710th Meeting, 30th Session, Committee on the Rights of Persons with Disabilities (CRPD)

Chair: I would now like to give the floor to the co-rapporteurs for their comments and questions. Miss Rosemary (Kayes), you have the floor for ten minutes.

 **Professor Rosemary Kayes**

RK: Thank you very much, Chair. On behalf of my co rapporteur, Professor Laverne Jacobs, I would like to warmly welcome the delegation from the United Kingdom along with representatives from the International Monitoring mechanism. I look forward to an open and frank discussion today. The committee has received a significant amount of information for this follow up to our inquiry. I acknowledge the contributions and the presence here today and online of members of the deaf and disabled person’s organizations from the UK.

International human rights law is based on the inherent dignity and worth of the human person, that we are all equal in rights and dignity. The United Kingdom has agreed to be bound by these principles and norms and our focus here today is on the provisions of the rights of the Convention on the Rights of Persons with Disabilities.

The principle of non regression of rights is established in Article 4.2 of the CRPD General Obligations.

We acknowledge the recent significant investment in social care, but since 2017, **we find evidence of regression in the standards and principles of the CRPD. We see a reform agenda that is framed in a political narrative that demonizes disabled people including proposals to cut disability benefits to reward working people by cutting taxes. Which tells disabled people they are underserving citizens. And this is coupled with an onerous and complex social benefit system that is the basis for trauma and preventable mental distress.**

In the face of this evidence, the committee is here today to try and understand how the UK is meeting its obligations to promote and protect the rights and dignity of disabled people. I would now pose my questions.

In relation to Article 4, under General Obligations, I’d like to know how does the Westminster government and the devolved governments ensure national consistency in meeting their obligations you should the CRDP?

In particular, to closely consult and actively involve persons with disabilities through their representative organizations as required by article 4.3. I note that the UK Disability Survey was challenged on the grounds that it did not meet the standards on public consultation, the Gunning principles, and that the Court of Appeal found that the survey was not a consultation within the meaning of Gunning.

And although there was a 12-week consultation period for the short-term disability action plan, what are the plans for a more comprehensive, consultative process to underpin the National Disability Strategy that meets the CRPD standard of close consultation and active involvement of persons with disabilities through their representative organizations.

I’d like to turn to Article 19. There is evidence that there is increasing rates of institutionalization of disabled people including disabled people living in secure, psychiatric facilities due to a lack of community-based support. Disabled people who are forced to remain in hospitals because there are no other support or housing alternatives. Disabled people who are unable to live at home because there are inadequate supports, and they are forced to live in social care homes. Disabled people who are house bound due to inadequate support to access the community. The UK holds obligations to ensure that disabled people can live independently in the community with the necessary supports, how do you plan to meet these obligations?

There is also evidence of the increasing use of restraints, restrictive practices and coercive measures in these forms of institutions. What measures have been taken to eliminate restrictive practices and coercion in all institutional settings? What measures are being taken to end disability-based detention and compulsory treatment including in psychiatric institutions. In addition, many disabled people live in unsafe, inaccessible housing or are homeless; is there a homelessness strategy to address these issues across the UK?

With regard to Article 27, the overarching narrative of the capability assessment is assisting people with social benefits to being work ready. We have heard that the assessment process is complex, and onerous, that the application itself has increased in size that, applicants are not always allowed assistance or support in assessment meetings. That assessors are inexperienced and unqualified. In particular, for people with psychosocial disability.

It doesn’t take into account the specific circumstances of the person’s life and possibly need to be connected to other supports and services. For example, in situations of domestic violence, mental distress and crisis, or with caring responsibilities this process does not seem to be trauma-informed and linked to other services and support. And not suitable to assist people to be job ready. Have there been any Parliamentary or other inquiries into the impact this has on disabled people?

Do you intend to develop an overarching employment plan and strategy for disabled people in close consultation and active involvement of disabled people and their representative organizations?

The Convention incorporates crosscutting obligations including Article 8, which requires States to combat stereotypes, prejudices and harmful practices relating to disabled people. Yet we find a pervasive framework and rhetoric that devalues disabled people and undermines their human dignity. Reforms within social welfare benefits are premised on a notion that disabled people are underserving and skiving off and defrauding the system. This has resulted in hate speech and hostility towards disabled people, what measures do you intend to counteract this?

How are you ensuring that the systems you are putting in place to monitor fraud and errors do not contain AI tools and algorithms that contain encoded bases resulting in cruel mechanisms that in essence traumatize and make people feel like criminals. I use that language advisedly because they come from the findings of an Australian royal commission into the same AI processes to monitor for fraud in social benefits.

Article 28, relating to Northern Ireland we have heard that during the time that there was no active executive government that public servants had discretion to make changes to social welfare processes and procedures that adversely impacted disabled people.

There has been no reversal of these changes since the new Executive Government, which has now entrenched these changes into the system. Have there been steps to review changes made with the view to reversing those that have been detrimental to disabled persons.

We also have disturbing reports that disabled people are accessing food banks in Northern Ireland and have been targeted for financial exploitation and illegal lending. Disabled people have largely been left out of formal responses to exploitation by criminal gangs and paramilitary organizations which has tended to focus on women and young people. As a result, these activities have gone largely unaddressed. Can you provide information on measures to prevent and protect disabled people from exploitation. Thank you.

Chair: Thank you very much Ms Kayes. I now invite Ms Laverne Jacobs.

**Professor Laverne Jacobs**

LJ: Thank you, madam-Chair. Let me also extend a warm welcome to the delegation from the UK. As co-rapporteurs and as a committee, we have heard numerous reports of persons with disabilities facing intolerable situations, even death, while trying to comply with the eligibility requirements of the UK government’s benefit regimes, work capability assessments and programs administering support for living within the community.

At the moment, what we have heard suggests a significant and shameful gap between the Convention’s requirements and the lived experiences of persons with disabilities in the UK. Moreover, details of processes and requirements of the government systems are often difficult to ascertain form information published on government websites.

Lack of transparency has an important impact on the lives of persons with disabilities in terms of knowing how to navigate the systems relating to independent living, work, and social benefits, and also in terms of knowing what the outcomes will be. Lack of transparency surrounding government processes can leave persons with disabilities in a situation of not knowing if they will receive any benefits at all, or whether they will have enough money to live.

I will therefore quote the old adage that light needs to be shone on the dark corners of administration in order for justice to be done. Through my questions today, I would therefore like to obtain more information about the various government programs and the ways that they have been designed or need to be designed to meet the requirements of the Convention on the Rights of Persons with Disabilities.

My questions will centre on three articles of the convention; articles 28, 19, and 27, which are at the core of this Inquiry and the corresponding recommendations that this committee provided to the State Party in 2016. With respect to Article 28, a key recommendation that this Committee made at the conclusion of its Inquiry was that the UK ensure that any intended legislation and or policy measure respect the core elements of the rights analysed.

Moreover, Article 28 asks states parties to ensure an adequate standard of living for persons with disabilities and their families including adequate food, clothing and housing, and the continuous improvement of living conditions and to ensure the state party take appropriate steps to safeguard and promote the realisation of this right without discrimination on the basis of discrimination.

 Article 28 further recognizes the right to social protection and includes a specific requirement that states parties ensure access by women and girls with disabilities as well as older persons with disabilities to social protection programs and poverty reduction programs. However, we have received reports that the lived experiences of many persons with disabilities in the UK run contrary to these rights especially when it comes to eligibility requirements for social assistance and to the harmful impacts of that process.

We have heard widespread and repeated concerns that the amounts of benefits are insufficient and that a disproportionate number of persons with disabilities are living in poverty without the ability to heat their homes or purchase food. In 2018, the Equality and Human Rights Commission conducted a cumulative impact assessment and analysis of public spending since 2010 for Great Britain, confirming that persons with disabilities are among the worst affected groups by austerity and budget cuts, and are more likely to live in poverty. So, my questions is, what measures will be taken to ensure that the amounts provided through social security payments are sufficient to cover the true living costs of persons with disabilities.

I want to turn next to what has been termed benefit deaths. These are deaths experienced by individuals in the UK after going through the process of applying for benefit eligibility. We are seeing a repeated pattern of persons with disabilities turning to suicide after being denied an adequate standard of living and social protection. This pattern runs contrary to the core elements of several rights under the Convention, including Articles 19, 27, and 28. In addition to the many individual reports that we have received, a research study published by a group of UK academics in 2015 found that the government’s program to reassess capacity benefits through work capability assessment was linked to approximately 600 suicides in three years.

We have also heard reports from individuals who receive little inappropriate and or abusive treatment in response to their mental health crises, crises that are often caused by the benefit assessment process. My questions to you are therefore, first, what measures will be taken to ensure that the processes designed to measure benefit eligibility and work capability are trauma informed so that they do not cause mental health crisis, suicide, and death?

Second, what redress will be taken by the UK government for those who have experienced death and trauma as a result of the benefit and work capability processes?

I turn next to the benefit eligibility application process itself. On this topic, I have a few questions. First, what are the factors that are taken into account to determine eligibility for social welfare benefits?

Could you please inform the Committee of the process that is involved, both for the initial assessment and to determine eligibility continuation? Second, to what extend does this assessment process consider factors that are other than medical functionality? It is a medical model that’s being used, or one that connects with the purpose of the convention and the concept of barriers. Third, what measures are being taken to ensure that the processes for benefit eligibility do not have a negative impact on deaf persons and individuals with disabilities who are marginalized. And finally, what measures will be taken to ensure that the process for benefit eligibility is not trauma inducing and is instead trauma informed.

In April 2022, a guide called Completing the Move to Universal Credit; our 2020 to 2024 Strategy for Imprementing the Final Phase of Universal Credit was published by the Department for Work and Pension. Based on this document, it seems as thought there is no automatic transition to Universal Credit for legacy benefit claimants with disabilities. Is this the case? And if so, what measures have been taken to assess the impact on legacy benefit claimants with disability? It is anticipated that the number of persons with disabilities receiving benefits will be reduced? And if this happens, will those who are already receiving legacy benefits, be supported in a different way?

The April 2020-2022 guide from the DWP also indicates that the Universal Credit system will be fully rolled out in 2024. Has this rollout been completed?

I turn next and last to Article 19. Article 19 guarantees persons with disabilities the right to live independently and to be included in the community with choices equal to others.

States parties have a duty to facilitate the full enjoyment of this right by persons with disabilities. What measures will be taken to ensure that persons with disabilities can make choices about living independently and in the community on an equal basis with others and in all areas of life, including transportation and recreational activities?

What measures will be taken by the State party to ensure that persons with disabilities are able to fully enjoy their right to live in the community and are provided with adequate resources to enable the holistic development of their human potential as opposed to achieving fair subsistence. What steps will be taken to address the shortage of personal assistance and to assist persons with disabilities to retain appropriate personal support workers. And I know that you have mentioned, um, uh, some steps in your opening. I wonder if you can say more. Finally, we have heard that refugees and asylum seekers with disabilities are receiving inadequate amounts to live in the community and are experiencing challenges with obtaining personal assistance, assistive devices, and accessible housing, among other barriers. What measures are being taken to ensure that refugees, asylum seekers and others in refugee like situations are able to enjoy their right to live independently and in the community in the UK?

Chair: Thank you. Thank you, Rapporteurs. I will now invite members of the committee who would wish to make comment or ask questions.