

1. In its resolution 17/11, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare a thematic analytical study on the issue of violence against women and girls and disability in consultation with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on disability of the Commission for Social Development of the Economic and Social Council, other relevant special procedure mandate holders, States, United Nations entities, regional organizations, civil society organizations and other relevant stakeholders, and to report to the Council at its twentieth session. The present report is submitted pursuant to that request.

2. In the preparation of the study, consultations were held with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on disability of the Commission for Social Development of the Economic and Social Council the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of Persons with Disabilities. In addition, OHCHR transmitted a questionnaire to Member States and other relevant stakeholders requesting information for the study. At 7 March 2012, 78 replies had been received from 45 Member States, nine United Nations agencies and programmes, eight national human rights institutions and 16 non-governmental and other organizations.¹

3. For the purpose of the present report, persons with disabilities include those who have long-term physical, intellectual or sensory impairments, which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others.²

4. Violence against women is defined by the Declaration on the Elimination of Violence against Women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.³ In the present study, OHCHR adopts a comprehensive definition of what constitutes violence against women and girls with disabilities in accordance with international human rights standards and as articulated by disability organizations; it thus encompasses “violence accomplished by physical force, legal compulsion, economic coercion, intimidation, psychological manipulation, deception, and misinformation, and in which absence of free and informed consent is a key analytical component.”⁴ While OHCHR recognizes that all persons with disabilities, including men, may experience some of these forms of violence, it only analyses the specific situation of women and girls.

5. In analysing violence against women with disabilities, OHCHR adopted the approach developed by the mandate of the Special Rapporteur on violence against women, its causes and consequences. Since the creation of the mandate, mandate holders have questioned approaches that treat violations in isolation from the overall subordination of women within a patriarchal system and viewed violence against women as an outcome of gender discrimination that shapes social, economic, cultural and political structures. The need to address the root causes of violence against women has also brought the mandate holders, over the years, to focus on the indivisibility of rights and to a shift from a

¹ All submissions are available on the OHCHR website at www2.ohchr.org/english/issues/women/.

² Convention on the Rights of Persons with Disabilities, art. 1(2).

³ General Assembly resolution 48/104, art. 1.

⁴ International Disability Alliance contribution dated 18 November 2011.

victimization-oriented approach to one of empowerment, including education, health and gender equality requirements within the scope of their recommendations, as part of the due diligence obligation of the State to prevent violence against women.⁵

II. International legal framework and women and girls with disabilities

6. International standards provide legal protection from violence for all persons without discrimination. The principle of equality and non-discrimination on the basis of, *inter alia*, sex or other status, is enshrined in identical provisions in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.⁶ Articles 7, 9 and 10 of the International Covenant on Civil and Political Rights provide for the right to physical and moral integrity and the right to liberty and security of the person. In its general comment No. 16 on the equal right of men and women to the enjoyment of all economic, social, and cultural rights, the Committee on Economic, Social and Cultural Rights recognized that gender-based violence is a form of discrimination that inhibits the ability to enjoy rights and freedoms, including economic, social and cultural rights, on a basis of equality, and called on States parties to take appropriate measures to eliminate violence against men and women and act with due diligence to prevent, investigate, mediate, punish and redress acts of violence against them by private actors.⁷

7. In recognition of the gender-specific nature of violence, international law has incorporated norms prohibiting violence against women in different contexts, within the family, and at the community and the State levels. The Convention on the Elimination of All Forms of Discrimination against Women provides for specific protection from discrimination for women and girls. In its general recommendation No. 19 on violence against women, the Committee on the Elimination of Discrimination against Women noted that, by ratifying the Convention, States had undertaken legal obligations to prevent and eliminate violence against women, and clarified that gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention.⁸

8. The Convention on the Rights of Persons with Disabilities recognizes that women and girls with disabilities are often at greater risk, both within and outside the home, of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, and expresses concern about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination”.⁹ In article 16, the Convention

⁵ “15 years of the United Nations Special Rapporteur on violence against women, its causes and consequences”, available from www.ohchr.org/Documents/Issues/Women/15YearReviewofVAWMandate.pdf.

⁶ In its article 2, the International Covenant on Civil and Political Rights guarantees to all individuals, within a State party’s territory and subject to its jurisdiction, that the rights enshrined in the Covenant will be respected and ensured without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status; article 3 guarantees the equal right of men and women to enjoy all the civil and political rights contained in the Covenant. Similar provisions are contained in articles 2 (2) and 3 of the International Covenant on Economic, Social and Cultural Rights.

⁷ E/C.12/2005/4, para. 27.

⁸ General recommendation No. 19, para. 7.

⁹ Preamble (d) and art. 6(1).

requires States to put in place legislation and policies and to ensure that instances of exploitation, violence and abuse against persons with disabilities, including women and girls, are identified, investigated and prosecuted. In article 28 (b), it calls on States to ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection and poverty reduction programmes.

9. Article 19 of the Convention on the Rights of the Child requires States parties to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse. The Committee on the Rights of the Child recognized that children with disabilities may be subject to particular forms of physical violence, such as forced sterilization (particularly girls); and violence in the guise of treatment (for example, electroconvulsive treatment and electric shocks used as “aversion treatment” to control children’s behaviour).¹⁰ Article 37 of the Convention requires States parties to ensure that no child is subjected to torture or other cruel, inhuman or degrading treatment or punishment. This provision is closely related to article 39 of the Convention, which states that a child victim of, inter alia, torture or any form of cruel or inhuman and degrading treatment or punishment is accorded the right to the promotion of his or her physical and psychological recovery and social reintegration.

10. In its article 23, the Convention on the Rights of the Child addresses the rights of children with disabilities, stating that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community. In its general comment No. 9 on the rights of children with disabilities, the Committee on the Rights of the Child noted that girls with disabilities were even more vulnerable to discrimination, and requested States parties to, when necessary, take extra measures to ensure that girls with disabilities were well protected, had access to all services and were fully included in society.¹¹

11. The above provisions must be read in conjunction with the principles enshrined in declarations referring to persons with disabilities and be construed to encompass a number of specific legal obligations for Member States. Such obligations include taking legislative, administrative and judicial or other measures to prohibit and prevent violence against women and girls with disabilities, to investigate and punish acts of violence, and to provide redress and remedies for victims. Specific elements of applicable international human rights law are referenced in the sections below.

III. Violence against women and girls with disabilities

12. The World Health Organization (WHO) estimates that, worldwide, more than a billion people live with some form of disability, the majority of which live in developing countries, and that this figure is increasing through population growth, medical advances and the ageing process.¹² It also notes that there are significant differences in the prevalence of disability between men and women in both developing and more developed countries; the male disability prevalence rate is 12 per cent, while the and female prevalence rate is 19.2 per cent.

13. Submissions from Member States for the present study showed that, although a number of countries had undertaken studies and research on violence against women and

¹⁰ General comment No. 13 (CRC/C/GC/13), paras. 21-22.

¹¹ CRC/C/GC/9, para. 10.

¹² World report on disability, WHO and the World Bank, 2011.

girls with disabilities, or had available disaggregated data on instances of violence against them,¹³ in the great majority of cases such information is not available. Where incidents are documented, the data available often do not make a distinction between type of disability, seriousness and type of incident.

14. There is a number of factors that expose both men and women with disabilities to a greater risk of violence. One factor is the prejudice associated with disability. In many societies, persons with disabilities are still regarded as recipients of charity or objects of others' decisions instead of holders of rights, which in turn favours the perception that they are incapable of adopting decisions autonomously. Communication barriers experienced by persons with sensory disabilities can lead to them being targeted in the belief that they will not be able to complain.

15. Another important factor is isolation and exclusion from society in residential institutions. Persons with intellectual and psychosocial disabilities, and in particular those living in institutionalized settings, are the most vulnerable to violence. In Europe alone, 1.2 million children and adults with disabilities live in long-stay residential institutions.¹⁴

16. Exposure of persons with disabilities to a greater risk of violence is directly linked to factors that increase their dependence on others or disempower and disenfranchise them. Many of these factors also lead to impunity and the invisibility of the issue, and results in the violence lasting for extended periods; they include absence of mobility aids or assistive devices and the training needed to use them; laws that allow for deprivation of legal capacity, resulting in the appointment of a legal guardian to make and express legally binding decisions for the person with disabilities; lack of access to information and counselling services; fear of reporting the abuse for concern of losing needed care; and fear of institutionalization if the abusive home environment is reported. The inability of professionals, relatives and friends to recognize circumstances resulting from violence – as they are often considered to be inherent to the disability – is another factor that contributes to making the violence invisible.

17. Empirical evidence confirms that disability is experienced differently by women and men, and that this difference is largely shaped and determined by gender.¹⁵ In its general recommendation No. 18, the Committee on the Elimination of Discrimination against Women stressed that women with disabilities may be subject to double discrimination on account of gender and disability, and are considered a vulnerable group. Double discrimination pervades all aspect of their lives. When compared with men with disabilities, women with disabilities are more likely to experience poverty and isolation, and tend to have lower salaries and be less represented in the work force. As a result, they are also more likely to be victims of violence and/or less able to escape the cycle of violence. Even in countries with a relatively high standard of living, women with disabilities are more likely to be poor or to have a lower standard of living than men with disabilities.¹⁶

¹³ Such as those from Bahrain, Bolivia (Plurinational State of), Canada, Italy, Panama and Serbia.

¹⁴ OHCHR Europe Regional Office, "Forgotten Europeans, forgotten rights: the human rights of persons placed in institutions", 2010.

¹⁵ "Women and Disability Don't Mix! Double Discrimination and Disabled Women's Rights", Lina Abu Habib, *Gender and Development*, vol. 3, No. 2, June 1995, pp. 49-53.

¹⁶ "Woman, training, work and gender! A partnership of equals", International Labour Office, Geneva, 2000, Inter-American Research and Documentation Centre on Vocational Training (Cinterfor/ILO); Eurostat: Employment of people with disabilities (ad hoc module of the Labour Force Survey 2002), <http://ec.europa.eu/eurostat> (28 October 2009).

18. Some groups of women with disabilities, including indigenous women, migrant women, and women belonging to ethnic, linguistic, religious and other minorities face even greater risks of violence due to complex intersectional forms of discrimination.

19. The lack of sexual education of women and girls with disabilities, wrongly perceived as non-sexual beings, contributes to sexual violence committed against them, as they are unable to distinguish inappropriate or abusive behaviours.¹⁷ The intersection of gender-based and disability-based discrimination also contributes to stereotypical views of women and girls with disabilities as lacking intelligence and being compliant and timid. It also leads to a lack of credibility when abuse is reported, and therefore minimal risk of perpetrators being discovered and punished.

20. Women have higher rates of morbidity late in life when compared with men of the same age. As they tend to live longer, they are statistically more likely to acquire an age-related disability. Research has also found that they are twice as likely as men to live in residential settings and more likely to experience restrictions in daily functioning.¹⁸ Studies in Sweden indicate that disability is a factor that increases the risk of assault for elderly women, but not for elderly men.¹⁹ Older women with disabilities may furthermore be particularly dependent on their abuser for daily care. All these factors heighten their vulnerability to violence.²⁰ In her thematic report submitted to the Human Rights Council at its seventeenth session, the Special Rapporteur on violence against women, its causes and consequences made reference to general recommendation No. 27 of the Committee on the Elimination of Discrimination against Women, in which it recognized that age and sex made older women vulnerable to violence, and that age, sex and disability made older women with disabilities particularly vulnerable.²¹

21. Women and girls with disabilities experience violence in many ways: in their homes or in institutions, at the hands of members of their immediate family, caregivers or strangers, in the community, in schools and in other public and private institutions. According to a report by the European Parliament, almost 80 per cent of women with disabilities are victims of violence, and they are four times more likely than other women to suffer sexual violence. According to the report, 80 per cent of those who living in institutions are exposed to violence from the people around them, whether health and service personnel or caregivers.²² Research has also found that women and girls with intellectual disabilities are at a particularly high risk of violence, including sexual violence.²³

22. Women and girls with disabilities are more exposed to the forms of violence experienced by women without disabilities. Owing to some of the above-mentioned factors, acts of violence against women and girls with disabilities also include other forms of physical and psychological violence and neglect, including the withholding of medication

¹⁷ Some countries have targeted programmes and initiatives to provide women and girls with disabilities with sexual education (see for example the submission of Luxembourg).

¹⁸ Jennifer Nixon, "Domestic violence and women with disabilities: locating the issue on the periphery of social movements", *Disability & Society*, vol. 24, No. 1, pp. 77-89.

¹⁹ English summary of Brå report No 2007:26 "Violence against people with disabilities", 2008.

²⁰ See "Older women and domestic violence, an overview", Canadian Network for the Prevention of Elder Abuse (www.cnpea.ca/).

²¹ A/HRC/17/26, para.15.

²² European Parliament, Report on the situation of minority women in the European Union (2003/2109(INI)), pp. 13.

²³ See, for example, Scottish Consortium for Learning Disability, "Learning Disabilities and Gender-Based Violence: Literature Review Summary", February 2011 (contribution by the Government of Canada).

and assistive devices (such as wheelchairs, braces and white canes); the removal of a ramp or mobility devices; refusal of caregivers to assist with daily living (such as bathing, dressing and eating); denial of food or water, or threat of any of these acts; verbal abuse and ridicule relating to the disability; removing or controlling communication aids; causing fear by intimidation; harming or threatening to harm, take or kill pets or destroy objects ; psychological manipulation; and controlling behaviours involving restricting access to family, friends or phone calls.²⁴ Women and girls with disabilities are also particularly vulnerable to forced sterilization and medical treatment, including the administration of drugs or electroshocks. Research has found evidence of forced sterilization of women with disabilities, especially intellectual disabilities, in several countries in Europe, as well as in Asia, Australia, Latin America and the Middle East.²⁵

23. In its contribution to the study, the United Nations Children’s Fund (UNICEF) indicated that children with disabilities are estimated to be 1.7 times more at risk of violence, including neglect, abandonment, abuse and sexual exploitation when compared with other children. Physical and emotional abuse appears to be the most prevalent abuse during childhood, while sexual violence increases during puberty.²⁶ Children with disabilities are also disproportionately vulnerable to non-registration at birth, which undermines their right to an identity, name and nationality and exposes them to exploitation and violence.²⁷ Older children with physical or intellectual disabilities may also be particularly vulnerable to violence and humiliation.²⁸ Research shows that children with disabilities are also more vulnerable to corporal punishment in all settings.²⁹

24. Information submitted by non-governmental organizations for the present study indicated that, in societies where there is prejudice and discrimination against persons with disabilities, some parents respond with violence because of the shame the child has brought upon the family. Importantly, the prejudice attached to disability is compounded by gender discrimination; a disabled girl infant or girl child is more likely to die through “mercy killings” than a boy child of the same age with a comparable disability.³⁰ In addition, gender-specific neglect may compound discrimination against girl children with disabilities, who are particularly vulnerable to violence and harmful practices, including

²⁴ Habib, “Women and Disability Don’t Mix!” (see footnote 17).

²⁵ See for example, *Joëlle Gauer and Others against France*, European Court of Human Rights Application No. 61521/08; “Sweden admits to racial purification”, *Independent*, 25 August 2007 (available from www.independent.co.uk/news/world/sweden-admits-to-racial-purification-1247261.html); “Sterilization: Peru’s darkest secret”, *Independent*, 8 December 2011 (available from www.independent.co.uk/news/world/americas/sterilisation-perus-darkest-secret-6273734.html); and Women With Disabilities Australia, “Sterilisation of women and girls with disabilities: an update on the issue in Australia”, March 2011 (available from www2.ohchr.org/english/bodies/cedaw/docs/cedaw_crc_contributions/WomenwithDisabilitiesAustralia.pdf).

²⁶ See “Violence against children in Africa: a compilation of the main findings of the various research projects conducted by the African Child Policy Forum (ACPF) since 2006”, March 2011 (available from http://www.africanchildforum.org/site/images/stories/ACPF_violence_against_children.pdf); see also UNICEF contribution.

²⁷ See UNICEF contribution.

²⁸ See Human Rights Watch, “Futures stolen: barriers to education for children with disabilities in Nepal”, 2011.

²⁹ Human Rights Watch, (2009), “Impairing education: corporal punishment of children with disabilities in US schools” (available from www.hrw.org/reports/2009/08/11/impairing-education-0).

³⁰ See “Violence against Disabled Children”, summary report, Thematic Group on Violence against Disabled Children, UNICEF, New York, 28 July 2005 (available from http://www.unicef.org/videoaudio/PDFs/UNICEF_Violence_Against_Disabled_Children_Report_Distributed_Version.pdf, p. 6).

infanticide, early and forced marriage³¹ and forced sterilization perpetrated by family members, members of the community and by those with specific responsibilities towards them, including teachers and employees of children institutions.³² Their social isolation and dependence also makes them vulnerable to female genital mutilation and cutting, even in countries where such practices are banned. Furthermore, they are also particularly vulnerable to other types of violence, such as “virgin rapes” in the context of the AIDS epidemic.³³

25. Women and girls with disabilities may in some cases be targeted for exploitation because of their disability, which can in turn expose them to further violence. There is evidence that some forms of disability are directly linked to different patterns of trafficking (such as forced begging and labour exploitative practices). There have been reports of persons, particularly women and girls,³⁴ with physical or visual impairments being trafficked into forced begging because a visible disability may have a stronger impact on public sympathy.³⁵

26. Women and girls with disabilities are also particularly vulnerable to violence during situations of conflict and other natural disasters, which may force migration and or displacement. Disasters compound the social effects of disability, especially for girls and women, who face other barriers. A report by Human Rights Watch in 2010 on violence against women with disabilities in Northern Uganda documented frequent abuse and discrimination by strangers, neighbours and even family members against women and girls with disabilities during the conflict in the country. Women interviewed for the report stated that they had no access to provisions, such as food, clothing and shelter, in camps for displaced persons or even in their own communities.³⁶

27. Insufficient information was given in the submissions on the situation of women who develop a disability as result of violence. This may have been partly be due to the lack of disaggregated data and information. Nonetheless, research has found that gender-based

³¹ See Rachael Clawson and Pam Vallance, *Forced Marriage and Learning Disabilities: Multi-Agency Practice Guidelines*, December 2010, (available from www.fco.gov.uk/resources/en/pdf/travel-living-abroad/when-things-go-wrong/fm-disability-guidelines), p. 6.

³² See World Health Organization (WHO), *Preventing gender-biased sex selection*, Interagency statement (OHCHR, UNFPA, UNICEF, UN-Women and WHO (available from <http://www.unhcr.org/refworld/docid/4df751442.html>); and “Sterilization of women and girls with disabilities: a briefing paper jointly prepared by Women with Disabilities Australia, Human Rights Watch, the Open Society Foundations and the International Disability Alliance as part of the Global Campaign to Stop Torture in Health Care, 19 November 2011.

³³ Studies indicate that, in countries experiencing the AIDS epidemic, girls with disabilities are three to five times more likely to be sexually assaulted and raped than girls without disabilities. See *Crosscurrents and Crosscutting Themes*, Research on Education in Africa, the Caribbean and the Middle East, vol. III, edited by Kagendo Mutua and Cynthia Szymanski Sunal, 30 June 2006, p. 117; and “Elimination of all forms of discrimination and violence against the girl child”, Report of the Expert Group Meeting (available from www.un.org/womenwatch/daw/egm/elim-disc-viol-girlchild/EGM%20Report_FINAL.pdf), Division for the Advancement of Women in collaboration with UNICEF, Innocenti Research Centre, Florence, Italy, 25-28 September 2006.

³⁴ See European Roma Rights Centre, Parallel submission to the Committee on the Elimination of Discrimination against Women for the Czech Republic. Available from www2.ohchr.org/english/bodies/cedaw/docs/ngos/ERRC_2_CzechRepublic_CEDAW47.pdf; and contribution of the International Organisation for Migration (IOM).

³⁵ *Caring for Trafficked Persons. Guidance for Health Providers*, IOM, Geneva, 2009 (available from http://publications.iom.int/bookstore/free/CT_Handbook.pdf).

³⁶ “As if We Weren’t Human”, *Discrimination and Violence against Women with Disabilities in Northern Uganda*, Human Rights Watch, August 2010.

violence, in particular sexual violence, can result in significant, long-standing physical and mental health consequences, including permanent injuries, for survivors.³⁷ According to a study published in the *Journal of the American Medical Association*, among a nationally representative sample of Australian women, gender-based violence was significantly associated with mental health disorder and intellectual disability.³⁸ Harmful practices, such as female genital mutilation and cutting, may also result in a wide range of physical and psychological impairments.

IV. Measures to address violence against women and girls with disabilities

A. Legislation to address violence against women and girls with disabilities, and risk factors

28. States have clear obligations under international human rights law to enact legislation prohibiting all acts of violence³⁹ against women and girls with disabilities, including those to which they are more vulnerable, such as forced sterilization, forced institutionalisation and forced abortion. This is important not only to ensure legal protection but also to promote a culture where no form of violence against women and girls with disabilities is tolerated.

29. The Committee on the Rights of Persons with Disabilities has expressed concern about involuntary treatment and involuntary confinement and has recommended States to incorporate into the law the abolition of surgery and treatment without the full and informed consent of the patient, and to ensure that national law respects women's rights under articles 23 and 25 of the Convention on the Rights of Persons with Disabilities.⁴⁰ Other international human rights standards also prohibit forced and coerced treatment of people suffering from intellectual disabilities, regardless of arguments of their "best interests". The Human Rights Committee has affirmed that special protection is necessary in the case of persons not capable of giving valid consent, and that such persons should not be subjected to any medical or scientific experimentation that may be detrimental to their health.⁴¹ Compulsory or forced treatment of persons with disabilities, including women, may amount to ill-treatment and torture.⁴² The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health has also stressed that consent to treatment is one of the most important human rights issues relating

³⁷ See Persephone, "Violence against women with a disability", Antwerp, January 2002, updated in May 2008; and Amnesty International, Democratic Republic of Congo: Mass rape - time for remedies, 25 October 2004. Available from <http://www.amnesty.org/en/library/info/AFR62/018/2004>.

³⁸ "Lifetime Prevalence of Gender-Based Violence in Women and the Relationship with Mental Disorders and Psychosocial Function", 2011, pp. 513-521.

³⁹ International law and human rights jurisprudence sets out States responsibilities to exercise due diligence in taking steps to end violence against women. See E/CN.4/2006/61.

⁴⁰ CRPD/C/TUN/CO/1., paras. 28-29.

⁴¹ General comment No. 20 (1992) on prohibition of torture and cruel treatment or punishment, para. 7.

⁴² In 2008, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment articulated in his interim report (A/63/175) that prolonged segregation of people with disabilities from society in institutions, including prisons, social care centres, orphanages and mental health institutions could amount to torture. He also noted that the vulnerability of persons with disabilities means their access to judicial remedies is severely restricted, and that involuntary treatment and involuntary confinement run counter to the provisions of the Convention on the Rights of Persons with Disabilities.

to mental disability and, accordingly, it is especially important that the procedural safeguards protecting the right to informed consent are both watertight and strictly applied.⁴³

30. Research and the contributions submitted for the present study show that a striking number of States have laws that authorize forced or involuntary treatment of persons with psychosocial disabilities when in their “best interests”. In more than half of the countries that submitted data, psychiatric treatment is imposed on persons with disabilities within legal safeguards if demonstrably “justified”, “reasonable”, “necessary” and “proportionate”. Most countries acknowledged that persons subject to involuntary treatment require procedural safeguards at the time of institutionalization; some of the submissions received contained information on the procedures to be followed in these circumstances. These legal safeguards include monitoring and oversight and the right of persons in involuntary placement to a judicial appeal against an involuntary placement or certain treatment. The submissions showed that the implementation of procedural safeguards varies between countries, and approaches lacked consistency from one country to another.

31. States are also required to recognize the autonomy of persons with disabilities,⁴⁴ which is crucial in to the prevention of acts of violence. The Convention on the Rights of Persons with Disabilities recognizes this and moves away from the guardianship approach to supported decision-making. It is also essential to ensure access to recourse and remedies for acts of violence. According to article 12 of the Convention, States parties are to recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life. In its general comment No. 7, the Committee on the Rights of the Child noted that children are rights-holders with evolving capacities, and reminded States of their obligation to facilitate genuine participation of young children in the processes affecting their development. Many countries have enacted laws that limit, or deprive disabled women and girls of, the right to exercise their full legal capacity.

32. Most countries reported in their submissions that the prohibition of discrimination on the grounds of sex in national legislation offered sufficient protection for women with disabilities, although there was no specific legal framework to protect women and girls with disabilities from violence. In practice, however, the protection from violence generally accorded to women and girls may not be inclusive and attentive to the specific situations of those with disabilities. For example, legislation on domestic violence often fails to recognize the range of domestic or family settings in which women with disabilities may live (such as group or nursing homes) and the variety of possible perpetrators in such contexts (for example, not including violence at the hands of caregivers). Similarly, legislation on violence against women often fails to recognize some forms of disability-specific violence (such as those mentioned in paragraphs 12 to 27 above). These represent limitations for the purposes of prosecution, and may further affect eligibility for such services as shelters and preventive strategies.

33. While discriminatory legal provisions persist in some States, most have general non-discrimination clauses in their legislation covering discrimination based on both gender and disability. Furthermore, many States have expressed provisions in specific legislation, for example on employment and education, prohibiting discrimination based on disability. In many instances, however, such provisions continue not to be implemented, as women and

⁴³ E/CN.4/2005/51, paras. 48-50 and 60.

⁴⁴ According to article 3 of the Convention on the Rights of Persons with Disabilities, the principles of the Convention are “respect for inherent dignity, individual autonomy, including the freedom to make one's own choices, and independence of persons”.

girls with disabilities face enormous difficulties in their access to justice, compounded by social attitudes towards both gender-based violence and disability.

B. Prevention and protection programmes and initiatives

34. In analysing responses to the questionnaire, attention was paid to assessing the existence and nature of specific policies or programmes addressing violence against women and girls with disabilities, as well as to the extent of inclusion of women and girls with disabilities in programmes and policies that address different forms of gender-based violence.

35. Very few examples of plans, programmes and policies addressing the underlying causes of violence against women and girls with disabilities were found. Most responding States stressed that one of the underlying causes of violence, including neglect, against women and girls with disabilities, were discriminatory practices and stereotypical perceptions. Nonetheless, the efforts made by States to raise awareness of the underlying causes targeted persons with disabilities in general and failed to factor in the gender dimension of disability.⁴⁵ Several countries reported on important steps to promote the realization of the rights of women and girls with disabilities, including in the field of labour, health and education. The efforts to address de facto discrimination against women with disabilities in all spheres of life appear, however, to be limited, while linking disability to the concept of gender violence in a meaningful way into Government programmes continues to be a challenge. There was little information in the responses on efforts to promote the economic empowerment and autonomy of women with disabilities and on measures to eradicate poverty among persons with disability, in spite of research showing that many persons with disability, especially women, are disproportionately affected by poverty.⁴⁶

36. In some responses, reference was made to specific initiatives to protect women and girls with disabilities who experience violence. For example, in Croatia, the Government and civil society have published an SOS address book for women with disabilities containing information on institutions and organizations that provide victims of violence with counselling and accommodation. Initiatives of this type are however rare, and are mostly operated by non-governmental organizations.

37. Furthermore, in a limited number of responses, reference was made to cases of specific attention being paid to the situation and needs of women and girls with disabilities in programmes, plans and policies addressing gender-based violence.⁴⁷ The responses suggested, however, that support services, including health care, community centres and

⁴⁵ For example, in April 2010, the Government of Italy launched a nationwide awareness-raising campaign on disability under the slogan “Different skills, same desire to live”, aimed at changing social attitudes to persons with disabilities.

⁴⁶ According to a report by Price Waterhouse Coopers (www.pwc.com.au/industry/government/assets/disability-in-australia.pdf), approximately 45 per cent of people with a disability in Australia live either near or beneath the poverty line.

⁴⁷ For example, in Australia, the National Plan to Reduce Violence against Women and their Children proposes investigating and promoting ways to improve access and responses to domestic violence; sexual assault services for women with disabilities; supporting better services for women and children with disabilities through the development of new evidence-based approaches; improving access to justice for women and children with disabilities who have been victims of violence; providing grants for primary prevention programmes to organizations working with women with disabilities; and fostering respectful relationships in a range of settings, including targeting vulnerable young people with an intellectual disability.

accommodation for women victims of violence, are often inaccessible to women and girls with disabilities. This is particularly true for women with a mobility limitation, as emergency accommodation facilities often fail to meet the minimum physical standards for disability access. Women and girls with disabilities also encounter difficulties in their access to health and social services available to the general population, owing to mobility and communication barriers and the lack of adequate training of staff, including on how to communicate with women with sensory or intellectual disabilities. Several States recognized this shortcoming, and some are developing pilot projects to address it.⁴⁸

38. With regard to protection and prevention measures, and initiatives addressing the cases of women and girls with disabilities who are institutionalized or living in supported accommodation, several submissions referred to existing provisions to ensure regular visits and inspections, and to the existence of protocols for the prevention of violence by professional caregivers. There was, however, little data on inspection reports, the appropriateness and use of the data collected, and on resources available to ensure regular oversight of institutions and proper training of caregivers. Reports submitted by non-governmental and disability organizations indicate that these efforts are still inadequate and ineffective.

C. Prosecution and punishment

39. Article 13 of the Convention on the Rights of Persons with Disabilities requires States parties to ensure that persons with disabilities have the right to have access to justice, including procedural and age-specific accommodations to facilitate their participation in legal proceedings. There was insufficient information in the submissions received to compare the number of State prosecution of crimes involving violence against women and girls with disabilities with the rest of the population. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment noted that societal barriers limit persons with disabilities access to justice on an equal basis with others.⁴⁹ This view is supported by the findings of non-governmental organizations indicating that incidents of violence against women and girls with disabilities are often not investigated owing to social barriers.⁵⁰ These barriers include the failure of law enforcement officials to file criminal complaints, because of their stereotypical perception of women with disabilities; and structural barriers, such as the requirement of legal capacity in order to be viewed as a “competent witness”, and laws that permit certain forms of violence, such as electroconvulsive treatment and electric shocks, or fail to criminalize specific forms of violence experienced by women and girls with disabilities (see paragraphs 12 – 27 above).

40. Women and girls with disabilities may be less aware of their rights and the means to claim them. As discussed above, victims are also often unable to recognize instances of violence or may be unwilling to report them when perpetrated by caregivers or people in their immediate environment for fear of losing support. In addition, often women cannot

⁴⁸ For example, in Sweden and Norway, organizations for women with disabilities and crisis centres have concerted their efforts to find ways to improve services offered to women with disabilities who have been victims of violence. In the United States of America, the State of Illinois has, since 2006, conducted a disability responsiveness review of all 33 rape crisis centres in the State, and developed a tool kit for them and all disability organizations.

⁴⁹ These vulnerabilities include “unspeakable indignities, neglect, severe forms of restraint and seclusion, as well as physical, mental and sexual violence”. A/63/175, para. 38,

⁵⁰ *Impact*: feature issue on violence against women with developmental or other disabilities, Institute on Community Integration and Research and Training Center on Community Living, University of Minnesota, vol. 13, No. 3 (available from <http://ici.umn.edu/products/impact/133/>).

initiate complaints because they are in institutions, have no accessible transportation or mobility support.

41. Even when a victim wishes to exercise her rights and file a complaint, she may be denied physical access to the police station and have problems communicating with law enforcement officials. Furthermore, the justice system may fail to accommodate her physical, communication or other specific needs. Victim protection measures and other measures to support victims may be inadequate for women with disabilities. In addition, women with intellectual or psychosocial disabilities acting as witnesses are often seen as lacking credibility.

42. Prosecutors are often reluctant to open cases of violence committed against women and girls with intellectual disabilities, given that they can require more resources owing to the need to investigate the victim's ability to consent and testify.⁵¹ Similarly, judges and magistrates may minimize certain forms of violence because of widespread societal perceptions of disability, resulting in inadequate sentences or a tendency to favour mediation, forcing women to confront their abusers. In addition, legal representation is not often affordable for women with disabilities. In general terms, women and girls living in rural and remote areas can experience particular difficulties in obtaining legal advice and representation for domestic violence applications and associated family law and child protection matters. Such a situation is further compounded by a disability.

43. The responses received seemed to indicate that there were no systematic programmes in place to train judges, lawyers and law enforcement officials on the rights of women and girls with disabilities and effective ways to communicate with them.⁵²

D. Recovery and rehabilitation

44. For women and girls who survive violence and manage to escape an abusive and violent environment or situation, the effects can be particularly detrimental and long lasting. They include low self-esteem, feelings of guilt or shame, lack of confidence in themselves and others, effects of trauma and post-traumatic stress disorder, addiction problems, sadness, depression and suicidal thoughts.

45. Article 16 of the Convention on the Rights of Persons with Disabilities requires States parties to take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any forms of violence or abuse.

46. There was little information in the submissions received on gender and disability-specific measures taken by States to rehabilitate and reintegrate women and girls with

⁵¹ See "Prosecuting disability hate crime: the next frontier", 2 March 2011, speech by Keir Starmer QC, the Director of Public Prosecutions to the University of Sussex, United Kingdom of Great Britain and Northern Ireland (available from www.cps.gov.uk/news/articles/prosecuting_disability_hate_crime/). In his speech, the Director noted that "to date, victims and witnesses with disabilities have not been well served by the criminal justice system".

⁵² The Australian National Disability Strategy has established that ensuring effective access to justice for persons with disabilities on an equal footing with others requires a greater awareness in the judiciary, court staff and legal professionals of disability issues. This includes promoting appropriate training for those working in the administration of justice, including police and prison staff.

disabilities who have been victims of violence. Although some good examples were reported,⁵³ specialized and accessible services seemed to be generally lacking.

47. Many of the obstacles hindering access to justice for women and girls with disabilities who have been victims of violence are also present when they request health and other services necessary to promote physical, cognitive and psychological recovery, rehabilitation and social integration.

48. The Special Rapporteur on violence against women, its causes and consequences has highlighted discrimination with regard to health care and services. In her report on multiple forms of discrimination, she pointed out that women who lacked social and cultural capital may be denied proper health or medical services, fear the consequences of asking for medical assistance, receive improper or low-quality care or live in places where no health services are available. Women who suffered from cognitive and/or physical disabilities were further negatively affected, since prejudices about disability were persistent in most countries and they therefore might not be viewed as requiring care or live in places where no specialized care was available.⁵⁴

V. Conclusions and recommendations

49. **There is a general lack of systematized and disaggregated data on violence against women and girls with disabilities. Where statistics exist, they are partial and only concern certain forms of violence. Many studies and several surveys show that women and girls with disabilities experience a high rate of violence by different actors and in different settings.**

50. **The violence experienced by women and girls with disabilities remains largely invisible, and current legislative, administrative and policy efforts often fail to link gender and disability in a meaningful way and to address adequately specific risk and vulnerability factors.**

51. **Programmes addressing gender-based violence often fail to take women and girls with disabilities into consideration. In addition, services are either unavailable or inaccessible, while many obstacles seriously hinder their access to justice. Programmes promoting the rights of persons with disabilities often fail to integrate a gender dimension.**

52. **A dual-track approach is needed to address violence against women and girls with disabilities. Programmes to prevent violence against women and ensure access to justice, protection measures and legal, social and medical services must be designed and implemented in a manner that ensures inclusion and accessibility by women and girls with disabilities.⁵⁵ On the other hand, specific programmes and strategies targeting girls and women with disabilities should be implemented in accordance with international standards.⁵⁶ A holistic approach aimed at eliminating discrimination,**

⁵³ For example, the Government of Sweden organizes summer camps for battered women with disabilities and crisis centre staff, at which participants have the opportunity to share their knowledge and experiences. In August 2011, the State of Illinois organized 10 workshops throughout the State for disability providers in order to enhance their response to persons with disabilities who experience sexual assault.

⁵⁴ A/HRC/17/26, para. 47.

⁵⁵ See CRPD/C/ESP/CO/1, paras. 21-22.

⁵⁶ Article 4 (a) of the Convention on the Rights of Persons with Disabilities requires States parties to take all appropriate legislative, administrative and other measures to prevent and punish violence

promoting autonomy and addressing specific risk factors should be the goal, with adequate attention to the fields of education, employment, health and social protection.

53. Such policies and programmes should be developed in close partnerships with women and girls with disabilities and with disability organizations, including those providing services for survivors, and encompass:

(a) Ensuring, in line with article 31 of the Convention on the Rights of Persons with Disabilities, the collection of appropriate information, including statistical and research data, on all forms of violence experienced by women and girls with disabilities, disaggregated by sex, age and disability. Disability should be included in victimization surveys;

(b) In accordance with article 8 of the Convention, awareness-raising programmes designed to change the societal perception of persons with disabilities and shed light on the specific violence suffered by persons with disabilities, including situations that expose women and girls with disabilities to violence;

(c) Reviewing and/or amending legislation on violence against women to ensure that it expressly prohibits all forms of violence against women and girls with disabilities, in accordance with relevant provisions of the Convention on the Rights of Persons with Disabilities, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and other relevant international human rights treaties; this should also include ensuring that legislation on violence against women and/or domestic violence takes into account specific forms of violence suffered by women and girls with disabilities;

(d) Prohibiting by law forced sterilization of children and adults on the grounds of disability,⁵⁷ ensuring adequate procedural safeguards to protect the right to free and prior informed consent;

(e) Prohibiting compulsory/forced treatment of persons with disabilities and ensuring adequate procedural safeguards to protect the right to prior informed consent;

(f) The implementation of existing laws prohibiting harmful practices of children and, as necessary, the adoption of new laws to eliminate such practices;

(g) Ensuring that services and programmes designed to protect women and girls from violence are accessible to women and girls with disabilities. This includes ensuring that facilities, in particular shelters, are accessible to women with disabilities; mainstreaming disability in materials and training courses addressed at professionals working on violence against women; and ensuring dissemination of information on available protection and other available services in an accessible format;

(h) Addressing disability-specific vulnerabilities, including by offering services and social support to women and girls with disabilities at the community level, as well as assistive devices in order to avoid isolation and confinement in their homes; ensuring adequate institutional oversight of institutions where women and girls with disabilities reside; ensuring access to information for women and girls with disabilities, and for people in their immediate environment, on how to prevent,

against women and/or domestic violence, including violence against women and girls with disabilities.

⁵⁷ CRC/C/GC/9, para. 60.

recognize and report instances of exploitation, violence and abuse; providing information in an accessible format to women and girls with disabilities on sexual and reproductive rights; educating caregivers and other health-care service providers; and developing protocols for professionals working with persons with disabilities for the identification of situations of violence against women and girls with disabilities institutionalized or living in closed environments;

(i) Ensuring adequate training for law enforcement officials, prosecutors and judges on the forms and types of violence experienced by persons with disabilities, including women and girls, as well as accountability mechanisms to prevent and sanction discriminatory practices. Sign language interpretation should be made available in police and court procedures. Legal counselling and legal aid services should also be made available and accessible to women and girls with disabilities;

(j) Ensuring that existing free counselling and programmes for women and girls are also accessible to women and girls with disabilities who experience abuse or who have survived or witnessed it, and that their specific needs are taken into account. Such programmes should promote the autonomy, independence and dignity of victims of violence. Measures should also be taken to promote an adequate degree of social protection (including access to services and income security) for women and girls with disabilities who have experienced or witnessed violence, both during and after abuse, with the aim of furthering autonomy.
