**International Disability Alliance (IDA)**

Member Organisations:

Down Syndrome International, Inclusion International,

International Federation for Spina Bifida and Hydrocephalus,

International Federation of Hard of Hearing People, World Blind Union,

World Federation of the Deaf, World Federation of the DeafBlind,

World Network of Users and Survivors of Psychiatry, African Disability Forum,

Arab Organization of Disabled People, European Disability Forum,

Red Latinoamericana de Organizaciones no Gubernamentales de Personas con Discapacidad y sus familias (RIADIS), Pacific Disability Forum

**IDA comments on the CRC Committee’s**

**draft General Comment on the rights of the child during adolescence**

The International Disability Alliance (IDA) welcomes Draft General Comment on the implementation of the rights of the child during adolescence, elaborated and published by Committee on the Rights of the Child (*hereinafter* “the CRC Committee”). We commend the Committee for considering the specific needs and situations of adolescents with disabilities in the draft of the General Comment. This present submission proposes concrete drafting suggestions to strengthen upholding the rights of this frequently marginalised group of adolescents, and draws upon [IDA’s initial submission focusing on adolescents with disabilities](http://bit.ly/29aUObf) in response to the CRC Committee’s call for comments in 2015.

**Proposed edits:**

***Para 13, amend the following sentences:*** “Furthermore, as they approach adulthood, adolescents need to be equipped to tackle local and global challenges, including poverty and inequality, [insert: discrimination,] climate change and environmental degradation...”

“Growing up in [Insert: diverse communities, including those which include people with disabilities and which are] more heterogeneous and multi-ethnic societies, as a consequence of increased global migration, also requires greater capacities for understanding, tolerance and co-existence”.

***Para 18, add at the end:*** “This includes ensuing all children have the opportunity to express ideas and make decisions. Adolescents with disabilities may be subject to higher levels of paternalism than their peers without disability, and less opportunities to exercise emergent decision making capacities because of stigma and prejudice about their capacities. States must raise awareness on the rights of adolescents with disabilities and provide them with age and disability appropriate support to express their views, in line with CRPD Art 7 and CRC Art 12.”

***Para 20, add at end of para: “***Adolescents, upon their request, should have access to supports to assist in their decision-making which respect their individual autonomy, will and preferences.”

- this reflects the CRPD guiding principle on recognising the evolving capacity of the child as enshrined in Article 3 as well as reflected in Article 7 on children with disabilities.

***Para 21: insert at end of 3rd sentence as follows:***

“At the same time, and paradoxically, they are also often treated as in need of protection, or incompetent and incapable of making decisions about their lives [Insert:,and this can be exacerbated for adolescent girls, adolescents with disabilities, indigenous adolescents, unaccompanied minors, among others, due to negative stereotypes and socio-cultural attitudes. Measures should be taken to ensure these groups of adolescents are provided with disability and age appropriate resources to realise their rights on an equal basis with other adolescents].”

**-** this highlights some particularly vulnerable groups of adolescents who face additional barriers in having their decision-making recognised and affirms that States have an obligation to ensure their participation on an equal basis with others through specific measures to overcome barriers.

***Para 24, amend the sentence:*** “States must introduce measures [insert: including disability and age appropriate supports, for example, qualified sign language interpreters for deaf adolescents] to enable them to exercise fully this right, for example, in individual decisions relating to education, health, family life, judicial and administrative proceedings and through the introduction of safe and accessible mechanisms for complaint and redress.”

***Para 25, amend the sentence:*** “Through [insert: accessible] digital media, adolescents can connect with peers, engage in political processes, and increase their sense of agency to make informed decisions and choices.”

***Para 26, amend as follows:*** “In order to ensure meaningful participation, adolescents must have access to information in age-appropriate and accessible formats [insert: and languages including in Braille, sign language, easy to read format and alternative modes of communication], space to express views, appropriate consideration of their views and feedback on subsequent action or decisions.”

***Para 28, amend as follows:*** **“Girls**: It is during adolescence that gender inequalities become more significant. Discrimination, inequality and stereotyping against girls often intensifies as they reach adolescence leading to greater violation of their rights, including forced marriage, unwanted pregnancies, [insert: forced sterilisation notably of girls with disabilities], gender-based physical, mental and sexual violence, abuse and exploitation and trafficking.”

- this addresses the need for specific attention and measures to eliminate forced sterilisation of girls with disabilities which may either be permitted in the law, or not explicitly prohibited, and thus continues to be practiced undetected.

***Para 30, insert at the end of the paragraph – a phrase moved from Para 32:*** “The Committee also notes that adolescence itself can be a contributing factor to disability with adolescent boys, in particular, at increased risk of acquiring an impairment through accidents, sports, violence or warfare.”

- This addition is taken from current para 32- it is urged that this sentence is removed from current para 32 and placed within para 30. This sentence addresses the risk of acquiring an impairment, implying that measures need to be taken to prevent adolescents from becoming disabled. Discourse on prevention of disability through accidents, sports, violence or warfare is a valid concern, however, juxtaposing this with discussion of the situation and rights of adolescents with disabilities transmits a message which denigrates their very place in society and human dignity. The CRPD Committee has repeatedly reminded States that discussion of primary prevention of disability has no place in the implementation of the rights of persons with disabilities.

***Para 32, amend as follows, in association with suggested edits on para 30:***

“**Adolescents with disabilities**: The Committee has previously drawn attention to the widespread prejudice, social isolation and discrimination faced by children with disabilities. ~~It also notes that adolescence itself can be a contributing factor to disability, with adolescent boys, in particular, at increased risk of acquiring an impairment through accidents, sports, violence or warfare~~.”

***Para 33, amend as follows:*** “Very significant numbers are denied access to secondary or tertiary education or vocational training, [Insert: “including through denial of reasonable accommodation and support measures] and thereby the acquisition of the necessary social, educational and economic skills for future employment and freedom from poverty. [Insert: Adolescents with disabilities are often likely to be among the poorest members of the population. They are less likely to attend school, access medical services, or have their voices heard in society. Their disabilities also place them at a higher risk of physical abuse, and often exclude them from receiving proper nutrition or humanitarian assistance in emergencies**.[[1]](#footnote-1)**]”

“… Children, including adolescents, with disabilities also experience a disproportionate level of physical and sexual violence and are widely denied access to justice [Insert: including through denial of procedural accommodations].”

Add at end of para: “Furthermore, adolescents with disabilities are often denied their right to live independently and be include in the community by being removed from families and segregated into residential institutions due to lack of information and supports provided to families as well as the scarcity of community based services. Disability should never be a reason for institutionalisation of adolescents and States should consider adopting a moratorium on new admissions into institutions coupled with more attention, awareness-raising and resource allocation invested in the promotion of and increased support for community based services and supports for families. [[2]](#footnote-2) Measures are also needed to ensure that adolescents who have parents with disabilities are not removed from their families on the basis of their parent’s disability and enjoy their right to family and to live in the community on an equal basis with others.”

* these additions reflect:
  + Article 7 on children with disabilities
  + Article 11 on situations of risk and humanitarian emergencies
  + Article 13 on access to justice of CRPD
  + Article 19 on the right to live independently and be included in the community & Article 23 on respect for home and the familyin particular Article 23(4) which reads: “States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. **In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents**.”

We consider it necessary to insert these additions to address the very common practice across the world in which children and adolescents with disabilities are removed from their families and placed into institutions on the basis of the disability of one or both parents who are deemed incapable to fulfil their parental responsibilities. States must provide support to families including parents with disabilities to care for children and adolescents, both disabled disabilities and non-disabled, within the home and community in accordance with their right to family and right to live independently and be included in the community. There is growing jurisprudence on this issue which aligns with the CRPD and recognises that States have an obligation to provide supports and to refrain from removal of children on the basis of disability and associated negative stereotypes.[[3]](#footnote-3)

***Para 34, add as follows:*** “The Committee also encourages States parties to introduce measures to facilitate effective transitions from adolescence to adulthood, as well as to remove the barriers, consistent with the recommendations in General Comment 9, and promote the full inclusion of adolescents with disabilities, in accordance with Article 23 [Insert: and the Convention on the Rights of Persons with Disabilities. In particular, it draws attention to the need for data collection disaggregated by disability, also called for by the Sustainable Development Goals, in order to identify gaps and barriers to the enjoyment of their rights and support the implementation of appropriate positive measures through legislation, resource allocation, policies and programmes.]”

***Para 40: amend para (a) as follows:*** “(a) Comprehensive national strategies rooted in the Convention, which include a dedicated focus on [insert: all] adolescents [insert: including those from vulnerable or marginalised groups addressed in Partv V above], address the structural social and economic roots underlying the rights violations they face, and ensure a co-ordinated approach across government ministries.”

***Para 43: amend as follows:*** “In respect of consent to health services, the Committee recommends that States ~~introduce a minimum age at which children have the right to consent to or refuse services. In addition, it would welcome recognition that any child below that minimum age, and able to demonstrate sufficient understanding, can also give or refuse consent. In addition, it would welcome recognition that any child below that minimum age, and able to demonstrate sufficient understanding,~~ [insert: ensure the right of all adolescents to free and informed consent] ~~can also give or refuse consent~~. In all cases, whether or not the consent of the parent or guardian is required for a medical treatment or procedure, the voluntary and informed ~~assent~~ [insert: consent] of the adolescent ~~should~~ [insert: must] be obtained [insert: including through provision of age and disability appropriate supports].”

***Para 46, amend the first sentence:*** “The Committee reminds States of their obligation to ensure that all children [insert: , including children with disabilities,] are registered at birth,”

***Para 50, add at the end of the para:*** “These associations may also be disability specific clubs and associations for the promotion of positive engagement by adolescents with disabilities- e.g. States are encouraged to promote adolescent deaf clubs and sporting associations for the forming of linguistic and cultural identity of deaf adolescents, in line with Art 30(4) CRPD.”

***Para 52: add:*** “The ability to access relevant information can have a significant positive impact on equity for children, and States must adopt measures to ensure that all adolescents have access, without discrimination, to different forms of media, and utilise the Internet as a means of communicating and engaging with adolescents [insert: , including by promoting and enforcing communications and web accessibility standards to ensure access for adolescents with disabilities on an equal basis with others].”

***Para 54, insert:*** “Adolescents can be particularly vulnerable to harmful norms and practices, such as, inter alia, forced marriages, [insert: forced abortions, forced sterilisations notably of girls with disabilities,] female genital mutilation, harmful initiation rites, ‘honour’ killings, harmful gender stereotypes, and deliberate discriminatory practices.”

***Para 55, amend first sentence as follows:*** “The role of parents in providing security, emotional stability, encouragement and protection to their children [insert: and fostering the increasing linguistic development and cultural identity of deaf children[[4]](#footnote-4)] remains critically important throughout adolescence.”

***Para 55, insert penultimate sentence:*** “[insert: Such assistance must consider other factors including gender, disability, and ethnic, socioeconomic and migrant background of the adolescent and parents.] However, such support…”

***Para 57*, *amend last sentence as follows:*** “Many adolescents are deprived of liberty in institutions as a punitive response to behaviour~~al~~ ~~problems~~ [insert: deemed unacceptable].”

* this revision is to prevent stigmatisation by avoiding the use of term “problems”.

***Para 58, amend first sentence as follows:*** “The Committee has consistently expressed concern that placement of children of any age in ~~large~~ institutions is ~~rarely~~ in [insert: conflict with] their best interests, [insert: impedes their development], exposing them to risks of poor quality care, neglect and potential violence.”

- it is not only “large” institutions that are harmful to children’s development but also small ones- it is not only about the size but about the controlled regime inherent to institutions/facilities, as recognised by the CRPD Committee. This is consistent with the last part of this paragraph which raises the “poor outcomes for adolescents in other forms of alternative care, including fostering and *small* children’s homes”.

***Para 59, add at the end of para:*** “…with the Guidelines for the Alternative Care of Children [insert: and other relevant human rights standards such as Articles 14, 19 and 23(5) of the Convention on the Rights of Persons with Disabilities].”

***Para 61, add at the end of the sentence:*** “Health services are rarely designed to accommodate the specific health needs of adolescents [insert: including the transition from paediatric to adult care].” This failure is compounded by lack of demographic and epidemiological data and health service statistics disaggregated by age and sex [insert: and disability].”

***Para 63: amend as follows: “***As the Committee has noted previously, [insert: poor] mental health ~~and~~ ~~psychosocial problems~~ [insert: leading to] ~~including~~ suicide, self-harm, eating disorders and depression, are primary causes of ill health, morbidity and mortality among adolescents. The Committee affirms that the factors known to promote resilience and healthy development and protect against [insert: poor] mental **~~ill-~~**health, include strong relationships with, and support from key adults in their lives, [insert: strong peer support networks,] an adequate standard of living, access to quality [insert: and inclusive] secondary education,… A comprehensive multi-sectoral response is needed, through integrated systems of adolescent mental health care [insert: which fully respects the free and informed consent of the individual adolescent and] that involve parents, peers, the wider family and schools, and provision of support and assistance through trained staff [insert: and other forms of support including informal networks].”

***Para 64, amend***: “The Committee also urges States to adopt or integrate a comprehensive gender-sensitive [add: and disability-inclusive, accessible] sexual and reproductive health policy for adolescents, emphasising that unequal access by adolescents to such information and services amounts to discrimination”

***Para 65, insert: “***No prohibitions should exist in accessing services, such as requirements for parental, [insert: guardian] or partner consent.”

***Para 66, insert: “***Age-appropriate, [insert: accessible], comprehensive and inclusive sexual and reproductive..”

***Para 69, amend:*** “To reduce the risk, States parties should develop multisectoral strategies that include, inter alia, legislation with enforcement requiring protective equipment, driving-under-influence policies and licensing; education, skills development and ~~behaviour change programmes;~~ adaptations within the environment, as well as ensuring care and rehabilitation services for those already injured.

***Para 74, add:*** States are therefore urged to introduce compulsory free [insert: inclusive], secondary education for all as a matter of urgency, and to make higher education accessible to all on the basis of capacity by every appropriate means.

***Para 74, amend last sentence as follows:*** “and that [add: fully accessible schooling options – including bilingual education directly in sign language for deaf children- and] reasonable accommodation [insert: and support measures must be] ~~is~~  provided to achieve that goal.”

***Para 76, amend as follows:***

The Committee has observed, with concern, the following contributory factors, inter alia, fees and associated costs; family poverty and lack of adequate social protection schemes to support them, including adequate health insurance; lack of adequate and safe sanitation facilities for girls; exclusion of pregnant schoolgirls and adolescent mothers; persistent [insert: bullying and], use of cruel, inhuman and degrading punishments; lack of effective measures to eliminate sexual harassment in school; sexual exploitation of girls, including demands for sex in return for good grades; failure to employ appropriate teaching pedagogies; [insert: inaccessible, unadapted], irrelevant or out-dated curricula; lack of active engagement of students in their own learning; environments not conducive to girls’ inclusion and safety [insert: lack of supports and inaccessible learning environments, inadmissibility and exclusion on the basis of disability].

***Para 80: add after 2nd sentence:*** “…. as well as, when crossing borders, immigration raids and detention. [insert: Some adolescents are denied entry, migration or asylum in a country on the basis of disability or HIV status.[[5]](#footnote-5)]

***Amend final sentence as follows***: “...financial and linguistic [add: and communication] barriers;”

***Para 81, amend sentence as follows:*** “States must introduce age [insert: disability,] and gender sensitive legislation governing both unaccompanied migrants and asylum seekers that is underpinned by the best interests principle...”

***Para 82: amend sentence as follows***: “States are urged to establish a comprehensive and systematic mechanism for data collection on the sale, trafficking and abduction of children, as well as ensuring that the data are disaggregated [add: by at least age, sex and disability status], with particular attention to children living in the most vulnerable situations.”

***Para 83, at the end of this para add***: “In situations of emergency or crisis adolescents with disabilities may face significant communication barriers which impact their safety, as well as being left behind when evacuating or overlooked by humanitarian workers.”

***Para 91: Add after final sentence:*** [add: “Adolescents with disabilities face significant physical, attitudinal, policy and communication barriers to accessing justice. The Committee recommends that these barriers must be addressed by the State in line with CRPD Articles 12, 13 and 14, and that age appropriate supports be provided to adolescents with disabilities to exercise their legal rights, and to address evidentiary rules that impede their capacity to participate in legal proceedings. Failure to do so increases their vulnerability to exploitation and abuse.” ]

***Para 94: at the end of the sentence for emphasis, add***: ‘including in sign languages’.

1. <http://www.unicef.org/disabilities/> [↑](#footnote-ref-1)
2. UNICEF, State of the World’s Children, 2013, p 80 [↑](#footnote-ref-2)
3. *Kocherov & Sergeyeva v Russia,* European Court of Human Rights Application no 16899/13, 29 March 2016; *Recurso ~ hecho deducido por C.M.l. en la causa l., J. M. s/ protección especial,* Corte Suprema de Justicia, Argentina, CIV37609/2012/1/RH1, 7 junio 2016 [↑](#footnote-ref-3)
4. CRPD Art 30(4) [↑](#footnote-ref-4)
5. see DGD report- paras 26, 71 <http://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2012/DGD2012ReportAndRe>commendations.pdf. [↑](#footnote-ref-5)