

International Disability Alliance (IDA)

Member Organisations:

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

Suggestions for disability-relevant recommendations to be included in the Concluding Observations of the Committee against Torture 47th Session (31 October - 25 November 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 47th Session.

SRI LANKA

Sri Lanka has signed but not yet ratified the Convention on the Rights of Persons with Disabilities.

State report

There are no references to persons with disabilities in the state report.

List of Issues

19. Please provide updated information, including statistics, disaggregated by sex, age and ethnicity, on the number of imprisoned persons, including minors, at regular detention centres, police stations, CID and TID facilities, military and military intelligence facilities, and any other informal detention facilities; and the occupancy rates for the detention facilities for the period 2006–2011. Please provide also information on the number of persons deprived of their liberty in **psychiatric hospitals and institutions for persons with disabilities** and the occupancy rates for those facilities for the period 2006–2011. Please comment on the reports of ill-treatment in detention centres, including severe overcrowding and inadequate facilities. Please describe measures taken by the State party to improve these material conditions, including measures have been taken to address the severe overcrowding in the Colombo Remand Prison, to ensure that remand prisoners and convicted prisoners are strictly segregated, and to establish an independent complaints system for persons deprived of their liberty and their family members.

Recommendations from IDA :

- Closely consult with and actively involve persons with disabilities and their representative organisations in national and regional strategies to prevent torture, cruel, inhuman or degrading punishment and treatment in accordance with Articles 4(3) and 15 of the CRPD.
- 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 latest standards of international human rights law.

“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)
- Incorporate into the law the abolition of violent and discriminatory practices against children and adults with disabilities in the medical setting, including deprivation of liberty, the use of restraint and the enforced administration of intrusive and irreversible treatments such as neuroleptic drugs and electroshock, recognized as forms of torture and ill-treatment, in conformity with recommendations of the Special Rapporteur on Torture (A/63/175, para 63), .
- 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.
- Take steps to ratify to the Convention on the Rights of Persons with Disabilities and accede to its Optional Protocol.

ANNEX – relevant recommendations made by other treaty bodies on Sri Lanka:

Concluding Observations of the CESCR Committee, E/C.12/LKA/CO/2-4 2010

14. ... The Committee is also concerned that the **2003 National Policy on Disability has not yet been implemented and that families of disabled persons have so far only received limited support from the State party and therefore continue to resort to institutionalization of their children with disabilities, often for long periods.**

Concluding Observations of the CRC Committee, CRC/C/LKA/CO/3-4, 2010

Children with disabilities

50. The Committee welcomes the adoption of a National Policy on Disability in 2003 which promotes an inclusive approach to education for children with disabilities. It is however concerned that a high number of children with disabilities, most of them girls, remain deprived of any type of education and that opportunities for children with some types of disabilities, such as autism, and hearing, speech and vision impairments, are almost non-existent. The Committee further expresses concern that:

- (a) Social stigma, fears and misconceptions surrounding disabilities remain strong in society, leading to the marginalization and alienation of children with disabilities;
- (b) No survey has been conducted in the State party on children with disabilities, which hinders the formulation of proper strategies and programmes;
- (c) A proper detection system and early intervention services are lacking, due in particular to the dearth of specialized health professionals;
- (d) Confusion and overlapping of powers and functions among the different ministries dealing with disability issues negatively affect the coordination of actions for children with disabilities;
- (e) Few children are included in mainstream children's programmes;
- (f) Special schools assisted by the Government are not adequately registered and monitored and **children with disabilities are still institutionalized in State or voluntary institutions** which are not equipped to accommodate such children.

51. The Committee recommends that the State party strengthen its efforts to fully implement the 2003 National Policy on Disabilities in order to ensure that all children with disabilities, in particular girls, have access to education. To this aim, the Committee reiterates its previous recommendations on the measures to be taken regarding special and mainstream education and the registration of special schools (CRC/C/15/Add.207, para. 37 (b)) and also urges the State party:

- (a) To sensitize and educate the public at large and persons working with children with disabilities on the rights of children with disabilities in order to eliminate the stigma and marginalization of these children;
- (b) To ensure that reliable statistics on children with disabilities are collected during the 2011 population census;
- (c) To improve early intervention services for children with disabilities by training more health specialists and conducting mobile clinics offering their services, especially in rural areas;
- (d) To designate a single body to coordinate actions and strategies for children with disabilities;
- (e) To allocate the necessary human and financial resources to improve the quality of mainstream and special education, and further develop non-formal education programmes as well as comprehensive and regular teacher trainings adapted to the different types of disabilities;
- (f) **Remove children with disabilities from institutions which are unable to fulfill their rights and meet their needs and establish a special care system with specialized facilities and trained personnel; and**