Submitted to the Committee on the Rights of Persons with Disabilities (the CRPD Committee) for the 27th Session (15th August 2022 - 9th September 2022)

Parallel Report for Constructive Dialogue on the Combined Second and Third Reports of the People’s Republic of China and

Responses to the List of Issues and the State Party’s Reply

──focusing on Women with Disabilities and Gender-based Violence (Articles 1-4, 5, 6, 9, 10, 11, 13, 14, 16, 21 and 23)

Submitted by Canyu

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# Introduction

 We, Canyu, a coalition of Chinese women with disabilities and women’s rights advocates monitoring the implementation of the Convention on the Rights of Persons with Disabilities (hereinafter, the CRPD) in China, hereby report to the UN CRPD Committee with information we have collected from women with disabilities through our daily work and various media.

 We acknowledge that China has achieved progresses in implementing the CRPD. The State Party has adopted and revised laws, and has taken measures to better protect the rights of women with disabilities. Some civil society organizations in China, particularly organizations of disabled people (DPOs) have also initiated projects to address violence against women. However, there is still a huge gap between the State Party’s performance in fulfilling its obligations under the CRPD and the reality.

 We are particularly concerned with the following issues and recommend concrete and meaningful actions taken by the State Party.

# Purpose and general obligations (arts. 1–4)

**Support the development of civil society organizations and their participation in decision-making processes, in particular organizations led by women with disabilities working on gender-based violence. Protect advocates who support or seek justice for women with disabilities.**

Some civil society organizations or self-advocate groups, including those led by women with disabilities have emerged in China in recent years. However, none of them were invited to contribute to the second and third combined periodic State Party’s reports of China, and they are facing challenges in submitting alternative reports to the upcoming CRPD session independently. On the other hand, many women with disabilities are not able to establish non-governmental organizations due to legal and policy barriers such as requiring that a governmental department take responsibility to supervise the new NGO, and that a Communist Party branch be established in the new NGO. These requirements also mean that the independence of those registered organizations is compromised. There are even fewer civil society organizations that work on gender-based violence against women with disabilities due to increasing restrains. The China Disabled Persons’ Federation and other government sponsored organizations have limited inputs on these issues. Almost no recourses from government were provided to support grassroots NGOs to conduct related work, while seeking international cooperation becomes more and more sensitive and troublesome for these organizations.

**Our recommendations:**

* Remove all legal and policy barriers to establishing, registering, and running civil society organizations, including organizations of women with disabilities;
* Respect the autonomy of civil society organizations and enable them to operate independently, including by participating in CRPD - related activities, developing cooperation, and seeking professional and financial support to carry out their work;
* Avoid politicizing the issue of women’s rights and gender-based violence, enable DPOs and other civil society actors, as well individual rights advocates to work in an open and safe environment in this field.

# B. Specific rights (arts. 5–30)

 Equality and non‑discrimination (art. 5)

Gender-based violence represents one of the worst forms of discrimination, and people with disabilities, especially women with disabilities are disproportionately affected by gender-based violence. A wholistic way to deal with such violence requires recognition of multiple and intersectional discrimination. Related laws in China prohibit discrimination based on disability, women, age, etc. However, the enforcement of such laws is weak in reality, due to lack of regulations and measures to identify legal responsibility and ensure accountability.

In addition, there is no law or policy that recognizes multiple and intersectional discrimination, and discrimination is treated as singular and one-dimensional, as indicated in China’s replies to the list of issues in relation to its combined second and third periodic reports (para B.2.(b)). Due to lack of understanding of multiple and intersectional discrimination, some opportunities to better protect women with multiple vulnerabilities may be missed. For example, it is concerning that some changes proposed in the draft revision of the Law on the Protection of the Rights and Interests of Women (hereinafter, the Law on Women) tend to endorse violence against women and girls with disabilities and weaken their rights protection. For instance, article 38 in the second draft revision still includes exemptions for parents who fail to send girls to schools during the compulsory education period. Article 54 in the first draft that allows a woman to give up custody (送养) of a child born as a result of sexual violence has been deleted in the second draft.

**Our recommendations:**

* Amend legislation to recognize multiple and intersectional discrimination, for example, the Law on Women and the Law on the Protection of Persons with Disabilities;
* Remove provisions from the draft revision of the Law on Women that constitute indirect discrimination against women and girls with disabilities and perpetuate violence against them. For instance, article 38 should not include any exemptions for parents who fail to send girls to schools during the compulsory education period. Article 54 in the first draft should be restored for allows a mother to give up custody (送养) of her child born as a result of sexual violence, since women with disabilities are most vulnerable in such situation.

Women with disabilities (art. 6)

The Anti Domestic Violence Law (DV Law) of China clearly specifies that persons with disabilities who experienced domestic violence shall be given special protection. However, by using gender-neutral language, the DV Law fails to recognize the gender-based features of domestic violence and the fact that DV disproportionately affects women, particularly women with disabilities. Legal liability is also absent while the special protection fails to be given. While Chinese laws explicitly prohibit exaction of money or assets in connection with marriage, they fail to mention the widely prevalent practice of bride price. In the name of custom, women with disabilities often are sacrificed by their families to enter into arranged marriage or subject to trafficking. In addition, when they want divorce, the court either does not permit their applications, or would order them refund the bride price, and often not examine the alleged domestic violence issue. Thus, promised special protection to women and girls with disabilities are often neglected when they face various and multiple forms of domestic violence. In reality, many practices are not only unhelpful at all but also cause secondary victimization for the survivors. The death of 22-year old [Fang Yangyang](https://www.laitimes.com/en/article/63vb_64mw.html), a women with intellectual disabilities who was abused by her in laws and husband for not being able to bear children in 2019, and the situation revealed in 2022 of a [chained woman](https://en.wikipedia.org/wiki/Xuzhou_chained_woman_incident) who was trafficked, living with a chain on her and having giving birth to eight children, have demonstrated the deep-rooted and structural violence against women with disabilities and provoked continued national anger. There has been public outcry, especially from women, for systematic change, including law reform, prosecution against perpetrators, accountability, protection and support to women with disabilities, and disclosure of relevant data and information.

**Our recommendations:**

- Ensure the rights of women with disabilities through making a national action plan with a wholistic approach to deal with all forms of gender-based violence, highlighting women’s empowerment and intersectional approach instead of protection-only narrative.

- Revise the DV law with language that empowers women, enhance all measures such as reporting, protection order, police actions, custody suspension and temporary transfer.

-Collect more statistics and data and make them accessible to the public. Data should be always disaggregated by sex, age, rural/urban regions, ethnicity for better understanding the issues and for allocating resources.

- Motivate the China Disabled Persons’ Federation to combat violence against women, especially to leverage its capacity of coordination and cooperation with other related organizations at the community level.

- Create an enabling environment for women with disabilities to form groups and organizations for self-advocacy and mutual support, advocacy for structural change, and increased participation in decision- and law-making.

Accessibility (art. 9)

Huge progress has been made in terms of accessibility infrastructure such as physical environment technology facilities. Wide smartphone usage has facilitated women with disabilities’ ability to seek help when they face violence. The 12110 “text hotline” creating huge potential to benefit people with hearing impairments and women with disabilities, particularly who suffered gender-based violence to report cases and seek help from police. However, some major challenges remain. For example, most public facilities as well as methods of providing information do not consider the needs of women with disabilities. Women with disabilities also lack accessible information on the prevention and handling of gender-based violence, the rights of women with disabilities under Chinese law, and available support for women with disabilities from the government, public bodies and civil society organizations. In addition, several studies found disproportionately limited number of protection orders applied by people with disabilities. According to a study of 560 court judgements between 2016 and 2018, there were only four protection-order applications filed by persons with disabilities;[[1]](#footnote-2) The low filing rate by persons with disabilities may be caused by lack of information and available assistance.

**Our recommendations:**

- Raise public awareness and provide information to people with varied impairments; encourage news media to publish accessible information about services for survivors of violence against women.

- Make the auxiliary text-only police hotline 12110 accessible by making it easier to use to benefit women with various disabilities and increase the hotline’s availability across more areas and in ethnic minority languages; allow it to be used not only in non-emergency cases but also in emergency situations, the same as the police emergency hotline 110; and make the hotline accessible to particularly women with language disabilities.

- Train legal professionals, including judges, on CRPD and their duties to provide assistance to people with disabilities to exercise their right to be free from violence.

 Situations of risk and humanitarian emergencies (art. 11)

Many women with disabilities have played magnificent leadership roles from the beginning of the COVID-19 pandemic in early 2020 by overcoming all difficulties. They have produced and disseminated tailored and accessible information to various groups with disabilities which was absent from mainstreaming media. [[2]](#footnote-3)They have also mobilized society and community to donate money and materials for frontline medical professionals and cleaning workers. [[3]](#footnote-4). They volunteered to help neighbors and strangers in city and countryside. [[4]](#footnote-5)

Women with disabilities bear the most brunt during the pandemic. According to a survey of 11204 people in October 2020, 46% of people with disabilities (mostly women) reported experiencing different forms of violence since the outbreak of the COVID-19 pandemic, remarkably higher than other groups. Among them, non-heterosexual women with disabilities and non-binary women with disabilities are particularly vulnerable to violence.[[5]](#footnote-6)

However, few women with disabilities are helped. While most applicants of protection orders were women, including about 280 cases during January 1 to May 31 of 2020 when the COVID-19 first outburst in China among the five groups specifically protected by the anti-DV Law (minors, the elderly, people with disabilities, pregnant and lactating women, and seriously ill patients), the only case from people with disabilities was a man. This indicates the possibility of women with disabilities lack access to judicial remedies when they face domestic violence. [[6]](#footnote-7)

**Our recommendations:**

* Lift rights-depriving and unnecessary COVID-19 control measures that negatively affect most to women with disabilities and survivors of violence.
* Provide support and services to ensure people with disabilities, particularly women with disabilities have access to them. Enable civil society organizations and mutual-support groups to provide social and psychological services.
* Mainstream gender perspective and involve women with disabilities in decision making processes concerning situation of risk and humanitarian emergencies.
* Provide accessible information in forms of sign language, text message etc. for people with all types of disabilities.

Access to justice (art. 13)

Despite great improvement, gaps remain in many aspects, such as lack of basic information, data on litigation and protection orders related to people with disabilities disaggregated by sex/gender, age, ethnicity, and rural/urban household registration; lack of quality services with necessary assistance focusing on women’s rights and gender perspective; insufficient awareness and related knowledge of judicial officials and legal service providers, limited remedies to hold duty bearers accountable.

For example, countless children were disabled after receiving faulty milk powder and vaccine in China and did not get proper support from government to get medical treatment and compensation for better surviving. Their parents (usually the mothers) have been suppressed by local authorities when they try to seek justice for their children. [Ms. He Fangmei](https://www.business-humanrights.org/fr/derni%C3%A8res-actualit%C3%A9s/china-parents-of-faulty-vaccine-victims-reportedly-detained-or-disappeared-after-seeking-accountability-and-help/) is one example of them. As a woman with disability herself, she initiated a group and campaigns for child victims of faulty vaccines, including her own child, since 2018. She was last seen in 2020 after being [forced disappeared](https://www.frontlinedefenders.org/en/case/woman-human-rights-defender-he-fangmei-disappeared-three-months) during her third trimester of pregnancy.[[7]](#footnote-8)

Some high-ranking judges even gave misleading information and opinion about law on domestic violence when talking about the high-profile case of Ms. Yu Xiuhua, a famous rural women poet with disability who recently experienced domestic violence.[[8]](#footnote-9)

**Our recommendations:**

* Improve the accountability mechanism and access to justice to better safeguard women’s rights to be free from violence,
* Raise awareness on gender-based violence and integrate such knowledge into evaluation and professional training of judiciaries and legal professionals.
* Make measurable indicators and strengthen measures related to the elimination of all forms of violence against women and girls, to achieve SDG 5 (gender equality) and 16 (peace, justice and strong institutions).
* Provide state compensation to victims of faulty vaccines, and their rights defenders, especially the mothers of children victims. Provide remedies to assist victims to seek compensations from responsible parties.
* Protect rights defenders and punish perpetrators, including private actors who violate the rights of women with disabilities, as well as public officials who abuse power and retaliate on victims who seek for justice.

 Liberty and security of the person (art. 14)

**The practice of involuntary hospitalization and institutionalization**

Progress have been made while more work still need to be done. For example, the third version of the Chinese Classification of Mental Disorders (CCMD-3) published by the [Chinese Society of Psychiatry](https://en.wikipedia.org/wiki/Chinese_Society_of_Psychiatry) (CSP)in 2000 uses discriminatory language against people with psychosocial disabilities and misleading examples to stigmatize petitioners or rights defenders. The classification is used by the police to initiate a diagnosis on a person’s mental health status and enable them to forcefully hospitalize individuals with great randomness and subjectivity. Ms. Li Tiantian in Hunan province in December 2021 is just one of the recent cases.[[9]](#footnote-10)

The chained mother of eight children had been sent to hospital specialized on mental health after her cases provoked worldwide attention. Audience heard that she cried“let me go” in front of a doctor. Visitors cannot approach her. Two women have been detained for driving to her village from another province. Netizens suspect that she is subject to involuntary hospitalization for “maintaining social stability”.

**Our recommendations:**

* Remove the discriminatory language about petitioners in CCMD-3 and review all related guidelines and standard in line with CRPD and other international human rights standards which China ratified.
* Review and repeal legislation and practice that allow for arbitrary hospitalization of persons with disabilities without lawful and judicial procedures.
* Take effective measures to prevent and address gender-based violence in hospitals and institutions.

 Freedom from exploitation, violence and abuse (art. 16)

The statements of special protection to people with disabilities in DV Laws are good, but women with disabilities affected by exploitation, violence and abuse hardly get out from the trapped situation on their private capacity. However, they often get nothing but bureaucratic response when seeking help from the government department or public institute. In contrast to their will, the attempt of seeking outside help brings worse treatment in turn. Due to lack of meaningful support, they have no options but only endure the violence. It also requires cross-department and multi-sectoral cooperation to solve the violence and its consequences. In addition, there is also a lack of understanding and awareness on the scope and influence of the issue of violence against women with disabilities due to limited and fragmented information and data.

**Our recommendations:**

- Form a wholistic national action plan on violence against women that highlights women with disabilities.

- Sign and ratify ILO Violence and Harassment Convention No. 190.

- Examine and update the law and strengthen the implementation of law in line with CEDAW, Beijing Platform for Action and SDG indicator system. For example, specify the definition of “discrimination against women” and adopt a comprehensive definition of violence against women when modify Anti-Domestic Violence Law and Criminal Law in line with General Recommendation No. 35: on gender-based violence against women and the updated General Recommendation No. 19.

- Enhance the function of state mechanism of advancing women’s rights, to make it have the mandate to allocate resources and coordinate related government departments and mass organizations such as All-China Women’s Federation and Disabled Person’s Federation.

- Provide accessible means for women with disabilities to report violence and obtain services. Make barriers-free access to public service and health facilities for women with disabilities especially when they face gender-based violence.

- Establish criteria and build capacity for government officials in department of public security, civil affair, medical and health department, as well as members of village or community committees to ensure related complains can proper handled

- Take concrete measures to enhance accountability to ensure civil servants dutiful while revise related laws, especially the undergoing process of revision the Law Women.

- Promote research and data collection on the issues and solutions of exploitation of women with disabilities, involve civil society organisations, especially those led by women with disabilities in the process.

Freedom of expression and opinion, and access to information (art. 21)

The development of internet brings new platforms of expression and opinion, and access to information for women with disabilities, although it also carries new risk of technology facilitated violence. More and more women become knowledgeable about their rights, recording evidence of violence, and seeking supports and help. At the same time, online censorship and in-person harassment is increasing and hindering these women practice their rights. Topics such as sexual harassment or even domestic violence are often hard to be reported by news media, which have been censored, deleted, or further cause social media accounts suspended or permanent dead, authors of articles and accounts on these social have been threatened, punished, or even been detained. Smear campaign against these people became more hostile, violent, and politically oriented.

**Our recommendations:**

- Respect constitutional rights of expression and opinion by constraining arbitrary and excessive internet and news media censorship.

- Support and empower women to use media and communication technology to achieve gender equality by honoring the promise in Beijing Platform for Action in 1995 World Conference on Women of the United Nations which was strongly supported by the Chinese government, particularly its chapters of violence against women, women’s human rights, as well as women and media.

 Respect for home and the family (art. 23)

Chinese government is increasingly promoting strong family ties which has very positive side for respecting for home and the family of people with disabilities, with potential to benefit women and children with disabilities if we keep alert to avoid enhancing patriarchal value and keeping women in a subordinated position. At the same time, there are space to improve for supporting gender-based violence survivors of women and girls with disabilities, such as providing accessible housing (homestead in rural area), as well as relocating these women and girls if needed. It is reported some practices of ill-treatment toward disabled women petitioners and their children not only against the spirit of CRPD but also the reputations of authorities. For example, in the case of Ms. He Fangmei’s underaged girl who was disabled after receiving faulty vaccine had been to separate with her mother and other family members since Ms. He was forced disappeared in 2020. In addition, no family member have idea if this disabled child receive any medical treatment and rehabilitation since then.[[10]](#footnote-11)

**Our recommendation:**

- Review family policy and provide accessible service to better support women with disabilities, especially those affected by domestic violence and sexual violence with short term shelter or long term housing support to restore their life with a home and family in their own ways.

- Correct ill-treatment such as forced hospitalization of women with disabilities, or forced separation between mother, family member with disabilities young child.

1. Q. Zhang and Y. Feng, The Role of Protection Orders Needs to Be Fully Utilized: An analysis of 560 Written Judgement -- A Three-Year Monitoring Report on the Implementation of the Anti-Domestic Violence Law of the People’s Republic of China, (Beijing Equality, 2019), [<www.equality-beijing.org/newinfo.aspx?id=73](http://www.equality-beijing.org/newinfo.aspx?id=73)>. [↑](#footnote-ref-2)
2. 光明日报2.15.2020[《疫情之下，残障群体怎么办》](http://www.360doc.com/content/20/0215/17/21327818_892250880.shtml) [↑](#footnote-ref-3)
3. http://news.cnjiwang.com/jwyc/202111/3474689.html [↑](#footnote-ref-4)
4. http://www.getchfoundation.org/PeopleView.asp?id=1415 [↑](#footnote-ref-5)
5. He Yuan, Ren Yi, “Living Status of Women in China”, Jan 14th 2021. [https://freewechat.com/a/MzI5MDEwNzMwMQ==/2247488733/1.or](https://freewechat.com/a/MzI5MDEwNzMwMQ%3D%3D/2247488733/1.or) http://www.chinadevelopmentbrief.org.cn/customer/details.html?id=25221&type= [↑](#footnote-ref-6)
6. Feng Yuan and Hao Yang: <https://rwi.lu.se/publications/gender-and-human-rights-in-the-context-of-covid-19-pandemic-findings-from-four-countries/> [↑](#footnote-ref-7)
7. https://www.business-humanrights.org/fr/dernières-actualités/china-parents-of-faulty-vaccine-victims-reportedly-detained-or-disappeared-after-seeking-accountability-and-help/ [↑](#footnote-ref-8)
8. <https://www.163.com/dy/article/HBPI1PBP0511DJHA.html> [↑](#footnote-ref-9)
9. https://www.nytimes.com/2021/12/23/world/asia/li-tiantian-disappearance.html [↑](#footnote-ref-10)
10. <https://www.rfa.org/mandarin/Xinwen/3-06172022105702.html>，失踪近两年 疫苗致残维权家长何方美亲人哭求下落，<https://msguancha.com/a/lanmu4/2022/0715/22088.html> **律师申请信息公开何方美女儿寄养情况** [↑](#footnote-ref-11)