

## SUBSTANCE DEPENDENT WOMEN AND PREGNANCY – HUMAN RIGHTS BASED APPROACH TO RESEARCH & POLICY

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Persons with disabilities include those who **have long-term** physical, **mental**, intellectual or sensory impairments, which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others (Convention on the Rights of Persons with Disabilities (CRPD) Art.1 – see figure 1 below).

Human rights obligations also include the following matters:

- the issue of psycho-social, psychiatric and mental impairments (like **Substance Use (opioid) disorder as** part of the psychiatric disease spectrum, as covered in DSM V: 304 & ICD 10: F11) as included in the description of “disability” in CRPD
- persons with psycho-social/mental impairments participated in the negotiations as advocates in their own right

States who have ratified they are obliged to enable the implementation of these rights – in our particular case the human rights of pregnant women with a psychiatric disorder and their legal rights regarding the newborn child, respectively.

*This includes:*

Legal capacity & informed consent (Art 12 CRPD): full information on diagnostic procedure & discussion about treatment options for her and her child; especially receiving adequate and accessible information that enables full understanding of content in that particular target population to form informed consent.

Liberty & Security of the Person (Art 14/1 CRPD): States Parties shall ensure that persons with disabilities, on an equal basis with others:

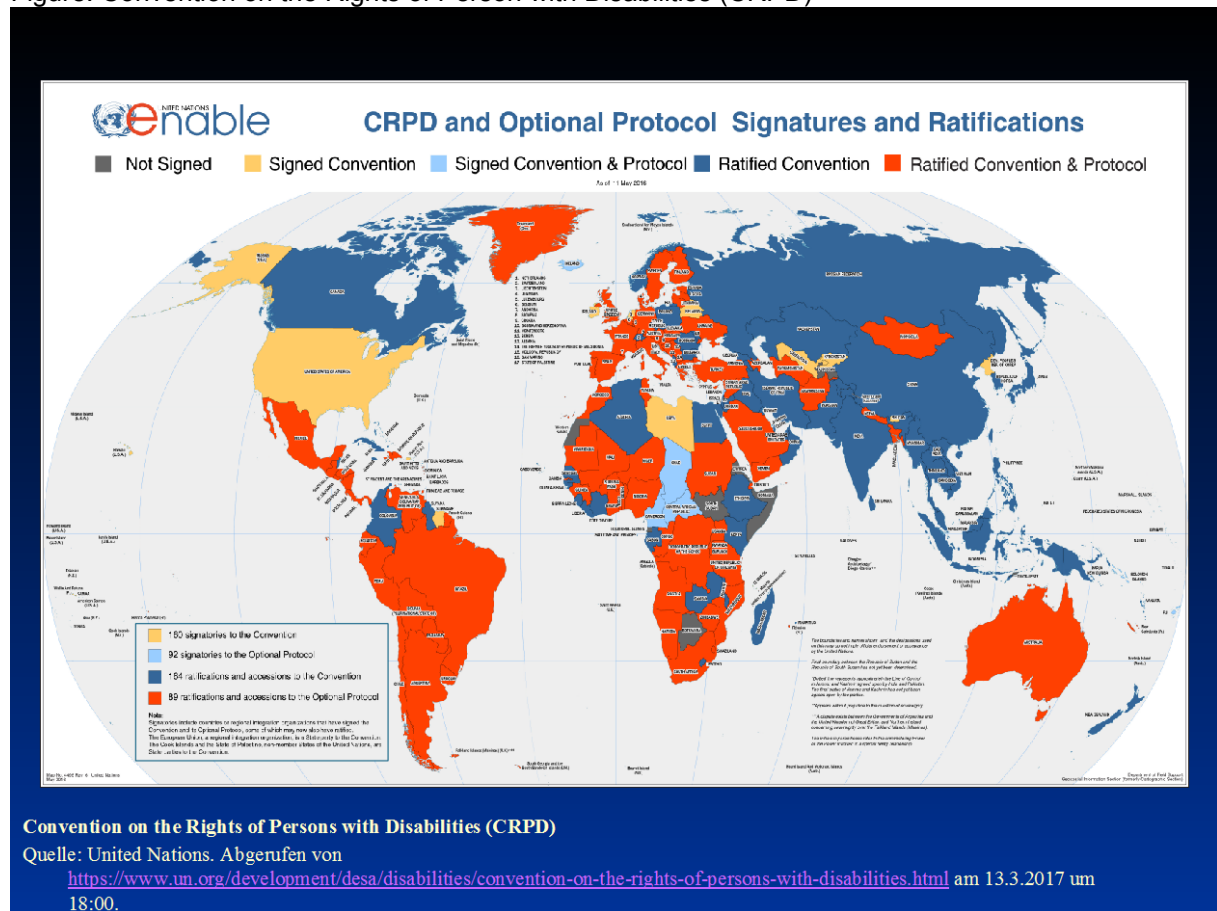
- (a ) Enjoy the right to liberty and security of person;
- (b ) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

The discussion has to be non judgmental and include the right of a women with disabilities as decision-maker for her child under the determination of the child's best interests (see also Article 15 Women's Rights Convention (CEDAW): provision on women's right to legal capacity and the right to act it) as well as the child's rights under the Childs Rights Convention

- Protection of the family has to be ensured (Right to Privacy, Art 8 European Convention on Human Rights)
- Support for parents to fulfill their parental responsibilities
- *Economic reasons are no justification for separation*
- Child's life and development have to be considered holistically
- Future consequences of decision have to be taken into account
- Decision making has to be fair & give due respect to parents' views
- Non-discrimination, including on the grounds of health-status, social origin

E.g.: Measure to avoid forced treatment, particularly implementation on preventative steps in mental health following evidence based results needs to be followed (Art 15 Covenant on Economic, Social & Cultural Rights, “everyone has the right to enjoy the benefits of scientific progress and its applications”) e.g.: forced detoxification of pregnant opioid dependent pregnant women could be seen as structural violence; not full information & consecutive consent towards treatment structure of NAS (neonatal abstinence syndrome) is violating human rights.

Figure: Convention on the Rights of Person with Disabilities (CRPD)



**Convention on the Rights of Persons with Disabilities (CRPD)**

Quelle: United Nations. Abgerufen von

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html> am 13.3.2017 um

18:00.