

International Disability Alliance (IDA)

Member organisations:

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

Suggestions for disability-relevant recommendations to be included in the Concluding Observations of the Committee against Torture 46th Session (9 May – 3 June 2011)

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 46th Session.

GHANA

Ghana signed the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 30 March 2007, but has not yet ratified them.

[State Report](#)

Disability references in the state report :

23. The Constitution recognizes a host of human rights and fundamental freedoms. Chapter 5, which covers article 12 to article 33, is devoted to fundamental human rights and freedoms. These include, but are not limited to, the following – protection of the right to life, protection of personal liberty, protection from slavery and forced labour, protection of privacy of home and other property, protection of the property rights of spouses, protection from deprivation of property, protection of women's and children's rights, protection of the rights of the sick and **disabled persons**, respect for human dignity, fair trial and general fundamental freedoms such as the right to freedom of speech and expression, thought and academic freedom, association, assembly, movement, economic and educational rights.

43. Even though some domestic laws do not directly emanate from CAT, the principles enshrined in them are in alignment with the principles stated under the CAT. These laws include, but are not limited to the following:..

(d) The **Persons with Disability Act, 2006** (Act 715) – reiterates the rights of the **disabled** enshrined in the Constitution;..

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)
- End all practices of restraint, fixation, physical force, isolation, control of behavior using medications, and other forced or coerced administration of psychiatric interventions such as electroshock and mind-altering drugs including neuroleptics, that are currently used on persons with disabilities in psychiatric institutions, social care homes and other institutions; carry out education of personnel on the rights of persons with disabilities under the CRPD and on alternative responses to behavior that do not involve coercion of any kind; and establish and enforce clear regulations to end these practices in accordance with the CRPD and the recommendations of the Special Rapporteur on Torture. (“The Special Rapporteur notes that forced and non-consensual administration of psychiatric drugs, and in particular of neuroleptics, for the treatment of a mental condition needs to be closely scrutinized. Depending on the circumstances of the case, the suffering inflicted and the effects upon the individual’s health may constitute a form of torture or ill-treatment.” Report of Special Rapporteur on Torture, 28 July 2008, A/63/175, para 63)
- Adopt laws and measures to ensure that women and girls with disabilities are not subjected to forced sterilisation or forced contraception, and that women with disabilities retain the right to personally exercise free and informed consent in these matters (rather than authorising third party decision makers).
- Ensure that all cases of ill-treatment and death occurring in institutions are duly investigated and where necessary criminal convictions are pursued. Ensure remedies for victims or their families, including compensation and rehabilitation.
- 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.
- Require 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, autonomy and needs of persons with disabilities.