

International Disability Alliance (IDA)

Member Organisations:

Disabled Peoples' International, Down Syndrome International, Inclusion International,
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,
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

Suggestions for disability-relevant recommendations to be included in the Concluding Observations of the Committee against Torture 48th Session (7 May - 1 June 2012)

The International Disability Alliance (IDA) has prepared the following suggestions for the Concluding Observations based on references to persons with disabilities to be found in the state report submitted for the CAT Committee's 48th Session, and related treaty body recommendations (see annex).

RWANDA

Rwanda ratified the CRPD and its Optional Protocol on 15 December 2008.

State report

6. The general policy of promoting human rights remains a priority for all institutions across different sectors. These policies are oriented towards the promotion of human rights and equality and justice for all, especially in education, health, welfare, women's rights, children's rights and rights of persons with disabilities.

14. Article 204 of the new Penal Code fully adopts the content of article 1 of the Convention against Torture on the definition of torture and ill treatment.⁸ Article 205 provides penalties in these terms: Any person who has inflicted torture upon another shall be punished by imprisonment of six months to five years. If the result of the torture is an incurable disease, permanent disability, loss of use of an organ or serious mutilation, the penalty shall be imprisonment of 10 to 20 years. If the torture causes the death of the victim, the penalty is life imprisonment. If the perpetrator is a JPO, a prosecutor or a public official in charge of security, the highest penalty provided by criminal law will be applied.

27. Rwanda has ratified many conventions on human rights, including several that prohibit the use of torture and ill treatment. In addition to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Rwanda is party to the ... the Convention on the Rights of Persons with Disabilities;..

30. For the protection of human rights, numerous mechanisms have been put in place, including the NCHR, the Office of the Ombudsman, the NPS, the National Commission for Unity and Reconciliation, the Houses of Access to Justice, the Observatory on Child Rights

and the Office of Monitoring on Gender. All these institutions have a legal obligation to protect citizens from acts of torture and ill treatment. To these institutions, we add the Courts and Tribunals, Parliament (Chamber of Deputies and Senate, which have internal committees in charge of investigating human rights abuses), the National Police, the NPPA and MIGEPROF, which is responsible for implementing national policies to protect women, children and other vulnerable persons, such as those living with disability.

Recommendations from IDA :

- Adopt measures to ensure that all health care and services, provided to persons with disabilities, including all mental health care and services, is based on the free and informed consent of the person concerned, and that involuntary treatment and confinement are not permitted by law in accordance with the CRPD.
("Legislation authorizing the institutionalization of persons with disabilities on the grounds of their disability without their free and informed consent must be abolished. This must include the repeal of provisions authorizing institutionalization of persons with disabilities for their care and treatment without their free and informed consent, as well as provisions authorizing the preventive detention of persons with disabilities on grounds such as the likelihood of them posing a danger to themselves or others, in all cases in which such grounds of care, treatment and public security are linked in legislation to an apparent or diagnosed mental illness."(OHCHR Thematic Study on enhancing awareness and understanding of the CRPD, A/HRC/10/48, 26 January 2009, para 49; see also OHCHR Information note no 4, "The existence of a disability can in no case justify a deprivation of liberty."
http://www.ohchr.org/EN/UDHR/Documents/60UDHR/detention_infonote_4.pdf).
- Recognise and respect the legal capacity of persons with disabilities to make their own decisions in all aspects of life, including health and mental health services. (The Special Rapporteur on Torture has recommended that "in keeping with the Convention, States must adopt legislation that recognizes the legal capacity of persons with disabilities and must ensure that, where required, they are provided with the support needed to make informed decisions"; and in particular, "article 12 recognizes their equal right to enjoy legal capacity in all areas of life, such as deciding where to live and whether to accept medical treatment" Report of Special Rapporteur on Torture, 28 July 2008, A/63/175, paras 73 and 44 respectively)
- Incorporate into the law the abolition of violent and discriminatory practices against children and adults with disabilities in the medical setting, including deprivation of liberty, the use of restraint (including net beds) and the enforced administration of intrusive and irreversible treatments such as neuroleptic drugs and electroshock, recognized as forms of torture and ill-treatment, in conformity with recommendations of the Special Rapporteur on Torture (A/63/175, para 63).
- Take steps to establish an independent body to monitor hospitals and places of detention which would monitor the status of patients/residents, the training of personnel, and the protocols in place (including their observance) for recording of all incidents of violence, use of restraints (both physical and chemical methods), and complaints in psychiatric hospitals and social welfare institutions.
- Realize the right of persons with disabilities to live in the community by ensuring the

development of community based services, including for children and adults with intellectual disabilities or psychosocial disabilities, and that housing is affordable and accessible for persons with disabilities, that they have the legal right to choose where and with whom to live on an equal basis with others, and by making available support services to realize the will and preference of individuals as to how they wish to live. (In accordance with the CRC Committee's recommendation to prevent institutionalisation of children with disabilities and to develop community based alternatives in family and foster care (CRC/C/CZE/CO/3-4, paras 45, 46; and Special Rapporteur on Torture: "Many States, with or without a legal basis, allow for the detention of persons with mental disabilities in institutions without their free and informed consent, on the basis of the existence of a diagnosed mental disability often together with additional criteria such as being a "danger to oneself and others" or in "need of treatment". The Special Rapporteur recalls that article 14 of CRPD prohibits unlawful or arbitrary deprivation of liberty and the existence of a disability as a justification for deprivation of liberty." Report of Special Rapporteur on Torture, 28 July 2008, A/63/175, para 64).

- Adopt measures requiring law enforcement, judicial and health professionals (Prosecutor's office, police, investigating officials, judges, legal aid lawyers, hospital and institution staff) to be trained on the human rights, dignity, and autonomy of persons with disabilities.
- Ensure that the law guarantees their access to redress and protection, and that victim support services and information to lodge complaints are accessible for persons with disabilities.

ANNEX – Disability references by other treaty bodies with respect to Rwanda:

Concluding Observations of the CEDAW Committee, [CEDAW/C/RWA/CO/6](#), 2009

35. ...The Committee is also concerned at the lack of information and statistical data on women's mental health provided by the State party.

36. The Committee calls on the State party to take concrete measures to enhance women's access to health care, in particular for women living in rural areas and elderly women, in accordance with article 12 of the Convention and the Committee's general recommendation No. 24, on women and health. The Committee recommends that the obstacles to accessing obstetric services be monitored and steps be taken for their removal and that a strategic plan to reduce maternal mortality be put in place. It further requests the State party to take measures to prevent unwanted pregnancies, including by making contraceptives and family planning methods more widely available and by increasing awareness about family planning among women and men. The Committee recommends that the State party review its legislation relating to abortion with a view to removing punitive provisions imposed on women who undergo abortion in accordance with the Committee's general recommendation No. 24, on women and health, and the Beijing Platform for Action. The Committee also calls upon the State party to provide adequate information and statistical data about women's mental health in its next periodic report.

39. The Committee expresses concern at the situation of refugee women and women returnees, including women with disabilities, displaced by violence and conflict, in particular in view of their precarious living conditions in camps where they are at risk of sexual and other forms of violence and lack access to health care, education and economic opportunities.

40. The Committee requests the State party to pay particular attention to the needs of refugee women and women returnees, including those with disabilities, through the adoption of a national policy in line with Security Council resolutions 1325 (2000) and 1820 (2008), and the formulation and implementation of gender-sensitive plans and programmes for social reintegration, capacity-building and training of refugee women and women returnees. The Committee requests the State party to ensure the protection of refugee women and women returnees from violence and their access to immediate means of redress.

Concluding Observations of the CRC Committee, [CRC/C/15/ADD.234](#), 2004

Data collection

15. The Committee is concerned at the lack of systematic and comprehensive collection of disaggregated data for all areas covered by the Convention and in relation to all groups of children, including orphaned, abandoned and disabled children, in order to monitor and evaluate progress achieved and assess the impact of policies adopted with respect to children.

16. The Committee recommends that the State party develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age, and urban and rural area. This system should cover all children up to the age of 18 years, with

specific emphasis on those who are particularly vulnerable, including orphaned, abandoned and disabled children. It encourages the State party to use these indicators and data to formulate policies and programmes for the effective implementation of the Convention.

23. While acknowledging the prohibition of discrimination in the 2003 Constitution (art. 11) and taking note of the efforts of the State party to address discrimination, including the adoption of Law No. 22/99 of 12 November 1999 regarding inheritance rights for women and the development of a gender policy by the Ministry of Gender Issues and the Advancement of Women, the Committee is concerned at the persistence of de facto discrimination in the State party. In particular, the Committee is concerned at the disparities in the enjoyment of rights experienced by girls and children belonging to the most vulnerable groups, such as abandoned and orphan children, children with disabilities, children born out of wedlock, children living in rural areas and Pygmy children.

Children with disabilities

46. The Committee welcomes the launching of a study to assess access to education by disabled children, but remains concerned at the lack of data on such children and at the inadequate legal and de facto protection of and the insufficient facilities and services for children with disabilities. Concern is also expressed at the limited number of trained teachers available to work with children with disabilities, as well as the insufficient efforts made to facilitate their inclusion in the educational system and generally in society. The Committee also notes with concern the inadequate resources allocated to special education programmes for children with disabilities.

47. In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96, annex) and the recommendations adopted by the Committee during its day of general discussion on the rights of children with disabilities (CRC/C/69, paras. 310-339), it is recommended that the State party:

- (a) Take effective measures to collect adequate statistical data on children with disabilities and to ensure that such data are used in the development of policies and programmes for these children;
- (b) Reinforce its efforts to develop early detection programmes to prevent disabilities;
- (c) Establish special education programmes for children with disabilities and, where feasible, integrate such children into mainstream schools and public life;
- (d) Undertake awareness-raising campaigns to sensitize the public about the rights and special needs of children with disabilities, as well as children with mental health problems;
- (e) Increase the resources, both financial and human, allocated to special education and the support to children with disabilities;
- (f) Seek technical cooperation for the training of professional staff, including teachers, working with and for children with disabilities from, among others, WHO and UNICEF.