ABOUT US

The Centre for Disability Law and Policy (CDLP) at National University of Ireland, Galway was formally established in 2008 and works in pursuit of equal opportunities and social justice for persons with disabilities in Ireland and around the world. Since its establishment, the CDLP has organized and participated in a number of key events regarding disability law reform. The CDLP’s operating philosophy is ‘scholarship in action’ which entails research that addresses the problems that ordinary citizen’s face and providing practical policy solutions. In the course of our work we have made submissions to national and international bodies advocating for policies and laws that best facilitate the free and full exercise of rights for people with disabilities.

INTRODUCTION

The CDLP appreciates and welcomes the initiative of the Committee on the Rights of Persons with Disabilities (hereinafter, “CRPD Committee”) to hold a Day of General Discussion on the right of persons with disabilities to equality and non-discrimination in the lead up to developing a General Comment. This submission includes essential elements that should be considered in elaborating on the content of Article 5.

**Outline of the Draft General Comment**:

1. Introduction

1. Principle of equality and non-discrimination in international law

* 2. The history of art. 5 CRPD
* 3. The human rights model of disability and the notion of equality
* 4. Legal character of art. 5 (principle or right?, immediate or progressive realization?)

1. Normative Content

Art. 5 (1)

* 5. Being equal before and under the law
* 6. Equal protection and equal benefit of the law

Art. 5 (2)

* 7. Discrimination
  + 7.a. Forms of discrimination (direct; indirect; structural; systemic; denial of reasonable accommodation, distinction, exclusion or restriction)
  + 7.b. Personal scope (past, present, future, assumed impairment; associates; intersectional)
  + 7.c. Grounds of discrimination: age, disability, ethnic, indigenous, national or social origin, gender identity, political or other opinion, race, refugee, migrant or asylum status, religion, sex, or sexual orientation

Art. 5 (3)

* + 8. Duty to provide reasonable accommodation: individualized effective adaptation, based on individual negotiation,

Art. 5 (4)

* 9. Specific measures

1. Interrelation with specific other articles

* 10. Article 6
* 11. Article 7
* 12. Article 9
* 13.Article 12
* 14. Article 13
* 15.Article 16
* 16. Article 19
* 17. Article 24
* 18. Article 27

1. State Party obligations

* 19. Legislative obligations: anti-disc laws
* 20.Institutional obligations: equality courts, bodies, ombudspersons
* 21.Enforcement obligations: legal remedies
* 22. Statistics & Research: Washington Group, Sustainable Development Goals, research gaps e.g. intersectional discrimination.
* 22. Other positive obligations: affirmative action measures

1. Natl. Monitoring

* 23. Focal point & coordination
* 24. Independent monitoring frameworks
* 25.Meaningful participation
* 26. Indicators

SECTION I: INTRODUCTION.

PARAGRAPH 1.3 THE HUMAN RIGHTS MODEL OF DISABILITY AND THE NOTION OF EQUALITY AND 1.4: LEGAL CHARACTER OF ART. 5 (PRINCIPLE OR RIGHT? IMMEDIATE OR PROGRESSIVE REALIZATION?)

Throughout history, persons with disabilities have faced prejudice and, therefore, discrimination in all forms in their daily life. Discrimination comes from society and from the State through its laws and public policies. The Human Rights Council has stated that “National laws and policies generally perpetuate exclusion, isolation, discrimination and violence against persons with disabilities, despite international human rights law standards. Factors such as deprivation of legal capacity, forced institutionalization, exclusion from general education, pervasive stereotypes and prejudices and lack of access to employment prevent persons with disabilities from enjoying their rights fully, on an equal basis with others.”[[1]](#footnote-1)

For the purpose of greatly strengthening human rights, Article 5 requires States to recognize the concept of equality as also the concept of disability. “There is a strong connection between the understanding of those two concepts, equality and disability.”[[2]](#footnote-2)

Non-discrimination and equality are fundamental components of international human rights law and essential to the exercise and enjoyment of human rights and fundamental freedoms.[[3]](#footnote-3)

Human rights are the political and legal instruments which create the conditions for achieving and developing our own personalities and our own plans in life. Human rights are about social justice and the setting of the highest attainable standards requires States to make an ongoing commitment to their realisation.

Equality is present in the social model of disability. This model presents a dimension of equality as a value, as an objective criterion when a situation of oppression arises. Equality arises both as an ethical reference in the paradigm of the social model of disability and as a goal of the social model of disability which understands that disability is a social phenomenon. The human rights model of disability evolves in this sense and, through the CRPD, uses equality in three dimensions: (i) as a principle, which informs to the whole Treaty and transmits it in its entirety, (ii) as a right (formal equality and de facto equality) and (iii) as an obligation of the States parties to the CRPD.

In this sense, equality as a right, in the human rights model of disability is presented as both substantive equality and transformative equality. The Human Rights Council has stated that “The Convention on the Rights of Persons with Disabilities brings about several innovations that take the notions of equality and non-discrimination forward in the field of international human rights law.”[[4]](#footnote-4)

The Convention contains both the principle of non-discrimination (“which provides for immediate obligations”[[5]](#footnote-5)) and the principle of State responsibility. Through Article 3 (general principles) and Article 4 (general obligations), the CRPD mandates the State to strengthen a practical realization of human rights. The State -in its obligation to respect, protect and fulfil human rights- is obliged to demonstrate results (a dimension of substantive equality) and not just establish legislative equality frameworks.

Despite non-discrimination being the starting point of the CRPD, substantive equality as transformative equality is what is intended which implies a structural change.

A clear example is reasonable accommodation, “an intrinsic part of the duty of non-discrimination and, as such, is applicable to all rights.”[[6]](#footnote-6)

Reasonable accommodation, which is essential to the exercise of the right to equality, works as an instrument that can helps States parties to achieve substantive and transformative equality, thus fulfilling the dimension or aspect of equality as an obligation of States.

Indicators of the progress of the State regarding equality of persons with disabilities lies not only in what the State does, but in what the State achieves in terms of a structural change of society in order to include (not integrate) persons with disability into society and achieve transformative equality for people with disabilities.

“Reasonable accommodation plays a bridging role between immediate and progressive obligations. As part of non-discrimination, reasonable accommodation applies immediately to all rights, including economic, social and cultural rights. Secondly, as it may require positive action (with or without cost), it blurs the idea that civil and political rights imply only negative duties, and economic, social and cultural rights only positive duties. From a practical perspective, the systematic implementation of reasonable accommodation contributes to fostering compliance with progressive obligations”[[7]](#footnote-7)

Progressive realization is by no means a weak obligation, in particular for a wealthy state. It requires states to ‘take steps’ with immediate and continued effect, towards the protection of each of the Covenant rights.[[8]](#footnote-8)

The holder of rights in the CRPD is not an abstract subject to be observed by the Treaty independently of their social situation. On the contrary, in addition to conceiving of disability as a social construction, the holder of rights in the CRPD is a person with an impairment (actual or perceived, but also persons related to the person with an impairment), whom the Convention embrace as part of human diversity (another characteristic of the human rights model of disability). And, where the person has their rights restricted, the CRPD as a Human Rights Treaty, demands action and intervention from the States parties and from the private institutions within it to allow and restore autonomy to choose and to live independently.

Taking this into consideration and taking into account that the CRPD is a Human Rights Treaty that has the characteristic of not classifying rights between the so-called first and second generation of rights –“CRPD is a hybrid Convention containing all the relevant substantive rights drawn from both sets (civil and political as well as economic, social and cultural) but the non-discrimination equal philosophy underpins the entire Convention”[[9]](#footnote-9)– it is important to emphasize the European Court of Human Rights (ECHR) statement that civil and political rights and economic, social and cultural rights cannot be absolutely separated.[[10]](#footnote-10)

Article 5 is about equality and non-discrimination. The general comment emphasises implementation of Article 5 and provides guidance for its application. Then, “the importance of whether the rights in question are categorized as civil, political, social [cultural] or economic might not be considerable. When implementing the right to equal enjoyment of rights it is important that the State parties are well aware of the development in human rights especially the emphasis on human dignity.”[[11]](#footnote-11)

We at the CDLP believe that it is necessary for the CRPD Committee to be able to establish limits of when to demand an immediate realization of equality and when a progressive realization of equality. There is a need for a more contemporary view of human rights and an understanding that this mix of the so-called generations of rights within even a single Article does not preclude discussion about the realization of the right. At the same time, States needs to improve their actions progressively, through positive duties, in order to respect and fulfil human rights.

SECTION II. NORMATIVE CONTENT

ART. 5 (2)

PARAGRAPH 7.B. PERSONAL SCOPE (PAST, PRESENT, FUTURE, ASSUMED IMPAIRMENT; ASSOCIATES; INTERSECTIONAL)

Article 5 (2) specifically states that persons with disabilities must have guaranteed legal protection against discrimination on all grounds. Therefore, an intersectional approach must be adopted in order to ensure that the entirety of discrimination that persons with disability face can be addressed. This day of general discussion and the latter general comment provide a unique opportunity for the Committee to explore intersectional discrimination, encouraging States to apply this approach of non-discrimination as a legal concept and as a legal tool in their legislations.

Multiple and intersectional discriminations are constructed on the basis of more than one discriminatory layer. If we affirm this and its legislative consequences, it is necessary to recognize that the identity of persons does not respond to a single factor and is not categorical. This understanding underpins the CRPD.

It is true that the Convention has addressed some social groups, such as women and children and categorically recognizes that women face multiple discrimination. However, there is a need to understand that persons with disabilities with different identities face intersectional discrimination.

As opposed to multiple discrimination, the intersectional approach to non-discrimination does not mean the "sum" of discriminatory layers, such as ableism, ageism, racism, sexism, etc. In intersectional discrimination, layers connect with each other, provoking among themselves a synergy, which forms a unique form of discrimination. In multiple discrimination, the treatment of discriminative layers is parallel because they can be differentiated even if the person who is facing those discriminations is the same one and has the same characteristics as a person who faces intersectional discrimination. When facing intersectional discrimination, layers cannot and should not be separated because that intersection, that synergy, causes a single type of discrimination.

By following the model used by the Committee on the Elimination of Discrimination against Women in its General Recommendation Nº 28, the CRPD Committee in General Comment Nº 3 has stated a difference between multiple and intersectional discrimination. But there is a necessity to provide concrete guidance to States on this difference, which can be achieved in this General Comment on Article 5.

Identifying intersectional discrimination is not a simple task. It is a complex phenomenon and requires a thorough pre-legal analysis. In this sense, it is important for States parties to provide information on the situation of specific groups and individuals facing multiple and intersectional discrimination, as this would increase the Committee's ability to address these issues more and more effectively in practice.

Besides being an approach to non-discrimination, intersectionality as a paradigm shift is an interpretative framework to understand a social phenomenon that holds that the systems of race, social class, gender, sexuality, ethnicity, nationality, disability and age, among other factors, shape the characteristics of social organizations that shape the experiences of social groups that are at the margins of society.

If we restrict the approach to seeing discrimination from a single focus, the meaning of non-discrimination, that is, the tools of law that seeks to end injustice and achieve equality, will have a limited utility in respect of persons with disabilities whose lives are in some way marked by a struggle against a series of different barriers. This does not mean that a one-dimensional approach to discrimination should not exist or is old-fashioned; it means that it is important to be able to identify the different forms of discrimination and to do so, we must understand that discrimination is hidden under harmful cultural traditions or beliefs and practices.

Intersectional analysis is useful in order to expose human diversity, give it visibility, and guarantee the protection and promotion of people with disabilities who face varieties of forms of discrimination. It is pointless to think of persons with disabilities as a unit, as a homogeneous group without distinction of any other identity.

The legal operability of intersectionality interrupts categorical group demarcations generally established in non-discrimination laws. Assuming that groups are rigidly delineated by race, gender, disability, sexual orientation or any other factor means making invisible those factors at the intersection between those social groups.

Intersectionality provides equality in a wider way. By addressing intersectionality, transformative equality can be achieved. Intersectionality reconstructs society, leading to redistribution of power and resources and a change in the institutional structures which perpetuate oppression.[[12]](#footnote-12) Through transformative equality and through intersectionality, empowerment can be achieved. The reconstruction of society provides emancipation and with emancipation, empowerment arises.

To make intersectionality effective, we need a proactive approach that exposes the limits of current understanding of how and why social groups are identified in *x* or *y* way in the context of the equality and non-discrimination legislation.[[13]](#footnote-13)

PARAGRAPH 7.C: GROUNDS OF DISCRIMINATION: AGE, DISABILITY, ETHNIC, INDIGENOUS, NATIONAL OR SOCIAL ORIGIN, GENDER IDENTITY, POLITICAL OR OTHER OPINION, RACE, REFUGEE, MIGRANT OR ASYLUM STATUS, RELIGION, SEX, OR SEXUAL ORIENTATION

It would be useful for the CRPD Committee to mention other grounds of discrimination, such as race, albinism and intersexuality.

Regarding albinism, myths and prejudices linked to the physical expression of the condition lead to human rights violations and enduring discrimination against persons with albinism.

International and national laws and policies on human rights have historically neglected aspects of rights related to persons with albinism.

The work of the Independent Expert on the Enjoyment of Human Rights of Persons with Albinism[[14]](#footnote-14) has evidenced the human rights violations faced by persons with albinism, including ritual killing, violent attacks, trade in organs and body parts, trafficking in persons and sale of children, infanticide, abandonment of children, and sexual violence. The most violent attacks have happened in African countries[[15]](#footnote-15); however persons with albinism face multiple and intersectional discrimination across the globe, resulting in societal prejudices, social isolation, and denial of access to basic rights such as education and health[[16]](#footnote-16). The Independent Expert on the enjoyment of human rights by persons with albinism has drawn attention to 5 main areas of concern: witchcraft and related offences; discrimination; disability; health; and the specific challenges faced by women and children[[17]](#footnote-17).

However the enduring stigmatisation and discrimination of persons with albinism suggests that specific instruments are needed to consolidate their legal position. There is evidence that persons with albinism face discriminatory sentencing[[18]](#footnote-18) and endure significant difficulties accessing justice[[19]](#footnote-19).

In relation to intersex persons, there is a myth that people belong to one of two distinct and separate sexes which contribute to the stigma and discrimination felt by the intersex community. The human rights violations linked to this stigma include medically unnecessary surgeries and other invasive treatment of intersex babies and children without consent, which have been condemned as harmful practices and ill treatment by UN bodies, as well as the infanticide of intersex babies and widespread and life-long discrimination, including in education, employment, health, sports, accessing public services, birth registration and obtaining identity documents.[[20]](#footnote-20)

Intersex people are born with sex characteristics (including genitals, gonads and chromosome patterns) that do not fit typical binary notions of male or female bodies. Intersex is an umbrella term used to describe a wide range of natural bodily variations. In some cases, intersex traits are visible at birth while in others, they are not apparent until puberty. Some chromosomal intersex variations may not be physically apparent at all.[[21]](#footnote-21)

SECTION III.

INTERRELATION WITH SPECIFIC OTHER ARTICLES

PARAGRAPH 10: ARTICLE 6, WOMEN WITH DISABILITIES.

Article 6 recognises that women and girls with disabilities are subject to multiple discrimination. We at the CDLP consider this a minimum level of recognition for States parties to the CRPD. That is, States that have ratified the CRPD have an obligation to recognize minimally that women and girls with disabilities face multiple discrimination and therefore they must take action in this regard, meaning that multiple discrimination is the starting point and that intersectional discrimination is more likely.

If we consider that Article 6 is a recognition of minimums, it is essential to carry out in-depth analysis in order to be able to identify this form of discrimination and not simply add disability, gender or sex and, if necessary, another factor of identity. It is a question of identifying where these factors cross and create a unique form of discrimination for which the State needs to develop a strategy of comprehensive response through effective legal remedies.

PARAGRAPH 13.

ARTICLE 12, EQUAL RECOGNITION BEFORE THE LAW.

It should be emphasised that the right to support in exercising one’s legal capacity, articulated in Article 12 of the CRPD, is different from the right to reasonable accommodation in exercising legal capacity (as affirmed in General Comment 1), and thus the failure to provide access to this support cannot be justified by arguments based on ‘inappropriateness’ or ‘undue burden’. As an obligation of immediate effect, States parties shall take measures to provide access to support in the exercise of legal capacity for every member of society on an equal basis. Persons with disabilities enjoy the right to reasonable accommodation in accessing such support. As identifying oneself as a person with disability may raise concerns of stigma and thus deter people from accessing support in exercising legal capacity, the measures taken by States parties to provide access to support should include removing preconditions such as providing proof of impairment.

PARAGRAPH 14.

ARTICLE 13, ACCESS TO JUSTICE.

‘[E]ffective access to justice for persons with disabilities on an equal basis with others’ is the key principle of Article 13 on access to justice. The phrase ‘on an equal basis with others’ in Article 13 implicitly refers to the principle of equality and non-discrimination in Article 5 without repetitive articulation.[[22]](#footnote-22) Accordingly, Article 13 must be interpreted in conjunction with Article 5.[[23]](#footnote-23) The notion of equality and non-discrimination is applied to all aspects and stages of access to justice. All discrimination, whether direct or indirect, on the basis of disability and other grounds, is prohibited. State parties must ensure that all legal provisions, policies and practices concerning access to justice do not unfairly discriminate against persons with disabilities. This can be ensured through appropriate disability specific training on equality and non-discrimination, for those working in the field of administration of justice.[[24]](#footnote-24) In addition to judges and tribunal members, lawyers, prosecutors, police, and court and prison staff, people working in the field of administration of justice also include those who exercise quasi-judicial power;[[25]](#footnote-25) and those whose work relate to or are comprised of facilitating access to justice.[[26]](#footnote-26)

The principle of reasonable accommodation in Article 5 must also be applied as a supportive mechanism to promote equality and eliminate discrimination against persons with disabilities in accessing justice. According to the CRPD, non-compliance with the reasonable accommodation requirements is a form of discrimination on the basis of disability. However, it is important to note that the concept of reasonable accommodation is not interchangeable with ‘the provision of procedural and age-appropriate accommodations’ as stipulated in the text of Article 13. The provision of accommodations in Article 13 are ‘more generic and less individualized approach’, however, this does not mean that they shall be subject to deliberations of ‘reasonableness’.[[27]](#footnote-27) Rather, the provisions of procedural and age-appropriate accommodations are necessary to achieve effective access to justice. The aim of reasonable accommodation is to fill a gap which Article 13 might have by removing barriers in accessing the justice system in individual situations and specific contexts.[[28]](#footnote-28) This can be facilitated through ‘an adjustment to standard practice or procedure’ – for example:

the timetabling of a case (for instance by avoiding an early morning start for a person taking certain types of medication); allowing more frequent breaks for a person with a physical impairment which requires this; allowing a sign language interpreter or reader to accompany a person with sensory impairments; or communicating with a deaf person who has visited a police station in writing rather than orally.[[29]](#footnote-29)

Likewise, the guarantee and protection of equality and non-discrimination in Article 5 cannot be effectively fulfilled without the effective access to justice as provided in Article 13. Effective access to justice is an essential mechanism to protect and enforce equality and non-discrimination principles, as well as to redress inequality and unfair discrimination.[[30]](#footnote-30) For example, a person with a physical disability who could not use public transport due to the lack of appropriate facilities, may seek redress through the justice system, to gain access to the service on an equal basis with others. This example highlights that the availability of effective access to justice is very important for persons with disabilities, to claim their right to access the public transport system, on an equal basis with others. The justice system refers not only to the judicial system, but also includes complaints and remedy mechanisms.

This brief overview of Article 13 clarifies that Article 5 on equality and non-discrimination and Article 13 on access to justice are indivisible and interdependent.[[31]](#footnote-31)

PARAGRAPH 18.

ARTICLE 27: WORK AND EMPLOYMENT

While the CRPD Committee does repeatedly comment on the use of quota systems and reasonable accommodation by States to improve persons with disabilities’ access to work, the Committee could use the opportunity of the general comment to address the discrimination experienced by those most marginalised. By doing so it would ensure that persons most discriminated against in the area of employment, namely those persons with intellectual and psychosocial disabilities, are protected from discrimination which is rooted in stereotyping, limited access to mainstream employment services and segregated vocational services.

In general, article 27 contains two major protections of the right to work of persons with disabilities, firstly focusing on the State obligation to safeguard the realisation of the right to work through some steps of appropriate measures. Secondly, it ensures the protection of persons with disabilities from any form of slavery, servitude, forces of compulsory labour.

With regard to the State obligation to take appropriate measures, the provision ensures the protections of the right to work of persons with disabilities that cover the equality of opportunity in all processes of (i) pre-employment (conditions of recruitment, assistance in finding, obtaining, maintaining and returning to employment, effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training), (ii) employment (hiring and employment, continuance of employment, career advancement, safe and healthy working conditions including protection from harassment and the redress of grievances, just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, exercise of labour and trade union’s rights, reasonable accommodation the workplace) and (iii) post-employment(assistance on returning to employment).

Additionally, not only the formal employment in an open labour market (either in public or private sector) but also informal employment, self employment, entrepreneurship, or starting one’s own business is addressed. There is a potential not only to open the opportunity to engage with the formal sector but also to develop other financial independence through entrepreneurship whereby the business could be expanded and to some extent employ others either directly or through the multiplier effect in the local economy.

There is a need of positive measures to be effective in this regard. Referring to article 5 (4), these special measures to accelerate or to achieve *de facto* equality may not be regarded as discrimination under the terms of Convention. The objective of such measures is not to allow anyone to be left out. The State as duty bearer has obligations to provide measures within its authority to bring into effect the full enjoyment of the right to work for persons with disabilities.

ARTICLE 29: PARTICIPATION IN POLITICAL AND PUBLIC LIFE

To enjoy fully the right to non-discrimination on grounds of political opinion, persons with disabilities need to be able to exercise their right to participate in public and political life. Article 12 of the Convention affirms that all persons with disabilities have full legal capacity. Legal capacity is indispensable for the exercise of civil, political, economic, social and cultural rights. Denial or restriction of legal capacity has been used to deny political participation, especially the right to vote, to certain persons with disabilities, resulting in restriction of their right to the most common and formalised expression of political opinion.

Access to information and communication is a precondition for freedom of opinion and expression, as guaranteed under article 19 of the Universal Declaration of Human Rights and article 19, paragraph 2, of the International Covenant on Civil and Political Rights. Article 29 of the Convention on the Rights of Persons with Disabilities guarantees persons with disabilities the right to participate in political and public life, and to take part in running public affairs. Persons with disabilities would be unable to exercise these rights equally and effectively if States parties failed to ensure that voting procedures, facilities and materials were appropriate, accessible and easy to understand and use. If political meetings and actors do not use accessible materials for election campaigns, persons with disabilities are deprived of their right to participate in the political process and express their political opinion in an equal manner. States parties have an obligation to protect and promote the right of persons with disabilities to access the support of their choice in voting by secret ballot, and to participate in all elections and referendums without discrimination.

Access to the physical environment, transportation, information and communication, and services open to the public is often a precondition for the effective enjoyment of different civil and political rights by persons with disabilities. The CRPD Committee argues that State parties can achieve accessibility through gradual implementation and continuous removal of barriers. However, “progressive realization” (Article 4, para. 2) does not apply to the provisions of article 12. Upon ratifying the Convention, States parties must begin taking steps towards the realization of the rights provided for in article 12. Those steps must be deliberate, well-planned and include consultation with and meaningful participation of people with disabilities and their organizations.

SECTION IV

PARAGRAPH 22: STATISTICS & RESEARCH: WASHINGTON GROUP, SUSTAINABLE DEVELOPMENT GOALS, RESEARCH GAPS E.G. INTERSECTIONAL DISCRIMINATION.

Article 31(1) of the CRPD consolidates the link between research and effective implementation of the CRPD. States parties are required to “collect appropriate information, including statistical and research data, to enable them to formulate policies to give effect to the present Convention”. The CRPD Committee has noted with concern the lack of statistical information about the situation of persons with disabilities in various State parties and recommends reforms to systems of data collection that disaggregates by age and gender, particularly persons with disabilities from marginalized communities, across all sectors, including impairment group, health, education, employment, political participation, access to justice, social protection, violence, migration and internal displacement. In this way, data can be gathered on the multiple forms of discrimination faced by persons with disabilities and States can perform the deep analysis necessary to identify and strategize against intersectional discrimination.

The setting of research agendas deserves some mention under the provisions of article 5. Article 31 sets out State obligations around data collection, safeguards, ethics, dissemination and accessibility. The General Comment on Article 9: Accessibility reaffirms obligation of State parties to promote research on new technologies and universal design. However, the setting of research agendas is not given as much guidance. Embedding people with disabilities in research process from the agenda-setting stage will ensure meaningful participation by persons with disabilities in research and meaningful engagement from research funders and the researchers themselves. Inclusive and participative research processes centre they lived experience of persons with disabilities and ensure that national monitoring procedures identify the areas of inequality and discrimination that affect people’s lives.

CONCLUSIONS

It is crucial to address intersectional discrimination for all persons with disabilities, noting that they are not a homogenous social group. As intersectionality is not yet a legal instrument, it would be helpful for the Committee to encourage States parties to take appropriate measures to address this non-discrimination approach.

There is a need for a more contemporary view of human rights and an understanding that the mix in the CRPD of the so-called generations of rights does not preclude discussion about the realization of the right (immediate or progressive).

Specifically, at the CDLP we believe that the CRPD Committee should:

* Consider all grounds of discrimination and in this sense, work together with other U.N. Human Rights Mechanisms;
* Address intersectionality in their recommendations and concluding observations thinking towards transformative equality;
* Raise awareness that discrimination of persons with disabilities happen both, in public and private spheres and that discrimination does not occur from a single ground only;
* Encourage States to use reasonable accommodation, which is essential to exercise the right to equality, achieving substantive and transformative equality;
* Be aware that the recognition of multiple discrimination in Article 6 is a recognition of minimums;
* Encourage States parties to gather disaggregated data to address equality and non-discrimination of persons with disabilities.

We would welcome further assistance to the CRPD Committee if required.

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15. Human Rights Council, Persons with albinism, Report of the Office of the United Nations High Commissioner for Human Rights, 12 September 2013, A/HRC/24/57 paragraph 8. [↑](#footnote-ref-15)
16. Human Rights Council, Report of the Independent Expert on the enjoyment of human rights by persons with albinism, 29 July 2016, A/HRC/71/255. [↑](#footnote-ref-16)
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26. For example, staff members of complaints and remedy mechanisms and those of organisations providing legal assistance and representation. [↑](#footnote-ref-26)
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