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The Dark Side of Viewing Disability as Inability:

A Case Study of the Euthanasia Program during the Nazi Regime

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FOREWORD

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DEDICATION

"Persons with disabilities have always been *in* but not *part of* society."
– Arie Rimmerman

To all persons with disabilities around the globe. This one is for you.

ABSTRACT

It is estimated that 15% of individuals live with a disability around the world. Throughout history, as well as during contemporary times, people living with a disability have been disproportionately marginalized in society. Misconceptions associated with disability remain a major root factor and driving force in the continuous stigmatisation and discrimination against persons with disabilities. The ongoing sidelining of an already marginalized group has very real and adverse consequences on the human rights and fundamental freedoms of individuals living with a disability, as well as on society at large. As such, this thesis seeks to address a number of issues, including those barriers to social inclusion of persons with disabilities and the ways in which their social exclusion, which is perpetuated by prejudices, may result in injustices committed towards them. In order to overcome the oppression of persons with disabilities and to prevent the violations of their human rights, this thesis argues that it is vital to expose the societal neglect of this group, as well as the systematic and omnipresent issue of ableism which still endures in modern society. Additionally, the issue of language is explored in terms of the impact it has on the stereotypes of disability it propagates, but also in regards to the transformation that it can help usher in. Lastly, this thesis furthers the argument that in order to holistically address issues relating to persons with disability, the human rights framework must be complemented by the trauma-informed framework, which takes into consideration the consequences of the maltreatment of persons with disabilities.

Keywords: disability, persons with disabilities, stigmatisation, discrimination, eugenics, language, trauma, social exclusion and inclusion, human rights, empowerment

TABLE OF ABBREVIATIONS

CESCR	United Nations Committee on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CRPD Committee	United Nations Committee on the Rights of Persons with Disabilities
CWDs	Children with Disabilities
DSM-5	The American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, 5th Edition
HRBA	Human Rights-Based Approach to Disability
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IHRL	International Human Rights Law
NSDAP	*Nationalsozialistische Deutsche Arbeiterpartei,* Nazi Party
PAS	Personal Assistance Services
PTSD	Posttraumatic Stress Disorder
PWDs	Persons with Disabilities
UDHR	Universal Declaration of Human Rights
UPIAS	The Union of the Physically Impaired Against Segregation

1.
INTRODUCTION

1.1. BACKGROUND AND CONTEXT

Imagine, if only for a moment, that the right to your very existence was questioned not only by individual people, but by humanity as a whole. Imagine that your intrinsic value, or lack thereof, was attached to a notion as dichotomous as "black or white", "right or wrong". A belief based wholly on the idea that one's body defines one's worth.

Throughout history, persons with disabilities (PWDs) have had to endure such a reality. It is estimated that globally, 15% of individuals live with a disability.[1] That is approximately 1 billion people,[2] people who are stigmatised and discriminated against, marginalized and rejected. Historically, these PWDs have been oppressed and ultimately discarded by and from society, merely because they were perceived as defective and flawed. As if we are not all "*imperfect*" in one way or another.

In order to understand the depth of transgression PWDs currently face at *our* hands, the so-called "able-bodied", it is imperative to address the context which facilitated their historical oppression as well as the continuous disregard for their human rights and fundamental freedoms in contemporary times. A harrowing record portraying the persecution of PWDs over a period of six years can be seen during the time in which Adolf Hitler and the National Socialist German Workers' Party (*Nationalsozialistische Deutsche Arbeiterpartei, NSDAP*), also known as the Nazi Party, systematically and ruthlessly murdered those they deemed as inferior. Though many minority groups were targets of the atrocities committed during this era, the invisible and often forgotten victims of the Holocaust are PWDs.

From 1939 to 1945, the Nazi regime methodically killed hundreds of thousands of PWDs, without any regard as to whether they were infants, children or adults.[3] This rampage of mass murder, also known as the euthanasia program, occurred under the pretext of protecting the

[1] World Health Organization (WHO), 'Fact Sheet on Disability and Health' (24 November 2021). <https://www.who.int/en/news-room/fact-sheets/detail/disability-and-health> accessed 13 March 2022.
[2] ibid.
[3] Suzanne Evans, *Hitler's Forgotten Victims: The Holocaust and the Disabled* (The History Press 2016) 11.

German race from the threat of deterioration, allegedly stemming from, amongst other factors, the existence of PWDs.[4] Given that these killings were based on Nazi racial hygiene ideology, the ultimate goal of purging Germany of its "garbage children" (*Ausschusskinderer*) and other "useless eaters" (*Unnütze esser*) was to achieve a "superior" and "uncontaminated" Aryan race.[5]

The view of PWDs as being imperfect, wasteful, and worthless humans played a central role in the Nazi regime's policies and practices. Prejudice, intolerance and discrimination of PWDs, however, did not originate nor end with the Holocaust. It should be asked, then, did this notion of equating "dis"-ability with "in"-ability ever truly disappear? Or do such misconceptions still lie beneath the surface, dormant, awaiting for the chance to re-emerge? Does society still echo and mirror the dehumanization of PWDs that were so ubiquitous and omnipresent during Nazi Germany? This work will seek to answer these questions. I will argue that although the merciless crimes committed during the time of the Third Reich were unique to Nazi Germany, the mistreatment of PWDs continues to be rampant in modern society.

In addition, the different approaches to disability will be explored in terms of two main paradigm shifts. The first such shift will discuss the move away from the medical based approach to disability, whilst the second shift will focus on the move towards the human rights-based approach to disability. Furthermore, the international obligations regarding the safeguarding of human rights of PWDs will be discussed. Two fundamental components of this section will include analyzing the notions of universality of human rights and of intersectionality so as to better comprehend and dismantle societal oppression faced by PWDs. Moreover, the issue of language will be studied in relation to the role it has on the social construction of reality, as well as on its potential impact in bringing about a change in the treatment of PWDs. Lastly, the concept of trauma will be identified in order to discuss its consequences both on individuals with disabilities and society at large, in addition to the possibility of better equipping others to consider preventative measures for the maltreatment of PWDs.

Overall, it is important to stress that the particular historical case study of the maltreatment of PWDs during the Nazi regime was chosen precisely because PWDs remain sidelined in current-day civilization. Although the stigma towards PWDs no longer kills them, it still remains the same stigma. If society fails to recognize and address this enduring

[4] Suzanne Evans, *Hitler's Forgotten Victims: The Holocaust and the Disabled* (The History Press 2016) 11.
[5] ibid.

marginalization of PWDs, if humankind continues to be a mere bystander, then how can one know that those same ideas and beliefs which culminated in the euthanasia program won't be allowed to fester and intensify yet again? After all, unless society wakes up and is made aware of the *complete* and factual recount of the evils committed at the hands of the Nazis, we all remain threatened.

At its core, this thesis will argue that in order to effectively tackle the current human rights violations of PWDs, the roots for their social exclusion ought to be addressed. Society can no longer continue to close its eyes to the perils PWDs face. It is absolutely essential that their rights be better promoted, protected, and monitored. This thesis will seek to explain that to achieve this, a mere four words counted on a single hand need be pursued and implemented: **person first, disability second**.

1.2. PROBLEM STATEMENT

14 years have passed since the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) entered into force in 2008,[6] and yet, the lived experiences of PWDs continue to reflect a dire reality. The challenges in the actual implementation of universal legal instruments, such as the CRPD, end up resulting in non-compliance of States Parties. Subsequently, it becomes difficult for such States to meet their obligations of respecting, protecting and fulfilling the human right of PWDs, as is instructed by law. This in turn creates a vicious cycle, ensuing in the pervasive stigmatisation and discrimination against PWDs.

The absurdity, then, remains: although in theory PWDs are protected by law, in practice, they continue to face societal oppression and exclusion. This persistent practice of marginalizing PWDs cannot continue to go unaddressed. This thesis will therefore attempt to elucidate the importance of breaking the cycle at the very roots of said barriers which PWDs encounter.

[6] Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3 (CRPD).

1.3. KEY DEFINITIONS

1.3.1. Persons with Disabilities

According to Article 1 of the CRPD, in verbatim, PWDs 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*.[7]

This definition, as will later be explored in the thesis, moves away from the conventional medical model of disability to also encompass the social complexities and realities experienced by PWDs that serve as obstacles to their inclusion in society, and thus, as barriers to the realization of their human rights.

1.3.2. Stigmatisation

The contemporary understanding of stigma as a concept is rooted in the definition provided by sociologist Erving Goffman. According to him, stigma is a "deeply discrediting" attribute which then causes others to view an individual possessing said attribute as a "tainted" and "discounted" person.[8] Such attributes are therefore understood as arousing negative responses from the general population.

1.3.3. Discrimination

According to the United Nations (UN) Universal Declaration of Human Rights (UDHR), discrimination refers to a "distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".[9] Essentially, it is the unjustified and unequal treatment of persons on the basis of their real or perceived belonging to a group. For example, individuals with a disability may suffer from discrimination subsequent to the stigmatisation they face. This correlation will be explored more thoroughly later in the thesis.

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[7] CRPD, Article 1.
[8] Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* (Prentice-Hall Inc. 1963) 3.
[9] Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR), Article 2.

1.4. RESEARCH OBJECTIVES

The goal of this research is to shine light on the multiple issues that surround the full and effective realization of rights of PWDs. As such, this research will seek to examine the following subject matters:

a) The importance of addressing social exclusion of PWDs in order to adapt society so as to enable the full participation and inclusion of PWDs.
b) The correlation between intersectionality and marginalization of PWDs.
c) The impact of language used on the violations of human rights of PWDs, as well as the influence of reframing our perceptions of PWDs from “un”-abled to “differently”-abled.
d) The consequences of trauma and the value of empowering PWDs in order to transcend victimization.

1.5. RESEARCH QUESTIONS

The overall research question that this research aims to answer is: in which ways can social exclusion, driven by stigmatisation and discrimination, ultimately lead to violations of human rights of PWDs? In exploring this broad question, the research also intends to address the following sub-questions:

a) What can the history and origins of harmful practices committed against PWDs in Nazi Germany teach us about the violations of their human rights?
b) What barriers do PWDs face in modern-day society that hinder the realization of their basic rights and fundamental freedoms?
c) What measures must be taken by the international community so as to eradicate these barriers?

1.6. METHODOLOGY AND LIMITATIONS

The nature of this thesis will primarily rely on a literature review. In addition, this thesis will apply a socio-historical analysis of a case study and a human rights-based approach (HRBA) to exploring notions such as discrimination and marginalization of PWDs and the ensuing implications. Furthermore, this thesis will employ an analysis of international human rights law (IHRL) instruments, such as the Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Rights of the Child (CRC). The research will make use of primary and secondary sources such as legislation, books, journal articles, and reports from governmental and human rights organizations.

The limitations of this research must also be taken into account, surrounding the lack of field-based research to compliment the heavy desk-based research approach. In consequence, analysis within this thesis lacks the direct input of PWDs themselves, thereby potentially omitting their perspective.

1.7. STRUCTURE

The thesis will be divided into three parts. The first chapter will provide the context to understand the manners in which disability has been viewed throughout history. It will explore the historical stigmatisation and discrimination that arise from misconceptions associated with disability. Furthermore, the rise of the eugenics movement and the role of eugenics in relation to the atrocities committed against PWDs will be discussed. Finally, the chapter will end with the analysis of a case study of the Nazi euthanasia program.

The second chapter will reflect upon the existing rights of PWDs, beginning with the paradigm shift that has taken place regarding society's approach to disability. The international obligations of States will be discussed, as well as the notion of intersectionality. Subsequently, the power of words and their influence on current perceptions, stigmatisation, and discrimination that PWDs continue to endure will be explored. The chapter will conclude with an analysis of the impact of media and cultural representation of PWDs both on the access to their basic human rights as well as on transforming reality through evolving the perceptions relating to them.

Lastly, the third chapter will spotlight the sources of and detrimental impact that trauma has, both on the individual and group levels. Additionally, the chapter will highlight important factors in the mitigation of trauma, as well as preventative measures that ought to be implemented in order to allow traumatized PWDs to transcend victimization via empowerment. Finally, the impact of the trauma-informed approach on the healing and social inclusion of PWDs will be emphasized.

2.
LESSONS FROM THE PAST

"Those that fail to learn from history are doomed to repeat it."
– Winston Churchill

2.1. INTRODUCTION

This chapter outlines the historical background upon which this thesis is based. Section 2.2 will provide an overview of the context to understanding disability, Section 2.3 will shed light on the influence of the eugenics movement and its resulting consequences on public perceptions of disability. Lastly, this chapter will conclude with Section 2.4 which links the two previous sections together by analyzing a case study of the Nazi euthanasia program in order to illustrate potentially catastrophic outcomes stemming from the systematic exclusion of PWDs.

2.2. UNDERSTANDING DISABILITY

Disability is often conflated with inability. It is important to note that this understanding of disability did not arise in a vacuum. To fully comprehend this flawed view of disability, it is essential to delve into the origins and misunderstandings associated with it, as well as to reflect on the resulting bias that PWDs still encounter on a daily basis.

2.2.1. Historical Roots and Misconceptions Associated with Disability

To begin with, the role of religion in viewing disability must be highlighted. The ambiguous social status of PWDs in early civilization can be traced back to texts found in the Bible, the New Testament and the Qur'an. In Judaism, for example, scriptures found within the Bible seem to dismiss PWDs from certain sacred rituals whilst differentiating between those individuals affected by physical disabilities and those with mental illnesses.[10] Although the Bible

[10] Arie Rimmerman, *Social Inclusion of People with Disabilities: National and International Perspectives* (Cambridge University Press 2013) 11.

takes a somewhat caring approach towards those with physical limitations, a more ambivalent approach is bestowed upon those regarded as mad, or *meshuggah*.[11]

In early Christianity, a view of PWDs as sinners permeated. Although a somewhat compassionate attitude towards their healing was encouraged in the New Testament, it too only partly permitted the presence of PWDs in sacred rituals, thereby exacerbating their exclusion in social settings.[12]

In Islam, the Qur'an also distinguishes between various groups of PWDs. Those with certain physical limitations which are seen as "neither a curse nor a blessing" are relieved from certain duties due to their associated *burden*, while those perceived as unqualified culturally and socially often experience rejection.[13]

Ancient history thereby exposes an inconsistent, and at times, contradictory reality towards PWDs, in which a dual view of their treatment was encouraged. On the one hand, a compassionate approach was advocated, while on the other, their direct exclusion was championed.[14] In essence, some of the oldest religions can be understood as furthering, whether intentionally or not, the marginalization of PWDs from society. This reflects how PWDs have been distinguished from the masses since antiquity and are thereby vulnerable to perceptions of "otherness" or "apartness", consequently deepening a dichotomous understanding of "them" versus "us".

The Middle Ages further served to promote the paradoxical treatment of PWDs. A widespread conviction amongst the general population of the time was such that PWDs were "supernatural, devils and witches".[15] During this period, the prevailing association with disability was that of wickedness. It was ultimately believed that those afflicted by disability were suffering purely as a result of divine punishment for their sins.[16] Although this understanding of those with physical or mental limitations led to their demonization and persecution,[17] it simultaneously led to efforts to protect PWDs until they could be "treated" or "cured".[18]

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[11] Arie Rimmerman, *Social Inclusion of People with Disabilities: National and International Perspectives* (Cambridge University Press 2013) 11.
[12] ibid 12.
[13] ibid 13.
[14] ibid 14.
[15] ibid 15.
[16] Irina Metzler, *Disability in Medieval Europe: Thinking about physical impairment during the high Middle Ages, c. 1100-1400* (Taylor & Francis 2006) 13.
[17] ibid.
[18] Rimmerman (n 11) 15.

Subsequently, during the twelfth and thirteenth centuries, institutionalized exclusion of PWDs began with the emergence of quarantine buildings and asylums.[19]

A remarkable transition commenced during The Renaissance, which brought with it a progressive shift in society, and included amongst the changes was the status of PWDs.[20] During this era, these individuals were still segregated from society, however, an appeal for their well-being was set in motion.[21] This evolution developed throughout the nineteenth and first half of the twentieth centuries, a time characterized both by a calling for the growth of institutional care *and* by the influence of eugenics.[22]

2.2.2. Stigmatisation and Discrimination Faced by Persons with Disabilities

In order to recognize and eventually remedy the discrimination and exclusion faced by PWDs, it is important to first and foremost understand the notion of social stigma. According to the sociologist Erving Goffman, stigma refers to an "attribute that is deeply discrediting", whereby the individual possessing said attribute is then reduced in one's mind from "a whole and usual person to a tainted, discounted one".[23] Stigma can further be understood as "any persistent quality of an individual or group that evokes negative or punitive responses from others".[24] Given that disability deviates from social norms, and as such is regarded as an aberration from the standard, much stigma throughout history has been attached to people with various forms of disability.[25] This stigma, consequently, is an instrumental contributor to the discrimination and marginalization faced by PWDs.[26]

Research has found that misunderstandings about the root causes of disability, whether due to religious or cultural beliefs, as well as a lack of general knowledge concerning disability are main drivers of the stigma that is associated with it.[27] Similarly, attitudinal barriers, such as

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[19] Arie Rimmerman, *Social Inclusion of People with Disabilities: National and International Perspectives* (Cambridge University Press 2013) 15.
[20] ibid.
[21] ibid.
[22] ibid 17.
[23] Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* (Prentice-Hall Inc. 1963) 3.
[24] Lisa Schur, Douglas Kruse and Peter Blanck, *People with Disabilities: Sidelined or Mainstreamed?* (Cambridge University Press 2013) 118.
[25] ibid.
[26] Brigitte Rohwerder, 'Disability stigma in developing countries' K4D Helpdesk Report (2018) Institute of Development Studies 2.
[27] ibid.

prejudice and stereotypes, are obstacles faced by PWDs worldwide.[28] Lastly, research shows that different levels of stigma are attached to various forms of impairment and the gravity of said impairment, as well as how one acquired the disability. For example, those with intellectual impairments or mental health conditions are frequently stigmatised more so than those with physical disabilities.[29]

In sum, to address the stigma and resulting discrimination faced by PWDs throughout the world means that it is first imperative to tackle the root causes of misconceptions associated with disability, as well as to raise awareness to more accurate and precise information surrounding disability.

2.3.THE EUGENICS MOVEMENT

The intricate and complex relationship between perceptions of disability, the stigma accompanying it, and the mass atrocities faced by PWDs can be better understood by also considering the role of the eugenics movement.

The term eugenics was coined in the year 1883 by Francis Galton, denoting "good birth".[30] Eugenics was introduced in reference to the "study of the agencies under social control which may improve or impair the racial qualities of future generations physically or mentally".[31] In other words, there are two core concepts that lie at the heart of eugenics. First is the notion encompassing the unequal distribution of human reproductive value both "within and across human populations", and secondly, the belief that it is within human control to employ science in such a way as to govern the composition of humanity over time.[32]

One should also keep in mind the wider setting in which Galton's eugenics arose. During this time period, Charles Darwin's theory of natural selection was at the forefront of scientific

[28] United Nations Department of Economic and Social Affairs (UNDESA), *Culture, Beliefs and Disability* in *Toolkit on Disability for Africa* (Division for Social Policy and Development 2016) 3.
[29] Brigitte Rohwerder, 'Disability stigma in developing countries' K4D Helpdesk Report (2018) Institute of Development Studies 2.
[30] Susan Benedict and Linda Shields, *Nurses and Midwives in Nazi Germany: The Euthanasia Programs* (Routledge, Taylor & Francis Group 2014) 13.
[31] John Kilner, Rebecca Pentz and Frank Young, *Genetic Ethics: Do the Ends Justify the Genes?* (Paternoster Press 1997) 25.
[32] Robert Wilson, *Dehumanization, Disability, and Eugenics* in *The Routledge Handbook of Dehumanization* (Routledge, Taylor & Francis Group 2021) 175.

thinking.[33] Social Darwinism grew and encompassed evolutionary ideas that relied heavily on the notions of social transformation and adjustment by means of artificial selection.[34]

Proponents of eugenics vehemently endorsed its message, having the overall goal of reducing within the general populace the frequency of "physical and mental illness, hereditary diseases and morally deviant behaviours".[35] In Galton's view, eugenics therefore meant "bringing no more individuals into the world than can be properly cared for, and those only of the best stock".[36] This way of thinking progressively directed and consumed the eugenics movement with the pursuit for the "better baby".[37] The zeitgeist of the era ultimately resulted in the movement developing towards negative eugenics, whereby a particularly heavy focus was paid to so-called "degenerate" families.[38]

Problematic legislation based upon eugenic dogma was established in various parts of the globe, thereby permitting eugenic ideology to pave the path for the vast infringement of human rights. One example of the attempt to "cleanse" the gene pool manifested itself in the form of the "racial integrity" laws in the United States which hindered interracial marriage, promoted the euthanasia of "defective" newborns, and called for the sterilisation of PWDs.[39]

2.3.1. The Role of Eugenics in the Atrocities Committed Against Persons with Disabilities

To further deepen one's understanding of the role of eugenics on the encroachment of the rights of PWDs, it is vital to emphasize the part played by dehumanization. Simply put, dehumanization refers to "perceiving a person or group as lacking humanness".[40] According to research, the dehumanization process denies victims of their identity and community, thereby metamorphosizing them into a "deindividuated mass" that is incapable of evoking compassion.[41]

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[33] Robert Wilson, *Dehumanization, Disability, and Eugenics* in *The Routledge Handbook of Dehumanization* (Routledge, Taylor & Francis Group 2021) 175.
[34] ibid.
[35] Jason Luty, 'Psychiatry and the Dark Side: Eugenics, Nazi and Soviet Psychiatry' (2014) 20(1) Advances in Psychiatric Treatment 52.
[36] Arie Rimmerman, *Social Inclusion of People with Disabilities: National and International Perspectives* (Cambridge University Press 2013) 17.
[37] ibid.
[38] Wilson (n 33) 175.
[39] Rimmerman (n 36) 18.
[40] Nick Haslam and Steve Loughnan, 'Dehumanization and Infrahumanization' (2013) 65 Annual Review of Psychology 401.
[41] ibid.

Dehumanization has not only been shown to correlate with increased "commissions of antisocial acts" towards the dehumanized persons, but also with lessened "prosocial behaviour" from the general public towards such individuals.[42] In essence, dehumanized people have been deemed as "less worthy of help, forgiveness, and empathy" as well as more deserving of maltreatment and exclusion.[43]

Historically, the dehumanization of PWDs has led to their rejection from society. An exceedingly unconcealed practice of social exclusion of PWDs is their segregation and institutionalization, such as placing them in asylums, special schools and nursing homes.[44] It should also be noted that the institutionalization of PWDs, at least in part, was flamed by the sparks of the eugenics movement which aspired to prevent these individuals from procreating.[45]

2.4. THE NAZI EUTHANASIA PROGRAM: A CASE STUDY

An extreme instance in which PWDs were systemically dehumanized and subsequently persecuted is discussed in the following section. Although an estimated 300,000 PWDs[46] were murdered, to this day, they remain the unseen and often neglected victims of the atrocities committed by Adolf Hitler and the Nazi Party. This section thereby seeks to illuminate how eugenics and propaganda led to the Nazi racial hygiene theory, culminating in the Nazi euthanasia program. In addition, the role of ableism will be explored.

2.4.1. Understanding the Historical Context

The setting in which the Nazi regime rose to power ultimately set the stage for a fertile breeding ground for grave exploitation of victims. After their assumption of power, a rapid succession of legislation was issued with the aim of excluding those regarded as "outsiders".[47] Although those laws targeting the Jews and Roma, formerly referred to as "*Gypsies*", are

[42] Nick Haslam and Steve Loughnan, 'Dehumanization and Infrahumanization' (2013) 65 Annual Review of Psychology 415.
[43] ibid 416.
[44] Lisa Schur, Douglas Kruse and Peter Blanck, *People with Disabilities: Sidelined or Mainstreamed?* (Cambridge University Press 2013) 121.
[45] ibid 122.
[46] Geoffrey Cocks, *Psychotherapy in the Third Reich, Second Edition* (Transaction Publishing 1997) 113.
[47] Henry Friedlander, *The Origins of Nazi Genocide: From Euthanasia to the Final Solution* (The University of North Carolina Press, Chapel Hill & London 1995) 23.

commonly known, those decrees which served to isolate and exclude PWDs are not as widely discussed.[48]

To begin with, the eugenics movement gained popularity in the European context in the early twentieth century,[49] with German eugenicists turning to literature and achievements that were accomplished in the British and American contexts.[50] Nazi ideology lay upon the foundations of this movement, utilizing eugenics as a blueprint for the "perfect race", whilst employing the tactic of dehumanization through the spread of propaganda.[51]

In 1904, Professor Albert Ploetz established the German Society for Racial Hygiene (*Deutsche Gesellschaft für Rassenhygiene*) in Berlin.[52] This society promoted the importance of protecting the social purity, or "*hereditary worth*", of a race by means of medical interference.[53] This view initiated a significant endorsement by and amongst physicians as an attempt to stop the alleged "deterioration of the German *Volk*",[54] which reveals just how profoundly entrenched Nazi racism was within the medical realm in Germany, even decades before the Nazi euthanasia program commenced in 1939.[55]

Racial hygiene was initially expressed through the Law for the Prevention of Genetically Diseased Offspring (*Das Gesetz zur Verhütung erbkranken Nachwuchses*), or the Sterilisation Law, which was passed in 1933.[56] Under this law, German physicians were instructed to register their patients' hereditary illnesses.[57] Subsequently, the compulsory and involuntary sterilisation of PWDs followed suit.[58]

The racial hygiene theory, as a whole, was allowed to thrive and proliferate amongst the people of Germany since physicians of the time advocated for the notion of "lives unworthy of

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[48] Henry Friedlander, *The Origins of Nazi Genocide: From Euthanasia to the Final Solution* (The University of North Carolina Press, Chapel Hill & London 1995) 23.
[49] Susan Benedict and Linda Shields, *Nurses and Midwives in Nazi Germany: The Euthanasia Programs* (Routledge, Taylor & Francis Group 2014) 13.
[50] Jerry Bergman, *Hitler and the Nazi Darwinian Worldview: How the Nazi Eugenic Crusade for a Superior Race Caused the Greatest Holocaust in World History* (Joshua Press 2012) 158.
[51] Benedict and Shields (n 49) 13.
[52] ibid 16.
[53] ibid.
[54] ibid 17.
[55] Suzanne Evans, *Hitler's Forgotten Victims: The Holocaust and the Disabled* (The History Press 2016) 56.
[56] Karl Kessler, 'Physicians and the Nazi Euthanasia Program' (2007) 36(1) International Journal of Mental Health 6.
[57] Jason Luty, Psychiatry and the Dark Side: Eugenics, Nazi and Soviet Psychiatry' (2014) 20(1) Advances in Psychiatric Treatment 52.
[58] Kessler (n 56) 6.

life".[59] PWDs were then labelled as "useless eaters" and "*Untermenschen*", or "subhuman".[60] They were branded as inferior and forced into a category of people that were compared with and equated to "burdensome animals" who adversely affected the economy.[61]

The Sterilisation Law appealed to the masses and gained wide support due to the medical endorsement and pervasive belief that this law would lead to the eventual enhanced fitness of the general public.[62] Additionally, it was claimed that the financial benefits on the economy of not having to care for future generations of the "*incapacitated*" would be monumental.[63]

Nazi propaganda monopolized on the spirit of the time. Not only did it seek to dehumanize PWDs, but it also sought to advance the divide between them and the general public, both literally and metaphorically. The Nazis accomplished this by depicting PWDs as living a segregated life in institutionalized settings, judged as a "life without hope" (Appendix 1). Nazi propaganda further promoted the support of sterilisation and euthanasia of PWDs by portraying them as arduous and draining on the economy (Appendix 2) and by appealing to the devout masses through alluding to God's supposed plan for PWDs (Appendix 3).

Overall, Hitler championed for the destruction of the "inferior" so that the "superior, best humans" could survive.[64] He gained wide support by manipulating the public to back the scientific view of the time that certain people were indeed genetically subordinate to others.[65] Hitler further exploited propaganda's impact on influencing the minds of the public[66] to commence a ruthless and systematic campaign of human rights violations against PWDs, resulting in their eventual mass murder.

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[59] Robert Proctor, *Racial Hygiene: Medicine under the Nazis* (Harvard University Press 1988) 181.
[60] Suzanne Evans, *Hitler's Forgotten Victims: The Holocaust and the Disabled* (The History Press 2016) 213.
[61] Robert Wilson, *Dehumanization, Disability, and Eugenics* in *The Routledge Handbook of Dehumanization* (Routledge, Taylor & Francis Group 2021) 173.
[62] Karl Kessler, 'Physicians and the Nazi Euthanasia Program' (2007) 36(1) International Journal of Mental Health 6.
[63] ibid.
[64] Jerry Bergman, *Hitler and the Nazi Darwinian Worldview: How the Nazi Eugenic Crusade for a Superior Race Caused the Greatest Holocaust in World History* (Joshua Press 2012) 92.
[65] ibid 94.
[66] Susan Benedict and Linda Shields, *Nurses and Midwives in Nazi Germany: The Euthanasia Programs* (Routledge, Taylor & Francis Group 2014) 6.

2.4.2. The Nazi Euthanasia Program

The aforementioned Sterilisation Law was inadequate in realizing the Nazi goal of a "pure Aryan race", and before long, attention moved away from halting the procreation of PWDs to the actual eradication of the people themselves.[67] Hence, a systematic killing program targeting PWDs was born, one which completely disregarded their right to life, having the ultimate purpose of purging humanity of these individuals.

The Nazi euthanasia program, also referred to as *Aktion T-4*, was named after the headquarters office located on *Tiergartenstrasse 4* in Berlin.[68] The program's agenda was to ensure the absolute genetic purification of the German populace by ridding society of those individuals with mental or physical disorders.[69]

Initially, children with disabilities (CWDs) were those targeted for the methodical murders committed at the hands of the Nazis.[70] The Reich Committee for the Scientific Registration of Serious Hereditary and Congenitally Based Illnesses (*Reichsausschuss zur wissenschaftlichen Erfassung von erb- und anlagebedingten schweren Leiden*) emerged, enabling the concealment of the children's euthanasia program and its true intentions.[71] In 1939, the Reich Committee issued a decree ensuing in the obligatory recording of all "malformed" newborns, and in return supplied a small compensation to German physicians and nurses for each case they reported.[72]

In addition to those infants registered by medical personnel upon birth, parents of CWDs were deceived into admitting their children into "*Kinderfachabteilunger*", or establishments for children with special needs, under the guise that there they would receive the finest care feasible.[73] Upon removal from their families and the supervision of their parents, these children became vulnerable to a host of abuses, including involuntary pseudo-medical experimentation, research, and finally their inhumane murders.[74]

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[67] Susan Benedict and Linda Shields, *Nurses and Midwives in Nazi Germany: The Euthanasia Programs* (Routledge, Taylor & Francis Group 2014) 71.
[68] Jason Luty, 'Psychiatry and the Dark Side: Eugenics, Nazi and Soviet Psychiatry' (2014) 20(1) Advances in Psychiatric Treatment 53.
[69] ibid.
[70] Henry Friedlander, *The Origins of Nazi Genocide: From Euthanasia to the Final Solution* (The University of North Carolina Press, Chapel Hill & London 1995) 39.
[71] Benedict and Shields (n 67) 76.
[72] Suzanne Evans, *Hitler's Forgotten Victims: The Holocaust and the Disabled* (The History Press 2016) 17.
[73] Benedict and Shields (n 67) 78.
[74] ibid.

The Reich Committee founded "Special Pediatric Units", or establishments that functioned as killing wards of CWDs.[75] These pediatric killing institutions were located across Germany and Austria, such as in Berlin, Brandenburg-Görden, Eichberg, Eglfing-Haar, Hadamar, Hamburg, Kalmenhof, Kaufbeuren, Leipzig, Loben, Meseritz-Obrawalde, Niedermarsberg, Steinhof, Stuttgart, Uchtspringe, Vienna, and elsewhere.[76] Despite the broad geographical dispersal of these killing wards, and in spite of the Nazis' efforts at keeping the murders a secret, many people knew the fate that awaited these children.[77]

The destiny of adults with disabilities followed the same trajectory as the one that awaited CWDs, who were merely the first victims of the Nazis' endeavour to purify the German race.[78] Eventually, upon the *official* ending of the *Aktion T-4* extermination program in 1941, the so-called "highly qualified" staff were transferred to the *Aktion Reinhardt* death camps.[79] These extermination camps, including Belzec, Sobibor, Treblinka, and later Majdanek and Auschwitz II-Birkenau, were founded to realise the "Final Solution", or the plan orchestrated to annihilate European Jewry.[80]

What then, can the history of harmful practices committed against PWDs teach us, and specifically, what can be learnt from the sterilisation and euthanasia laws in Nazi Germany? What does the progression of *how* medical personnel shifted from their role as caregivers into cruel, premeditated murderers teach us?

To begin with, it is the author's belief that we ought to reflect upon the past in order to learn the depth of transgressions occurring in modern society and the dangers of ignoring said violations. By analyzing the sterilisation and euthanasia of PWDs during the Nazi regime, we can see how distorted ethical lines may become in a world dominated by stigmatisation. We can learn how harmful practices, such as those committed by the Nazis against PWDs, are deeply rooted in discrimination. Understanding the role of said discrimination in the inhumane or degrading treatment of others will thereby allow society to not only remedy, but also prevent such wrongdoings in the future. Conversely, if long-ago events are actively buried, rather than

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[75] Susan Benedict and Linda Shields, *Nurses and Midwives in Nazi Germany: The Euthanasia Programs* (Routledge, Taylor & Francis Group 2014) 79.
[76] Suzanne Evans, *Hitler's Forgotten Victims: The Holocaust and the Disabled* (The History Press 2016) 18.
[77] ibid 19.
[78] Henry Friedlander, *The Origins of Nazi Genocide: From Euthanasia to the Final Solution* (The University of North Carolina Press, Chapel Hill & London 1995) 62.
[79] Benedict and Shields (n 75) 100.
[80] ibid 102.

engaged with, past mistakes and infringements on the fundamental freedoms and human rights of others will continue to occur.

Secondly, the author argues for the importance of challenging those in power, and the absolute responsibility of the public to *not* turn a blind eye to ongoing abuses. This case is specifically reflective of the historical violations committed against PWDs, however, these lessons can, and should, be applied to contemporary events. As was previously mentioned, the Nazis commenced their mass atrocities by targeting the most vulnerable factions of society: children and adults with disabilities. Their carnages, though, did not end there. As society ignored the plights and even enabled the persecution of those victims, hatred spread and so did their list of scapegoats. The Nazis eventually moved on to target individuals of different ethnicities, religious denominations, political beliefs and sexual orientations. Current-day events then, should be scrutinized under the same lens of challenging those in power and the necessity in fulfilling the duty of the international community to stand up against human rights violations, wherever they may occur. The conflicts raging across the world at the time of writing this thesis, whether in Africa, the Middle East or Europe must universally be dealt with. In addition to war as a source of violation in the year 2022, the human rights encroachments resulting from economic instability, natural disasters and food insecurity must also be addressed.

In going back to the case study of the Nazi euthanasia program, analyzing the Nazi attempt to eradicate society of "malformed" or mentally ill children and adults could best be understood as having resulted from a culture perpetuating the idea that "genetic deformities were a burden on the nation".[81] The stigmatisation of PWDs, the perception of them as defective and innately unworthy, and the discrimination they faced during the Nazi era still lie at the root of contemporary issues.[82] Modern society continues to discriminate in favor of the able-bodied, branding those with disabilities as "lesser than" the non-disabled counterpart. In order to move forward from repeating such patterns of prejudice and violations against PWDs, it is therefore essential to demolish the toxic notion that normative, mainstream abilities are superior.

[81] Suzanne Evans, *Hitler's Forgotten Victims: The Holocaust and the Disabled* (The History Press 2016) 25.
[82] ibid 9.

2.4.3. Understanding the Role of Ableism

As such, ableism refers to "ideas, practices, institutions, and social relations that presume able-bodiedness, and by doing so, construct persons with disabilities as marginalized, oppressed, and largely invisible 'others'".[83] In essence, ableism reflects the stigma- and discrimination-driven oppression faced by PWDs on a societal level by favoring those without disabilities.[84]

If oppression, however, is an established, systematic maltreatment of individuals belonging to various groups by means of discrimination which the public becomes *habituated* to, then it is important to recognize that it can be challenged.[85] In other words, becoming accustomed to and normalizing extensive discrimination can be understood as a learned process. The significance of this concept is not only noteworthy, but also crucial to understand, as it argues that patterns of oppression can, absolutely, be unlearned.[86]

To further expand on the importance of unlearning discrimination, it is vital to understand that the social conditioning enabling oppression to endure is detrimental to all parties involved.[87] Essentially, oppressing PWDs hurts society as a whole. In order to become an ally to PWDs, then, the cycle of oppression ought to be broken. To free individuals and society from the chains of oppression, discrimination must therefore be unlearned. To unlearn discrimination, stigma must be tackled, and in order to achieve this, the very roots of misconceptions and stereotypes ought to be addressed. It all begins with challenging deceptive and distorted information and continues with efforts of raising awareness to correct, truthful data.

2.5. CONCLUSION

In conclusion, the Nazi propaganda machine which served to stigmatize PWDs, the prevailing perceptions of German physicians concerning these individuals, and the shameful collective interpretation of disability as inherently repulsive all interacted in such a way that

[83] Vera Chouinard 'Making space for disabling differences: challenging ableist geographies' (1997) 15(4) Environment and Planning D: Society and Space 380.
[84] Kathleen R. Bogart, 'Ableism Special Issue Introduction' (2019) 75(3) Journal of Social Issues 651.
[85] Sandy O'Neill 'First They Killed the 'Crazies' and 'Cripples': The Ableist Persecution and Murders of People with Disabilities by Nazi Germany 1933-45, An Anthropological Perspective' (DPhil thesis, California Institute of Integral Studies 2000) 63.
[86] ibid.
[87] ibid 64.

culminated in the historical legacy which remains today.[88] The footprint left behind by said legacy looms over and directly impacts contemporary issues relating to PWDs, thereby affecting their current status throughout the world. To this day, countless men, women, and children with disabilities remain subjected to marginalization, rejection and negative stereotypes paralleling those which permitted the occurrence of the euthanasia murders.[89]

Society has of course come a long way concerning the humane treatment of PWDs, yet it is absolutely essential to realize that although those prejudices that used to kill PWDs no longer kill them, they do remain unchanged from those which existed in Nazi Germany. The stigma and discrimination underlying the social exclusion of PWDs pervasive throughout history are the same as those which result in symbolic violence during contemporary times.

The next section, then, will address present-day rights of PWDs, with a particular focus on international obligations towards the individuals found within this group. The notion of intersectionality will be analyzed and discussed, as will the impact of language on the stigmatisation, discrimination and marginalization presently faced by PWDs.

[88] Suzanne Evans, *Hitler's Forgotten Victims: The Holocaust and the Disabled* (The History Press 2016) 8.
[89] ibid.

3.
THE HUMAN RIGHTS OF PERSONS WITH DISABILITIES

3.1. INTRODUCTION

As an extension to the previous segment of the thesis, this chapter will move away from the historical understandings and perceptions of disability to that of the present day. Specifically, this chapter outlines the theoretical framework of disability with Section 3.2 providing an overview of the approaches to disability whilst explicating their evolution over time. Section 3.3 will shed light on the duties and responsibilities of the global community towards PWDs, beginning with the existing obligations, continuing to the prevailing challenges and gaps, and ending with recommendations for the future. Section 3.4 will provide an analytical evaluation of the multiple dimensions to individuals' identities, specifically discussing CWDs, in order to better understand the notion of intersectionality. Lastly, Section 3.5 will conclude with exploring the impact of language on the marginalization of PWDs and the access to their human rights in modern-day society.

3.2. A PARADIGM SHIFT

Although PWDs are one of the leading minorities worldwide, they continue to encounter on a daily basis the intrusion on their basic human rights.[90] Prior to analyzing said violations, it is vital to first understand what disability embodies. It is, after all, merely a single word, and yet it encompasses within it a myriad of nuanced connotations carrying a variety of implications.

According to the Convention on the Rights of Persons with Disabilities (CRPD), disability itself is understood as "an evolving concept".[91] Furthermore, PWDs can be defined as "those who have long-term physical, mental, intellectual or sensory impairments which in

[90] UNDESA, *Introducing the United Nations Convention on the Rights of Persons with Disabilities* in *Toolkit on Disability for Africa* (Division for Social Policy and Development 2016) 3.
[91] Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3 (CRPD), Preamble.

interaction with various [attitudinal and environmental] barriers may hinder their full and effective participation in society on an equal basis with others".[92]

Ultimately, the way society views disability, and thus, the manner in which we interact with PWDs can best be understood as a continually changing, dynamic process. It is accepted in academia that throughout the course of this development, society's approach to disability has undergone two main paradigm shifts. The first such change can be seen through the advancement from the traditional, medical based approach to the social approach, whilst the second such change can be understood with the evolution of viewing disability through the human rights-based approach (HRBA).

3.2.1. The First Paradigm Shift: Moving Away from the Medical Based Approach to Disability

The non-static nature of understanding disability is illustrated first and foremost through the moving away from the medical model of disability. This approach suggests that disability can be viewed purely in terms of being a medical condition and, as such, regards medical personnel as those able to "treat and eliminate the symptoms and the illness", thus eliciting improvement in the individual's condition.[93]

A number of issues arose from this innately erroneous interpretation of disability as *sickness*. To begin with, assuming that an individual's disability is equal to a deficiency results in viewing said person as "incomplete, flawed or broken".[94] Under this perspective, PWDs are deemed unable of doing things "normally" like others.[95] This interpretation of disability and PWDs is deeply rooted in the notion of ableism, viewing able-bodiedness as the standard.

Ultimately, to define a PWDs by his or her disability means to view said individual only as disabled, rather than accepting that the disability is merely one facet of that person's identity. This becomes even more problematic when disability is viewed as a genetic deficit resulting in the individual's inability. It should be asked, then, who decided that the "standard" or able-

[92] CRPD, Article 1.
[93] Andreas Petasis, 'Discrepancies of the Medical, Social and Biopsychosocial Models of Disability: A Comprehensive Theoretical Framework' (2019) 3(4) The International Journal of Business Management and Technology 43.
[94] ibid.
[95] Katy Bailey, St John Harris and Sam Simpson, 'Stammering and the Social Model of Disability: Challenge and Opportunity' (2015) 193 Procedia – Social and Behavioral Sciences 14.

bodied way of doing something is the correct way? Who said that the conventional method of accomplishing a set goal equates ability, and that which falls outside the norm parallels incapacity?

The social model of disability developed as a direct reaction to these shortcomings of the medical model and it sought to distinguish the impairment and disability as distinct entities, advocating that "disability does not follow automatically from impairment".[96] This model emerged through the disabled people's movement, specifically by the Union of the Physically Impaired Against Segregation (UPIAS) in 1966.[97] The disabled people's movement was a "means of resistance" to the existing oppression and victimization of PWDs, focusing its efforts on the empowerment of these individuals.[98] The well-known slogan used by the movement in order to achieve their goal, "nothing about us without us", reflects the significant transformation in which politically active PWDs began declaring that "they know what is best for themselves and their community".[99]

Insofar as the social model goes, it re-defined disability in such a way that pointed to the social environment rather than to the individual as the prime source of disability.[100] Accordingly, the social model argues that PWDs are not "disabled because they have an impaired body, mind or means of communication, but because contemporary society neglects their needs and rights, thereby placing barriers in their way".[101] This idea was considered innovative as it assumed that the cause of disability was not the individual's impairment, but society itself. Essentially, rather than attributing responsibility or blame to PWDs, the proponents of this model argued that it is the so-called abled community which must change.

The social model of disability can further be seen through the lens of the disability activists' struggle for the realization of human rights, in that they were fighting for the equal civil rights of PWDs.[102] Essentially, the social model stressed that the rights of PWDs and their full

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[96] Katy Bailey, St John Harris and Sam Simpson, 'Stammering and the Social Model of Disability: Challenge and Opportunity' (2015) 193 Procedia – Social and Behavioral Sciences 14.
[97] ibid.
[98] Susan Peters, Susan Gabel and Simoni Symeonidou 'Resistance, transformation and the politics of hope: imagining a way forward for the disabled people's movement' (2009) 24(5) Disability & Society 546.
[99] James I. Charlton, *Nothing About Us, Without Us: The Dialectics of Disability Oppression and Empowerment* (University of California Press 2000) 4.
[100] Bailey, Harris and Simpson (n 96) 18.
[101] ibid 16.
[102] Tania Burchardt, 'Capabilities and disability: the capabilities framework and the social model of disability' (2004) 19(7) Disability & Society 735.

participation in society could only be achieved by breaking societal barriers that the non-disabled public continued to overlook.[103] As such, the social model views disability in terms of *social oppression* rather than as an individual's inability.[104]

The capabilities approach, which can be seen as complementary to the social model, then added the element of resources to the equation. This approach regards disability not as resulting merely from environmental limitations, but also from the barriers to equality which are economic in nature, or simply put, from the lack of available resources towards PWDs.[105] This approach can thereby be understood as tailoring the social model to the individual, as it sought to introduce resources which contribute to the distinct and specific needs of an individual with disabilities in a conducive manner.

3.2.2. The Second Paradigm Shift: Moving Towards the Human Rights-Based Approach to Disability

Subsequently, the second paradigm shift in the way society views disability transpired with the emergence of the HRBA model to disability. The basis of the human rights model can be linked back to the United Nations (UN) Universal Declaration of Human Rights (UDHR),[106] which recognizes that "all human beings are born free and equal in dignity and rights".[107] This model to disability encompasses both generations of human rights, thereby equally embracing the civil and political rights as well as the economic, social and cultural rights of PWDs.[108]

The HRBA model to disability not only embraces the notion of PWDs as *subjects* of rights rather than *objects* of charity, but further recognizes "variation in human characteristics associated with disability as inherent to the human condition".[109] These differences in individuals' capabilities are viewed in a positive light rather than being assumed as having adverse effects on society. In essence, it is argued that "such variations do not limit potential

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[103] Tania Burchardt, 'Capabilities and disability: the capabilities framework and the social model of disability' (2004) 19(7) Disability & Society 735.
[104] Katy Bailey, St John Harris and Sam Simpson, 'Stammering and the Social Model of Disability: Challenge and Opportunity' (2015) 193 Procedia – Social and Behavioral Sciences 14.
[105] Burchardt (n 103) 735.
[106] Marcia Rioux and Anne Carbert, 'Human Rights and Disability: The International Context' (2003) 10(2) Journal on Developmental Disabilities 1.
[107] Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR), Article 1.
[108] Theresia Degener, *A Human Rights Model of Disability* in *A Routledge Handbook of Disability Law and Human Rights* (Routledge, Taylor & Francis Group 2016) 35.
[109] Rioux and Carbert (n 106) 2.

contributions to society, but rather diversify the range of potential contributions and the range of mechanisms to ensure individual potential is realized".[110]

To better appreciate the benefits of multiplicity in society by means of accepting individual differences, one should consider the underlying premise of the HRBA model grounded in the principle of equal participation of PWDs in said society.[111] Broadly speaking, participation enables diversity, which in turn challenges the status quo, thereby catalyzing change.[112] More specifically, the confrontation of current situations promote and stimulate the rise of opportunities for all in society.[113] As a result, this leads to the augmented interaction between different groups of people, which has been shown to produce "clear increases in understanding and decreases in prejudiced attitudes".[114] Given a reduction in such attitudinal barriers faced by PWDs, a decline in stigmatisation and discrimination can be hypothesized to follow. Going back to the previous chapter of this thesis, it could be posited that such a decrease would positively correlate with the situation of PWDs by eradicating their exclusion from society. Therefore, encouraging the involvement and contribution of PWDs, and thus facilitating their inclusion, can indeed have positive implications for the realization of their basic human rights.

The battle for said realization evolved throughout history, yet it is important to reflect on the terminology used at the time and to expose how the language was both reflective of and perpetuating the underlying harmful views and beliefs towards PWDs. The first instrument which sought to accord equal rights to those with intellectual impairments[115] was the Declaration on the Rights of Mentally Retarded Persons, in 1971.[116] Subsequently, in 1975 the Declaration on the Rights of Disabled Persons affirmed the "equal civil and political rights of all disabled persons" whilst simultaneously setting standards for their equal "treatment and access to

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[110] Marcia Rioux and Anne Carbert, 'Human Rights and Disability: The International Context' (2003) 10(2) Journal on Developmental Disabilities 2.
[111] ibid.
[112] Daryl Smith and Natalie Schonfeld, 'The Benefits of Diversity: What the Research Tells Us' (2000) 5(5) About Campus 22.
[113] ibid.
[114] ibid.
[115] United Nations International Children's Emergency Fund (UNICEF), 'Promoting the Rights of Children with Disabilities Innocenti Digest No. 13' (Innocenti Research Centre 2007) 8 <https://www.unicef-irc.org/publications/474-promoting-the-rights-of-children-with-disabilities.html> accessed 4 April 2022.
[116] Arie Rimmerman, *Social Inclusion of People with Disabilities: National and International Perspectives* (Cambridge University Press 2013) 126.

services".[117] Overall, this past use of language relating to PWDs can be understood as problematic in that such individuals were initially described as slow or hindered somehow, and then were entirely defined by their disability, rather than considering the disability as merely one facet to their identities.

Therefore, not only is disability itself an evolving concept, but so is the shift in language,[118] practices, and approaches towards disability. This evolution can further be observed with one of the "most useful tools in the implementation of the HRBA" model,[119] namely with the adoption of legally-binding CRPD in 2006.[120] In terms of linguistics, the Convention takes a "person-first, disability-second" approach, thereby reflecting the aforementioned gradual change in language. Substance-wise, the CRPD stresses that disability is not just a development issue, but also a human rights one.[121] The CRPD deals with the respect for human rights inherent to *all* people, including PWDs, whilst also integrating the notions of inclusion and dignity as the building blocks for its content. The following section will provide a more exhaustive study of the details found within the provisions of the Convention, as well as the implications it has on the lives of PWDs.

3.3. INTERNATIONAL OBLIGATIONS AND THE UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

Throughout history, the marginalized community of PWDs has long been involved in actively pursuing the goals of alleviating inequalities and eradicating violations of their human rights.[122] One step in that process is accepted by many to be the aforementioned adoption of the

[117] UNICEF, 'Promoting the Rights of Children with Disabilities Innocenti Digest No. 13' (Innocenti Research Centre 2007) 8 <https://www.unicef-irc.org/publications/474-promoting-the-rights-of-children-with-disabilities.html> accessed 4 April 2022.
[118] A more thorough debate regarding the role of language and the influence of terminology used is coming in Section 3.4 (The Power of Words and Their Impact on the Marginalization and Human Rights of Persons with Disabilities).
[119] Edurne García Iriarte, Roy McConkey and Robbie Gillian, *Models of Disability* in *Disability and Human Rights: Global Perspectives* (Palgrave MacMillan 2016) 24.
[120] UNICEF (n 117) 8.
[121] UNDESA, *Introducing the United Nations Convention on the Rights of Persons with Disabilities* in *Toolkit on Disability for Africa* (Division for Social Policy and Development 2016) 9.
[122] Eilionóir Flynn, *Access to Justice and its Relevance for People with Disabilities* in *Disabled Justice? Access to Justice and the UN Convention on the Rights of Persons with Disabilities* (Routledge, Taylor & Francis Group 2016) 14.

CRPD, which is often recognized as the "most inclusive human rights treaty" due to the monumental and direct participation of PWDs themselves in its drafting.[123] Furthermore, the CRPD is seen as an exceptionally valuable instrument not only in terms of its connection with the expansion of existing policy and legislature, but also in relation to the facilitation of civil society in monitoring its application.[124]

It is important to note that while writing the CRPD, the mandate of the drafters was not to invent *new* rights, but rather to set out a "detailed code of implementation" elaborating on how existing human rights pertain to the actual experiences of PWDs.[125] Essentially, the CRPD elucidates with utmost precision exactly how "human rights apply to PWDs", outlining the duties required of States in order to support the "enjoyment of all human rights".[126] Prior to analyzing the CRPD more extensively, a vital component to consider is what international human rights law (IHRL) claims the positive and negative obligations of States Parties to be.

3.3.1. Positive and Negative Obligations of States Parties to the Convention

According to IHRL, "duty-holders and their obligations" ought to be identified in order to effectively respect, protect, and fulfil human rights.[127] Those obligations which are denoted as positive in nature refer to the duties requiring "member states to take action" in order to protect rights, whilst negative obligations are those which mandate States to not "interfere in the exercise of rights".[128] Principally, States are obliged to "abstain from interfering with the exercise of the right, but also to protect the right from infringement by third parties".[129] The positive rights are commonly considered to be those of the International Covenant on Economic,

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[123] Eilionóir Flynn, *Access to Justice and its Relevance for People with Disabilities* in *Disabled Justice? Access to Justice and the UN Convention on the Rights of Persons with Disabilities* (Routledge, Taylor & Francis Group 2016) 14.
[124] Edurne García Iriarte, Roy McConkey and Robbie Gillian, *Models of Disability* in *Disability and Human Rights: Global Perspectives* (Palgrave MacMillan 2016) 24.
[125] United Nations, 'Committee negotiating convention on rights of disabled persons concludes current session' (Press release SOC/4680 12 August 2005) <https://www.un.org/press/en/2005/soc4680.doc.htm> accessed 24 March 2022.
[126] United Nations Development Group (UNDG), *Including the rights of persons with disabilities in United Nations programming at country level* in *A Guidance Note for United Nations Country Teams and Implementing Partners* (United Nations 2011) 15.
[127] Dinah Shelton, *Positive and Negative Obligations* in *The Oxford Handbook of International Human Rights Law* (Oxford University Press 2013) 1.
[128] ibid.
[129] ibid.

Social and Cultural Rights (ICESCR), while negative rights are characterized as those under the International Covenant on Civil and Political Rights (ICCPR).[130]

In reference to the CRPD, positive obligations of States Parties are set out in Article 4 of the Convention, wherein these States consent to "adopt all appropriate legislative, administrative, and other measures for the implementation of the rights", as well as "taking appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against PWDs".[131] With regards to their negative obligations, States Parties undertake to "refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention".[132] Both the positive and negative obligations of States Parties are thereby clearly set out in the Convention.

In addition to the obligations of States Parties being explicitly laid out in the CRPD, the general principles of the Convention assist in the overall comprehension and interpretation of the human rights provisions found within its pages.[133] These are specified in Article 3, and in verbatim include the following:

> *(a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; (b) non-discrimination; (c) full and effective participation and inclusion in society; (d) respect for differences and acceptance of persons with disabilities as part of human diversity and humanity; (e) equality of opportunity; (f) accessibility; (g) equality between men and women; and (h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.*[134]

In general, then, it can be understood that States Parties to the Convention have the overall obligation to safeguard the abovementioned human rights from encroachments by others, whilst simultaneously having the responsibility to refrain, themselves, from meddling with the actual exercise of these rights. What happens though, when equal recognition before the law remains merely on paper and does not translate into real life? Indeed, a major challenge

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[130] Raymond Lang and others, 'Implementing the United Nations Convention on the rights of persons with disabilities: principles, implications, practice and limitations' (2011) 5(3) ALTER, European Journal of Disability Research 208.
[131] CRPD, Article 4.
[132] ibid.
[133] UNDESA, *Introducing the United Nations Convention on the Rights of Persons with Disabilities* in *Toolkit on Disability for Africa* (Division for Social Policy and Development 2016) 10.
[134] CRPD, Article 3.

confronting PWDs in their battle to realize their full and effective human rights is the implementation of the very convention seeking to shield their rights.

3.3.2. Non-Compliance of States Parties

Currently, an incongruity endures between the admirable proclamations set in the Convention and what actually ends up happening in practice given the major gap that still exists concerning adherence to the CRPD provisions by States Parties.[135] As such, what is referred to as "non-compliance" of States Parties remains a major issue that needs to be addressed.[136]

In the case of a breach or non-compliance of European States Parties to the Convention, the European Commission can commence an "infringement procedure" and may turn to the Court of Justice of the European Union in Luxembourg as a "matter of last resort".[137] On an international level, however, the degree to which it is "possible to implement a universal approach to disability rights" is often debated.[138]

Pitfalls within the universality debate are often two-fold. To begin with, critics frequently argue that human rights, and by extension disability rights, are prejudiced towards Western values and as a result reflect continued colonialism by means of cultural imperialism, ultimately imposing cultural hegemony.[139]

As a refutation to this first mentioned condemnation, one may simply point to those "non-Western countries that signed the original UDHR" and cast light onto the "universal nature" of human rights groups which actively observe and examine infringements thereof.[140] Such continued infringements must not be decoded as clear ineffectiveness of human rights, but should rather serve as the moral compass which drives society to constantly assess how humanity can adapt "existing monitoring and enforcement mechanisms" to better preserve and protect those basic rights.[141]

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[135] Raymond Lang and others, 'Implementing the United Nations Convention on the rights of persons with disabilities: principles, implications, practice and limitations' (2011) 5(3) ALTER, European Journal of Disability Research 207.
[136] Tanja Bratan and others, 'Implementation of the UN Convention on the Rights of Persons with Disabilities: A Comparison of Four European Countries with Regards to Assistive Technology' (2020) 10(4) Societies 16.
[137] ibid.
[138] Lang and others (n 135) 208.
[139] Nathalie A. Smuha, 'Beyond a Human Rights-Based Approach to AI Governance: Promise, Pitfalls, Plea' (2020) 34(1) Philosophy & Technology 96.
[140] ibid.
[141] ibid.

The second challenge within the universality debate which is commonly discussed relates to the problems arising in operationalization. A key issue underlying this surrounds *how* States utilize their resources so as to attain their human rights duties.[142] States often evade their responsibilities by relying on the concept of progressive realization of ICESCR rights, using as pretext their unavailability of resources.[143]

To curb this problem, "progressive human rights-based disability policies"[144] should evolve to establish concrete and timely implementation mechanisms. In addition, incentives should be incorporated in the operationalization process in order to encourage States to follow through with their obligations.

3.3.3. Recommendations to Overcome Challenges Underlying Non-Compliance

Moving forward, a key element in combatting non-compliance of States Parties must begin with the reflection on the idea that "all human rights are universal, indivisible and interdependent and interrelated",[145] as proclaimed by the 1993 Vienna Declaration and Programme of Action, at the World Conference on Human Rights in Vienna.

It is vital to understand the abovementioned statement on the grounds that human rights have been plagued by divisiveness throughout history. This division can be observed through the dichotomous understanding of negative (ICCPR) and positive (ICESCR) rights.[146] The traditional approach to understanding indivisibility merely states that these categories of rights are of "equal value"[147] and that a human right can only be fully realized upon the realization of all other human rights.[148] The danger in this way of thinking, however, is that it only serves to further the gap between the different rights by means of setting them side by side.

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[142] Gauthier De Beco, 'The Indivisibility of Human Rights and the Convention on the Rights of Persons with Disabilities' (2019) 68(1) International and Comparative Law Quarterly 156.
[143] ibid.
[144] Raymond Lang and others, 'Implementing the United Nations Convention on the rights of persons with disabilities: principles, implications, practice and limitations' (2011) 5(3) ALTER, European Journal of Disability Research 212.
[145] Vienna Declaration and Programme of Action (adopted on 12 July 1993) A/CONF.157/23 (Vienna Declaration) Pt I, para. 5.
[146] Frédéric Mégret, 'The Disabilities Convention: Towards a Holistic Concept of Rights' (2008) 12(2) The International Journal of Human Rights 265.
[147] De Beco (n 142) 147.
[148] James W. Nickel, 'Rethinking Indivisibility: Towards a Theory of Supporting Relations between Human Rights' (2008) 30(4) Human Rights Quarterly 984.

Rather, an alternative approach, or a newer way to understand indivisibility should be promoted. Such an approach can already be seen with the CRPD, which has "blurred" the divide between the two generations of rights contrary to just reiterating their equal status.[149] Essentially, the CRPD produced a new manner to understand the notion of indivisibility by stressing *how* these rights are intricately intertwined.[150] The risk of failing to consider this interlinkage of human rights is said to be the hindrance in their very implementation.[151]

The next segment will further develop on the interconnectedness of rights by discussing intersectionality, or the concept that "social identity categories" are interrelated and operate concurrently to generate "experiences of privilege and marginalization", leading to the potential violations of human rights.[152]

3.3.4. The Notion of Intersectionality

3.3.4.1. Multiple Dimensions to One's Identity

In an effort to better understand the ramifications of one's identity on "societal power hierarchies", it must first be realized that differing identity groupings can include categories such as race, gender, sexuality, ability, age and so on.[153] Secondly, awareness must be brought to the forefront regarding the *interaction* of the various and diverse identities that make up one's unique individuality.[154]

At the very heart of intersectionality lies the concern for the issue of power imbalances,[155] as well as the fundamental encompassing of inclusion by means of providing a voice to discriminated and sidelined factions of society.[156] Moreover, intersectionality recognizes that power inequalities faced by the differing social identity groupings changes "across time and geographical location" and thus it is crucial to sow the seeds for a more just world in order to transform society.[157] This can be facilitated by guaranteeing that these identity groupings are not

[149] Gauthier De Beco, 'The Indivisibility of Human Rights and the Convention on the Rights of Persons with Disabilities' (2019) 68(1) International and Comparative Law Quarterly 159.
[150] ibid 148.
[151] ibid.
[152] Wendy G. Smooth, *Intersectionality from Theoretical Framework to Policy Intervention* in *Situating Intersectionality* (Palgrave MacMillan 2013) 11.
[153] ibid 11.
[154] ibid.
[155] ibid 12.
[156] ibid 20.
[157] ibid 21.

perpetually connected to continued biases and imbalances given that such inequalities can, and do, result in the violations of human rights belonging to said individuals.[158]

The notion of intersectionality, then, must be better understood in order for society to even begin dismantling the oppression faced by PWDs belonging to sidelined groups, such as different races, genders, sexual orientations, ages, and so on. As was briefly discussed in the previous chapter, one group that is particularly vulnerable to marginalization is CWDs. The following section will therefore analyze the case of children who are susceptible to abuses and encroachments on their human rights.

3.3.4.2. Children with Disabilities

Prior to the adoption of the CRPD, the first legally binding instrument in the international sphere dealing with the rights of CWDs was the 1989 Convention on the Rights of the Child (CRC).[159] The four overarching principles of the CRC providing the basis for the fulfilment of all other rights include: non-discrimination,[160] the best interests of the child,[161] survival and development of the child,[162] and respect for the views of the child.[163]

Specifically, the article of non-discrimination explicitly prohibits prejudice on the basis of disability. It is argued that this principle strives to eliminate the marginalization experienced by CWDs in separate accommodations, such as segregated educational, recreational, and health facilities, as they ultimately maintain the negative perceptions of CWDs as problematic, thereby reinforcing means of discrimination.[164]

Looking at the past, one may clearly see how the custom of institutionalizing CWDs can quickly become perilous when society associates them with burdens. The Nazis, for example, not only supported the notion of CWDs as burdensome, but actively perpetuated this interpretation which thereby led to the vast violations of their basic human rights.

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[158] Wendy G. Smooth, *Intersectionality from Theoretical Framework to Policy Intervention* in *Situating Intersectionality* (Palgrave MacMillan 2013) 21.
[159] UNICEF, 'Promoting the Rights of Children with Disabilities Innocenti Digest No. 13' (Innocenti Research Centre 2007) 7 <https://www.unicef-irc.org/publications/474-promoting-the-rights-of-children-with-disabilities.html> accessed 4 April 2022.
[160] Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC), Article 2.
[161] CRC, Article 3.
[162] CRC, Article 6.
[163] CRC, Article 12.
[164] UNICEF (n 159) 7.

Although it is evident that within the CRC's scope CWDs are included, and non-discrimination is one of its core foundations, it is said that little consideration has actually been given to the safeguarding of their rights in practice.[165] To ameliorate the global reality of marginalization of CWDs and their families, it should be recognized that the discrimination they face can be "direct, indirect, or a combination of the two".[166] Direct discrimination occurs when CWDs are intentionally treated differently from their able-bodied peers, simply on the basis of their disability.[167] Indirect discrimination, on the other hand, takes place when "practices or policies that do not immediately appear to discriminate against CWDs actually have a discriminatory impact in practice, resulting in the denial of certain human rights".[168] Additionally, it should be noted that although indirect discrimination may be unintended, its impacts can be just as harmful as those of direct discrimination.

Overall, research illustrates that both direct and indirect discrimination, as well as the exclusion of CWDs, in all social settings has in fact continued to endure.[169] The successive CRPD sought to address this neglect of the affected children by introducing "remedial measures"[170] and complementing the central obligations of equality and non-discrimination with the concept of "full and effective participation and inclusion in society".[171]

In order to more holistically address the issue of discrimination faced both by children and adults with disabilities, however, the concrete language used towards and about this community must also be brought into the forefront of discussion.

3.4. THE POWER OF WORDS AND THEIR IMPACT ON THE MARGINALIZATION AND HUMAN RIGHTS OF PERSONS WITH DISABILITIES

Contemporary stigmatisation and discrimination towards PWDs is affected not only by misconceptions associated with disability, but also by the words repeatedly propagated by the

[165] Maya Sabatello, 'Children with Disabilities: A Critical Appraisal' (2013) 21(3) The International Journal of Children's Rights 464.
[166] UNICEF, 'Promoting the Rights of Children with Disabilities Innocenti Digest No. 13' (Innocenti Research Centre 2007) 14 <https://www.unicef-irc.org/publications/474-promoting-the-rights-of-children-with-disabilities.html> accessed 4 April 2022.
[167] ibid.
[168] ibid.
[169] Sabatello (n 165) 464.
[170] ibid 471.
[171] CRPD, Article 3.

non-disabled majority. As such, words indeed have a powerful impact on the modern-day marginalization of PWDs as well as on the access to their human rights. A discourse analysis of the language deliberately used towards PWDs must first be addressed in order to then be able to deal with its resulting harmful effects. Though the terminology itself which is associated with disability has evolved over time in numerous societies,[172] it should be asked whether the undertone remains the same? Have the connotations of the labels branding PWDs transformed, or do their implications stay unchanged?

3.4.1. The Role of Language in the Social Construction of Reality

Prior to analyzing the questions posed above, one must recognize how language plays a crucial part in the social construction of reality. In order to do so, it is significant to comprehend that the reality of daily life is both full of objectivations and made possible because of them.[173] An objectivation of key relevance is that of signification, or "the human production of signs".[174] Moreover, language is recognized as the most crucial "sign system of human society" and can be further understood as a "system of vocal signs".[175]

In other words, in order to understand the complex nature of reality, it is essential to first appreciate the role of language in the interpretation of said reality; only then can one truly understand how by naming things through language do individuals end up construing them as such.[176]

3.4.2. Language and Stereotypes Relating to Persons with Disabilities

Historically, depictions of PWDs have assembled around two overarching stereotypes, those which are excessively negative in nature and those which are overly positive.[177] Regarding the former category, PWDs are often perceived as pitiful, evil, objects of mockery, incompetent, or burdensome; depictions which are not necessarily mutually exclusive.[178] Popular culture of

[172] Jan Grue, *Disability and Discourse Analysis* (Ashgate 2015) 8.
[173] Peter L. Berger and Thomas Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (Penguin Books 1991) 50.
[174] ibid.
[175] ibid 51.
[176] ibid 52.
[177] Arie Rimmerman, *Social Inclusion of People with Disabilities: National and International Perspectives* (Cambridge University Press 2013) 57.
[178] Colin Barnes 'Disabling Imagery and the Media: An Exploration of the Principles for Media Representations of Disabled People' (1992) The British Council of Organisations of Disabled People and Ryburn Publishing Limited 7.

contemporary society continues to spread negative representations and stereotypes of PWDs, thereby maintaining and deepening the negative consequences both on PWDs themselves and society at large.[179] For this reason, examples seen in the dominant culture of modern society will be explored.

In situations where PWDs are seen as pitiful or pathetic, their disability is put before them in an attempt to garner sympathy from others, as opposed to authentic compassion.[180] There is an element of duality to the danger in this. First, the individual is wholly defined by their disability, and second, they are then victimized in an effort to gain the kindness of the able-bodied community. This way of thinking about PWDs is harmful in that it preserves "the myth that disability is synonymous with illness and suffering".[181] Additionally, the language used in these "victim narrative" cases is often distastefully patronising.[182] The animated Hunchback of Notre Dame from Walt Disney is exemplary of this case as seen through the character of Quasimodo,[183] who elicits pity from the audience due to his physical "deformities". In addition to producing sympathy, however, this reiteration of the medical approach to disability also serves as a way to distract the "public's attention away from the social factors which cause disability".[184]

Another common misrepresentation of PWDs is one of evilness, which frequently serves to justify their segregation and the commission of harmful practices towards them. The connection between "impairment and wickedness" is chronic and can be understood as a lasting stereotype which is damaging in that it serves as a major barrier to the successful inclusion of PWDs into the community.[185] Essentially, viewing PWDs as sinister encourages the link between disability and violence, both by and towards them, thereby furthering the stigmatisation they face. For example, the visible disabilities of the various nemeses of the James Bond character range from amputations and mobility impairments to blindness and facial disfigurements. This outdated trope spreads the notion that PWDs, both physical and mental, are necessarily

[179] Colin Barnes 'Disabling Imagery and the Media: An Exploration of the Principles for Media Representations of Disabled People' (1992) The British Council of Organisations of Disabled People and Ryburn Publishing Limited 7.
[180] ibid 8.
[181] ibid.
[182] ibid.
[183] With regards to language analysis, even the name 'Quasimodo' itself can be understood as a derogatory term, as it means 'half-formed'. This name was given to the character by his adoptive father.
[184] Barnes (n 179) 8.
[185] ibid 11.

"connected to sin".[186] Those with mental illnesses, particularly, are susceptible to being portrayed as "mad", stressing their associated "crime and violence, unpredictability, and social incompetence".[187] The language used in these situations often carry the underlying message that PWDs are a threat to society and should be segregated.[188]

PWDs are also routinely represented as objects of mockery and entertainment for the non-disabled community.[189] Harmful terminology in such cases often implies that PWDs are mere "idiots" and thus deserving of ridicule. The negative impacts of such an association are profound, given that "disablist humor" has the implication of undermining "what little opportunities PWDs have to be taken seriously by non-disabled society", as well as having the wider-reaching effect of damaging their confidence and self-esteem.[190] Thus, this form of abuse cannot be underestimated and can clearly be seen in the example of the recently award-winning film CODA, in which the deaf family of Ruby Rossi are consistently suffering from being the targets of society's jokes.

Lastly, PWDs have often been illustrated as burdensome since they are understood as having to be cared for by the able-bodied community due to their state of "helplessness".[191] The underlying implication here is that of PWDs as being disproportionately draining on society's resources.[192] Additionally, PWDs are often portrayed as profusely unhappy and entirely dependent on their "carers", a term which has developed over time to signify "self-sacrifice" and even a sort of "martyrdom".[193] A plethora of movies typify this situation, often choosing to depict the constantly burdensome "disabled character" as a wheelchair-bound man, and the "carer" either through an alleged altruistic family member or through hired help. It has been argued that such imagery directly contributes to the persistent belief that society would simply be "better off without the disabled people".[194]

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[186] Colin Barnes 'Disabling Imagery and the Media: An Exploration of the Principles for Media Representations of Disabled People' (1992) The British Council of Organisations of Disabled People and Ryburn Publishing Limited 11.
[187] Mary Camp and others, 'The Joker: A Dark Night for Depictions of Mental Illness' (2010) 34(2) Academic Psychiatry 145.
[188] Barnes (n 186) 11.
[189] ibid 13.
[190] ibid 14.
[191] ibid 15.
[192] ibid.
[193] ibid 15.
[194] ibid.

On the other end of the spectrum lies the second overarching stereotype of PWDs, in which they are portrayed as "superheroes".[195] In this context, PWDs are stereotyped as being capable of overcoming any and all obstacles in their path, thereby providing a "paternalistic" and warped account of reality.[196] As much as PWDs do not need society to undermine them, they also do not require the non-disabled community to worship them and flood them with praise simply for living their lives. This is not only condescending, but also infers that PWDs should be regarded as *objects* of distorted glorification rather than what they truly are: *subjects of rights*. The able-bodied community, then, should support PWDs by helping them combat real barriers to their inclusion in society and aid in their fight for the realization of equal human rights.

Provided that the impact of language on the way in which society views PWDs has been discussed, it is fitting that the "media-human rights nexus"[197] shall subsequently be explored.

3.4.3. Driving Change Through Language

As a first step, it should be understood that language not has only the ability to perpetuate deep-seated, established inequalities, but also has the power to drive change.[198] This transformation, though, should not only include legislations and policies relating to PWDs, but must incorporate civil society as a whole.

The media has a dominant role in being a site where knowledge concerning a subject matter is "transmitted, discussed, and reinterpreted", therefore becoming central to the discussion.[199] Comprehending that much of the public relies on the media in order to understand others whom they do not necessarily interact with on a daily basis, then, further reflects and amplifies the importance of linguistics. It has been shown that language impacts the representation of PWDs in popular culture and thus the way in which they are viewed by many in their local communities. To enable a transformation, language should therefore refrain from using "loaded terms"[200] suggesting pre-existing stereotypes both in the media and in general.

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[195] Arie Rimmerman, *Social Inclusion of People with Disabilities: National and International Perspectives* (Cambridge University Press 2013) 57.
[196] ibid.
[197] Ekaterina Balabanova, *The Media and Human Rights: The Cosmopolitan Promise* (Routledge, Taylor & Francis Group 2015) 112.
[198] Paul Harpur, 'From disability to ability: changing the phrasing of the debate' (2012) 27(3) Disability & Society 326.
[199] Balabanova (n 197) 113.
[200] ibid.

One issue surrounding lexicon deals with the choice between the person-first approach (i.e., PWDs) versus identity-first approach (i.e., disabled people) in language. Essentially, proponents of the former argue that "people with disabilities are people, *first*" and that the composition of the phrase is a recognized "effort to put their human status ahead of their disabilities".[201] Supporters of the latter, on the other hand, state to have "reclaimed" the very disability eliciting negative connotations amongst the non-disabled majority.[202] This thesis advocates for the implementation of person-first language, unless explicitly stated otherwise by individuals with disabilities themselves. All in all, despite its shortcomings, the person-first approach is widely accepted as a respectful tone in modern discourse surrounding disability and should, therefore, be used to bring about a transformation when interacting with or discussing PWDs in everyday life.

Change must also encompass the idea that language and media representation affect the ability of PWDs to access their human rights. Although universally "everyone has the right to participate in the cultural life" of their community,[203] *how* PWDs are viewed by their respective local communities impacts their capacity to actively participate in them. Harmful views of PWDs, for example, can affect the community's willingness to ensure the access of CWDs to an inclusive education,[204] or even the access of adults with disabilities to employment free of discrimination.[205]

It is not sufficient, however, to merely state that the media must evolve its use of language with regards to PWDs. Concrete strategies enabling a change in the stereotypes concerning disability which are disseminated through the media to the population at large must also be explored. Overall, two main approaches are said to exist in shepherding such a transformation of media stereotypes. The first surrounds the belief that the media requires guidelines that will "prevent biased and negative images of PWDs", whilst the second states that the media must be used as a "socialisation agent" and "tool for attitudinal change".[206]

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[201] A.J. Withers, *Disability Politics and Theory* (Fernwood Publishing 2012) 18.
[202] ibid.
[203] UDHR, Article 27.
[204] CRPD, Article 24.
[205] CRPD, Article 27.
[206] Arie Rimmerman, *Social Inclusion of People with Disabilities: National and International Perspectives* (Cambridge University Press 2013) 149.

Bridging the divide between PWDs and those without disabilities can be accomplished by facilitating acceptance through diminishing the "sense of difference" between the various groups of people.[207] To attain augmented acceptance of PWDs in the media, different strategies may be utilized. To begin with, "matching" refers to establishing the message that PWDs are similar to those without (i.e., "you are like me").[208] The strategy of "likeability" produces an emotional response by "engaging personality, achievement and sense of humour", while the "celebrity" tactic uses a prominent and well-respected public figure to "play the role of a person with a disability".[209] Next, "incidental inclusion" occurs when "a person with a disability features a person rather than the disability" itself, while a "brief educational or information piece" can be used as a source of accurate data to confront the issue at hand.[210] Overall, however, it should be kept in mind that these strategies all come with both proponents and opponents due to their various strengths and weaknesses.

In addition to media responsibility of reducing the negative stereotypes and prejudices perpetuated against PWDs, States must also adopt measures which are "immediate, effective and appropriate".[211] Such measures should combat harmful biases regarding PWDs whilst also raising awareness to their abilities and contributions, as well as promoting positive perceptions towards them.[212] These aims could be achieved through introducing "public awareness campaigns", endorsing "awareness-training programmes", and fostering "an attitude of respect for the rights of PWDs" starting at early ages via the education system.[213]

In addition to the duties of States to respect, protect, and fulfil human rights under international law, such as those encompassing "non-discrimination, full and effective participation and inclusion, equality of opportunity and accessibility", they must also support and promote respect for the dignity of PWDs.[214] In fact, the CRPD explicitly lays out the obligation of "respect for inherent dignity" of the individual.[215] Even prior to this Article, in its preamble, the CRPD already acknowledges that discrimination on the basis of disability is in itself a

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[207] Arie Rimmerman, *Social Inclusion of People with Disabilities: National and International Perspectives* (Cambridge University Press 2013) 150.
[208] ibid 151.
[209] ibid.
[210] ibid.
[211] ibid 153.
[212] ibid.
[213] ibid.
[214] ibid.
[215] CRPD, Article 3.

violation of the "inherent dignity and worth" of the individual.[216] This connection therefore implies that when PWDs are discriminated against, and any of their rights are violated, so too is their innate dignity.

In sum, in order to amend the situation, first there is a need to address the links between language used, stereotypes perpetuated, discrimination sustained, and the resulting violations of the dignity and human rights of PWDs. Additionally, although the impact of words and their link with the marginalization of the disabled community and the violations of their basic human rights cannot be ignored, it is also important to remember that language can be positively utilized in the measures and strategies enacted towards transforming the negative stereotypes of PWDs. Language can indeed contribute to change, the promotion of dignity, and human rights.

3.5. CONCLUSION

In conclusion, the CRPD has ushered in a transformation which moved away from the earlier legal instruments reflecting the predominant "welfarist approach" to disability issues at the time.[217] This shift, though significant, is not sufficient in the protection of disability rights. The CRPD is made up of praiseworthy declarations, and yet, in those cases of non-compliance, the United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) must be given more enforcement power to ensure that States Parties act upon their words.

Furthermore, those very words and their underlying meanings ought to evolve. Given that exclusion and marginalization of PWDs cannot, and will not, be conquered without addressing the ways in which individuals and society as a whole view and refer to PWDs, the poisonous language and labels we attach to them must change. The importance of evolving the terminology used in order to usher an era in which society's perceptions of PWDs are reframed from "un"-abled to "differently"-abled, therefore, cannot be stressed enough.

Lastly, the final chapter of this thesis will move away from the international obligations towards PWDs and discuss a holistic approach to their healing from traumatic experiences, the realization of their human rights, and their social inclusion in contemporary society.

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[216] CRPD, Preamble.
[217] Gauthier De Beco, 'The Indivisibility of Human Rights and the Convention on the Rights of Persons with Disabilities' (2019) 68(1) International and Comparative Law Quarterly 153.

4.

THE IMPACT OF TRAUMA AND MOVING FORWARD: TRANSCENDING VICTIMIZATION VIA EMPOWERMENT

4.1. INTRODUCTION

Research has found that PWDs are traumatized at a disproportionate rate by the treatment they receive from others, not only in institutional settings, but in the context of community-life as well.[218] Therefore, it is only fitting that the final chapter of this thesis will analyze the overall subject matter of trauma.

This chapter will link the first two chapters by discussing the trauma that may arise if stigmatisation and discrimination are allowed to fester when society and the global community at large ignore their responsibilities to defend and promote the human rights of PWDs. It will begin with Section 4.2 discussing a number of key sources of trauma experienced by PWDs and how these relate to violations of their human rights. Section 4.3. will reflect on the resulting implications of these sources of trauma on individuals and society at large. Section 4.4 will then analyze factors that have been found to mitigate trauma, and Section 4.5 will mention preventative measures that ought to be put in place in order to better protect PWDs. Finally, the chapter will conclude with Section 4.6 which will explore the importance of a trauma-informed approach to the healing and social inclusion of PWDs.

4.2. SOURCES OF TRAUMA RELEVANT FOR PERSONS WITH DISABILITIES

To begin with, the understanding of trauma has evolved over time. Historically, the notion of trauma was first investigated in relation to mental illness in the late 19th century by the French physician Jean Martin Charcot.[219] He posited that the symptoms of *hysteria*, a disorder

[218] Mehgan Gallagher and Michael L. Perlin, 'The Pain I Rise Above: How International Human Rights Can Best Realize the Needs of Persons with Trauma-Related Mental Disabilities' (2017) 29(3) Florida Journal of International Law 272.
[219] Shoshana Ringel and Jerrold R. Brandell, *Overview: History of Trauma Theory* in *Trauma: Contemporary Directions in Theory, Practice, and Research* (Sage Publications 2012) 1.

that was often diagnosed in women and was believed to have originated in the uterus, resulted from traumatic events that were psychological in nature rather than physiological.[220] Essentially, he claimed that enduring unbearable experiences, such as violence and abuse, resulted in "dissociative problems" and "hysterical symptoms".[221]

Charcot's work influenced the studies of individuals like Pierre Janet, Sigmund Freud, and Josef Breuer, men considered pioneers in the field of psychology. Before moving to other theories, they suggested that "memories of external trauma" caused hysterical symptoms, which thus influenced the "patient's state of mind".[222]

Today, according to the American Psychiatric Association's (APA) Diagnostic and Statistical Manual of Mental Disorders (DSM-5), it is understood that trauma originates from "exposure to actual or threatened death, serious injury, or sexual violence", whether through direct experience of the traumatic event, witnessing such an event occurring to others, or learning about such a case as having happened to someone whom the person is close with.[223] As a result, the disturbance (Criteria B, C, D, and E in Appendix 4) causes "clinically significant distress or impairment in social, occupational, or other important areas of functioning".[224]

Given that trauma is subjective, not all who face a deeply disturbing life event will experience traumatic responses; those who do, however, tend to develop diminished coping capabilities and overall performance (Appendix 5).[225] Furthermore, it is significant to remember when analyzing trauma-causing factors that they are not necessarily mutually exclusive, and in fact "multiple forms of maltreatment", or sources of trauma, are frequently experienced concurrently by PWDs.[226] The following section will explore a number of main sources of trauma relevant for PWDs.

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[220] Shoshana Ringel and Jerrold R. Brandell, *Overview: History of Trauma Theory* in *Trauma: Contemporary Directions in Theory, Practice, and Research* (Sage Publications 2012) 1.
[221] ibid.
[222] ibid 2.
[223] American Psychiatric Association (APA), *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition: DSM-5* (American Psychiatric Publishing 2013) 271.
[224] ibid 272.
[225] Amanda J. Rich, Nikki DiGregorio and Carla Strassle, 'Trauma-informed care in the context of intellectual and developmental disability services: Perceptions of service providers' (2020) 25(4) Journal of Intellectual Disabilities 605.
[226] Edward F. Ansello and Peggy O'Neill, 'Abuse, Neglect, and Exploitation: Considerations in Aging with Lifelong Disabilities' (2010) 22(1-2) Journal of Elder Abuse & Neglect 110.

4.2.1. Medical Mistreatment and Substance Abuse

First, a source of trauma for PWDs stems from their vulnerability to experiencing maltreatment at the hands of medical professionals.[227] It has been found that medical personnel may perform a treatment that can, either deliberately or unintentionally, breach the patient's right to bodily integrity.[228] For example, objectification of PWDs and their bodies, especially in such settings, is dangerous as it may result in the "internalized belief that the self is merely the sum of a medical condition".[229]

Furthermore, non-consensual medical interventions may take place, effectively breaching Article 25 of the CRPD, which obliges States Parties to ensure that health professionals provide "care of the same quality to PWDs as to others, including on the basis of free and informed consent".[230] The Committee on Economic, Social and Cultural Rights (CESCR) recognized "the right to be free from non-consensual medical treatment" as inseparable from the right to the highest attainable standard of health.[231] In this regard, the right to be free from medical mistreatment is not merely "a function of domestic law", but is rather one of the universal human rights and fundamental freedoms guaranteed to *all* persons, and thus ought to be applied "without discrimination based on disability".[232]

Moreover, PWDs may suffer from substance abuse emanating from a variety of reasons, including "adjustment to disability, isolation, and attention difficulties".[233] This section, however, highlights that addiction which develops in the name of medical treatment, arising from issues such as chronic pain and recurring health problems.[234] It is important to remember that PWDs are not a homogeneous group and they may differ widely with regards to the "severity of disability" and other health-related issues.[235] Overall, however, research has found

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[227] Kathleen A. Kendall-Tackett, *Stress and Trauma in the Lives of Women with Disabilities* in *Handbook of Women, Stress and Trauma* (Routledge, Taylor & Francis Group 2005) 236.
[228] ibid.
[229] ibid.
[230] CRPD, Article 25.
[231] United Nations Committee on Economic, Social and Cultural Rights (CESCR) 'General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)' (11 August 2000) E/C.12/2000/4.
[232] Tina Minkowitz, 'The United Nations Convention on the Rights of Persons with Disabilities and the Right to Be Free from Nonconsensual Psychiatric Interventions' (2007) 34(2) Syracuse Journal of International Law and Commerce 406.
[233] Dennis Moore, Bobby G. Greer and Li Li, 'Alcohol and Other Substance Use/Abuse Among People with Disabilities' (1994) 9(5) Journal of Social Behavior and Personality 371.
[234] ibid.
[235] Li Li and Dennis Moore, 'Disability and illicit drug use: an application of labeling theory' (2001) 22(1) Deviant Behavior 17.

that substance-dependence, particularly that which relates to the misuse of prescription drugs, is a "greater problem in the disability community" than that amongst the non-disabled public.[236] Research has also found that exposure to various forms of trauma is indeed associated with the "development and sustainability of addictive disorders" and behaviors.[237] In addition to effectively breaching Article 25 of the CRPD, substance abuse emanating from medical mistreatment also violates Article 26 of the CRPD, which obliges States Parties to "enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life".[238]

4.2.2. Emotional, Mental, Physical and/or Sexual Abuse

Another source of trauma for PWDs can originate from those entrusted with the completion of Personal Assistance Services (PAS), or those "tasks performed in order to assist an individual with a disability in performing any function that is related to self-directed living".[239] Such responsibilities can be executed by a multitude of individuals, ranging from spouses and other family members to friends, different community members, or remunerated workers.[240]

Unfortunately, PAS providers can exploit vulnerable individuals whom they are assigned with helping, either through emotional, mental, physical and/or sexual abuse. Additionally, PAS providers are able to threaten the recipients of their assistance due to the ease with which they can "constrain mobility, interfere with communication, enforce social isolation or perpetrate violence" towards them.[241] PWDs dependent upon the aid of their abusive PAS providers may therefore be less able to object or report abuse.[242] It should also be noted that PWDs may be in an

[236] Raymond E. Glazier and Ryan N. Kling, 'Recent trends in substance abuse among persons with disabilities compared to that of persons without disabilities' (2013) 6(2) Disability and Health Journal 112.
[237] Yafit Levin and others, 'The association between type of trauma, level of exposure and addiction' (2021) 118(5) Addictive Behaviors 1.
[238] CRPD, Article 26.
[239] Kathleen A. Kendall-Tackett, *Stress and Trauma in the Lives of Women with Disabilities* in *Handbook of Women, Stress and Trauma* (Routledge, Taylor & Francis Group 2005) 236.
[240] ibid.
[241] ibid 237.
[242] Marsha Saxton and others, 'Bring My Scooter So I Can Leave You: A Study of Disabled Women Handling Abuse by Personal Assistance Providers' (2001) 7(4) Violence Against Women 396.

economically disadvantaged position which can consequently lead to their toleration of abusive behaviours.[243]

Research has found that a unique characteristic of sexual abuse faced by PWDs at the hands of their purported carers relates to the cultural stereotypes associated with them, especially women with disabilities, centering around the notions of "helplessness, vulnerability, asexuality and perpetual child-like innocence".[244] Such perceptions serve to infantilize these individuals and can result in denial of the existence of sexual abuse against PWDs under the premise that they simply lack the "knowledge regarding what constitutes sexual violation".[245] Further, those negative social constructs of disability were also found to diminish the existing credibility of PWDs when they expose an assault.[246] Essentially, not only are PWDs at times unable to effectively communicate the abuse they face, but when they do manage to do so, caregivers may simply regard it as "fantasy" or "disturbed thinking".[247]

In addition to the aforementioned host of reasons which may enable caregivers to exploit PWDs, other causes exist. To begin with, PWDs, particularly those of a developmental nature, are taught to be acquiescent and submissive in order for caregivers to control what they deem as problematic behaviours.[248] Subsequently, the inability to reject inappropriate actions by carers can stem from this so-called learned compliance.[249] Moreover, low self-esteem resulting from internalizing the negative and damaging perceptions of society about disabilities can cause PWDs to believe that the fault is theirs and thus they "deserve to be abused".[250] PWDs may also be sexually taken advantage of by their carers due to "poor social judgment", wherein they confuse "sexually inappropriate advances as expressions of love and caring".[251]

Evidently, these forms of abuse and exploitation are clear breaches of Article 15 of the CRPD, which guarantees that "no one shall be subjected to torture or to cruel, inhuman or

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[243] Kathleen A. Kendall-Tackett, *Stress and Trauma in the Lives of Women with Disabilities* in *Handbook of Women, Stress and Trauma* (Routledge, Taylor & Francis Group 2005) 237.
[244] Danette Crawford and Joan M. Ostrove, 'Representations of Disability and the Interpersonal Relationships of Women with Disabilities' (2008) 26(3) Women & Therapy 181.
[245] Kendall-Tackett (n 243) 238.
[246] ibid.
[247] Edward F. Ansello and Peggy O'Neill, 'Abuse, Neglect, and Exploitation: Considerations in Aging with Lifelong Disabilities' (2010) 22(1-2) Journal of Elder Abuse & Neglect 110.
[248] ibid 113.
[249] ibid.
[250] ibid.
[251] ibid.

degrading treatment or punishment" and which requires States Parties to "take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected" to such maltreatment.[252] Moreover, such callous and demeaning treatment also directly violates Article 16 of the CRPD which safeguards the right of everyone to be free from "exploitation, violence and abuse" and guarantees the protection of PWDs "both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects".[253] Lastly, said abuse and exploitation violates the right to the "physical and mental integrity" of PWDs "on an equal basis with others", as is guaranteed by Article 17 of the CRPD.[254]

4.2.3. Neglect

Additionally, PWDs, in comparison to their non-disabled counterparts, are more susceptible to trauma which results from enduring not only abuse, but neglect as well.[255] Neglect can be understood as the failure of a caretaker to properly look after and protect an individual whom they are responsible for, and can be physical, medical, or supervisory in nature.[256] For example, neglect can encompass non-provision of food, clothing, shelter, medical care or medications, surveillance, protection from environmental dangers, and attention.[257]

Over time, there has been great demand for the need to increase attentiveness to the risks of such maltreatment amongst PWDs.[258] Although neglect harms PWDs of all ages, it is important to consider the additionally vulnerable state of CWDs. Prior to exploring the reasons for which this form of maltreatment must be given priority in research and policies, it should be pointed that, unfortunately, the neglect of children in itself has been a largely neglected topic.[259]

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[252] CRPD, Article 15.
[253] CRPD, Article 16.
[254] CRPD, Article 17.
[255] Linda M. Mitchell and Amy Buchele-Ash, 'Abuse and Neglect of Individuals with Disabilities: Building Protective Supports Through Public Policy' (2000) 10(2) Journal of Disability Policy Studies 225.
[256] Vincent J Palusci, Ellen Datner and Christine Wilkins, 'Developmental Disabilities: Abuse and Neglect in Children and Adults' (2015) 8(4) International Journal of Child Health and Human Development 408.
[257] ibid.
[258] Edward F. Ansello and Peggy O'Neill, 'Abuse, Neglect, and Exploitation: Considerations in Aging with Lifelong Disabilities' (2010) 22(1-2) Journal of Elder Abuse & Neglect 105.
[259] Marije Stoltenborgh, Marian J. Bakermans-Kranenburg and Marinus H. van Ijzendoorn, 'The neglect of child neglect: a meta-analytic review of the prevalence of neglect' (2013) 48(3) Social Psychiatry and Psychiatric Epidemiology 345.

First and foremost, child neglect must be discussed given that research has found that said maltreatment of children can cause disability.[260] For example, physical neglect, such as the failure to provide children with sufficient and adequately nourishing sustenance, can result in a "nutritional deficiency causing failure to thrive".[261] Additionally, other forms of neglect have been identified as "strong contributors to the intellectual and developmental disabilities" seen in neglected children.[262] Essentially, it has been demonstrated that neglect, the most widespread type of child mistreatment, harms the brain development of children and thus is associated with adverse "psychological and educational outcomes".[263]

CWDs, especially those with developmental disabilities, may be more at risk of neglect than children without disabilities due to the increased likelihood of them being placed in institutional settings, organized programs, or even foster care.[264] Additionally, CWDs are more dependent on their caregivers than children without disabilities, and this heightened reliance may also increase their "vulnerability to maltreatment".[265] It should be noted, however, that over the course of the last half century, literature reflects the existence of the "dilemma of disability as cause or consequence of maltreatment".[266] Essentially, some authors argue that trauma-producing experiences may result in impairments, whilst others advocate that CWDs are actually more likely to experience trauma due to their impairments, which often result in added strain and stress on their caregivers.[267]

Regardless if one adheres to a single theory or a combination of the two, however, the vulnerable situation of both children and adults with disabilities is undeniable and must urgently be dealt with. In addition to the encroachment on the other previously mentioned human rights,

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[260] Anastasia Feifer and Ingrid Walker-Descartes, 'Abuse or neglect as cause for disability' (2017) 10(3) International Journal of Child Health and Human Development 253.
[261] ibid 260.
[262] ibid.
[263] Michael D. De Bellis, 'The Psychobiology of Neglect' (2005) 10(2) Child Maltreatment 150.
[264] Edward F. Ansello and Peggy O'Neill, 'Abuse, Neglect, and Exploitation: Considerations in Aging with Lifelong Disabilities' (2010) 22(1-2) Journal of Elder Abuse & Neglect 115.
[265] Susan Vig and Ruth Kaminer, 'Maltreatment and Developmental Disabilities in Children' (2002) 14(4) Journal of Developmental and Physical Disabilities 374.
[266] M.A. Verdugo and B.G. Bermejo 'The Mentally Retarded Person as a Victim of Maltreatment' (1997) 2(2) Aggression and Violent Behavior 150.
[267] Brooke A. Thomas-Skaf and Angelique Jenney, 'Bringing Social Justice into Focus: "Trauma-Informed" Work with Children with Disabilities' (2020) 27(4) Child Care in Practice 320.

neglect of PWDs also violates their inherent right to an "adequate standard of living and social protection" as is guaranteed by Article 28 of the CRPD.[268]

4.2.4. Hate Crimes

A further source of trauma for PWDs can result from hate crimes, or those acts "directed at harming or intimidating individuals because of their membership in a defined group".[269] It is important to recognize that although PWDs are often excluded from legislature targeting the issue of hate crimes, in practice it has been found that considerable violence against them is indeed motivated by hate, in lieu of other reasons.[270]

Unfortunately, the adverse social constructs of disability undermining PWDs' credibility at the time of reporting sexual abuse are parallel to the harmful views which result in many policymakers denying that hatred is a chief motivating factor in instances of violence directed at PWDs.[271] A plethora of violent crimes against PWDs are overt, however, many are covert, or "hidden acts of brutality", which as some argue, have even become legitimized by society over time.[272] One such instance can be linked back to medical harm, wherein some violence "masquerades as medical treatment".[273]

In addition to violating a host of other human rights discussed above, hate crimes can constitute maltreatment of PWDs that also directly violates their "right to life",[274] as well as their right to "equality and non-discrimination" which recognizes that "all persons are equal before and under the law and are entitled without any discrimination", including on the basis of disability, "to the equal protection and equal benefit of the law",[275] as is stated in the CRPD. Hate crimes, however, do not only have consequences on the specific individual with disabilities targeted, but may impact the disabled-community as a whole.[276] The reason for this is that such

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[268] CRPD, Article 28.
[269] Kathleen A. Kendall-Tackett, *Stress and Trauma in the Lives of Women with Disabilities* in *Handbook of Women, Stress and Trauma* (Routledge, Taylor & Francis Group 2005) 239.
[270] ibid.
[271] Barbara Faye Waxman, 'Hatred: The Unacknowledged Dimension in Violence Against Disabled People' (1991) 9(3) Sexuality and Disability 187.
[272] ibid 188.
[273] ibid 189.
[274] CRPD, Article 10.
[275] CRPD, Article 5.
[276] Mark Sherry, 'Don't Ask, Tell or Respond: Silent Acceptance of Disability Hate Crimes' (2003) Disabled Women's Network 2.

attacks do not only encroach on the rights and freedoms of individuals, but may also suggest a lack of safety and tolerance for entire groups. As a result, this type of message can terrorize and threaten the community at large.[277]

In sum, research has clearly illustrated the correlation between trauma and various forms of maltreatment, such as abuse and neglect. In the case of youth, research has further shown that trauma is the chief source of "morbidity in children and the predominant cause of death" in those over the age of one year.[278] The correlation between the various sources of trauma and the infringement of the human rights and fundamental freedoms of PWDs can no longer be left ignored. Lastly, it is crucial to recognize the role of disablism, discussed earlier in this thesis, in all of the abovementioned sources of trauma relevant for PWDs. When discussing the maltreatment of PWDs, it is critical to "not put the problems of disablism or violence back onto disabled people but magnify and expose processes of disablism" that are shaped through "social relationships, institutions and culture".[279] Essentially, the maltreatment of PWDs is more reflective of the "dominant culture of disablism" than it is of "the acts of a few seemingly irrational, unreasonable, mean or violent individuals".[280] Only once this is recognized, can the maltreatment of PWDs be aptly tackled via "deconstructing and reforming the very cultural norms that legitimise violence against disabled people in the first place".[281]

4.3. CONSEQUENCES OF TRAUMA

Given that a number of chief sources of trauma relevant for PWDs have been mentioned, correspondingly, the impacts of trauma must be more extensively discussed. As such, the significant, dire and long-term consequences of trauma[282] will be analyzed in the following section. Included in the analysis will be an examination of the psychological costs and its impact

[277] Mark Sherry, 'Don't Ask, Tell or Respond: Silent Acceptance of Disability Hate Crimes' (2003) Disabled Women's Network 2.
[278] Mervyn Letts, Darin Davidson and Peter Lapner, 'Multiple trauma in children: predicting outcome and long-term results' (2002) 45(2) Canadian Journal of Surgery 128.
[279] Dan Goodley and Katherine Runswick-Cole, 'The Violence of Disablism' (2011) 33(4) Sociology of Health & Illness 602.
[280] ibid.
[281] ibid 614.
[282] Edward F. Ansello and Peggy O'Neill, 'Abuse, Neglect, and Exploitation: Considerations in Aging with Lifelong Disabilities' (2010) 22(1-2) Journal of Elder Abuse & Neglect 115.

on the human rights of the individuals themselves and their immediate loved ones, as well as potential effects on communities and society at large.

4.3.1. On Individuals

Insofar as the individual is concerned, trauma has been found to influence "one's beliefs about the future" through the loss of hope, development of fears, or limited expectations about life.[283] Research has also found that trauma impacts the "entire human organism", encompassing the *physical* (i.e., body and brain), as well as *mental* (i.e., mind) entities of people.[284] It was established that the "posttraumatic adaptation" of people may vary depending on different factors, such as the "nature of the trauma, the age of the victim, predisposing personality, and community response".[285]

In general, however, a major consequence of trauma on individuals relates to posttraumatic stress disorder (PTSD), a mental health condition with symptoms such as disturbing "memories, thoughts or feelings", an enduring and adverse "emotional state", striking changes in behaviours, dissociative responses, and sleep disruptions.[286] These symptoms impact affected individuals by causing major "distress or impairment" in their proper day-to-day functioning.[287] Essentially, PTSD can be understood as describing resemblances in the manner individuals respond to various traumatic experiences.[288] In addition, individuals may be impacted by trauma through developing a diminished capacity to regulate their anxiety and aggression, as well as by a rising, persistent sense of "helplessness and victimization".[289] Moreover, PWDs are adversely affected by the trauma deriving from maltreatment in that they were found to experience depression more frequently than did the general population.[290]

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[283] Substance Abuse and Mental Health Services Administration, *Trauma-Informed Care in Behavioral Health Services: A Treatment Improvement Protocol (TIP) Series No. 57* (HHS Publication 2014) 60.
[284] Bessel A. van der Kolk, *The Body Keeps the Score: Brain, Mind, and Body in the Healing of Trauma* (Penguin Publishing Group 2014) 50.
[285] Bessel A. van der Kolk, *Psychological Trauma* (American Psychiatric Association Publishing 1987) 2.
[286] APA, *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition: DSM-5* (American Psychiatric Publishing 2013) 271-272.
[287] ibid 272.
[288] Anna Mitchell, Jennifer Clegg and Frederick Furnis, 'Exploring the Meaning of Trauma with Adults with Intellectual Disabilities' (2006) 19(2) Journal of Applied Research in Intellectual Disabilities 131.
[289] van der Kolk (n 285) 7-9.
[290] Edward F. Ansello and Peggy O'Neill, 'Abuse, Neglect, and Exploitation: Considerations in Aging with Lifelong Disabilities' (2010) 22(1-2) Journal of Elder Abuse & Neglect 116.

In the case of children, it has further been found that as a consequence of maltreatment many become "permanently disabled", suffering from mental, sensory or motor impairments.[291] Additionally, the emotional development and attachment style of children may be negatively affected when they encounter situations of abuse and neglect.[292] It is important to recognize, however, that although children with and without disabilities can experience "similar physiological responses to traumatic events", their behavioural responses may vary to a great extent.[293]

When examining the consequences of traumatic experiences on PWDs through a human rights lens, one is confronted with a juncture wherein trauma and the encroachments on human rights intersect. The two categories are indivisible, and there are even those who argue that, in some cases, traumatic experiences and human rights violations are simply "different descriptions emphasizing different aspects of the same experience".[294] For example, in the case of PWDs, the development of PTSD and other of the above-mentioned mental illnesses, are clear examples of how the effects of trauma violate the individual's right to the enjoyment of the highest attainable standard of physical and mental health.[295]

Moreover, when discussing CWDs, sources of trauma such as child abuse and neglect, as well as its impacts, go against the CRC by violating the provision calling for the "best interest of the child" as a primary consideration, encompassing the "protection and care" that is "necessary for his or her well-being".[296] Additionally, such maltreatment of CWDs also violates their "right to life", to be free from "torture or other cruel, inhuman or degrading treatment or punishment", to a "standard of living adequate for the child's physical, mental, spiritual, moral and social development", and to be free from all "forms of exploitation".[297] Lastly, States Parties are further

[291] Edward F. Ansello and Peggy O'Neill, 'Abuse, Neglect, and Exploitation: Considerations in Aging with Lifelong Disabilities' (2010) 22(1-2) Journal of Elder Abuse & Neglect 115.
[292] Bessel A. van der Kolk, *Psychological Trauma* (American Psychiatric Association Publishing 1987) 14.
[293] Brooke A. Thomas-Skaf and Angelique Jenney, 'Bringing Social Justice into Focus: "Trauma-Informed" Work with Children with Disabilities' (2020) 27(4) Child Care in Practice 319.
[294] Lisa D. Butler, Filomena M. Critelli and Janice Carello, *Trauma and Human Rights: Integrating Approaches to Address Human Suffering* (Palgrave MacMillan 2019) 40.
[295] International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR), Article 12.
[296] CRC, Article 3.
[297] CRC, Articles 6, 37, 27, 36.

obliged to ensure CWDs the enjoyment of a "full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community".[298]

In essence, addressing maltreatment of both children and adults with disabilities cannot be considered in isolation from the ensuing trauma the individual faces. Similarly, dealing with the welfare of the person cannot be accomplished without addressing their basic human rights. The well-being of the individual must take into consideration, for example, their right to health, and there simply is "no health without mental health".[299] As such, seeking to redress the violations of human rights of children and adults with disabilities in a vacuum without consideration of the influence of trauma is not only idealistic, but also irresponsible. The two issues must be considered in tandem in order for any remedy to meaningfully address the underlying maltreatment of PWDs.

4.3.2. On Society

The maltreatment of PWDs is also harmful to society at large for a number of reasons. To begin with, it is important to understand that the mental well-being of individuals is fundamental in "shaping the health of communities and populations".[300] As such, maltreatment leading to trauma, and therefore a lack of positive mental health, is "a threat to public health, the quality of life and the stability" of societies.[301]

One by-product of individuals being left traumatized is that the social capital of a society can suffer since the economic and social burdens on said society may be substantial and chronic in nature.[302] In addition, given that diminished mental health negatively affects individuals with regards to their overall functioning, research has shown that as a result, the stability of a society can then be impacted as well. Essentially, it was found that reduced mental health results in a lowered productivity and loss of employment.[303] Therefore, it can be understood that society is impacted by trauma when PWDs and/or their caretakers are unable to properly function, participate, and contribute to said society.

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[298] CRC, Article 23.
[299] WHO, 'Mental health: facing the challenges, building solutions' (Report from the WHO Ministerial Conference 2005) 11 <https://apps.who.int/iris/handle/10665/326566> accessed 2 May 2022.
[300] United Nations Human Rights Council (UNHRC), 'Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health' (28 March 2017) A/HRC/35/21, 16.
[301] WHO (n 299) 49.
[302] ibid.
[303] ibid.

Research also shows that diminished mental health was found to correlate with augmented crime levels in communities, and thus the reduced state of security within society.[304] In essence, trauma negatively affects society due to a "broad range of violence and atrocities that erode the sense of safety" within communities.[305] More specifically, recurrent findings in literature illustrate the correlation between exposure to trauma, especially in relation to abuse, neglect, and childhood maltreatment, and the commission of serious and violent offences.[306]

In addition to the harmful results of "lack of productivity" and "continued violence", research has found that trauma, and failure to deal with its impacts, can have disastrous political consequences for society.[307] As such, disregarding societal instabilities resulting from trauma can set the stage for the rise of oppressive regimes along with their non-observance or indifference towards human rights.[308]

Overall, it is important to recognize that exposure to trauma does not only affect the right of every individual to the enjoyment of the highest attainable standard of physical and mental health,[309] but also impacts entire communities, and thus, society at large. It is imperative, however, to not victimize individuals dealing with the damaging consequences of trauma. In fact, research shows that trauma can be used as a "catalyst for social change" when persons exposed to maltreatment are empowered.[310] In essence, "giving a voice to their own misery" has enabled many individuals to transform their trauma into a way of helping themselves and others.[311]

4.4. MITIGATING TRAUMA

Having explored the possible consequences of exposure to trauma on both individuals and society, mitigating the harmful impacts of said trauma therefore needs to be discussed. As

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[304] WHO, 'Mental health: facing the challenges, building solutions' (Report from the WHO Ministerial Conference 2005) 49 <https://apps.who.int/iris/handle/10665/326566> accessed 2 May 2022.
[305] Substance Abuse and Mental Health Services Administration, *Trauma-Informed Care in Behavioral Health Services: A Treatment Improvement Protocol (TIP) Series No. 57* (HHS Publication 2014) 39.
[306] Bryanna Hahn Fox and others, 'Trauma changes everything: examining the relationship between adverse childhood experiences and serious, violent and chronic juvenile offenders' (2015) 46 Child Abuse & Neglect 164.
[307] Bessel A. van der Kolk, Alexander C. McFarlane and Lars Weisaeth, *Trauma and its Challenges to Society* in *Traumatic Stress: The Effects of Overwhelming Experience on Mind, Body, and Society* (The Guilford Press 2006) 33.
[308] ibid 34.
[309] UNHRC, 'Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health' (28 March 2017) A/HRC/35/21, 1.
[310] van der Kolk, McFarlane and Weisaeth (n 307) 33.
[311] ibid.

will be shown, alleviation of trauma is a vital component in empowering PWDs and in bringing about their full and effective social inclusion in society. As such, a number of individual and environmental factors that mitigate trauma will be analyzed below.

4.4.1. Individual Factors

Several factors have been established as influencing "one's ability to deal with trauma" which may pertain to the person's "genetic, biological and psychological makeup".[312] In general, research shows that factors mitigating trauma relate to an individual's "personality traits, cumulative life experiences, and current personal coping mechanisms".[313] To begin with, it has been found that individuals with either a history marked by trauma or a past of mental illnesses, may be more vulnerable to severe traumatic reactions, or ineffective coping mechanisms.[314]

In contrast, a major factor that was found to mitigate the impacts of trauma relates to "individual differences in resilience".[315] Though no current consensus exists regarding an operational definition, resilience often refers to "positive adaptation, or the ability to maintain or regain mental health, despite experiencing adversity".[316] For example, research shows that encouraging the personal capacities of children facing trauma can boost their resilience and ability to cope with difficulties.[317] Resilience, as such, has been understood as "a matter of character, disposition, or endowment" that serves as a protective factor in the face of trauma exposure.[318]

Research further shows that an individual's personality can contribute to one's resilience, with the following personality traits frequently associated with augmented resilience:

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[312] Substance Abuse and Mental Health Services Administration, *Trauma-Informed Care in Behavioral Health Services: A Treatment Improvement Protocol (TIP) Series No. 57* (HHS Publication 2014) 52.
[313] Myra Giberovitch and Raymond Barry, *Environmental Factors that Reduce the Impact of Trauma* in *Recovering from Genocidal Trauma: An Information and Practice Guide for Working with Holocaust Survivors* (University of Toronto Press 2014) 89.
[314] Substance Abuse and Mental Health Services Administration (n 312) 54.
[315] Bessel A. van der Kolk, Alexander C. McFarlane and Lars Weisaeth, *Trauma and its Challenges to Society* in *Traumatic Stress: The Effects of Overwhelming Experience on Mind, Body, and Society* (The Guilford Press 2006) 155.
[316] Helen Herrman and others, 'What is Resilience?' (2011) 56(5) The Canadian Journal of Psychiatry 259.
[317] Brooke A. Thomas-Skaf and Angelique Jenney, 'Bringing Social Justice into Focus: "Trauma-Informed" Work with Children with Disabilities' (2020) 27(4) Child Care in Practice 324.
[318] Mary Ann Dutton and Rebecca Greene, 'Resilience and Crime Victimization' (2010) 23(2) Journal of Traumatic Stress 215.

"internal locus of control, self-esteem, altruism, ego defense, and hardiness".[319] Resiliency has also been associated with an individual's biological characteristics, including the "neural plasticity of the brain structure and function" as well as "emotional reactivity", especially in regard to the development of PTSD and depression.[320]

4.4.2. Environmental Factors

Although initially resilience merely referred to a "personal trait" of individuals operating after experiencing a trauma, subsequent research began highlighting the role of systems, such as "families, services, groups, and communities" in assisting people to cope with adversity.[321] Essentially, over time, resiliency has come to not only be attributed to individuals, but also to those social networks that foster resilience in individuals.[322] As such, in addition to the individual factors previously discussed, environmental factors that have been found as lessening the potential adverse impacts of trauma will be explored.

To begin with, research shows that resilience of individuals can be influenced by their environment. It is stated that a "facilitative environment can change developmental pathways regardless of individual differences".[323] Essentially, the environment can either elicit or subdue tendencies toward certain traumatic reactions, with an "optimal environment" found to "cause the majority of children to flourish".[324] Though an interaction exists between those individual and environmental factors, it has been shown that the "quality of the environment" is deemed more significant than individual factors when dealing with the "recovery from trauma".[325]

Furthermore, the absence of social support is recognized as "one of the strongest predictors" of developing trauma-related illnesses after experiencing trauma,[326] with research illustrating "adequate social support" as a significant protector against the development of

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[319] Mary Ann Dutton and Rebecca Greene, 'Resilience and Crime Victimization' (2010) 23(2) Journal of Traumatic Stress 216.
[320] ibid.
[321] Helen Herrman and others, 'What is Resilience?' (2011) 56(5) The Canadian Journal of Psychiatry 259.
[322] Dutton and Greene (n 319) 216.
[323] Michael Ungar, 'Resilience, Trauma, Context, and Culture' (2013) 14(3) Trauma, Violence & Abuse 258.
[324] ibid.
[325] ibid 259.
[326] Christopher A. Morley and Brandon A. Kohrt, 'Impact of Peer Support on PTSD, Hope, and Functional Impairment: A Mixed-Methods Study of Child Soldiers in Nepal' (2012) 22(7) Journal of Aggression, Maltreatment & Trauma 714.

PTSD.[327] Essentially, when others, including peers, provide support or assistance based on "respect, shared responsibility, and mutual agreement of what is helpful", the harmful impacts of trauma can indeed be mitigated.[328]

Financial difficulties can become yet another source of trauma for PWDs, as circumstances of inadequate financial resources may result in their continued living in environments that increase their susceptibility to maltreatment.[329] Additionally, potential financial issues may produce the existence of "few choices regarding what services are attainable".[330] In consequence, due to a "lack in money, accessible housing, or attendant care", PWDs may end up becoming unable to leave adverse and traumatic situations. Fundamentally then, it has been found that in addition to social support, adequate economic resources, or financial support, is a significant factor in reducing the impact of trauma.[331]

Ideal environments have also been shown to enhance the social cohesion, or solidarity, of a society.[332] This notion reflects the "willingness of members of a society to cooperate with each other in order to survive and prosper".[333] In doing so, social cohesion recognizes the importance of "a sense of belonging" amongst people, the existence of multiplicity with their diverse backgrounds and circumstances, and the importance of them having "similar life opportunities".[334] Promoting social cohesion is important in mitigating the harmful effects of trauma given that research found it may have "pre- and post-traumatic influences on an individual's psychological response to trauma".[335] In short, social cohesion was found to

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[327] Bessel A. van der Kolk, Alexander C. McFarlane and Lars Weisaeth, *Trauma and its Challenges to Society* in *Traumatic Stress: The Effects of Overwhelming Experience on Mind, Body, and Society* (The Guilford Press 2006) 30.
[328] Shery Mead, David Hilton and Laurie Curtis, 'Peer Support: A Theoretical Perspective' (2001) 25(2) Psychiatric Rehabilitation Journal 134.
[329] Edward F. Ansello and Peggy O'Neill, 'Abuse, Neglect, and Exploitation: Considerations in Aging with Lifelong Disabilities' (2010) 22(1-2) Journal of Elder Abuse & Neglect 112.
[330] ibid.
[331] Myra Giberovitch and Raymond Barry, *Environmental Factors that Reduce the Impact of Trauma* in *Recovering from Genocidal Trauma: An Information and Practice Guide for Working with Holocaust Survivors* (University of Toronto Press 2014) 90.
[332] WHO, 'Mental health: facing the challenges, building solutions' (Report from the WHO Ministerial Conference 2005) 49 <https://apps.who.int/iris/handle/10665/326566> accessed 2 May 2022.
[333] Dick Stanley, 'What Do We Know about Social Cohesion: The Research Perspective of the Federal Government's Social Cohesion Research Network' (2003) 28(1) The Canadian Journal of Sociology 5.
[334] Peter Ratcliffe and Ines Newman, *Promoting Social Cohesion: Implications for Policy and Evaluation* (The Policy Press 2011) 28.
[335] Lauren E. Johns and others, 'Neighborhood social cohesion and posttraumatic stress disorder in a community-based sample: findings from the Detroit Neighborhood Health Study' (2012) 47 Social Psychiatry and Psychiatric Epidemiology 1900.

influence the overall health, and in particular mental health, of individuals residing in a given community.[336]

Understanding those factors that can mitigate the impacts of trauma is merely the first step in promoting the well-being of individuals and society. It is crucial to then take into consideration said factors and implement them into legislations, policies, and practices surrounding the empowerment of PWDs who have been exposed to trauma.

4.5. PREVENTATIVE MEASURES AND THE EMPOWERMENT OF PERSONS WITH DISABILITIES

Though it is important to provide effective treatment and support to those who have already been exposed to trauma, it is equally crucial to put into place preventative measures so as to reduce the potential occurrence of traumatic situations. Such a practice is absolutely central in moving forward towards a more holistic approach to disability given that preventative measures allow for a "climate of respect for and protection of basic civil, political, economic, cultural and social rights".[337] Treating mental disorders arising from trauma exposure can thus be effective, but only once the illness has emerged, and after individuals, their families, and communities "have already suffered".[338] As such, "positive mental health cannot be achieved by treatment alone", but rather, must also encompass the promotion of mental health and prevention of mental disorders.[339]

At the outset, it is important to comprehend that policymakers carry a substantial weight of "the responsibility to protect PWDs from harm" given that they "enact the laws for all other stakeholders to follow".[340] Due to this, preventative measures must encompass the influencing of policymakers to safeguard "the most vulnerable" populations, such as PWDs.[341] One way to guide policymakers in the creation of non-discriminatory and just policies and legislations is to

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[336] Lauren E. Johns and others, 'Neighborhood social cohesion and posttraumatic stress disorder in a community-based sample: findings from the Detroit Neighborhood Health Study' (2012) 47 Social Psychiatry and Psychiatric Epidemiology 1900.
[337] WHO, 'Mental health: facing the challenges, building solutions' (Report from the WHO Ministerial Conference 2005) 50 <https://apps.who.int/iris/handle/10665/326566> accessed 2 May 2022.
[338] ibid.
[339] ibid.
[340] Linda M. Mitchell and Amy Buchele-Ash, 'Abuse and Neglect of Individuals with Disabilities: Building Protective Supports Through Public Policy' (2000) 10(2) Journal of Disability Policy Studies 225.
[341] ibid.

provide them with accurate information needed in order to protect all individuals.[342] In order for policymakers to grasp the extent of the issue, the data provided must include the "nature and extent of the problem, causes and effects of the maltreatment, and systems contributions to vulnerability".[343]

Secondly, decreasing the risk of mistreatment of PWDs is not only the responsibility of the government, but is also the duty "of us all", which therefore includes the families, service agencies, medical personnel, civil society, and individuals with disabilities themselves.[344] Education, once again, is an essential strategy in the prevention of mistreatment, and refers also to the provision of training for PWDs.[345] For example, sexuality education teaches PWDs about "normal sexual activity, what constitutes sexual abuse, and the sexual rights of each person", while self-defence training can assist in empowering individuals with disabilities to "resist potential abusers".[346] It is also essential to remember the importance of involving PWDs themselves as "providers of education and training wherever possible" so as to not silence their voices.[347] Education and prevention programs should further be extended to the guardians and caretakers of PWDs at early stages of development as research findings show "positive effects of supportive social services, parent education, respite services, and counseling provided starting at birth".[348] In addition to increased education, research shows that community initiatives increasing the integration of PWDs "into fuller community life, resulting in decreased isolation and greater personal development" should also be encouraged.[349]

Thirdly, and relating to the heterogeneity of PWDs,[350] groups needing "alternative service delivery models must be identified".[351] Therefore, a response to said maltreatment must

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[342] Linda M. Mitchell and Amy Buchele-Ash, 'Abuse and Neglect of Individuals with Disabilities: Building Protective Supports Through Public Policy' (2000) 10(2) Journal of Disability Policy 225.
[343] ibid 226.
[344] ibid 225.
[345] Edward F. Ansello and Peggy O'Neill, 'Abuse, Neglect, and Exploitation: Considerations in Aging with Lifelong Disabilities' (2010) 22(1-2) Journal of Elder Abuse & Neglect 122.
[346] ibid.
[347] WHO, *General Health Care* in *World Report on Disability* (14 December 2011) 83 <https://www.who.int/teams/noncommunicable-diseases/sensory-functions-disability-and-rehabilitation/world-report-on-disability> accessed 4 May 2022.
[348] Vincent J Palusci, Ellen Datner and Christine Wilkins, 'Developmental Disabilities: Abuse and Neglect in Children and Adults' (2015) 8(4) International Journal of Child Health and Human Development 425.
[349] Ansello and O'Neill (n 345) 123.
[350] Li Li and Dennis Moore, 'Disability and illicit drug use: an application of labeling theory' (2001) 22(1) Deviant Behavior 17.
[351] WHO (n 347) 83.

address the multiple dimensions of the identities belonging to individuals with disabilities, with a focus on their "unique needs and struggles".[352] For example, domestic violence organizations should assist and support women with disabilities "as part of their constituency".[353] Educational settings should provide staff with added guidance on how to identify maltreatment in CWDs, and medical institutions should introduce compulsory training in detection of abuse and neglect in children and adults with disabilities for all health care professionals.[354] All in all, in order to detect and thwart the maltreatment of PWDs, "a high index of suspicion needs to be maintained" by all individuals or groups of specialists who "follow them on a consistent basis".[355]

In addition to the abovementioned ways of helping individuals transcend victimization, their empowerment should also center around practices of changing the "self-concept" and enhancing the "self-esteem" of the affected, traumatized persons.[356] Essentially, the "psychological healing and recovery process" from trauma needs to incorporate elements of redefining individuals' perceptions of themselves, through a strengths perspective, to become aware of and appreciate their own abilities and resilience so as to be able to "recover and heal from the most severe forms of dehumanization and degradation".[357] As such, in order to allow those who have experienced trauma to regain their confidence, it is imperative to reinforce their competencies and skills rather than focusing on "the helpless victim" narrative.[358] Overall, it has been argued that "the core experiences of psychological trauma are disempowerment and disconnection from others", and that healing is "based on empowerment" and social inclusion.[359] The importance of social connections must not be overlooked, as it is further stressed that "recovery can take place only within the context of relationships" and "cannot occur in isolation".[360]

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[352] Vincent J Palusci, Ellen Datner and Christine Wilkins, 'Developmental Disabilities: Abuse and Neglect in Children and Adults' (2015) 8(4) International Journal of Child Health and Human Development 424.
[353] ibid.
[354] ibid.
[355] ibid.
[356] Myra Giberovitch and Raymond Barry, *Transcending Victimization through Empowerment* in *Recovering from Genocidal Trauma: An Information and Practice Guide for Working with Holocaust Survivors* (University of Toronto Press 2014) 124.
[357] ibid.
[358] ibid 125.
[359] Judith L. Herman, *A Healing Relationship* in *Trauma and Recovery: The Aftermath of Violence – From Domestic Abuse to Political Terror* (Basic Books 1992) 133.
[360] ibid.

In sum, empowerment of PWDs through "disability rights organizations, community-based rehabilitation organizations, self-advocacy groups, or other collective networks" may allow individuals with disabilities to "identify their needs and lobby for service improvement".[361] Additionally, it is everyone's obligation to ensure the protection of PWDs. As was discussed above, in addition to national and international monitoring mechanisms as well as public campaigning and justice procedures, a significant underlying factor in ceasing the disempowerment of PWDs and preventing their maltreatment is education. Lastly, the importance of the trauma-informed approach, which focuses on hampering "traumatization and re-traumatization and promoting healing"[362] must be considered and will therefore be discussed.

4.6. TRAUMA-INFORMED APPROACH TO HEALING AND SOCIAL INCLUSION OF PERSONS WITH DISABILITIES

The trauma-informed approach acknowledges the traumatic events that may be experienced by individuals, such as PWDs, and how it subsequently leaves an imprint upon them.[363] It further emphasizes the need to prioritize a culture of "safety, trustworthiness, choice, collaboration, and empowerment" in moving forward with healing from trauma.[364] This approach does not equate disability with trauma, but instead states that disability and trauma "share tangled histories as they can be constitutive elements of disability experiences".[365] As such, it is fundamental to comprehend that it is not the notion of "disability as trauma" that is being supported, but rather the need to analyze the intersection of disability and trauma, or the means through which disability "emanates from and results in trauma, and impacts the ways in which disability is experienced".[366]

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[361] WHO, *General Health Care* in *World Report on Disability* (14 December 2011) 147 <https://www.who.int/teams/noncommunicable-diseases/sensory-functions-disability-and-rehabilitation/world-report-on-disability> accessed 4 May 2022.
[362] Amanda J. Rich, Nikki DiGregorio and Carla Strassle, 'Trauma-informed care in the context of intellectual and developmental disability services: Perceptions of service providers' (2020) 25(4) Journal of Intellectual Disabilities 603.
[363] Brooke A. Thomas-Skaf and Angelique Jenney, 'Bringing Social Justice into Focus: "Trauma-Informed" Work with Children with Disabilities' (2020) 27(4) Child Care in Practice 316.
[364] ibid 317.
[365] Anastasia Liasidou, 'Trauma-informed disability politics: interdisciplinary navigations and implications' (2021) 37 Disability & Society 1.
[366] ibid.

Vast research has found that individuals belonging to marginalized groups, such as PWDs, are not only most affected by traumatic experiences, but because of systemic injustices, they are also at an increased risk for experiencing trauma and are frequently met with "greater difficulty recovering from such events due to differential recovery resources and ineffective services that do not address their unique experiences of trauma".[367] Essentially, although disability is not trauma in and of itself, PWDs can experience trauma due to a variety of reasons, including discriminatory treatment.[368]

The complexity of the disability experience thereby requires a comprehensive and holistic framework, one which does not posit different approaches as unavoidable choices between alternatives and thereby isolates them as segregated options. Rather, such a framework ought to consider the manners in which disability relates both to trauma *and* social injustices, given the potential implications of silencing the "traumatizing ramifications of human rights violations and structural inequities" pertaining to PWDs.[369]

Secondly, the "voices and lived experiences" of PWDs, which have played such a significant role in "understanding the ways in which disability relates to trauma", must continue to be heard and included at all levels of society.[370] As was already discussed in an earlier chapter of this thesis, the CRPD explicitly calls for the "full and effective participation and inclusion in society" of PWDs.[371] In order to honour this principle, not only must society not silence these individuals, but additionally, we must empower PWDs by hearing their voices and incorporating their perspectives in actuality, ranging from the policies and practices implemented to the language used and disseminated by the media and in everyday life.[372]

Lastly, the significance of assisting "traumatized individuals struggling with PTSD is a widely understood need", however, the magnitude of the problem, in itself a highly debated topic, is "generally vastly greater than the availability of services from either local or international sources".[373] Therefore, it is not enough to merely recognize the existence of

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[367] Rachael D. Goodman and Paul C. Gorski, *A Liberatory Approach to Trauma Counseling: Decolonizing Our Trauma-Informed Practices* in *Decolonizing "Multicultural" Counseling through Social Justice* (Springer 2015) 56.
[368] Anastasia Liasidou, 'Trauma-informed disability politics: interdisciplinary navigations and implications' (2021) 37 Disability & Society 1.
[369] ibid.
[370] ibid.
[371] CRPD, Article 3.
[372] Liasidou (n 368) 1.
[373] Judy Barsalou, *Managing Memory: Looking to Transitional Justice to Address Trauma* in *Peacebuilding in Traumatized Societies* (University Press of America 2008) 29.

individual and societal issues relating to trauma, but regional and international measures must be put into practice in order to tackle said issues in actuality and must be given priority in allocation of resources.

4.7. CONCLUSION

In conclusion, the consequences of exposure to trauma must be considered given that research has found that mental health and the well-being of individuals are absolutely central to the quality of life and to the "social cohesion, productivity and peace and stability in the living environment" of said individuals.[374] Furthermore, mental health has been shown to contribute to the social capital, economic growth, and security of societies, thereby promoting the well-being of the population as a whole.[375] As such, the "development and implementation of effective plans to promote mental health" will enhance the overall welfare of all.[376]

Furthermore, when addressing human suffering, it is not suffice to merely provide an inventory of human right violations in isolation, nor is it enough to only offer a list of PTSD symptoms as a glimpse to the distress faced by individuals.[377] In order to provide a full account of the marginalization and injustices faced by PWDs, and so as to even begin remedying such a situation, the two issues must be addressed together.[378] In essence, while the human rights framework articulates a "moral order designed to prevent and redress human suffering", the trauma framework addresses the psychological element of such suffering, both for individuals and communities who are dealing with said anguish in real time.[379] Therefore, each framework ultimately plays a part in promoting a shift towards a language of "human dignity and security", outlining the duties of the public towards "each other as fellow humans".[380]

In sum, this chapter does not argue for an "either or" tactic, choosing one approach at the expense of the other in order to address the suffering and marginalization of PWDs. Instead, this

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[374] WHO, 'Mental health: facing the challenges, building solutions' (Report from the WHO Ministerial Conference 2005) 18 <https://apps.who.int/iris/handle/10665/326566> accessed 2 May 2022.
[375] ibid.
[376] ibid.
[377] Lisa D. Butler, Filomena M. Critelli and Janice Carello, *Trauma and Human Rights: Integrating Approaches to Address Human Suffering* (Palgrave MacMillan 2019) 42.
[378] ibid.
[379] ibid.
[380] ibid.

chapter sought to advocate for considering both the trauma and human rights frameworks together so as to achieve a more inclusive, holistic approach to disability and thus enable the healing and social inclusion of PWDs.

5.
CONCLUSION

5.1. REFLECTIONS

This thesis first sought to illustrate how social exclusion of PWDs is driven by stigmatisation and discrimination which has been prevalent throughout history and is frequently based on misconceptions associated with disability. Subsequently, the thesis proceeded to analyze how such social exclusion can ultimately lead to violations of the basic human rights and fundamental freedoms of PWDs. First, this was discussed through analyzing the historical case study of the atrocities committed against PWDs during the Nazi regime, ranging from harmful practices, such as sterilisation, to their eventual murders through the Nazi euthanasia program. The chapter thereafter highlighted those encroachments on the rights and freedoms of PWDs in contemporary times, specifically through analysis of IHRL instruments, such as the CRPD and CRC. Finally, the last chapter stressed the importance of taking into consideration the impact that trauma can have on PWDs, as well as on communities and society at large.

5.1.1. Addressing Stigmatisation and Discrimination

This thesis argued that the stigmatisation and discrimination of PWDs must be addressed at all levels of society in order for any meaningful change to occur. Essentially, without tackling these barriers, which lie at the root of the marginalization of PWDs, the societal oppression and exclusion they continue to face will simply persist. It is an important first step to understand how those negative views and stereotypes of PWDs perpetuate their unjustified and unequal treatment in society. Furthermore, prior to being able to address, reform, or envision new policies and legislations, it is vital to recognize drivers of stigma. As was discussed throughout this thesis, such faulty understandings and misconceptions of disability can be traced back to various factors, including religious or cultural beliefs, as well as an overall lack of accurate knowledge surrounding disability.

Additionally, it is important to be cognisant of the issue relating to intersectionality. In other words, in order to usher in a transformation regarding the maltreatment of PWDs, we must be mindful of the multiple forms of oppression such individuals may face. Moreover, the roles of

ableism and disablism in the treatment of PWDs versus the non-disabled community cannot be left ignored. Differential conduct towards PWDs, both on individual and societal levels, deem them as inferior by ultimately favoring those without disabilities. Only through calling the monster of discrimination by its name will we be able to combat the maltreatment of PWDs, without diluting the meaning or impact it may have on the lives of individuals and the social fabric forming society.

5.1.2. Addressing Language

This thesis further argued that in order to achieve a more just society, the role of language, too, must be taken into account. Essentially, as was earlier discussed, terminology impacts the marginalization of PWDs and their access to human rights by means of affecting the social construction of reality. Through using language that regards PWDs as objects of pity, mockery, violence, or even distorted glorification, society comes to obscure what PWDs are in actuality: subjects of rights.

The importance of linguistics, however, also encompasses that issue which relates to driving change through language. Essentially, language can indeed contribute to the promotion of dignity and human rights, and therefore, must be employed in such a way as to bring about a positive change. In this regard, the dominant role of the media must be highlighted. Concrete strategies guiding media outlets in eliminating negative stereotypes of disability need to be applied and monitored. Additionally, whether in an official or unofficial capacity, every individual has the innate responsibility toward one's fellow humans to alter societal perceptions of PWDs from "un"-abled to "differently"-abled. Lastly, the significance of using a person-first approach to disability must not only be discussed, but also implemented at all levels of society.

5.1.3. Addressing Trauma Exposure

In addition, this thesis argued for the importance of taking into account the notion of trauma and its implications in order to fully and holistically address those violations of the basic human rights and fundamental freedoms of PWDs. First, the thesis described the long-lasting impacts of exposure to trauma, as well as the various manners in which it may manifest (i.e., physically, psychologically, and socially). Next, the thesis sought to illustrate the beneficial impacts of mitigating trauma, both on individuals and society. Moreover, this thesis advocated

for the crucial role of preventative measures in combatting the maltreatment of PWDs and the ensuing violations of their human rights.

Overall, this thesis maintained that in order to fully address the human suffering and marginalization faced by PWDs in the present day, the human rights framework must be considered alongside the trauma framework. Only in so doing will society facilitate the healing and social inclusion of PWDs, thus empowering this historically ostracized and banished community.

5.2. RECOMMENDATIONS

In closing this thesis, it is crucial to remind the reader that those behind the acronym "PWDs" are *people*. People *with* a disability, not ones who are only and wholly defined by their disabilities. These individuals are sentient human beings, and regardless of how they may differ from the non-disabled community, they too are entitled to the protection of their inherent human rights and fundamental freedoms. As such, it is the responsibility of us all to ensure that PWDs are able to live their life with dignity and equality.

5.2.1. Policies and Legislations

All in all, this thesis argues that those policies and legislations relating to PWDs ought to embrace not only the human rights framework, but must also encompass the trauma-informed approach. As was previously explored, close attention must be paid to the language used in guiding these documents.

As such, the first step in moving forward surrounds amending legislature which employs derogatory and harmful language in relation to PWDs. Moreover, given the significant responsibility of policymakers to protect PWDs from maltreatment, they must be properly educated regarding the impacts of terminology used on perpetuating stigmatisation and discrimination against this vulnerable group. Lastly, the voices of PWDs themselves must always be given a platform to be heard. Without the inclusion of those directly affected and those organizations representing them, the condescending treatment of the non-disabled majority and their sustained oppression of PWDs will continue to persist. In sum, achieving a more equal and just society is a mere, unrealistic ambition if PWDs are not involved in the transition.

5.2.2. Practices and Other Measures

Besides those changes discussed above, awareness-raising of disability amongst the general public must increase. Civil society, too, must implement novel practices and other measures in order to ensure the equal treatment of PWDs. Institutions must meet the needs of PWDs themselves, however, equally important is that such establishments also incorporate education on disability issues within the wider population so as to diminish the gap between the two communities. Schools, for example, ought to teach about the harmful misconceptions associated with disability, as well as disability rights, in their curriculum. Businesses and corporations must also provide training programmes to ensure professionals who are informed and educated about daily interactions with PWDs in non-discriminatory manners.

Governments and the international community at large must also better implement measures regarding the equal treatment of PWDs. As part of their duties, they must ensure adequate funding towards the provision of unprejudiced services for PWDs, as well as regularly monitoring compliance with set standards. Lastly, channels for lodging complaints must not only be established, but also be made accessible to PWDs and those representing their best interest and overall well-being.

At the end of the day, regardless of how inclusive and progressive society seems to be, we must remember that **we can always do more**.

BIBLIOGRAPHY

BOOKS AND ARTICLES

Ansello EF and O'Neill P, 'Abuse, Neglect, and Exploitation: Considerations in Aging with Lifelong Disabilities' (2010) 22(1-2) Journal of Elder Abuse & Neglect 105

Bailey K, Harris SJ and Simpson S, 'Stammering and the Social Model of Disability: Challenge and Opportunity' (2015) 193 Procedia – Social and Behavioral Sciences 13

Balabanova E, *The Media and Human Rights: The Cosmopolitan Promise* (Routledge, Taylor & Francis Group 2015)

Barnes C, 'Disabling Imagery and the Media: An Exploration of the Principles for Media Representations of Disabled People' (1992) The British Council of Organisations of Disabled People and Ryburn Publishing Limited 1

Barsalou J, *Managing Memory: Looking to Transitional Justice to Address Trauma* in *Peacebuilding in Traumatized Societies* (University Press of America 2008)

Benedict S and Shields L, *Nurses and Midwives in Nazi Germany: The Euthanasia Program* (Routledge, Taylor & Francis Group 2014)

Berger PL and Luckmann T, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge* (Penguin Books 1991)

Bergman J, *Hitler and the Nazi Darwinian Worldview: How the Nazi Eugenic Crusade for a Superior Race Caused the Greatest Holocaust in World History* (Joshua Press 2012)

Bogart KR, 'Ableism Special Issue Introduction' (2019) 75(3) Journal of Social Issues 650

Bratan T and others 'Implementation of the UN Convention on the Rights of Persons with Disabilities: A Comparison of Four European Countries with Regards to Assistive Technology' (2020) 10(4) Societies 74

Burchardt T, 'Capabilities and disability: the capabilities framework and the social model of disability' (2004) 19(7) Disability & Society 735

Butler LD, Critelli FM and Carello J, *Trauma and Human Rights: Integrating Approaches to Address Human Suffering* (Palgrave MacMillan 2019)

Camp M and others, 'The Joker: A Dark Night for Depictions of Mental Illness' (2010) 34(2) Academic Psychiatry 145

Charlton J, *Nothing About Us, Without Us: The Dialectics of Disability Oppression and Empowerment* (University of California Press 2000)

Chouinard V, 'Making space for disabling differences: challenging ableist geographies' (1997) 15(4) Environment and Planning D: Society and Space 379

Cocks G, *Psychotherapy in the Third Reich, Second Edition* (Transaction Publishing 1997)

Crawford D and Ostrove JM, 'Representations of Disability and the Interpersonal Relationships of Women with Disabilities' (2008) 26(3) Women & Therapy 179

De Beco G, 'The Indivisibility of Human Rights and the Convention on the Rights of Persons with Disabilities' (2019) 68(1) International and Comparative Law Quarterly 141

De Bellis MD, 'The Psychobiology of Neglect' (2005) 10(2) Child Maltreatment 150

Degener T, *A Human Rights Model of Disability* in *A Routledge Handbook of Disability Law and Human Rights* (Routledge, Taylor & Francis Group 2016)

Dutton MA and Greene R, 'Resilience and Crime Victimization' (2010) 23(2) Journal of Traumatic Stress 215
Evans SE, *Hitler's Forgotten Victims: the Holocaust and the Disabled* (The History Press 2016)
Feifer A and Walker-Descartes I, 'Abuse or neglect as cause for disability' (2017) 10(3) International Journal of Child Health and Human Development 253
Flynn E, *Access to Justice and its Relevance for People with Disabilities* in *Disabled Justice? Access to Justice and the UN Convention on the Rights of Persons with Disabilities* (Routledge, Taylor & Francis Group 2016)
Friedlander H, *The Origins of Nazi Genocide: From Euthanasia to the Final Solution* (The University of North Carolina Press, Chapel Hill & London 1995)
Gallagher M and Perlin ML, 'The Pain I Rise Above: How International Human Rights Can Best Realize the Needs of Persons with Trauma-Related Mental Disabilities' (2017) 29(3) Florida Journal of International Law 271
Giberovitch M and Barry R, *Recovering from Genocidal Trauma: An Information and Practice Guide for Working with Holocaust Survivors* (University of Toronto Press 2014)
Glazier RE and Kling RN, 'Recent trends in substance abuse among persons with disabilities compared to that of persons without disabilities' (2013) 6(2) Disability and Health Journal 107
Goffman E, *Stigma: Notes on the Management of Spoiled Identity* (Prentice-Hall Inc. 1963)
Goodley D and Runswick-Cole K, 'The Violence of Disablism' (2011) 33(4) Sociology of Health & Illness 602
Goodman RD and Gorski PC, *A Liberatory Approach to Trauma Counseling: Decolonizing Our Trauma-Informed Practices* in *Decolonizing "Multicultural" Counseling through Social Justice* (Springer 2015)
Grue J, *Disability and Discourse Analysis* (Ashgate 2015)
Hahn Fox B and others, 'Trauma changes everything: examining the relationship between adverse childhood experiences and serious, violent and chronic juvenile offenders' (2015) 46 Child Abuse & Neglect 163
Harpur P, 'From disability to ability: changing the phrasing of the debate' (2012) 27(3) Disability & Society 325
Haslam N and Loughnan S, 'Dehumanization and Infrahumanization' (2013) 65 Annual Review of Psychology 399
Herman JL, *Trauma and Recovery: The Aftermath of Violence – From Domestic Abuse to Political Terror* (Basic Books 1992)
Herrman H and others, 'What is Resilience?' (2011) 56(5) The Canadian Journal of Psychiatry 258
Iriarte EG, McConkey R and Gillian R, *Models of Disability* in *Disability and Human Rights: Global Perspectives* (Palgrave, MacMillan Education 2016)
Johns LE and others, 'Neighborhood social cohesion and posttraumatic stress disorder in a community-based sample: findings from the Detroit Neighborhood Health Study' (2012) 47 Social Psychiatry and Psychiatric Epidemiology 1899
Kendall-Tackett KA, *Stress and Trauma in the Lives of Women with Disabilities* in *Handbook of Women, Stress and Trauma* (Routledge, Taylor & Francis Group 2005)
Kessler K, 'Physicians and the Nazi Euthanasia Program' (2007) 36(1) International Journal of Mental Health 4

Kilner J, Pentz R and Young F, *Genetic Ethics: Do the Ends Justify the Genes?* (Paternoster Press 1997)
Lang R and others, 'Implementing the United Nations Convention on the rights of persons with disabilities: principles, implications, practice and limitations' (2011) 5(3) ALTER, European Journal of Disability Research 206
Letts M, Davidson D and Lapner P, 'Multiple trauma in children: predicting outcome and long term results' (2002) 45(2) Canadian Journal of Surgery 126
Levin Y and others, 'The association between type of trauma, level of exposure and addiction' (2021) 118(5) Addictive Behaviors 1
Liasidou A, 'Trauma-informed disability politics: interdisciplinary navigations and implications' (2021) 37 Disability & Society 1
Li L and Moore D, 'Disability and illicit drug use: an application of labeling theory' (2001) 22(1) Deviant Behavior 1
Luty J, 'Psychiatry and the Dark Side: Eugenics, Nazi and Soviet Psychiatry' (2014) 20(1) Advances in Psychiatric Treatment 52
Mead S, Hilton D and Curtis L, 'Peer Support: A Theoretical Perspective' (2001) 25(2) Psychiatric Rehabilitation Journal 134
Mégret F, 'The Disabilities Convention: Towards a Holistic Concept of Rights' (2008) 12(2) The International Journal of Human Rights 261
Metzler I, *Disability in Medieval Europe: Thinking about physical impairment during the high Middle Ages, c. 1100-1400* (Taylor & Francis 2006)
Minkowitz T, 'The United Nations Convention on the Rights of Persons with Disabilities and the Right to Be Free from Nonconsensual Psychiatric Interventions' (2007) 34(2) Syracuse Journal of International Law and Commerce 405
Mitchell A, Clegg J and Furnis F, 'Exploring the Meaning of Trauma with Adults with Intellectual Disabilities' (2006) 19(2) Journal of Applied Research in Intellectual Disabilities 131
Mitchell LM and Buchele-Ash A, 'Abuse and Neglect of Individuals with Disabilities: Building Protective Supports Through Public Policy' (2000) 10(2) Journal of Disability Policy Studies 225
Moore D, Greer BG and Li L, 'Alcohol and Other Substance Use/Abuse Among People with Disabilities' (1994) 9(5) Journal of Social Behavior and Personality 369
Morley CA and Kohrt BA, 'Impact of Peer Support on PTSD, Hope, and Functional Impairment: A Mixed-Methods Study of Child Soldiers in Nepal' (2012) 22(7) Journal of Aggression, Maltreatment & Trauma 714
Nickel JW, 'Rethinking Indivisibility: Towards a Theory of Supporting Relations between Human Rights' (2008) 30(4) Human Rights Quarterly 984
O'Neill S, 'First They Killed the 'Crazies' and 'Cripples': The Ableist Persecution and Murders of People with Disabilities by Nazi Germany 1933-45, An Anthropological Perspective' (DPhil thesis, California Institute of Integral Studies 2000)
Palusci VJ, Datner E and Wilkins C, 'Developmental Disabilities: Abuse and Neglect in Children and Adults' (2015) 8(4) International Journal of Child Health and Human Development 407
Petasis A, 'Discrepancies of the Medical, Social and Biopsychosocial Models of Disability: A Comprehensive Theoretical Framework' (2019) 3(4) The International Journal of Business Management and Technology 42

Peters S, Gabel S and Symeonidou S, 'Resistance, transformation and the politics of hope: imagining a way forward for the disabled people's movement' (2009) 24(5) Disability & Society 543
Proctor R, *Racial Hygiene: Medicine under the Nazis* (Harvard University Press 1988)
Ratcliffe P and Newman I, *Promoting Social Cohesion: Implications for Policy and Evaluation* (The Policy Press 2011)
Rich AJ, DiGregorio N and Strassle C, 'Trauma-informed care in the context of intellectual and developmental disability services: Perceptions of service providers' (2020) 25(4) Journal of Intellectual Disabilities 603
Rimmerman A, *Social Inclusion of People with Disabilities: National and International Perspectives* (Cambridge University Press 2013)
Ringel S and Brandell JR, *Overview: History of Trauma Theory* in *Trauma: Contemporary Directions in Theory, Practice, and Research* (Sage Publications 2012)
Rioux M and Carbert A, 'Human Rights and Disability: The International Context' (2003) 10(2) Journal on Developmental Disabilities 1
Rohwerder B, 'Disability stigma in developing countries' K4D Helpdesk Report (2018) Institute of Development Studies 1
Sabatello M, 'Children with Disabilities: A Critical Appraisal' (2013) 21(3) The International Journal of Children's Rights 464
Saxton M and others, 'Bring My Scooter So I Can Leave You: A Study of Disabled Women Handling Abuse by Personal Assistance Providers' (2001) 7(4) Violence Against Women 393
Schur L, Kruse D and Blanck P, *People with Disabilities: Sidelined of Mainstreamed?* (Cambridge University Press 2013)
Shelton D, *Positive and Negative Obligations* in *The Oxford Handbook of International Human Rights Law* (Oxford University Press 2013)
Sherry M, 'Don't Ask, Tell or Respond: Silent Acceptance of Disability Hate Crimes' (2003) Disabled Women's Network 1
Smith D and Schonfeld N, 'The Benefits of Diversity: What the Research Tells Us' (2000) 5(5) About Campus 16
Smooth WG, *Intersectionality from Theoretical Framework to Policy Intervention* in *Situating Intersectionality* (Palgrave MacMillan 2013)
Smuha NA, 'Beyond a Human Rights-Based Approach to Governance: Promise, Pitfalls, Plea' (2020) 34(1) Philosophy & Technology 91
Stanley D, 'What Do We Know about Social Cohesion: The Research Perspective of the Federal Government's Social Cohesion Research Network' (2003) 28(1) The Canadian Journal of Sociology 5
Stoltenborgh M, Bakermans-Kranenburg MJ and van Ijzendoorn MH, 'The neglect of child neglect: a meta-analytic review of the prevalence of neglect' (2013) 48(3) Social Psychiatry and Psychiatric Epidemiology 345
Thomas-Skaf BA and Jenney A, 'Bringing Social Justice into Focus: "Trauma-Informed" Work with Children with Disabilities' (2020) 27(4) Child Care in Practice 316
Ungar M, 'Resilience, Trauma, Context, and Culture' (2013) 14(3) Trauma, Violence & Abuse 255

van der Kolk BA, *Psychological Trauma* (American Psychiatric Association Publishing 1987)
— *The Body Keeps the Score: Brain, Mind, and Body in the Healing of Trauma* (Penguin Publishing Group 2014)
van der Kolk BA, McFarlane AC and Weisaeth L, *Trauma and its Challenges to Society* in *Traumatic Stress: The Effects of Overwhelming Experience on Mind, Body, and Society* (The Guilford Press 2006)
Verdugo MA and Bermejo BG, 'The Mentally Retarded Person as a Victim of Maltreatment' (1997) 2(2) Aggression and Violent Behavior 143
Vig S and Kaminer R, 'Maltreatment and Developmental Disabilities in Children' (2002) 14(4) Journal of Developmental and Physical Disabilities 371
Waxman BF, 'Hatred: The Unacknowledged Dimension in Violence Against Disabled People' (1991) 9(3) Sexuality and Disability 185
Wilson R, *Dehumanization, Disability, and Eugenics* in *The Routledge Handbook of Dehumanization* (Routledge, Taylor & Francis Group 2021)
Withers AJ, *Disability Politics and Theory* (Fernwood Publishing 2012)

OFFICIAL DOCUMENTS AND OTHER SOURCES

American Psychiatric Association (APA), *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition: DSM-5* (American Psychiatric Publishing 2013)
Substance Abuse and Mental Health Services Administration, *Trauma-Informed Care in Behavioral Health Services: A Treatment Improvement Protocol (TIP) Series No. 57* (HHS Publication 2014)
United Nations Committee on Economic, Social and Cultural Rights (CESCR), 'General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)' (11 August 2000) E/C.12/2000/4
United Nations Department of Economic and Social Affairs (UNDESA), *Culture, Beliefs and Disability* in *Toolkit on Disability for Africa* (Division for Social Policy and Development 2016)
— *Introducing the United Nations Convention on the Rights of Persons with Disabilities* in *Toolkit on Disability for Africa* (Division for Social Policy and Development 2016)
United Nations Development Group (UNDG), *Including the rights of persons with disabilities in United Nations programming at country level* in *A Guidance Note for United Nations Country Teams and Implementing Partners* (United Nations 2011)
United Nations Human Rights Council (UNHRC), 'Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health' (28 March 2017) A/HRC/35/21
United Nations General Assembly (UNGA), Convention on the Rights of Persons with Disabilities (adopted 13 December 2006, entered into force 3 May 2008) 2515 UNTS 3 (CRPD)
— Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC)
— International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR)

— International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR)
— Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR)
— Vienna Declaration and Programme of Action (adopted on 12 July 1993) A/CONF.157/23 (Vienna Declaration)

INTERNET SOURCES

United Nations International Children's Emergency Fund (UNICEF), 'Promoting the Rights of Children with Disabilities Innocenti Digest No. 13' (Innocenti Research Centre 2007) <https://www.unicef-irc.org/publications/474-promoting-the-rights-of-children-with-disabilities.html> accessed 4 April 2022
United Nations, 'Committee negotiating convention on rights of disabled persons concludes current session' (Press release SOC/4680 12 August 2005) <https://www.un.org/press/en/2005/soc4680.doc.htm> accessed 24 March 2022
World Health Organization (WHO), 'Fact Sheet on Disability and Health' (24 November 2021) <https://www.who.int/en/news-room/fact-sheets/detail/disability-and-health> accessed 13 March 2022
— 'Mental health: facing the challenges, building solutions' (Report from the WHO Ministerial Conference 2005) <https://apps.who.int/iris/handle/10665/326566> accessed 2 May 2022
— *World Report on Disability* (14 December 2011) <https://www.who.int/teams/noncommunicable-diseases/sensory-functions-disability-and-rehabilitation/world-report-on-disability> accessed 4 May 2022

APPENDICES

The text reads:

"Life without hope".

Appendix 1. Nazi propaganda featuring mentally ill patients behind a fenced asylum, thereby encouraging the social exclusion of PWDs.[381]

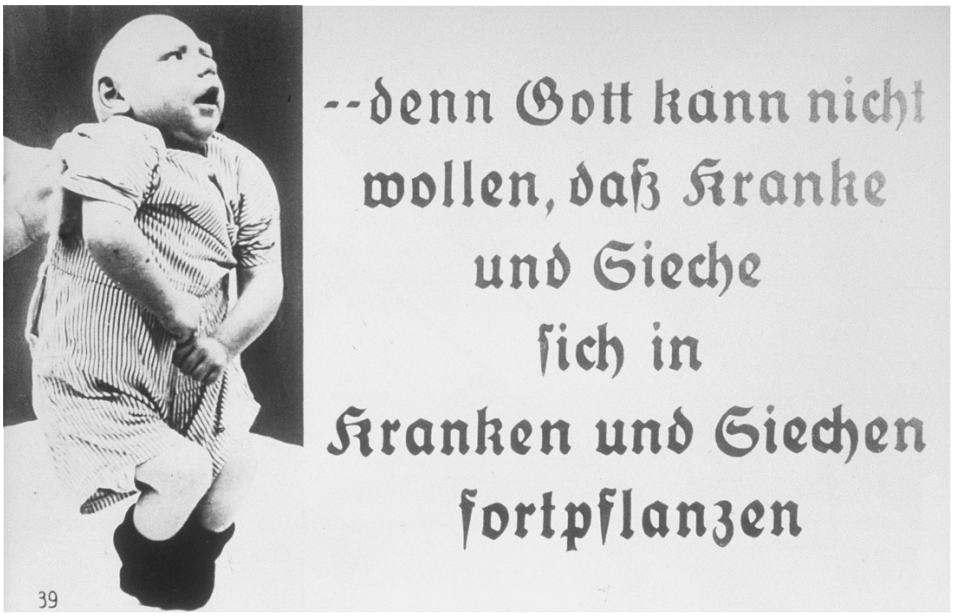
[381] United States Holocaust Memorial Museum, Photograph Number 17562. <https://collections.ushmm.org/search/catalog/pa1067444> accessed 29 March 2022.

The text reads:

"60 000 Reichsmarks
is what this person suffering from a hereditary defect costs the People's community during his lifetime. Fellow citizen, that is your money too. Read New People, the monthly magazine of the Bureau for Race Politics of the NSDAP".

Appendix 2. Nazi propaganda encouraging the support of sterilisation and euthanasia of PWDs.[382]

[382] Jason Luty, 'Psychiatry and the Dark Side: Eugenics, Nazi and Soviet Psychiatry' (2014) 20(1) Advances in Psychiatric Treatment 54.



The text reads:

"… because God cannot want the sick and ailing to reproduce".

Appendix 3. Nazi propaganda encouraging the support of sterilisation and euthanasia of infants and CWDs.[383]

[383] United States Holocaust Memorial Museum, Photograph Number: 17573. <https://collections.ushmm.org/search/catalog/pa1067466> accessed 29 March 2022.

Posttraumatic Stress Disorder

Diagnostic Criteria 309.81 (F43.10)

Posttraumatic Stress Disorder

Note: The following criteria apply to adults, adolescents, and children older than 6 years. For children 6 years and younger, see corresponding criteria below.

A. Exposure to actual or threatened death, serious injury, or sexual violence in one (or more) of the following ways:

1. Directly experiencing the traumatic event(s).
2. Witnessing, in person, the event(s) as it occurred to others.
3. Learning that the traumatic event(s) occurred to a close family member or close friend. In cases of actual or threatened death of a family member or friend, the event(s) must have been violent or accidental.
4. Experiencing repeated or extreme exposure to aversive details of the traumatic event(s) (e.g., first responders collecting human remains; police officers repeatedly exposed to details of child abuse).

   Note: Criterion A4 does not apply to exposure through electronic media, television, movies, or pictures, unless this exposure is work related.

B. Presence of one (or more) of the following intrusion symptoms associated with the traumatic event(s), beginning after the traumatic event(s) occurred:

1. Recurrent, involuntary, and intrusive distressing memories of the traumatic event(s).

   Note: In children older than 6 years, repetitive play may occur in which themes or aspects of the traumatic event(s) are expressed.

2. Recurrent distressing dreams in which the content and/or affect of the dream are related to the traumatic event(s).

   Note: In children, there may be frightening dreams without recognizable content.

3. Dissociative reactions (e.g., flashbacks) in which the individual feels or acts as if the traumatic event(s) were recurring. (Such reactions may occur on a continuum, with the most extreme expression being a complete loss of awareness of present surroundings.)

   Note: In children, trauma-specific reenactment may occur in play.

4. Intense or prolonged psychological distress at exposure to internal or external cues that symbolize or resemble an aspect of the traumatic event(s).
5. Marked physiological reactions to internal or external cues that symbolize or resemble an aspect of the traumatic event(s).

C. Persistent avoidance of stimuli associated with the traumatic event(s), beginning after the traumatic event(s) occurred, as evidenced by one or both of the following:

1. Avoidance of or efforts to avoid distressing memories, thoughts, or feelings about or closely associated with the traumatic event(s).
2. Avoidance of or efforts to avoid external reminders (people, places, conversations, activities, objects, situations) that arouse distressing memories, thoughts, or feelings about or closely associated with the traumatic event(s).

D. Negative alterations in cognitions and mood associated with the traumatic event(s), beginning or worsening after the traumatic event(s) occurred, as evidenced by two (or more) of the following:

1. Inability to remember an important aspect of the traumatic event(s) (typically due to dissociative amnesia and not to other factors such as head injury, alcohol, or drugs).

2. Persistent and exaggerated negative beliefs or expectations about oneself, others, or the world (e.g., "I am bad," "No one can be trusted," "The world is completely dangerous," "My whole nervous system is permanently ruined").
3. Persistent, distorted cognitions about the cause or consequences of the traumatic event(s) that lead the individual to blame himself/herself or others.
4. Persistent negative emotional state (e.g., fear, horror, anger, guilt, or shame).
5. Markedly diminished interest or participation in significant activities.
6. Feelings of detachment or estrangement from others.
7. Persistent inability to experience positive emotions (e.g., inability to experience happiness, satisfaction, or loving feelings).

E. Marked alterations in arousal and reactivity associated with the traumatic event(s), beginning or worsening after the traumatic event(s) occurred, as evidenced by two (or more) of the following:

1. Irritable behavior and angry outbursts (with little or no provocation) typically expressed as verbal or physical aggression toward people or objects.
2. Reckless or self-destructive behavior.
3. Hypervigilance.
4. Exaggerated startle response.
5. Problems with concentration.
6. Sleep disturbance (e.g., difficulty falling or staying asleep or restless sleep).

F. Duration of the disturbance (Criteria B, C, D, and E) is more than 1 month.

G. The disturbance causes clinically significant distress or impairment in social, occupational, or other important areas of functioning.

H. The disturbance is not attributable to the physiological effects of a substance (e.g., medication, alcohol) or another medical condition.

Specify whether:

With dissociative symptoms: The individual's symptoms meet the criteria for posttraumatic stress disorder, and in addition, in response to the stressor, the individual experiences persistent or recurrent symptoms of either of the following:

1. **Depersonalization:** Persistent or recurrent experiences of feeling detached from, and as if one were an outside observer of, one's mental processes or body (e.g., feeling as though one were in a dream; feeling a sense of unreality of self or body or of time moving slowly).
2. **Derealization:** Persistent or recurrent experiences of unreality of surroundings (e.g., the world around the individual is experienced as unreal, dreamlike, distant, or distorted).

Note: To use this subtype, the dissociative symptoms must not be attributable to the physiological effects of a substance (e.g., blackouts, behavior during alcohol intoxication) or another medical condition (e.g., complex partial seizures).

Specify if:

With delayed expression: If the full diagnostic criteria are not met until at least 6 months after the event (although the onset and expression of some symptoms may be immediate).

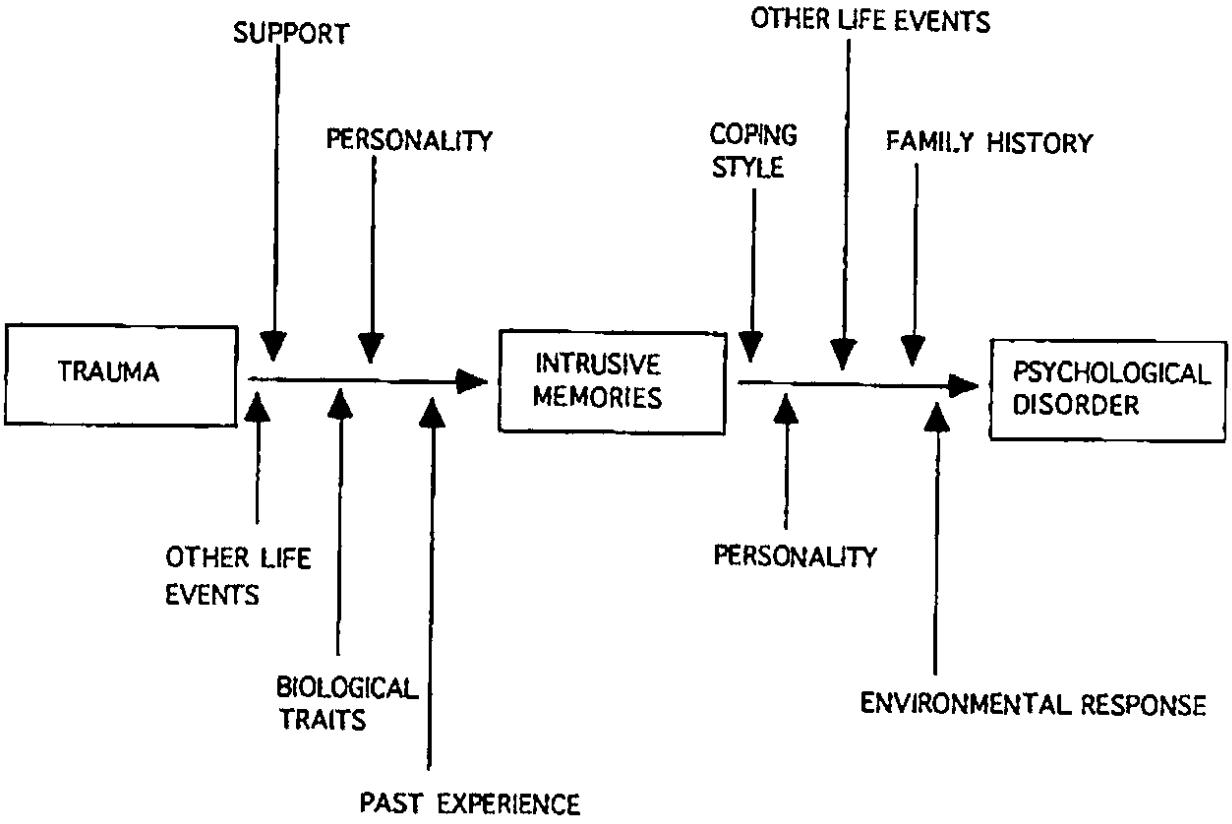
Posttraumatic Stress Disorder for Children 6 Years and Younger

A. In children 6 years and younger, exposure to actual or threatened death, serious injury, or sexual violence in one (or more) of the following ways:

1. Directly experiencing the traumatic event(s).
2. Witnessing, in person, the event(s) as it occurred to others, especially primary caregivers.

Appendix 4. PTSD diagnostic criteria according to the DSM-5.[384]

[384] American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition: DSM-5* (American Psychiatric Publishing 2013) 271-272.



Appendix 5. Etiological factors influencing the transition from distress to disorder following trauma.[385]

[385] Bessel A. van der Kolk, Alexander C. McFarlane and Lars Weisaeth, *Traumatic Stress: The Effects of Overwhelming Experience on Mind, Body, and Society* (The Guilford Press 2006) 157.