# Sightsavers submission to the CRPD draft General Comment on Article 27 on the right of persons with disabilities to work and employment

Sightsavers welcomes the opportunity to provide comments to the Committee on the Rights of Persons with Disabilities (CRPD Committee) regarding its Draft General Comment on the rights to work and employment. Sightsavers is an international development organisation which works with partners to eliminate avoidable blindness and promote equity of opportunity for people with disabilities in over thirty countries in Africa and Asia. Our programmes also include working to ensure quality inclusive education, promote economic empowerment, strenghten health systems and eliminate neglected tropical diseases.

Please note that, to ensure the accessibility of this document, 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.

#### Page 2, paragraph 6

The Committee should make stronger links between Article 27 and Article 24 throughout the document and make it clear that States should ensure inclusive education for all children with disabilities as these foundational skills are critical to enable children to grow into lifelong learners who are able to respond to labour market changes.

##### Current paragraph

Article 27 incorporates several interdependent and interrelated rights within the right to work, including the right of persons with disabilities to the enjoyment of just and favourable conditions of work (27(1)(b)), the right to safe working conditions and protection from harassment and the collective dimension of the right to work in 27(1)(c), which enunciates the right of persons with disabilities to exercise their trade union and labour rights. The present general comment provides a comprehensive overview of Article 27 obligations, considering on one side the interdependency of the measures listed in article 27 to achieve the right to work, and on the other side the interrelationship of the right to work and employment with other provisions in the Convention such as accessibility (art. 9), equal recognition before the law (art. 12), access to justice (art. 13), freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15), education (art. 24), habilitation and rehabilitation (art. 26) and an adequate standard of living and social protection (art. 28).

##### Suggested amended paragraph

Article 27 incorporates several interdependent and interrelated rights within the right to work, including the right of persons with disabilities to the enjoyment of just and favourable conditions of work (27(1)(b)), the right to safe working conditions and protection from harassment and the collective dimension of the right to work in 27(1)(c), which enunciates the right of persons with disabilities to exercise their trade union and labour rights.[[1]](#footnote-1) The present general comment provides a comprehensive overview of Article 27 obligations, considering on one side the interdependency of the measures listed in article 27 to achieve the right to work, and on the other side the interrelationship of the right to work and employment with other provisions in the Convention such as accessibility (art. 9), equal recognition before the law (art. 12), access to justice (art. 13), freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15), *education (art. 24),* habilitation and rehabilitation (art. 26) and an adequate standard of living and social protection (art. 28).

#### Page 3, paragraph 8

**Current paragraph**

To realize the rights in the Convention, States parties need to apply the human rights model and to reach out persons with disabilities, which through their representative organizations, play a central role in the development of legislative and policy reforms to address the discrimination and marginalization faced by persons with disabilities in relation to the right to work and employment.

**Suggested amended paragraph**

To realize the rights in the Convention, States parties need to apply the human rights model and *systematically engage with* persons with disabilities, which *including* through their representative organizations, play a central role in the development of legislative and policy reforms to address the discrimination and marginalization faced by persons with disabilities in relation to the right to work and employment.

#### Page 6, paragraph 19

General Comment 3 recognises five types of discrimination (a) direct discrimination; (b) indirect discrimination; (c) discrimination by association; (d) denial of reasonable accommodation; and (e) structural, or systemic, discrimination. We suggest that these are used to encompass the full range of discrimination that persons with disabilities experience, as recognised in previous work by the committee. This will also require adding an additional paragraph on these forms of discrimination.

#### Page 7, paragraph 21

##### Current paragraph

Indirect discrimination means that laws, policies or practices appear neutral at face value but have a disproportionate negative impact on a person with a disability. It occurs when an opportunity that appears accessible, but in reality excludes certain persons owing to the fact that their status does not allow them to benefit from the opportunity itself. For example, if the only way to enter a public building for a job interview is by a set of stairs, the situation puts the candidate who uses a wheelchair in an unequal position because they are unable to enter the building.

##### Suggested amended paragraph

Indirect discrimination means that laws, policies or practices appear neutral at face value but have a disproportionate negative impact on a person with a disability. It occurs when an opportunity that appears accessible, but in reality excludes certain persons owing to the fact that their status does not allow them to benefit from the opportunity itself. For example, if the only way to enter a public building for a job interview is by a set of stairs, the situation puts the candidate who uses a wheelchair in an unequal position because they are unable to enter the building. *Protection from discrimination also extends to discrimination by association, which may occur when family members or a person who is associated with a person with disability is discriminated at work because of this relationship.*

#### Page 8, Paragraph 25.a

##### 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[[2]](#footnote-2).

##### 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* discrimination that limit opportunities to work, *impacts their right to equal pay*, increase*s* risk of violence and harassment in the workplace, as well as other barriers.

#### Page 9, Paragraph 29

##### Current paragraph

The right to just and favourable conditions of work is a right of all workers with disabilities in all settings, regardless of impairment or gender, as well as young or older workers with disabilities in the formal or formal sectors, or whether they are migrant workers with disabilities, workers with disabilities from culturally and linguistically diverse groups, self-employment workers with disabilities, agricultural workers with disabilities, rural and remote workers with disabilities. Further, the right to just and favourable conditions of work requires that the payment of below minimum wages is not justified on the basis of disability.

##### Suggested amended paragraph

The right to just and favourable conditions of work is a right of all workers with disabilities in all settings, regardless of impairment or gender, as well as young or older workers with disabilities in the formal or formal sectors, or whether they are migrant workers with disabilities, workers with disabilities from culturally and linguistically diverse groups, self-employed workers with disabilities, agricultural workers with disabilities, rural and remote workers with disabilities. Further, the right to just and favourable conditions of work requires that the payment of below minimum wages is not justified on the basis of disability *or gender*.

##### Add new paragraph after paragraph 29

A new paragraph should be added to make stronger links to Article 6 and recognise the additional barriers faced by women with disabilities in realising their right to just and favourable conditions of work and the obligation of States Parties to tackle discrimination at the intersection of gender and disability in the realisation of the right to employment and work.

*As recognised by Article 6, women with disabilities face particular compounding barriers and multiple discrimination and State Parties shall take measures to ensure the full and equal enjoyment by them of all human rights. This includes the right to just and favourable conditions of work, which requires State Parties to implement measures to eliminate gender discrimination in employment and ensure women with disabilities have access to equal pay for work of equal value.*

#### Page 10, Paragraph 32

The General Comment should make it clearer that people with disabilities should be paid a fair market wage, which should be no less than the minimum age. The draft mentions that the CESCR considers hat persons with disabilities should not be segregated in sheltered workshops and it should go further to recommend States Parties take immediate steps to facilitate the transition away from segregated work environments. Paragraph 32 should make it clearer that States Parties should take immediate steps to end segregated workplaces and that those still in the process of transitioning are required to pay equal remuneration for equal work.

**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. States Parties should *take immediate steps to transition away from segregated workplaces and ensure those in the process of transitioning comply with labour rights, including paying fair market wages, which should be no less than the minimum wage.*

#### Page 10, Paragraph 33 should be moved to Section 27.1.a on Prohibition of discrimination on the basis of disability and be placed after paragraph 23

The Committee’s jurisprudence on harassment is set out in General Comment No. 6[[3]](#footnote-3). Harassment in connection to work and employment extends to the employment-cycle and requires effective remedies through the enactment and enforcement of specific and comprehensive anti-discrimination legislation.[[4]](#footnote-4) The legislation should be accompanied by appropriate and effective legal remedies and sanctions in relation to intersectional discrimination in civil, administrative and criminal proceedings. Individual remedies should be accompanied by effective changes at the workplace preventing future violations.

#### Page 11, Paragraph 38

The Committee should also clarify thathigher education and training institutions need to be inclusive and accessible to persons with disabilities, from the provision of reasonable accommodation in line with Article 24.5, to admission policies that include diversity as criteria, to the provision of financial support, such as sustainable funding for training programmes as well as scholarships and bursaries for youth with disabilities.

##### Current paragraph

Non-discriminatory access to mainstream technical and vocational guidance, training and placements services on an equal basis is required to realize the right to work and employment for persons with disabilities. The participation of persons with disabilities in mainstream services will promote the non-segregation of services and the ‘access of persons with disabilities to open employment and vocational training services.’ These may be appropriate to enter work, through the course of employment, or to transition between roles. States should include measures that allow for certification of capacities and attainments on an equal basis with others, explicit inclusion of persons with disabilities in legislation dealing with vocational training, explicit reference to persons with disabilities in general policies regulating vocational training, ensure accessible premises, information and materials, the provision of vocational staff training on the rights of persons with disabilities, and funding for reasonable accommodation measures, should also be included. Vocational and professional preparation, training, and other services should be provided in accessible and inclusive ways.

##### Suggested amended paragraph

Non-discriminatory access to mainstream technical and vocational guidance, training and placements services on an equal basis is required to realize the right to work and employment for persons with disabilities.[[5]](#footnote-5) The participation of persons with disabilities in mainstream services will promote the non-segregation of services and the ‘access of persons with disabilities to open employment and vocational training services.’[[6]](#footnote-6) These may be appropriate to enter work, through the course of employment, or to transition between roles. States should include measures that allow for certification of capacities and attainments on an equal basis with others,  *ensure* explicit inclusion of persons with disabilities in legislation dealing with vocational training, *include* explicit reference to persons with disabilities in general policies regulating vocational training, *encourage admission policies that include diversity as criteria, ensure* accessible premises, information and materials, the provision of vocational staff training on the rights of persons with disabilities, and funding for reasonable accommodation measures, should also be included. Vocational and professional preparation, training, and other services should be provided in accessible and inclusive ways *and financial support, such as sustainable funding for training programmes and scholarships and bursaries for youth with disabilities, should be provided wherever possible.*

#### Page 12, Paragraph 42

##### Current paragraph

The promotion of opportunities for freely chosen work requires accessible information on entrepreneurship, micro, small and medium-sized enterprises, and other forms of business models such as cooperatives.[[7]](#footnote-7) Non-discriminatory access to business services, markets, infrastructure and technology, and occupational health and safety also need to be considered along with non-discriminatory access to financial services, mentorship, and networking. States Parties should consider the formulation and implementation of an integrated policy framework, coordinated across different levels of government including tax authorities and social security institutions.

##### Suggested amended paragraph

The promotion of opportunities for freely chosen work requires accessible information on entrepreneurship, micro, small and medium-sized enterprises, and other forms of business models such as cooperatives.[[8]](#footnote-8) Non-discriminatory access to business services, markets, infrastructure and technology, and occupational health and safety also need to be considered along with non-discriminatory access to financial *and insurance* services, *microfinance*, mentorship, and networking. States Parties should consider the formulation and implementation of an integrated policy framework, coordinated across different levels of government including tax authorities and social security institutions.

#### Page 14, Paragraph 46

The General Comment should guide States in adopting affirmative actions which include criteria carefully defined in compliance with CRPD. Quota systems are one of the most commonly used affirmative actions in the context of the right to work, but we recommend the Committee should take a more nuanced approach to quotas, as their efficacy is linked to the existence of other measures to protect persons with disabilities from discrimination in the labour market, as well as to the criteria used and the degree in which they are enforced.

##### Current paragraph

The Committee has recommended strategies to States Parties to increase the employment of persons with disabilities in the public sector that are equally applicable to the private sector. Specific affirmative action measures such as quotas to increase the employment of persons with disabilities in the private sector may be required. At the same time, quotas alone are insufficient to promote the employment of persons with disabilities and can be resisted by persons with disabilities if the system focuses on impairment rather than ability. Quotas also raise issues of confidentiality. Other affirmative action measures could include targeted funding to promote the employment of persons with disabilities such as modifications of the working environment, apprentice wage supports, payroll tax deductions, and wage subsidies.

##### Suggested amended paragraph

The Committee has recommended strategies to States Parties to increase the employment of persons with disabilities in the public sector that are equally applicable to the private sector. Specific affirmative action measures *on employment should be combined with broader policies and legislation, such as equal access to quality education and social protection schemes, to counter the structural disadvantages faced by persons with disabilities. Quota systems are one of the most commonly used affirmative actions for the employment of persons with disabilities. However*, quotas alone are insufficient to promote the employment of persons with disabilities *and should only be used in combination with other positive actions*. *Quotas* can *increase discrimination* *if the system focuses on impairment rather than ability* *and fails to remove barriers to employment*, *so they must be in line with the Convention and frame disability as a positive criterion to make the work environment a more diverse place. Quotas are only efficient to the extent that they are well designed and enforced and* can also raise issues of confidentiality. Other affirmative action measures *should be prioritised and* could include targeted funding to promote the employment of persons with disabilities such as modifications of the working environment, apprentice wage supports, payroll tax deductions, and wage subsidies.

#### Page 14, Paragraph 47

 **Current paragraph**

Affirmative action measures, including quota mechanisms, are consistent with the Convention and do not lead to negative consequences such as reproducing disability stereotypes or other discrimination by, inter alia:

##### Suggested amended paragraph

Affirmative action measures *[delete ‘including quota mechanisms’]* are consistent with the Convention and *the risk of potential* negative consequences such as reproducing disability stereotypes or other discrimination *can be minimised by,* inter alia:

#### Page 14, Paragraph 47

 **Current paragraph**

States parties should design of affirmative action measures should be done in close consultation with representative organizations of persons with disabilities[[1]](https://ukc-word-edit.officeapps.live.com/we/wordeditorframe.aspx?ui=en%2DGB&rs=en%2DUS&wopisrc=https%3A%2F%2Fsightsavershh.sharepoint.com%2Fsites%2FSO365-PGAwhereabouts%2F_vti_bin%2Fwopi.ashx%2Ffiles%2F5f8ecf38168d442c9220b1fcc3c24ccf&wdenableroaming=1&mscc=1&hid=D61B0AA0-B0B4-3000-5D4F-05880E1A8E7F&wdorigin=ItemsView&wdhostclicktime=1638791155713&jsapi=1&jsapiver=v1&newsession=1&corrid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&usid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&sftc=1&mtf=1&sfp=1&instantedit=1&wopicomplete=1&wdredirectionreason=Unified_SingleFlush&preseededsessionkey=2f750cb0-2c4b-72da-dd51-f5d006c24828&preseededwacsessionid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&rct=Medium&ctp=LeastProtected#_ftn1). Affirmative action measures in the private sector will be most effective if they form part of a holistic approach by States parties to promote the employment of persons with disabilities.

##### Suggested amended paragraph

States parties *[delete ‘should’]* design of affirmative action measures should be done in close consultation with *persons with disabilities and their* representative organizations[[1]](https://ukc-word-edit.officeapps.live.com/we/wordeditorframe.aspx?ui=en%2DGB&rs=en%2DUS&wopisrc=https%3A%2F%2Fsightsavershh.sharepoint.com%2Fsites%2FSO365-PGAwhereabouts%2F_vti_bin%2Fwopi.ashx%2Ffiles%2F5f8ecf38168d442c9220b1fcc3c24ccf&wdenableroaming=1&mscc=1&hid=D61B0AA0-B0B4-3000-5D4F-05880E1A8E7F&wdorigin=ItemsView&wdhostclicktime=1638791155713&jsapi=1&jsapiver=v1&newsession=1&corrid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&usid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&sftc=1&mtf=1&sfp=1&instantedit=1&wopicomplete=1&wdredirectionreason=Unified_SingleFlush&preseededsessionkey=2f750cb0-2c4b-72da-dd51-f5d006c24828&preseededwacsessionid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&rct=Medium&ctp=LeastProtected#_ftn1). Affirmative action measures in the private sector will be most effective if they *are appropriately enforced and* form part of a holistic approach by States parties to promote the employment of persons with disabilities.

#### Page 15, Paragraph 49

##### Current paragraph

The Convention on the Rights of Persons with Disabilities includes a non-exhaustive list of duties focused on removing structural and institutional obstacles that hinder equality of opportunity for persons with disabilities in the labour market. Among these duties is the provision of reasonable accommodation in the workplace[[9]](#footnote-9). Reasonable accommodation duties are different from the duty to provide accessibility. Reasonable accommodation involves the provision of individualised supports to enable individuals with disabilities to perform the inherent requirements of their work on an equal basis with others.

#####  Suggested amended paragraph

The Convention on the Rights of Persons with Disabilities includes a non-exhaustive list of duties focused on removing structural and institutional obstacles that hinder equality of opportunity for persons with disabilities in the labour market. Among these duties is the provision of reasonable accommodation in the workplace[[1]](https://ukc-word-edit.officeapps.live.com/we/wordeditorframe.aspx?ui=en%2DGB&rs=en%2DUS&wopisrc=https%3A%2F%2Fsightsavershh.sharepoint.com%2Fsites%2FSO365-PGAwhereabouts%2F_vti_bin%2Fwopi.ashx%2Ffiles%2F5f8ecf38168d442c9220b1fcc3c24ccf&wdenableroaming=1&mscc=1&hid=D61B0AA0-B0B4-3000-5D4F-05880E1A8E7F&wdorigin=ItemsView&wdhostclicktime=1638791155713&jsapi=1&jsapiver=v1&newsession=1&corrid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&usid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&sftc=1&mtf=1&sfp=1&instantedit=1&wopicomplete=1&wdredirectionreason=Unified_SingleFlush&preseededsessionkey=2f750cb0-2c4b-72da-dd51-f5d006c24828&preseededwacsessionid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&rct=Medium&ctp=LeastProtected#_ftn1). Reasonable accommodation duties are different from the duty to provide accessibility *and States Parties should adopt legislative and policy framework that define the denial of reasonable accommodation as a form of discrimination on the basis of disability. States should also provide a clear definition of what constitutes reasonable accommodation, accompanied by clear resources, technical and financial support to employers to facilitate the provision of reasonable accommodation as well as training for public officials to ensure effective implementation.*  Reasonable accommodation involves the provision of individualised supports, *when required,* to enable individuals with disabilities to perform the inherent requirements of their work on an equal basis with others.

#### Page 15, Paragraph 50

##### Current paragraph

The duty to provide reasonable accommodation is a cooperative and interactive process applicable from the moment a request for accommodation is received and requires the employer to enter into dialogue with the employee.[[10]](#footnote-10) Its provision is limited by the concept of ‘disproportionate or undue burden’. This requires an objective analysis of the ‘proportional relationship between the means employed and its aim’—enjoyment of the right to work and employment.**[[11]](#footnote-11)**

##### Suggested amended paragraph

The duty to provide reasonable accommodation is a cooperative and interactive process applicable from the moment a request for accommodation is received and requires the employer to enter into dialogue with the employee.[[1]](https://ukc-word-edit.officeapps.live.com/we/wordeditorframe.aspx?ui=en%2DGB&rs=en%2DUS&wopisrc=https%3A%2F%2Fsightsavershh.sharepoint.com%2Fsites%2FSO365-PGAwhereabouts%2F_vti_bin%2Fwopi.ashx%2Ffiles%2F5f8ecf38168d442c9220b1fcc3c24ccf&wdenableroaming=1&mscc=1&hid=D61B0AA0-B0B4-3000-5D4F-05880E1A8E7F&wdorigin=ItemsView&wdhostclicktime=1638791155713&jsapi=1&jsapiver=v1&newsession=1&corrid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&usid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&sftc=1&mtf=1&sfp=1&instantedit=1&wopicomplete=1&wdredirectionreason=Unified_SingleFlush&preseededsessionkey=2f750cb0-2c4b-72da-dd51-f5d006c24828&preseededwacsessionid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&rct=Medium&ctp=LeastProtected#_ftn1) *People with disabilities should be involved in identifying the support they need, which may change and need to be reviewed over time.* Its provision is limited by the concept of ‘disproportionate or undue burden’. This requires an objective analysis of the ‘proportional relationship between the means employed and its aim’—enjoyment of the right to work and employment.[[2]](https://ukc-word-edit.officeapps.live.com/we/wordeditorframe.aspx?ui=en%2DGB&rs=en%2DUS&wopisrc=https%3A%2F%2Fsightsavershh.sharepoint.com%2Fsites%2FSO365-PGAwhereabouts%2F_vti_bin%2Fwopi.ashx%2Ffiles%2F5f8ecf38168d442c9220b1fcc3c24ccf&wdenableroaming=1&mscc=1&hid=D61B0AA0-B0B4-3000-5D4F-05880E1A8E7F&wdorigin=ItemsView&wdhostclicktime=1638791155713&jsapi=1&jsapiver=v1&newsession=1&corrid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&usid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&sftc=1&mtf=1&sfp=1&instantedit=1&wopicomplete=1&wdredirectionreason=Unified_SingleFlush&preseededsessionkey=2f750cb0-2c4b-72da-dd51-f5d006c24828&preseededwacsessionid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&rct=Medium&ctp=LeastProtected#_ftn2)

#### Page 16, Paragraph 55

##### Current paragraph

Return-to-work programmes may lead to continuation of the same role, a different role with the same employer, or a role with a different employer. They should not be used to promote employment in segregated work settings.

##### Suggested amended paragraph

Return-to-work programmes may lead to continuation of the same role, a different role with the same employer, or a role with a different employer. *These should be decided in each individual case, in consultation with the relevant workers with disabilities.* They should not be used to promote employment in segregated work settings.

#### Page 18, Paragraph 62

##### Current paragraph

The obligation to respectrequires States Parties to refrain from interfering directly or indirectly with the enjoyment of the right to work by, inter alia, refraining from denying or limiting equal access to decent work for all persons with disabilities, refraining from exempting organizations from paying national minimum wages based on disability, and prohibiting forced or compulsory labour. States Parties are bound by the obligation to respect the right of women with disabilities and young persons with disabilities to have access to just and favourable conditions of work and thus to take measures to combat intersectional discrimination and to promote equal opportunities to promotion and equal remuneration for work of equal value. Any assessments by the States parties of the *value* of work needs to avoid stereotypes of persons with disabilities, including their sex and gender that could undervalue work predominantly performed by women with disabilities.[[1]](https://ukc-word-edit.officeapps.live.com/we/wordeditorframe.aspx?ui=en%2DGB&rs=en%2DUS&wopisrc=https%3A%2F%2Fsightsavershh.sharepoint.com%2Fsites%2FSO365-PGAwhereabouts%2F_vti_bin%2Fwopi.ashx%2Ffiles%2F5f8ecf38168d442c9220b1fcc3c24ccf&wdenableroaming=1&mscc=1&hid=D61B0AA0-B0B4-3000-5D4F-05880E1A8E7F&wdorigin=ItemsView&wdhostclicktime=1638791155713&jsapi=1&jsapiver=v1&newsession=1&corrid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&usid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&sftc=1&mtf=1&sfp=1&instantedit=1&wopicomplete=1&wdredirectionreason=Unified_SingleFlush&preseededsessionkey=2f750cb0-2c4b-72da-dd51-f5d006c24828&preseededwacsessionid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&rct=Medium&ctp=LeastProtected#_ftn1)

##### Suggested amended paragraph

The obligation to respectrequires States Parties to refrain from interfering directly or indirectly with the enjoyment of the right to work by, inter alia, refraining from denying or limiting equal access to decent work for all persons with disabilities, refraining from exempting organizations from paying national minimum *or fair market* wages based on *gender or* disability, and prohibiting forced or compulsory labour. States Parties are bound by the obligation to respect the right of women with disabilities and young persons with disabilities to have access to just and favourable conditions of work and thus to take measures to combat intersectional discrimination and to promote equal opportunities to promotion and equal remuneration for work of equal value. Any assessments by the States parties of the *value* of work needs to avoid stereotypes of persons with disabilities, including their sex and gender that could undervalue work predominantly performed by women with disabilities.[[1]](https://ukc-word-edit.officeapps.live.com/we/wordeditorframe.aspx?ui=en%2DGB&rs=en%2DUS&wopisrc=https%3A%2F%2Fsightsavershh.sharepoint.com%2Fsites%2FSO365-PGAwhereabouts%2F_vti_bin%2Fwopi.ashx%2Ffiles%2F5f8ecf38168d442c9220b1fcc3c24ccf&wdenableroaming=1&mscc=1&hid=D61B0AA0-B0B4-3000-5D4F-05880E1A8E7F&wdorigin=ItemsView&wdhostclicktime=1638791155713&jsapi=1&jsapiver=v1&newsession=1&corrid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&usid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&sftc=1&mtf=1&sfp=1&instantedit=1&wopicomplete=1&wdredirectionreason=Unified_SingleFlush&preseededsessionkey=2f750cb0-2c4b-72da-dd51-f5d006c24828&preseededwacsessionid=3ff3d932-de60-50e7-e2ec-e855c232a4cd&rct=Medium&ctp=LeastProtected#_ftn1)

#### Page 19, 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, 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, *imposing measures to tackle the disability and gender pay gaps*, 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.

#### Page 19, Paragraph 64

Paragraph 64 raises very important points but, unlike other paragraphs included in the General Obligations section, it does not include a general obligation to States Parties. We therefore recommend it is moved after paragraph 29 or after paragraph 80. We also propose the addition highlighted below:

##### 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 at greater risk of exploitation in the formal economy through inappropriate use of unpaid internships and training programmes.

##### Suggested amended paragraph (move to after paragraph 29 or paragraph 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. Young people with disabilities may be at greater risk of exploitation in the formal economy through inappropriate use of unpaid internships and training programmes.

#### Page 22, Paragraph 72.d.i

##### Current paragraph

Ensure—

1. that persons with disabilities are paid no less than the minimum wage and do not lose the benefit of disability allowances when they start work

**Suggested amended paragraph**

Ensure—

1. that persons with disabilities are paid *fair market wage, which should* be no less than the minimum wage, and do not lose the benefit of disability allowances when they start work

#### Page 26, Paragraph 93.i

##### Current paragraph

Equal and effective access to benefits and entitlements relating to, or interacting with work, including retirement and unemployment benefits. Entitlement must not be infringed upon self-employment or exclusion from employment . . Essential components of equal and effective access are benefits responsive to the specific barriers faced by persons with disabilities, and effective measures to cover the additional expenses linked to disability, including those related to work and finding work. Furthermore, current exclusion from the labour market makes social protection for persons with disabilities particularly important.

##### Suggested amended paragraph

Equal and effective access to benefits and entitlements relating to, or interacting with work, including *non-contributory and contributory old age pensions* and unemployment benefits. Entitlement must not be infringed upon self-employment or exclusion from employment . . Essential components of equal and effective access are benefits responsive to the specific barriers faced by persons with disabilities, and effective measures to cover the additional expenses linked to disability, including those related to work and finding work. Furthermore, current exclusion from the labour market makes *comprehensive* social protection *and Social Protection Floors* for persons with disabilities particularly important.

#### Page 27, Paragraph 93.vii

##### Current paragraph

Social protection should compensate for the lack of work-related income and complements labour rights.

##### Suggested amended paragraph

Social protection should compensate for the lack of work-related income and complements labour rights*. People with disability in the informal sector should have access to non-contributory social protection programmes to guarantee their income security.*

#### Page 27, Paragraph 95

##### 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, age, gender 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.

# Further information

This submission was prepared by Mariana Rudge, Senior Policy Adviser on Social Inclusion and Inclusive Education at Sightsavers.

For further information please contact: mrudge@sightsavers.org

1. Articles 27(1), 27(1)(b) and (c) form three interdependent articles of the ICESCR: articles 6, 7 and 8. The CESCR has developed separate general comments on articles 6 and 7. A general comment on article 8 has not been developed as yet. [↑](#footnote-ref-1)
2. CRPD General Comment No.3 (2016) on women and girls with disabilities. [↑](#footnote-ref-2)
3. CRPD General Comment No. 6. [↑](#footnote-ref-3)
4. CRPD General Comment No. 6, para 22. [↑](#footnote-ref-4)
5. CESCR, art. 6 *The right to work* and ILO *Vocational Rehabilitation and Employment (Disabled Persons) Convention* 1983 (No. 159). [↑](#footnote-ref-5)
6. CRPD Committee, ‘Guidelines on Treaty-Specific Document to be Submitted by States Parties under Article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities’ CRPD/C/2/3 (18 November 2009) para 10. [↑](#footnote-ref-6)
7. ILO, *Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)*. [↑](#footnote-ref-7)
8. ILO, *Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)*. [↑](#footnote-ref-8)
9. A/HRC/46/47, January 2021, para.44. [↑](#footnote-ref-9)
10. CRPD General Comment No. 6 (2018) *Equality and non-discrimination (art. 5)*, para 24(b). [↑](#footnote-ref-10)
11. CRPD General Comment No. 6 (2018) *Equality and non-discrimination (art. 5)*, para 26(d). [↑](#footnote-ref-11)