

International Disability Alliance (IDA)

Disabled Peoples' International, Down Syndrome International, Inclusion International,
International Federation of Hard of Hearing People,
Rehabilitation International, 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 45th Session (1-19 November 2010)

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 CAT Committee's 45th Session state report.

MONGOLIA

Mongolia ratified the Convention on the Rights of Persons with Disabilities and the Optional Protocol on 13 May 2009.

State report

There are no disability references in the State report (initial report).

Recommendations from IDA :

- To 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).
- To recognize 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)

- To 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, to 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 to 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)
- To take measures to eliminate the use of coercion and restraint, including chemical restraint, in psychiatric facilities and other institutions and to put into place a **trauma-informed approach*** to care.

* **Trauma-informed approach:** A trauma-informed approach is based on the recognition that many behaviors and responses (often seen as symptoms) expressed by people with psychosocial disabilities are directly related to traumatic experiences that often cause mental health, substance abuse, and physical concerns. For many people with psychosocial disabilities, systems of care perpetuate traumatic experiences through invasive, coercive, or forced treatment that causes or exacerbates feelings of threat, a lack of safety, violation, shame, and powerlessness. Unlike traditional mental health services, trauma-informed care recognizes trauma as a central issue. Incorporating trauma-informed values and services is key to improving program efficacy and supporting the healing process.