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**International Disability and Development Consortium (IDDC) Submission - CRPD Committee on the Draft General Comment No. 5 (2017)**

**Article 19: Living independently and being included in the community**

**26 June 2017**

The IDDC is a global consortium of 28 disability and development NGOs, mainstream development NGOs, and DPOs supporting disability and development work in more than 100 countries to promote human rights and inclusive development.

The right to live independently and to be included in the community is central and deeply connected to IDDC’s and its members’ priorities. We welcome the Committee’s commitment to addressing this right and its steps towards spelling out State obligations in a General Comment. This submission intends to build on the strengths of the Committee’s draft GC and provide specific advice to strengthen standards for Article 19.

N.B.: Specific additions to the text are marked in italic and bold. Direct quotations from the text are marked by quotation marks. Strikethrough text represents recommendations to remove text.

## Specific Recommendations:

4. “Independent living (…) are ideas that ~~are inextricably linked with the disability rights movement. Persons with disabilities have claimed the right to participate in all areas of community life and~~ ***have historically stemmed from persons with disabilities*** ~~sought~~ ***asserting*** control over (…).”

Amendment: We feel that the historical role that persons with disabilities have played is significant, but that the current sentence implies that this is the legal basis, which is an actually covered in subsequent paragraphs. To avoid questioning of the legal basis, we recommend above wording to acknowledge the role of persons with disabilities in advancing the concept of independent and community living.

5. “(…). The cost of social exclusion is high***, as*** ***social exclusion*** ***perpetuates dependency and thus interference with individual freedoms. Social exclusion also further propagates stigma, segregation and discrimination, which can lead to violence, exploitation, abuse in addition to negative stereotypes that feed into a cycle of further exclude and marginalization for persons with disabilities.***  ~~and strategies to tackle poverty often require significant extra budgetary resources.~~ However, policies (…) represent a cost-effective mechanism to ensure ***the enjoyment of rights,*** sustainable development and ~~eradicate~~ ***a reduction in*** poverty”

Amendment: We agree that it is important to stress the importance of the costs of social exclusion. However, an assertion that a right will require significant budgetary resources can be misleading and off-putting to States. There are measures that States can make that do not bear a cost. Also, progressive realisation allows States to gradually increase resources over time. We suggest adding some information about the impact of social exclusion on the enjoyment of rights and its link to poverty and have suggested some wording to strengthen this. We have also added some wording on the enjoyment of rights to complement wording on reducing poverty.

7. “(…) The right to independent living (…) in this norm are fulfilled. ***Human rights law imposes various obligations which are of immediate effect and others which may be realized progressively[[1]](#footnote-1).***  ~~Modern human rights theory recognizes that in order to be realized, all human rights require resources.~~ ~~Systematic~~ ***Full*** realization also requires structural changes which ***may need*** ~~have~~ to be taken ***in stages*** ~~step by step~~, no matter (…).”

Amendment: We prefer the focus on international law rather than on human rights theory (which is more ambiguous). Since there are many obligations that do not require resources, we suggest replacing this sentence with a statement on the nature of the obligations of States parties – i.e., both immediate and progressive. Furthermore, we suggest altering the wording of the final sentence to avoid confusion regarding progressive realisation by referring to realisation as “full” rather than “systematic” and referring to changes that must be taken “in stages” rather than “step by step”.

8. “The Committee also finds it important (…), irrespective of ***race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status*** ~~support required, age, impairment, sex, race, ethnicity, migration status, income or any other relevant category~~.”

Amendment: We suggest using the broad list of non-discrimination grounds listed within the CRPD preamble for consistency, which does not exclude any particular ground.

11. “(...) In its General Comment No. 9, (…) children with disabilities placed in institutions and ***urges States parties to use placement in an institution as a measure of last resort when it is absolutely necessary and in the best interests of the child[[2]](#footnote-2). The Committee on the Rights of the Child further*** urges States parties to ***ensure that the views of children with disabilities are heard in decisions made about them and that States parties*** set up de-institutionalization programs for children with disabilities***, replacing them with their families, extended families or foster care system with support to families to support their child back into their home environment[[3]](#footnote-3)***”.

Additional wording: We welcome the Committee’s reference to CRC GC 9 but, we suggest that the GC 9 standards are more completely adopted for consistency and to ensure clarity, including that institutions are a means of absolute last resort, the inclusion of the views of children in decisions affecting them, and support to families.

12. “In order for everyone to enjoy the***ir*** right***s***, the principle (…). Equality and non-discrimination are fundamental ~~concepts~~ ***principles*** of international (…).”

Amendments: We suggest changing “the right” to “their rights” for ease of reading and to replace “concepts” with “principles”, reflecting the legal nature of equality and non-discrimination.

12. “In its General Comment No. 5, (…) count as discrimination***[[4]](#footnote-4)***. (…) article 11 ***of the*** ICESCR that the right to an adequate standard of living (…) respect the human rights of persons with disabilities***[[5]](#footnote-5)***”

Amendments to footnotes & wording: We suggest amendments to the footnoting so that the sentence quoting CESCR GC 5 text on paragraph 15 (non-discrimination) is moved to reflect this quote and an additional footnote is added to the last sentence to reflect the reference to paragraph 33 on the right to an adequate standard of living. We also suggest minor word changes for ease of reading.

14.

14.c. “Inadequacy of ***immediate obligations, including*** legal frameworks***,*** and ***progressive steps towards the full realisation of Article 19, including*** budget***ary*** allocations (…);

d. ***Continued practice of*** physical and regulatory institutionalization, (…);

f. ***Lack of awareness and*** negative attitudes, stigma (…);

h. Lack of available, ***accessible,*** acceptable, ~~affordable,~~ ***and*** adaptable ~~and accessible~~ services and facilities within the community, such as transport, health care, ~~schools~~ ***education***, public parks/***recreational*** spaces, (…) public buildings;

k. ~~Decentralization, resulting in~~ Disparities ***in implementation, for example gaps*** between ***national policy and implementation by*** local authorities ~~and unequal chances of independent and community living in a State party~~ (inappropriate implementation of article 4 (5)).”

Amendments: We suggest adding wording to strengthen understanding of immediate vs progressive obligations and the links between raising awareness and stigma. We have suggested consistently using an AAAA framework in paragraph 14.h., which is explained in more detail in this submission on paras. 33-36. Paragraph 14.k. is a little bit misleading, as decentralization may not be the only cause of disparities. Current wording implies that decentralization is not acceptable. We feel that the focus should be on the gaps between national policy and local implementation.

15. “~~In order to realise appropriate implementation, the Committee is aware of the need to define the fundamental concepts of the right to live independently and be included in the community, including the following:~~ ***For the purposes of the present general comment, the following definitions apply:”***

Amendment: We suggest making the wording more succinct and assertive with a basic introduction to the definitions to avoid the impression of uncertainty.

15.(a). “(…) where we live, (…) be inside or outdoors, ~~have a tablecloth and candles on the table, have pets or listen to music~~ ***or the activities that we choose to do.*** (…) Rather, it should be regarded as the freedom to choice and control ***in line with the respect for inherent dignity and individual autonomy***, as enshrined (…).”

Amendments: Some of the examples used to demonstrate individual choice come across as culturally specific to western lifestyle. We recommend replacing with some more general and universal examples. We also suggest spelling out the principles in article 3a to make these more explicit for States.

15.b. “These services can relate to housing, personal care, transportation, shopping, ~~cinemas~~ ***recreational activities*** and (…). The right to be included in the community (…) in the community ***on an equal basis with others***, ~~These can be~~ ***such as*** elections, ~~as well as~~ public meetings of local governments, sports events as well as ~~theatre~~ ***cultural or religious*** festivals. Although community may primarily be understood as ***having a*** geographic or physical location (…). (…) Hence, persons with disabilities ~~must be~~ ***are*** entitled to be independent in community everywhere~~,~~ and for all type of activities ***on an equal basis with others***.”

Amendments: We recommend choosing illustrative examples of community services that are more universally applicable, yet diverse. There seems to be an emphasis on theatre/cinema, and could be more balanced with other examples and general descriptors, such as recreational activities. This paragraph lacks emphasis on the condition of “on an equal basis with others”, which is a critical point for planning, particularly for non-essential services. We have therefore added it to the sentence on public and political participation and at the end of the paragraph, which sums up the main point. We’ve also suggested some amended wording for ease of reading.

15.c. *No suggested wording for defining institutionalisation.*

Additional text: We highly recommend that the Committee defines “institutionalisation” or “institutions”, drawing on legal definitions to make it easier for States parties to be clear about the difference between living in an institution and “life settings outside of institutions”. We also suggest a new paragraph defining “on an equal basis with others” in this section.

15.c. “(…) control over day-to-day decisions, lack of ***or restriction of*** choice (…)”

Additional text: This will help to clarify that both absolute lack of choice and restrictions whereby some degree of choice is possible but not full and free choice.

15.d. “(…)Personal assistance is a tool for independent living ***on an equal basis with others***.”

Additional text: We recommend highlighting the link between personal assistance and its role in achieving equality.

20. “(…) Particularly, persons with intellectual ***and multiple or complex*** impairments, are often assessed as being unable…”

Additional text: We suggest adding persons with multiple or complex disabilities, as they are also targeted.

21. “***Persons with disabilities are sometimes directed to use community support services or to accept living arrangements that are not suitable for their individual needs. For example,*** ~~Different cultures can also challenge the concept of Independent living in accordance with the Convention.~~ when young persons with disabilities are living in institutional settings with ~~elderly~~ ***older*** persons they may face (…), hence not allowing young persons (…) live their life in an age-appropriate ***manner*** ~~mode -as ‘young’~~. ***Similarly,*** ***a person with deafblindness may be offered community support for a person with learning disabilities, hence being appropriated the wrong type of support when they require communication and orientation supports rather than learning new things.***”

Amendments: The main point of paragraph 21 is unclear. The referral to “different cultures” challenging the concept of independent living runs a risk of alienating some States, as this may be interpreted as culturally relative. We suggest replacing the first sentence with a point about ensuring appropriate supports for individual needs. To illustrate this point, we have added another example. We also have suggested some minor wording changes - “elderly” to “older” and “mode as ‘young’” to “manner”.

23. “Children with disabilities, (…) under article 19***, and special considerations should be taken into considerations with both children and older persons***. Women and men with disabilities enjoy equal protection under the scope of article 19***, and all appropriate measures should be taken to ensure the full development, advancement and empowerment of women***. ***LGBTQ persons with disabilities must enjoy equal protection under Article 19 and therefore respect for personal relationships.*** (…) ***The civil and political rights contained within*** Article 19***, such as the right to choose place of residence and where and with whom and access to community services and facilities on an equal basis,***  should also be ensured irrespective of migrant, asylum-seeking and refugee status***; however, in-home, residential and community support services may be dependent on fulfilling requirements provided for by applicable legislation of the State and bilateral and multilateral treaties.*** Migrants with disabilities and/or their children ~~who live~~ with disabilities should have equal access to social protection and support ***provided that they fulfil these legal requirements[[6]](#footnote-6)***.”

Additional and amended text: We suggest adding text relating to older persons, children, and women to draw on existing wording of the CRPD, articles 6-7. We have also included a sentence on LGBTQ persons with disabilities, which we feel was lacking. We welcome the statement on migrants, asylum-seekers and refugees; however, we feel that the broad statement may not be entirely accurate or in line with the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW) and note that some ESCR for migrant workers and their families may be dependent on fulfilling legal requirements of their migrant status (in other words, in line with having regular status as a migrant and fulfilling any requirements set out by the State). It is acceptable in international law to invoke some limitations on migrants, depending on their status, on access to services, and most irregular migrants would not have access to services. We have provided some wording to reflect this legal analysis (which may require a further distinction between refugees and asylum-seekers on the one hand and migrants on the other), but if the Committee feels that all of article 19 applies to migrants, then we suggest providing some legal basis for this in the GC.

27. “Persons with disabilities have the right to choose services (…) preferences. ***This places an obligation on the State to ensure that there are sufficient number of qualified specialists who are able to identify practical solutions to the barriers to independent and community living according to the individual’s needs, requirements and preferences.*** ”

Additional text: We suggest an explicit standard on the need for specialists, who have expertise either in particular support methods (e.g., communication) or to support across a range of areas for a particular group (e.g., people with autism). Many States lack this expertise or lack sufficient numbers of specialists to respond to demand, and there is a need for greater international cooperation to build this expertise across States. It is also very important that persons with disabilities receive the right kind of support that is suited to their specific needs and not one that is marginally related, e.g., a sign language interpreter for someone who uses tactile communication.

28. “In-home services are services which are delivered to the home of the person***, e.g., preparing meals or bathing and washing***. (…) Other community support services include personal assistance services or similar person-directed/user-led support***, which help to facilitate participation in community activities.***”

Additional text: We suggest adding some examples of each of the 3 types of support services to better illustrate the difference between them and have offered some suggestions but welcome additional ideas from the Committee.

29. ***Community based rehabilitation can be effective means of delivering individualized support, particularly in rural areas.***

Additional text: We suggest adding this point at the end of para.29, as rural areas may struggle to provide services.

30. “(…) Therefore, any institutional form of support ***which segregates and limits personal autonomy*** is not ~~covered~~ ***permitted*** by article 19 (b).”

Additional & amended text: We suggest adding a qualifier to institutional support, as people may interpret ‘institutional’ support broadly, e.g., support by the government or by NGOs, which may comply with human rights standards. We’ve also changed “covered” to “permitted”, as this type of support is actually non-compliant with human rights law rather than being covered in other kinds of law.

32. “(…) They cover a wide range of services, such as ***housing,*** public libraries, (…) and services. These must be ***available,*** accessible ~~on an equal basis with others, available~~, ***acceptable,*** ~~affordable~~ and ~~acceptable~~ ***adaptable*** for all persons with disabilities ~~as well as adaptable and responsive to the requirements of persons with disabilities~~ in a given community ***and on an equal basis with others***.”

Amendments: We suggest adding housing to the list of services and eliminating para. 35. We also welcome the Committee’s adoption of CESCR Committee’s framework and suggest that the Committee uses a consistent framework of AAAA throughout this GC. The CESCR Committee has varied these essential and interrelated features according to the specific needs of each right. We have made suggestions on the framework for this general comment but feel whichever qualities the Committee ultimately chooses, they should 1) be consistent throughout this general comment on article 19 and 2) align with interpretations of the CESCR Committee. We recommend sticking to the ordering most commonly used by the CESCR Committee in this GC, which means shifting some of the subsequent paragraphs. The Committee should consider if this AAAA framework should also apply to Article 19 (b).

33-36. [amended to read the following 8 paras/sub-paras.] “***Community facilities, goods and services must be Available in sufficient quantity to meet the needs of persons with disabilities with due consideration of impairment group. The precise nature of services will vary depending on numerous factors, including the level of development of the State.***

Accessibility of community facilities, goods and services, as well as inclusive education (…) the community. ***Accessibility has four overlapping dimensions[[7]](#footnote-7):***

1. ***Non-Discrimination: Community facilities, goods and services must be accessible to all, regardless of impairment and especially the most discriminated or marginalized sections of the population, in law and in fact, without any discrimination on any of the prohibited grounds. Reasonable accommodations are a necessary component of the principle of non-discrimination.***
2. ***Physical accessibility: Community facilities, goods and services must be in safe physical reach for persons with disabilities, including in both urban and rural areas. Accessibility guidelines to buildings, facilities, public spaces, transportation, housing stock, and other physical places where community facilities, goods and services are accessed must developed and followed to ensure adequate access for persons with disabilities.***
3. ***Economic accessibility (affordability): Community facilities, goods and services, whether public or private, must be affordable to persons with disabilities, considering that they are more likely to live in poverty, and should consider the additional costs associated with certain disabilities. Persons with disabilities should not be disproportionally burdened compared to persons without disabilities.***
4. ***Information accessibility: Information concerning community facilities, goods and services, and in particular essential services, should be made available in accessible formats, including easy to read formats, braille, and other means, to ensure that persons with disabilities are able to access this information.***

***All community facilities, goods and services must be Acceptable,*** which means that they must be of the same quality ***for persons with disabilities*** as ~~services provided~~ ***they are*** to the general public and be gender (…) sensitive.

Adaptability means that accessibility planning and implementation (…) are of paramount importance.” [Note: this is the same unedited paragraph found in para. 34.]

Amendments: We are suggesting an overhaul of paragraphs 33-36, which seeks to explain the interrelated and essential features of Article 19 (c) through a consistent AAAA framework, using the text above. We have maintained some of the original wording (which is not in bold/italics) where it was useful. We feel that the explanations in the draft GC often confused terms (e.g., availability with accessibility), sometimes applied practical examples to rights in Article 19 (a) and (b) rather than (c), and jumped around from principle to principle. We feel that a more ordered, consistent framework will make it easier for States to understand their obligations.

38. “~~Neither are~~ Packages of individualised services***,*** which do not allow choice and control, ~~nor are~~ ***and*** segregated community services***,*** such as special schools, special shops or special transportation, ***are not*** effective measures (…). (…) cost efficiency must not override the core of the human right at stake***, and States must take steps to progressively realise Article 19***. (…).”

Additional & amended text: The first sentence is unclear, and we have amended for ease of reading and added a reference to progressive realization.

F. ~~Core Elements~~ [title] ***Minimum Core Obligations***

40. (a) “To ~~have~~ ***ensure*** legal capacity (…) and how to live ~~is a right~~ for all persons with disabilities (…)”

(b) ~~The right to choose where to live requires a realistic option of accessible housing to choose from;~~ ***Ensure non-discrimination in accessing available housing resources and to ensure some degree of priority consideration in the housing sphere so that housing is adequate and accessible for persons with disabilities[[8]](#footnote-8)***

(c) ~~The right to live independently does not entail dependence on informal support from family and friends~~ ***To develop a plan and to take steps towards facilitating formal supports for independent living so that informal supports by families is not the only option***

(d) ~~To have access to basic personalised and human rights-based disability specific services~~ ***To develop a plan and to take steps towards developing basic, personalized and rights-based disability-specific services***

(e) ~~To have access to basic mainstream community-based services and support on an equal basis with others~~ ***To develop legislation, plans and guidance on accessibility requirements for basic mainstream community services to achieve greater equality***

(f) ~~The possibility of living independently must not be negatively affected by measures taken to respond to economic constraints~~ ***To ensure that non-retrogression in achieving Article 19 unless they have been duly justified and in accordance with international law***”

Amendments: We feel that Section F and para. 40 on Core Elements are inconsistent with human rights law. Core Elements refer to minimum core content of rights or a floor below which conditions should not be permitted. This relates to States’ obligations to ensure that both immediate and progressive obligations are met according to human rights norms and standards. We feel very strongly that some of the “core elements” set out in paragraph 40 are subject to progressive realization, such as having realistic options for accessible housing, developing a system of formal supports to avoid informal supports, and unspecified disability-specific services. We have three key recommendations: 1) the title of Section F is changed to “Minimum Core Obligations”, 2) the core element/obligations are framed as obligations of the State, rather than as achievement of rights by persons with disabilities, and 3) that these elements/obligations are consistent with international standards regarding minimum core obligations in other treaties with a clear distinction between immediate and progressive obligations.

41. “(…) the right to access individualised assessed disability support services, is a ~~classic~~ ***recognized*** social right

Amendment: We recommend replacing “classic” with “recognized”, since classic suggests a hierarchy.

42. “(…) While full realization of the ~~goals~~ ***right*** may be achieved progressively, steps towards it must be taken immediately ~~or within a reasonably short period of time~~. (…) immediate obligation to enter into strategic planning in close and respectful consultation with representative organizations of persons with disabilities ***and families*** to replace (…) of article 3 of the Convention. ***In the case of children with disabilities and in line with CRC General Comment 9, programmes of deinstitutionalization should be replaced with children returning to families or placed in foster care.*** (…)”

Amendments: We suggest replacing “goals” with “right” since rights are binding and goals are not. We also suggest removing the last part of this sentence since it allows for more leniency than afforded in international law. We also recommend including a sentence concerning children and deinstitutionalization, including families in consultation processes, as families need to be included in outlining the supports they require.

43. “***There are minimum core standards of*** ~~An exemption from progressive realization regarding~~ ~~article 19 (b) and (c)~~ ***that are immediately applicable*** ~~is the “minimum core obligation~~ “to ensure (…). If persons with disabilities are deprived of the ***minimum*** core ***standards*** ~~elements~~ of ***the right to*** independent and community living (…).”

Amendments: Minimum core standards are not exemptions to progressive realization, but form part of the definition of progressive realization as being immediately applicable standards of ESCR. We recommend removing this wording and sticking to the term(s) “minimum core obligations/standards”, rather than “core elements”.

44. “***When a State party seeks to introduce retrogressive measures on Article 19, for example, in response to economic or financial crisis, the State is obliged to demonstrate that such measures are temporary, necessary and non-discriminatory, and that they respect at least its core obligations.[[9]](#footnote-9)***”

Additional Text: We suggest adding the above text at the end of para.40.

45. “States parties are prohibited from taking retrogressive measures with respect to the ***minimum*** core ~~elements~~ ***obligations*** of the right (…). While the Committee notes that ~~many~~ States parties ***may*** face ~~serious~~ financial ~~burdens as a result of the global financial~~ ~~crisis~~ ***crises*** ~~(2008)~~, they should ensure that persons with disabilities are protected against ***damaging retrogressive measures as they are likely to be affected by economic fluctuations*** ~~social cutbacks because the effects affects them harder than the general population~~”.

Amendments: We suggest using the consistent language of “minimum core obligations” rather than “core elements”. We have made suggested changes to paragraph 40 and strongly urge the Committee to re-examine the minimum core standards to be more in line with international law. Also, the reference to a finite event (i.e., the global financial crisis, 2008) is better placed in Concluding Observations than in GCs, since GCs have a much longer shelf-life and standards apply well beyond finite events. We suggest amending to draw attention to the general standard. Also, the footnote should refer to CESCR GC 3 and could refer to the UK Inquiry with “See for example”.

46. “The obligation to ~~take measures to overcome~~ ***ensure non-***discrimination ~~on the basis of disability~~ and to achieve de facto equality of persons with disabilities also is also ***an immediate obligation*** ~~exempt from progressive realization~~. States parties (…) or groups of persons with disabilities ***based on impairment or any other ground*** and to guarantee (…) participation. (…) The duty to provide reasonable accommodation ~~(art. 5 (3) CRPD)~~ is ***an immediate obligation*** ~~also not subjected to progressive realization~~.”

Amendments: We suggest that non-discrimination and reasonable accommodation should be explained as immediate obligations, rather than as exemptions to progressive obligations. Also, we suggest that “ensure non-discrimination” is stronger than “overcome discrimination” and consistent with CRPD language. We suggest highlighting non-discrimination based on impairment type or other express grounds and suggest putting all references to treaties in footnotes.

47. “(…) the right to choose a residential, institutional setting does not ***place an obligation on*** ~~correspond with a~~ states’ part~~y~~***ies*** ~~duty~~ to maintain institutions (…)”

Amendments: We suggest stronger legal wording replacing “correspond” with “place”.

48. Amendments: We request an explanation of “ building laws” or examples for clarity.

49. “The obligation to respect (…) from enacting laws, policies***, procedures*** and structures(…)”.

Additional text: We feel that the addition of “procedures” strengthens understanding as it applies to administrative procedures.

50. “(…)third parties, such as families, service-providers, ***housing developers,*** landlords, (…). (…) If support services ***and other activities pertaining to Article 19*** are not provided directly by States parties (…)”.

Additional text: Activities other than services could refer to housing developers, which we also suggest adding to the list of third party actors.

54. “The obligation to fulfill requires States to ***promote, facilitate and provide*** ~~adopt~~ appropriate legislative, administrative, budgetary, judicial, ***programmatic,*** promotional (…)”.

Amendments: The obligation to fulfil requires States to promote, facilitate and provide for rights, and we suggest wording to support this. We also feel that programmatic measures will play a big role in Article 19.

56. “(…) that the creation of new institutions or the structural refurbishment of existing institutions is ended ***alongside the transition to more appropriate models for independent and community living.*** (…)

Additional text: We feel that it is important to be explicit that halting works on existing institutions or shutting down institutions must take place alongside the establishment of alternatives. The Committee should also outline in para 56 the ramifications if institutions are shut down without the necessary supports in place, which is omitted.

58. “Disability support services must be available, accessible***,*** ~~and~~ acceptable ***and adpatable*** to (…). (…)This is especially important for persons with intellectual and/or psychosocial impairments***, deafblindness*** or complex support requirements. (…) ***Disability support services should focus on*** ~~Independent living is about~~ the right to live independently and not ~~about~~ ***on*** maintaining the regime of ‘Care’.”

Amendment: We’ve added “adaptable” to be consistent with earlier suggestions and highly recommend “deafblindness” as a vulnerable impairment group. We suggest that the disability supports are the focus in the final sentence, as this is where ‘care’ is most problematic.

60. “(…) States parties should not add to the hardship faced by persons with disabilities, by reducing their income in ***times of economic or financial crisis or through austerity measures that is inconsistent with human rights standards set out in paragraph 44*** ~~this period of austerity measures~~.”

Amendment: The last sentence is specific to a finite event (i.e., this period of austerity). Since the GC will outlast this period of austerity, we prefer a more general standard that mentions austerity measures and economic and financial crises consistent with non-retrogression standards covered in para.44.

61. “When assessing persons with disabilities the focus should be on the ***barriers*** ~~disabilities~~ that hinder (…)”

Amendment: To be consistent with para. 59.

62. “(…)irrespective of their ***race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status*** ~~age, sex, ethnic background, language, social condition, migrant, asylum-seeking or refugee status~~.”

Amendment: To be consistent with the express grounds of the CRPD.

64. Additional text: We recommend that the Committee provides examples of the types of professionals that require training.

67. “ (…) who seek to ~~enforce~~ ***claim*** (…)”

Amendment: Claimants cannot enforce.

73. Amendments: We suggest ensuring that para.73 is consistent with CRC GC 9 regarding deinstitutionalisation for children, as outlined earlier in this submission.

80. “It is of paramount significance to ensure that ***both*** support services ***and*** ***the private sphere of family life*** leave no space (…)”

Additional text: We suggest adding references to family life.

82. “***Equally, persons with disabilities have the right to express their views regarding their choice of living arrangement and services available to them without reprisals.***”

Additional text at the end of the paragraph.

86. Amendments: The last sentence of para.86 is unclear and misleading and needs to be clarified.

94.a. “***Incorporate Article 19 into all relevant laws, policies, plans, budgets and programmes and*** repeal all laws (…)”

Additional text: We suggest adding text on incorporating Article 19 across law and policy.

94.c. Amendments: This paragraph is unclear and vague and we suggest the Committee rewords or explains.

94.i. “***Take progressive steps towards adequate resources*** ~~Invest a sizable percentage of their funds~~ into the development of appropriate (…) sign language or ~~tactile~~ ***guide*** interpreters.”

Amendments: In line with progressive realization, the obligation is to take steps towards adequately resourcing rights rather than investing sizable percentages of funds, which is unclear and incompatible with international law. Also, interpreters for persons with deafblindness are called “guide” interpreters and not “tactile” interpreters.

94.j. “(…) health and social affairs ~~in line with SDG 11, targets 11.1, 11.2 and 11.7~~. This requires that states parties designate ***adequate resources, including budgetary,*** ~~a certain percentage of their national budgets~~ (…)”

Amendments: Since the SDGs are mentioned at the start, this should be sufficient cross-referencing. Since the SDGs will expire, we suggest not codifying them on the details. As above, we recommend keeping in line with progressive realization obligations.

1. CESCR General Comment No. 3: The Nature of States Parties’ Obligations (Art. 2, Para. 1, of the Covenant), 14 December 1990, E/1991/23, paras. 1-2. [↑](#footnote-ref-1)
2. Committee on the Rights of the Child General Comment No. 9 (2006) The rights of children with disabilities, CRC/C/GC/9, 27 February 2007,, para. 47. [↑](#footnote-ref-2)
3. *Ibid*., paras. 48-49. [↑](#footnote-ref-3)
4. Committee on Economic, Social and Cultural Rights General Comment No. 5: Persons with disabilities, 1994, para. 15. [↑](#footnote-ref-4)
5. *Ibid*., para. 33. [↑](#footnote-ref-5)
6. Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990. Article 27. [↑](#footnote-ref-6)
7. See generally CESCR General Comment 14 on the rights to the highest attainable standard of health (article 12), E/C.12/2000/4, 11 August 2000, para. 12, for a good example of this framework. [↑](#footnote-ref-7)
8. CESCR General Comment No. 4: The right to adequate housing (art. 11), 1991, para. 8.e. [↑](#footnote-ref-8)
9. Letter of the Chair of the Committee to States parties on austerity measures, May 2012. [↑](#footnote-ref-9)