

# **Submission to the Group of Experts on Action against Violence against Women and Domestic Violence on Ireland's Compliance with the Istanbul Convention**

**Disabled Women Ireland**

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## Introduction

Disabled Women Ireland (DWI) welcomes the opportunity to outline the lived experiences of disabled women in Ireland of violence and abuse from our unique perspective as a Disabled Persons' Organisation (DPO). Disabled women living in Ireland are 2.9 times more likely to experience gender-based violence compared to their non-disabled counterparts. In this report, we will give an overview of some of the specific factors which contribute to disabled people's disproportionate exposure to gender-based violence and domestic violence across a range of contexts, and touch on some of the less-recognised forms this violence can take when directed against disabled bodies. We will then utilise the framework of the Four Pillars of the Istanbul Convention to outline measures needed to address disabled experiences of gender-based violence and domestic violence.

## About Disabled Women Ireland

DWI is Ireland's only national cross-impairment Disabled Persons' Organisation (DPO)<sup>1</sup> representing disabled women, girls and non-binary people. We are an unfunded, entirely voluntary organisation led and directed by our members. Our members self-identify as disabled and we understand disability as a broad concept which includes physical, sensory, mental and intellectual impairments and which is in keeping with the conceptualisation of disability described in the UN Convention on the Rights of Persons with Disabilities (UN CRPD)<sup>2</sup>. Originally established in 2018, DWI advocates for measures which enable disabled people to participate meaningfully, equally and fully in all aspects of society in line with human rights obligations, with specific insight into the interaction of gender and disability. We adhere to a human-rights and equity based view of disability justice which aligns with the Social, rather than Medical, model of disability.

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<sup>1</sup> A DPO is an organisation whose primary focus is advocating for the rights of disabled people where a clear majority at all decision-making levels are disabled people themselves, as defined under General Comment No. 7 (2018) of the UN CRPD: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsnbHatvuFkZ%2Bt93Y3D%2Baa2pjFYzWLBu0vA%2BBB7QovZhbuyqziDN0plweYI46WXrJJ6aB3Mx4y%2FspT%2BQrY5K2mKse5zjo%2BfvBDVu%2B42R9iK1p>

<sup>2</sup> Article 1, UN Convention on the Rights of Persons with Disabilities (Dec. 2006): <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-1-purpose.html>

### **A note on the term “vulnerability”**

Where the term vulnerability is used in this contribution, it is not to be understood as an inherent characteristic of disabled people but as referring to the social, economic and other factors which increase their vulnerability. Violence against disabled gender minorities is a structural issue which reflects a social mechanism whereby disabled people are framed as recipients of charity rather than equal rights holders and which constrains them to a subordinate position in society.

### **A note on intersectionality**

When reading this submission, it is important to remain aware that disabled gender-marginalised people exist within every other marginalised community and identity including, but not limited to, ethnic and religious minority communities including Travellers and Roma peoples, LGBTQIA+ identities, migrants and those seeking international protection etc. and also share the increased risk of violence associated with these identities, as well as experiencing unique iterations of violence due to their intersecting identities. However, a key challenge to addressing gender-based violence in Ireland is that little data is collected in relation to disabled experiences of gender-based violence, and that which is collected is rarely disaggregated to enable us to speak to the intersectional aspect of these experiences, nor would we be best placed to do so. To-date, disabled people in Ireland from migrant, racialised or ethnic minority backgrounds have not been supported and empowered to build their own self-representative DPO, as is their right under the UN CRPD.

### **A note on language**

In keeping with the Social Model of disability, which understands disability as an interaction between an individual’s impairments or differences and societal and structural barriers, we will mostly use identity-first-language, or ‘disabled people’, throughout this submission. However, throughout this submission we alternate between the person first language used in the Convention ("persons with disabilities") and identity first language in recognition of the multiple ways in which disabled people may choose to identify.

In recognition of the fact that gender-motivated violence affects all people who are marginalised by reason of their gender - including, but not limited to, trans people and people of non-binary genders - we will use language which attempts to capture this shared experience. We use the term ‘gender-based violence’ over ‘violence against women’ to better reflect this reality. In instances where we use the term ‘women’ alone, it is usually because we are referencing specific data or source material which only references women.

# Disabled gender-marginalised people living in Ireland and the Istanbul Convention

## Disproportionate exposure to violence:

This contribution outlines many forms of violence which are experienced by disabled women and girls, including caregiver, childhood and familial abuse, all of which are experienced by disabled women and other gender minorities at a much greater rate than disabled cis men. Therefore, these forms of abuse should be understood as iterations of gender-based violence falling within the scope of the Istanbul Convention which “*shall apply to all forms of violence against women... which affects women disproportionately*”<sup>3</sup>.

Addressing gender-based violence in an Irish context is severely hampered by a lack of data relating to violence against women, and specifically, to disabled experiences of gender-based violence. Therefore, much of the evidence provided in this submission instead comes from international research because there is very little Irish data available relating to the Irish context.

According to an ESRI report published in 2005, disabled people in Ireland are 2.9 times more likely to experience severe abuse than their non-disabled peers.<sup>4</sup> This is consistent with international data which identifies disabled women as 2-3 times more likely to experience all forms of gender-based violence, with particular groups - such as those with sensory impairments,<sup>5</sup> women with intellectual disabilities, Autistic<sup>6</sup> and ADHD<sup>7</sup> women and women with long-term mental health conditions - at even greater risk. For example, a 2018 Australian study found that women with cognitive impairments experience violence at a rate 10.7 times higher than non-disabled women<sup>8</sup>. We believe this to be broadly reflective of the case in relation to Ireland, as the social and legal factors contributing to this enhanced risk are similar in both jurisdictions.

Research from NUI Galway Sexual Experiences Survey 2020<sup>9</sup> found 40% of disabled female students reported experience of rape (against 27% of non-disabled female students) and 34% of disabled women had experienced intimate relationship violence (19%, non-disabled)

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<sup>3</sup> Council of Europe Convention on preventing and combating violence against women and domestic violence, Article 2.1, Istanbul, 11.V.2011 <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e>

<sup>4</sup> Domestic Abuse of Women and Men in Ireland: Report on the National Study of Domestic Abuse - Watson & Parsons (2005): <https://www.esri.ie/publications/domestic-abuse-of-women-and-men-in-ireland-report-on-the-national-study-of-domestic>

<sup>5</sup> The Unseen: Blind and partially sighted people’s experiences of domestic abuse - Nanya Coles et al., Vision Foundation & SafeLives (2022): <https://safelives.org.uk/sites/default/files/resources/The-Unseen-Experiences-of-blind-and-partially-sighted-victims-of-DA.PDF>

<sup>6</sup> Evidence That Nine Autistic Women Out of Ten Have Been Victims of Sexual Violence - Fabienne Cazalis et al., Behav. Neurosci., Volume 16 (2022) doi: 10.3389/fnbeh.2022.852203. <https://www.frontiersin.org/articles/10.3389/fnbeh.2022.852203/full>

<sup>7</sup> ADHD Symptoms as Risk Factors for Intimate Partner Violence Perpetration and Victimization - B. T. Wymbs et al, J Interpers Violence, 2017 Mar;32(5):659-681. doi: 10.1177/0886260515586371. <https://pubmed.ncbi.nlm.nih.gov/26025345/> Rates of Intimate Partner Violence Perpetration and Victimization Among Adults with ADHD - Brian T Wymbs J Atten Disord . 2019 Jul;23(9):949-958. DOI: 10.1177/1087054716653215; <https://pubmed.ncbi.nlm.nih.gov/27269007/>

<sup>8</sup> Carlene Wilson and Neil Brewer, “The Incidence of Criminal Victimization of Individuals with an Intellectual Disability” (1992) 27(2) Australian Psychologist 114-117: <https://aps.onlinelibrary.wiley.com/doi/abs/10.1080/00050069208257591>

<sup>9</sup> Sexual Violence and Harassment: Experiences In a National Survey of Higher Education Institutions - Lorraine Burke et al., Active\* Consent NUI Galway & Union of Students in Ireland (2020) / The Sexual Experiences Survey (SES) 2020 [https://www.ul.ie/sites/default/files/equality-diversity-inclusion/Final\\_report\\_combined%20%283%29.pdf](https://www.ul.ie/sites/default/files/equality-diversity-inclusion/Final_report_combined%20%283%29.pdf)

Disabled women were also more than 10 percentage points more likely to experience psychological violence by a partner, violence in childhood, and non-partner violence.

### **Disabled Filicide,<sup>10</sup> or disability-motivated murder**

Disabled children and adults are also more likely to be murdered by their family members and caregivers.<sup>11,12</sup> Of the cases of disabled filicide we could find information on in Ireland - counting only those murders where the sole motivating factor identified was the disabled identity of the victim - none of these killings resulted in a murder conviction.<sup>13</sup> Judicial and media narratives around these cases often focus on the impairment of the victim, their care needs and the perceived 'burden' these placed on their caregivers in a way which frames the murder as 'understandable', or more acceptable, and the needs of disabled victim as least partially to blame for the crime. This encourages a climate where violence against disabled women and others is seen as understandable and socially tolerated.

We believe the State has a duty to record all instances of disabled filicide in order to ensure that lighter sentencing in cases involving disabled victims is not a systemic issue, and to ensure that disabled lives are equally valued in judicial proceedings. This is necessary, but not sufficient, to address this perceived acceptability of violence towards disabled people. The proposed introduction of Hate Crime legislation in Ireland is an opportunity for the State to begin collecting robust data on anti-disability motivated crime, including instances of domestic, sexual and gender-based violence, and to give it due weight in judicial proceedings.

We also call on the State to record all instances of the unlawful killing of disabled people to ensure its prevalence and causes are known and can be addressed through targeted action. In non-filicidal murders, such as that of Anastasia "Ana" Kriégel,<sup>14</sup> disability has been shown to be a contributing factor to the crime and the perpetrators' selection of victim, so it is important that this information is collected as part of mainstream data collection in law enforcement and judicial systems to enable us to build a robust and accurate picture of the violence disabled people are subjected to and develop meaningful strategies to combat it.

### **Recommendations:**

- Data, anonymised and disaggregated by gender, religious background, ethnicity and migration status, should be compiled by law enforcement and the judiciary for all violent crimes where disability is a contributory or motivating factor and reported to

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<sup>10</sup> Although the term 'filicide' is used more widely to refer solely to the killing of children, the term 'disabled filicide' is used in the disabled community to refer to all cases where a disabled person, whether an adult or a child, is killed by a family member. See: Anti-Filicide Toolkit - ASAN (Oct. 2014). p.4: <https://oal.ca.gov/wp-content/uploads/sites/33/2016/10/Anti-Filicide-Toolkit.pdf>

<sup>11</sup> 'Homicides and Maltreatment-related Deaths of Disabled Children: A Systematic Review', John Frederick John Devaney Eva Alisic, *Child Abuse Review, Volume 28, Issue 5* pp.321-338 (5th Sept. 2019). <https://doi.org/10.1002/car.2574> and 'The abuse of disabled children: a review of the literature', Helen Westcott, *Child: care, health and development*. Volume 17, Issue 4 July 1991 Pages 243-258. <https://doi.org/10.1111/j.1365-2214.1991.tb00695.x>.

<sup>12</sup> Benedict, M. I., S. Zuravin, M. Somerfield, and D. Brandt. "The Reported Health and Functioning of Children Maltreated While in Family Foster Care." *Child Abuse and Neglect* 20, no. 7 (1996): pp. 561-571

<sup>13</sup> Disability Day of Mourning web resource: <https://disability-memorial.org/category/location/ireland>

<sup>14</sup> Ana Kriégel murder trial: The complete story - The Irish Times (Jun 2019): <https://www.irishtimes.com/news/crime-and-law/courts/criminal-court/ana-kriegel-murder-trial-the-complete-story-1.3929570>

relevant State and EU bodies, and relevant Civil Society Organisations including DPOs in order to inform their work to combat gender-based violence.

- Public awareness campaigns should be co-developed with and led by disabled people and their DPOs, to combat anti-disability stigma, violence and abuse.

### **Human Trafficking:**

In addition to domestic inequalities facing disabled women and girls, evidence suggests that disabled women are also more at risk of being targeted for human trafficking<sup>15</sup> (a 2016 report from the UK suggests that rates may be as high as 1 in 3 trafficking survivors<sup>16</sup>). Mainstreaming of disability awareness and inclusion of disability-informed concrete targets across all strategies and policies is crucial to combating trafficking on a national and international level, as the issues are inextricably interlinked, and no meaningful progress can be made in combating violence against women and girls without recognising the role that disability-related social and economic disenfranchisement plays.

The access and support needs of disabled victims of trafficking must be met, including access to decision-making support if needed, to ensure they have equal access to justice as their non-disabled peers.

### **Financial dependency as an enabling factor in domestic and gender-based violence:**

Lack of financial independence has been found to be one of the most significant risk factors in being exposed to intimate partner violence.<sup>17</sup> Financial dependency is also the most common barrier to escaping an abusive relationship.<sup>18</sup>

Ireland has the highest unemployment rate of disabled people in the EU, at 32.3%, and one of the highest 'at Risk of Poverty' rates.<sup>19</sup> A Government-commissioned "Cost of Disability" Report published last year established that the average yearly cost of disability in Ireland is €11,734, higher than the maximum €10,556 per annum disability-related payment. Prima facie, this indicates that State disability-related social welfare payments available are wholly insufficient to allow disabled people and their families to reach a minimum standard of living. With a labour force participation rate of 25.8%, disabled women in Ireland are even less likely to be in paid employment than disabled men and are 25% more likely to live in

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<sup>15</sup> 'Human Trafficking Victims with Disabilities or Mental Illness: Annotated Bibliography', Laura Puls (2018). [https://ncvc.dspacedirect.org/bitstream/item/1054/CVR\\_Biblio\\_Trafficking\\_508.pdf](https://ncvc.dspacedirect.org/bitstream/item/1054/CVR_Biblio_Trafficking_508.pdf)

<sup>16</sup> The health needs and healthcare experiences of young people trafficked into the UK - N. Stanley et al., Child Abuse & Neglect Volume 59, Sept. 2016, pp. 100-110. <https://doi.org/10.1016/j.chiabu.2016.08.001>

<sup>17</sup> Cross-national and multilevel correlates of partner violence: an analysis of data from population-based surveys - L.L. Heise & A. Kotsadam, The Lancet Global Health (2015); [https://doi.org/10.1016/S2214-109X\(15\)00013-3](https://doi.org/10.1016/S2214-109X(15)00013-3)

<sup>18</sup> Domestic Violence and abuse against people with disabilities - NDA paper to the Committee on Justice, Defence & Equality (2013): <https://nda.ie/nda-files/paper-by-the-national-disability-authority-to-joint-oireachtas-committee-on-justice-defence-and-equality-may-20131.pdf>

<sup>19</sup> Poverty and Social Exclusion for Persons with Disabilities -European Disability Forum's Human Rights Report (Feb. 2020): [https://mcusercontent.com/865a5bbea1086c57a41cc876d/files/ad60807b-a923-4a7e-ac84-559c4a5212a8/EDF\\_HR\\_Report\\_final\\_tagged\\_interactive\\_v2\\_accessible.pdf](https://mcusercontent.com/865a5bbea1086c57a41cc876d/files/ad60807b-a923-4a7e-ac84-559c4a5212a8/EDF_HR_Report_final_tagged_interactive_v2_accessible.pdf)

poverty.<sup>20, 21</sup> Disabled women's elevated risk of poverty and social exclusion rests on a number of interrelated factors involving both gender and disability.

Financial dependence is a major risk factor in both experiencing gender-based violence and in being unable to successfully seek support to escape from it.<sup>22</sup> In Ireland, means testing of disability payments and supports creates an enormous dependence for a disabled person on their partner and/or family members and an associated vulnerability to abuse, including elevated rates of financial abuse.<sup>23</sup> Frequently, access to money, food, medication and/or assistive equipment such as mobility aids is restricted by partners or family members in disabled people's experience of abuse, indicating that current State policies of means-testing financial support for these necessities against partner or household income creates additional vulnerability to these disability-specific kinds of abuse as well as to familial, caregiver and intimate partner violence more broadly.

Lack of portability of disability supports and State reliance on family members as *de facto* caregivers to disabled people compound the already increased difficulty of leaving an abusive relationship caused by lack of money, lack of accessible housing and almost-universal inaccessibility of both gender-based violence support services.<sup>24</sup>

Underpinning all these issues is the reality that disabled gender-marginalised people living in Ireland are not provided with sufficient support and freedom to live the full, independent lives necessary for equal participation in the rights guaranteed under the Istanbul Convention. Therefore, in conjunction with ensuring that all measures which aim to address gender-based violence are disability-proofed, the underlying socioeconomic factors which place disabled women at greater risk of experiencing gender-based violence must be also addressed.

### Recommendations:

- Disability-related payments and supports should be allocated on a universal needs-led basis, and means testing requirements (including restrictions on earnings from employment and other income) which create financial dependency should be eliminated. Ensure that disabled people of State pension age and above have equal access to needs-led allocation of supports (currently all disability-related supports are withdrawn upon reaching this age, currently 66 years old).
- Department of Social Protection should review means testing of Medical Cards to ensure that those with long-term medical need, as well as those with financial need,

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<sup>20</sup> The Cost of Disability in Ireland Report,, Indecon, p.37: <https://www.gov.ie/en/publication/1d84e-the-cost-of-disability-in-ireland-research-report/>

<sup>21</sup> Women with Disabilities Are Still Struggling to Escape Poverty - NWCL (2016): <https://nwcl.org/blog/women-with-disabilities-still-struggling-to-escape-poverty/>

<sup>22</sup> Three Ways Domestic Violence Victims Can Overcome Economic Dependence - Dr. A. Stylianou, Safe Horizons (2016): <https://www.safehorizon.org/news-from-the-field/three-ways-domestic-violence-victims-can-overcome-economic-dependence/>

<sup>23</sup> Women, disability and violence: Barriers to accessing justice: Final Report', Maher et al., ANROWS, Horizons Issue 2 (2018): <https://www.anrows.org.au/publication/women-disability-and-violence-barriers-to-accessing-justice-final-report/>

<sup>24</sup> UK estimates indicate that only 11% of individual domestic violence spaces are accessible to those with physical impairments (see: <https://www.bbc.com/news/uk-46371441>). We don't have figures for Ireland as the main organisations providing DSGBV shelters - Women's Aid, Safe Ireland and Rape Crisis Network Ireland - don't have this information



have adequate access to connected rehabilitative therapies and physical and mental healthcare services and supports.

- Review of 'draw-down' grants, particularly grants for housing or vehicle adaptation or purchasing accessibility aids, with a view to replacing them with an up-front payment for successful applicants. 'Draw-down' schemes which require the individual to pay out of pocket and subsequently apply for reimbursement needlessly restrict disabled people's ability to find accessible housing and other accessibility supports needed to escape domestic abuse.
- Access to Personal Assistance Services on a statutory basis to ensure portability of personal support and increased access to independent living.

## **Pillar 1: Prevention**

### **Awareness Raising/ Challenging Attitudes which excuse violence**

Despite being more at risk of becoming victims of violence, women and girls with disabilities are not specifically targeted in measures designed to address gender-based violence. Campaigns which aim to bring awareness to gender-based violence rarely feature disabled people or include examples of the specific forms of gender-based violence experienced by disabled people. Furthermore, to-date the State has not engaged with Disabled Persons Organisations to facilitate the inclusion of disabled voices in such campaigns. This has led to a lack of understanding and awareness of the impact of gender-based violence on disabled people, which in turn makes it more difficult for disabled people to report instances of abuse and to be believed and receive support once a report has been made.

A secondary impact of this lack of consultation and engagement with disabled people and our representative organisations is that many of the negative attitudes and stereotypes which contribute to disabled people's disproportionate experience of gender-based violence remain unchallenged. For example, there are many pervasive misconceptions surrounding disabled people and sex/ relationships - with disabled people being thought of as asexual or unable to participate in, or be interested in sexual relationships. This therefore creates the incorrect idea that disabled people are less likely to experience sexual abuse or intimate partner violence.

Conversely certain cohorts within the disabled community, such as those with psychosocial disabilities, are perceived as inherently hypersexual and promiscuous, which is seen as excusing sexual coercion or abuse perpetrated against them. Pervasive myths persist about Autistic people's lack of empathy which contributes to the incredibly high rates of relationship and interpersonal violence<sup>25</sup> they are subjected to (most recent evidence suggests that 9 in every 10 Autistic women have experienced sexual violence<sup>26</sup>).

Given the diversity of disabled people's experiences and intersecting identities, and the varied and nuanced stereotypes and stigma that persist against different cohorts, it is

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<sup>25</sup> Experiences of Interpersonal Victimization Among Autistic Adults - A. Pearson, J. Rees & S. Forster, *Autism in Adulthood* Vol. 4, No. 2 (Jun 2022): <https://www.liebertpub.com/doi/10.1089/aut.2021.0035>

<sup>26</sup> Evidence That Nine Autistic Women Out of Ten Have Been Victims of Sexual Violence - Fabienne Cazalis et al., *Behav. Neurosci.*, Volume 16 (2022) doi: 10.3389/fnbeh.2022.852203. <https://www.frontiersin.org/articles/10.3389/fnbeh.2022.852203/full>



essential that disabled people themselves are at the forefront of designing and delivering awareness campaigns relating to their identities or impairments to avoid creating campaigns which, at best, are ineffective and, at worst, reproduce harmful and stigmatising misconceptions about disabled people.

### **Recommendations:**

- Disabled people and their DPOs should be supported in driving the development and delivery of disability-related awareness campaigns. Disability representation must be included in all domestic and gender-based violence campaigns.
- Specific focus and strategies to target awareness campaigns to reach those most at risk, particularly those living in institutional settings and those with limited social contact.

### **Education provision for disabled women and other gender-marginalised people**

Disabled women and girls have historically been infantilised and desexualised by healthcare professionals, caregivers and education providers. As a result, women and girls with disabilities receive limited sex education and relationship and violence information. This issue is experienced to an even greater extent by LGBTQIA+ disabled people and/or those with intellectual or developmental disabilities who, in particular, have the greatest resistance to their being recognised as sexual beings and have the least access to appropriate education.

### **Recommendations:**

- Creation of a strategy to ensure that age-appropriate, factual, LGBTQIA+ inclusive sex, consent and relationships education is accessible and available to children and young people outside mainstream education on an equal basis with others, to include those not in education and those living in institutional settings.
- Ensure factual, LGBTQIA+ inclusive sex, consent and relationships education is accessible and available to disabled adults using day services and living in congregated and institutional settings to address the historic denial of sexual education to disabled people.
- Ensure sex, consent and relationships education to all people includes sign-posting to appropriate, accessible information and support services including specialist support services, where available.

### **Women's empowerment**

Disabled women are often disempowered by societal structures and as a result experience violence, a lack of autonomy, a lack of privacy across many areas of their lives, particularly in healthcare settings. This can make it more difficult for disabled women and girls to identify exactly when abuse starts or what counts as abuse, especially when coupled with dismissal of their concerns or complaints about such treatment (for example being left naked for longer than necessary in hospital, home or institutional settings and/or not being asked to consent to who sees them naked, the expectation that disabled people should disclose

extremely personal medical information to whomever requests it, such information being shared about them without their consent etc.).

This is particularly relevant in the context of Autistic individuals and people with intellectual disabilities, who are often the subject of behaviourally cultivated vulnerability such as learned helplessness and compliance training, such as that used in behavioural interventionist practices. Such practices have been shown to increase vulnerability to exploitation and abuse.<sup>27</sup>

This disempowerment is echoed in policy approaches to the specific experiences and barriers faced by disabled women. The role of gender in disabled women's lives is frequently overlooked or dismissed, or the assumption is made that they're 'someone else's (or some other Government Department's) issue to deal with. For example, Ireland's Comprehensive Employment Strategy for People with Disabilities<sup>28</sup> doesn't contain a single mention of women or have any gender-informed targeted actions, and our National Strategy for Women and Girls<sup>29</sup> contains no action targeting the empowerment of disabled women, despite their being among the most disempowered, impoverished and socially excluded demographics nationally which significantly contributes to their vulnerability to domestic and gender-based violence.

Even Ireland's National Disability Inclusion Strategy<sup>30</sup> makes only one reference to women, and expresses only a commitment to "*proof all new Government policies and programmes against their potential impact on women with disabilities*", not an ambition to actively empower disabled women or combat the disproportionate levels of violence they're subjected to.

### Recommendations:

- Review interventions offered to disabled children to ensure they are fully human rights compliant and do not increase the risk of learned helplessness or vulnerability to abuse and exploitation in later life.
- Government, in partnership with DPOs, to develop and deliver training to all healthcare and social care workers on disability awareness and rights in medical and care settings.
- Creation of a framework to increase accessibility in women's and feminist organisations and remove barriers to disabled women's equal participation in educational, political, community-based and other opportunities for empowerment. Funding of Civil Society Organisations and NGOs with programmes to support

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<sup>27</sup> How much compliance is too much compliance: Is long-term ABA therapy abuse? - Aileen Herlinda Sandoval-Norton & Gary Shkedy, Cogent Psychology, 6:1, 1641258 (2019). DOI: 10.1080/23311908.2019.1641258 <https://www.tandfonline.com/doi/full/10.1080>

<sup>28</sup> National Strategy for Women and Girls 2017-2020: creating a better society for all - Department of Justice and Equality (Apr. 2017): <https://assets.gov.ie/6427/88cc57e206a34e94aef2310f2b100d5.pdf>

<sup>29</sup> National Strategy for Women and Girls 2017-2020: creating a better society for all - Department of Justice and Equality (Apr. 2017): <https://assets.gov.ie/6427/88cc57e206a34e94aef2310f2b100d5.pdf>

<sup>30</sup> National Disability Inclusion Strategy 2017-2021 - Department of Justice and Equality (2017): <https://www.gov.ie/pdf/?file=https://assets.gov.ie/162923/96990962-f41f-4844-b784-e9ccf8cbfa42.pdf#page=null>

women's empowerment to increase their accessibility to disabled women and other marginalised people.

- Cross-Government cooperation to develop targeted strategies to empower disabled women and address the extremely high poverty, social exclusion and precariousness experienced by disabled women and other gender-minoritised people.

### **Obstetric & gynaecological violence and forced contraception:**

In the Re(al) Productive Justice Project's 2023 Report, they note that the HSE's National Women's & Infants Programme outlined in the National Maternity Strategy "...identifies the need for a mother and baby unit, where a mother in need of mental health services can be treated while caring for and remaining with her baby, arguably an important aspect of the recovery. There is currently no such unit in Ireland; yet the model of care recommends a six bedded unit per 15,000 deliveries"<sup>31</sup>

International studies and anecdotal accounts from disabled women in Ireland, including from consultations DWI have held with our membership, raise genuine concerns that disabled people may face significantly increased rates of obstetric and gynaecological violence.<sup>32</sup> 68% of maternal deaths in Ireland between 2013-2015<sup>33</sup> and nearly half of those and 2016-2018<sup>34</sup> were of disabled women or women with a pre-existing condition. However data on reports of obstetric violence against disabled women is not collected in Ireland and international data is extremely difficult to locate - for example, even the Council of Europe's report on obstetrical and gynaecological violence did not examine the experiences of disabled women.<sup>35</sup>

Investigation needs to be made to ensure that disabled women experience equal protection under Article 39 of the Convention, which prohibits forced abortion and forced sterilisation. It is important, given the change in medical practices in recent years, that the non-consensual use of contraceptives on disabled women be understood as a de facto form of forced sterilisation.<sup>36</sup> Some disabled people in Ireland are currently exposed to reproductive coercion and restriction of autonomous choice. The Re(al) Productive Justice Project has identified instances of long-term contraception being used on women in Ireland either

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<sup>31</sup> Re(al) Productive Justice: Gender and Disability - Centre for Disability Law and Policy, National University of Galway (Jan 2023). p.12

<sup>32</sup> Obstetric violence and disability overlaps: obstetric violence during child birth among women's with disabilities: a qualitative study - A. Wudneh et al, BMC Women's Health 22(1):299. DOI: 10.1186/s12905-022-01883-y. <https://pubmed.ncbi.nlm.nih.gov/35850722/>

<sup>33</sup> Confidential Maternal Death Enquiry in Ireland Report for 2013-15. - M.F. O'Hare et al. on behalf of MDE Ireland, Cork (2017) : <https://www.ucc.ie/en/media/research/maternaldeathenquiryireland/Confidential-Maternal-Death-Enquiry-Report-2013---2015--Web.pdf>

<sup>34</sup> Confidential Maternal Death Enquiry in Ireland Report for 2016-2018 - M.F. O'Hare et al. on behalf of MDE Ireland, Cork (2020). [www.ucc.ie/en/media/research/maternaldeathenquiryireland/ConfidentialMaternalDeathEnquiryReport2016%C3%A2%C2%80%C2%932018.pdf](https://www.ucc.ie/en/media/research/maternaldeathenquiryireland/ConfidentialMaternalDeathEnquiryReport2016%C3%A2%C2%80%C2%932018.pdf)

<sup>35</sup> Obstetrical and Gynaecological Violence Report - Council of Europe Committee on Equality and Non-Discrimination, Rapporteur: Ms Maryvonne Blondin (Sept. 2019): <https://assembly.coe.int/LifeRay/EGA/Pdf/TextesProvisoires/2019/20190912-ObstetricalViolence-EN.pdf>

<sup>36</sup> Forced sterilisation of persons with disabilities in the European Union - European Disability Forum (Sept. 2022): [https://www.edf-feph.org/content/uploads/2022/09/EDF\\_FS\\_0909-accessible.pdf](https://www.edf-feph.org/content/uploads/2022/09/EDF_FS_0909-accessible.pdf)

without their prior and informed consent or against their express wishes, in contravention of the UN CRPD and Article 39 of the Istanbul Convention.<sup>37</sup>

### **Recommendations:**

- State provisioning of ‘parent and baby’ units, to meet at least the minimum level of need identified in HSE’s National Women’s & Infants Programme as a matter of urgency.
- Ireland to urgently ratify the Optional Protocol of the UN Convention on the Rights of Persons with Disabilities to allow recourse to individuals who believe their rights cannot be vindicated under the Irish judicial system, particularly those subjected to non-consensual medical interventions and use of contraception.
- Government, in partnership with DPOs, to develop and deliver training to all healthcare and social care workers on disability awareness and rights in medical settings. Particular focus should be given to those working in sexual and reproductive services and maternity services.

### **Educating professionals**

Gender-based violence experienced by disabled women and girls can take many forms including, but not limited to, sexual violence and abuse, intimate partner violence and abuse, and sexual harassment and sexual exploitation. However, there are also specific forms of violence against disabled women and other gender-minorised people that are less likely to be experienced by other groups. These include care-giver or family member violence, sexual abuse by staff and other inmates/residents of institutions, coercive control (which in the case of disabled people can include controlling access to healthcare, medication, assistive technology including communication technology, access to disability payments etc.), violations of privacy (including strip searches and enforced nudity in medical/ residential settings), restraint, isolation and seclusion (particularly common in schools and institutions). Elder abuse can also manifest in many of these ways, and the argument has been made that elder abuse is linked to, and best understood as an expression of, ableist violence and persistent negative attitudes towards physical and cognitive impairment.

Currently, professionals working in the area of gender-based violence are not provided with disability awareness training, and therefore are generally unable to recognise such actions as constituting violence against disabled women. There is a lack of understanding and training in how violence is experienced by disabled women at all levels of support systems including a lack of awareness, and belief in, the disproportionate rates of gender-based violence experienced by disabled women. This therefore prevents many professionals from recognising abuse against disabled people and creates the knock-on effect of disabled people being far less likely to be asked whether they are experiencing abuse or being offered information or support at critical intervention points, such as during pregnancy.

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<sup>37</sup> Judge orders contraceptive injections for vulnerable mother of two - Mary Carolan, The Irish Times (Jan. 2020):

<https://www.irishtimes.com/news/crime-and-law/courts/high-court/judge-orders-contraceptive-injections-for-vulnerable-mother-of-two-1.4140745>

Support service staff and volunteers also report feeling unprepared or unequipped to support disabled people in their services, particularly those with specific communication or decision-support needs. A significant proportion of existing disability awareness training in wider society is not gender informed and is based on a deficit or 'Medical Model' of disability, which is not human rights compliant (for instance with the UN Convention on the Rights of Persons with Disabilities) and can perpetuate harmful and disempowering stereotypes about disabled people, so it is essential that up-to-date and specific training is developed, in partnership with Disabled Persons Organisations (DPOs), for delivery to staff and volunteers in all gender-based violence support services.

### **Recommendations:**

- Provide specific Government funding for the development and delivery of cross-training on sexual and gender-based violence against disabled people for those working in violence support services and those working in disability service providers and DPOs. Such training should be developed in partnership with DPOs and given ring-fenced multi-annual funding to ensure continuity of delivery.
- Implement training for State departments and agencies (including the Gardai, the court services and health staff) to make them aware of disability-specific violence and best practices for addressing this violence.

## **Pillar 2: Protection**

### **Inform people of their rights and provide complaints mechanisms / Encourage reporting of violence**

We have included our recommendations on effective awareness-raising of rights and complaints mechanisms above, as for many in the disabled community it is essential that this information is provided alongside awareness raising on domestic and gender-based violence itself.

While we have included much of this information elsewhere in this submission, we wished to clearly restate some of the common barriers to reporting abuse for disabled women and girls, many of which are rarely considered in depth by non-disabled policy-makers. Encouraging people to report can only be a valid and attainable goal when we have ensured that it is both possible and safe for them to do so, and that they have a reasonable expectation of receiving support after reporting. Barriers to disabled people in reporting abuse include:

- ❖ Less access to information about sexuality, abuse and/or their rights: although there's statistically significant risk of this applying on a cross-community basis, it is a

particularly heightened risk for those with intellectual disabilities or cognitive impairments, or those in long-term institutional care.<sup>38</sup>

- ❖ Inaccessibility: of information provision, reporting mechanisms, police offices, court buildings are often not accessible to women and girls with disabilities which can prove an insurmountable barrier, be too intimidating or create feelings of exclusion that prevent a victim from reporting and seeking access to justice.

Due to widespread inaccessibility of shelters and other support services, disabled victims may also feel that they have nowhere to turn to for help.

- ❖ Myths and stereotypes: many myths and stereotypes about women and girls with disabilities prevent them from being considered credible by the police and the criminal justice system. Disabled people may also face stigmatisation, discrimination or ableist treatment in support services or in trying to report due to widely-held negative societal attitudes towards disability, which may cause them to withdraw or disengage.
- ❖ Communication impairments and/or differences can restrict disabled people's ability to report experiences of abuse and influence the likelihood of their being believed.<sup>39</sup>
- ❖ Fewer opportunities to safely report: for those with communication assistance requirements, or impairment-related support needs, interacting with people outside the home without their abuser being present may be extremely limited (for example, they may not even have privacy at healthcare appointments or when visiting the toilet, depending on their support needs).
- ❖ Fear of judgement: women and girls with disabilities may be afraid of stigmatisation and further victimisation when reporting violence, including of not being believed. They may also be afraid to let their inner circle know about the violence. Power dominance, for instance between a woman with disabilities and her legal guardian, her support persons or someone working in an institution, may also create fear of reprisal.
- ❖ Fear of loss of independence: Disabled gender minorities often have little control over care provision and selection of caregivers. Paid or family caregivers are the assailants in the majority of intimate violence, exploitation and abuse experienced by disabled people<sup>40, 41</sup> but this lack of choice often means that disabled people

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<sup>38</sup>The Sexual health Centre, The Current Status of Sex Education Practice for People with an intellectual Disability in Ireland - Allen and Seery: <http://www.sexualhealthcentre.com/PUBLICATIONS/SHC%20Disability%20Report2.pdf>

<sup>39</sup> Uncovering the Shape of Violence: A Research Methodology Rooted in the Experience of People with Disabilities Marcia H. Rioux, Cameron Crawford, Miriam Ticoll & Michael Each. Ch.12 'Doing Disability Research' ed. Colin Barnes & Geof Mercer. Leeds, The Disability Press, pp. 190- 206). Reproduced at: <https://disability-studies.leeds.ac.uk/wp-content/uploads/sites/40/library/Barnes-Chapter-12.pdf>

<sup>40</sup> 'Caregiver Violence against People with Disabilities': <http://criminal-justice.iresearchnet.com/crime/domestic-violence/caregiver-violence-against-people-with-disabilities/#:~:text=Caregiver>

<sup>41</sup> Intimate and Caregiver Violence Against Women with Disabilities', Trish Erwin, M.A. Department of Criminology, Law and Society University of CA, Irvine (July 2000):

cannot report violence where it occurs because they will likely lose their independence entirely if they do.

Pronounced financial dependency, including dependency for access to aids and treatments, on the abuser or their family may also cause a victim to fear for their independence should they report.

- ❖ Fear of loss of liberty: For many disabled people, accessing supports and creating independent living situations is a hard fought battle. Many disabled people fear the loss of such supports and being moved into institutional settings should they report abuse, due to a lack of appropriate alternative accommodations. For those who have had negative experiences in such facilities, the fear of returning or losing their independence may supersede their desire to report violence.

As the statistically most likely perpetrator of violence against a disabled person is their caregiver, reporting the abuser may indeed directly lead to severe loss of independence and, possibly, institutionalisation making the price too high for the victim to pay.

- ❖ Institutionalisation / learned helplessness: Institutionalisation has, in itself, been recognised as a breach of disabled people's human rights and can cause wide-ranging psychological ill-effects including trauma responses to institutional settings or authorities and learned helplessness. As highlighted above, compliance and behaviourist training has also been linked to hugely increased experiences of c-PTSD and learned helplessness.

These kinds of trauma responses may not only create experiential distrust of authorities including the police, but due to dissociation and exposure to prolonged external denial of agency, can sometimes make it very difficult for the disabled person to identify their experiences as abuse or to trust their own perception of the abuse. People placed under Wardship, or other regimes which deny an individual's legal and decision-making capacity, can have very similar effects.

- ❖ Additional vulnerability to abuse and exploitation: is also imposed on disabled gender people under Ireland's current 'Wards of Court' system, which removes an individual's autonomy over every aspect of their lives.<sup>42</sup> While the system of Wardship is likely to dwindle over time once the Assisted Decision-Making (Capacity) Act (ADM) has been implemented, we believe we are likely to see a replication of this issue if there is insufficient social and professional buy-in to the right to supported decision-making for all people.

This is why training on the right to decision-making and the ADM is an essential part

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[https://thl.fi/documents/470564/817072/Intimate\\_Caregiver\\_Violence\\_against\\_Women\\_with\\_Disabilities.pdf/f4ad2791-aa84-4e65-8da4-40feda6d2301](https://thl.fi/documents/470564/817072/Intimate_Caregiver_Violence_against_Women_with_Disabilities.pdf/f4ad2791-aa84-4e65-8da4-40feda6d2301)

<sup>42</sup> 'Review of current practice in the use of wardship for adults in Ireland', The National Safeguarding Committee, (Dec. 2017).

<https://www.lenus.ie/bitstream/handle/10147/624083/Wardship-Review-2017.pdf?sequence=1&isAllowed=y>



of any Disability Awareness campaigns and professional training delivered to healthcare and support service workers.

- ❖ Barriers to accessing justice: people with disabilities may face additional difficulties in obtaining protection measures such as restraining orders to prohibit the perpetrator from seeing them or getting close to them. The process to request a protection order is not accessible to some disabled victims and/or they may not be aware of the existence of protection orders. Legal matters can be further complicated when the author of violence is a legal guardian, a carer or someone working in an institution, hospital or other closed setting.
- ❖ Insufficient provision of independent and community living supports: due to systemic lack of available supports, women and girls with disabilities are often forced to remain in residences or institutions where they are further abused, or they may be forced to continue to live with their abuser(s) even after reporting, who may be a family member, a support person, a partner or another resident in a facility.<sup>43</sup> If a disabled victim believes there's even a chance they may have no choice but to continue to live with their abuser, they may decide that reporting places them in greater danger than not reporting.

### **Recommendations:**

- Ensure that disabled experiences of gender-based violence are represented and reflected in awareness campaigns aimed at addressing gender-based violence. Such campaigns should be accessible to, and inclusive of, disabled gender-minoritised people.
- Ensure that awareness campaigns, public information, reporting mechanisms, hotlines, emergency shelters and other forms of assistance are accessible to and include disabled people, via their DPOs, in their design from the planning stages.
- Ensure that all awareness campaigns, reporting mechanisms and support services are available and accessible, including to those in institutional care and congregated living centres, with a specific focus on traditionally underserved and socially isolated disabled people and communities.

### **Create support services, shelters, rape crisis or sexual violence centres**

While there is widespread concern over the insufficient provision of support services, shelters, rape crisis and sexual violence centres across the country, disabled gender minorities experience further barriers in trying to access these services. Many of these

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<sup>43</sup> EDF position paper on Violence against women and girls with disabilities in the European Union. <https://www.edf-feph.org/publications/edf-position-paper-on-violence-against-women-and-girls-with-disabilities-in-the-european-union/>

services are physically inaccessible, and very few staff have experience in supporting disabled people accessing these services. This is particularly a concern for women with intellectual disabilities as well as Autistic or neurodivergent women and for those who are non-verbal or use non-traditional communication methods. While data relating to the accessibility of these services is not collected widely, recent anecdotal evidence suggests that there is only one physically accessible domestic abuse shelter in Dublin county, with data relating to the rest of the country not available.

### Recommendations:

- State-wide ‘accessibility audits’ of new and existing shelters using Universal Design standards,<sup>44</sup> to identify gaps in provision and to create a national ‘access map’ detailing each shelter’s accessibility in order to allow disabled service-users to be appropriately placed without undue stress and delay. Make these reports available to Túsla for public information on accessibility at each support; being unable to know where they can safely and physically go renders disabled women much more vulnerable when trying to leave an abusive home.
- Production of a Government strategy to meet each Local Authority area’s projected accessibility needs level - including accommodation for parents with children - nationally, with reports on areas of improvement specific to each location, standards targets and deadlines by which improvements need to be completed. This must include State prioritisation of additional funding to organisations providing support services, shelters, rape crisis or sexual violence centres with sufficient, ring-fenced funding to they can meet the accessibility targets set.
- Investment in a nationally available, specialist accessible transport service for those who need this support to escape abuse in their place of residence (whether this is a private home, congregated centre, a homeless shelter or an institutional setting).<sup>45</sup>
- Ensure adequate supports are available to enable disabled people to safely leave abusive situations (for example, this may include Decision-Making Support, Irish Sign Language Interpretation, Personal Assistance Services etc.) without allowing the disabled person to lose their autonomy or independence, or to experience institutionalisation, due to a lack of appropriate supports.
- Ensure that disabled gender minorities have access to specialised violence services, with ring-fenced funding available to create and raise awareness of these services.

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<sup>44</sup> Ireland’s current accessibility standards, particularly as required by Part M of the Building Regulations( which counts a building as accessible if it is ‘visitable’ by a wheelchair user, i.e.: a wheelchair user can access the foyer area and use a toilet on the ground floor of the building. This criterion of accessibility is not fit for purpose and fails to fulfil UN CRPD obligations. Part M also has a limited understanding of accessibility e.g. it contains no guidance for sensory sensitivity access needs. Building Regulations (Part M Amendment) Regulations 2010: <https://www.irishstatutebook.ie/eli/2010/si/513/made/en/pdf>

<sup>45</sup> Almost half of disabled people in Ireland report difficulty in accessing public transport. Source: National Disability Survey - Central Statistics Office (2006): <https://www.cso.ie/en/media/csoie/releasespublications/documents/otherreleases/nationaldisabilityvol2/NDS2006Publication.pdf>

## Visitation rights for children

Biases against capacity to parent, particularly prevalent against Autistic, intellectually disabled and mentally ill women, have a hugely negative impact on custody and visitation arrangements. DWI have heard numerous anecdotal accounts both from disabled mothers remaining in abusive relationships because they fear losing custody of their children due to their disability status and from disabled mothers who had lost custody of their children on leaving an abusive relationship.

This legitimate fear is often leveraged by their abuser to ensure their silence and compliance. A 2018 Australian study found that the majority of disabled women who reported domestic violence had their children removed from their care, either temporarily and permanently.<sup>46</sup> Similar research has not yet been conducted in Ireland, but we have reason to believe it would show similar results.

## Recommendations:

- Immediate review of the Parental Capacity Assessment process in favour of fully accessible and appropriate parenting evaluations that are disability-informed. As they are currently applied, Parental Capacity Assessments are neither in keeping with the legislative foundation laid out in Ireland's Assisted Decision-Making (Capacity) Act nor the provisions of the UN CRPD.
- Raise awareness of the rights of children under Article 31 of the Convention, with a focus on how these rights equally apply to children of disabled parents.
- Introduction of mandatory rights-based Disability Awareness training for all professionals involved in facilitating or decision-making in relation to child visitation or custody rights to target existing systemic biases against disabled parents.

## Helplines

Where information regarding gender-based violence and support services is made available to the public, it is rarely provided in multiple accessible formats. Current best practice is that telephone helplines should have text-based alternatives for those who are d/Deaf, have impaired hearing or speech, are partial- or non-speaking or who use non-traditional forms of communication. Although some services in Ireland, such as Women's Aid, do offer text-based alternatives, it is not an accessibility requirement for national gender-based violence helplines leaving some people without support options.

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<sup>46</sup> Women, disability and violence: Barriers to accessing justice: Final Report', Australia's National Research Organisation for Women's Safety Maher et al. Horizons Issue 2 (2018). <https://20ian81kynqg38bl3l3eh8bf-wpengine.netdna-ssl.com/wp-content/uploads/2019/02/Maher-et-al-Horizons-Research-Report.pdf>

Information should also be made available in Easy-to-Read and Plain English versions, as well as in Irish Sign Language, with specialist support clearly sign-posted. Websites should be fully screen reader accessible which is not currently the case. For one small but indicative example, the information provided for gender-based support services on the website of the State body for Child and Family Services, Túsla, doesn't give information on the accessibility of the services listed and does not have Easy-to-Read information readily available, if at all.<sup>47</sup>

### **Recommendations:**

- National helplines should be augmented by secure text-based alternatives such as a free SMS texting service and webchat. Assistance to access support via the Irish Remote Interpreting Service or the Irish Text Relay Service should be clearly signposted and available on request for those who wish to avail of these options.
- Specific, ring-fenced funding to be made urgently available to frontline services and relevant State agencies for the purposes of bringing refugees and support services' websites in line with the EU Web Accessibility Directive (Directive (EU) 2016/2102), and for all digital and printed information to be made available in a range of accessible formats including, but not limited to, Easy-to-Read, Plain English, ISL and captioned videos, and Braille.
- Easy-to-Read information on domestic, sexual and gender-based violence, including information on how to find support, should be publicly available in disability day services, healthcare settings and congregated care settings. Gender-based violence support services with expertise in supporting adults with intellectual disabilities should be clearly sign-posted to potential service users and to the people who support them, and to health and social care workers.

### **Pillar 3: Prosecution**

Disabled women and girls face significant barriers when accessing and engaging with the justice system. Very little of the justice system in Ireland is designed in a way that is universally, or even widely, accessible; information provision, reporting mechanisms, police stations and offices, and court buildings are often not accessible to women and girls with disabilities. Many public buildings are inaccessible to wheelchair users. For disabled women in such situations, assistance and support is rarely available.

Legal proceedings are not conducted in a manner accessible to a diverse population. Familiarity and compliance with the Assisted Decision-Making (Capacity) Act needs to be fully embedded throughout the justice system - in social work, law enforcement and the judiciary - as a matter of urgency. Women and girls with intellectual or psychosocial disabilities, in particular those placed under guardianship and other regimes depriving them

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<sup>47</sup> Túsla Child and Family Services website, Domestic, Sexual & Gender Based Violence Services: <https://www.tusla.ie/services/domestic-sexual-gender-based-violence/do-you-need-help/>

of their legal capacity, Autistic and deafblind women are particularly at risk of facing difficulties in identifying and reporting violence.

Moreover, as highlighted earlier, disabled women are more likely to live in poverty or be at high risk of poverty, meaning that the costs associated with taking a case can be prohibitive. In addressing violence experienced by disabled women and other gender-marginalised people, it's absolutely essential that disabled people do not experience institutionalisation, whether on a short- or long-term basis, due to lack of accessibility of gender-based violence shelters and/or lack of in-community supports to meet their needs.

Institutionalisation or reinstitutionalisation is a common, expedient 'fall-back' in Irish systems where in-community services are under-delivered (for example, approximately 1,320 disabled people under 65 years of age are inappropriately living in nursing homes in Ireland due to lack of in-community supports<sup>48</sup>). Not only is experience of institutionalisation a highly predictive indicator of exposure to future abuse for disabled women,<sup>49</sup> the act of institutionalisation itself greatly increases their likelihood of being cut off from support networks and community and undermines their autonomy in ways that can have life-long repercussions.

Fear of being institutionalised is a huge 'chill factor' which prevents disabled people, particularly disabled women, from reporting abuse and, due to the way access to rehabilitative and support services are administered in Ireland, institutionalisation usually cuts off access to services that are needed for independent living in the community.

If a commitment isn't made to ensure disabled people's equal right to access mainstream services and avoid institutionalisation, reporting of gender-based and domestic violence against disabled women will remain under-reported.

Ireland is preparing to introduce Adult Safeguarding Legislation. It is essential that any such legislation is built on a strong human-rights foundation, fully cognizant of the UN CRPD with particular focus on States' obligations under Article 12. Any measures which seek to restrict disabled people's rights without due regard to their will and preferences run the risk of merely replacing one form of abuse and coercion with another. DPOs, and particularly those representing women and girls, and people who have had - or are at high risk of having - their legal capacity called into question must be closely consulted at all stages of Adult Safeguarding Legislation's drafting, amendment and implementation.

There needs to be accountability and prosecutions in cases of institutional abuse of disabled women within the State, and ways for residents in institutions to access mainstream services and support should they wish to, particularly in instances when services have failed to adequately address the violence or abuse they experience. Greater transparency is needed around instances of abuse in both private and State-run institutions, including anonymised, disaggregated data being made available to parliamentarians, State bodies

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<sup>48</sup> Wasted Lives: Time for a better future for younger people in nursing homes - An investigation by the Ombudsman (2021): <https://www.ombudsman.ie/publications/reports/wasted-lives/OMBWastedLives2021.pdf>

<sup>49</sup> Behind locked doors: Institutional sexual abuse - Maureen Crossmaker M.S.W., Sexuality and Disability Vol. 9, pp. 201-219 (Sept. 1991): <https://link.springer.com/article/10.1007/BF01102393>

Civil Society Organisations with a special mandate to monitor the State’s implementation of the Istanbul Convention, CEDAW and/or the UN CRPD, such as the Irish Human Rights and Equality Commission and DPOs, and used to inform policy.

Ireland has a long and on-going history of institutionalisation of many of the most vulnerable members of our society, and repeated high-profile instances of systemic abuse of disabled people<sup>50</sup> such as the Áras Attracta<sup>51</sup> and Brandon case<sup>52</sup> scandals in the past few years alone, has led to little in the form of meaningful reform to date with parliamentarians being repeatedly blocked from even viewing the findings reports of investigations into these institutions.<sup>53</sup> The use of coercive medical practices, and practices of restraint and seclusion, are heavily gendered<sup>54</sup> and have been found to have significant long-term effects including c-PTSD.<sup>55</sup>

Given the guarantee enshrined in Article 4, that *“The implementation of the provisions of this Convention ...in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as ...disability”* we reject entirely any argument that disabled institutionalised people living in non-community settings should only have access to support and justice through those institutions, as this creates a segregated system and leaves them more vulnerable to abuse. Denying institutionalised people equal access to mainstream services, in an autonomous manner not contingent on reporting through the institution’s internal mechanisms (a requirement not demanded of others), is a form of discrimination. This equally applies to people in any non-carceral congregated or institutionalised setting, such as Direct Provision centres.

### Recommendations:

- Widen the definition of Gender-Based Violence used in State strategies and policies to be inclusive of disabled’s experience of violence – moving beyond the focus on intimate partner violence to also recognise gendered forms of violence faced by disabled people at the hands of caregivers and family members.
- Review of domestic legislation pertaining to domestic, sexual and gender-based violence to ensure full and robust compliance with the provisions of the Istanbul Convention.

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<sup>50</sup> We are all equal before the law but are we all protected equally? - Dr. Sarah Donnelly, Irish Examiner (11th Nov. 2022): <https://www.irishexaminer.com/opinion/commentanalysis/arid-41003516.html>; ‘Cloak of secrecy’ around abuse of intellectually disabled - Fiachra Ó Cionnaith, Irish Examiner (15th June 2015): <https://www.irishexaminer.com/news/arid-20336948.html>;

<sup>51</sup> Áras Attracta: Six years on, internal inquiry continues - Conn Corrigan, RTÉ Investigates (3rd Oct. 2020): <https://www.rte.ie/news/2020/1003/1169043-aras-attracta-update/>

<sup>52</sup> Staff at disability home were bullied and afraid to speak up as sexual abuse by resident dated back to 1997, report finds - E. O'Regan & J. Downing, Irish Independent (16th Dec. 2021): <https://www.independent.ie/irish-news/health/staff-at-disability-home-were-bullied-and-afraid-to-speak-up-as-sexual-abuse-by-resident-dated-back-to-1997-report-finds-41156610.html>

<sup>53</sup> Ceisteanna ó Cheannairí (Leaders' Questions) - Deputy Thomas Pringle, Dáil Éireann debate Vol. 1023 No. 1 (31st May 2022): <https://www.oireachtas.ie/en/debates/debate/dail/2022-05-31/speech/15/>

<sup>54</sup> Gendered experiences of physical restraint on locked wards for women - R. Fish & C. Hatton, Disability & Society Vol. 32, Issue 6 (2017). pp.790-809. <https://www.tandfonline.com/doi/full/10.1080/09687599.2017.1329711>

<sup>55</sup> Shining a light on seclusion and restraint in schools in Ireland: The experience of children with disabilities and their families - Inclusion Ireland (2018): <https://inclusionireland.ie/wp-content/uploads/2020/11/shining-light-seclusion-and-restraint-schools-ireland.pdf>

- Ensure access to complaint mechanisms, remedies, judicial support and mainstream gender-based violence and domestic violence services for disabled victims, in particular those living in institutions.
- The establishment of regulatory oversight and reporting pathways for abuse experienced while using home care, personal support and day care services. Such reporting pathways must be clearly and proactively signposted, and accessible to all users of these services. Mandate and provide training to staff working in these services, or in any aspect of providing personal care or support services to disabled people on these reporting pathways.
- Creation of a national strategy to make legal proceedings universally accessible to ensure equal access to justice and protection under the law for disabled people and other marginalised communities.
- Oversight of all residential care facilities to be brought under The Health Information Quality Authority's (HIQA's) purview, and oversight of all in-patient and day-services mental healthcare services to be brought under the purview of The Mental Health Commission (MHC) in order to prevent inconsistent approaches or inequity of protection for residents of different congregated settings.
  - HIQA and MHC to be given power to sanction care facilities under their respective purviews - up to and including the withdrawal of their licence to operate as a designated facility - which fail to implement robust procedures to protect residents from abuse, both from staff and visitors and from other residents.
  - HIQA and MHC to be given power to undertake proceedings, including legal proceedings, against institutions believed to have attempted to cover up, or to have failed to appropriately act on, reports or instances of abuse on their premises.
  - HIQA and MHC to have an obligation, in instances where they have cause to suspect criminal action on the part of an individual associated with the facility relating to abuse or its concealment, to refer said individual for investigation by An Garda Síochána (the Irish police).
  - Both statutory bodies to be obliged to produce an anonymised, publicly available, national report outlining compliance rates and giving thematic and disaggregated data for the facilities within their purview on an annual basis.
- Urgent introduction of legislation to ban the use of restraint and seclusion as a disciplinary or therapeutic method in schools, healthcare and residential services or any other premises.
- The Ombudsman's Office to have an obligation to act on direct complaints related to institutional abuse of disabled people, to have power to independently investigate congregated care facilities and psychiatric in-patient and day-services in the public interest, and to issue anonymised public report(s) on the issue at the Office's discretion.



- Ensure robust DPO and human rights consultation on any proposed Adult Safeguarding Legislation and ongoing review to ensure that it is fully compliant with the UN CRPD.
- DPO-led Disability Equality Training for judiciary & law enforcement which includes specific focus on addressing misconceptions regarding the credibility of individuals with psychosocial disabilities, intellectual disabilities, cognitive impairment and/or who are neurodivergent, and training on interviewing and supporting Autistic people and people with intellectual disabilities.

## **Pillar 4: Policy Coordination**

### **Interagency cooperation, working with civil society and NGOs**

Under the fourth pillar of the Istanbul Convention, States must ensure that there are mechanisms in place to provide for effective co-operation between the judiciary, public prosecutors, law-enforcement agencies, local and regional authorities and NGOs. In the context of gender-based violence experienced by disabled gender- marginalised people, we contend that the State has failed in its responsibility to create such mechanisms.

The State has, to-date, not sought to engage or update Disabled Women Ireland - Ireland's only DPO representing of disabled women, girls and non-binary people - on policies, strategies or any other work tackling gender-based violence at any point since our foundation four years ago, despite our working with the State in multiple other capacities. (The UN CRPD identifies DPOs as the only self-representative organisations for disabled people and requires they be prioritised in State consultations, at a national, regional or local level, on any policy or strategy affecting disabled people's lives.)

### **Recommendations:**

- Formation of a specific consultative Civil Society body, which has access to sufficient information to meaningfully input on existing State strategies and which has a voice in shaping future policies. Prioritisation must be placed on ensuring self-representation of marginalised groups, particularly those disproportionately impacted by domestic and gender-based violence, and members must be eligible for compensation and capacity-building to ensure that there is not a financial barrier preventing the equal participation of the most marginalised and impoverished groups.

### **Coordinate action and monitor implementation**

A significant limitation of the State's ability to coordinate action in relation to disabled experiences of gender-based violence is the that the data on violence against women and girls with disabilities is limited is because of the lack of data collection disaggregated by disability and gender, including on violence taking place in closed settings (for example in institutions, asylum centres or psychiatric hospitals), on disability specific-violence (including

non-consensual use of contraception), on the relationship of the victim with the perpetrator(s) of the violence, and on the barriers in reporting violence that keep women and girls with disabilities silenced and invisible.<sup>56</sup>

Further, this lack of data collection is a secondary barrier to the State's ability to monitor the implementation of any strategies to tackle disabled experiences of gender-based violence. The primary barrier is the lack of existence of any strategies to address disabled experiences of gender-based violence to begin with.

### **Human rights based policies**

As highlighted previously, work needs to be done to ensure future and existing Irish strategies and legislation are brought fully into alignment with the Istanbul Convention, CEDAW, the UN CRPD, the International Convention on the Elimination of All Forms of Racial Discrimination and the UN Convention on the Rights of the Child, as well as other relevant human-rights commitments.

Whole-of-Government approaches are lacking, with many policy gaps and conflicts created as a result.

### **Recommendations:**

- Formation of a cross-Government Committee, to be externally chaired by the Irish Human Rights and Equality Commission, with a specific remit to review existing domestic, sexual and gender-based violence legislation and National Strategies for their compliance with Ireland's human rights obligations, in close consultation with NGO stakeholders.
- Creation of a mechanism for future legislation and Strategies to be examined on a cross-Departmental basis to ensure they are fully compliant with Ireland's human rights obligations, in close consultation with NGO stakeholders, and to ensure they are disability- and gender-proofed.
- Introduction of disability- and gender-proofing of government budgets at national and local level.
- Ensure Local Government meaningfully consult with disabled women and DPOs on any local domestic, sexual and/or gender-based violence initiatives or service-design.
- Interrogate interventions and therapies offered to disabled children and adults to ensure they are fully human rights compliant and do not increase the risk of learned helplessness and/or increase vulnerability to coercion, abuse and exploitation.

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<sup>56</sup> EDF report

### **Funding policies and services, research and data collection.**

Refuges, shelters and support services for those experiencing domestic or gender-based violence are shamefully underfunded by the State in Ireland. We are sure that this is an issue that will be brought to your attention in almost every, if not every, Civil Society submission you receive on this topic so we will leave it to others more closely connected with service provision to better explain the factors at play and the effects of this chronic under-funding. One point we would like to draw to your attention, however, is that the pervasive and systemic lack of accessibility which we have had cause to mention in this submission is recognised by those providing the services.

Through ongoing relationships, conversations and collaboration with providers working in the area, we believe there is a genuine appetite for improving the accessibility of services and shelters should the resources be available to do so. This is just another way in which the on-going under-resourcing of domestic and gender-based violence support services undermines women's, girls' and others' right to live free from abuse and violence.

In the area of data and research, the work of Civil Society Organisations and NGOs, and our own, is severely hampered by the lack of robust, usefully disaggregated data and research in a domestic context, particularly lack of Irish research into marginalised people's experiences of violence - this lack of investigation frequently being conflated with a lack of evidence by State agents as a way to avoid taking action on the issue.

Not only is it of urgent importance that data on disabled people's experience of gender-based violence is collected, it is equally as important that this data is collected and shared in a disaggregated way to enable organisations like DWI to identify and address characteristics and risk factors of abuse experienced by different communities at increased risk. For DPOs like DWI it is essential that disaggregated data not only capture broad generalisations such as 'disabled' or 'non-disabled', it must provide more useful information to build strategies to meaningfully improve people's lives; for example, to help identify groups at high risk such as people with intellectual disabilities, Autistic people, people with sensory impairments etc. This will allow us to use our experience and the experiences of our membership to identify what social changes can be made to reduce those risks.

In addition to insufficient access to this data, the State continues to underfund organisations working in the area of gender-based violence, and advocacy organisations such as DWI. A result of this is that ability of organisations like are own, are significantly restricted in our ability to advocate and provide input on policies.

### **Recommendations:**

- Introduce a standard definition of disability, compatible with UN CRPD definitions, across all Irish legislation, strategies and policies to ensure domestic consistency of data and sufficient coherence with other signatory States of the CRPD so as to allow international comparison.

- Disaggregated data across all relevant bodies and fields. Data collection in relation to gender-based violence should be centralised, and enable the collection of disability- and gender-disaggregated data at a minimum. Data must be collected in relation to disabled women and other gender-marginalised people's experience of violence in the community, at home and institutions and in relation to the accessing of support services.
- Ring-fenced budget to increase accessibility, to include funding for robust consultation with DPOs, including for co-design of awareness-raising campaigns and accessibility measures for all services and State functions falling under the remit of this Convention, and to improve accessibility of helplines, websites and other information provision and of emergency-support GBV services
- Ensure that disabled gender minorities and their representative organisations are included at the highest decision-making and policy levels. Provide resources and capacity-building to DPOs advocating on behalf of gender-marginalised people in order to ensure that the disabled voice is captured and heard.