

### **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)

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### **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 46<sup>th</sup> Session.

#### **TURKMENISTAN**

Turkmenistan acceded to the Convention on the Rights of Persons with Disabilities on 4 September 2008, and its Optional Protocol on 10 November 2010.

#### **State Report**

#### **Disability references in the state report :**

61. Article 23, paragraph 2, of the Weapons Act prohibits the use of firearms against women, persons with manifest signs of **disabilities** or minors whose age is apparent or has been established, with the exception of cases in which such persons are armed or are part of a group assault. The owner of a weapon is required to promptly inform the office of the Ministry of Internal Affairs at the location at which the weapon was used of every case in which harm was caused to the health of a person in connection with the use of the weapon.

96. Article 107 of the Criminal Code stipulates that intentional infliction of bodily harm that endangers life or results in **loss of sight, speech, hearing**, an organ or the function of an organ or in permanent facial disfigurement, causes other life-threatening injury to health or health problems combined with a permanent incapacity to work exceeding 33 per cent or complete occupational incapacity or results in a premature interruption of pregnancy or mental illness, when committed with means that constitute torment or torture, is punishable by deprivation of liberty for 5 to 10 years.

#### **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](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.
- Make a plan with target dates and monitoring to close down institutions for children and adults with disabilities and realize the right of persons with disabilities to live in the community by ensuring that housing is affordable and accessible for persons with disabilities, that they have the legal right to choose where and with whom to live on an equal basis with others, and by making available support services to realize the will and preference of individuals as to how they wish to live.
- 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.