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## Human Rights Council

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### Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Albania,\* Argentina, Armenia,\* Austria, Belgium,\* Bolivia (Plurinational State of),\* Brazil, Bulgaria, Cabo Verde,\* Chile, Colombia,\* Costa Rica,\* Croatia, Cuba, Cyprus,\* Czechia, Denmark, Dominican Republic,\* Ecuador,\* Egypt, El Salvador,\* Estonia,\* Fiji, Finland,\* France,\* Georgia,\* Germany,\* Greece,\* Guatemala,\* Honduras,\* Hungary, Ireland,\* Israel,\* Italy, Latvia,\* Lithuania,\* Luxembourg,\* Malta,\* Mexico, Monaco,\* Mongolia,\* Montenegro,\* Netherlands,\* Nicaragua,\* Panama,\* Paraguay,\* Peru, Philippines, Poland,\* Portugal,\* Republic of Moldova,\* Romania,\* San Marino,\* Slovakia, Slovenia,\* Spain, Sweden,\* Thailand,\* Timor-Leste,\* Tunisia,\* Turkey,\* Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of),\* State of Palestine:\* draft resolution

### 40/... Rights of the child: empowering children with disabilities for the enjoyment of their human rights, including through inclusive education

*The Human Rights Council,*

*Emphasizing* that the Convention on the Rights of the Child constitutes the standard for the respect, protection and fulfillment of the rights of the child, bearing in mind the importance of the Optional Protocols to the Convention, and calling for their universal ratification and effective implementation,

*Emphasizing also* the Convention on the Rights of Persons with Disabilities and the progress it entails for the advancement of the rights and respect for the dignity of children with disabilities, as well as the Optional Protocol to the Convention, and calling for their universal ratification,

*Recalling* all previous resolutions on the rights of the child of the Commission on Human Rights, the Human Rights Council and the General Assembly, the most recent being Council resolution 37/20 of 23 March 2018 and Assembly resolution 73/155 of 17 December 2018,

*Welcoming* the commemoration in 2019 of the thirtieth anniversary of the adoption of the Convention on the Rights of the Child and the sixtieth anniversary of the Declaration of

\* State not a member of the Human Rights Council.



the Rights of the Child, and the progress made over the years in safeguarding the rights of the child,

*Recalling* all other relevant international human rights treaties, in particular the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination, as well as the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled,

*Reaffirming* that the general principles of the Convention on the Rights of the Child, including the best interests of the child, non-discrimination, participation, survival and development, provide the framework for all actions concerning children,

*Welcoming* the work of the Committee on the Rights of the Child, of the Committee on the Rights of Persons with Disabilities and of other treaty bodies, and noting in particular the general comments of the Committees,

*Welcoming also* the attention paid by the special procedures of the Human Rights Council to the rights of the child in the context of their respective mandates, in particular the work of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, the Special Rapporteur on the rights of persons with disabilities and the Independent Expert on the enjoyment of human rights by persons with albinism, as well as the work of the Special Representative of the Secretary-General on Violence against Children and the Special Representative of the Secretary-General for Children and Armed conflict, and taking note of their most recent reports submitted to the Council,<sup>1</sup>

*Recalling* General Assembly resolution 70/1 of 25 September 2015, entitled “Transforming our world: the 2030 Agenda for Sustainable Development”, in which the Assembly adopted a comprehensive, far-reaching, indivisible and people-centred set of universal and transformative Sustainable Development Goals and targets, and the commitment to achieving sustainable development in its three dimensions — economic, social and environmental — in a balanced and integrated manner and to realizing the human rights of all, leaving no one behind and reaching those furthest behind first, and recognizing that achieving the Sustainable Development Goals contributes to the realization of the rights of the child, including children with disabilities,

*Recognizing* that global estimates for the number of children with disabilities range from 93 million to 150 million, and deeply concerned about barriers that impede access to inclusive education for children with disabilities and that a significant percentage are either out of school or in school but not learning properly due to a lack of access to accessible learning materials, inclusive curricula, teacher support and assistive devices, making children with disabilities, especially girls with disabilities, one of the most marginalized and excluded groups in respect of education,

*Noting* that children with disabilities include those who have long-term physical, mental, intellectual or sensory impairments, which in interaction with various social, legal, structural, financial, cultural, attitudinal and environmental barriers may hinder their full and effective participation in society on an equal basis with other children, and reaffirming that disability is a social construct and that impairments must not be taken as a legitimate ground for denial or restriction of human rights,

*Concerned* that the majority of persons with disabilities, including children with disabilities, live in conditions of poverty and inequity, and recognizing the critical need to address the negative impact of poverty on those children,

*Concerned also* that children with disabilities, in particular girls with disabilities, are often at greater risk, both within and outside the home, including in institutions, of stigmatization, discrimination or exclusion and are disproportionately subjected to violence,

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<sup>1</sup> A/HRC/40/51, A/HRC/40/54, A/HRC/40/62, A/HRC/40/50, A/HRC/40/49.

injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual and gender-based violence,

*Reaffirming* that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, that the best interests of the child shall be the guiding principle of those responsible for his or her nurture and protection, and that families' and caregivers' capacities to provide the child with care and a safe environment should be promoted,

*Deeply concerned* that children with disabilities are particularly vulnerable to institutionalization on the basis of impairment, and are separated from their families and placed in institutions,

1. *Welcomes* the report of the United Nations High Commissioner for Human Rights entitled "Empowering children with disabilities, including through inclusive education";<sup>2</sup>

2. *Urges* States to take all measures necessary to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children, without discrimination of any kind;

3. *Calls upon* States to ensure that in all actions concerning children with disabilities, including those with multiple impairments, the best interests of the child shall be a primary consideration, including when defining the legal framework, decision-making processes, implementation of policies and programmes and provision of services and covering all aspects of care, support and protection in all settings;

#### **Child rights-based approach to children with disabilities**

4. *Calls upon* States to respect, protect and fulfil the human rights of all children with disabilities and to develop and implement a rights-based approach to the empowerment of children with disabilities in accordance with their obligations under international law and underpinned by the principles of, inter alia, equality and non-discrimination, the best interests of the child, survival and development, participation, respect for the dignity, autonomy, diversity, accessibility, respect for evolving capacities and for the right of children with disabilities to preserve their identities, cooperation and accountability;

5. *Urges* States to take all measures to prevent and eliminate all forms of discrimination against children with disabilities, including by explicitly prohibiting disability as a ground for discrimination in law and in practice, ensuring that reasonable accommodation is provided, guaranteeing equal and effective legal protection against discrimination, providing effective and accessible remedies in the event of violations of their rights and conducting awareness-raising and education campaigns throughout society, including to address stereotypes, misconceptions and stigmatization;

6. *Also urges* States to pay particular attention to the situation of girls with disabilities, who are subject to multiple and intersecting forms of discrimination and violence, including violence perpetrated by support providers, health-care providers and others in positions of authority, by taking all measures necessary to ensure that girls with disabilities are empowered, that their human rights are respected, protected and fulfilled, and that they have equal access to all services as provided to other children and are fully included in society;

7. *Calls upon* States to collect, analyse, disaggregate and disseminate relevant information, including statistical and research data on the basis of, inter alia, the Washington Group short set of questions on disability, as appropriate, in order to identify and address all types of barriers faced by children with disabilities and formulate and implement evidence-based policies to ensure the realization of their human rights;

8. *Urges* States to meaningfully involve and empower children with disabilities in the promotion and protection of their rights, including the right to express their views freely on all matters affecting them, their views being given due weight in accordance with

<sup>2</sup> A/HRC/40/27.

their age and maturity, regardless of their impairment, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right;

9. *Encourages States* to take steps to establish or strengthen, as appropriate, national monitoring and accountability mechanisms, with broad inclusive multi-stakeholder participation, including that of children with disabilities and their representative organizations, to ensure that laws, policies and programmes are oriented for the promotion and protection of the rights of children with disabilities;

10. *Urges States* to ensure full and effective access to justice for children with disabilities on an equal basis with other children, including through the provision of child- and disability-sensitive information, legal aid and other appropriate assistance, and procedural and age- and gender-appropriate accommodations, in order to ensure the safeguarding of their rights and to facilitate their effective role as direct and indirect participants, including as victims and witnesses, in all legal proceedings, and to promote appropriate training for those working in the field of administration of justice, including judges, police and other law enforcement and prison staff;

### **Special protection measures for children with disabilities**

11. *Calls upon States* to take all appropriate measures, ensuring these are age, gender and disability sensitive, to protect children with disabilities, both within and outside the home, including in institutions, from all forms of exploitation, violence and abuse, including emotional, verbal and physical abuse, sexual and gender-based violence, harassment, discriminatory social norms and harmful practices, female genital mutilation, child, early and forced marriage, forced or coercive medical procedures, bullying and cyberbullying, and other crimes such as trafficking and smuggling;

12. *Also calls upon States* to take all measures and exercise due diligence to prevent children with disabilities, on an equal basis with other children, from being subjected to torture or cruel, inhuman or degrading treatment or punishment, or violation of their physical and mental integrity, including through forced sterilization, forced abortion and forced contraception;

13. *Urges States* to ensure the right of children with disabilities to social protection, including by providing access to appropriate and affordable services, assistive devices and inclusive technologies, and the maintenance thereof, and other assistance for disability-related needs, and to social-inclusion and poverty-reduction programmes, including assistance with disability-related expenses, adequate training, counselling, financial assistance and respite care for families and caregivers, in particular for those living in situations of poverty;

14. *Also urges States* to ensure that children with disabilities enjoy the right to the highest attainable standard of physical and mental health, without stigmatization and discrimination of any kind, and to provide them with the same range, quality and standard of free or affordable health-care services, information and education to enjoy this right in practice as provided to other children, including with regard to sexual and reproductive health, and those services needed specifically because of their disabilities, including early identification and intervention, as well as psychological and physical care, habilitation and rehabilitation, and sustainable support and provision of services designed to protect and respect their dignity, integrity, choices and inclusion in the community and to minimize and prevent further impairments;

15. *Further urges States* to pay particular attention to the situation of children with psychosocial disabilities and to abandon all practices that fail to fully promote, protect and respect their rights, will and preferences, on an equal basis with other children, with a view to preventing practices that lead to power imbalances, stigmatization, violence, abuse and discrimination in mental health and other settings;

16. *Urges States* to provide early and comprehensive information, services and support to children with disabilities and their families with a view to preventing concealment, abandonment, neglect and segregation and to ensuring they have equal rights with respect to family life, and in this regard encourages States to replace institutionalization with

appropriate measures to support family and community-based services and, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family and, failing that, within the community in a family setting, bearing in mind the best interests of the child and taking into account the child's will and preferences;

17. *Recognizes* that children with disabilities are particularly vulnerable in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters and human-made hazards, and reaffirms the obligations of States under international law, including international humanitarian law and international human rights law, to take all measures necessary to ensure their safety and protection in such situations, including by reviewing emergency response programmes and support facilities to make them accessible for children with disabilities and providing timely and appropriate reintegration and rehabilitation assistance to children with disabilities;

### **Inclusive education for children with disabilities**

18. *Calls upon* States to respect, protect and fulfil the right to education for all children with disabilities, including with regard to its availability, accessibility, acceptability and adaptability, quality and inclusiveness;

19. *Also calls upon* States to take all steps necessary to ensure an inclusive, quality education system, including by developing and implementing a comprehensive and coordinated legislative and policy framework that takes into account the rights, requirements and varying needs of children with disabilities at all levels and promotes life-long learning opportunities for the full development of their potential and sense of dignity and self-worth, the strengthening of respect for their human rights, fundamental freedoms and human diversity, and the development of their personality, skills, talents and creativity, as well as their mental and physical abilities, to their fullest potential, thus enabling children with disabilities to participate effectively and freely in a free society and fostering the sense of belonging to a community;

20. *Further calls upon* States to ensure, consistent with their obligations under international law, that they take reasonable, appropriate and effective measures to ensure that children with disabilities are not excluded from the general education system on the basis of disability, that they can access an inclusive, quality and free primary and secondary education on an equal basis with other children and in the communities in which they live, and that they are able to access tertiary education and vocational training without discrimination, and to foster knowledge and skills to facilitate the transition to the labour market and opportunities for professional growth;

21. *Calls upon* States to promote early childhood interventions, development, care and pre-primary education to strengthen the capacity of children with disabilities to benefit from inclusive and quality education, promoting their enrolment and attendance, and to prevent the risk of discrimination, marginalization, stigmatization and violence;

22. *Also calls upon* States to include within the general education system, at all levels, the support required by children with disabilities to facilitate their effective education, including the development of inclusive curricula and effective individualized support measures in environments that maximize academic and social development, consistent with the goal of full inclusion, and ensure that reasonable accommodation is provided, taking into account the individual's requirements;

23. *Urges* States to take appropriate measures to enable children with disabilities to learn life and social-development skills, including through peer support, to facilitate their full and equal participation in education and as members of the community, ensuring that education for children who are autistic, blind, deaf or deafblind is delivered in the most appropriate language and mode and means of communication for the individual, including by facilitating the learning of Braille and other means and formats of communication, the learning of orientation and mobility skills, the use of information and communications technology, including assistive technologies, the learning of sign language and the promotion of the linguistic identity of the deaf community, in environments that maximize academic, social and personal development;

24. *Also urges* States to take appropriate measures to train teachers and other professionals and staff at all educational levels in the development of the core competencies, qualifications and values necessary for working in an inclusive education environment, as well as in the use of sign language and/or Braille, to incorporate in such training disability awareness and the use of appropriate means and formats of communication, educational techniques and materials to support children with disabilities, including by developing inclusive university curricula for all future teachers, and to recruit more teachers with disabilities;

25. *Calls upon* States, in line with their commitments under the 2030 Agenda for Sustainable Development to leave no one behind, to take immediate and effective steps to eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for all children at risk of being left behind, including children with disabilities, as well as to build and upgrade education, water, sanitation and hygiene facilities that are child, disability and gender sensitive and provide safe, non-violent, inclusive and effective learning environments for all, and to ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including through human rights education, the promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity and of culture's contribution to sustainable development;

26. *Urges* States to promote accessibility by children with disabilities to school buildings and to roads and transportation leading to schools, including by identifying and eliminating the existing obstacles and barriers, to undertake or promote research and development of universally designed facilities and school environments, which should require the minimum possible adaptation and the least cost to meet the specific needs of a child with disabilities and should not exclude assistive devices for particular groups of persons with disabilities where needed, and to promote the availability and use of such services, facilities and environments;

27. *Also urges* States to take effective measures, including through peer support, to provide habilitation and rehabilitation services within the education system, as appropriate, including health, occupational, physical, social counselling and other services;

28. *Calls upon* States to realize their obligation to ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;

29. *Also calls upon* States to promote partnerships with teachers', students' and parents' associations, organizations of children with disabilities, sports organizations and other school support groups, and the involvement of children with disabilities, in accordance with their age and maturity, of parents, of caregivers and of the community, including, as appropriate, in all aspects of planning, implementation, monitoring and evaluation of inclusive education policies;

30. *Further calls upon* States to support national efforts to advance inclusive, quality education through international, bilateral and multilateral cooperation, including international development programmes, by facilitating capacity-building and the exchange and sharing of information, experiences, training programmes and best practices, as well as research and access to scientific and technical knowledge, including by promoting the availability, knowledge and use of appropriate, suitable, affordable, accessible and inclusive assistive devices and technologies;

31. *Urges* States to take steps to adopt inclusive strategies for comprehensive school safety and security in emergencies, including with respect to disaster risk reduction, that are sensitive to learners with disabilities, in order to address the disproportionate impact of armed conflict, humanitarian emergencies and natural and human-made hazards on the right to education, including for children with disabilities who are displaced or compelled to migrate due to such situations;

#### **Follow-up**

32. *Encourages* special procedures and other human rights mechanisms of the Human Rights Council to continue to integrate a child rights perspective while implementing

their mandates, and to include in their reports information, qualitative analysis and recommendations on the rights of the child, paying particular attention to the rights of children with disabilities;

33. *Invites* all human rights treaty bodies to continue to integrate the rights of the child into their work, in particular in their concluding observations, general comments and recommendations, paying attention to the protection of children from discrimination on the basis of disability;

34. *Decides* to continue its consideration of the question of the rights of the child in accordance with its programme of work and its resolutions 7/29 of 28 March 2008 and 19/37 of 23 March 2012, and to focus its next annual full-day meeting on the theme “Realizing the rights of the child through a healthy environment”, and requests the United Nations High Commissioner for Human Rights to prepare a report on that theme, in close cooperation with all relevant stakeholders, including States, the United Nations Children’s Fund, other relevant United Nations bodies and agencies, the Special Representative of the Secretary-General on Violence against Children and the Special Representative of the Secretary-General for Children and Armed Conflict, relevant special procedure mandate holders, regional organizations and human rights bodies, national human rights institutions and civil society, including children themselves, and to present it to the Human Rights Council at its forty-third session, with a view to providing information for the annual day of discussion on the rights of the child.

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