

ACCESS TO JUSTICE AND THE RIGHTS OF
OFFENDERS WITH PSYCHO-SOCIAL AND
INTELLECTUAL DISABILITIES: A CRITICAL
APPROACH FROM THE PERSPECTIVE OF THE
CRPD

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THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

The purpose of the Convention is to **promote**, **protect** and **ensure** the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

WHAT IS DISABILITY?

- an **evolving concept**
- The result of the **interaction** between **persons with impairments** - **attitudinal** and **environmental barriers**
- As a result hinders full and effective participation in society on an equal basis with others

SO WHO IS A PERSON WITH DISABILITIES?

Persons with disabilities 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.

What is the problem with our justice systems?

THEY ARE DISABLING (RATHER THAN ENABLING)

- **Societal – attitudinal barriers**

patterns of stigmatisation and discrimination lead to mockery, harassment, social isolation or violence - judges, law enforcement officers, lawyers do not know how to interact with people with disabilities

- **Legal barriers** - Discriminatory laws or lack of adequate laws
- **Access to legal information and understanding of legal rights**
- **Financial barriers**
- **'Accessibility' barriers**

DOES THE CRIMINAL JUSTICE SYSTEM TREAT DISABLED PEOPLE FAIRLY?

- EHRC (UK) launched an [inquiry](#) to understand the experiences of disabled defendants and accused people in the criminal justice system. We looked at whether their needs are properly identified, and the types of adjustments being made to accommodate those needs, so they are able to participate in court processes and understand the charges they face.

The result

- The justice system is not designed around the needs and abilities of disabled people, reforms risk further reducing participation.
- Impairments that may require adjustments are not always identified – this is a barrier to effective participation.
- Adjustments are not always made for disabled people because information about their impairments is not passed on.
- The existing framework to provide adjustments to secure effective participation for disabled defendants and accused people is inadequate.
- Legal professionals do not have the guidance or training to be able to recognise impairments, their impact, or how adjustments can be made.

THE SOLUTION?

- Inclusive Justice: a system designed for all
 - without barriers
 - Accessibility ensured in all its dimensions
 - Attitudinal barriers addressed

ARTICLE 13 – ACCESS TO JUSTICE

1. States Parties shall ensure **effective access to justice** for persons with disabilities **on an equal basis with others**, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote **appropriate training** for those working in the field of administration of justice, including police and prison staff.