



Seeking justice:

Sexual violence against
women with disabilities
in Kazakhstan, Kyrgyzstan
and Uzbekistan

Acknowledgements

This report was drafted by **Dariana Gryaznova**, Equality Now's Eurasia Legal Advisor. The research process was coordinated, and the preliminary findings were analysed by **Janette Akhilgova**, Equality Now's Eurasia Consultant. The report was reviewed and edited by **Tamar Dekanosidze**, Equality Now's Eurasia Regional Representative, and **Jacqui Hunt**, Equality Now's Global Lead, End Sexual Violence.

Equality Now extends its sincere appreciation to all experts, researchers and partner organisations who contributed to the preparation and publication of this report. Its completion was made possible thanks to the information, research and analysis they provided, as well as their professionalism, commitment and collaborative effort:

Experts and researchers

From Kazakhstan

- ◆ **Iminova, Nurzhamal**, *Shyrak Association of Women with Disabilities*

From Kyrgyzstan

- ◆ **Abduraupova, Muhayo**, *Public Association "Positive Dialogue"*
- ◆ **Arykov, Timur**, *lawyer*
- ◆ **Ismailova, Lira**, *Public Association "Bir Duino Kyrgyzstan"*
- ◆ **Kazakunova, Gulmira**, *Public Association "Union of People with Disabilities 'Ravenstvo' (Equality)"*
- ◆ **Kozhobekova, Aizharkyn**
- ◆ **Makembaeva, Diana**
- ◆ **Saliev, Khusanbai**, *lawyer, Public Association "Bir Duino Kyrgyzstan"*
- ◆ **Tiulegenov, Medet**
- ◆ **Zhamynchieva, Nurila**, *Public Association "Union of People with Disabilities 'Ravenstvo' (Equality)"*

From Uzbekistan

- ◆ **Israilova, Dildora**
- ◆ **Karimova, Nodira**, *Istiqbolli Avlod*
- ◆ **Nazarova, Gavkhar**
- ◆ **Plotnikova, Natalia**, *Kibrai District Disabled Women's Society "Opa-Singillar"*
- ◆ **Rahmonov, Shohrux**, *Istiqbolli Avlod*
- ◆ **Rashidova, Shirin**, *"NIHOL" Initiative's Development and Supporting Centre*

International experts

- ◆ **Professor Anna Arstein-Kerslake**, *Irish Centre for Human Rights, University of Galway, and Melbourne Law School*
- ◆ **Simona Florescu**, *Litigation Director at Validity Foundation*
- ◆ **Vrinda Grover**, *Advocate, Supreme Court of India*
- ◆ **Ketevan Khomeriki**, *PhD Researcher in Law, University of Birmingham; Disability Rights Expert*
- ◆ **Priscila Lucia Rodriguez Benavides**, *Disability Rights International*
- ◆ **Valentina Frolova**, *Attorney-at-law*

Organisations

- ◆ **Istiqbolli Avlod**, *Uzbekistan*
- ◆ **Kibrai District Disabled Women's Society "Opa-Singillar"**, *Uzbekistan*
- ◆ **"NIHOL" Initiative's Development and Supporting Centre**, *Uzbekistan*
- ◆ **Public Association "Bir Duino Kyrgyzstan"**, *Kyrgyzstan*
- ◆ **Public Association "Union of People with Disabilities 'Ravenstvo' (Equality)"**, *Kyrgyzstan*
- ◆ **Shyrak Association of Women with Disabilities**, *Kazakhstan*

Disclaimer: The information contained in this report is current as of August 2025, unless otherwise indicated in the text of the report.

Editorial Note: The testimonies of survivors have been edited for clarity, brevity, and to protect confidentiality, without altering meaning.

Contents

Introduction	5
Terminology	6
Key findings.....	7
Key recommendations	9
Methodology	12
1. Prevalence and perceptions of violence against women with disabilities.....	15
1.1. Gaps in data on violence against women with disabilities	15
1.2. Harmful stereotypes that contribute to violence against women with disabilities ...	18
2. International standards on access to justice for women with disabilities in sexual violence cases.....	19
2.1. Fundamental principles under CEDAW and CRPD	19
2.2. Legal capacity and the realisation of rights.....	20
2.3. Safeguards and reasonable and procedural accommodations at all stages of access to justice.....	23
2.4. Defining and assessing consent in cases of sexual violence against women with disabilities: international standards and contextual application.....	27
2.4.1. What international human rights and criminal law standards require on consent	27
2.4.2. How justice actors should assess consent in relation to women with disabilities survivors of sexual violence: Considering surrounding circumstances and coercive environments	28
3. National legal and institutional frameworks on disability and sexual violence	30
3.1. Ratification of international treaties addressing sexual violence against women with disabilities	30
3.2. National approaches to disability: Legal concepts and institutional responses	31
3.3. Legal capacity and the continued use of guardianship.....	36
3.4. Institutionalisation and its role in enabling violence against women with disabilities	38
3.5. Criminal law provisions on sexual violence and their incompatibility with international human rights standards	41

3.5.1. Failure to introduce a consent-based definition of rape	41
3.5.2. Existing legal definitions and their limitations.....	41
3.5.3. The problematic application of the concept of “helplessness”	44
3.5.4. When disability is (or is not) recognised as an aggravating factor	45
4. Barriers to accessing justice for women with disabilities in sexual violence cases	46
4.1. Lack of access to information about the right to remedy and protection services ..	47
4.2. Gaps in proactive identification and protection mechanisms.....	47
4.3. Gaps in ex officio prosecution and the risk of reconciliation.....	48
4.4. When caregivers, guardians and institutions become barriers to justice	49
4.5. Exclusion through missing accommodations and inadequate support	51
4.6. Gender- and disability-based stereotypes in the criminal justice response	54
4.7. Systemic procedural and evidentiary barriers to justice for women with disabilities	55
4.7.1. Absence of survivor-centred, gendered and disability-sensitive protocols	55
4.7.2. Secondary victimisation and procedural re-traumatisation	55
4.7.3. Statutes of limitation and delayed disclosure.....	56
4.7.4. Burdensome evidentiary standards.....	56
4.7.4.1. Overreliance on physical injuries and biological evidence	56
4.7.4.2. Unfounded and harmful forensic examinations	57
4.7.5. Misuse of psychiatric and psychological examinations	58
Recommendations	60

Introduction

Sexual violence against women is a pervasive human rights violation that transcends borders, with Kazakhstan, Kyrgyzstan, and Uzbekistan being no exception. Within this broader concern, women with disabilities face an additional layer of risk: sex discrimination intersects with disability-related barriers, exposing them to higher levels of exploitation, abuse and neglect.

As States parties to the UN Convention on the Rights of Persons with Disabilities (CRPD) and the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Kazakhstan, Kyrgyzstan, and Uzbekistan¹ have accepted binding obligations to prevent violence, protect survivors and guarantee equal access to justice. The Conventions, in particular, oblige Kazakhstan, Kyrgyzstan, and Uzbekistan to adopt legislative, administrative, social, educational and other measures to protect persons with disabilities from all forms of exploitation, violence and abuse, and to ensure that such incidents are promptly identified, investigated and prosecuted. Both the CRPD and CEDAW further require States to recognise that women with disabilities are subject to multiple and intersecting forms of discrimination, and to ensure that all measures to address violence include gender- and age-sensitive assistance, protection and support.

Despite these commitments and some recent reforms, sexual violence against women and girls with disabilities remains both widespread and largely invisible in Kazakhstan, Kyrgyzstan, and Uzbekistan. Survivors encounter a constellation of barriers that restrict their ability to seek redress. Reliable and sex- and disability-disaggregated data are scarce, obscuring the true scale of the problem and hampering evidence-based policymaking.

Violence against women and girls with disabilities takes many forms. It includes physical force, economic coercion, trafficking, abandonment, neglect and the withholding of food, water or medication; denial of mobility and communication aids, or refusal of assistance with daily activities. It also encompasses medical interventions without free and informed consent, such as forced pregnancy, sterilisation, abortion and other invasive procedures. Sexual violence occurs within institutions,

families and communities, and women and girls with disabilities are exposed to neglect, humiliation, concealment, abandonment, sexual exploitation, child marriage, “mercy killings”,² accusations of spirit possession and restrictions in feeding and nutrition. They may also be trafficked for forced begging or excluded from education and family life, forced to perform unpaid housework or prevented from leaving the home.³ While all of these practices severely undermine dignity and rights, this report focuses specifically on rape and other forms of sexual violence, as among the most severe yet least visible manifestations of violence faced by women and girls with disabilities in Kazakhstan, Kyrgyzstan, and Uzbekistan.

This report examines how the criminal justice systems of Kazakhstan, Kyrgyzstan, and Uzbekistan respond to cases of sexual violence against women with disabilities and identifies the legal and policy measures needed to secure their right to justice and effective remedy. It primarily focuses on women with disabilities. While some of the data and research findings also relate to girls with disabilities, the scope of the report does not extend to children in a systematic or comprehensive manner.

The report is organised as follows:

- ◆ **Chapter 1** – Prevalence and perceptions of violence against women with disabilities
- ◆ **Chapter 2** – International standards on access to justice for women with disabilities in sexual violence cases
- ◆ **Chapter 3** – National legal and institutional frameworks on disability and sexual violence
- ◆ **Chapter 4** – Barriers to accessing justice for women with disabilities in sexual violence cases

Drawing on the evidence gathered, the report sets out concrete steps and recommendations, presented in the **recommendations section**, for legislators, law-enforcement officials and other stakeholders to better align the protection of the rights of women with disabilities with the international commitments already undertaken.

1 For details on the ratification of these conventions and their optional protocols by Kazakhstan, Kyrgyzstan, and Uzbekistan, see Section 3.1, “Ratification of International Treaties Addressing Sexual Violence against Women with Disabilities”

2 Mercy killing refers to the deliberate killing of a person with a disability, often a child, by a parent, caregiver, or institutional staff under the pretext of “ending suffering” or “acting out of compassion”. Such acts are typically justified by beliefs that the person’s life lacks value, that they are suffering or will suffer, or that their existence brings misfortune or shame to the family or community (see Thematic Group on Violence against Disabled Children. (2005, July 28). Violence against Disabled Children: Findings and Recommendations of the Thematic Group on Violence against Disabled Children, convened by UNICEF. <https://discovery.ucl.ac.uk/id/eprint/15686/1/15686.pdf>, p. 6

3 CRPD Committee, General comment No. 3 (2016), CRPD/C/GC/3, Section “Freedom from exploitation, violence and abuse (art. 16)”

Terminology

Persons with disabilities – The report follows the language of the Convention on the Rights of Persons with Disabilities, which understands “persons with disabilities” to include “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”.⁴ Some Disabled People’s Organisations favour the identity-first term “disabled people” because it reflects the social model of disability: people are disabled by external barriers, including physical, attitudinal and institutional, rather than by their impairments. When referring to an individual, using the person’s preferred terminology is the safest approach.

Survivor/victim – In criminal law, the term “victim” denotes a person who has suffered a crime and recognised procedural standing in the justice system. “Survivor” is often preferred in advocacy and support settings because it emphasises agency and recovery. Both terms are used in this report, with “victim” appearing where a legal process status is relevant and “survivor” where lived experience and resilience are in focus. When referring to an individual, using the person’s preferred terminology is the safest approach.

Legal capacity means “the capacity to be both a holder of rights and an actor under the law. Legal capacity to be a holder of rights entitles a person to full protection of his or her rights by the legal system. Legal capacity to act under the law recognises that person as an agent with the power to engage in transactions and create, modify or end legal relationships”.⁵ Legal capacity must not be conflated with mental capacity⁶ and any perceived or actual deficits in mental capacity cannot justify denying a person their legal capacity.⁷

Reasonable accommodation means “necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms”.⁸

Procedural accommodation means “all necessary and appropriate modifications and adjustments in the context of access to justice, where needed in a particular case, to ensure the participation of persons with disabilities on an equal basis with others. Unlike reasonable accommodations, procedural accommodations are not limited by the concept of “disproportionate or undue burden”.⁹

4 CRPD, Article 1

5 CRPD Committee, General comment No. 1 (2014), CRPD/C/GC/1, para. 12

6 CRPD Committee, General comment No. 1 (2014), CRPD/C/GC/1, para. 13: “Mental capacity refers to the decision-making skills of a person, which naturally vary from one person to another and may be different for a given person depending on many factors, including environmental and social factors.”

7 *Ibid.*

8 CRPD, Article 2

9 Special Rapporteur on the rights of persons with disabilities. (2020, August). International Principles and Guidelines on Access to Justice for Persons with Disabilities.

<https://www.ohchr.org/en/special-procedures/sr-disability/international-principles-and-guidelines-access-justice-persons-disabilities>, “Glossary of Terms”. See also CRPD Committee, General comment No. 6 (2018), CRPD/C/GC/6, para. 25(d)



Executive summary

Credit: Natalia Amaglobeli

Women and girls with disabilities in Kazakhstan, Kyrgyzstan, and Uzbekistan face a heightened risk of sexual violence, yet face systemic barriers to accessing justice due to gaps in legal and policy responses. All three States have ratified the Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), thereby assuming binding obligations to protect survivors and ensure justice for sexual violence.

However, the findings of this report show that important gaps persist in the practical fulfilment of these obligations.

Our mixed-methods approach, outlined in the Methodology section, combines survivor narratives, expert insights, desk research and analysis of judicial decisions to examine how the criminal justice systems in the three countries address sexual violence against women with disabilities.

Key findings

Data gaps on sexual violence against women with disabilities

Official statistics in Kazakhstan, Kyrgyzstan, and Uzbekistan are not comprehensively or publicly disaggregated by sex/gender and disability, making women with disabilities effectively invisible in national data systems. In the absence of comprehensive official data, independent NGO research provides important insights into the seriousness and scale of the problem. For instance, in a 2025 NGO survey conducted in Kyrgyzstan, 140 out of 150 women with disabilities (93%) reported experiencing at least one form of violence, and 27% reported sexual violence.¹⁰ Comparable nationwide data for Kazakhstan and Uzbekistan are limited, but the qualitative evidence gathered for this report points to similarly elevated risks.¹¹

¹⁰ A survey conducted in March 2025 by the Public Association “Union of People with Disabilities ‘Ravenstvo’ (Equality)” in Kyrgyzstan among 150 women with disabilities from seven regions of the country

¹¹ For more details, see Section 1.1, “Gaps in Data on Violence Against Women with Disabilities ”

Gaps between international obligations and domestic implementation

Despite ratifying the CEDAW and CRPD, none of the three countries has fully translated these commitments into effective protection against sexual violence for women with disabilities. The principles of equality, non-discrimination and access to justice (including with respect to reasonable and procedural accommodations) remain not fully implemented in practice, as a number of national laws, policies and institutions continue to fall short of the standards set by these treaties.

Outdated legal definitions of sexual violence hinder access to justice

The Criminal Codes in all three countries continue to define rape based on physical force, threats or the victim's "helplessness" rather than the absence of consent, contrary to the CEDAW and other international standards.¹² This narrow framing, while applicable to both persons with and without disabilities, overlooks the essence of rape and other forms of sexual violence and risks leaving many acts of rape unaccounted for, particularly those involving women with disabilities, who face compounded forms of discrimination.

Disability laws remain mostly rooted in the medical model, allowing continued restrictions on legal capacity and institutionalisation

Despite some legal reforms and moves to shift towards a rights-based approach, disability legislation in Kazakhstan, Kyrgyzstan, and Uzbekistan continues to reflect a predominantly medical and "charity"-oriented model. Rights and support are still linked to diagnostic categories rather than to removing social and environmental barriers. This framework sustains guardianship regimes that often deprive persons, particularly those with psychosocial or intellectual disabilities, of their legal capacity, contrary to CRPD Article 12. Institutionalisation remains common, placing women with disabilities at higher risk of sexual violence inside institutions while facing additional barriers to access.

Justice mechanisms largely remain fragmented and inaccessible

Justice in these cases rests on a chain – identification, reporting, investigation, prosecution and trial – where the failure of any link can halt proceedings and reinforce impunity. Implementation gaps in reasonable and procedural accommodations persist despite the CRPD and other international obligations. Facilities and procedures are not consistently accessible; accessible formats, communication support and interpretation, trauma-informed interviewing and continuous legal assistance are not yet systematically embedded across all stages. Support services, such as shelters, psychosocial assistance and legal aid, exist but are unevenly distributed and insufficiently tailored to the diverse needs of women with disabilities, survivors of sexual violence.

Gender and disability-related stereotypes can slow or interrupt progress, retraumatise survivors and, in practice, reduce accountability. Survivors with psychosocial disabilities are often subjected to psychiatric or psychological evaluations to determine their perceived "competence" or "reliability" as witnesses. If deemed "unable to correctly perceive circumstances of relevance to the case and provide testimony about them", a victim's statements are deemed inadmissible as evidence, resulting in the systematic dismissal of cases without adequate investigation or prosecution, contrary to the CRPD standards.¹³

Procedural and evidentiary practices are not uniformly survivor-centred, gendered or disability-responsive; repetitive interviews and fragmented processes risk secondary victimisation; and evidence collection still tends to privilege physical injuries and biological traces over context and testimony.

¹² For more details, see Section 2.4, "Defining and Assessing Consent in Cases of Sexual Violence Against Women with Disabilities: International Standards and Contextual Application"

¹³ For more details, see Section 4.7.5, "Misuse of Psychiatric and Psychological Examinations"

Key recommendations

To fulfil their obligations under the CRPD and CEDAW and to improve access to justice for women and girls with disabilities survivors of sexual violence, Kazakhstan, Kyrgyzstan, and Uzbekistan should:

1. Adopt multi-sectoral and inclusive approaches to addressing sexual violence against women with disabilities

- ◆ Adopt a coordinated, multi-sectoral approach to preventing and responding to sexual violence against women with disabilities, involving justice, law enforcement, health, education and social protection sectors and civil society actors, while explicitly incorporating the issue of sexual violence against women with disabilities into national human rights strategies and action plans.
- ◆ Ensure the meaningful participation of women and girls with disabilities and their representative organisations in designing, implementing and monitoring all relevant laws, policies and services.
- ◆ Adopt comprehensive anti-discrimination legislation explicitly prohibiting multiple and intersecting forms of discrimination based on disability, sex, gender, age and other status; and establish effective enforcement and remedy mechanisms.

2. Recognise legal capacity and reform guardianship laws

- ◆ Repeal guardianship regimes and introduce supported decision-making mechanisms in line with the CRPD.
- ◆ Withdraw Uzbekistan's reservation to CRPD Article 12 and put relevant legal and procedural changes in place to ensure full legal capacity recognition of persons with disabilities.

3. Adopt a consent-based definition of rape

- ◆ Introduce a consent-based definition of rape in which consent, based on the international human rights framework, should be given voluntarily as the result of a person's free will, assessed in the context of the surrounding circumstances.
 - ▶ Ensure that judicial and investigative authorities adopt a contextual approach to assessing consent in cases of sexual violence. In cases of sexual violence against women with disabilities, this means moving away from assessing a survivor's cognitive or intellectual attributes and instead putting more focus on the alleged perpetrator's actions and surrounding circumstances, including, among others, specific vulnerabilities related to disability, power imbalances, dependencies, institutionalisation, communication barriers, or prior patterns of coercion or control.
 - ▶ Require through training and procedural guidance that investigators, prosecutors and judges identify, document and assess situational factors such as the nature of the relationship and the presence of fear, dependency or other contextual indicators, as well as the availability of support or accommodations, which would allow the survivor to participate fully in the proceedings.
 - ▶ Ensure that sexual acts committed in contexts of dependency, institutionalisation, or control over essential services are legally recognised as occurring without genuine consent. This includes situations where the perpetrator is a caregiver, service provider, family member, or authority figure who exploits the survivor's reliance on them.
 - ▶ Explicitly clarify in law and practice that apparent acquiescence, absence of resistance, or verbal agreement does not constitute valid consent when obtained through fear, manipulation or structural coercion.
- ◆ Until the necessary legislative amendments are enacted, ensure that law enforcement and judicial authorities interpret existing laws, including definitions of rape in Kyrgyzstan, Kazakhstan and Uzbekistan, in line with States' binding international human rights obligations and ensure that the Supreme Courts promptly update their clarifications on sexual violence crimes.¹⁴

14 Including Regulatory Resolution of the Supreme Court of the Republic of Kazakhstan No. 4 of 11 May 2007 "On Certain Issues of Qualification of Crimes Related to Rape and Other Acts of Sexual Violence"; Resolution of the Plenum of the Supreme Court of the Kyrgyz Republic No. 26 of 17 October 2024 "On Judicial Practice in Cases Concerning Crimes Against Sexual Inviolability and Sexual Freedom"; Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 13 of 29 October 2010 "On Judicial Practice in Cases of Rape and Satisfaction of Sexual Desire in an Unnatural Form"

4. Improve criminal justice procedures and support services

- ◆ Ensure that remedies for women and girls with disabilities who have experienced sexual violence are adequate, effective, promptly granted and delivered, holistic and proportional to the gravity of the harm suffered. Remedies should, as appropriate, include compensation (in the form of money, goods or services), rehabilitation (medical and psychological care, and other social services), as well as criminal prosecution leading to the imposition of fair, timely and adequate penalties on perpetrators.
- ◆ Amend criminal procedure codes to ensure *ex officio* investigation and prosecution of all sexual violence offences. Repeal provisions that allow reconciliation, mediation, withdrawal of complaints under pressure, or other mechanisms enabling perpetrators to evade criminal liability or punishment.
- ◆ Remove discriminatory evidentiary standards that give undue weight to physical injuries or biological evidence over survivor testimony.
- ◆ Amend the Codes of Criminal Procedure in line with the CRPD standards to repeal provisions that deprive persons with intellectual and/or psychosocial disabilities of the right to testify, as well as rules automatically dismissing their statements as inadmissible if they are considered 'unable to correctly perceive circumstances of relevance to the case and provide testimony about them'.
- ◆ Guarantee reasonable and procedural accommodations throughout all stages of proceedings, such as physical accessibility, adjusted language, assistive communication tools, support persons and flexible interview protocols, while recognising that women with disabilities are not a homogeneous group and have diverse needs requiring differentiated support and protection measures.
- ◆ Provide accessible support services, such as shelters, trauma-informed services, psychosocial assistance and legal aid, all tailored to the diverse needs of women with disabilities survivors of sexual violence.

5. Strengthen identification, accessibility and complaint mechanisms

- ◆ Establish gender- and disability-sensitive systems to identify and respond to sexual violence, including in institutions and rural areas. Ensure reporting mechanisms are physically and communicationally accessible (Easy-to-Read, sign language, Braille, adapted formats) and maintain multi-channel pathways (hotlines, SMS, online chat, one-stop centres) with integrated referral to medical, legal and psychosocial support.

6. Enhance prevention, awareness and capacity-building

- ◆ Develop manuals on sexual violence and disability for justice-sector professionals (including investigators, prosecutors, judges, lawyers, and all other relevant professionals such as medical staff, social workers, crisis centre staff, etc.), applying human rights-based, survivor-centred, gender- and disability-sensitive approaches in line with the CRPD and CEDAW standards.
- ◆ Conduct mandatory, regular training for police officers, prosecutors, judges, lawyers and other justice-sector professionals, as well as personnel who come in contact with survivors (including medical staff, social workers and crisis centre staff) based on the professional manuals developed.

7. Improve data collection and monitoring

- ◆ Collect comprehensive administrative data on sexual violence against women and girls with disabilities, disaggregated at a minimum by age, sex and disability.

8. Ratify international human rights instruments

- ◆ Ratify and implement remaining human rights instruments, in particular:
 - ▶ Kazakhstan, Kyrgyzstan, and Uzbekistan: the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)
 - ▶ Kyrgyzstan: the Optional Protocol to the CRPD
 - ▶ Uzbekistan: the Optional Protocols to the CEDAW and CRPD

A full list of recommendations is provided in Section 5, “Recommendations”.



Methodology

Research objective

The objective of this research is to examine how cases of sexual violence against women with disabilities are handled by the criminal justice systems in Kyrgyzstan, Kazakhstan and Uzbekistan and to identify legal and policy gaps that hinder access to justice for survivors. The study seeks to inform reforms that align with international human rights standards, including the Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Research questions

The research was guided by the following questions:

- ◆ How do the criminal justice systems in Kyrgyzstan, Kazakhstan and Uzbekistan respond to cases of sexual violence against women with disabilities?
- ◆ What legal, procedural and institutional frameworks, including laws, policies and practices, shape access to justice for women with disabilities who have experienced sexual violence, and do these frameworks ensure adequate protection or instead create barriers or discrimination?
- ◆ What legal and policy reforms are needed to strengthen access to justice for survivors in Kyrgyzstan, Kazakhstan and Uzbekistan?

The study employed a multi-method qualitative approach to examine how cases of sexual violence against women with disabilities are handled within the criminal justice systems of Kazakhstan, Kyrgyzstan, and Uzbekistan. The methodology was designed to triangulate data from multiple sources, including testimonies from survivors, experts and practitioners, as well as laws, policy documents and court judgments, to provide a comprehensive analysis of legal and procedural gaps and identify potential avenues for reform.

Research design

The study combined three primary data collection methods in relation to Kazakhstan, Kyrgyzstan, and Uzbekistan:

- ◆ A comprehensive desk review of national legal and policy frameworks;
- ◆ In-depth, semi-structured interviews with survivors, experts and practitioners;
- ◆ An analysis of accessible court judgments.

Data collection

Desk review: A systematic desk review was conducted for each country to map and analyse the existing legal and policy landscape. This included an assessment of national legislation and relevant policies, with particular attention to their alignment with international human rights standards, notably the CRPD and CEDAW. The review further examined available secondary

literature, such as research studies and reports on access to justice for women with disabilities who are survivors of violence in the three countries.

Interviews: Between November 2023 and November 2024, interviews were conducted with two groups of participants:

- ◆ **Survivors:** A total of 11 survivors of sexual violence with various types of disability were interviewed, including deaf women and women with physical or psychosocial disabilities – three from Kazakhstan, three from Kyrgyzstan, and five from Uzbekistan. Participants were identified and recruited through local organisations: a partner organisation in Kazakhstan, the Public Association “Union of People with Disabilities ‘Ravenstvo’ (Equality)” in Kyrgyzstan, and a partner organisation in Uzbekistan working with women with disabilities. To ensure accessibility, sign language interpretation was provided for participants who are deaf or hard of hearing.
- ◆ **National experts:** A total of 21 professionals involved in the justice chain were interviewed, including judges, prosecutors, forensic medical experts, lawyers, investigators and disability rights advocates – six from Kazakhstan, nine from Kyrgyzstan, and six from Uzbekistan.

Court judgment analysis: A sample of 12 court judgments from the period 2018-2025 (one from Kazakhstan, six from Kyrgyzstan, and five from Uzbekistan), in which the victim was a woman or girl with a disability, was analysed. Only cases that were accessible to researchers were included.

Research tools

To ensure consistency and depth across different data sources, Equality Now developed a set of qualitative tools in close collaboration with local partners, including organisations of persons with disabilities. These included:

- ◆ A guide for desk research, covering national legislation, regional and international standards, procedural frameworks and relevant secondary literature;
- ◆ A semi-structured interview guide for survivors, designed to capture survivors’ experiences with the justice process and accommodate their specific accessibility needs;
- ◆ Questionnaires for experts, tailored for different professional roles (judges, prosecutors, forensic experts, lawyers and investigators);
- ◆ A structured guide for court judgment analysis, enabling comparison across countries and judicial outcomes.

Research team

The research was conducted by a team of 17 local experts and consultants across Kazakhstan, Kyrgyzstan, and Uzbekistan. The team members responsible for conducting interviews participated in a comprehensive online training webinar on 7 November 2023, led by Equality Now. The training covered qualitative interviewing techniques, specific research tools, and ethical protocols for conducting research on sensitive topics. The instruments were subsequently refined based on feedback from this training and questionnaire testing.

Data analysis

Data from each stream were analysed as follows:

- ◆ Interviews with survivors, experts and practitioners were transcribed, translated where necessary, and systematically coded to identify emerging issues and patterns;
- ◆ Desk research findings were analysed, translated from local languages where needed, and reviewed using content analysis to highlight gaps, contradictions and consistencies between national laws and international human rights standards;
- ◆ Court judgments were reviewed to identify trends in judicial application of the law, evidential standards and approaches to disability.

Limitations

The study acknowledges certain limitations. The sensitive and often stigmatised nature of the topic presented challenges in recruiting survivor participants. This may affect the comparability of some qualitative findings. In addition, limited access to court judgments constrained the scope of the judicial analysis. As court judgements on these cases are not publicly available, the analysis relied on cases drawn from the legal practice of local partner NGOs. Despite these challenges, the data gathered provides important insights into systemic barriers and opportunities for reform.

Ethical considerations

Ethical integrity was a central pillar of this research. To ensure the safety and dignity of participants, all interviews were conducted in accordance with safeguarding standards, informed consent procedures and confidentiality protocols.

In addition, the research was guided by participatory principles of the disability rights movement, particularly the motto “nothing about us without us”. From the outset, the research design and tools were shaped together with women with disabilities and their representative organisations in each country, including:

- ◆ Public Association “Union of People with Disabilities ‘Ravenstvo’ (Equality)” in Kyrgyzstan (founded in 2004);
- ◆ Kibrai District Disabled Women’s Society “Opa-Singillar” in Uzbekistan (founded in 2000); and
- ◆ Shyrak, an organisation run by and for women with disabilities in Central Asia (founded in 2001).

All interviewers working with survivors were trained on Equality Now’s Safeguarding and Child Protection Policy, which applies to both adult and minor participants and is designed to prevent and mitigate risks of harm during research activities.

All participants – survivors and experts – were informed of their rights, including:

- ◆ The right to freely consent to participate;
- ◆ The right to withdraw at any time;
- ◆ The right to privacy and confidentiality;
- ◆ The right to anonymity in the use of their data.



1. Prevalence and perceptions of violence against women with disabilities

Credit: Mel Bailey

1.1. Gaps in data on violence against women with disabilities

The CEDAW Committee sets out that States parties should establish coordinated systems for the regular collection, analysis and publication of disaggregated data on all forms of gender-based violence against women, including data that captures intersecting forms of discrimination.¹⁵ States are also obliged to monitor and evaluate the effectiveness of laws, policies and services in preventing and responding to such violence.¹⁶

Yet in all three countries, as will be demonstrated below, official data on violence against women and girls with disabilities remains fragmented, incomplete and difficult to access. The lack of disability-disaggregated data on gender-based violence contributes directly to the invisibility of women and girls with disabilities in law and policy. When data systems fail to capture the intersection of sex and disability, the scale and nature of the violence remain hidden, undermining prevention efforts, resource allocation and the development of effective, rights-based responses. In addition, the widespread underreporting of such violence reflects structural barriers, including inaccessible reporting mechanisms, lack of trust in authorities, fear of disbelief or retaliation and social stigma, which the authorities should also address.

15 CEDAW Committee, General recommendation No. 35 (2017), CEDAW/C/GC/35, section “Coordination, monitoring and data collection”

16 *Ibid.*

Kazakhstan

According to the Ministry of Labour and Social Protection of the Population of the Republic of Kazakhstan, as of 16 October 2025, there were **332,166 women with disabilities** in the country,¹⁷ representing approximately **44%** of the total **748,363 persons with disabilities**.¹⁸

Official statistics on crimes against women and girls with disabilities in Kazakhstan remain scarce, fragmented and largely inaccessible. According to UNFPA (2019), it is estimated that **half of the registered persons with disabilities** in Kazakhstan had experienced **various forms of violence at home**, regardless of gender or age.¹⁹

A **UNFPA-supported assessment** conducted in the **Turkestan Region and Shymkent City** focused on the social and sex-specific needs of persons with disabilities, particularly women affected by violence: “Analysis of sexual violence data found that 11 of 54 female respondents (14%) were exposed to sexual violence. Sexual violence led to pregnancy ending with childbirth for three respondents”.²⁰

In 2024, the CRPD Committee expressed concern about Kazakhstan’s limited data on persons with disabilities experiencing multiple and intersectional forms of discrimination, including women and girls with disabilities, children with disabilities and other marginalised groups.²¹

Kyrgyzstan

According to the National Statistical Committee of the Kyrgyz Republic, in 2024, a total of **220,563 persons with disabilities** were receiving disability pensions and benefits. Of these, **105,902 were women** and **114,661 were men**.²² The number of children with disabilities receiving disability benefits was **20,433 girls** and **17,194 boys**.²³

A gap remains in the comprehensive collection of data on gender-based violence against women and girls with disabilities. For instance, while government agencies collect data on domestic violence,²⁴ this data is not disaggregated by disability. Consequently, women and girls with disabilities remain largely invisible in official data on sexual violence.

Findings from international agencies and civil society actors indicate a high level of abuse. According to UNFPA, a 2022 assessment focusing on women and girls with disabilities showed that **17% of respondents reported experiences of physical, psychological or economic violence within the previous 12 months**.²⁵ Sexual violence was not specifically part of the analysis.

For its 2023 report, Human Rights Watch interviewed 35 women with disabilities who were survivors of domestic violence and neglect, ranging in age from 18 to 55. Respondents had experienced physical, psychological or economic violence, and some had also experienced sexual violence or a combination of these types of violence.²⁶

17 Information Portal “Social Protection of Persons with Disabilities”. Statistics – Data on Persons with Disabilities – Number of Persons with Disabilities, Disaggregated by Women / Men. <https://inva.gov.kz/ru/highcharts>

18 *Ibid.*

19 UNFPA in Eastern Europe and Central Asia. (2020, May 4). Need for disability-sensitive response to violence amplified by COVID-19. <https://eeca.unfpa.org/en/news/need-disability-sensitive-response-violence-amplified-covid-19>

20 Sabitova, S.T., Kaltayeva, L.M., & Moldakulova, G.M. (2019). ASSESSMENT OF social and gender-specific needs of persons with disabilities with a focus on special needs of women with disabilities affected by violence in Turkestan oblast and Shymkent city. https://kazakhstan.unfpa.org/sites/default/files/pub-pdf/itogi_ocenki-eng.pdf

21 CRPD Committee, Concluding observations on the initial report of Kazakhstan (2024), CRPD/C/KAZ/CO/1, paras. 65-66

22 National Statistical Committee of the Kyrgyz Republic. (2025, September 26). Disability – Number of persons with disabilities receiving pensions and disability benefits by gender. <https://stat.gov.kg/en/gendernaya-statistika/zdravooohranenie/invalidnost/>

23 National Statistical Committee of the Kyrgyz Republic. (2025, September 26). Disability – Number of children with disabilities receiving benefits for disability by gender <https://stat.gov.kg/en/gendernaya-statistika/zdravooohranenie/invalidnost/>

24 For example, see the National Statistical Committee of the Kyrgyz Republic. Number of perpetrators of domestic violence (with a protection order), by sex and territory. <https://stat.gov.kg/en/opendata/category/4246/>; Ministry of Internal Affairs of the Kyrgyz Republic. Information on domestic violence for 10 months 2024. <https://mvd.gov.kg/rus/domesticViolence/reports/40>

25 United Nations Population Fund. (2022, June). Country Programme Document for Kyrgyzstan. https://www.unfpa.org/sites/default/files/board-documents/DP.FPA_CPD_KGZ_5%20-%20Kyrgyzstan%20CPD%20-%20DRAFT%20Final%20-%202020Jun22.pdf, para. 7

26 Human Rights Watch. (2023, December 14). Abused by Relatives, Ignored by the State: Domestic Violence Against and Neglect of Women and Girls with Disabilities in Kyrgyzstan. <https://www.hrw.org/report/2023/12/14/abused-by-relatives-ignored-by-the-state/domestic-violence-against-and-neglect-of>

Further evidence comes from a **March 2025 survey** conducted by the Public Association “Union of People with Disabilities ‘Ravenstvo’ (Equality)”, which covered seven regions of Kyrgyzstan.²⁷ Among **150 women with disabilities, 93% (140 women)** reported experiencing **at least one form of violence**. The most commonly reported types included: psychological violence – 140 cases; physical violence – 60 cases; economic violence – 70 cases; **sexual violence – 40 cases**; harassment – 80 cases; cyberviolence – 15 cases.

As of mid-2025, the CRPD Committee had not yet reviewed the initial report submitted by Kyrgyzstan.

Uzbekistan

As of the end of Q1 2025, Uzbekistan had approximately **1,031,609 officially registered persons with disabilities**, accounting for approximately **2.7%** of the total population. Among them, **465,645 were women (45%)** and **565,964 were men (55%)**.²⁸

A World Bank analysis notes that while **girls and women with disabilities are more prone to gender-based violence**, there is **no reliable data on the prevalence** of such violence in Uzbekistan.²⁹ Broader gender-based violence statistics exist, but **they also lack disability-specific breakdowns**.

According to qualitative research, women with disabilities are more likely to experience gender-based violence, sexual violence, neglect, abuse and exploitation than women without disabilities.³⁰

As of mid-2025, the CRPD Committee had not yet reviewed the initial report submitted by Uzbekistan.

27 A survey conducted in March 2025 by the Public Association “Union of People with Disabilities ‘Ravenstvo’ (Equality)” in Kyrgyzstan among 150 women with disabilities from seven regions of the country

28 Darakchi. (2025, April 15). Number of people with disabilities in Uzbekistan announced. <https://darakchi.uz/ru/198877>

29 World Bank. Country Profile – Uzbekistan – Disability Inclusion. <https://documents1.worldbank.org/curated/en/099415012202114964/pdf/P156962000bace01d0acaf097d2cee632d3.pdf>, p. 4

30 World Bank. (2023, January). Technical guidance on the implementation of the Convention on the Rights of Persons with Disabilities. <https://documents1.worldbank.org/curated/en/099052223112035849/pdf/P1783520faee9f09d0a46307d56768f9126.pdf>, p.17

1.2. Harmful stereotypes that contribute to violence against women with disabilities

Stereotypes affecting women with disabilities operate at the intersection of gender, disability, and other factors of intersectionality. Wrongful stereotyping related to both disability and gender is a form of discrimination that has a severe impact on the enjoyment of sexual and reproductive health and rights.³¹ As the CRPD Committee has emphasised, “[l]ike all women, women with disabilities have the right to choose the number and spacing of their children, as well as the right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence”.³²

However, women with disabilities are often denied their autonomy and control over decision-making, including in matters of sexual and reproductive rights, on the assumption that they are not capable of consenting to sex.³³ Harmful stereotypes of women with disabilities include the belief that they are asexual, incapable, irrational, lacking control and/or hypersexual.³⁴

“Society tends to view persons with disabilities through the lens of either asexuality or hypersexualisation, denying them the right to their sexuality, ignoring it, or dismissing it altogether. Such attitudes increase the risk of sexual exploitation, as perpetrators may assume that the survivor will likely remain silent or that her claims will not be believed. The majority of cases of sexual violence against women and girls with disabilities remain hidden from public awareness and go unpunished.”

From an interview with a lawyer, Kazakhstan

In Kazakhstan, as reported by the Shyrak Association of Women with Disabilities, as in many other societies, stereotypes about persons with disabilities often manifest as prejudice and discrimination, creating barriers to the full inclusion of persons with disabilities in social life. Stigmatisation remains a serious problem. Negative attitudes and assumptions about disability are still deeply rooted in public consciousness, and this is reflected even in the language commonly used to refer to people with

disabilities. Another significant factor is the inaccessibility of public buildings, services and transport, which remain largely unadapted to the needs of persons with disabilities and which seriously limit their autonomy. This, in turn, reinforces social isolation, hinders opportunities for integration, and deepens stigma, further entrenching negative stereotypes and social exclusion.

In Kyrgyzstan, according to the Public Association “Union of People with Disabilities ‘Ravenstvo’ (Equality)”, societal attitudes toward persons with disabilities, shaped by stereotypical thinking, often prevent their social integration and adaptation, causing psychological harm and contributing to their isolation. Widespread beliefs portray people with disabilities as “sick” individuals in constant need of care and pity, as lacking something essential, as unable to have healthy children and as unfit for family life. These perceptions are a major barrier to leading a full and independent life. Inequality persists across all areas of life and is the result of numerous barriers that persons with disabilities face daily. They are more vulnerable when accessing social services and have limited access to transportation, infrastructure, education and employment. Government policies do not always adequately reflect the needs of persons with disabilities, who are rarely involved in decision-making processes, and funding for programmes aimed at improving their quality of life remains insufficient.

In Uzbekistan, as highlighted by the Shyrak Association of Women with Disabilities, stereotypical portrayals of persons with disabilities, including women, men and children, are widespread and influence all areas of life and state policy: from data collection and development planning to social services and participation in public life. People with disabilities are typically depicted either as objects of pity or as heroes and are rarely shown as spouses, parents, professionals, or as individuals with hobbies or everyday activities, such as playing chess or spending time with friends. The stigma surrounding disability is one of the reasons why many parents of children with disabilities, and adults with disabilities themselves, choose not to seek formal recognition of disability status. While such a status may, in theory, grant access to some financial benefits and rehabilitation services, in practice, it often leads to stigma, prejudice, exclusion from quality mainstream education and limited future opportunities.

31 CRPD Committee, General comment No. 3 (2016), CRPD/C/GC/3, para. 38

32 *Ibid.*

33 CRPD Committee, General comment No. 1 (2014), CRPD/C/GC/1, para. 35

34 CRPD Committee, General comment No. 3 (2016), CRPD/C/GC/3, para. 38

2. International standards on access to justice for women with disabilities in sexual violence cases

Credit: Yan Song/iStock

2.1. Fundamental principles under CEDAW and CRPD

A wide range of international human rights instruments address issues of access to justice for women and girls with disabilities in cases of violence. While acknowledging this broader body of standards and guidance, this report focuses on two key treaties that are central to the Central Asian countries under review and binding on the target countries: the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the UN Convention on the Rights of Persons with Disabilities (CRPD). These international instruments provide a crucial framework for addressing sexual violence against women and girls with disabilities, recognising it as both a form of discrimination and a violation of fundamental human rights. For details on the ratification of these conventions and their optional protocols by Kazakhstan, Kyrgyzstan, and Uzbekistan, see Section 3.1, “Ratification of International Treaties Addressing Sexual Violence

against Women with Disabilities”. However, all available instruments should be leveraged, as appropriate, to secure the rights of women with disabilities who are survivors of sexual violence.

As stated by the CEDAW Committee, gender-based violence against women and girls, including sexual violence, is explicitly recognised as a form of discrimination that undermines women’s rights to equality and dignity.³⁵ The CEDAW Committee, in its General recommendation No. 33, explicitly underscores States’ obligations to eliminate violence against women, noting that disability is one of the factors that increases vulnerability to such violence.³⁶ This vulnerability can intersect with other factors, including age, institutionalisation, socioeconomic status and urban or rural living.³⁷ Similarly, the CRPD acknowledges that women and girls with disabilities are at heightened risk of exploitation, violence and abuse, as outlined in Article 6 of the Convention and in General comment No. 3 of the CRPD Committee.³⁸

35 CEDAW Committee, General recommendation No. 19, para. 1

36 CEDAW Committee, General recommendation No. 33, CEDAW/C/GC/33 (2015), paras. 8, 13, and 17 (g)

37 See also CEDAW Committee, General recommendation No. 35 (2017), CEDAW/C/GC/35, para. 12

38 CRPD Committee, General comment No. 3 (2016), CRPD/C/GC/3, section “Freedom from exploitation, violence and abuse”. In addition, during their 89th and 26th sessions respectively, the CRC and CRPD Committees adopted a Joint Statement on the Rights of Children with Disabilities (23 August 2021), stressing that discrimination against children with disabilities makes them disproportionately vulnerable to violence, including corporal punishment, neglect and abuse, in all settings – such as the family home, mental health, educational or child care institutions, para. 7, available at: <https://www.ohchr.org/en/treaty-bodies/crpd/statements-declarations-and-observations>, para. 7

Based on the above, both Committees have consistently underscored the specific and binding obligations on States parties to ensure the protection and empowerment of survivors of sexual violence, particularly those with disabilities, by eliminating barriers to justice and guaranteeing access to justice for women and girls.³⁹ Additionally, the CRPD, in particular, emphasises the need to ensure that survivors' legal capacity is recognised on an equal basis with others, as outlined in Article 12, which is fundamental to accessing justice. It further calls for procedural and age-appropriate accommodations to facilitate access to courts, tribunals and other legal proceedings, as stipulated in Article 13.

Another critical obligation is the transformation of societal attitudes. General recommendations issued under both Conventions highlight the necessity for States parties to address societal stigma and harmful stereotypes, which perpetuate discrimination against women and girls with disabilities.⁴⁰ By tackling these pervasive attitudes, States can create a more inclusive and equitable environment that enables survivors to exercise their rights and access justice effectively.

2.2. Legal capacity and the realisation of rights

General principles

The CRPD places particular emphasis on legal capacity, which is “inextricably linked to the enjoyment of many other human rights”.⁴¹ Legal capacity ensures individuals are recognised as persons before the law and can make decisions about their legal claims independently or with appropriate support mechanisms. This principle is enshrined in Article 12 of the CRPD, which mandates that “persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life”.

Recognising legal capacity is therefore essential to

ensuring equality and non-discrimination. Its denial on the basis of disability constitutes discrimination.⁴²

This includes people with cognitive or psychosocial disabilities who have historically been, and continue to be, disproportionately affected by substitute decision-making regimes.⁴³

The CRPD Committee underscores that legal capacity must encompass both legal standing (the ability to hold rights and duties) and legal agency (the ability to exercise those rights and duties), and that these two elements cannot be separated.⁴⁴ By contrast, mental capacity refers to decision-making skills, which are context-specific, variable, and influenced by social and environmental factors. Mental capacity must not be conflated with legal capacity, and any perceived or actual differences in mental capacity cannot justify the denial of legal capacity.⁴⁵

Moreover, the CRPD Committee has clarified that the deemed “best interests” principle is not an appropriate safeguard in relation to adults with disabilities. Instead, when a person's will and preferences cannot be determined despite significant efforts, the standard of the “best interpretation of will and preferences” must be applied to ensure respect for their legal capacity on an equal basis with others.⁴⁶ Article 12(3) further obligates States to provide support while respecting the individual's rights, will and preferences, free from conflict of interest or undue influence.

Legal capacity and the right to consent to intimate relationships

Women with disabilities are often denied control of their reproductive health and decision-making, the assumption being that they are not capable of consenting to sex.⁴⁷

In practice, two discriminatory approaches are commonly applied to deny women with disabilities “legal capacity to consent”:

39 CEDAW Committee, General recommendation No. 33, CEDAW/C/GC/33 (2015), para. 17 (g); CRPD Committee, General comment No. 3 (2016), CRPD/C/GC/3, para. 27

40 In particular, CEDAW Committee, General recommendation No. 35 (2017), CEDAW/C/GC/35, para. 26 and CRPD Committee, General comment No. 6 (2018), CRPD/C/GC/6, para. 2

41 CRPD Committee, General comment No. 1 (2014), CRPD/C/GC/1, para. 31

42 *Ibid.*, paras. 25 and 32

43 *Ibid.*, para. 9

44 *Ibid.*, paras. 13-14

45 *Ibid.*, para. 14

46 *Ibid.*, para. 21: “Where, after significant efforts have been made, it is not practicable to determine the will and preferences of an individual, the “best interpretation of will and preferences” must replace the “best interests” determinations. This respects the rights, will and preferences of the individual, in accordance with article 12, paragraph 4. The “best interests” principle is not a safeguard which complies with article 12 in relation to adults. The “will and preferences” paradigm must replace the “best interests” paradigm to ensure that persons with disabilities enjoy the right to legal capacity on an equal basis with others.”

47 *Ibid.*, para. 35

- ◆ **The status-based approach** denies legal capacity to consent on the basis of the diagnosis of an impairment.⁴⁸ For example, if a woman has an intellectual disability, it may be automatically assumed that she is incapable of consenting to sexual activity.
- ◆ **The functional approach** “attempts to assess mental capacity and deny legal capacity accordingly”.⁴⁹ It is generally applied across different areas of decision-making (not only sexual relations) and is often based on whether a person can understand the nature and consequences of a decision and/or whether they can process or weigh up the relevant information.⁵⁰ Under this approach, a person who is considered to “fail” a mental capacity test is denied legal capacity, including the ability to consent to intimate relationships.

The CRPD Committee has made clear that both functional and status approaches violate Article 12 of the CRPD.⁵¹ Using status-based practices to deny legal capacity to people with disabilities creates a direct basis for differential treatment. Functional approaches are also problematic because they create a differential basis for denying legal capacity to people with disabilities by 1) creating a functional decision-making standard that only people with disabilities can meet or 2) applying that standard disproportionately to them. Accordingly, such methods violate Article 12 and conflict with it.⁵²

Perpetrators might choose to target **women with disabilities** because they believe that they can get away without punishment more easily, since the victims could face **additional barriers** to reporting and proving that they suffered the crime.

Acknowledging the equal right of women with disabilities to sexual autonomy must go hand in hand with ensuring their protection from sexual violence; both issues relate to the right to legal capacity. This is particularly critical given that persons with disabilities are much more likely to be subjected to sexual violence than those without disabilities.⁵³ Some women may be specifically targeted because they have certain types of disability. Perpetrators might choose to target women with disabilities because they believe that they can get away without punishment more easily, since the victims could face additional barriers to reporting and proving that they suffered the crime.

Legal capacity and access to justice

The CRPD places particular emphasis on legal capacity, which plays a role in the way survivors with disabilities can access justice. However, in practice, discriminatory assumptions about the abilities of persons with disabilities often lead to the denial of their legal capacity, significantly obstructing their ability to seek justice. Such denial often takes the form of substitute decision-making regimes, such as guardianship systems, which deny individuals their autonomy and legal standing.⁵⁴ These practices directly contradict the CRPD’s framework, which calls for supported decision-making, enabling individuals to receive the assistance they need to make their own decisions.⁵⁵

In the same vein, the CEDAW Committee recommends that States repeal all laws that prevent or deter women from reporting gender-based violence, such as guardianship laws that deprive women of legal capacity.⁵⁶

The International Principles and Guidelines on Access to Justice for Persons with Disabilities⁵⁷ further expand on this, establishing in Principle 1 that all persons with disabilities have legal capacity and, therefore, no one shall be denied access to justice on the basis of disability.

48 *Ibid.*, para. 15; see also Murphy, G. H., & O’Callaghan, A. (2004). Capacity of adults with intellectual disabilities to consent to sexual relationships. *Psychological Medicine*, 34(7), 1347–1357. <https://doi.org/10.1017/S0033291704001941>

49 CRPD Committee, General comment No. 1 (2014), CRPD/C/GC/1, para. 15

50 *Ibid.*

51 *Ibid.*

52 CRPD/C/GC/1, para. 15; See also Flynn, E., & Arstein-Kerslake, A. (2014). Legislating personhood: Realising the right to support in exercising legal capacity. *International Journal of Law in Context*, 10(1), 81–104. <https://doi.org/10.1017/S1744552313000384>

53 CRPD Committee, General comment No. 3 (2016), CRPD/C/GC/3, para. 29

54 CRPD Committee, General comment No. 1 (2014), CRPD/C/GC/1, para. 7

55 *Ibid.*, paras. 26–29

56 CEDAW Committee, General recommendation No. 35 (2017), CEDAW/C/GC/35, para. 29(c)(iii)

57 Special Rapporteur on the rights of persons with disabilities. (2020, August). International Principles and Guidelines on Access to Justice for Persons with Disabilities. <https://www.ohchr.org/en/special-procedures/sr-disability/international-principles-and-guidelines-access-justice-persons-disabilities>

Psychiatric assessments and legal capacity to testify

The denial of legal capacity extends to the ability of women and girls with disabilities to testify in judicial proceedings. As highlighted in General comment No. 3 (2016) of the CRPD Committee, testimonies of women with intellectual or psychosocial disabilities are frequently dismissed in court due to assumptions about their credibility or capacity to testify.⁵⁸ General comment No. 1 (2014) also affirms the need to grant persons with disabilities legal capacity to testify on an equal basis with others,⁵⁹ while recognising the right of persons with disabilities to support.

In the same vein, the CEDAW Committee recommends that States repeal all laws that prevent or deter women from reporting gender-based violence, such as guardianship laws that restrict the ability of women with disabilities to testify in court.⁶⁰

The United Nations-issued International Principles and Guidelines on Access to Justice for Persons with

Disabilities reiterate that no law, regulation, policy or practice should restrict or exclude witnesses with disabilities from presenting testimony based on assessments of their capacity to testify.⁶¹ Practices such as psychiatric evaluations that aim to determine a person's capacity to testify are discriminatory and incompatible with the CRPD.⁶² They often lead to the exclusion of victims and witnesses from legal proceedings, perpetuating stereotypes about their abilities and reinforcing barriers to justice.⁶³

Consequently, such assessments or examinations must not be used to impede access to justice for women and girls with disabilities. Instead, legal systems must ensure that victims with disabilities are provided the necessary support and procedural accommodations to effectively participate in all legal proceedings. For women and girls with disabilities who have psycho-social needs and are particularly vulnerable to discrimination and exclusion, these measures are crucial to securing their meaningful participation in the justice process.

58 CRPD Committee, General comment No. 3 (2016), CRPD/C/GC/3, para. 17(a)

59 CRPD Committee, General comment No. 1 (2014), CRPD/C/GC/1, para. 39

60 CEDAW Committee, General recommendation No. 35 (2017), CEDAW/C/GC/35, para. 29(c)(iii)

61 International Principles and Guidelines on Access to Justice for Persons with Disabilities (see above), para. 1.2(f)

62 CRPD Committee, Concluding observations on the combined second and third periodic reports of Peru (2023), CRPD/C/PER/CO/2-3, para. 26(c); CRPD Committee, Concluding observations on the combined second and third periodic reports of Azerbaijan (2024), CRPD/C/AZE/CO/2-3, para. 30(b)

63 International Principles and Guidelines on Access to Justice for Persons with Disabilities (see above), para. 1.2(f)

2.3. Safeguards and reasonable and procedural accommodations at all stages of access to justice

The CRPD Committee distinguishes between reasonable and procedural accommodations, recognising the importance of each.

Reasonable accommodation refers to “necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms”.⁶⁴

Procedural accommodation, on the other hand, means “all necessary and appropriate modifications and adjustments in the context of access to justice, where needed in a particular case, to ensure the participation of persons with disabilities on an equal basis with others”.⁶⁵

Under Article 13(1) of the CRPD, all persons with disabilities, including women with disabilities, are entitled to procedural and age-appropriate accommodation to facilitate access to justice on an equal basis with others. Importantly, procedural accommodations, unlike reasonable accommodations, are not subject to the limitation of a ‘disproportionate or undue burden’,⁶⁶ which underscores the State’s unconditional obligation to provide them.

The CRPD Committee clarifies that to ensure effective access to justice, procedures must be both participatory and transparent.⁶⁷ Actions that enable participation include: (a) providing information in formats that are clear, understandable and accessible; (b) recognising and accommodating various modes of communication; (c) ensuring physical accessibility at every stage of the

proceedings; (d) offering financial support, such as legal aid, where relevant and subject to applicable eligibility criteria.⁶⁸ Appropriate safeguards to protect individuals who cannot defend themselves against discrimination, even when provided with support, or whose options are greatly limited by fear of negative consequences, are in the public interest (*actio popularis*).⁶⁹

The International Principles and Guidelines on Access to Justice for Persons with Disabilities⁷⁰ provide a detailed framework for ensuring the right of persons with disabilities to access justice. Among the ten principles, six are particularly relevant to victims of sexual violence, as they set out essential legal safeguards and mechanisms to ensure effective participation and equal access to justice. These principles are applicable across all stages of the process, including identification, reporting, investigation, prosecution, medical examination, adjudication and follow-up.

Principle 1:

All persons with disabilities have legal capacity and, therefore, no one shall be denied access to justice based on disability, as discussed in the previous sub-section.

In particular, one of the recommendations is to provide intermediaries or facilitators, wherever and whenever needed, to enable clear communication among and between persons with disabilities and courts, tribunals and law enforcement agencies to ensure safe, fair and effective engagement and the opportunity to fully participate in legal processes.⁷¹

In relation to the right to legal capacity, the CRPD Committee highlighted that, unlike the duty to provide reasonable accommodation under Article 5, the obligation to provide support for persons with disabilities to exercise their legal capacity under Article 12(3) is unlimited. Even if such support might constitute a disproportionate or undue burden, States are still required to ensure it is provided.⁷²

64 CRPD, Article 2

65 International Principles and Guidelines on Access to Justice for Persons with Disabilities (see above), “Glossary of Terms”. See also CRPD Committee, General comment No. 6 (2018), CRPD/C/GC/6, para. 25(d)

66 *Ibid.*

67 CRPD Committee, General comment No. 6 (2018), CRPD/C/GC/6, para. 52

68 *Ibid.*

69 *Ibid.*, para. 53

70 Special Rapporteur on the rights of persons with disabilities. (2020, August). International Principles and Guidelines on Access to Justice for Persons with Disabilities. <https://www.ohchr.org/en/special-procedures/sr-disability/international-principles-and-guidelines-access-justice-persons-disabilities>

71 *Ibid.*, para. 1.2(j)

72 CRPD Committee, General comment No. 6 (2018), CRPD/C/GC/6, para. 48

Principle 2:

Facilities and services must be universally accessible to ensure equal access to justice without discrimination against persons with disabilities.

This principle entails that both information and all facilities within the justice sector, including, but not limited to, police stations, courtrooms and premises used for judicial and forensic examinations (such as examination tables, gynaecological chairs, sanitary facilities, etc) must be fully accessible.⁷³ This also applies to all forms of communication used within the justice system.⁷⁴ Authorities must guarantee the provision of procedural accommodations when facilities and services fail to ensure access to the existing physical environment, transportation, information and communications for persons with disabilities.⁷⁵

Principle 3:

Persons with disabilities, including children with disabilities, have the right to appropriate procedural accommodations.

Authorities must ensure that persons with disabilities receive individualised procedural accommodations that are appropriate to their sex, age and specific needs. Such accommodations include all necessary modifications and adjustments in a given case, such as the use of intermediaries or facilitators, adaptations to procedures or the environment, and communication support, to guarantee equal and meaningful access to justice.⁷⁶ Wherever possible, such accommodations should be arranged in advance of the proceedings.

Types of procedural accommodations and their importance

- ◆ **Trained independent intermediaries or facilitators**⁷⁷ should be available to determine whether accommodations and support are necessary and which accommodations and support are appropriate, as well as to assist with communication throughout the course of the proceedings.⁷⁸ Intermediaries or facilitators play a vital role in ensuring that persons with disabilities,

especially survivors of sexual violence, can effectively understand and participate in legal proceedings. They act as neutral communication bridges between the survivor and justice actors, helping to identify what accommodations are needed and ensuring that information is conveyed in a clear, accessible and trauma-sensitive manner.

- ◆ **Procedural adjustments and modifications** involve:
 - ▶ **Adopting procedures that ensure the fair treatment and full participation of persons with disabilities**, during proceedings, as appropriate.⁷⁹ Examples include:
 - ▶ **Adaptation of the venue** to ensure physical accessibility and safety;
 - ▶ **Appropriate waiting spaces** to reduce stress and avoid retraumatisation;
 - ▶ **Adjustments to the pace of proceedings** to allow survivors time to process and respond to ensure meaningful participation;
 - ▶ **Separate building entrances and waiting rooms and protective screens** to separate persons with disabilities from others if necessary due to physical or emotional distress;
 - ▶ **Modified questioning methods**, such as allowing leading questions, avoiding compound questions, finding alternatives to complex hypothetical questions, providing extra time to answer, permitting breaks as needed and using plain language;
 - ▶ **Pretrial video recording** of evidence and testimony (only if necessary, practical and possible) to reduce the need for survivors to repeat traumatic experiences.
 - ▶ **Allowing persons with disabilities, at all stages of the process if they so choose, to be accompanied** by support persons,⁸⁰ such as family (in cases not concerning abuse committed by a family member), friends or others to provide emotional and moral

73 International Principles and Guidelines on Access to Justice for Persons with Disabilities (see above), para. 2.1(a)(i)

74 *Ibid.*, para. 2.1(a)(ii)

75 *Ibid.*, para. 2.1(d)

76 *Ibid.*, para. 3.1

77 *Ibid.*, paras. 3.2(a)-(b)

78 *Ibid.*, para. 3.2(a)

79 *Ibid.*, para. 3.2(c)

80 *Ibid.*, para. 3.2(d)

support, provided that the support person does not exert undue pressure on the survivor and without replacing the role of an intermediary or facilitator. Having a familiar person present can significantly reduce fear, anxiety and feelings of isolation, which are common among survivors of sexual violence, particularly those with psychosocial or intellectual disabilities.

◆ **Communication support and accessible technologies** involve:

- ▶ Ensuring that all processes in the justice system provide the technical and other support necessary to use any form of communication as necessary for the full participation of persons with disabilities, including:⁸¹
 - ▷ Assistive listening systems and devices;
 - ▷ Open, closed and real-time captioning, and closed caption decoders and devices;
 - ▷ Voice, text and video-based telecommunications products;
 - ▷ Videotext displays;
 - ▷ Computer-assisted real-time transcription;
 - ▷ Screen reader software, magnification software and optical readers;
 - ▷ Video description and secondary auditory programming devices that pick up audio feeds for television programmes.
- ▶ **Supporting communication**, in addition to intermediaries or facilitators, through the use of third parties,⁸² including:
 - ▷ Note-takers;
 - ▷ Qualified sign language and oral interpreters;
 - ▷ Relay services;
 - ▷ Tactile interpreters.

- ▶ **Ensuring that all interpreters are able to interpret effectively**, accurately and impartially, both receptively (i.e., understanding what persons with disabilities are saying) and expressively (i.e., having the skill necessary to convey information back to those persons), while using any necessary specialised vocabulary (e.g. legal or medical) and respecting professional and ethical standards.⁸³

Procedural accommodations are not privileges but essential safeguards for women with disabilities to exercise their right to participate in justice processes on an equal basis with others. To this end, authorities should enact and implement laws, regulations, policies, guidelines, practices and processes that enable persons with disabilities to request procedural accommodations, including modifications of or support in legal processes confidentially and safely, ensuring their privacy is respected.⁸⁴ Authorities must also proactively inform women and girls with disabilities who are survivors of sexual violence about the availability of such accommodations at every stage of the process,⁸⁵ recognising that survivors may not always self-identify as needing support, or not identify specific means of support that might be helpful.

Principle 4:

Persons with disabilities have the right to access legal notices and information in a timely and accessible manner on an equal basis with others.

Persons with disabilities have the right to access legal notices and information in a timely and accessible manner, ensuring equality with others throughout the justice process.

This right has two essential dimensions.

Firstly, accessibility means that information about justice systems and procedures must be available through a variety of accessible formats and channels, as appropriate to individual needs. These may include sign language, video and audio guides, telephone helplines and referral services, accessible websites, induction loops, radio or infrared systems, amplification devices, document magnifiers, closed captioning, Braille, Easy Read and plain language materials and facilitated communication.⁸⁶

81 *Ibid.*, para. 3.2(e)

82 *Ibid.*, para. 3.2(f)

83 *Ibid.*, para. 3.2(g)

84 *Ibid.*, para. 3.2(k)

85 *Ibid.*, para. 3.2(l)

86 *Ibid.*, para. 4.1(b)

Secondly, accessibility also requires that information be understandable, not merely available. Legal notices and materials must include clear understandable information about how a procedure works, what to expect during a process, what is expected of a person, where to get help with understanding the process and the person's rights in the process, in language that is not merely a repetition of the statute, regulation, policy or guideline, for example, plain language.⁸⁷ Real-time support should be available for individuals who need help understanding or using information, for instance, through interpreters, guides, readers, intermediaries and facilitators, and other forms of support.⁸⁸

Direct communication with persons with disabilities is crucial. Law enforcement and other officials must engage directly with the individual and, as appropriate, through support persons who help with communication, avoiding assumptions that family members or others can resolve communication needs. Clear and understandable guidance must also explain procedural details, what to expect and where to seek assistance. By providing accessible information and direct communication, the justice system can uphold the rights of persons with disabilities and remove barriers to participation.

Principle 6:

Persons with disabilities have the right to accessible and affordable legal assistance.

In particular, lawyers providing legal assistance should have access to the necessary procedural accommodations, including interpreters, assistive technology, intermediaries and facilitators, or the resources required to obtain them.⁸⁹ These measures are crucial for supporting effective communication with clients.

Principle 8:

Persons with disabilities have the right to report complaints and initiate legal proceedings concerning human rights violations and crimes, have their complaints investigated and be afforded effective remedies.

Authorities should make sure that criminal complaint mechanisms are accessible, including through hotlines and online reporting platforms.⁹⁰ This is especially important for women and girls with disabilities who may face physical, communication, or social barriers that make in-person reporting difficult. Accessible options enable survivors to report independently and safely, without relying on others to speak on their behalf.

Complaint and investigation mechanisms must be gender-sensitive to ensure that survivors of sexual and gender-based violence feel safe to come forward.⁹¹ Special protection units, such as those dealing with gender-based violence, must be accessible and responsive to the needs of persons with disabilities.⁹² When needed, confidentiality and anonymity must be guaranteed⁹³ to protect survivors who may depend on their abusers for care or housing and who fear retaliation or stigma.

All investigators and law enforcement officials should be trained on procedural accommodations during investigations.⁹⁴ When appropriate, an intermediary or facilitator should assist communication to make sure survivors are heard and understood correctly.⁹⁵

⁸⁷ *Ibid.*, para. 4.1(d)

⁸⁸ *Ibid.*, para. 4.1(e)

⁸⁹ *Ibid.*, para. 6.2(h)

⁹⁰ *Ibid.*, para. 8.2(c)

⁹¹ *Ibid.*, para. 8.2(e)

⁹² *Ibid.*, para. 8.2(f)

⁹³ *Ibid.*, para. 8.2(g)

⁹⁴ *Ibid.*, para. 8.2(i)

⁹⁵ *Ibid.*, para. 8.2(j)

2.4. Defining and assessing consent in cases of sexual violence against women with disabilities: international standards and contextual application

2.4.1. What international human rights and criminal law standards require on consent

It is an international human rights law and criminal law standard that the definition of sexual violence crimes must be based on the lack of freely given consent and take into account surrounding and coercive circumstances.⁹⁶ This approach diverges from definitions that require proof of physical force, resistance, or coercion. Additionally, the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) obliges states to criminalise:

- ◆ Engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object;
- ◆ Engaging in other non-consensual acts of a sexual nature with a person;

- ◆ Causing another person to engage in non-consensual acts of a sexual nature with a third person.⁹⁷

The Convention also clarifies that consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances.⁹⁸ In other words, consent must be both freely and genuinely given, with full regard to the individual's situation and environment.⁹⁹

This standard applies equally to persons with disabilities, including those with intellectual and psychosocial disabilities. The requirement that consent be voluntary and contextual is applicable: a simple “yes,” apparent compliance, or the absence of physical resistance or physical injuries cannot be regarded as valid consent where pressure, fear, dependency, or other coercive circumstances are present. The following section outlines contextual factors that may undermine the free will of survivors with disabilities.

International jurisprudence reinforces this contextual approach. In *R.P.B. v. the Philippines*, a case considered by the CEDAW Committee, the survivor, a young deaf and mute woman, did not physically resist her abuser. The Committee held that the absence of resistance could not be equated with consent and stressed that authorities must not expect an “ideal victim”. Instead, they must evaluate the totality of circumstances, including barriers to communication and situational vulnerabilities linked to disability.¹⁰⁰

96 CEDAW Committee, General recommendation No. 35 (2017), CEDAW/C/GC/35, para. 29(e); CEDAW Committee, *Vertido v Philippines* (2010), Communication No. 18/2008, CEDAW/C/46/D/18/2008; CEDAW Committee, *R.P.B. v Philippines* (2014), Communication No. 34/2011, CEDAW/C/57/D/34/2011; International Criminal Court (ICC), Rules of Procedure and Evidence, Rule 70; ICC, Elements of Crimes, Article 7 (1) (g)-1; ICC, *The Prosecutor v Germain Katanga*, Decision on the Confirmation of Charges, ICC-01/04-01/07-717, 30 September 2008, para. 440; Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), Article 36

97 Istanbul Convention, Article 36

98 *Ibid.*

99 Arstein-Kerslake, A. (2015). Understanding sex: The right to legal capacity to consent to sex. *Disability & Society*, 30(10), 1459–1473. <https://doi.org/10.1080/09687599.2015.1116059>; Arstein-Kerslake, A., & Flynn, E. (2016). Legislating consent: Creating an empowering definition of consent to sex that is inclusive of people with cognitive disabilities. *Social & Legal Studies*, 25(2), 225–248. <https://doi.org/10.1177/0964663915599051>

100 CEDAW Committee, *R.P.B. v Philippines* (2014), Communication No. 34/2011, CEDAW/C/57/D/34/2011

2.4.2. How justice actors should assess consent in relation to women with disabilities survivors of sexual violence: Considering surrounding circumstances and coercive environments

The assessment of consent in cases of sexual violence must always be contextual. Both the Hague Principles on Sexual Violence and the Model Rape Law developed by the UN Special Rapporteur on violence against women¹⁰¹ stress that genuine consent must be voluntary, specific, informed, ongoing and free from coercion. They identify a number of factors that may be relevant to determining whether an act was committed without genuine consent, including:

- ◆ An unequal power relationship between the perpetrator and the victim;
- ◆ Vulnerability of the victim, especially when the perpetrator identifies and uses it as a means to assert control or gain advantage;
- ◆ A context of institutionalisation;
- ◆ The perpetrator being in a position of authority;
- ◆ The victim's dependency on the perpetrator (financial, legal, professional, familial, or otherwise);
- ◆ Awareness that the perpetrator has previously used violence against the victim or others to punish non-compliance.

This list is non-exhaustive.

In cases involving women with disabilities survivors of sexual violence, the crucial question is not the survivor's intellectual attributes but the situational context. For example, an individual with a cognitive disability may be able to consent within a supportive and respectful relationship but be unable to do so where coercion, manipulation, or threats are present. Contextual assessment requires particular attention to factors that can undermine free will. These include dependency on the perpetrator (e.g. when the abuser is a caregiver, family member, service provider or authority figure); barriers to communication, such as the absence of accessible formats or interpretation; and structural power imbalances linked

In cases involving women with disabilities **survivors of sexual violence**, the crucial question is not the survivor's intellectual attributes but the **situational context**. For example, an individual with a cognitive disability may be able to consent within a supportive and respectful relationship but be unable to do so where coercion, manipulation, or threats are present.

to age, guardianship, institutionalisation, or control over essential services and benefits. Social isolation and stigma compound these vulnerabilities, often leading survivors to acquiesce out of fear, habit, or lack of alternatives rather than through genuine consent.

Dynamics of abuse in the context of disabilities often involve the perpetrator exploiting the victim's specific impairments to exert control and inflict harm.¹⁰² This can include physical violence, neglect, or restricting mobility and communication, such as withholding communication aids or access to daily necessities such as food or water. Psychological abuse, verbal ridicule and social isolation are also common tactics used to establish dominance over the victim. Such behaviours contribute to an environment of coercion, where sexual violence can be classified as involving psychological or economic violence, as well as exploiting the victim's helplessness.¹⁰³

In practice, assessment of consent requires not asking whether the survivor "passed" a mental-capacity test (for more details, see Section 2.2, "Legal Capacity and the Realisation of Rights"), but rather asking, documenting and analysing questions such as:

- ◆ What was the environment in which the incident occurred?
- ◆ What was the survivor's mode of communication, and what steps did the alleged perpetrator take to ensure that the survivor's consent was informed and voluntary?

¹⁰¹ Women's Initiatives for Gender Justice. (2019). The Hague Principles on Sexual Violence. <https://4genderjustice.org/ftp-files/publications/The-Hague-Principles-on-Sexual-Violence.pdf>, part 5 "Factors affecting whether an act of a sexual nature is committed without genuine, voluntary, specific and ongoing consent"; Report of the Special Rapporteur on violence against women, its causes and consequences, A framework for legislation on rape (model rape law) (2021), A/HRC/47/26/Add.1, Article 6

¹⁰² *Ibid.*

¹⁰³ CRPD Committee, General comment No. 3 (2016), CRPD/C/GC/3, para. 31



Credit: Nursultan Abakirov/Unsplash

- ◆ What was the relationship between the parties, and were there dependencies or power imbalances?
- ◆ Were there indicators of pressure, threats, grooming, or undue influence?
- ◆ What supports, if any, were available to enable the survivor to express her will and preferences, including in specific circumstances and taking into account various scenarios of vulnerability?
- ◆ What occurred before, during and after the incident?


Consent must always be voluntary and assessed in context; it cannot be presumed from a verbal “yes,” apparent submission, or the absence of resistance or injury when it is given under conditions of fear, dependency, pressure, or other coercive circumstances. A contextual approach, grounded in international human rights and criminal law, requires recognising situations in which women with disabilities may appear to have consent while, in reality, having no genuine choice, and that such circumstances must be understood as involving coercion.

Women with disabilities in institutional care facilities face heightened risks of abuse.¹⁰⁴ In psychiatric hospitals, residential care homes, or other closed settings, the imbalance of power between staff and residents is extreme. Survivors may be unable to report abuse due to communication barriers, fear of retaliation, or lack of external oversight. Societal stigma also contributes to disbelief of their testimonies, further silencing victims.

The CRPD Committee’s 2022 Guidelines on Deinstitutionalisation state that “institutionalisation is a discriminatory practice against persons with disabilities, contrary to Article 5 of the Convention. It involves the de facto denial of the legal capacity of persons with disabilities, in breach of Article 12. It constitutes detention and deprivation of liberty based on impairment, contrary to Article 14. States parties should recognise institutionalisation as a form of violence against persons with disabilities”.¹⁰⁵ The impact of deprivation of liberty is therefore crucial to consider when assessing whether consent was truly voluntary.

104 CRPD Committee, General comment No. 5 (2017), CRPD/C/GC/5, paras. 72 and 83

105 CRPD Committee, Guidelines on deinstitutionalization, including in emergencies (2022), CRPD/C/5, para. 6



3. National legal and institutional frameworks on disability and sexual violence

Credit: Lira Asylbek

3.1. Ratification of international treaties addressing sexual violence against women with disabilities

All three countries – Kazakhstan, Kyrgyzstan, and Uzbekistan – have ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD).

In addition, Kazakhstan and Kyrgyzstan have ratified the Optional Protocol to the CEDAW, which allows submission of complaints to the CEDAW Committee regarding alleged violations of rights under the CEDAW, thereby providing an additional avenue for accountability and redress. Uzbekistan has not ratified the Optional Protocol to the CEDAW, although the CEDAW Committee encourages Uzbekistan to do so.¹⁰⁶ In addition, during its most recent Universal Periodic Review (UPR), Uzbekistan received a

recommendation to ratify the Optional Protocol to the CEDAW, which the Government accepted.¹⁰⁷

In 2023, Kazakhstan ratified the Optional Protocol to the CRPD, making it the only one among the three countries examined in this report to have done so. This development is particularly significant, as it enables individuals and groups in Kazakhstan to submit complaints to the CRPD Committee regarding alleged violations of their rights under the CRPD, thereby strengthening available remedies. Kyrgyzstan, and Uzbekistan have not ratified the Optional Protocol to the CRPD; however, both States accepted recommendations to do so during their UPRs.¹⁰⁸ In addition, following her country visit in 2024, the UN Special Rapporteur on the rights of persons with disabilities recommended that Kyrgyzstan ratify the Optional Protocol to the CRPD.¹⁰⁹

None of the three countries has ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), although all three received and accepted recommendations to do so during their UPRs.¹¹⁰

¹⁰⁶ CEDAW Committee, Concluding observations on the sixth periodic report of Uzbekistan (2022), CEDAW/C/UZB/CO/6, para. 43

¹⁰⁷ Human Rights Council, Report of the Working Group on the Universal Periodic Review – Uzbekistan (2023), A/HRC/55/8, para. 135.15

¹⁰⁸ Human Rights Council, Report of the Working Group on the Universal Periodic Review – Uzbekistan (2023), A/HRC/55/8, para. 135.21; Human Rights Council, Report of the Working Group on the Universal Periodic Review – Kyrgyzstan (2025), A/HRC/60/4/Add.1, para. 6 (in relation to recommendation 140.13)

¹⁰⁹ Report of the Special Rapporteur on the rights of persons with disabilities, Heba Hagrass, on her visit to Kyrgyzstan (2025), A/HRC/58/56/Add.1, para. 99(a)

¹¹⁰ Human Rights Council, Report of the Working Group on the Universal Periodic Review – Uzbekistan (2023), A/HRC/55/8, para. 135.27; Human Rights Council, Report of the Working Group on the Universal Periodic Review – Kyrgyzstan (2025), A/HRC/60/4/Add.1, para. 6 (in relation to recommendation 140.8); Human Rights Council, Report of the Working Group on the Universal Periodic Review – Kazakhstan (2025), A/HRC/59/10/Add.1

3.2. National approaches to disability: Legal concepts and institutional responses

Kazakhstan

Kazakhstan's legal system formally guarantees equality and prohibits discrimination, including on the basis of disability. Article 14 of the 1995 Constitution¹¹¹ guarantees equality before the law and expressly forbids discrimination, including on the grounds of sex and “any other circumstances”, while disability is not specifically mentioned. However, the Supreme Court and Constitutional Court have clarified that these grounds encompass disability.¹¹² While Kazakhstan has adopted the Law on State Guarantees of Equal Rights and Equal Opportunities for Men and Women (2009)¹¹³ and the new Social Code (explained below) contains references to non-discrimination, these instruments do not amount to a comprehensive anti-discrimination act.

The UN Human Rights Committee, in its Concluding observations on the third periodic report of Kazakhstan (July 2025), stated that it “remains concerned about the absence of comprehensive anti-discrimination legislation that prohibits discrimination on all grounds protected by the Covenant, including on the basis of disability, ethnicity, age, sex, sexual orientation and gender identity”¹¹⁴ and recommended Kazakhstan to remedy it “without delay”.¹¹⁵

In 2023, Kazakhstan adopted a new Social Code¹¹⁶ that reaffirmed the State's obligations towards persons with disabilities and introduced guarantees of non-discrimination in the sphere of social protection (Articles 3–4). These provisions refer to principles such as inclusion,

equality, participation and non-discrimination. However, these principles remain largely declarative and are not fully embedded in the operative parts of the Code.

Crucially, the legal definition of disability remains grounded in a medical model. The Social Code defines disability as:

“the degree of limitation of a person's vital activity resulting from a health impairment accompanied by a persistent impairment of the functions of the body”.¹¹⁷

A person with a disability is described as:

“A person with an impairment of health involving a persistent dysfunction of body functions, caused by diseases, injuries (wounds, traumas, concussions), their consequences or defects, resulting in a limitation of vital activity and requiring social protection”.¹¹⁸

Rights and benefits continue to be granted based on diagnosis, degree of functional limitation and categorisation through medical and social expertise. Although the Code symbolically signals a shift toward a rights-based approach, it continues in practice to entrench a medical and “charity”-oriented model of disability.

There have also been some institutional developments. In 2023, the Council on Inclusion under the Senate¹¹⁹ and the Parliamentary Group for an Inclusive Parliament¹²⁰ were established to guide legislative efforts aimed at advancing the rights of persons with disabilities. That same year, the Office of the Commissioner for the Rights of Socially Vulnerable Groups was created under the President of the Republic of Kazakhstan,¹²¹ with a mandate that includes

111 Constitution of the Republic of Kazakhstan, available at: https://www.akorda.kz/ru/official_documents/constitution#

112 For example, see Regulatory Resolution of the Constitutional Court of the Republic of Kazakhstan No. 66-NP of 7 February 2025, available at: <https://www.gov.kz/memleket/entities/ksrk/documents/details/795361?lang=ru>

113 Law of the Republic of Kazakhstan No. 223-IV of 8 December 2009 “On State Guarantees of Equal Rights and Equal Opportunities for Men and Women”, available at: https://adilet.zan.kz/rus/docs/Z090000223_/z090223.htm

114 CCPR, Concluding observations on the third periodic report of Kazakhstan (2025), CCPR/C/KAZ/CO/3, para. 11

115 *Ibid.*, para. 12

116 Code of the Republic of Kazakhstan No. 224-VII of 20 April 2023 “Social Code of the Republic of Kazakhstan”, available at: <https://adilet.zan.kz/rus/docs/K2300000224>

117 *Ibid.*, Article 1(105)

118 *Ibid.*, Article 1(106)

119 Regulation on the Council on Inclusion under the Senate of the Parliament of the Republic of Kazakhstan, approved by Resolution of the Bureau of the Senate of the Parliament of the Republic of Kazakhstan No. 60-VIII BS of 23 October 2023, available at: <https://senate.parlam.kz/storage/25acd276ce14472f92d5ade523cf41f6.pdf>; See also Senate of the Parliament of the Republic of Kazakhstan. Composition of the Council on Inclusion. <https://senate.parlam.kz/ru-RU/inclusionadvice/members>

120 Eurasian Association for the Development of an Inclusive Society. A parliamentary group “Inclusive Parliament” has been established under the Mazhilis of the Parliament of the Republic of Kazakhstan. <https://ru.inclusia.kz/2023/10/10/создана-депутатская-группа-при-мажил/>

121 Decree of the President of the Republic of Kazakhstan No. 154 of 28 March 2023 “On the Establishment of the Institution of the Commissioner for the Rights of Socially Vulnerable Groups under the President of the Republic of Kazakhstan”, available at: <https://adilet.zan.kz/rus/docs/U2300000154>

monitoring the implementation of disability rights.

However, despite these advances, serious gaps remain. Most notably, the issue of violence against women and girls with disabilities has not been meaningfully addressed within existing institutional frameworks. According to experts contributing to this report, neither the Council on Inclusion nor the Parliamentary Group for Inclusive Parliament has addressed these issues to date, and although the Commissioner for the Rights of Socially Vulnerable Groups formally has the authority to act in this area, no targeted measures or monitoring efforts have been undertaken.

The Inclusive Policy Concept for 2025–2030, adopted by Government Decree No. 1143 of 30 December 2024,¹²² acknowledges some of these shortcomings. It explicitly recognises that the traditional (charity-based) and medical (impairment-based) models of disability continue to dominate public consciousness in Kazakhstan and fall short of both public expectations and international standards.¹²³ The Concept states that the forthcoming State policy will be based on a social and legal model of disability and will prioritise the elimination of barriers and the creation of inclusive environments.¹²⁴ While it briefly mentions that particular attention will be given to the protection of women and children with disabilities from all forms of discrimination, it so far lacks any concrete measures to address gender-based or sexual violence.

Kyrgyzstan

Kyrgyzstan has taken important steps to formally recognise the rights of persons with disabilities. However, gaps remain in ensuring compliance with international human rights standards, particularly those of the CRPD, which the country ratified in 2019.

Article 24 of the 2021 Constitution explicitly prohibits discrimination on various grounds, including on the basis of sex and disability.¹²⁵ As in Kazakhstan, the Kyrgyz Republic has adopted the Law of 4 August 2008 No. 184 on State Guarantees of Equal Rights and Equal Opportunities for Men and Women.¹²⁶ Nevertheless, Kyrgyzstan, like Kazakhstan, still lacks a comprehensive anti-discrimination law that would ensure consistent legal protections across all sectors and explicitly recognise multiple and intersecting forms of discrimination, as highlighted by the UN Committee on Economic, Social and Cultural Rights in its Concluding observations on the fourth periodic report of Kyrgyzstan,¹²⁷ including those faced by women and girls with disabilities.

The national legal framework on disability has been based on the 2008 Law on the Rights and Guarantees of Persons with Limited Health Functions,¹²⁸ which adopts a predominantly medical and charity-based model. Disability is defined as:

“a socio-legal status established by a competent state authority in accordance with the procedure prescribed by law, which implies that a person has persistent physical, mental, or intellectual impairments. Depending on the degree of such impairments, persons are assigned disability groups I, II, or III”.¹²⁹

122 Resolution of the Government of the Republic of Kazakhstan No. 1143 of 30 December 2024 “On the Approval of the Concept of Inclusive Policy in the Republic of Kazakhstan for 2025–2030”, available at: <https://adilet.zan.kz/rus/docs/P2400001143>

123 Concept of Inclusive Policy in the Republic of Kazakhstan for 2025–2030, Section 2, para. 4

124 *Ibid.*, Section 2, para. 5

125 Constitution of the Kyrgyz Republic (Enacted by the Law of the Kyrgyz Republic of 5 May 2021), available at: <https://cbd.minjust.gov.kg/1-2/edition/1202952/ru>

126 Law of the Kyrgyz Republic No. 184 of 4 August 2008 “On State Guarantees of Equal Rights and Equal Opportunities for Men and Women”, available at: <https://cbd.minjust.gov.kg/202398/edition/382698/ru>

127 Committee on Economic, Social and Cultural Rights, Concluding observations on the fourth periodic report of Kyrgyzstan (2024), E/C.12/KGZ/CO/4, paras. 20–21

128 Law of the Kyrgyz Republic No. 38 of 3 April 2008 “On the Rights and Guarantees of Persons with Disabilities”, available at: <https://cbd.minjust.gov.kg/4-3760/edition/805556/ru>

129 *Ibid.*, Article 1

A person with a disability is described as:

“a person who has a health impairment with a persistent dysfunction of bodily functions, caused by diseases, consequences of injuries, or defects, which leads to a limitation of vital activities and necessitates their social protection and rehabilitation”.¹³⁰

A significant legal development occurred in June 2025, when a new draft Law on the Rights of Persons with Disabilities passed its third and final reading in Parliament.¹³¹ The Law was signed by the President on 11 August 2025¹³² and entered into force on 13 November 2025.¹³³ The Law formally adopts a social and rights-based model of disability, departing from the purely medical approach enshrined in previous laws. Article 1(7) defines disability as:

“a condition arising from long-term physical, mental, intellectual, or sensory impairments which, in interaction with various barriers in the environment, hinder a person’s full and equal participation in society”.

The Law also introduces core CRPD-aligned concepts, including reasonable accommodation,¹³⁴ universal design,¹³⁵ assistive technologies,¹³⁶ participation and inclusion,¹³⁷ and the recognition of persons with disabilities as rights-holders.¹³⁸

Despite this progress, important gaps remain. Disability status will continue to be determined through medical-social examination, and access to rights and services will still remain dependent on diagnosis, impairment severity and assignment to a disability group (I, II, III). The Law also does not introduce a framework for supported decision-making, leaving persons with psychosocial or

intellectual disabilities without the legal tools to exercise their legal capacity on an equal basis with others, as required under Article 12 of the CRPD. If effectively implemented, the new legislation could bring Kyrgyzstan significantly closer to compliance with CRPD standards. However, its transformative potential will depend on concrete institutional and further legal reforms, adequate resource allocation and sustained political commitment.

At the institutional level, in February 2023, the government launched the Accessible Country state programme, aimed at improving equal access to infrastructure and public services for persons with disabilities by 2030.¹³⁹ The Disability Affairs Council, under the Cabinet of Ministers, serves as a consultative platform that includes persons with disabilities and representatives from civil society. At the Council’s 18th session, held in Bishkek on 2 July 2025, Deputy Chairperson E. Zh. Baisalov specifically drew attention to the issue of violence against women and girls with disabilities, stating that the State has a duty to provide them with legal protection and support.¹⁴⁰ However, no targeted comprehensive strategy or action plan has yet been developed to address this issue.

Kyrgyzstan also has an Akyikatchy (Ombudsman) and a Commissioner for the Rights of the Child, both of whom are mandated to monitor the rights of vulnerable groups, including persons with disabilities. Both institutions have expressed growing interest in this issue and have committed to further exploring ways to improve protection mechanisms for women and girls with disabilities.

¹³⁰ *Ibid.*

¹³¹ Jogorku Kenesh of the Kyrgyz Republic. On the Draft Law “On the Rights and Guarantees of Persons with Disabilities”. <https://kenesh.kg/bills/660975>

¹³² Official Website of the President of the Kyrgyz Republic. (2025, August 11). The Law “On the Rights and Guarantees of Persons with Disabilities” has been signed. <https://president.kg/ru/news/24/39447>

¹³³ Law of the Kyrgyz Republic No. 191 of 8 August 2025 “On the Rights and Guarantees of Persons with Disabilities”, available at: <https://cbd.minjust.gov.kg/4-5633/edition/36287/ru>

¹³⁴ *Ibid.*, Article 1(16)

¹³⁵ *Ibid.*, Article 1(25)

¹³⁶ *Ibid.*, Article 1(23)

¹³⁷ *Ibid.*, Articles 2-3

¹³⁸ *Ibid.*

¹³⁹ State Programme “Accessible Country” for Persons with Disabilities and Other Low-Mobility Groups in the Kyrgyz Republic for 2023–2030 (Appendix 1 to Resolution of the Cabinet of Ministers of the Kyrgyz Republic No. 69 of 10 February 2023), available at: <https://cbd.minjust.gov.kg/53-323/edition/1237354/ru>

¹⁴⁰ Ministry of Labour, Social Security and Migration of the Kyrgyz Republic. (2025, July 2). The 18th meeting of the Council for the Affairs of Persons with Disabilities under the Cabinet of Ministers of the Kyrgyz Republic was held in Bishkek. <https://mlsp.gov.kg/ru/2025/07/02/v-bishkeke-proshlo-18-e-zasedanie-soveta-po-delam-invalidov-pri-kabinete-ministrov-kr/>

Uzbekistan

Uzbekistan has made formal commitments to promoting equality and protecting the rights of persons with disabilities through its Constitution and dedicated legislation. Notably, Article 57 of the 2023 Constitution explicitly includes provisions affirming the rights of persons with disabilities and the State's obligation to create conditions for their full participation in society.¹⁴¹

The main national framework is the Law of the Republic of Uzbekistan “On the Rights of Persons with Disabilities”,¹⁴² a law designed to regulate relations concerning the protection and promotion of the rights of persons with disabilities. The Law was intended to incorporate the principles of the social model of disability, as reflected in the Convention on the Rights of Persons with Disabilities. However, as will be demonstrated below, its wording does not fully align with that model.

The following key provisions demonstrate alignment with the CRPD: Article 4 of the Law explicitly established principles that reflect the social model of disability, including: respect for the dignity, autonomy and freedom of choice of persons with disabilities; non-discrimination; equal opportunities in the exercise of rights and freedoms; accessibility of facilities and services; and the inclusion of persons with disabilities in all aspects of social and public life.¹⁴³

Article 3 defines a person with disability as:

“A person with persistent physical, mental, sensory (perceptual), or psychosocial impairments who requires social assistance and protection, as well as the creation of conditions for full and effective participation on an equal basis with others in the political, economic and social life of society and the State.”

141 Constitution of the Republic of Uzbekistan, available at: <https://lex.uz/docs/6445147>

142 Law of the Republic of Uzbekistan No. ZRU-641 of 15 October 2020 “On the Rights of Persons with Disabilities”, available at: <https://lex.uz/ru/docs/5049549>

143 *Ibid.*, Article 4

This definition attempts to align with Article 1 of the CRPD. However, unlike the CRPD, it does not include reference to impairments, ‘which in interaction with various barriers may hinder participation’, thereby shifting the focus away from societal barriers. Instead, the emphasis on ‘requiring social assistance and protection’ could lead to a continued reliance on medical and charity-based approaches.

The Law also explicitly defines disability-based discrimination as:

“Any distinction, exclusion, restriction, or limitation on the basis of disability that has the purpose or effect of denying the recognition or realisation of the rights and freedoms of persons with disabilities on an equal basis with others in political, economic, social, cultural, civil, or other spheres.”¹⁴⁴

In September 2024, the Law was amended to introduce the concept of reasonable accommodation, now defined as:

“Making appropriate adjustments in a specific case to ensure that persons with disabilities can exercise their human rights and freedoms on an equal basis with others.”¹⁴⁵

These provisions represent a significant step towards harmonising national legislation with the CRPD, which Uzbekistan ratified in 2009. However, despite these advancements, the overall legal and policy framework remains largely shaped by the medical and charity-based models of disability.

The 2020 Law “On the Rights of Persons with Disabilities”, State policy and institutional practice continue to reflect medical and paternalistic models. Disability determination remains grounded in the medical model; decisions on disability status and group assignment are made by the Medical and Social Expert Commission, primarily based on medical diagnoses and assessments of work capacity loss. The key focus is on functional limitations and clinical conditions, rather than on societal barriers. Consequently, the disability determination system is mostly rooted in the medical model, despite the language of the law.

“Despite the Government’s commitments under... the CRPD, in Uzbekistan, people with disabilities are only half as likely as those without disabilities to report that they are able to exercise their rights freely. At present, legislation does not provide adequate protection of persons with disabilities from discrimination and, in some cases, contributes to their segregation. Mental and intellectual disabilities are commonly cited as grounds for restricting or removing legal capacity.”

From an interview with a judge, Uzbekistan

Guardianship and legal capacity practices remain based on substituted decision-making rather than supported decision-making, as will be demonstrated in the next section.

There are no provisions in the current legislation specifically and comprehensively addressing gender-based violence against women and girls with disabilities, nor are there measures ensuring their equal access to sexual and reproductive health services. Local experts report that many women and girls with disabilities lack access to information about their reproductive rights and face discriminatory or dismissive attitudes from healthcare providers. They also highlight unmet needs in preventing and responding to sexual, physical and psychological violence, particularly within the family.

At the institutional level, the Council on the Affairs of Persons with Disabilities, under the Cabinet of Ministers, includes persons with disabilities and civil society representatives. While this is a positive step toward inclusive governance, the Council has not yet addressed gender-based violence or adopted targeted measures for women and girls with disabilities.

Uzbekistan also has a Commissioner for Human Rights (Ombudsperson) and a Commissioner for Children’s Rights. However, according to the experts consulted for this report, neither institution systematically monitors nor addresses violence against girls with disabilities and no specific initiatives have been undertaken to respond to their needs.

144 *Ibid.*, Article 3

145 *Ibid.*, Article 3, as amended by the Law of the Republic of Uzbekistan No. ZRU-955 of 5 September 2024 “On Amendments and Additions to the Law of the Republic of Uzbekistan ‘On the Rights of Persons with Disabilities’”, available at: <https://lex.uz/ru/docs/7093727?ONDATE=09.09.2024%2000#7093847>

3.3. Legal capacity and the continued use of guardianship

The recognition and exercise of legal capacity is important to ensuring equal access to justice for persons with disabilities, including survivors of sexual violence. Article 12 of the UN Convention on the Rights of Persons with Disabilities requires States to recognise that persons with disabilities enjoy legal capacity on an equal basis with others in all areas of life and to replace substituted decision-making regimes with systems of supported decision-making that respect the individual's will and preferences¹⁴⁶ (see Section 2.2, “Legal Capacity and the Realisation of Rights”).

The CRPD Committee's General comment No. 1 explains that legal capacity consists of two inseparable strands: legal standing (the ability to hold rights and duties) and legal agency (the ability to exercise those rights and duties). In all three countries examined – Kazakhstan, Kyrgyzstan, and Uzbekistan – legal standing is recognised equally for all individuals from the moment of birth and ceases upon death (Articles 13, 52 and 17 of the Civil Codes of Kazakhstan, Kyrgyzstan and Uzbekistan, respectively). However, a person can be deprived of legal capacity in the legal agency strand by a court decision, and guardianship remains legally permitted and widely applied, particularly to individuals with psychosocial or intellectual disabilities. Supported decision-making mechanisms are either entirely absent or not implemented in practice.

Kazakhstan

Kazakhstan's Civil Code (Article 26(1)) allows for deprivation of legal capacity:

“A citizen who, due to a mental illness or intellectual disability, is unable to understand the meaning of his or her actions or to control them, may be declared legally incapacitated by a court, as a result of which guardianship is established over him or her.”¹⁴⁷

146 CRPD Committee, General comment No. 1, CRPD/C/GC/1, para. 3

147 Code of the Republic of Kazakhstan No. 268-XIII of 27 December 1994 “Civil Code of the Republic of Kazakhstan”, available at: <https://adilet.zan.kz/rus/docs/K940001000>

148 CRPD Committee, Concluding observations on the initial report of Kazakhstan (2024), CRPD/C/KAZ/CO/1, para. 27

149 Amnesty International. (2018, October 12). “We are like dead souls” : Life without legal capacity in Kazakhstan. <https://www.amnesty.org/en/documents/eur57/9164/2018/en/>, p. 11

150 CRPD Committee, Concluding observations on the initial report of Kazakhstan (2024), CRPD/C/KAZ/CO/1, para. 28(a)

151 Code of the Kyrgyz Republic “Civil Code of the Kyrgyz Republic (Part I)” No. 15 of 8 May 1996, available at: <https://cbd.minjust.gov.kg/3-1/edition/1263361/ru>

152 Jogorku Kenesh of the Kyrgyz Republic. Starting from 21 January 2025, the Draft Law “On Amendments to Part One of the Civil Code of the Kyrgyz Republic and the Civil Procedure Code of the Kyrgyz Republic” is submitted for public discussion. <https://kenesh.kg/ru/bills/public/3652>

Once declared legally incapacitated, there are legal restrictions for persons with disabilities under guardianship to request reviews of judicial decisions concerning their guardianship and to regain legal capacity.¹⁴⁸ Although the law allows for legal capacity to be restored if the underlying conditions change, the process is rare and inaccessible: In 2018, Amnesty International reported that between 2014 and 1 April 2018, only 14 individuals had their legal capacity restored, while at least 16,000 people had been deprived of legal capacity in Kazakhstan.¹⁴⁹

The CRPD Committee has found Kazakhstan non-compliant with Article 12 and recommended initiation of a comprehensive legislative reform aimed at recognising the legal capacity of all persons with disabilities, abolishing guardianship enshrined in the Civil Code and replacing it with supported decision-making measures that guarantee the autonomy, will and preference of persons with disabilities.¹⁵⁰

Kyrgyzstan

Under Article 64(1) of the Civil Code of Kyrgyzstan:

“A citizen who, due to a mental disorder, is unable to understand the meaning of his or her actions or to control them, may be declared legally incapacitated by a court and guardianship shall be established.”¹⁵¹

While the law provides for restoration of legal capacity if the grounds for incapacity no longer exist, only a guardian, not the person concerned, may initiate this process, making restoration difficult in practice.

In 2025, Member of Parliament Dastan Bekeshev introduced a draft amendment that legal capacity be automatically restored three years after a court decision declaring a person incapacitated, without the need to overturn the original ruling. The amendment also affirms that individuals declared incapacitated have the right to petition the court for the restoration of their legal capacity, either personally or through a representative.¹⁵² This legislative initiative aims to reduce lifelong deprivation of rights and abuse of guardianship powers, but the draft has

not yet been adopted.¹⁵³

As of October 2025, the CRPD Committee had not yet reviewed Kyrgyzstan's initial report,¹⁵⁴ but based on existing legislation, the country would likely be found non-compliant with Article 12. Kyrgyzstan currently lacks both supported decision-making frameworks and safeguards against the abuse of guardianship powers.

The UN Special Rapporteur on the rights of persons with disabilities conducted a country visit to Kyrgyzstan in 2024. In her subsequent report, she recommended that Kyrgyzstan: repeal the provisions of the Civil Code and Civil Procedure Code on the incapacitation of adults and abolish the guardianship regime for persons with disabilities; and recognise by law the full legal capacity of persons with disabilities in all aspects of life, including the right of persons with disabilities to enjoy support in the exercise of their legal capacities if they so wish.¹⁵⁵

Uzbekistan

Uzbekistan's Civil Code (Article 30) permits deprivation of legal capacity for persons with psychosocial disabilities:

“A person who, due to a mental disorder (mental illness or intellectual disability) is unable to understand the meaning of their actions or to control them may be declared legally incapacitated by a court in accordance with the procedure established by law and shall be placed under guardianship.”¹⁵⁶

There are no accessible or routine mechanisms for appealing guardianship decisions or restoring legal capacity. As of 2021, there were no known cases of legal capacity restoration.¹⁵⁷

Upon ratifying the CRPD in 2021, Uzbekistan entered a reservation to Article 12:

“To the extent Article 12 may be interpreted as requiring the elimination of substitute decision-making arrangements, the Republic of Uzbekistan reserves the right to continue their use for persons with disabilities in appropriate circumstances and subject to appropriate and effective safeguards.”¹⁵⁸

The CRPD Committee has consistently stated that such reservations are incompatible with the object and purpose of the Convention. For example, in its Concluding observations on Canada, the Committee recommended that the State withdraw its declaration under Article 12 and reservation to Article 12 (4) of the Convention.¹⁵⁹ In its latest concluding observations on Uzbekistan, the CEDAW Committee expressed concern that:

“the State party has made a reservation to Article 12 of the recently ratified Convention on the Rights of Persons with Disabilities, preserving substitute decision-making practices, which contradicts the object and purpose of the Convention on the Elimination of All Forms of Discrimination against Women as enshrined in Article 1 and prevents the State party from fully implementing and addressing all human rights of women and girls with disabilities in compliance with the human rights model of disability.”¹⁶⁰

Civil society continues to advocate for the repeal of the reservation and for piloting supported decision-making mechanisms, but there has been no official progress in this direction.

153 Dastan Bekeshev. (2025, June 3). The Parliamentary Committee of the Jogorku Kenesh has reviewed a draft law introducing the automatic restoration of legal capacity three years after a court decision. <https://bekeshev.kg/komitet-zhk-rassmotrel-zakonoproekt-kotoryj-vvodit-avtomaticheskoe-vosstanovlenie-deеспosobnosti-cherez-3-goda-posle-sudebnogo-resheniya/>

154 Initial Report of the Kyrgyz Republic on the Implementation of the UN Convention on the Rights of Persons with Disabilities for the Period 2019–2021, CRPD/C/KGZ/CO/1

155 Report of the Special Rapporteur on the rights of persons with disabilities, Heba Hagrass, on her visit to Kyrgyzstan (2025), A/HRC/58/56/Add.1, para. 100(b)-(c)

156 Civil Code of the Republic of Uzbekistan, available at: <https://lex.uz/docs/111181>

157 UNCT in Uzbekistan. (2022, November). Situational Analysis of the Rights of Persons with Disabilities in Uzbekistan: Country Report. https://globaldisabilityfund.org/new/wp-content/uploads/2023/12/CR_Uzbekistan_2021-635.pdf, p. 17

158 United Nations. Convention on the Rights of Persons with Disabilities. United Nations Treaty Collection. https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtosg_no=iv-15&chapter=4&clang=en

159 CRPD Committee, Concluding observations on the combined second and third periodic reports of Canada (2025), CRPD/C/CAN/CO/2-3, para. 6

160 CEDAW Committee, Concluding observations on the sixth periodic report of Uzbekistan (2022), CEDAW/C/UZB/CO/6, para. 9

3.4. Institutionalisation and its role in enabling violence against women with disabilities

The CRPD is explicit in its opposition to institutionalisation. Article 19 of the CRPD recognises the right of persons with disabilities to live independently and to be included in the community. The CRPD Committee, in its guidelines on deinstitutionalisation, emphasises that institutionalisation of women and girls with disabilities disproportionately exposes them to violence, abuse and exploitation, further exacerbating gender- and disability-based discrimination.¹⁶¹

However, institutionalisation of women and girls with disabilities in Kazakhstan, Kyrgyzstan, and Uzbekistan remains a significant human rights concern, despite international commitments to uphold the rights of persons with disabilities.

In Kazakhstan, **as of the end of 2024, there were 24,825 individuals residing in residential-type institutions providing special social services.**¹⁶² These included 7,012 people in medical and social institutions for elderly persons and persons with disabilities; 11,725 in psychoneurological medical and social institutions; 1,461 in children's psychoneurological institutions; 119 in institutions for children with disabilities with musculoskeletal disorders; and 4,508 in other organisations providing special social services under 24-hour residential conditions.¹⁶³

The CRPD Committee expressed serious concerns about the treatment of persons with disabilities in institutional settings in Kazakhstan. Concerns extend to the administration of medical and mental health treatments without free and informed consent, including coercive measures imposed by court orders. Additional issues include the lack of access to information and

communication technologies, restrictions on contact with relatives, poor sanitary conditions and inadequate privacy protections. Women and girls with disabilities in institutions face heightened risks of gender-based violence, including physical, psychological and sexual abuse, as well as forced sterilisation and abortion.¹⁶⁴

Case study: Reported systemic violations of bodily autonomy and safety of women with disabilities in institutional care – Shymkent, Kazakhstan

In Shymkent, Kazakhstan, a criminal investigation was launched in 2021 following allegations of the rape of a young woman with disabilities at City Residential Facility No. 2 for Persons with Disabilities.¹⁶⁵ The case has drawn attention to broader concerns about potential systemic violations of bodily autonomy and reproductive rights of institutionalised women with disabilities.

According to media reports, the survivor's mother disclosed that her daughter had allegedly been fitted with an intrauterine device (IUD) without her knowledge or consent. A psychologist from the facility reportedly confirmed that this practice was applied to 43 other girls, stating: "If we don't place IUDs, they might get pregnant".¹⁶⁶

Deputy Director Bekbolat Saltaev, cited in press sources, explained that the procedure was carried out pursuant to Ministry of Health Order No. 626, and that IUDs were inserted in women aged 18–49 if medical examinations indicated they were no longer virgins.¹⁶⁷ He further stated that the facility, acting as the residents' legal guardian, could make such decisions without notifying families.¹⁶⁸

Following public attention, the Ministry of Labour and Social Protection conducted an unscheduled audit.¹⁶⁹ According to official statements, the audit

161 CRPD Committee, Guidelines on deinstitutionalization, including in emergencies (2022), CRPD/C/5, para. 42

162 Bureau of National Statistics of the Agency for Strategic Planning and Reforms of the Republic of Kazakhstan. Organizations Providing Special Social Services in the Republic of Kazakhstan (2024). <https://stat.gov.kz/ru/industries/social-statistics/stat-medicine/spreadsheets/>, Section "3. Population Residing in Organizations Providing Special Social Services"

163 *Ibid.*

164 CRPD Committee, Concluding observations on the initial report of Kazakhstan (2024), CRPD/C/KAZ/CO/1, para. 33(d)

165 Orda. (2021, January 25). A young woman with a disability was raped over a period of seven years in Shymkent. <https://orda.kz/po-deluznasilovaniya-podochnoj-v-internat-provedut-proverku/>

166 KazTAG. (2021, January 25). A woman with a disability in Shymkent was deceived into having an IUD inserted, and instances of her rape have been confirmed. <https://kaztag.kz/ru/news/devushke-invalidu-v-shymkente-obmanom-postavili-spiral-podtverzhdeny-fakty-ee-iznasilovaniy>

167 TENGRI NEWS. (2021, January 25). Deputy director of a boarding school in Shymkent commented on the case of rape of a patient. <https://tengrinews.kz/crime/zamdirektora-internata-shymkente-prokomentiroval-delo-426965/>

168 *Ibid.*

169 Ministry of Labour and Social Protection of Population of the Republic of Kazakhstan. (2021, February 18). Numerous violations identified at the Special Social Services Center No. 2 in Shymkent. <https://www.gov.kz/memleket/entities/enbek/press/news/details/162201?lang=ru>

confirmed the provision of poor-quality social services, which led to the resignation of the director. However, the issue of sexual abuse was not addressed in the published findings.¹⁷⁰

Key concerns:

- ◆ Reports of **invasive “virginity testing”** without consent, used as a basis for imposing contraception.
- ◆ Allegations of **forced medical interventions** on women with disabilities, such as non-consensual insertion of IUDs.
- ◆ **The use of IUDs may risk concealing evidence of sexual violence** by preventing pregnancies resulting from rape, thereby heightening the risk of ongoing abuse rather than preventing it.
- ◆ Persistent **lack of discussion and transparency around sexual violence and exploitation risks** in closed residential facilities.

Core problem:

The institutional focus appeared to be on preventing pregnancy, rather than preventing abuse. Placing IUDs without consent constitutes forced contraception, a form of gender-based

violence that can amount to inhuman and degrading treatment under international law.¹⁷¹ Alongside forced sterilisation and forced abortion, such practices are recognised as specific violations that disproportionately affect women with disabilities, especially those with intellectual or psychosocial disabilities and those in institutional settings.¹⁷²

By failing to investigate the conditions that make such pregnancies possible in a setting that should provide safety and care, the authorities implicitly treat the risk of sexual violence against women with disabilities as inevitable.

In Kyrgyzstan, women and girls in psychiatric and psychoneurological institutions, social care homes and other residential facilities are at heightened risk of sexual violence, with significant barriers to reporting abuse due to institutional power imbalances and a lack of **supportive procedures**.¹⁷³ The National Preventive Mechanism’s reports reveal poor living conditions and inadequate documentation of abuse, which hampers accountability.¹⁷⁴

As of 2022, there were 16 residential social service institutions operating under the Ministry of Labour, Social Protection and Migration, accommodating a total of **2,242 residents**. Among them were 519 elderly persons and adults with disabilities, 1,291 adults with psychoneurological diagnoses and 432 children.¹⁷⁵ In 2021, **1,140 of these residents were women with disabilities**, including 158 girls.¹⁷⁶

170 *Ibid.*

171 CRPD Committee, General comment No. 3 (2016), CRPD/C/GC/3, para. 32; CEDAW Committee, General recommendation No. 35 (2017), CEDAW/C/GC/35, para. 18

172 CRPD Committee, General comment No. 3 (2016), CRPD/C/GC/3, para. 53; OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO. (2014). Eliminating forced, coercive and otherwise involuntary sterilization: an interagency statement. <https://iris.who.int/server/api/core/bitstreams/f32e6f52-8cd4-45a5-8b19-6aecd9c71575/content>, p. 5

173 Equality Now, The ‘Human Rights Movement, Bir Duino-Kyrgyzstan’, & Positive Dialogue. (2024, June 20). Information on the List of Issues Prior to Reporting for Kyrgyzstan for Consideration by the Committee Against Torture at its 81st Session (28 Oct - 22 Nov 2024). <https://equalitynow.org/resource/submissions/kyrgyzstan-information-for-consideration-by-the-committee-against-torture-at-its-81st-session-june-2024/>, p. 8

174 For example, National Center of the Kyrgyz Republic for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Report for 2023. <https://npm.kg/wp-content/uploads/2024/03/NTSPP-ED-2023.pdf>; National Center of the Kyrgyz Republic for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (2019). Respect for the Rights of Service Users in Social Residential Institutions of the Ministry of Labour and Social Development of the Kyrgyz Republic: Report on the Results of a Special Study. <https://npm.kg/wp-content/uploads/2017/03/Soblyudeniye-prav-polzovatelej-uslug-v-sotsialnyh-statsionarnyh-uchrezhdeniyah-Ministerstva-truda-i-sotsialnogo-razvitiya-KR.pdf>; National Center of the Kyrgyz Republic for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. (2019). Respect for the Rights of Patients in Psychiatric Inpatient Facilities of the Ministry of Health of the Kyrgyz Republic: Report on the Results of a Special Study. <https://npm.kg/wp-content/uploads/2017/03/Spetsdoklad-po-soblyudenyu-prav-cheloveka-v-psihiatricheskih-uchrezhdeniyah-Ministerstva-zdravoohraneniya-KR-2019.pdf>

175 Ministry of Labour, Social Security and Migration of the Kyrgyz Republic. (2022, November 10). Residential Care Homes Are Ready for the Winter Season. <https://mlsp.gov.kg/ru/2022/11/10/doma-internaty-gotovy-k-zimnemu-periodu/>

176 Initial Report of the Kyrgyz Republic on the Implementation of the UN Convention on the Rights of Persons with Disabilities for the Period 2019–2021, CRPD/C/KGZ/1

Following her country visit in 2024, the UN Special Rapporteur on the rights of persons with disabilities expressed concern that “there is no strategy on deinstitutionalisation in Kyrgyzstan and discussions on the matter seem to be minimal”.¹⁷⁷ She recommended that Kyrgyzstan: (a) adopt a comprehensive strategy to phase out residential care institutions for persons with disabilities, with concrete timelines and indicators; and (b) urgently investigate reports about conditions and practices in residential care institutions that could amount to cruel, inhumane or degrading treatment, impose appropriate sanctions and provide effective remedies to victims.¹⁷⁸

In Uzbekistan, the institutionalisation of persons with disabilities, particularly women and girls, is a critical issue. According to the initial report submitted by Uzbekistan under article 35 of the CRPD in August of 2023, the number of persons with disabilities permanently residing in the Sakovat and Muruvvat residential care homes was **9,527**.¹⁷⁹

The approach used in all these institutions is medical in nature, giving rise to multiple forms of extreme social isolation. The deinstitutionalisation of children or adults with disabilities is not a national priority recognised in current laws, strategies or other policy documents.¹⁸⁰

Case study: How institutional and societal pressures silenced a survivor of sexual violence in Uzbekistan

In 2005, a 16-year-old girl with a hearing and speech disability in Uzbekistan became a victim of sexual violence at the hands of a 17-year-old boy attending the same specialised boarding school for children with hearing and speech disabilities. In 2023, the survivor shared her experience of enduring coercion, threats and sexual violence, followed by societal and institutional actions that prioritised reputation over justice:

“There was harassment from his side and violent, repeated sexual acts against my wishes. There were also threats from him that if I told my parents, he would disgrace me in front of the whole school, so I was afraid and didn’t tell anyone.”

“There was no report of a crime. After several violent sexual acts, I felt sick, and my parents took me to the doctor, where it was said that I was pregnant. My parents, along with the school principal, made a mutual decision to avoid tarnishing the school’s reputation, which ultimately led to our marriage. Since I was a minor, I did not know that acts of sexual violence had been committed and did not know from whom to get help. I was unable to report the crime to the law enforcement authorities. We were also not allowed out of school without the presence of our parents/guardians.”

177 Report of the Special Rapporteur on the rights of persons with disabilities, Heba Hagrass, on her visit to Kyrgyzstan (2025), A/HRC/58/56/Add.1, para. 52

178 *Ibid.*, para. 104

179 Initial report submitted by Uzbekistan under article 35 of the Convention, due in 2023, CRPD/C/UZB/1, para. 248

180 World Bank. (2023, January). Technical guidance on the implementation of the Convention on the Rights of Persons with Disabilities. <https://documents1.worldbank.org/curated/en/099052223112035849/pdf/P1783520faee9f09d0a46307d56768f9126.pdf>, p. 16

3.5. Criminal law provisions on sexual violence and their incompatibility with international human rights standards

“The investigators argued that, since there were no signs of physical violence, the girl had engaged in sexual activity voluntarily, making it difficult to prove otherwise in court. ... [Investigative actions] were conducted without consideration of her disability or specific needs. As a result, she struggled to understand some of the questions, yet no efforts were made to accommodate or support her during this process.”

Ultimately, the case was closed without reaching trial.

From an interview with a lawyer, Kazakhstan

3.5.1. Failure to introduce a consent-based definition of rape

The case provided above encapsulates the structural problems that run through all three legal systems examined in this report: force-based and other limited definitions of rape, over-reliance on evidence of physical injuries and biological proof, and a near-complete disregard for disability-related barriers to giving evidence.

As noted in Section 2.4, “Understanding Consent in the Context of Intellectual and Psychosocial Disabilities”, international human rights standards require a consent-based definition of rape. The sexual violence provisions in the criminal codes of Kazakhstan, Kyrgyzstan, and Uzbekistan, analysed below, fall well short of international standards and detrimentally affect survivors’ rights to justice and protection. Instead of protecting victims, the present provisions facilitate perpetrators’ impunity.

The sexual violence provisions in the criminal codes of Kazakhstan, Kyrgyzstan, and Uzbekistan, analysed below, fall well short of international standards and detrimentally affect survivors’ rights to **justice and protection.**

The CEDAW Committee has explicitly called on all three States to amend their Criminal Codes accordingly:

- ◆ **Kazakhstan** – “Revise article 109 of the Criminal Code to base the definition of rape on the absence of consent and align it with the Convention and the Committee’s jurisprudence under the Optional Protocol”.¹⁸¹
- ◆ **Kyrgyzstan** – “Adopt a definition of rape (article 161) based on lack of free consent that protects all women from rape”.¹⁸²
- ◆ **Uzbekistan** – “Amend its legislation to base the definition of rape on lack of consent rather than the use or threat of force”.¹⁸³

However, as subsequent sections show, the current provisions remain force-based. The problem is compounded by the excessive formalism of investigators, prosecutors and judges in interpreting existing sexual violence provisions and becomes even more acute for women and girls with disabilities, especially in relation to consent and recognition of coercive environments.

3.5.2. Existing legal definitions and their limitations

The criminal codes of the three countries criminalise three main types of sexual violence: rape, assault of a sexual nature, and compulsion or coercion into sexual intercourse or acts of a sexual nature. None of the definitions is consent-based. The constituent elements of the definitions of rape in the Criminal Codes of Kazakhstan, Kyrgyzstan, and Uzbekistan are violence, threat of violence, or abuse of the helpless condition of the victim.

The way these provisions are defined and enforced primarily relies on the victim managing to resist the perpetrator physically, placing undue emphasis on resistance as an essential factor in cases of sexual violence. Requiring victims to resist their attacker fails to acknowledge the diverse ways individuals respond to sexual assault, including freezing, submitting out of fear, or being unable to resist due to physical or mental conditions, a reality that could be even more exacerbated for some survivors with disabilities.

181 CEDAW Committee, Concluding observations on the fifth periodic report of Kazakhstan (2019), CEDAW/C/KAZ/CO/5, para. 26(b)

182 CEDAW Committee, Concluding observations on the fifth periodic report of Kyrgyzstan (2021), CEDAW/C/KGZ/CO/5, para. 48(b)

183 CEDAW Committee, Concluding observations on the sixth periodic report of Uzbekistan (2022), CEDAW/C/UZB/CO/6, para. 22(c)

Rape

Kazakhstan (Article 120); Kyrgyzstan (Article 154); Uzbekistan (Article 118)

The constituent elements of the definitions of rape in the Criminal Codes of Kazakhstan, Kyrgyzstan, and Uzbekistan are violence, threat of violence, or abuse of the helpless condition of the victim. The crime of rape in Kazakhstan, Kyrgyzstan, and Uzbekistan is understood to only cover penile-vaginal penetration.

Kazakhstan (Article 120):¹⁸⁴

1. Rape, that is, sexual intercourse committed with the use of violence or the threat of its use against the victim or other persons, or by exploiting the victim's helpless state, shall be punishable by deprivation of liberty for a term of five to eight years.

Kyrgyzstan (Article 154):¹⁸⁵

1. Rape, that is, sexual intercourse committed with the use of violence not endangering life or health, or with the threat of such violence against the victim or other persons, as well as by exploiting the victim's helpless state, shall be punishable by deprivation of liberty for a term of five to eight years.

Uzbekistan (Article 118):¹⁸⁶

1. Rape, that is, sexual intercourse committed with the use of violence, threats, or by exploiting the victim's helpless state, shall be punishable by imprisonment for a term of five to eight years.

Assault of a sexual nature

Kazakhstan (Article 121); Kyrgyzstan (Article 155); Uzbekistan (Article 119)

'Assault of a sexual nature',¹⁸⁷ which do not currently fall under the definition of rape in the Criminal Codes of Kazakhstan, Kyrgyzstan, and Uzbekistan, still require the sexual act to have been committed with the use of violence, threat of violence or abusing the helpless state of the victim. However, in contrast to the behaviour criminalised under the offence of rape, this provision applies to penile and non-penile penetration of other orifices, as well as vaginal penetration by means other than the penis, and can also be committed by persons of the same sex.

Kazakhstan (Article 121):

1. Sodomy, lesbianism, or other sexual acts committed with the use of violence or the threat of its use against the victim or other persons, or by exploiting the victim's helpless state, shall be punishable by imprisonment for a term of five to eight years.

Kyrgyzstan (Article 155):

1. Sodomy, lesbianism, or other sexual acts in a perverted form committed with the use of violence not endangering life or health, or with the threat of such violence against the victim or other persons, or by exploiting the victim's helpless state, shall be punishable by imprisonment for a term of five to eight years.

Uzbekistan (Article 119):

1. Satisfaction of sexual desire in an unnatural form, committed with the use of violence, threats, or by exploiting the victim's helpless state, shall be punishable by imprisonment for a term of five to eight years.

¹⁸⁴ Code of the Republic of Kazakhstan No. 226-V ZRK of 3 July 2014 "Criminal Code of the Republic of Kazakhstan", available at: <https://adilet.zan.kz/rus/docs/K1400000226>

¹⁸⁵ Code of the Kyrgyz Republic No. 127 of 28 October 2021 "Criminal Code of the Kyrgyz Republic", available at: <https://cbd.minjust.gov.kg/3-38/edition/2087/ru>

¹⁸⁶ Criminal Code of the Republic of Uzbekistan, available at: <https://www.lex.uz/acts/111457>

¹⁸⁷ This description covers the behaviour being criminalised in these articles; however, each Criminal Code analysed uses a different title to describe the same conduct. For example, in Uzbekistan, Article 119 is titled 'Forcible satisfaction of sexual desire in an unnatural form', while in Kazakhstan and Kyrgyzstan, Articles 121 and 155 are titled 'Violent acts of a sexual nature'

Compulsion/coercion into sexual intercourse or other acts of a sexual nature

Kazakhstan (Article 123); Kyrgyzstan (Article 156); Uzbekistan (Article 121)

In the Criminal Codes of Kazakhstan, Kyrgyzstan, and Uzbekistan, the crime of compulsion or coercion into sexual intercourse or other acts of a sexual nature involves any of the types of behaviour criminalised by the offences of rape and assault of a sexual nature, but that have been committed:

- ◆ Using either blackmail, threats to destroy, damage, or confiscate property, or the material or other dependence of the victim (Kazakhstan);
- ◆ Using either blackmail or the use of the material or other dependence of the victim (Kyrgyzstan);
- ◆ Where the victim was in an official, material, or other dependent relationship with the perpetrator (Uzbekistan).

It is noteworthy that the above articles also criminalise sexual coercion taken alone, falling short of penetration or another contact of a sexual nature.

This offence is classified as a “less serious crime” and carries lower penalties, despite being classified as rape under regional and international standards.¹⁸⁸

Kazakhstan (Article 123):

1. Coercion of a person into sexual intercourse, sodomy, lesbianism, or other sexual acts by means of blackmail, threats of destruction, damage, or seizure of property, or by exploiting the victim’s material or other dependence, shall be punishable by a fine of up to three thousand monthly calculation indices, or by corrective labour in the same amount, or by restriction of liberty for up to three years, or by imprisonment for the same term.

Kyrgyzstan (Article 156):

1. Coercion of a person into sexual intercourse, sodomy, lesbianism, or other sexual acts by means of blackmail or by exploiting the victim’s material or other dependence, in the absence of elements of crimes provided for in Articles 154 and 155 of this Code, shall be punishable by deprivation of the right to hold certain positions or engage in certain activities for a term of one to three years, or by corrective labour for a term of one to three years, or by a fine of 1,000 to 2,000 calculation indices, or by imprisonment for a term of two to five years.

Uzbekistan (Article 121):

1. Coercion of a person into sexual intercourse or into satisfying sexual desire in an unnatural form by a person upon whom the victim was dependent in a service, material, or other capacity, shall be punishable by compulsory community service for a term of three hundred to four hundred and eighty hours, or by corrective labour for a term of two to three years, or by restriction of liberty for a term of one to three years, or by imprisonment for a term of one to three years.

¹⁸⁸ A similar two-crime approach has been criticised by GREVIO which stated that this approach reinforces “the myth that rape always involves physical force or threat thereof” and “the notion of a hierarchy of rape victims, where one set of circumstances such as threats of damaging property or disclosing defamatory or personal information or the exploitation of a dependency on the perpetrator, may result in much lower sentences, or merely a fine, than another set of circumstances, for example that of threats of physical harm. GREVIO points to the fact that in both sets of circumstances, the victim does not consent to the act, which is what criminal liability should hinge upon”. GREVIO, ‘Baseline Evaluation Report Georgia’, available at: <https://rm.coe.int/grevio-report-on-georgia-2022/1680a917aa> , paras. 256-257

3.5.3. The problematic application of the concept of “helplessness”

As provided above, one of the constituent elements of the definitions of rape and assault of a sexual nature in the Criminal Codes of Kazakhstan, Kyrgyzstan, and Uzbekistan is abusing the helpless condition of the victim.

In **Kazakhstan**, the concept of a “helpless state” is clarified in the Regulatory Resolution of the Supreme Court of the Republic of Kazakhstan No. 4 of 11 May 2007 “On Certain Issues of Qualification of Crimes Related to Rape and Other Acts of Sexual Violence”.¹⁸⁹ This resolution explains what constitutes a helpless state in the context of such crimes:

“A helpless state is understood as the inability of the victim, due to their physical or mental condition, to resist the perpetrator (eg young age, advanced age, physical disabilities, mental disorders, other debilitating or unconscious states, etc), with the perpetrator being aware that the victim is in such a state while committing rape or other acts of sexual violence.”¹⁹⁰

In **Kyrgyzstan**, the notion of a “helpless condition” is explained in the Resolution of the Plenum of the Supreme Court of the Kyrgyz Republic No. 26 of 17 October 2024 “On Judicial Practice in Cases Concerning Crimes Against Sexual Inviolability and Sexual Freedom”:

“The courts’ attention is drawn to the fact that an offender’s acts must be classified as having been committed by exploiting the victim’s helpless condition in those situations where, by reason of the victim’s physical state (intellectual disability or another mental disorder, physical impairments, any other painful or unconscious state, very young or advanced age, etc), the victim could neither understand the nature and significance of the acts being performed nor resist the offender, while the offender, for their part, was aware that the victim was in such a helpless condition.”¹⁹¹

In **Uzbekistan**, according to the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 13 of 29 October 2010 “On Judicial Practice in Cases of Rape and Satisfaction of Sexual Desire in an Unnatural Form”:

“A helpless state should be understood as a condition in which the victim, due to their physiological, physical, or mental condition (such as physical disabilities, mental disorders, being under the age of 14 (minors), advanced age, illness or unconscious state, or severe intoxication caused by alcohol, narcotics, their analogues, or psychotropic substances), was unable to protect themselves, actively resist the perpetrator, or comprehend the nature and significance of the actions being committed against them, or was unable to control their actions. At the same time, the perpetrator must be aware that the victim is in a helpless state (except in cases committed against a person under the age of fourteen).”¹⁹²

While intended to protect vulnerable groups, this focus on “helplessness” may harm survivors with disabilities in several ways:

It reinforces the stereotype that women and girls with disabilities are “naturally” helpless. Branding a person with a disability as inherently helpless in order to secure a conviction entrenches stigma and contradicts the human-rights model of disability. The CRPD affirms an unqualified right of access to justice (Article 13); it never predicates that right on a prior declaration of “vulnerability”, nor does it even use that term.

It shifts a disproportionate burden of proof onto the survivor and fuels compulsory “capacity” examinations. Because the prosecution must demonstrate “helplessness”, investigators seek proof of total incapacity rather than proof of lack of consent. Survivors are therefore forced into a humiliating position: instead of the criminal justice process establishing that the acts committed against survivors were non-consensual, survivors are put in a position where they must prove their own “complete helplessness”.

However, the same stereotype that women with disabilities are automatically “helpless” can be used to undermine the survivor’s credibility, implying that she cannot give reliable testimony. Investigators in all three countries routinely order psychiatric or psychological assessments to decide whether a woman with an intellectual or psychosocial disability is “fit to testify”, further delaying

189 Regulatory Resolution of the Supreme Court of the Republic of Kazakhstan No. 4 of 11 May 2007 “On Certain Issues of Qualification of Crimes Related to Rape and Other Acts of Sexual Violence”, available at: <https://adilet.zan.kz/rus/docs/P07000004S>

190 *Ibid.*, para. 5

191 Resolution of the Plenum of the Supreme Court of the Kyrgyz Republic No. 26 of 17 October 2024 “On Judicial Practice in Cases Concerning Crimes Against Sexual Inviolability and Sexual Freedom”, available at: <https://admin-sot.sot.kg/public/sites/4/2024/12/2.-polov.neprikasn.17.10.24.-26.pdf>, para. 11

192 Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 13 of 29 October 2010 “On Judicial Practice in Cases of Rape and Satisfaction of Sexual Desire in an Unnatural Form”, available at: <https://lex.uz/docs/2414124>, para. 6

justice and exposing her to intrusive, sometimes coercive, examinations (for more details, see Section 4.7.5, “Misuse of Psychiatric and Psychological Examinations”).

For a detailed discussion of the relevant international standards and best practices on this issue, see Section 2.4, “Defining and Assessing Consent in Cases of Sexual Violence Against Women with Disabilities: International Standards and Contextual Application”.

3.5.4. When disability is (or is not) recognised as an aggravating factor

International human rights law requires that certain situations, such as offences committed against a former or current spouse or partner, by a member of the family, a person cohabiting with the victim, a person in authority, or against a person made vulnerable by particular circumstances, be recognised as aggravating circumstances that increase penalties.¹⁹³ In some cases, disability can contribute to such vulnerability.

In **Kazakhstan**, there are limited aggravating factors. The Criminal Code does not explicitly recognise circumstances of the victim or contextual factors, such as disability, intimate-partner status or abuse of authority, as aggravating elements within the definition of rape against a woman. Instead, such factors may only be considered under the Criminal Code’s general aggravating-circumstance provisions, for example:

- ◆ Commission of a crime against a defenceless or helpless person, or a person dependent on the perpetrator (Article 54(1)(7));
- ◆ Commission of a crime through abuse of trust arising from the perpetrator’s official position or contractual obligations (Article 54(1)(14)).

These provisions apply only at the sentencing stage; they do not alter the legal classification of the offence, and their application depends on judicial discretion. The only aggravating circumstance explicitly mentioned within the sexual violence provisions themselves relates to cases where the offence is committed against a female minor by her parent, step-parent, teacher, or any other person legally charged with her upbringing. In such cases, it is treated as an aggravating factor under Article 120(3-2)(3).

By contrast, **Kyrgyzstan and Uzbekistan** have recently introduced legislative changes. In 2023, **Uzbekistan** toughened its Criminal Code provisions on rape (Article 118) and sexual assault (Article 119).¹⁹⁴ Two new aggravating circumstances now trigger heavier penalties:


- ◆ **Victim with a disability** – the offender knowingly targets a person whom they are aware has a disability (para. “d”, part 2 of both articles).
- ◆ **Abuse of a position of trust** – the offender is a person responsible for the upbringing, education, and/or care of the victim, as well as an employee of an educational, training, medical, or other institution that is legally entrusted with the duty of supervising the victim (para. “v”, part 3 of both articles).

In 2025, **Kyrgyzstan** recognised disability as an aggravating circumstance for rape, sexual assault and coercion, allowing for sentences ranging from 15 years to life imprisonment for rape and sexual assault (Articles 154(4) and 155(4)).¹⁹⁵

193 Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), Article 46; Report of the Special Rapporteur on violence against women, its causes and consequences, A framework for legislation on rape (model rape law) (2021), A/HRC/47/26/Add.1, Article 8

194 Law of the Republic of Uzbekistan No. ZRU-829 of 11 April 2023, available at: <https://www.lex.uz/acts/6430278?ONDATE=12.04.2023%2000#6431469>

195 Law of the Kyrgyz Republic No. 42 of 19 February 2025 “On Amendments to Certain Legislative Acts of the Kyrgyz Republic (to the Criminal Code of the Kyrgyz Republic and the Criminal Procedure Code of the Kyrgyz Republic)”, available at: <https://cbd.minjust.gov.kg/4-5488/edition/27498/ru>



4. Barriers to accessing justice for women with disabilities in sexual violence cases

Credit: Dynamoland/iStock

For women and girls with disabilities who are survivors of sexual violence, accessing justice often resembles navigating a complex “justice chain”. This chain requires progress through a series of interconnected steps, with each stage presenting unique barriers. If one link in the chain breaks, whether at the point of reporting, investigation, prosecution, or trial, the entire process collapses, leaving survivors without justice.

For example, if a survivor faces barriers to reporting, such as inaccessible reporting mechanisms or a lack of support, the case may never be initiated. Even when a case is opened, it is often prematurely closed or dismissed due to systemic failures. In some cases, survivors are so worn down by delays and retraumatization that they feel forced to withdraw. As a result, accountability may never be achieved.

These challenges are compounded by systemic enforcement and implementation gaps. The criminal justice system often lacks the necessary reasonable and procedural accommodations to ensure equal access for survivors with disabilities. Additionally, law enforcement officers, investigators and judicial actors are frequently untrained in interacting with persons with disabilities,

leading to stereotypes, biases and dismissal or improper evaluation of survivors’ testimonies.

Achieving justice for these survivors requires addressing each link in the chain, ensuring comprehensive reforms that remove barriers at every stage of the process. Without such reforms, women and girls with disabilities will continue to face insurmountable challenges in accessing justice.

The **criminal justice system** often lacks the necessary reasonable and procedural accommodations to ensure equal access for survivors with disabilities. Additionally, law enforcement officers, investigators and judicial actors are frequently untrained in interacting with **persons with disabilities**, leading to stereotypes, biases and dismissal or improper evaluation of survivors’ testimonies.

4.1. Lack of access to information about the right to remedy and protection services

A survivor with a hearing and speech disability from Uzbekistan shares her experience of sexual violence that occurred 14 years ago (the interview was conducted in 2023):

“At some point, I saw our neighbour, who approached me and started saying something, then began touching parts of my body. To be honest, I didn’t understand that these actions were inappropriate or sexual in nature, as I didn’t fully attend the boarding school and didn’t receive any sexual education.”

I didn’t fully comprehend the situation that was unfolding.”

From an interview with a survivor, Uzbekistan

One of the most pervasive yet invisible barriers to justice for women and girls with disabilities is the lack of access to information about their own rights, including the right to be free from violence. Not all survivors of sexual violence have had access to information and education enabling them to recognise the acts committed against them as violence, especially when the abuse is perpetrated by caregivers, relatives, or staff within residential institutions. This is particularly true for survivors with intellectual and psychosocial disabilities, women and girls with severe physical impairments, and those living in long-term residential or institutional care, who are often denied access to basic education, communication tools and independent life skills.¹⁹⁶

In Kazakhstan, Kyrgyzstan, and Uzbekistan, national legal frameworks formally prohibit discrimination on the basis of disability and proclaim equal rights (see Section 3.2, “National Approaches to Disability: Legal Concepts and Institutional Responses”). However, these guarantees remain largely theoretical for many women and girls with disabilities. In practice, they are systematically excluded from sex education, legal awareness programmes and community outreach services that could empower them to recognise abuse and seek redress. Where information is available, it is rarely provided in accessible formats, further isolating those most at risk.

¹⁹⁶ CRPD Committee, General comment No. 3 (2016), CRPD/C/GC/3, paras. 40-41

As a result of the lack of awareness, survivors may blame themselves, normalise the abuse, or remain silent out of fear, confusion, or dependence on the perpetrator for daily care. Without recognising that what happened to them is a violation, they are unlikely to report the violence, access legal aid, or receive support services. This invisibility contributes to the chronic underreporting of sexual violence against women and girls with disabilities and allows perpetrators to act with impunity.

4.2. Gaps in proactive identification and protection mechanisms

Timely identification and reporting of sexual violence against women and girls with disabilities remain inadequate across Kazakhstan, Kyrgyzstan, and Uzbekistan. Existing systems often fail to detect abuse, particularly in cases involving survivors with intellectual, psychosocial, or sensory disabilities, due to systemic barriers, lack of proactive state mechanisms and entrenched stigma and silence surrounding sexual violence.

Lack of proactive and effective state mechanisms

Despite some legal provisions mandating institutional response, State efforts to uncover abuse are largely passive, placing the burden on survivors or their caregivers to initiate complaints. This is especially problematic for women and girls with disabilities, some of whom live in institutional settings or isolated households and may lack the means or support to speak out.

The legal frameworks of Kazakhstan, Kyrgyzstan, and Uzbekistan designate a wide range of State actors, including police, prosecutors, healthcare providers and social services, as potentially responsible for identifying and responding to violence. However, implementation remains inconsistent and largely ineffective. In practice, State institutions rarely identify abuse proactively, particularly in cases involving survivors with disabilities. Authorities often lack the training or awareness needed to recognise signs of violence, particularly when it involves individuals with disabilities, whose communication barriers or dependency on caregivers may obscure or complicate disclosures of abuse. As one lawyer from Kyrgyzstan observed, incidents of sexual violence are often uncovered only when the survivor becomes visibly pregnant, by which point the harm has already escalated and opportunities for timely intervention have long been missed:

“The issue lies in the fact that they are unable to report sexual violence against them in a timely manner because child welfare and social protection agencies are often delayed in conducting their checks and interviews. These delays contribute to such crimes remaining largely hidden. Unfortunately, the incidents are only discovered when consequences arise, such as pregnancy. It is only at that point that the sexual violence against the victim comes to light.”

From an interview with a lawyer, Kyrgyzstan

This approach places the burden of action on affected individuals, many of whom may lack access to the necessary knowledge, resources, or support to come forward.

“The prosecutor’s office, if individuals are unable to file a lawsuit on their own, has the right to initiate legal proceedings on their behalf to protect their interests. The problem, however, lies in the fact that these individuals must either be identified by the prosecutor’s office or come forward themselves (or through their legal representatives) to request assistance from the prosecutor’s office.”

From an interview with a prosecutor, Kazakhstan

“Many survivors of violence lack adequate legal knowledge, which results in numerous sexual crimes going unreported and perpetrators remaining unpunished.”

From an interview with a judge, Kazakhstan

This issue is compounded by inadequate or inaccessible gendered and disability-sensitive reporting mechanisms, leaving survivors without a clear pathway to seek help.

4.3. Gaps in ex officio prosecution and the risk of reconciliation

“Investigations into cases of violence are initiated only upon a complaint by the victim or their representative, leaving many survivors without legal protection, even in situations where law enforcement authorities are already aware of the violence.”

From an interview with a lawyer, Kazakhstan

Despite explicit recommendations from the CEDAW Committee to Kazakhstan,¹⁹⁷ Kyrgyzstan¹⁹⁸ and Uzbekistan,¹⁹⁹ the criminal procedure legislation in all three countries continues to place the burden of initiating criminal proceedings on the victim in many cases of sexual violence. This approach is incompatible with the CEDAW Committee’s recommendations, which require that all cases of gender-based violence against women be investigated and prosecuted automatically (ex officio) and that criminal proceedings be prioritised over reconciliation.

In **Kazakhstan**, Article 32 of the Criminal Procedure Code provides that several sexual violence offences are prosecuted only upon a complaint by the victim. These include: non-aggravated coercion to sexual intercourse (Article 123(1) of the Criminal Code); non-aggravated rape (Article 120(1)); non-aggravated sexual assault (Article 121(1)); and sexual harassment of persons under 16 (Article 121-1).

In **Kyrgyzstan**, non-aggravated rape (Article 154(1) of the Criminal Code) and non-aggravated sexual assault (Article 155(1)) are classified as private-public prosecution offences. Criminal proceedings in such cases are initiated only upon a formal complaint by the victim or her legal representative.²⁰⁰

Similarly, in Uzbekistan, Article 325 of the Criminal Procedure Code stipulates that criminal proceedings under non-aggravated rape (Article 118(1) of the Criminal Code); non-aggravated sexual assault (Article 19(1)) and non-aggravated coercion to sexual intercourse (Article 121(1)) may be initiated only upon a complaint by the victim.

Although the criminal procedure legislation in all three countries includes provisions allowing prosecutors to

197 CEDAW Committee, Concluding observations on the fifth periodic report of Kazakhstan (2019), CEDAW/C/KAZ/CO/5, para. 26(f)

198 CEDAW Committee, Concluding observations on the fifth periodic report of Kyrgyzstan (2021), CEDAW/C/KGZ/CO/5, para. 22(c)

199 CEDAW Committee, Concluding observations on the sixth periodic report of Uzbekistan (2022), CEDAW/C/UZB/CO/6, para. 22(e)

200 Criminal Procedure Code of the Kyrgyz Republic, Article 24(2)

initiate proceedings in the absence of a complaint,²⁰¹ for example, when the offence concerns a person in a helpless or dependent state, or someone otherwise unable to protect their rights, these safeguards are rarely applied in practice. This is particularly concerning in cases involving women and girls with disabilities who may be under guardianship or reliant on the perpetrator for care.

In addition, while some legal reforms have limited the possibility of reconciliation in cases of sexual violence, this practice continues to persist in law²⁰² and in practice. Survivors, especially women and girls with disabilities, often face pressure from family members, caregivers, or institutions to withdraw complaints or reconcile with the perpetrator. Civil society organisations report that law enforcement officials frequently delay or discourage the filing of complaints, anticipating that the survivor may later retract her statement.

A young woman with a physical disability, aged 26, met a man online. They communicated virtually for some time before starting to meet in person. Their relationship developed in an atmosphere of trust, which facilitated a close personal connection.

After several meetings, the man deceitfully took possession of the woman's mobile phone under various pretexts. Shortly thereafter, he invited her for an evening walk in a park, where he subsequently committed sexual violence against her.

Despite the emotional trauma and fear of social stigma, the woman demonstrated determination and filed a complaint with law enforcement authorities. However, during the subsequent investigation, she reportedly faced psychological pressure from the suspect's relatives and a police officer.

According to her account, during interrogations, she was threatened with the public disclosure of the incident on social media and was coerced into withdrawing her complaint and submitting a counterstatement retracting her initial testimony. The main argument used to pressure her was to "avoid shame and publicity."

As a result of the violence and the pressure she experienced from her surroundings and during the investigation, the

survivor reports heightened anxiety and persistent fear.

Case provided by Public Association "Union of People with Disabilities 'Ravenstvo' (Equality)"

This legal and procedural framework enables impunity, reinforces patterns of coercion and control, and deprives survivors of their right to justice and protection.

4.4. When caregivers, guardians and institutions become barriers to justice

"It is difficult for women to speak publicly about sexual violence, especially when it occurs within the family. For women with intellectual disabilities, this is often nearly impossible. Many live in isolation, are deprived of legal agency and are subjected to psychological manipulation. Their ability to exercise their rights depends on their legal representative, and they are often formally declared legally incapacitated. When the perpetrator is their legal guardian, they have virtually no means to defend or claim their rights without external support from civil society organisations and crisis centres."

From an interview with a lawyer, Kazakhstan

For many women and girls with disabilities, access to justice is not only constrained by external systemic barriers but also by those who claim to represent them. Family members, caregivers and institutional staff often act as legal or informal decision-makers, wielding control over whether violence is disclosed, reported, or justice pursued through legal channels. In many cases, these individuals, who should act in the best interests of survivors, become gatekeepers to justice or even perpetrators themselves.

International standards require that authorities must also assess the risk of repeated violence and decide whether protective measures, such as safe accommodation or temporary relocation, are needed.²⁰³ This is especially important for women and girls with disabilities who may be dependent on their abusers and therefore at higher risk of repeated harm.

201 Criminal Procedure Code of the Republic of Kazakhstan, Article 32(4); Criminal Procedure Code of the Kyrgyz Republic, Article 24(3); Criminal Procedure Code of the Republic of Uzbekistan, Article 325

202 For example, among other offences, reconciliation is permitted in all three countries for compulsion or coercion to engage in sexual intercourse – under Article 57 of the Criminal Code of the Kyrgyz Republic, Article 68 of the Criminal Code of the Republic of Kazakhstan, and Article 66.1 of the Criminal Code of the Republic of Uzbekistan

203 Special Rapporteur on the rights of persons with disabilities. (2020, August). International Principles and Guidelines on Access to Justice for Persons with Disabilities. <https://www.ohchr.org/en/special-procedures/sr-disability/international-principles-and-guidelines-access-justice-persons-disabilities>, para. 8.2(k)

Family members may choose silence over accountability, often motivated by the stigma, fear of social repercussions, or a lack of legal knowledge. In several cases documented in this research, parents or relatives prevented survivors from contacting the police or withheld interpretation support. One survivor from Uzbekistan described how, after disclosing repeated sexual violence by her brother, her mother removed her access to communication and placed her in a psychiatric hospital. No investigation was ever initiated.

“I was subjected to systematic sexual violence at home over a period of two years by my biological older brother. He is 23 years old and I am 19. I have hearing and speech disabilities; my brother does not have a disability. I also became pregnant as a result of the abuse, and my mother forced me to go with her to have an abortion. She remained convinced that the child was not from my brother and accused me of having sexual relations with other men.

The police collected all physical evidence, that is, my underwear and bedsheet, for forensic examination. When the police questioned me, my mother answered on my behalf, but I do not know what she said because she had taken away my phone and did not allow me to contact a sign language interpreter. My mother also drove away my friend, and after speaking with my mother, the police officers also left. That same day, my mother committed me to a psychiatric hospital, where no one had access to me, and I did not have a phone either.

No investigation was initiated because my mother was categorically opposed to it. She was afraid of being shamed in front of relatives and of my father finding out, as he had been unaware of everything that had happened to me, including the systematic sexual violence perpetrated by my brother. In addition, my brother had acquaintances in law enforcement, and the case was silenced. To this day, there has been no outcome in this situation.”

From an interview with a survivor, Uzbekistan

Survivors described how caregivers made the decision not to report abuse, often explicitly stating that shame, family reputation, or marriage prospects outweighed the survivor’s rights.

“My mother did not report the crime to the police, following the advice of her sister (my aunt), because if any of our relatives found out, it would bring great shame to my mother for failing to protect her daughter, and it would make it difficult for me to get married in the future. Therefore, we decided to keep this incident a secret until today, although I still regret that we did not go to law enforcement and that this man was not held accountable for his actions.”

From an interview with a survivor, a woman with a hearing disability, Uzbekistan

“The crime was not reported because my father worked in law enforcement, and due to societal attitudes and the shame my parents felt in front of our neighbours, they chose not to inform the authorities. Additionally, because of my disability and lack of knowledge, I was unable to report the crime to the police myself.”

From an interview with another survivor, a woman with a hearing and speech disability, Uzbekistan

This denial of agency is even more entrenched in institutional settings, where women and girls with disabilities are placed under the legal guardianship of directors or state officials. These institutional representatives are often the same individuals responsible for protecting the institution’s reputation, creating a profound conflict of interest.

Case study: Rape of institutionalised women with psychosocial disabilities – Shymkent, Kazakhstan

In 2025, the Specialised Interdistrict Criminal Court of Shymkent sentenced two male orderlies to 15 years in prison each for the rape of female patients at the Turkestan Regional Mental Health Centre.²⁰⁴ As of 12 June 2025, the verdict had not yet entered into legal force.

According to media reports, the survivors – 17-year-old Asem and 22-year-old Gulim – were repeatedly raped by the orderlies in different rooms of the facility, particularly in areas without video surveillance. One of the survivors, Asem, became pregnant and later underwent an abortion due to her health condition.

This case highlights the extreme vulnerability of women with psychosocial and intellectual disabilities in closed institutions and the systemic failures in ensuring their protection. As documented by national media and civil society, such settings often lack independent oversight, allow unchecked access by male staff to female patients and have inadequate safeguards to prevent sexual violence.

The case underscores the critical lack of:

- ◆ Regular, independent monitoring of closed facilities;
- ◆ Gendered and disability-sensitive protocols to prevent, identify and respond to abuse.

4.5. Exclusion through missing accommodations and inadequate support

Ensuring access to justice for women and girls with disabilities who are survivors of sexual violence requires both **reasonable and procedural accommodations** (which are not limited by the concept of “disproportionate or undue burden”²⁰⁵) and the provision of **accessible assistance and support services, including those tailored to different types of disabilities**.²⁰⁶

The topic of reasonable and procedural accommodations and support services is broad and applicable to the issues of access to justice for all survivors with disabilities, not only women and girls with disabilities who are survivors of sexual violence. Therefore, it warrants a separate comparative report; this section highlights only key cross-cutting problems related to sexual violence against women and girls with disabilities and country examples.

In general, there is an **over-reliance on the “average” survivor model**. Police, forensic and court procedures are designed without a gendered approach around the assumption of a non-disabled complainant. Survivors with disabilities are often expected to travel to inaccessible facilities, communicate without interpretation or alternative formats and testify repeatedly without safeguards against retraumatisation, etc. Similarly, as will be elaborated below, victim assistance and protection services, such as shelters, crisis centres and psychological aid, remain ill-equipped to respond to the needs of women and girls with disabilities survivors of sexual violence.

There are legislative gaps, and the scope of guarantees remains narrow. Criminal procedure codes and victim-protection laws in the three countries provide only basic safeguards. These typically include measures such as sign language interpretation,²⁰⁷ the presence of a psychologist or teacher (often without relevant specialisation) when questioning minors, and limits on interrogation time.²⁰⁸ Broader and more meaningful accommodations, such as access to independent intermediaries and facilitators, systematic procedural adjustments and modifications, and tailored communication support,²⁰⁹ are largely absent.

204 Mediazona Central Asia. (2025, June 12). Court in Shymkent sentences two psychiatric hospital orderlies to 15 years in prison for raping patients. <https://mediazona.ca/news/2025/06/12/rape>

205 International Principles and Guidelines on Access to Justice for Persons with Disabilities (see above), “Glossary of Terms”; CRPD Committee, General comment No. 6 (2018), CRPD/C/GC/6, para. 25(d)

206 For more details, see Section 2.3, “Safeguards and Reasonable and Procedural Accommodations at all Stages of Access to Justice”

207 Criminal Procedure Code of the Kyrgyz Republic, Article 198(3); Criminal Procedure Code of the Republic of Uzbekistan, Article 71(1)(1); Criminal Procedure Code of the Republic of Kazakhstan, Article 81

208 Criminal Procedure Code of the Kyrgyz Republic, Article 78; Criminal Procedure Code of the Republic of Uzbekistan, Article 121; Criminal Procedure Code of the Republic of Kazakhstan, Article 209

209 International Principles and Guidelines on Access to Justice for Persons with Disabilities (see above), Principle 3

Moreover, criminal procedure codes do not require the CRPD-mandated provision of continuous legal assistance to survivors of sexual violence against women and girls with disabilities throughout the entire process.

Domestic violence laws,²¹⁰ which could serve as an additional avenue of protection, remain narrowly framed. Their guarantees are typically confined to violence within family or household relationships, thereby excluding many survivors of sexual violence committed by third parties, for example, in institutions, from these guarantees.

At the same time, some procedural accommodations could already be implemented within the current legal frameworks. While comprehensive reform is essential, many measures are in fact rooted in an individual and needs-based approach rather than legislative change. For instance, investigators could invite psychologists or communication specialists, schedule interviews at times and locations convenient for the survivor, and ensure that questioning takes place in an environment that minimises distress, etc.

A positive development can be observed in Uzbekistan, where in 2024 the Law of the Republic of Uzbekistan “On the Rights of Persons with Disabilities” was amended²¹¹ to include Article 30.1. Right to Access to Justice:

“The State shall ensure equal access to justice for persons with disabilities on an equal basis with others, including by taking measures to guarantee their direct or indirect participation at all stages of judicial proceedings, as well as during the stages of inquiry and pre-trial investigation, in accordance with the procedure established by law.”

Nevertheless, in all three countries, existing safeguards remain underutilised, and new measures are yet to be systematically introduced.

Access to justice for persons with disabilities continues to be hindered by physical and communication barriers.

The provision of reasonable accommodation is often limited to physical accessibility²¹² and even this is inconsistently implemented. In 2024, the **Ombudsperson’s Office, with the support of UNDP, conducted a monitoring of access to justice for persons with disabilities in Kyrgyzstan.** The results showed that, in most cases, the buildings and infrastructure of judicial and law enforcement bodies are inaccessible to persons with disabilities. There are no adapted materials or specialists to assist people with specific needs according to the Akyikatchy (Ombudsperson).²¹³ With respect to **Kazakhstan**, the CRPD Committee noted with concern the physical inaccessibility of some courts and of other judicial and administrative facilities and the lack of information about court proceedings in accessible formats.²¹⁴

Women with disabilities frequently remain dependent on guardians or caregivers, relying on relatives or institutional staff to file complaints, attend proceedings, or access services. This creates conflicts of interest where family members are perpetrators or where institutions prioritise their own protection over that of survivors.

“A young woman with a disability – she is beaten and abused in her family. We wanted to evacuate her. But then the question arises: fine, we take her out and provide support – then where does she go back to? To the same family? What will their attitude toward her be after she leaves and they are shamed? Or if she went to the law enforcement authorities? Where will she go? She has no home of her own. Currently, our shelter is home to three young women under the age of 30. I don’t know where they can go afterwards. There are so many hopeless situations. I sit and wonder: what is this young woman supposed to do? Continue living in that family?”

From an interview with an expert, Kyrgyzstan

210 Kazakhstan: Law of the Republic of Kazakhstan No. 214-IV of 4 December 2009 “On the Prevention of Domestic Violence”, available at: https://online.zakon.kz/Document/?doc_id=30525680

Kyrgyzstan: Law of the Kyrgyz Republic No. 63 of 27 April 2017 “On Safeguarding and Protection from Domestic Violence”, available at: <https://cbd.minjust.gov.kg/111570/edition/14086/ru>

Uzbekistan: Law of the Republic of Uzbekistan No. ZRU-561 of 2 September 2019 “On the Protection of Women from Harassment and Violence”, available at: <https://lex.uz/docs/4494712>

211 Law of the Republic of Uzbekistan No. ZRU-955 of 5 September 2024 “On Amendments and Additions to the Law of the Republic of Uzbekistan ‘On the Rights of Persons with Disabilities’”, available at: <https://lex.uz/ru/docs/7093727?ONDATE=09.09.2024%2000#7093847>

212 For example, CRPD Committee, Concluding observations on areave the initial report of Kazakhstan (2024), CRPD/C/KAZ/CO/1, para. 11(b)

213 Akyikatchy (Ombudsman) of the Kyrgyz Republic. (2025, March 25). Dzhamanbaeva participated in the meeting of the Coordination Council of the UNDP project on access to justice. <https://ombudsman.kg/ru/publications/dzhamanbaeva-prinyala-uchastie-v-zasedanii-koordinacionnogo-soveta-proekta-proon-po>

214 CRPD Committee, Concluding observations on the initial report of Kazakhstan (2024), CRPD/C/KAZ/CO/1, para. 29(c)

If, first of all, the survivor or victim of violence is able to separate from the perpetrator, that is very good. I mean, if there is such a possibility, you understand. But if there is no possibility, then before a criminal case is opened, before the forensic examination results are ready, before investigators even begin to act, the perpetrator will continue living with the victim. And imagine how he can influence her - whether through seemingly positive or negative methods, he may still achieve an outcome in his favour.

From an interview with a lawyer, Kyrgyzstan

Victim assistance for women with disabilities remains largely inadequate. Crisis centres and shelters are few, unevenly distributed and rarely accessible to persons with disabilities. Moreover, social and medical workers, as well as staff of crisis centres, often lack the necessary training and skills to work with persons with different types of disabilities. Services for survivors with intellectual or psychosocial disabilities are almost entirely absent. Unfortunately, the assistance available is not always safe for survivors.

“A young woman with cerebral palsy uses the services of an accessible taxi. The driver picks her up from work at the end of the day, when almost everyone has left the office. He persuades her to stay later than the others, and when he arrives, she is alone. The driver then begins to harass her. She manages with difficulty to stop the harassment, but from that day on, she lives in constant fear of it happening again. As a result, she refuses to use the accessible taxi service, misses work and falls into a state of depression.”

A case provided by an expert from Kazakhstan

Support for survivors remains heavily reliant on NGO-driven efforts, characterised by insecure donor funding and limited sustainability.

Support and reintegration of survivors with disabilities after the conclusion of criminal proceedings remain almost entirely overlooked. International standards require authorities to ensure that cases of abuse or violence against persons with disabilities are properly investigated, prosecuted and punished, with effective sanctions.²¹⁵ Effective remedies must be available for all violations and should encompass not only conviction, but also restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. These remedies must be:²¹⁶ enforceable and adapted to each victim's needs; protective against further harm; proportional to the gravity of the violation; based on the survivor's free and informed consent (for any rehabilitative measures); and aimed at addressing not only individual but also systemic causes of violence.

In practice, however, even when a conviction is secured and the perpetrator serves a sentence, there are often few or no mechanisms in place to provide long-term support, rehabilitation, or social reintegration. Survivors are often left without follow-up counselling, vocational or educational opportunities, or support to help them rebuild their lives. The situation is even more concerning when criminal proceedings are discontinued and the alleged perpetrator returns to the community, in some cases even to the same household as the survivor, while the survivor is left without justice and without access to sustained assistance. The absence of structured support and reintegration programmes not only undermines recovery but also increases the risk of re-victimisation. Again, assistance is predominantly driven by NGOs, whose reliance on external donor funding makes these services precarious and unsustainable.

In general, when support is provided by the state, it is often delivered through a medicalised approach, whereby assistance is linked to the formal recognition of “disability status” by medical commissions, excluding survivors who have not undergone official registration or whose impairments are not formally acknowledged.

215 Special Rapporteur on the rights of persons with disabilities. (2020, August). International Principles and Guidelines on Access to Justice for Persons with Disabilities. <https://www.ohchr.org/en/special-procedures/sr-disability/international-principles-and-guidelines-access-justice-persons-disabilities>, para. 8.2(l)

216 *Ibid.*, para. 8.2(m)

4.6. Gender- and disability-based stereotypes in the criminal justice response

In Kazakhstan, Kyrgyzstan, and Uzbekistan, the investigation and prosecution of sexual violence against women and girls with disabilities remain severely hampered by entrenched patriarchal and discriminatory attitudes. These intersecting layers of discrimination directly contravene the obligations of States parties under the CRPD and CEDAW.

Sexual agency and “desirability”

Survivors are frequently disbelieved due to stereotypes that portray women with disabilities as either asexual or hypersexual, myths expressly rejected by the CRPD Committee General comment No. 3 on women and girls with disabilities.²¹⁷

Based on interviews with lawyers and experts, law-enforcement officers often presume that a woman with a disability “could not have been a target of rape” due to perceived lack of attractiveness, ignoring the fundamental fact that rape and other forms of sexual violence are acts of power and control, not sexual attraction.

“Society tends to view persons with disabilities through the lens of either asexuality or hypersexuality. As a result, others deny them the right to sexuality, ignore it, or dismiss it altogether. This attitude increases the risk of sexual exploitation, as perpetrators may assume that the survivor is unlikely to speak out or that no one will believe her.”

From an interview with a lawyer, Kazakhstan

“It is very difficult to prove that a person with a mental disability was unable to resist due to her condition or did not understand what was happening to her. We have repeatedly encountered the stereotypical belief that “people with mental health conditions often have heightened sexuality and may engage in promiscuous sexual activity without being aware of it, simply following a hormonal instinct.”

From an interview with a lawyer, Kazakhstan

Credibility and reliability

Women and girls with intellectual and psychosocial disabilities often face a presumption of unreliability throughout the criminal justice process. A Kazakhstani lawyer explained:

“Law enforcement officers very often refuse to register complaints due to stereotypes that a person with a disability cannot be a reliable witness and due to a lack of skills in empathetically responding to the needs of people with disabilities. On the other hand, women with disabilities are often reluctant to be persistent, as they frequently have low levels of legal or even general literacy.”

From an interview with a lawyer, Kazakhstan

Survivors and their supporters are sometimes accused of “fabricating” allegations, as illustrated by a mother from Kazakhstan:

“Yes, they doubted us. No one believed it... That she is disabled. That she can, somewhere, come up with something. And in general, they accused me of teaching her all this [about claiming she was abused]. Can you imagine? I taught her all this. The question is - why would I teach her all this? We went through all this pain together with her, through shame.”

From an interview with a survivor’s mother, Kazakhstan

For more details, see also Section 4.7.5, “Misuse of Psychiatric and Psychological Examinations”.

These dynamics not only compound trauma but also discourage reporting. A March 2025 survey conducted by the Public Association “Union of People with Disabilities ‘Ravenstvo’ (Equality)” among 150 women with disabilities across seven regions of Kyrgyzstan²¹⁸ found that 93% (140 women) had experienced at least one form of violence, yet only eight (5.7%) had sought help from the police or medical services. Key barriers included: distrust of police and state institutions; lack of accessible information about rights and procedures; shame and fear of social stigma; safety concerns and fear of retaliation.

²¹⁷ CRPD Committee, General comment No. 3 (2016), CRPD/C/GC/3, para. 30

²¹⁸ A survey conducted in March 2025 by the Public Association “Union of People with Disabilities ‘Ravenstvo’ (Equality)” in Kyrgyzstan among 150 women with disabilities from seven regions of the country

These findings underscore how deeply embedded stereotypes and systemic barriers continue to silence women and girls with disabilities and deny them equal access to justice.

4.7. Systemic procedural and evidentiary barriers to justice for women with disabilities

4.7.1. Absence of survivor-centred, gendered and disability-sensitive protocols

Interpreting international standards, including CRPD Articles 13 and 16 and the CEDAW Committee's General recommendations Nos. 33 and 35,²¹⁹ it follows that States are obliged to ensure that investigations and prosecutions of gender-based violence against women should adopt a gendered approach and be inclusive of the rights and needs of women and girls with disabilities. However, Kazakhstan, Kyrgyzstan, and Uzbekistan have not adopted uniform, survivor-centred protocols for law enforcement, forensic experts, or courts.

As a result, survivors often endure lengthy proceedings, fragmented procedures, repeated interrogations and a lack of accommodations. One mother from Kazakhstan described her years-long struggle for accountability:

"I don't remember either the last name or the first name, to be honest. Because there were too many people, too many. First one investigator, then another, then another. All this happened in 2016. And he was only put in jail on 30 September 2019. Well, imagine how many years I tried to get him put in jail."

From an interview with a survivor's mother, Kazakhstan

These practices often result in withdrawal from proceedings or rejection of the reporting in the first place.

4.7.2. Secondary victimisation and procedural re-traumatisation

The lack of coherent protocols often leads to repeated interviews, cross-examinations and "re-enactments" that force survivors to relive the abuse. Early interactions with law-enforcement officers are often marked by intrusive questioning, scepticism and dismissive attitudes, treatment that is particularly damaging for survivors with intellectual or psychosocial disabilities, whose communication styles may not fit conventional interview models. A Kyrgyzstani lawyer captured the attrition these practices cause:

"Discrimination, as I said, starts from the very beginning, from the very first contact with the justice system, when a survivor goes to file a report. If it is a case of sexual violence, whether involving a woman or girl with a disability or not, the complaint is almost always received by a male investigator. And then the examination begins... The questions asked during the first interrogation are very personal and intimate. Everyone feels ashamed. Not all survivors have a lawyer with them, and not everyone is provided with a state-appointed lawyer. Without a lawyer, how can we prove anything?"

Investigators can be cruel – I've heard this from many clients. They ask things like: "Why are you filing the report now? Did you enjoy it or not?" This leads to secondary victimisation, of course. The survivor may not be able to speak, or she might feel ashamed. And if it was the first experience of violence, especially for girls who don't know anything about their bodies or anatomy, she describes what happened in her own words. And then the investigator "corrects" her, saying: "No, call it a penis, a male sex organ". She doesn't even know the terminology. And because of this, she can feel humiliated and withdraw completely. Children, in most cases, shut down. It becomes very difficult to work with them. Only with the help of psychologists can we continue with the case and obtain testimony. And this discrimination – it stems specifically from the fact that these investigations are conducted by male investigators."

From an interview with a lawyer, Kyrgyzstan

219 Including CEDAW Committee, General recommendation No. 35 (2017), CEDAW/C/GC/35, paras. 26(a), 31(a)(i)-(ii); CEDAW Committee, General recommendation No. 33, CEDAW/C/GC/33 (2015), paras. 14(d), 15(c), 17(g),

Although national laws provide for certain protective measures against re-traumatisation, such as the deposition of testimony or video-recorded interviews,²²⁰ these are underused in practice in cases of sexual violence. Lawyers report that survivors are often required to testify multiple times, including in the presence of the defendant, without relevant procedural accommodations. This exposes them to secondary victimisation.

4.7.3. Statutes of limitation and delayed disclosure

In cases of sexual violence, legal frameworks must reflect the lived realities of survivors, particularly women and girls with disabilities, who often face significant delays in reporting due to trauma, isolation, stigma, fear of retaliation, dependence on the perpetrator, or lack of accessible information. Rigid or short statutes of limitation place an undue burden on survivors and allow perpetrators to escape accountability.

International human rights experts,²²¹ have recommended that no statute of limitations should apply to sexual violence offences, whether committed against adults or children, due to the severity of the harm and the systemic obstacles to timely reporting.

Uzbekistan's Criminal Code (Article 64) does not contain any exceptions to the statute of limitations in relation to sexual violence offences. As a result, perpetrators may avoid prosecution simply due to the passage of time, even in cases involving serious and long-term abuse. For instance, an individual is exempt from criminal liability if eight years have elapsed since the commission of rape without aggravating circumstances.²²²

Kazakhstan's Criminal Code (Article 71) limits the application of statutes of limitation to only a narrow set of crimes, such as those against the peace and security of humanity, or offences against the sexual inviolability of minors. However, no such exceptions apply to other forms of sexual violence, including those committed against women with disabilities. For instance, an individual is exempt from criminal liability if ten years have elapsed

since the commission of rape without aggravating circumstances.²²³

Kyrgyzstan has adopted a more progressive approach. Under Law No. 24 of 22 January 2024,²²⁴ amendments to Article 58 of the Criminal Code abolished statutes of limitation for several crimes related to sexual integrity and sexual freedom when committed against minors or persons with disabilities. This legal development brings Kyrgyzstan's approach more in line with international standards. However, statutes of limitation still apply to many forms of sexual violence,²²⁵ including aggravated offences, meaning that significant gaps remain.

4.7.4. Burdensome evidentiary standards

4.7.4.1. Overreliance on physical injuries and biological evidence

As was mentioned in Section 3.5 of this report, the criminal codes of all three countries define rape through force, threat or “helplessness”, rather than the absence of free and voluntary consent. An analysis of court cases from Kazakhstan, Kyrgyzstan, and Uzbekistan shows that sexual violence is most often prosecuted only when physical injuries are found on the body of the victim, as well as biological materials associated with a sexual act. This practice effectively relegates survivor testimony, particularly that of women with disabilities, to a secondary role. A judge from Kazakhstan interviewed for this report confirmed:

“Forensic examination is the main piece of evidence; therefore, during such an examination, it is of primary importance to thoroughly examine and identify the presence of the perpetrator's biological material on the victim's body and clothing, as well as physical signs of violence on the victim's body.”

From an interview with a judge, Kazakhstan

An analysis of court judgments and interviews with experts and practitioners reveals that investigators and judges

220 Criminal Procedure Code of the Republic of Kazakhstan, Article 217; Criminal Procedure Code of the Kyrgyz Republic, Chapter 26; Criminal Procedure Code of the Republic of Uzbekistan, Article 91.1

221 Report of the Special Rapporteur on violence against women, its causes and consequences, A framework for legislation on rape (model rape law) (2021), A/HRC/47/26/Add.1, Article 17; Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, Article 33

222 Criminal Code of the Republic of Uzbekistan, Articles 15, 64(1)(b) and 118(1)

223 Criminal Code of the Republic of Kazakhstan, Articles 11(4), 71, and 120(1)

224 Law of the Kyrgyz Republic No. 24 of 22 January 2024 “On Amendments to Certain Legislative Acts of the Kyrgyz Republic (to the Criminal Code of the Kyrgyz Republic and the Criminal Procedure Code of the Kyrgyz Republic)”, available at: <https://cbd.minjust.gov.kg/4-5258/edition/1829/ru>

225 In accordance with Article 58 of the Criminal Code of the Kyrgyz Republic, the statute of limitations shall not apply only to offences stipulated in paragraphs 1 and 2 of part 3 and part 4 of Article 154, paragraphs 1 and 2 of part 3 and part 4 of Article 155, and paragraph 1 of part 2 and part 3 of Article 156 of the Criminal Code.

tend to base their decisions on the outcomes of forensic examinations. If a forensic examination does not identify injuries on a victim's body or signs of violence (including, for example, if a long time has passed since the abuse was committed), the victim's testimony may not be believed. This approach disproportionately affects women and girls with disabilities, who may face physical, environmental, or social barriers to reporting violence or accessing medical facilities in time.

“After nine months, the police completed all necessary examinations, identified all suspects and interrogated everyone involved. All four men were located using surveillance cameras, biological evidence was collected, and it was proven that sexual contact had occurred. However, they failed to establish that it was rape because the girl did not resist. Investigators persistently told the girl’s family that they would not be able to prove the case in court due to the absence of physical injuries. ... Ultimately, the case was closed.”

From an interview with a lawyer, Kazakhstan

Case study: Rape of a girl with a disability in Tyup (Kyrgyzstan)

A man was accused of raping a 14-year-old girl, which resulted in the victim's pregnancy (Article 154, part 3, points 1 and 2 of the Criminal Code). The victim had an intellectual disability and lived with cerebral palsy and epilepsy.

The victim provided testimonies about rape. According to a forensic psychological-psychiatric examination conducted, she showed no signs of or tendencies to pathological fantasising in her account.

A molecular genetic examination further confirmed with 99.99% probability that the accused was the father of the victim's child. Nevertheless, the conviction was later overturned by higher courts on a technical procedural violation related to the conduct of the genetic examination, while the victim's testimony was disregarded.

Ultimately, the accused was eventually reconvicted. However, the conviction hinged almost entirely on the admissibility of biological and DNA evidence, while the victim's own testimony, although referenced by the courts, remained sidelined.²²⁶

While forensic and biological evidence can play an important role in corroborating survivors' accounts, its overemphasis creates significant and systemic barriers for those unable to meet this evidentiary threshold. Women and girls with disabilities, particularly those living in institutions, in poverty, or with limited mobility, may lack access to prompt medical assistance, fail to undergo examinations or preserve biological evidence and physical signs of violence, especially when delays occur between the crime and the reporting of the case.

Furthermore, this evidentiary standard reinforces harmful assumptions that only physical violence equates to non-consensual sex and fails to recognise the full range of coercion, manipulation and exploitation that characterises many cases of sexual violence, particularly where the perpetrator is a caregiver or authority figure.

By privileging forensic evidence over survivor testimony and contextual indicators, the criminal justice systems in the region perpetuate an exclusionary and unrealistic evidentiary threshold. Survivors who cannot meet this standard, due to delays in reporting, fear, trauma, or disability-related barriers, are often left without legal remedy.

4.7.4.2. Unfounded and harmful forensic examinations

Hymen examinations, also known as “virginity testing”, remain a routine and entrenched component of forensic protocols in Kazakhstan, Kyrgyzstan, and Uzbekistan.²²⁷ They are routinely conducted as part of forensic assessments in cases of sexual violence, often under the pretext of determining whether penile-vaginal penetration occurred. These examinations are usually not only medically irrelevant but also fail to reflect the full spectrum of sexual violence (including non-penetrative abuse). They are frequently carried out even when the reported assault did not involve penetration. The World Health Organisation has declared that “[t]here is no examination that can prove a girl or woman has had sex

226 Decision of the Criminal Chamber of the Supreme Court of the Kyrgyz Republic dated 24 June 2025 in Case No. VSI 504-0477/25UD

227 In Kazakhstan, “Methodology for the Examination of Female Persons to Determine Sexual Integrity” (approved by the Republican State Enterprise “Center for Forensic Medicine of the Ministry of Justice of the Republic of Kazakhstan,” Protocol No. 2 of 5 December 2016) provides that “[t]he main object of forensic examination of female persons for determining a violation of sexual integrity (virginity) is the hymen. A change in sexual condition (with or without damage to the hymen) may result from sexual intercourse or acts of sexual violence”. For Kyrgyzstan, see “Rules for conducting forensic medical obstetric and gynaecological examinations”, approved by Resolution No. 33 of the Government of the Kyrgyz Republic dated 12 January 2012, available at: <https://cbd.minjust.gov.kg/93615/edition/396085/ru>

and the appearance of a girl's or woman's hymen cannot prove whether they have had sexual **intercourse**, or are sexually active or not".²²⁸

In addition to raising methodological concerns, these examinations may cause significant psychological distress. Survivors can be subjected to invasive and potentially humiliating procedures that are sometimes conducted without their fully informed consent, raising concerns about respect for bodily autonomy and dignity. In many cases, survivors are not adequately informed in advance that such a test will be performed, nor are they clearly advised of its purpose or their right to refuse.

Moreover, the environment in which forensic examinations are conducted often exacerbates survivors' trauma. Basic infrastructure is lacking: many forensic facilities lack private examination rooms, accessible facilities for persons with disabilities, and gynaecological chairs. Survivors may be examined in unsuitable conditions, which can exacerbate their distress and compromise the quality of evidence collection.

Another critical concern is the lack of female forensic professionals. Initial forensic assessments are often conducted by male staff, even in cases involving girls and women who have experienced sexual violence by men. This practice can retraumatise survivors, particularly those with heightened fear or distrust of men due to their experiences. The absence of gender-sensitive staffing further demonstrates the lack of survivor-centred protocols in forensic practice.

4.7.5. Misuse of psychiatric and psychological examinations

Case study: testimony dismissed due to intellectual disability – Kazakhstan

During the COVID-19 pandemic, a driver allegedly sexually assaulted a woman with intellectual disabilities while transporting her to a medical scan. After the incident, the survivor used gestures and partial speech to communicate what had happened. Despite this, investigators dismissed her account as unreliable and proposed a second psychiatric evaluation to "prove the truthfulness of her testimony". The process was so distressing for the survivor that her family withdrew the complaint. As a result, the case

was closed without any legal outcome.

Case provided by the Shyrak Association of Women with Disabilities, Kazakhstan

In all three countries, the criminal procedure codes require mandatory expert assessments to establish:

- ◆ "the mental or physical condition of the victim or witness in cases where there are doubts about their ability to accurately perceive circumstances relevant to the case and provide testimony about them" (Criminal Procedure Code of Kazakhstan, Article 271(1)(5));
- ◆ "the mental or physical condition of the victim or witness if there is doubt about their ability to accurately perceive circumstances relevant to the criminal case and provide testimony" (Criminal Procedure Code of Kyrgyzstan, Article 178(2)(4));
- ◆ "the mental and physical condition of the victim or witness, as well as their ability to perceive, remember and recount circumstances relevant to the case during questioning, along with the victim's ability to independently defend their rights and legitimate interests in the criminal process" (Criminal Procedure Code of Uzbekistan, Article 173(1)(5)).

These provisions are routinely misused in cases involving women and girls with intellectual and psychosocial disabilities, including in sexual violence proceedings. Under existing rules, if a person is found to be "unable to correctly perceive circumstances of relevance to the case and provide testimony about them", her statements are deemed inadmissible as evidence.²²⁹ In practice, survivors are subjected to psychiatric or psychological evaluations to determine their perceived "competence" or "reliability" as witnesses. If deemed "unreliable", their testimony is excluded, resulting in the systematic dismissal of cases without adequate investigation or prosecution.

This practice is deeply discriminatory, as it is based on assumptions that persons with intellectual or psychosocial disabilities are incapable of distinguishing fact from fantasy or of giving coherent, truthful testimony. It reflects outdated and harmful notions, such as the belief that persons with disabilities "fantasise" or "confuse reality", which have long been used to dismiss their accounts of violence and abuse. Rather than excluding

228 World Health Organisation. (2018, October 17). Interagency statement calls for the elimination of "virginity-testing". <https://www.who.int/news/item/17-10-2018-interagency-statement-calls-for-the-elimination-of-virginity-testing>

229 Criminal Procedure Code of the Republic of Kazakhstan, Article 115(7); Criminal Procedure Code of the Kyrgyz Republic, Article 80(4)(4); Criminal Procedure Code of the Republic of Uzbekistan, Article 115(1)(3)

testimony on the basis of disability, authorities should ensure that survivors receive the necessary procedural accommodations to communicate effectively, such as simplified questioning, supported communication, or expert facilitation. Their testimony should be assessed on its merits, in light of all the circumstances of the case, rather than being bluntly excluded due to assumptions about their disability.

For example, in the analysed judgments concerning girls and women with intellectual disabilities that resulted in convictions, courts often cite forensic psychological-psychiatric examinations stating that the victims showed “no tendency toward pathological fantasising” or “no inclination to fantasise or to lie”.²³⁰ While at first glance these findings appear to support the survivor’s credibility, they in fact reveal a deeper systemic issue: the judiciary’s reliance on psychiatric expertise as the decisive factor in determining whether a person with an intellectual or psychosocial disability can be considered a reliable witness. It also raises concerns that, had the expert opinion been different, her testimony might have been dismissed and the case might never have resulted in a conviction. This approach reinforces harmful stereotypes that persons with disabilities are inherently less credible, rather than recognising that credibility should be evaluated in the same way as for any other witness, with appropriate procedural accommodations to ensure effective communication.

This practice directly contradicts Article 12 of the CRPD, which guarantees equal recognition before the law, including the right of persons with disabilities to participate fully in legal proceedings with support and accommodations. The CRPD Committee, considering periodic reports from Azerbaijan and Georgia, have found similar provisions of their criminal procedure codes in violation of the CRPD and recommended both countries “[r]epeal provisions in the Code of Criminal Procedure that deprive persons with intellectual and/or psychosocial disabilities from testifying as witnesses in criminal proceedings”.²³¹

“However, the most challenging cases are those in which the victims of sexual violence are women and girls with mental disabilities. Police often attribute the incident to the survivor’s disability, making it particularly difficult to obtain expert evidence that confirms the person is not fabricating the events or prone to deception. Psychological and psychiatric evaluations conducted to assess a survivor’s ability to comprehend the meaning and consequences of their statements often fail to meet scientific standards and instead perpetuate myths and harmful stereotypes about sexual violence. ... We have repeatedly encountered such stereotypical thinking as, ‘People with mental health issues often have heightened levels of sexuality and may engage in promiscuous sexual behaviour without even realising it, simply driven by hormonal instincts’. The dismissal of cases due to insufficient evidence, combined with systemic corruption, is exacerbated by these stereotypes, which cast women with disabilities as problematic and unreliable witnesses. These biases not only undermine the credibility of survivors but also perpetuate the cycle of impunity for perpetrators.”

From an interview with a lawyer, Kazakhstan

The UN Special Rapporteur on the rights of persons with disabilities conducted a country visit to Kyrgyzstan in 2024. In her subsequent report, she noted that survivors are subjected to invasive forensic medical examinations and psychiatric evaluations that are incompatible with human rights standards.²³²

Such practices, observed in Kazakhstan, Kyrgyzstan, and Uzbekistan, may lead to the systemic exclusion of survivors with disabilities from the justice process, enabling perpetrators to escape accountability and reinforcing the culture of impunity surrounding sexual violence.

²³⁰ E.g., Judgment of the Tyup District Court of the Issyk-Kul Region dated 10 February 2023

²³¹ CRPD Committee, Concluding observations on the combined second and third periodic reports of Azerbaijan (2024), CRPD/C/AZE/CO/2-3, paras. 29(b) and 30(b); see also CRPD Committee, Concluding observations on the initial report of Georgia (2023), CRPD/C/GEO/CO/1, paras. 27(a) and 28(a)

²³² Report of the Special Rapporteur on the rights of persons with disabilities, Heba Hagrass, on her visit to Kyrgyzstan (2025), A/HRC/58/56/Add.1, para. 83

Recommendations

To fulfil their obligations under the CRPD and CEDAW and to improve access to justice for women with disabilities survivors of sexual violence, Kazakhstan, Kyrgyzstan, and Uzbekistan should:

1. Adopt multi-sectoral and inclusive approaches to addressing sexual violence against women with disabilities

- ◆ Adopt a coordinated, multi-sectoral approach to preventing and responding to sexual violence against women with disabilities, involving justice, law enforcement, health, education and social protection sectors and civil society actors, while explicitly incorporating the issue of sexual violence against women with disabilities into national human rights strategies and action plans.
- ◆ Ensure the meaningful participation of women and girls with disabilities and their representative organisations in the design, implementation and monitoring of all relevant laws, policies and services.
- ◆ Align national legislation and policy with States' obligations under the CRPD and CEDAW.
- ◆ Adopt comprehensive anti-discrimination legislation explicitly prohibiting multiple and intersecting forms of discrimination based on disability, sex, gender, age and other status; and establish effective enforcement and remedy mechanisms.
- ◆ Promote the social model of disability across all legal and policy frameworks, replacing outdated medical and “charitable” approaches.

2. Recognise legal capacity and reform guardianship laws

- ◆ Repeal guardianship regimes and introduce supported decision-making mechanisms in line with the CRPD; introduce supported decision-making frameworks that are time-bound, subject to judicial review and include the right for an individual to choose their own support persons.
- ◆ Withdraw Uzbekistan's reservation to CRPD Article 12 and put in place relevant legal and procedural changes to ensure full legal capacity recognition of persons with disabilities.
- ◆ Establish safeguards to prevent conflicts of interest when a guardian, caregiver, or institutional representative is a potential perpetrator of violence, abuse or neglect.
- ◆ Until full deinstitutionalisation is achieved, mandate unannounced, independent monitoring of all residential and psychiatric institutions, with civil society participation and the authority to refer cases directly to prosecutors. Ensure the existence of accessible, safe, and effective mechanisms that allow residents and staff to report cases of violence, abuse, or neglect confidentially.

3. Adopt a consent-based definition of rape

- ◆ Introduce a consent-based definition of rape in which consent, based on the international human rights framework, should be given voluntarily as the result of a person's free will, assessed in the context of the surrounding circumstances.
 - ▶ Ensure that judicial and investigative authorities adopt a contextual approach to assessing consent in cases of sexual violence. In cases of sexual violence against women with disabilities, this means moving away from assessing a survivor's cognitive or intellectual attributes and instead putting more focus on the alleged perpetrator's actions and surrounding circumstances, including, among others, specific vulnerabilities related to disability, power imbalances, dependencies, institutionalisation, communication barriers, or prior patterns of coercion or control.
 - ▶ Require through training and procedural guidance that investigators, prosecutors and judges identify, document and assess situational factors such as the nature of the relationship and the presence of fear, dependency or other contextual indicators, as well as the availability of support or accommodations, which would allow the survivor to participate fully in the proceedings.
 - ▶ Ensure that sexual acts committed in contexts of dependency, institutionalisation, or control over essential services are legally recognised as occurring without genuine consent. This includes situations where the perpetrator is a caregiver, service provider, family member, or authority figure who exploits the survivor's reliance on them.
 - ▶ Explicitly clarify in law and practice that apparent acquiescence, absence of resistance, or verbal agreement does not constitute valid consent when obtained through fear, manipulation, or structural coercion.
- ◆ Until the necessary legislative amendments are enacted, ensure that law enforcement and judicial authorities interpret existing laws, including definitions of rape in Kyrgyzstan, Kazakhstan and Uzbekistan, in line with States' binding international human rights obligations and ensure that the Supreme Courts promptly update their clarifications on sexual violence crimes.²³³

233 Including Regulatory Resolution of the Supreme Court of the Republic of Kazakhstan No. 4 of 11 May 2007 "On Certain Issues of Qualification of Crimes Related to Rape and Other Acts of Sexual Violence"; Resolution of the Plenum of the Supreme Court of the Kyrgyz Republic No. 26 of 17 October 2024 "On Judicial Practice in Cases Concerning Crimes Against Sexual Inviolability and Sexual Freedom"; Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 13 of 29 October 2010 "On Judicial Practice in Cases of Rape and Satisfaction of Sexual Desire in an Unnatural Form"

4. Improve criminal justice procedures and support services

- ◆ Ensure that remedies for women and girls with disabilities who have experienced sexual violence are adequate, effective, promptly granted and delivered, holistic and proportional to the gravity of the harm suffered. Remedies should, as appropriate, include compensation (in the form of money, goods, or services), rehabilitation (medical and psychological care, as well as other social services), and, where applicable, criminal prosecution leading to the imposition of fair, timely, and adequate penalties on perpetrators.
- ◆ Amend the criminal procedure codes to ensure *ex officio* investigation and prosecution of all sexual violence offences. Repeal provisions that allow reconciliation, mediation, withdrawal of complaints under pressure, or other mechanisms enabling perpetrators to evade criminal liability or punishment.
- ◆ Remove discriminatory evidentiary standards that give undue weight to physical injuries or biological evidence over survivor testimony.
- ◆ Amend the Codes of Criminal Procedure in line with the CRPD standards to repeal provisions that deprive persons with intellectual and/or psychosocial disabilities of the right to testify, as well as rules automatically dismissing their statements as inadmissible if they are considered ‘unable to correctly perceive circumstances of relevance to the case and provide testimony about them’.
- ◆ Introduce and enforce protective procedural measures for the benefit of sexual violence survivors, including video-recorded testimony, pre-trial deposition, closed hearings and the possibility of excluding the defendant during survivor testimony, particularly in cases involving survivors with disabilities.
- ◆ Ensure that forensic examinations of injuries are conducted only when strictly necessary, are accessible, trauma-informed, and based on informed consent, and are performed by female professionals upon request whenever possible.
- ◆ Prohibit harmful and unscientific forensic practices, including so-called “virginity testing” (hymen examinations), and prevent adverse or unscientific inferences from the condition of the hymen.
- ◆ Guarantee reasonable and procedural accommodations throughout all stages of proceedings, such as physical accessibility, adjusted language, assistive communication tools, support persons, and flexible interview protocols, while recognising that women with disabilities are not a homogeneous group and have diverse needs requiring differentiated support and protection measures.
- ◆ Provide accessible support services, such as shelters, trauma-informed services, psychosocial assistance, and legal aid, tailored also to the diverse needs of women with disabilities survivors of sexual violence.

5. Strengthen identification, accessibility and complaint mechanisms

- ◆ Establish proactive, gendered and disability-sensitive mechanisms to identify and respond to sexual violence against women and girls with disabilities, including in institutions, isolated households and rural areas.
- ◆ Ensure that reporting mechanisms and services are physically accessible through diverse communication tools, including adapted language, Easy-to-Read materials, sign language and Braille.
- ◆ Create and maintain multi-channel, accessible reporting pathways (e.g., 24/7 hotlines, SMS, online chat, in-person one-stop centres) with integrated medical, legal and psychosocial support referral systems.
- ◆ Guarantee safe, confidential and direct access to reporting for women with disabilities in institutions and other closed settings.

6. Enhance prevention, awareness and capacity-building

- ◆ Develop manuals on sexual violence and disability for justice-sector professionals (including investigators, prosecutors, judges, lawyers, and all other relevant professionals such as medical staff, social workers, crisis centre staff, etc.), applying human rights-based, survivor-centred, gender- and disability-sensitive approaches in line with the CRPD and CEDAW standards.
- ◆ Conduct mandatory, regular training for police officers, prosecutors, judges, lawyers and other justice-sector professionals, as well as personnel who come in contact with survivors (including medical staff, social workers, and crisis centre staff), based on the professional manuals developed.
- ◆ In collaboration with affected specialist civil society groups, deliver comprehensive, age-appropriate and disability-sensitive sexuality education on bodily autonomy, consent and rights. This must be available in schools, institutions, community centres and outreach programmes and presented in accessible formats tailored to diverse disability groups.
- ◆ Run sustained public awareness campaigns in collaboration with affected specialist civil society groups to dismantle gendered and disability-based stereotypes, promote zero tolerance for violence, including sexual violence, and highlight the agency and rights of women and girls with disabilities.

7. Improve data collection and monitoring

- ◆ Establish coordinated, cross-sectoral systems to collect, analyse and publish comprehensive administrative data on sexual and other forms of gender-based violence against women and girls with disabilities, disaggregated at a minimum by age, sex and disability, including through the annual publication of disability-disaggregated justice-chain attrition reports tracking complaints, investigations, prosecutions, convictions and sentencing outcomes to identify systemic barriers and reform priorities.

8. Ratify international human rights instruments

- ◆ Ratify and implement outstanding human rights instruments, in particular:
 - ▶ Kazakhstan, Kyrgyzstan, and Uzbekistan: the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)
 - ▶ Kyrgyzstan: the Optional Protocol to the CRPD
 - ▶ Uzbekistan: the Optional Protocols to the CEDAW and CRPD



A just world for all women and girls



equalitynow.org



programs@equalitynow.org



[@equality-now](https://www.linkedin.com/company/equality-now)