



Commission for Gender Equality
A society free from gender oppression and inequality

SUBMISSION – United Nations’ draft guidelines on addressing multiple and intersectional forms of discrimination against women and girls with disabilities

Commission for Gender Equality Comments

OCTOBER 2025

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1. Introduction

The Commission for Gender Equality (CGE) welcomes the opportunity to make written submissions on the draft guidelines on addressing multiple and intersectional forms of discrimination against women and girls with disabilities.

The CGE, as an independent statutory body created in terms of Chapter 9 of the Constitution of the Republic of South Africa, 1996 (the Constitution), is mandated to protect gender equality and the protection, development, and attainment of gender equality.

The Commission for Gender Equality Act 39 of 1996 ('the CGE Act'), gives the Commission the power to:

- Monitor and evaluate policies and practices of organs of State at any level.
- Monitor and evaluate statutory bodies and functionaries.
- Monitor public bodies and authorities and private businesses, enterprises, and institutions to promote gender equality.
- Make any recommendations that the CGE deems necessary.

2. Background

The draft guidelines under discussion seek to address multiple and intersectional forms of discrimination against women and girls with disabilities. The aim is to further guide states parties and other duty bearers to address implementation gaps and collect a repository of good practices in addressing



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multiple and intersecting forms of discrimination against women and girls with disabilities in law, policy, and practice.

Women and girls with disabilities are particularly vulnerable to multiple and intersecting forms of discrimination because of their gender and disability. The 1995 Beijing Declaration and Platform for Action, adopted at the Fourth World Conference on Women, recognised that women face barriers to full equality and advancement because of various factors, including disability.¹ This led to the development of a framework for recognizing multiple and coexisting forms of discrimination, which became part of the Beijing Platform for Action.

In South Africa, the South African Constitutional Court has recognised that an instance of unfair discrimination can often occur on more than one ground, and that these grounds often overlap, and that because of this, the assessment of whether unfair discrimination has occurred is a qualitative, rather than quantitative, process.²

¹ United Nations. (1995). Beijing Declaration and Platform for Action para 46 available at <https://www.icsspe.org/system/files/Beijing%20Declaration%20and%20Platform%20for%20Action.pdf> [Accessed: 8 September 2025]

² *National Coalition for Gay and Lesbian Equality and Another v Minister of Justice and Others* 1999 (1) SA 6 (CC) par 113.



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3. The CGE's Submission on the draft guidelines

3.1. *Do the anti-discrimination legislation and/or policy frameworks in force in your country recognize disability and the denial of reasonable accommodation as prohibited forms of discrimination against persons with disabilities?*

Yes, legislation and policy frameworks in force in South Africa do recognize disability and the denial of reasonable accommodation as prohibited forms of discrimination against persons with disabilities.

At the constitutional level, Section 9(3) and (4) of the Constitution of South Africa, 1996 prohibit unfair discrimination on the grounds of disability.

In terms of South African legislation, the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA) lists as one of its objectives the provision of measures to facilitate the eradication of unfair discrimination, hate speech and harassment, on the grounds of, *inter alia*, disability.³ Section 9 of PEPUDA further prohibits unfair discrimination on the grounds of disability, which includes:

- '(a) denying or removing from any person who has a disability, any supporting or enabling facility necessary for their functioning in society;
- (b) contravening the code of practice or regulations of the South African Bureau of Standards that govern environmental accessibility;

³ Section 2(c).



- (c) failing to eliminate obstacles that unfairly limit or restrict persons with disabilities from enjoying equal opportunities or failing to take steps to reasonably accommodate the needs of such persons.¹

The Employment Equity Act 55 of 1998 also provides discrimination protections for persons with disabilities in the workplace. In terms of section 6(1), unfair discrimination against an employee with a disability in any employment policy or practice is prohibited.

In terms of policy, in 2016 the South African Department of Social Development has published the White Paper on the Rights of Persons with Disabilities (WPRPD).⁴ Part 2 of the white paper sets out the rights and responsibilities of persons with disabilities and part 5 sets out the strategic approach to the realization of the rights of persons with disabilities.

These examples thus illustrate that disability is recognised as a prohibited form of discrimination across various layers of South African legislation and policy.

- 3.2. *Do the anti-discrimination legislation and/or policy frameworks in force in your country recognize the multiple and intersecting forms of discrimination affecting women with disabilities on account of their disability and other factors, such as sex, gender, ethnicity, migration status, origin, socio-economic status, religious beliefs, etc.?*

Yes, the South African legislative and policy frameworks aim to recognize and address multiple and intersecting forms of discrimination affecting women with disabilities, although gaps remain in fully implementing comprehensive

⁴ The white paper was published as GNR 230 in *Government Gazette* 39792 (9 March 2016).



measures to address all grounds of discrimination. Both the Constitution and South African legislation such as PEPUA prohibit unfair discrimination on multiple grounds, including gender, sex, pregnancy, and disability.

The country has also established a government ministry for Women, Children and People with Disabilities. The department's mandate is to take the lead on socio-economic transformation and implementation of the empowerment and participation of women, youth and persons with disabilities through mainstreaming, advocacy, monitoring and evaluation.

- 3.3. *Do authorities in your country collect data reflecting intersectionality between disability and other factors such as sex, gender, ethnicity, migration status, origin, socio-economic status, religious beliefs, etc?*

Data disaggregation is a key method for understanding intersectionality, but many nations fail to collect and disaggregate data by multiple factors like sex, gender, ethnicity, disability, or migration status.

While the concept of intersectionality is recognized, South Africa does not consistently collect comprehensive, disaggregated data reflecting disability with other factors like sex, gender, ethnicity, migration status, and socioeconomic status. Official statistics are lacking, particularly for migrants, and while some data points exist for disability, sex, gender, and race, the systematic integration of intersecting factors is not a standard practice for influencing policy and practice.

The Department of Statistics, South Africa (Stats SA), as well as the Department of Social Development (DSD), are nevertheless making efforts to gather more comprehensive information on disability and other factors like sex and age. However, the collection and analysis of data specifically on the intersection of



disability and other factors such as migration status, socio-economic status, ethnicity, and religious beliefs are less developed, with notable gaps in reliable statistics for groups like migrants with disabilities.

Stats SA is also required under Pillar 9 of the WPRPD to strengthen reporting systems to include disability related reports and disaggregate disability data to reflect gender and age statistics.⁵ The department has been collecting and disaggregating disability data by gender and age to understand disparities and participation in areas like education,⁶ as well as access to assistive devices and participation in the labour market.⁷

- 3.4. *Which groups of women and girls with disabilities face the greatest risks of multiple and intersectional discrimination? For example: - Women and girls with disabilities living in rural or remote areas; - Women and girls with disabilities from ethnic or racial minorities; - Indigenous women and girls with disabilities; - Migrant, asylum-seeking, or refugee women and girls with disabilities; - Older women with disabilities; - Young girls with disabilities; - Women and girls with intellectual or psychosocial disabilities; - Women and girls with disabilities living in institutions.*

In South Africa, women and girls with disabilities who are also black, live in rural areas, have intellectual or psychosocial disabilities, are indigenous, are migrants or refugees, or live in institutions face the greatest risks of multiple and intersectional discrimination. These risks make them more vulnerable because of the combination of their gender and disability, along with other social

⁵ Stats SA (2024) *Pro-filing the socio-economic status and living arrangements of persons with disabilities in South Africa, 2011-2022* at 4 Available at <https://www.statssa.gov.za/publications/Report-No-03-01-37/Report-No-03-01-372022.pdf> [Accessed: 8 September 2025].

⁶ Note 5 above at 80.

⁷ Note 5 above at 100.



identities like race and socioeconomic status, leading to compounded disadvantages and systemic oppression.

Stats SA's reports also shows that in South Africa, there is a higher prevalence of disability among women compared to men, which the reports notes could be due in part to sociodemographic factors such as ageing.⁸ Older women with disabilities therefore face the risk of multiple discrimination due to their gender, age and disability.

3.5. *What are the main Intersectional risks and forms of discrimination faced by women and girls with disabilities? Do you consider that the violence and discrimination against women and girls with disabilities is due to two or more of personal characteristics, or that is colored by these characteristics? For example: being a woman with a disability and indigenous; being a woman with a disability and living with albinism; being a woman with a disability and also an elderly; being a woman with disability and also a child or teenager; being a woman with a disability and a migrant or an asylum seeker, or a person seeking international protection or a refugee; a member of the LGBTIQ+ community; or being someone with diverse sexual orientation or gender identity. Please specify.*

Women and girls with disabilities in South Africa are particularly vulnerable to gender-based violence, as well as the risk of being excluded from educational, employment, healthcare, and other environments crucial to social and economic improvement. Their socio-economic marginalization is further heightened by the impact of poverty. Forms of discrimination include lack of reasonable accommodations, gender-biased treatment compared to men with disabilities, and experiencing compounded forms of exclusion that are not adequately addressed by single-issue approaches.

⁸ Note 5 above at 19.



3.6. Describe the areas of life in which women and girls with disabilities exposed to multiple and intersecting forms of discrimination are more excluded from the access and enjoyment of their rights. (examples: in housing, access to justice, employment, political participation, etc.)

Women and girls with disabilities in South Africa face exclusion from rights in areas including health (especially sexual and reproductive health), education, employment, economic participation, social life, political participation, and justice, compounded by intersecting forms of discrimination and violence rooted in gender, disability, socioeconomic status, and inaccessible environments. They experience heightened risks of violence, lack of access to basic services like accessible housing and infrastructure, and are often overlooked in policy and decision-making processes, creating severe marginalization.

Women and girls with disabilities often face significant barriers to accessing services such as healthcare, education, *inter alia*, for various reasons such as the inaccessibility of facilities and lack of information in accessible formats.

Article 6 of the Convention on the Rights of Persons with Disabilities recognizes that women and girls with disabilities are subject to multiple and intersecting forms of discrimination. Women and girls with disabilities, and particularly those with psychosocial, hearing and intellectual disabilities, are more at risk of sexual violence and other forms of GBV due to negative attitudes by individuals and societies.



3.7. *Indicate which remedies are available to women and girls with disabilities facing multiple and intersecting forms of discrimination. Are these remedies accessible, available, and effective?*

South Africa has remedies in place for women and girls with disabilities facing discrimination through constitutional rights, specific legislation like the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA), and the White Paper on the Rights of Persons with Disabilities (WPRPD). Key mechanisms include equality courts, the South African Human Rights Commission, and specialized organizations. While these remedies exist, their effectiveness is hindered by challenges such as insufficient access to justice (including transport and accessible buildings), lack of awareness, and gaps in implementation, particularly for intersecting forms of discrimination, which require more comprehensive and targeted strategies.

The South African Constitution, particularly Section 9, prohibits unfair discrimination based on various grounds, including disability. The Bill of Rights grants everyone the right to equality and permits courts to grant appropriate relief for constitutional violations.

Various pieces of legislation have also been enacted to provide remedies. PEPUDA provides clear guidelines for advancing the rights of marginalized groups and makes discrimination based on disability, including hate speech, a crime.

The Employment Equity Act addresses discrimination in employment. The Domestic Violence Act 116 of 1998 and Children's Act 38 of 2005 both offer protections against exploitation, violence, and abuse, relevant to women and girls with disabilities.



The White Paper on the Rights of Persons with Disabilities (WPRPD) outlines strategies to remove barriers to access and participation, protect rights, and promote empowerment for persons with disabilities, including women and girls.

South Africa is also a party to the UN Convention on the Rights of Persons with Disabilities, which obligates it to prohibit discrimination based on disability and ensure equal legal protection.

Organizations such as the National Council of and for Persons with Disabilities further provide support and advice on disability integration and access. The South African Human Rights Commission can also investigate, and address complaints related to human rights violations, including those of persons with disabilities. There are also Equality Courts that were established to hear cases of unfair discrimination, where individuals can seek relief for violations of their equality rights.

Accessibility is a significant challenge as many court buildings and public transport systems are not accessible, hindering access to justice. Information about available remedies is not always accessible or understandable, particularly for those in remote rural areas. Indigent complainants may lack funds for transport or legal fees, with a need for specific financial support mechanisms.

The available remedies are effective but are limited by several factors such as lack of awareness as many people, including women and girls with disabilities, may not be aware of their rights and the remedies available to them. There are systemic gaps in legal and policy frameworks, and existing legislation is not always effectively implemented. Structural barriers persist, making it difficult to ensure equal access to health, education, and economic opportunities. Women and girls with disabilities face multiple forms of violence and abuse, but safe spaces and support services are often not easily accessible.



3.8. *Describe any example of positive initiative, plan, programme, strategy or piece of legislation addressing multiple and intersecting forms of discrimination against women and girls with disabilities.*

The White Paper on the Rights of Persons with Disabilities and its implementation is a positive initiative that addresses the intersecting discrimination faced by women and girls with disabilities by providing that disability inclusion is not only a women's rights issue but also a human rights issue, ensuring that their specific needs are considered within broader human rights frameworks. It seeks to integrate a disability perspective into gender equality policies and vice versa, promoting the full enjoyment of all human rights for women and girls with disabilities.

The White Paper recognizes that women with disabilities experience overlapping discrimination based on their gender and disability, leading to unique challenges that require targeted measures.

Furthermore, South Africa has ratified several international commitments, including the UN Convention on the Rights of Persons with Disabilities, which requires states parties to recognize and address multiple forms of discrimination against women with disabilities.

While implementation challenges exist, the White Paper serves as a framework for holding government bodies accountable for implementing disability-inclusive policies and ensuring they contribute to the full realization of rights for women and girls with disabilities.



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4. Conclusion

Women and girls with disabilities are the most vulnerable members of society. South Africa has made great strides in addressing the multiple and intersecting forms of discrimination against women and girls with disabilities. South Africa has established constitutional and legislative protections against unfair discrimination, such as the Employment Equity Act and the PEPUA, that aim to include women with disabilities.

The White Paper on the Rights of Persons with Disabilities further aims to address these intersecting issues, though there is room for improvement. However, significant gaps remain in the implementation and practical application of these measures, leading to continued exclusion and vulnerability for women and girls with disabilities, particularly in accessing justice and socio-economic opportunities.

While South Africa has a legal framework, translating these laws into tangible improvements for women and girls with disabilities, particularly regarding intersecting forms of discrimination, requires further focused action and implementation to bridge the existing gaps in equality and justice.