

Submission to the draft
General Comment No.1 on Article 6 CRPD

Brussels, 17 July 2015

Inclusion Europe

The European Association of Societies of
Persons with Intellectual Disabilities and their Families



Introduction

1. Inclusion Europe very much welcomes the draft General Comment (GC) on Article 6 of the Convention on the Rights of Persons with Disabilities (CRPD). Inclusion Europe is the European Association of persons with intellectual disabilities and their families that fights for equal rights and full inclusion of people with intellectual disabilities and their families in all aspects of life. We appreciate the opportunity to share the views and remarks of Inclusion Europe's Human Rights Working Group on the draft General Comment on women and girls with disabilities.

Structural comments

2. Inclusion Europe compliments the CRPD Committee for including a detailed explanation about the three subjects of concern with respect to the protection of human rights of women and girls with disabilities. However, we think that the sections on describing intersectional and multiple discriminations are too long and water down the detailed explanation of some of the practical barriers that women and girls with disabilities face when practising their rights. Therefore we suggest, cutting down this section and making clearer references to the practical implications of intersectional discrimination to women and girls with disabilities in order to support States Parties in its recognition and in developing effective measures to combat intersectional discrimination.
3. The draft GC will need a thorough language editing and more structuring to address the issues that constitute violence against women and girls with disabilities in a more systematic way. Some sections are too long, include repetitions and lack a clear focus on matters that they discuss (e.g. paragraphs 8-9, 15-20, 40, 51-57 etc.)
4. The draft GC does not recognise that in many instances girls with disabilities face types of discrimination and violations of their rights different than those suffered by women with disabilities. The GC should reflect to the particular situation of girls with disabilities regarding among other areas, the full participation and inclusion in society, the right to live in family, early childhood intervention and education, access to sex education, contraceptive and other health advices, and access to the justice system.
5. The draft GC on Article 6 CRPD should represent more explicitly the diversity of women with disabilities, and emphasise that women with different impairments may face different barriers. The situation of women with profound intellectual and multiple disabilities is especially concerning. Persons with profound intellectual and multiple disabilities are the most vulnerable among disabled persons, due to their limited

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communicational skills and complex support needs to satisfy their physical and mental well-being. Many of them live in complete isolation from society where they can easily become victims of violence and abuse and targets of coercion and harm.

6. Women with disabilities should enjoy equal rights with others regardless of their sexual orientation when it comes to entering marriage or civil partnership, using health or any other public services. Intersectional discrimination should be demonstrated through its appearance on various grounds of discrimination, like religion, age, gender identity, sex, ethnic background, or others. Furthermore, women with disabilities should be given the opportunity to choose their gender identity and this must be respected under any circumstances.

Substantive comments

7. Women with disabilities are facing additional barriers when they want to participate in political life, including the right to vote and stand as candidates in elections. We noticed with regret that the draft GC does not mention Article 29 of the CRPD in the part that discusses the interrelation between the provisions addressing women and girls with disabilities and their link to other CRPD provisions. The report of the EU Fundamental Rights Agency suggests that data collected to measure the participation of persons with disabilities in political life should be broken down by gender, age and the type of impairment to accurately and reliably capture the experiences of those with disabilities.¹ We know, that in many countries women with intellectual disabilities who are under guardianship are excluded from the right to vote or stand as candidates, thus we recommend the Committee to include a paragraph on Article 29 of the CRPD and the barriers women face in the area of participating in political life.
8. In our view, Article 23 of the CRPD on the 'Right to respect for home and the family' must be included in the list of articles that interrelate with the rights of women with disabilities. Women with intellectual disabilities often face discrimination as a result of being considered by the judicial authorities and social services as incapable of taking care of their children. Women with disabilities are more likely than men to undergo forced or uninformed sterilisation and they are also victims of forced abortion in many instances. Women under guardianship are legally deprived of the right to marry in most States Parties that maintain guardianship regimes. Furthermore, women with intellectual disabilities are denied in many countries from adopting a child or are found ineligible to go through artificial insemination in particular if they wish to become single parents. Children of women with disabilities are more likely to be taken out of the family and placed in institutions, foster care or even given for adoption, which denies

¹ European Agency for Fundamental Rights (2014), The right to political participation of persons with disabilities: human rights indicators.

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both the right of the child to live in a family under the UN Convention on the Rights of the Child and the mother's right to have a family under the CRPD. Instead of taking away their children, women with intellectual disabilities and their families should be provided with the necessary support in order to fulfil their roles as parents.

9. An explicit reference to Article 25 of the CRPD (right to health) should also be made to emphasise the importance of providing all women with disabilities with access to health services, treatments, appropriate and accessible sanitation facilities and hygienic standards. There is clear discrimination on the ground of disability and gender when it comes to accessing health services. Studies show that only a very small percentage of women with intellectual disabilities go to regular gynaecological check-ups. This leads to the fact that health problems of women and girls with disabilities are not detected and treated at early stages and can cause long-term health problems. Women and girls with intellectual disabilities must receive easy to understand and age-appropriate sex education, female and sexual health information, and participate in education and screening programmes. The lack of sex education for women and girls with intellectual disabilities puts them at high risk of sexual abuse. Without sex education they are not able to identify and report violence and abuse, and that leaves them in a particularly vulnerable situation.
10. In the beginning of paragraph 6, the draft GC is listing the forms through which violence against women with disabilities can be accomplished. We would ask the Committee to include verbal abuse, bullying, violations of privacy, forced isolation, deprivation of liberty and denial of will and preferences in this list. While these forms of violence are less visible, women and girls with disabilities – especially those who are living in institutional care, suffer from them on an everyday basis. Furthermore, women with disabilities in vulnerable situations may be targets of forced marriage and sex trafficking. States Parties should take measures to ensure that women with disabilities in vulnerable situations get appropriate support and protection from abuse. Consent and capacity are two distinguishing challenges for women and girls with intellectual disabilities that should be mentioned throughout the General Comment to ensure that vulnerability will not result in coercion and violence. Women with intellectual disabilities must receive accessible information, learn about how to make decisions and be aware of the potential consequences of their decisions, have available support and safeguards to prevent abuse or issue remedy.
11. Under paragraph 7, the draft GC is describing the restrictions of sexual and reproductive rights. We would like to highlight that the denial to sexual life and private life is commonly experienced by women with intellectual disabilities living in both institutional settings and in the family due to the stereotypes that perceive persons

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with intellectual disabilities as asexual, immature and too vulnerable to have sexual life. Awareness should be raised in the States Parties to ensure that women with intellectual disabilities are considered as sexual beings and that this is respected by their supporters, their family members and by the community they live in. This should apply to providing women with disabilities with appropriate information and training on health and sexuality and on their right to control their relationships and how to recognise and protect themselves from exploitation, coercion or harm. Health services should offer accessible sexual health, family planning and relationship advice services.

12. Paragraph 8 of the draft GC should reflect the fact that according to recent studies, women with disabilities have 130% more chance to become victims of domestic maltreatment compared to other people.² However, domestic violence remains an invisible issue and there is a lack of data about violence against women and girls with disabilities. The Committee should emphasise that States Parties must collect disaggregated data on violence against women and girls with disabilities.
13. Paragraph 24 of the draft GC should highlight that measures to implement the CRPD must be contributing to the removal of all physical, structural and information barriers that currently prevent women with disabilities from enjoying their fundamental rights on an equal basis with others. It is very important to empower women and girls with disabilities by involving them closely in the development of all policies, laws and measures that affect their lives.
14. We consider Article 8 CRPD on awareness raising an important link to the rights of women and girls with disabilities. However, we suggest that the Committee addresses the importance of raising awareness among women and girls with disabilities on their rights to enable them to detect violation and feel safe to turn to accessible support services. Under paragraph 37, the draft GC recommends States Parties to adopt effective education and training programmes in order to combat respective stereotypes against women and girls with disabilities. Staff in education, health and social services should be trained in awareness of the rights and particular vulnerabilities of girls and women and their roles in upholding rights, preventing and detecting abuse and providing access to appropriate help. Inclusion Europe would like to highlight that the direct involvement of women and girls with intellectual disabilities in developing and holding such training is absolutely necessary to achieve positive changes in the attitude of society in line with the UN CRPD.

² See at: <http://www.handicapinternational.be/fr/presse/femmes-et-handicap-l%E2%80%99injustice-d%E2%80%99une-double-discrimination> (accessed 6 July 2015)

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15. Regarding accessibility (paragraph 38, 39 and 40 of the draft GC), we would like to emphasise that women and girls with intellectual disabilities are facing significant barriers when they try to access public social and health services, victim protection services or support services due to the lack of available accessible information. Most of the time, the staff of care services are not trained to provide information in plain language, and no information is available in easy-to-read format, about the general medical procedures/examinations, or about existing complaint mechanisms available to women or girls victims of violence. In institutional care, women with disabilities often do not have access to a phone, and are not aware of any helpline number that they could call in case violence occurs. Information must be provided in the States Parties in easy-to-read format to ensure that women and girls with intellectual disabilities receive information about medical and social services, they can recognize if they become victims of violence and have access to the reporting mechanisms.
16. We suggest that the draft GC uses a stronger language when referencing Article 12 of the CRPD and that it requires that women with disabilities who are currently placed under guardianship must gain back their full legal capacity in order to enjoy their rights on an equal basis with others. Women and girls with disabilities should have access to both formal and informal support on matters they need, and their will and preferences must be respected by their families, public authorities and the communities where they live.
17. We compliment the Committee for drafting a very comprehensive paragraph on matters that are important in relation to women with disabilities and access to justice in paragraph 44 of the draft GC. We would like to add that a difficulty of women or girls with disabilities to express themselves by verbal communication during any phases of the court procedure should never result in dismissing their testimonies or not taking their cases seriously. Judges often do not give credit to the testimonies of victims or witnesses of violence or crime if the person has problems of expressing himself/herself by verbal communication. The GC on Article 6 should clarify that women and girls with disabilities who use alternative or nonverbal modes of communication should have full access to the justice systems. Communication support should be provided on an equivalent basis to language interpretation at all stages of the process. The adjustment of current procedures is necessary as they would ensure that women and girls with disabilities can access the justice system on an equal basis with others.
18. Inclusion Europe believes that inclusive education is indispensable to achieve full participation of persons with disabilities in society, social justice and equal citizenship with others. Paragraph 49 of the draft GC on education should highlight what inclusive education system means, how to ensure the diversity and full participation of women

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and girls with disabilities at all levels of mainstream education and what measures States Parties should take to provide access to education for all. Measures that challenge those cultural norms currently keeping many women away from education should take into consideration girls and women with intellectual disabilities to provide them with opportunities to develop to their full potential and become valued members of the society.

Conclusions

19. Once again, we would like to thank the Committee for drafting the General Comment on Article 6 CRPD and hopefully the Committee will find our comments and feedback useful. We are looking forward to reading and using the final version of the General Comment.