

Joint Statement
The rights of children with disabilities

**Committee on the Rights of the Child and Committee on the Rights of
Children with Disabilities**

1. The Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD) recognise all children as subjects of rights. The CRPD refutes the medical and charity approaches to disability by adopting a human rights model based on the inherent dignity of persons with disabilities and the recognition “that impairments must not be taken as a legitimate ground for the denial or restriction of human rights”.¹ The Committees reaffirm that all principles and rights enshrined in the CRC and the CRPD are interrelated with respect to children with disabilities and are underpinned by the human rights model of disability.

Non-discrimination

2. The Committees are deeply concerned by the scale of all forms of discrimination, prejudice and stigma on the basis of disability that continue to exclude and marginalize children with disabilities. Discrimination is often hidden, because children, particularly children with disabilities, are not given the appropriate fora to share their experiences in society, to participate and to be heard in all decision-making that affects them.

3. The Committees recall the common obligation of States parties to the CRC and/or the CRPD to take measures to eliminate all forms of discrimination including multiple and intersectional discrimination.² These measures can be of a legislative, educational, administrative, cultural, political, linguistic or other nature, and in all areas, such as health and social services, education, justice, migration and asylum or situations of risk and humanitarian emergencies. Measures may include individualised support through the provision of reasonable accommodation and other measures, commensurate with the exercise of each right. Measures may be temporary or long-term and should overcome inequality, both in law and in reality.³

Best interests of the child

4. The Committees urge the States parties to apply the concept of the “best interests of the child” contained in article 3 of the CRC and 7 of the CRPD to children with disabilities with a careful consideration of their evolving capacities, their circumstances and in a manner that ensures children with disabilities are informed, consulted and have a say in

¹ CRPD General Comment No. 6, para 9.

² Intersectional discrimination takes place when a child is discriminated based on disability and on any other kind of status (race, sex, language, religion, ethnicity, gender or any other personal or social condition), so it gives rise to a new form of discrimination that has its own profiles, GC 6 CRPD, par. 37

³ GC 3 CRPD, par. 20

every decision-making process related to their situation.⁴

Respect for the views of children

5. The standard of article 12 of the CRC and 7.3 of the CRPD on the right to be heard requires States parties to examine their laws and policies to ensure that the autonomy, will and preferences of children with disabilities are well understood and respected on an equal basis with other children.⁵ States parties should ensure that children with disabilities are equipped with, and enabled to use, any mode of communication, including sign language, Braille, Easy Read, alternative and augmentative modes of communication necessary to facilitate the expression of their views, and that their opinion is given due consideration.⁶

6. Article 4.3 of the CRPD recognizes the importance of “including children with disabilities” in a systematic way in the elaboration and application of legislation and policies to implement the Convention, as well as in other decision-making processes, through organizations of children with disabilities or their representative organisations. The Committees call on States parties to create an enabling environment for the establishment and functioning of such organizations as part of their obligation to fulfil the right to freedom of association, as guaranteed by article 15 of the CRC, including through adequate resources for support. States parties must develop strategies for consultation and participation processes for the implementation of the Conventions that are inclusive, child-friendly, transparent and respectful of their rights to freedom of expression and thought of children with disabilities.⁷

Elimination of violence, abuse and exploitation

7. The Committees are extremely concerned that discrimination against children with disabilities make them disproportionately vulnerable to violence, including corporal punishment, neglect and abuse, in all settings, such as the family home, mental health, educational, or child care institutions. The Committees are deeply concerned about the prevalence of different forms of violence against children with disabilities in the guise of medical treatment, especially involuntary sterilization of girls with disabilities, which may amount to torture and ill treatment. Children with disabilities are also especially vulnerable to all types of exploitation, such as exploitation for begging purposes, sexual exploitation, trafficking, and forced labor, including domestic work. Girls with disabilities are often subjected to specific ill-treatment or harmful practices because of their gender.

8. The Committees call on States parties to urgently adopt comprehensive strategies to eliminate violence against children with disabilities. These strategies should comprise preventive measures including by raising awareness in society, educating parents, training professionals, educating children with disabilities about their rights and how to

4 GC 6 CRPD par. 38

5 GC 1 CRPD, par. 36, GC 12 CRC, par. 21

6 GC 12 CRC, par. 21

7 GC 7 CRPD, par. 94 n)

exercise them. Accessible support services and procedures appropriate for the recovery of child victims with disabilities should be established and strengthened. The processes for investigation and prosecution of violence and abuse should be effective, accessible and child sensitive and perpetrators must be held accountable.

Right to inclusive education

9. The Committees emphasize that high-quality inclusive education requires the education of all children on equal terms in the same general education system, adapting the educational system to the diverse educational requirements, abilities, potentials and preferences of each child. The Committees also reaffirm that the right to quality inclusive education is not compatible with sustaining two systems of education: a mainstream education system and a special/segregated education system. Early intervention, accessible learning environments and individual support must be provided in all phases of education process for ensuring the inclusive education. The Committees strongly call on States parties to guarantee that all children with disabilities can realize their right to education on the basis of equal opportunities, without discrimination, including the denial of reasonable accommodation.

Right to family life

10. States Parties shall respect the right to family life for children with disabilities on an equal basis with other children. The Committees agree that all children, for the full and harmonious development of their personalities should grow up in a family, in an atmosphere of happiness, love and understanding. Both Committees are deeply concerned about the institutionalisation of children with disabilities and call on States Parties to end institutionalisation on the basis of disability and to promote the development of support for children in a family in the community. The Committees recall that, in accordance with both Conventions, States Parties have the obligation to adopt clear and targeted strategies for de-institutionalization, with specific time frames and adequate budgets, in order to eliminate all forms of discrimination and segregation of children with disabilities. Specific attention should be paid to children with intellectual or psychosocial disabilities and children requiring high levels of support, who are usually at a higher risk of institutionalization. The Committees call on States parties to provide inclusive and supportive services for children with disabilities and their families in the community in accordance with article 23 para. 5. of the CRPD, and article 23, para. 1 of CRC.