



**Joint Submission to the United Nations Universal Periodic Review: India**  
Third Cycle

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With inputs from: Women with Disabilities India Network

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Women Enabled International (WEI) and the Women with Disabilities India Network jointly submit this report for consideration during the third Universal Periodic Review of India. WEI advocates and educates for the human rights of all women and girls, emphasizing women and girls with disabilities, and works to include women and girls with disabilities in international resolutions, policies, and programs addressing women's human rights and development. The Women with Disabilities India Network is a group of women with disabilities who have come together to form an independent platform to promote and support the work of women with disabilities at the national and international levels.

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I. Introduction

1. Women and girls with disabilities<sup>1</sup> around the world face discrimination and human rights abuses based on both their gender and disability. Despite India's international commitments to ensure the rights of women with disabilities, they experience human rights violations that are distinct from those experienced by other women. These human rights violations manifest in all areas of their lives but are particularly present when women with disabilities experience gender-based violence—by family members, partners, caregivers, and in state- and privately-run institutions—and in their exercise of sexual and reproductive rights, where they are disproportionately subjected to forced and coerced sterilization, contraception, and abortion. Women with disabilities also face barriers to accessing justice in India, compounding these rights violations.
2. During India's previous Universal Periodic Reviews (UPRs) in 2008 and 2012, it did not receive any recommendations that specifically addressed the human rights abuses faced by women with disabilities.<sup>2</sup> However, in 2012, India accepted recommendations to “improve measures to prevent violence against women and girls” and “[t]ake further measures to ensure that all women without any discrimination have access to adequate obstetric delivery services and sexual and reproductive health services, including safe abortion and gender-sensitive comprehensive contraceptive services.”<sup>3</sup> As this submission shows, India has failed to implement these recommendations, particularly regarding women with disabilities.
3. The submission provides background on the situation of women with disabilities in India and summarizes specific human rights abuses they face, including gender-based violence, violations of sexual and reproductive rights, and barriers to accessing justice. This submission also provides suggestions for questions and recommendations to direct towards India during its third UPR.

II. Background

4. According to the World Health Organization (WHO) and the World Bank, approximately 15% of people worldwide are persons with disabilities, and women with disabilities account for 19.2% of the total population of women around the world.<sup>4</sup> However, official statistics from India indicate a much smaller percentage of persons with disabilities in the country. The 2011 Indian census indicates that there are approximately 27 million persons with disabilities in India, which accounts for only 2.2% of the total population, and that there are approximately 12 million women with disabilities in India, accounting for less than half of the population of persons with disabilities nationwide.<sup>5</sup> This significant difference between India's official statistics and the estimates by WHO and the World Bank are likely the result of data gaps in India, particularly as disability does not figure into the other routine macro-data collection endeavors of the state.<sup>6</sup>

*International Obligations*

5. India has signed and ratified a number of international human rights treaties relevant to women with disabilities.<sup>7</sup> In 2007, India ratified the Convention on the Rights of Persons with Disabilities (CRPD), which provides a comprehensive, human rights-based approach to disability and specific protections for the rights of women with disabilities. The CRPD takes a twin-track approach, addressing the rights of women with disabilities explicitly in Article 6 and incorporating protections against abuses that primarily affect women—such as violations of sexual and reproductive rights and

gender-based violence—throughout, including in articles on health, family life, and violence and exploitation.<sup>8</sup>

5. The CRPD Committee, which monitors state implementation of the CRPD, has recognized in its General Comment No. 3 on women with disabilities that harmful stereotypes about women with disabilities help perpetuate human rights abuses committed against them, including gender-based violence and violations of sexual and reproductive rights.<sup>9</sup> These stereotypes, which are a form of discrimination, “infantilize women with disabilities, call into question their ability to make judgments, and [reinforce] perceptions of women with disabilities as being asexual, or hypersexual...”<sup>10</sup>
6. India has also ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In its General Recommendation No. 18, the CEDAW Committee, which monitors state implementation of CEDAW, recognized the importance of “special measures to ensure that [women with disabilities] have equal access to education and employment, health services and social security, and to ensure that they can participate in all areas of social and cultural life.”<sup>11</sup> The CEDAW Committee has also noted that states “should take appropriate measures to ensure that health services are sensitive to the needs of women with disabilities and are respectful of their human rights and dignity.”<sup>12</sup> Finally, the CEDAW Committee has found that women with disabilities may face particular barriers when accessing the justice system, including physical barriers, and recommended that states “[p]ay special attention to access to justice systems for women with disabilities.”<sup>13</sup>
7. In its review of India in 2014, the CEDAW Committee made several specific observations and recommendations regarding women with disabilities. Concerning gender-based violence, the Committee noted that “responses to violence against women with disabilities fail to take account of the type of impairment, whether physical, sensory or intellectual” and that “women with intellectual or psychosocial disabilities can be denied legal capacity and committed to institutions without their consent and without recourse to any meaningful remedy or review.”<sup>14</sup> The Committee also expressed concern about violations of women with disabilities’ sexual and reproductive rights in India, noting that “women with intellectual disabilities can be sterilized without their consent.”<sup>15</sup> It recommended that India adopt a pending bill on the rights of persons with disabilities and include a section specifically protecting women with disabilities from forced sterilization, while also repealing laws that allow for the forced institutionalization and disability-based detention of women with disabilities.<sup>16</sup> The CEDAW Committee also recommended that the rights of women with disabilities be mainstreamed into national action plans for women, that India “intensify efforts to provide social and health services support to families with girls and women with disabilities,” and that it improve data collection regarding women with disabilities nationwide.<sup>17</sup>

#### *India’s Legal Framework related to Women with Disabilities*

8. In addition to its international obligations, India has a complex national legal framework, consisting of its Constitution, national-level laws and policies, regional-level laws and policies, and systems of “personal laws” reflecting religious and cultural traditions. The Indian Constitution guarantees that the state will not discriminate against persons based on sex and prohibits discrimination based on sex in many public accommodations.<sup>18</sup> The Constitution does not specifically prohibit discrimination against persons with disabilities but does provide protections for their access to employment, education, and other services.<sup>19</sup>
9. Several national laws cover the treatment of persons with disabilities in India.<sup>20</sup> However, these laws were adopted prior to India’s ratification of the CRPD. As such, they reflect outdated notions that persons with disabilities should only be the recipients of services rather than the holders of rights.

Additionally, there are no provisions in these laws specifically addressing the rights of women with disabilities.

10. In addition to these laws, there are also a number of national and regional family and other laws that address the legal capacity of persons with disabilities and establish systems of guardianship, particularly for persons with intellectual and psychosocial disabilities.<sup>21</sup> As the CRPD Committee has recognized, laws like these that deprive persons with disabilities of decision-making power rather than providing them support as needed to make important life decisions are violations of Article 12 of the CRPD.<sup>22</sup> These laws also have a number of specific implications for the rights of women with disabilities, including their exercise of sexual and reproductive rights, their vulnerability to violence, and their ability to access justice,<sup>23</sup> explored in more detail below.
11. Since 2012, Parliament has considered passage of a bill addressing the rights of persons with disabilities that would replace the existing legal regime and better align Indian law with its obligations under the CRPD, but at the time of this submission, this bill had not been adopted. Even if adopted, the current iteration of the bill, the Rights of Persons with Disabilities Bill 2014, falls short of ensuring the rights of women with disabilities in several respects. The bill provides specific protections against violence and exploitation of persons with disabilities but does not recognize and address the specific forms of violence faced by women with disabilities, including in homes and institutions.<sup>24</sup> Additionally, although the bill calls for the government to provide “sexual and reproductive health care especially for women with disability”<sup>25</sup> and that “[n]o person with disability shall be subject to any medical procedure which leads to infertility without his or her free and informed consent,”<sup>26</sup> it does not specify whether there will be any punishment for those who perform sterilizations without consent and does not specifically state that guardians and parents cannot provide consent. Furthermore, although the bill states that individuals who perform abortions on women with disabilities without their consent have committed a crime and face jail time, it still allows for the guardians and doctors of women with “severe” disabilities to provide consent on their behalves.<sup>27</sup> In particular, the bill still allows persons with psychosocial disabilities to be placed under some forms of guardianship rather than providing them with decision-making support, a situation that can lead to legally-sanctioned violations of their right to be free from violence and their sexual and reproductive rights.<sup>28</sup>
12. India has also adopted several laws addressing violence against women.<sup>29</sup> Although these laws are an important part of ensuring women with disabilities are free from gender-based violence, in many respects these laws fail to take into account the particular circumstances of women with disabilities and, in some cases, reinforce stereotypes about their sexuality, as will be explored more below.

### III. Human Rights Abuses against Women with Disabilities in India

#### *Gender-Based Violence*

13. Gender-based violence against women with disabilities worldwide takes many unique forms. According to the former UN Special Rapporteur on Violence against Women (SRVAW), Rashida Manjoo, violence against women with disabilities can be of a “physical, psychological, sexual or financial nature and include neglect, social isolation, entrapment, degradation, detention, denial of health care, forced sterilization and psychiatric treatment.”<sup>30</sup> Violence against women with disabilities also has unique causes, including violence that is perpetuated by stereotypes “that attempt to dehumanize or infantilize, exclude or isolate them, and target them for sexual and other forms of violence.”<sup>31</sup> In its General Comment No. 3 on women with disabilities, the CRPD Committee has found that “[s]ome women with disabilities, in particular, deaf and deafblind women, and women with intellectual disabilities, may be further at risk of violence and abuse because of their isolation,

dependency or oppression.”<sup>32</sup> Worldwide, women with disabilities are also more likely to be in unstable romantic relationships, as due to discrimination they are often considered less eligible for marriage,<sup>33</sup> and they also experience domestic violence in all of its forms—physical, sexual, emotional, psychological, and financial—at twice the rate of other women.<sup>34</sup>

14. Under India’s international human rights obligations, it has a duty to prevent and punish gender-based violence against all women committed by state actors and to exercise due diligence to protect women from violence committed by others.<sup>35</sup> This section explores how violence against women with disabilities manifests in India, and how the content and implementation of the current legal framework fails to fulfill India’s obligation to prevent and punish this violence.

### Violence in the Home and Private Sphere

15. From childhood and into adulthood, many women with disabilities in India experience violence in several forms at the hands of family members and intimate partners. Non-governmental organizations (NGOs) throughout India have documented the stories of women with disabilities who have experienced gender-based violence in the private sphere, ranging from harassment and emotional abuse to rape and physical violence.<sup>36</sup> Frequently, this violence is a result of either the perceived vulnerability of women with disabilities or the stigma associated with disability itself, particularly within families and marital homes.<sup>37</sup>
16. A 2013 study of women with disabilities in Mumbai indicated that they experienced a continuum of violence in the home. Some families neglected their children’s needs, isolated them, or kept them hidden away from public view.<sup>38</sup> Often, this was accompanied by emotional and psychological abuse, including taunts that women with disabilities were “useless” or unmarriageable, which sometimes escalated to physical or sexual violence.<sup>39</sup> Women with disabilities in this study attributed this violence to the shame and perceived stigma their families felt for having a woman with a disability in the family.<sup>40</sup> This violence also resulted from breaking with perceived gender norms, such as defying the family’s wishes about marriage, and the women’s disability status was used against them when male family members made threats or engaged in physical violence to enforce those norms.<sup>41</sup>
17. Women with disabilities in India also face violence at the hands of intimate partners, including husbands. According to the National Family and Health Survey 2005-2006, 39% of women in India have experienced domestic violence in their current marriages, though this survey does not disaggregate data based on disability.<sup>42</sup> In a much more limited study of women with disabilities in Mumbai, 22% of married respondents reported that they had experienced some form of physical violence from their partners, while 23% reported emotional violence,<sup>43</sup> including threats of abandonment.<sup>44</sup> Of these women, 81% felt that the violence was due to their disability.<sup>45</sup> Women with disabilities may also be married off early, due to concerns about marriage eligibility and also because parents no longer wished to care for them.<sup>46</sup> The former UN SRVAW, during a visit to India in 2013, reported that state-sponsored and privately-run dowry schemes appeared to be in place to incentivize marrying women with disabilities,<sup>47</sup> a situation that further devalues them and places them in potentially unequal and violent marriages.
18. Additionally, women with psychosocial disabilities in India may be subjected to abandonment by their spouses because of divorce laws that explicitly permit psychosocial disability as one of only a handful of grounds for divorce. Divorce can be granted if it is alleged that the spouse has been “...incurably of unsound mind, or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent...” that a person cannot “reasonably be expected” to live with that spouse.<sup>48</sup> The vast majority of divorces on these grounds are brought by men against women, often with little or no medical evidence, reinforcing discrimination against women with

perceived or actual psychosocial disabilities.<sup>49</sup> Very few women have the resources to these appeal divorce judgments.<sup>50</sup> Instead, because of this provision and the stigma associated with psychosocial disability, women with psychosocial disabilities in India are left personally and financially abandoned by both their spouses and their families, a form of violence against women.<sup>51</sup>

19. Economic independence has long been recognized as a major factor in preventing and responding to violence against women, particularly domestic violence.<sup>52</sup> However, women with disabilities in India face barriers to leaving abusive families and relationships, due to concerns about economic self-sufficiency. According to the most recent available data from the 2001 census on the employment of women with disabilities, nearly two-thirds were unemployed, as compared to one-third of men with disabilities.<sup>53</sup> These high unemployment numbers may be due low levels of education: as of 2001, the majority of people with disabilities in India were illiterate, and 30% of the girls who were out of school were girls with disabilities.<sup>54</sup> Girls with disabilities are disproportionately out of school because family members may not consider their education a worthwhile investment, transportation to and from school may not be accessible, and schools and teachers may not be equipped to ensure that their classrooms are accessible. Furthermore, specialized programs developed by the government to ensure the right to education do not contain special provisions for girls with disabilities.<sup>55</sup>

### Violence in Institutions

20. India has an obligation to ensure that women with disabilities are not subjected to arbitrary detention based on their disability, including forced institutionalization, and are not subjected to abuses—including forced treatment and emotional, physical, and sexual abuse—in their homes or in institutions.<sup>56</sup> However, in India, women with disabilities—particularly psychosocial and intellectual disabilities—face violence as the result of continued institutionalization in state- and privately-run care homes and hospitals. These women can be institutionalized without their consent and often without recourse to challenge this institutionalization.<sup>57</sup> NGOs in India have documented repeated instances of forced institutionalization and abuses in institutions,<sup>58</sup> and they have also reported that forced institutionalization disproportionately impacts women with disabilities because of their disempowerment within families.<sup>59</sup> Women with disabilities in India and their families also often lack access to or information about care or support services outside of institutions and within local communities,<sup>60</sup> which can lead families to institutionalize women with disabilities without their consent, as they see no alternative.
21. Once institutionalized, women with disabilities in India are subjected to several other forms of violence. A 2014 Human Rights Watch report documented forced treatment of women with disabilities in institutions in India, including physical abuse aimed at forcing them to take medicines.<sup>61</sup> This forced treatment also included electroconvulsive therapy (ECT), which can have many side effects, with only the consent of guardians or psychiatrists and often without women even being aware they are receiving ECT.<sup>62</sup> Human Rights Watch found that ECT was sometimes used as a threat against women with disabilities in Indian institutions to get them to adhere to certain behaviors or consent to other treatments.<sup>63</sup> In 2013, the UN Special Rapporteur on Torture, Juan Mendez, called on states to completely ban forced ECT, classifying its nonconsensual use as torture or ill-treatment.<sup>64</sup>
22. Women with disabilities in Indian institutions are also subjected to many other forms of gender-based violence. Staff in institutions may treat women with disabilities with disrespect, including through the use of derogatory language or through acts such as forcing women with disabilities to stay naked while their clothes are being washed, undermining their dignity and inflicting verbal and emotional abuse.<sup>65</sup> Physical abuse is also used as a punishment against women with disabilities, including those who try to escape institutions.<sup>66</sup> Although sexual violence against women with disabilities in institutions remains mostly a hidden problem, women with disabilities in some institutions are put at

increased risk of sexual violence when only male staff members work in female wards at night.<sup>67</sup> Many staff members in Indian institutions are also not adequately trained to work with persons with disabilities, potentially exacerbating abuse.<sup>68</sup>

23. Current state laws, policies, and practices reinforce the potential for violence against women with disabilities in Indian institutions. For instance, under the Mental Health Act 1987, women with psychosocial disabilities can be forcibly institutionalized by family members or guardians without a court order and effectively without the opportunity to appeal these decisions.<sup>69</sup> Once institutionalized, they are in practice, if not by law, deprived of the ability to make decisions for themselves, with family members, guardians, or the heads of institutions instead deciding on treatment, leading to abusive forced treatment.<sup>70</sup> If women with disabilities do suffer violence in institutions, they have little access to redress. Of 128 instances of abuse documented by Human Rights Watch in Indian institutions, none of the women had been able to file First Information Reports or otherwise access redress mechanisms to address their forced institutionalization or the verbal, physical, or sexual abuse they suffered.<sup>71</sup>

### Legal Framework on Gender-Based Violence

24. The **Criminal Law (Amendment) Act 2013**, in its amendments to the Indian Penal Code, recognizes rape against women with physical and mental disabilities and the rape of institutionalized women by persons in management or staff of such institutions as aggravated crimes.<sup>72</sup> It also criminalizes sexual intercourse between female inmates of institutions and homes and those in positions of power within these institutions and homes.<sup>73</sup> However, in explaining what constitutes rape, the amendments continue to state that, for reasons of “unsound mind,” consent to sexual intercourse could be invalidated,<sup>74</sup> which may be used to deny women with psychosocial and intellectual disabilities the right to sexual agency. Furthermore, the Act fails to include and implement many protections for the rights of women with disabilities when accessing the police and court systems following violence, as recommended by the Report of the Committee on Amendments to the Criminal Law (hereinafter “Justice Verma Report”), which Parliament established when it was considering these amendments.<sup>75</sup> These barriers to accessing justice will be outlined in more detail below.
25. The **Protection of Women from Domestic Violence Act 2005** broadly defines domestic violence to include many of the forms of violence experienced by women with disabilities, but experts have raised concerns about its implementation, including a lack of protection officers that are required to file domestic violence incident reports.<sup>76</sup> Given that women with disabilities face specific forms of domestic violence and additional barriers to accessing justice following violence, lack of resources to implement the Act has a disproportionate impact on them. The Act also does not require that shelters or other services be made accessible to women with disabilities,<sup>77</sup> as recommended by the Justice Verma Report.<sup>78</sup>

### *Violations of Sexual and Reproductive Rights*

26. Women with disabilities worldwide face a wide range of unique human rights abuses in sexual and reproductive health care settings, due to both their gender and disability. Stereotypes about women with disabilities mean they are disproportionately subjected to practices such as forced or coerced sterilization, contraception, and abortion.<sup>79</sup> In its General Comment No. 3 on women with disabilities, the CRPD Committee recognized that “[i]n practice, the choices of women with disabilities, especially women with psychosocial or intellectual disabilities are often ignored, [and] their decisions are often substituted by third parties, including legal representatives, service providers, guardians and family members.”<sup>80</sup> When women with disabilities are deprived of legal capacity, this can “facilitate forced interventions, such as: sterilisation, abortion, [and] contraception...”<sup>81</sup> These practices are

frequently based on false and discriminatory assumptions about the sexuality and ability of women with disabilities to parent or are based on the desire to control their menstrual cycles<sup>82</sup> and are also considered severe human rights violations, including forms of torture or ill-treatment.<sup>83</sup>

27. Although in rare cases it may be reversible, female sterilization is considered a permanent form of contraception, meaning that women who undergo sterilization will not be able to have children.<sup>84</sup> In India, women with disabilities have historically been subjected to forced or coerced sterilization, due to disability-based stereotypes as well as state population policies, and forced sterilization of women with disabilities within institutions and by family is still common in India, even though it has been recognized as a human rights violation.<sup>85</sup> For instance, there are several reports from the 1990s of women and girls undergoing forced sterilizations in institutions in India.<sup>86</sup> Furthermore, as recently as 2008, the government of Maharashtra supported a policy of forcibly sterilizing “mentally challenged” women and girls in institutions as a means of ensuring “menstrual hygiene” or the elimination of periods.<sup>87</sup> There is no existing legal provision that prohibits non-consensual sterilization, and in recent years, sterilization methods using certain drugs has been tested on a large scale instead of teaching women with disabilities to manage menstrual hygiene and ensuring that they are protected from rape.<sup>88</sup> Indeed, although the CEDAW Committee recognized in its 2014 review of India that “women with intellectual disabilities can be sterilized without their consent,” in violation of CEDAW, India has not yet remedied this violation.<sup>89</sup>
28. In 2006, the Ministry of Health issued guidelines for the sterilization of all men and women in India.<sup>90</sup> Under these guidelines, for sterilization to be performed, the guidelines provide that women must be “of sound state of mind so as to understand the full implications of sterilization,” and women with psychosocial disabilities “must be certified by a psychiatrist, and a statement should be given by the legal guardian/spouse regarding the soundness of the client’s state of mind.”<sup>91</sup> However, abuses may still result when women with disabilities, particularly intellectual and psychosocial disabilities, are stripped of legal capacity or otherwise denied reasonable accommodations. Concerning informed consent, the guidelines indicate that the client must sign a consent form before surgery, and that spousal consent is not needed for sterilization, though the guidelines do not comment on guardian consent. While the “informed consent” form requires confirmation that information about the procedure has been read out and explained to the person concerned in their preferred language, it does not require confirmation that support and reasonable accommodation has been given to persons with disabilities in order to ensure their full and informed consent.<sup>92</sup> In the absence of guarantees for reasonable accommodations and a specific bar on substituted decision-making, it may still be possible for women and girls with disabilities to be sterilized without their consent and with only the consent of a guardian or parent, a situation that does not conform to international medical ethics standards from the International Federation of Gynecology and Obstetrics (FIGO).<sup>93</sup>
29. Additionally, under the Medical Termination of Pregnancy Act, 1971 (as amended in 2002), guardians can consent to abortions for women with psychosocial disabilities, leading to forced abortions.<sup>94</sup> Although the Supreme Court of India in 2009 found that guardians of women with “mild to moderate” intellectual disabilities cannot similarly provide consent to abortion on behalf of their wards, the Court did not strike down the provisions of the Medical Termination of Pregnancy Act, 1971, that allow for forced abortion of women with psychosocial disabilities. The Court in fact distinguished between psychosocial and intellectual disabilities, stating that, as per the law, a guardian could still provide consent for terminating pregnancies of women with psychosocial disabilities.<sup>95</sup>



30. Effective access to justice is essential for ensuring the respect, protection, and fulfillment of all human rights. However, as the CRPD Committee noted in its General Comment No. 3 on women with disabilities, “[w]omen with disabilities face barriers to accessing justice including with regard to exploitation, violence and abuse, due to harmful stereotypes, discrimination and lack of procedural and reasonable accommodations, which can lead to their credibility being doubted and their accusations being dismissed.”<sup>96</sup> This situation is particularly acute for women with intellectual or psychosocial disabilities worldwide, whose testimonies “are dismissed from court proceedings because of legal capacity, thus denying them justice and effective remedies as victims of violence.”<sup>97</sup> As the former UN SRVAW recognized, this situation is particularly acute in cases concerning sexual violence where courts often rely on victims to provide key evidence.<sup>98</sup> Worldwide, discrimination that women with disabilities face in society and in accessing justice may also lead them to remain in abusive relationships, as otherwise they may have a “[f]ear of unjustified termination of parental rights” based on harmful misperceptions about their ability to parent.<sup>99</sup>
31. Current policies and practices in India fail to address the specific barriers women with disabilities face in accessing justice, particularly in response to gender-based violence and violations of sexual and reproductive rights. For instance, although the Criminal Law (Amendment) Act 2013 outlaws violence against women with disabilities in institutional settings, in practice women with disabilities have effectively no access to the justice system when they are institutionalized, either to challenge forced institutionalization or to report violence committed against them in institutions.<sup>100</sup> As the Justice Verma Report indicates, effective monitoring of these institutions is required,<sup>101</sup> and under the CRPD, care and support for persons with disabilities should also be provided in the community rather than in institutions.<sup>102</sup>
32. While the Criminal Law (Amendment) Act 2013 and the Code of Criminal Procedure, 1973, do provide protections for women with disabilities in accessing the police and courts, the state has often not implemented them. For instance, as the National Platform on the Rights of the Disabled has pointed out, despite provisions in the laws, women with disabilities are still frequently prevented from filing First Information Reports in places where they are comfortable rather than at police stations, and they are often not provided with sign language interpreters or special educators to assist with justice-related communications.<sup>103</sup> These laws also leave out some measures critical to ensuring access to justice for women with disabilities who are victims of violence—including ensuring that medico-legal examinations are conducted by counselors qualified and trained to work with persons with disabilities—as recommended by the Justice Verma Report.<sup>104</sup> Furthermore, these laws do not address discrimination that women with disabilities who are victims of gender-based violence may experience in courtrooms, such as denial of legal capacity and perceptions and stereotypes that undermine their credibility.<sup>105</sup> Indeed, the Mental Health Care Bill, 2016, which has been passed by the Upper House of Parliament but at the time of this submission had not yet been adopted, still recognizes the validity of judicial decrees of “unsoundness of mind” which has the possible impact of nullifying persons with disabilities’ accounts of violence.<sup>106</sup>

#### IV. Conclusions and Recommendations

33. In its 2008 and 2012 UPR reviews, states recommended that India accelerate efforts to protect women from gender-based violence and ensure access to sexual and reproductive health services for all women. As this submission demonstrates, there are still many ways in which India has failed to fulfill these human rights obligations, particularly for women with disabilities. With this in mind, we recommend that states ask the following questions and give the following recommendations to India during its upcoming UPR.
34. Questions for Interactive Dialogue:

- What special measures is India taking to ensure that women with disabilities are protected from gender-based violence, including in the home and as a result of institutionalization?
- How does India plan to punish individuals who participate in the forced or coerced sterilization, contraception, or abortion of persons with disabilities, including those with intellectual or psychosocial disabilities who are deprived of legal capacity, and how does India plan to prevent such violations?
- Beyond the passage of the Criminal Law (Amendment) Act 2013, what steps has India taken to ensure women with disabilities can communicate with and are taken seriously by police and court systems when reporting violations of their rights or serving as witnesses?

### 35. Recommendations to India:

#### General

- Improve data collection on persons with disabilities in general, and women with disabilities in particular, including on gender-based violence and sexual and reproductive health care. Ensure that data is disaggregated by both gender and disability, as required by CRPD Article 31.<sup>107</sup>
- Adopt the pending bill on the rights of persons with disabilities and include sections specifically protecting women with disabilities from forced sterilization or abortion, ensuring access to human rights-based sexual and reproductive health care, addressing gender-based violence, and ensuring access to justice.<sup>108</sup>
- Abolish systems of guardianship that allow guardians or others to make important decisions about the lives and health of women with disabilities, including regarding institutionalization, without their consent. Establish regimes that provide women with disabilities with support services, when requested, to make their own decisions.<sup>109</sup>
- Undertake a public information campaign that depicts women with disabilities as contributors to society, holders of rights, and good parents. Raise awareness about and stigmatize harassment of and violence against women with disabilities in homes, in public, and in institutions.<sup>110</sup>

#### Gender-Based Violence

- Increase the number of protection officers in all regions trained to work with persons with disabilities to take information about incidents of domestic violence and other gender-based violence and to assist women with disabilities who are victims or witnesses to such violence through the justice system.<sup>111</sup>
- Amend the Protection of Women from Domestic Violence Act 2005 as well as other laws that provide for the establishment of shelters and temporary residential facilities to require that shelters and other support services are accessible to all women with disabilities.<sup>112</sup>
- Amend all personal laws governing marriage and divorce so as to eliminate specific disability-related grounds for divorce and instead allow for divorce on broader grounds, such as irreconcilable differences or irretrievable breakdown. Ensure that divorced women with disabilities have equal access to marital assets, and also ensure that all women with disabilities, including divorced women, can access state-sponsored economic and social supports to ensure an adequate standard of living.<sup>113</sup>
- Recognize that access to education may help reduce violence against women with disabilities, and take special measures to provide reasonable accommodations to ensure that girls and women with disabilities can access education, including technical and vocational training, on an equal basis with others, including by requiring that families send all children with disabilities to schools.
- End the forced institutionalization of women with disabilities by removing laws that allow for forced institutionalization based on disability and by establishing and raising awareness of care

and support services in local communities. Prohibit forced treatment of women with disabilities inside and outside institutions and ensure effective monitoring of institutions.<sup>114</sup>

### Sexual and Reproductive Rights

- Amend the Medical Termination of Pregnancy Act, 1971, to remove provisions that allow abortion for women with psychosocial disabilities without the women's consent.<sup>115</sup>
- Amend the Indian Penal Code, 1860, to outlaw and punish forced and coerced sterilization, contraception, and abortion of women with disabilities, including with the permission of guardians.

### Access to Justice

- Amend the Code of Criminal Procedure and relevant rules and regulations for medical practitioners to include recommendations from the Justice Verma Report to help address access to justice for women with disabilities following gender-based violence, including access to medico-legal examiners who are trained to work with persons with disabilities. Ensure implementation of existing accommodations for women with disabilities when accessing justice, including the option to conduct interviews at home or in other spaces accessible to and comfortable for persons with disabilities.<sup>116</sup>
- Frame rules under the amended provisions of the Code of Criminal Procedure and Indian Evidence Act to ensure accessibility and all necessary accommodation for persons with disabilities in accessing the criminal justice system, including with the allocation of appropriate budgets in order to provide for costs of organizing special educators, interpreters, accessible transport and video recording facilities under the amended procedures.
- Train medical and legal professionals to shift their attitudes about the contributions women with disabilities make to society, overcome stereotypes about their credibility as victims and witnesses, and provide them with needed reasonable accommodations when accessing justice.

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<sup>1</sup> This report will address the situation of women with disabilities throughout the life cycle. Any reference to “women with disabilities” should be interpreted to include girls with disabilities unless otherwise indicated.

<sup>2</sup> In 2012, states also called on India to ensure the right to education for children with disabilities and to ensure better protection for persons with disabilities in general (Human Rights Council, *Report of the Working Group on the Universal Periodic Review: India*, U.N. Doc. A/HRC/21/10 (2012)). Additionally, in 2006 and 2012, India accepted a number of recommendations aimed at eliminating discrimination against women and ensuring women's empowerment (Human Rights Council, *Report of the Working Group on the Universal Periodic Review: India*, U.N. Doc. A/HRC/21/10 (2012); Human Rights Council, *Report of the Working Group on the Universal Periodic Review: India*, U.N. Doc. A/HRC/8/26/Add.1 (2008)).

<sup>3</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: India*, Recs. 138.79, 138.153, U.N. Doc. A/HRC/21/10 (2012).

<sup>4</sup> WORLD HEALTH ORGANIZATION AND WORLD BANK, *WORLD REPORT ON DISABILITY 28-29* (2011).

<sup>5</sup> OFFICE THE REGISTRAR GENERAL AND CENSUS COMMISSIONER INDIA, *CENSUS OF INDIA 2011: DATA ON DISABILITY* (2013), available at <http://www.disabilityaffairs.gov.in/upload/uploadfiles/files/disabilityinindia2011data.pdf>.

<sup>6</sup> For instance, disability does not factor into the Sample Registration System (SRS), the National Crime Records Bureau (NCRB) and the National Family Health Surveys (NFHS). See Women with Disabilities India Network, *Special Chapter 1a: Women with Disabilities* 118 (2014), available at <http://womenenabled.org/pdfs/mapping/Women%20with%20Disabilities%20in%20India.pdf>.

<sup>7</sup> In addition to the CRPD and CEDAW, India has ratified the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), all of which contain human rights protections affecting women with disabilities. India has also signed but not yet ratified the Convention against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment (CAT), placing on it an obligation to uphold the object and purpose of this Convention.

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- <sup>8</sup> Convention on the Rights of Persons with Disabilities, *adopted* Dec. 13, 2006, arts. 15, 23 & 25, G.A. Res. A/RES/61/106, U.N. GAOR, 61<sup>st</sup> Sess., U.N. Doc. A/61/611, (*entered into force* May, 3 2008) [hereinafter CRPD].
- <sup>9</sup> CRPD Committee, *General Comment No. 3: Article 6: Women and girls with disabilities*, ¶¶ 30, 38, 40 & 46, U.N. Doc. CRPD/C/GC/3 (2016) [hereinafter CRPD Committee, *Gen. Comment No. 3*].
- <sup>10</sup> *Id.*, ¶¶ 33 & 38.
- <sup>11</sup> CEDAW Committee, *General Recommendation No. 18: Disabled women* (1991).
- <sup>12</sup> CEDAW Committee, *General Recommendation No. 24: Article 12 of the Convention (women and health)*, (20th Sess., 1999), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, ¶ 25, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).
- <sup>13</sup> CEDAW Committee, *General Recommendation No. 33 on women's access to justice*, ¶¶ 13 & 17(g), U.N. Doc. CEDAW/C/GC/33 (2015).
- <sup>14</sup> CEDAW Committee, *Concluding Observations: India*, ¶ 36, U.N. Doc. CEDAW/C/IND/CO/4-5 (2014).
- <sup>15</sup> *Id.*
- <sup>16</sup> *Id.*, ¶ 37(a).
- <sup>17</sup> *Id.*, ¶¶ 37(b) & (d).
- <sup>18</sup> CONST. OF INDIA, art. 15(1) & (2) (India).
- <sup>19</sup> *Id.*, art. 41.
- <sup>20</sup> These laws include the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act of 1995, the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act (1999), and the Mental Health Act, 1987.
- <sup>21</sup> *See, e.g.*, National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, § 14 (1999) (India); Indian Registration Act, 1908 (undated) (India), *available at* <http://lawcommissionofindia.nic.in/1-50/report34.pdf>; Bhargavi V. Davar, *Legal Frameworks for and against People with Psychosocial Disabilities* in ECONOMIC & POLITICAL WEEKLY 47, 123-31 (2012), *available at* [http://www.academia.edu/2457828/Legal\\_frameworks\\_for\\_and\\_against\\_people\\_with\\_psychosocial\\_disabilities](http://www.academia.edu/2457828/Legal_frameworks_for_and_against_people_with_psychosocial_disabilities).
- <sup>22</sup> *See* CRPD Committee, *General Comment No. 1: Article 12: Equal recognition before the law*, U.N. Doc. CRPD/C/GC/1 (2014).
- <sup>23</sup> *See, e.g., id.*, ¶ 35.
- <sup>24</sup> The Rights of Persons with Disabilities Bill 2014, § 6 (India), *available at* <http://www.prsindia.org/uploads/media/Person%20with%20Disabilities/The%20Right%20of%20Persons%20with%20Disabilities%20Bill.pdf>.
- <sup>25</sup> *Id.*, § 24(k).
- <sup>26</sup> *Id.*, § 9.
- <sup>27</sup> *Id.*, § 105(f).
- <sup>28</sup> *Id.*, § 13.
- <sup>29</sup> In 2013, the Parliament amended the penal code to provide more comprehensive protections against gender-based violence, particularly rape, through the Criminal Law (Amendment) Act of 2013. Additionally, the Protection of Women from Domestic Violence Act 2005 seeks to protect and prevent harm to women who are or have been abused by a male spouse or a family member.
- <sup>30</sup> UN Special Rapporteur on Violence against Women, *Report of the Special Rapporteur on violence against women, its causes and consequences*, ¶ 31, U.N. Doc. A/67/227 (2012) [hereinafter SRVAW, *Report on women with disabilities*].
- <sup>31</sup> *Id.*, ¶ 32.
- <sup>32</sup> CRPD Committee, *Gen. Comment No. 3*, *supra* note 9, ¶ 33.
- <sup>33</sup> World Health Organization and United Nations Population Fund, *Promoting sexual and reproductive health for Persons with Disabilities: World Health Organization/United Nations Population Fund Guidance Note* (2009).
- <sup>34</sup> SRVAW, *Report on women with disabilities*, *supra* note 30, ¶ 31.
- <sup>35</sup> CEDAW Committee, *General Recommendation No. 19: Violence against women*, (11th Sess., 1992), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008) [hereinafter CEDAW, *Gen. Recommendation No. 19*].
- <sup>36</sup> Women with Disabilities India Network, *Report on Violence against Women with Disabilities, India, Submitted to Ms. Rashida Manjoo, the UN Special Rapporteur on Violence Against Women*, § 4 (April 23, 2013); The Disability Rights Initiative of the Human Rights Law Network, *Submissions Before Ms. Rashida Manjoo, the UN Special Rapporteur on Violence Against Women* (April 23, 2013); CREA, *count me IN!: Violence against disabled, lesbian,*

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in sex-working women in Bangladesh, India, and Nepal (2012), available at <http://www.creaworld.org/sites/default/files/The%20Count%20Me%20In!%20Research%20Report.pdf>.

<sup>37</sup> Nayreen Daruwala, et al, *Violence against Women with a Disability in Mumbai, India: A Qualitative Study* in SAGE OPEN 3-5 (2013).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 4.

<sup>40</sup> *Id.* at 4-5.

<sup>41</sup> *Id.* at 5.

<sup>42</sup> Ministry of Health and Family Welfare, *Gender Equality and Women's Empowerment in India: National Family and Health Survey (NFHS-3) India, 2005-06* 96 (2009), available at <http://dhsprogram.com/pubs/pdf/od57/od57.pdf>.

<sup>43</sup> CREA, *count me IN!: Violence against disabled, lesbian, in sex-working women in Bangladesh, India, and Nepal* 65 (2012), available at <http://www.creaworld.org/sites/default/files/The%20Count%20Me%20In!%20Research%20Report.pdf>.

<sup>44</sup> Nayreen Daruwala, et al, *Violence against Women with a Disability in Mumbai, India: A Qualitative Study* in SAGE OPEN 4-5 (2013).

<sup>45</sup> CREA, *count me IN!: Violence against disabled, lesbian, in sex-working women in Bangladesh, India, and Nepal* 65 (2012), available at <http://www.creaworld.org/sites/default/files/The%20Count%20Me%20In!%20Research%20Report.pdf>.

<sup>46</sup> Nayreen Daruwala, et al, *Violence against Women with a Disability in Mumbai, India: A Qualitative Study* in SAGE OPEN 5 (2013).

<sup>47</sup> UN Special Rapporteur on Violence against Women, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo: Mission to India*, ¶ 18, U.N. Doc. A/HRC/26/38/Add.1 (2014).

<sup>48</sup> See, e.g., Legal Services India, *Divorce in India*, <http://www.legalserviceindia.com/helpline/divorce.htm>.

<sup>49</sup> Soumitra Pathare, et al, *Gender, mental illness and the Hindu Marriage Act, 1955* in 12 INDIAN JOURNAL OF MEDICAL ETHICS 1 (2015), available at <http://www.issuesinmedicaethics.org/index.php/ijme/article/view/2159/4650>.

<sup>50</sup> *Id.*

<sup>51</sup> CRPD Committee, *Gen. Comment No. 3*, *supra* note 9, ¶ 30.

<sup>52</sup> As the former UN Special Rapporteur on Violence against Women, Radhika Coomaraswamy, found in a report from 1994, “[d]enying women economic power and economic independence is a major cause of violence against women because it prolongs their vulnerability and dependence. Unless economic relations in a society are more equitable towards women, the problem of violence against women will continue” (Commission on Human Rights, *Preliminary report submitted by the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, in accordance with Commission on Human Rights resolution 1994/45*, ¶ 53, U.N. Doc. E/CN.4/1995/32 (1994)). In its General Recommendation No. 19 on violence against women, the CEDAW Committee also recognized that “[l]ack of economic independence forces many women to stay in violent relationships” (CEDAW, *Gen. Recommendation No. 19*, *supra* note 35, ¶ 23). Concerning women with disabilities in particular, economic constraints can also lead to violence, and the CRPD Committee has recognized in its General Comment No. 3 that women with disabilities face multiple and intersecting forms of discrimination in access to education and economic opportunities and may be more susceptible to economic coercion and exploitation (CRPD Committee, *Gen. Comment No. 3*, *supra* note 9, ¶¶ 2, 31 & 34.).

<sup>53</sup> Women with Disabilities India Network, *Special Chapter 1a: Women with Disabilities* 122 (2014), available at <http://womenenabled.org/pdfs/mapping/Women%20with%20Disabilities%20in%20India.pdf>.

<sup>54</sup> Sarva Shiksha Abhiyan (SSA) programme is aimed at Universal Elementary Education. It was launched in January 2001 in order to provide useful and relevant education for all children in the age group of 6-14 years by 2010. It is an attempt to provide an opportunity for improving human capabilities to all children, with special focus on bridging social, regional and gender gaps, through the active participation of the community in the management of schools.

<sup>55</sup> For more information on this topic, please see Women with Disabilities India Network, *Special Chapter 1a: Women with Disabilities* 121-122 (2014), available at <http://womenenabled.org/pdfs/mapping/Women%20with%20Disabilities%20in%20India.pdf>.

<sup>56</sup> CRPD, *supra* note 8, arts. 14 & 19.

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- 57 HUMAN RIGHTS WATCH, “TREATED WORSE THAN ANIMALS”: ABUSES AGAINST WOMEN AND GIRLS WITH PSYCHOSOCIAL OR INTELLECTUAL DISABILITIES IN INSTITUTIONS IN INDIA 40 (2014) [hereinafter HRW, INSTITUTIONS IN INDIA].
- 58 Women with Disabilities India Network, *Special Chapter 1a: Women with Disabilities* 124-126 (2014), available at <http://womenenabled.org/pdfs/mapping/Women%20with%20Disabilities%20in%20India.pdf>.
- 59 See, e.g., CREA, *count me IN!: Violence against disabled, lesbian, in sex-working women in Bangladesh, India, and Nepal* (2012), available at <http://www.creaworld.org/sites/default/files/The%20Count%20Me%20In!%20Research%20Report.pdf>.
- 60 HRW, INSTITUTIONS IN INDIA, *supra* note 57 at 38-40.
- 61 *Id.* at 57-58.
- 62 *Id.* at 9 & 59-64.
- 63 *Id.* at 9.
- 64 Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Mendez*, ¶ 89(b), U.N. Doc. A/HRC/22/53 (2013).
- 65 HRW, INSTITUTIONS IN INDIA, *supra* note 57 at 8, 50 & 65-66; Ashwaq Masoodi, *Sexual rights of disabled women: Women with disabilities have been subjected to many sanctions under the guise of protecting them from sexual abuse* in LIVEMINT, Dec. 3, 2014, <http://www.livemint.com/Politics/FDPpo4IJ0pX037spUU1kL/Sexual-rights-of-disabled-women.html>.
- 66 HRW, INSTITUTIONS IN INDIA, *supra* note 57 at 65-66.
- 67 *Id.* at 66.
- 68 *Id.* at 8, 50 & 65-66.
- 69 Mental Health Act, 1987, § 20 (1987) (India); HRW, INSTITUTIONS IN INDIA, *supra* note 57 at 7, 73.
- 70 HRW, INSTITUTIONS IN INDIA, *supra* note 57 at 7.
- 71 *Id.* at 69.
- 72 Criminal Law (Amendment) Act, 2013 (India).
- 73 *Id.*
- 74 *Id.*
- 75 National Platform for the Rights of the Disabled, *Press Statement*, Feb. 4, 2013; Justice J.S. Verma, et al, *Report of the Committee on Amendments to Criminal Law* (2013), available at [http://www.thehindu.com/multimedia/archive/01340/Justice\\_Verma\\_Comm\\_1340438a.pdf](http://www.thehindu.com/multimedia/archive/01340/Justice_Verma_Comm_1340438a.pdf).
- 76 UN Special Rapporteur on Violence against Women, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo: Mission to India*, ¶ 59, U.N. Doc. A/HRC/26/38/Add.1 (2014).
- 77 Protection of Women from Domestic Violence Act 2005, §§ 6-7 (India), available at <http://ncw.nic.in/acts/TheProtectionofWomenfromDomesticViolenceAct2005.pdf>
- 78 Justice J.S. Verma, et al, *Report of the Committee on Amendments to Criminal Law* 270 (2013), available at [http://www.thehindu.com/multimedia/archive/01340/Justice\\_Verma\\_Comm\\_1340438a.pdf](http://www.thehindu.com/multimedia/archive/01340/Justice_Verma_Comm_1340438a.pdf).
- 79 SRVAW, *Report on women with disabilities*, *supra* note 30, ¶¶ 28 & 36.
- 80 CRPD Committee, *Gen. Comment No. 3*, *supra* note 9, ¶ 44.
- 81 *Id.*
- 82 SRVAW, *Report on women with disabilities*, *supra* note 30, ¶¶ 28 & 36.
- 83 CEDAW Committee, *General Recommendation No. 24: Article 12 of the Convention (women and health)*, (20th Sess., 1999), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, ¶ 22, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008); CRPD Committee, *General Comment No. 1: Article 12: Equal recognition before the law*, U.N. Doc. CRPD/C/GC/1 (2014); Human Rights Committee, *Concluding Observations: Czech Republic*, ¶ 11, U.N. Doc. CCPR/C/CZE/CO/3 (2013); CAT Committee, *Concluding Observations: Czech Republic*, ¶ 12, U.N. Doc. CAT/C/CZE/CO/4-5 (2012); Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Mendez*, ¶ 48, U.N. Doc. A/HRC/22/53 (2013).
- 84 World Health Organization, et al, *Eliminating forced, coercive or otherwise involuntary sterilization: An interagency statement* 1 (2014), available at [http://apps.who.int/iris/bitstream/10665/112848/1/9789241507325\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/112848/1/9789241507325_eng.pdf).
- 85 For instance, a 2004 survey of violence against women with disabilities in Orissa, India, found that about 6% of women with physical disabilities and about 8% of women with intellectual and psychosocial disabilities had been forcibly sterilized (Dr. Sruti Mohapatra and Mr. Mihir Mohanty, *Abuse and Activity Limitation: A Study on*

*Domestic Violence against Disabled Women in Orissa, India* 16 (2004), available at <http://s.wabhiman.org/userfiles/file/Abuse%20and%20Activity%20Limitation%20Study.pdf>. These sterilizations were often the result of fears from family members that women with disabilities would be raped and become pregnant, as well as assumptions about whether women with disabilities could consent to sex and whether they could be good parents (*Id.* at 16). This was also a major point of discussion at the Regional Meeting of the WwD India Network organized in Hyderabad on Feb. 23-24, 2013.

<sup>86</sup> See, e.g., Rajeswari Sundar Rajan, *Beyond the Hysterectomies Scandal: Women, the Institution, Family, and State in India*, in *THE PRE-OCCUPATION OF POST-COLONIAL STUDIES* (ed. Khan & Seshadri) 200, 201 (2000).

<sup>87</sup> Ashika Misra, *Is hysterectomy the final solution?*, DNA INDIA, Jan. 30, 2008, <http://www.dnaindia.com/mumbai/report-is-hysterectomy-the-final-solution-11482>.

<sup>88</sup> Women with Disabilities India Network, *Meeting in Bangalore*, Feb. 4, 2012.

<sup>89</sup> CEDAW Committee, *Concluding Observations: India*, ¶ 36, U.N. Doc. CEDAW/C/IND/CO/4-5 (2014).

<sup>90</sup> For instance, these guidelines indicate that women in India who undergo sterilization should be between the ages of 22 and 49—meaning that girls with disabilities should not be subjected to sterilization (Ministry of Health and Family Welfare, *Standards for Female and Male Sterilization Services* 3-4 (2006), available at <http://nrhm.gov.in/images/pdf/guidelines/nrhm-guidelines/family-planning/std-for-sterilization-services.pdf>).

<sup>91</sup> *Id.* at 3-4.

<sup>92</sup> *Id.* at 6.

<sup>93</sup> International Federation of Gynecology and Obstetrics (FIGO), *Female Contraceptive Sterilisation*, ¶ 7 (June 2011), available at <http://www.igo.org/sites/default/files/uploads/wg-publications/ethics/English%20Ethical%20Issues%20in%20Obstetrics%20and%20Gynecology.pdf> (“Only women themselves can give ethically valid consent to their own sterilisation. Family members – including husbands, parents, legal guardians, medical practitioners and, for instance, government or other public officers – cannot consent on any woman’s or girl’s behalf.”).

<sup>94</sup> Medical Termination of Pregnancy Act, 1971, § 3(4)(a) (1971) (India).

<sup>95</sup> Supreme Court of India, *Suchita Srivastava & Anr vs Chandigarh* (2009), available at <https://indiankanoon.org/doc/1500783/>.

<sup>96</sup> CRPD Committee, *Gen. Comment No. 3*, *supra* note 9, ¶ 52.

<sup>97</sup> *Id.*, ¶ 17(a).

<sup>98</sup> SRVAW, *Report on women with disabilities*, *supra* note 30, ¶ 41.

<sup>99</sup> *Id.*, ¶ 49; see also Elisabeth Lightfoot et al. *The Inclusion of Disability as a Condition for Termination of Parental Rights*. 34 CHILD ABUSE & NEGLECT 927, 927-934 (2010), available at <http://dx.doi.org/10.1016/j.chiabu.2010.07.001>; Rannveig Traustadottir, *Obstacles to Equality: The Double Discrimination of Women with Disabilities* (1997), available at <http://www.independentliving.org/docs3/chp1997.html>.

<sup>100</sup> HRW, *INSTITUTIONS IN INDIA*, *supra* note 57 at 5.

<sup>101</sup> Justice J.S. Verma, et al, *Report of the Committee on Amendments to Criminal Law* 420 (2013), available at [http://www.thehindu.com/multimedia/archive/01340/Justice\\_Verma\\_Comm\\_1340438a.pdf](http://www.thehindu.com/multimedia/archive/01340/Justice_Verma_Comm_1340438a.pdf).

<sup>102</sup> CRPD, *supra* note 8, art. 19.

<sup>103</sup> National Platform for the Rights of the Disabled, *Press Statement and Memorandum to the National Commission for Women* (Sept. 18, 2015), available at <http://feministlawarchives.pldindia.org/wp-content/uploads/20150919-ncw.pdf?>.

<sup>104</sup> Justice J.S. Verma, et al, *Report of the Committee on Amendments to Criminal Law* 273 (2013), available at [http://www.thehindu.com/multimedia/archive/01340/Justice\\_Verma\\_Comm\\_1340438a.pdf](http://www.thehindu.com/multimedia/archive/01340/Justice_Verma_Comm_1340438a.pdf).

<sup>105</sup> See generally Criminal Law (Amendment) Act 2013 (India).

<sup>106</sup> Mental Health Care Bill, 2016, § 3(5) (India), available at <http://www.prsindia.org/administrator/uploads/general/1376983253~mental%20health%20care%20bill%202013.pdf>.

<sup>107</sup> See CRPD, *supra* note 8, arts. 6 & 33.

<sup>108</sup> *Id.*, arts. 23 & 25; CEDAW Committee, *General Recommendation No. 33 on women’s access to justice*, ¶¶ 13 & 17(g), U.N. Doc. CEDAW/C/GC/33 (2015); *Concluding Observations: India*, ¶ 37(a), U.N. Doc. CEDAW/C/IND/CO/4-5 (2014).

<sup>109</sup> See CRPD, *supra* note 8, art. 12; CRPD Committee, *General Comment No. 1: Article 12: Equal recognition before the law*, U.N. Doc. CRPD/C/GC/1 (2014).

<sup>110</sup> See CRPD, *supra* note 8, arts. 8 & 16.

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<sup>111</sup> See UN Special Rapporteur on Violence against Women, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo: Mission to India*, ¶ 59, U.N. Doc. A/HRC/26/38/Add.1 (2014).

<sup>112</sup> See Justice J.S. Verma, et al, *Report of the Committee on Amendments to Criminal Law 270* (2013), available at [http://www.thehindu.com/multimedia/archive/01340/Justice\\_Verma\\_Comm\\_1340438a.pdf](http://www.thehindu.com/multimedia/archive/01340/Justice_Verma_Comm_1340438a.pdf).

<sup>113</sup> See CEDAW Committee, *General Recommendation No. 29 on article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (Economic consequences of marriage, family relations and their dissolution)*, ¶¶ 39-40, U.N. Doc. CEDAW/C/GC/29 (2013).

<sup>114</sup> See CRPD, *supra* note 8, arts. 14 & 19; CRPD Committee, *Guidelines on article 14 of the Convention on the Rights of Persons with Disabilities: The right to liberty and security of the person* (2015).

<sup>115</sup> See CRPD, *supra* note 8, arts. 23 & 25.

<sup>116</sup> See Justice J.S. Verma, et al, *Report of the Committee on Amendments to Criminal Law 273 & 448* (2013), available at [http://www.thehindu.com/multimedia/archive/01340/Justice\\_Verma\\_Comm\\_1340438a.pdf](http://www.thehindu.com/multimedia/archive/01340/Justice_Verma_Comm_1340438a.pdf).