**Statement on status of draft General Comment 7 on Participation with persons with disabilities in the implementation and monitoring of the Convention (Articles 4.3 and 33.3)**

August 27, 2018

1. This statement is made by the Sexual Rights Initiative[[1]](#endnote-1) (SRI). The SRI is a coalition of national and regional organizations based in Canada, Poland, India, Egypt, Argentina and South Africa, that work together to advance human rights related to sexuality at the United Nations.

2. The recent record of the CRPD Committee in relation to sexual rights, in particular in regards to the rights of gender and sexuality non-conforming persons with disabilities is of great concern to the SRI. In contradiction with the spirit of the principles and rights to equality and non-discrimination found in human rights treaties, resolutions and reports, the final version of General Comment 6 on equality and non-discrimination withdrew almost all mention of lesbian, gay, bisexual, trans, and intersex persons with disabilities and their rights. While the first draft of General Comment 6 made an initial recognition of sexual orientation, gender identity, expression and sex characteristics (SOGIESC) as part of intersectional discrimination, the final version diluted any real recognition and failed to issue recommendations to protect persons with disabilities from discrimination based on sexuality and gender expression.

3. Only one mention to SOGIESC was left in the final version of General Comment 6: paragraph 33 explicitly requires the inclusion of lesbian, gay, bisexual, trans, and intersex persons with disabilities in the consultation obligation stipulated in Articles 4.3 and 33.3 of the Convention. As General Comment 7 elaborates on articles 4.3 and 33.3, there was an expectation to find substantive analysis of how sexuality and gender can impact participation. However, all three[[2]](#endnote-2) references to LGBTI persons with disabilities in the available draft of General Comment 7 are contained in brackets, suggesting that it is optional or disputed language.

4. The exclusion of sexual orientation, gender identity, expression and sex characteristics is directly related to the absence of any form of gender analysis beyond the mention of women with disabilities in draft General Comment 7, as it does not address the particular ways in which women with disabilities are excluded from participation. Exclusion of LGBTI persons in draft General Comment 7 is rooted in the lack of substantive analysis of the ways in which sexuality and gender can impact participation, it is not only in the deletion of references. Persons with disabilities have been victims of this same exclusion in the past, being briefly mentioned in human rights documents that had no impact in local contexts due to the lack of proper analysis and concrete recommendations to eliminate barriers. The ways in which structural discrimination impacts the enjoyment of rights must be named and taken into consideration when delivering guidance to States.

5. The SRI is concerned that draft General Comment 7 is repeating the exclusion of LGBTI persons with disabilities of General Comment 6 by eliminating already insufficient references to sexuality and gender-based discrimination of persons with disabilities. In excluding and eliminating SOGIESC as a protected status, the CRPD Committee is conflicting with a longstanding and progressive recognition of rights related to sexuality and gender established by other Treaty Monitoring Bodies,[[3]](#endnote-3) the Special Procedures and resolutions of the UN Human Rights Council. The variety and frequency of statements across the UN system related to sexuality and gender only confirms that human rights are indeed universal and inalienable; indivisible; interdependent and interrelated.

6. Persons with disabilities and persons discriminated on the basis of sexuality and gender expression share historical, structural and intersecting exclusions, even to the extent of denial of their equal recognition by the law. Medical and legal structures have denied their right to bodily autonomy, which is both a fundamental and increasingly recognized right claim and a concept that interconnects and underlies the full range of sexual rights to which all individuals and groups are entitled. The CRPD has been recognized as a treaty that has a wide variety of elements to address both intersectional discrimination and sexual and reproductive rights. We ask the Committee to continue protecting the sexual rights of persons with disabilities in its observations, comments and jurisprudence as it has done in the past, demonstrating that “us” in the “nothing about us without us” makes no status distinction.

1. <http://www.sexualrightsinitiative.com/> [↑](#endnote-ref-1)
2. Paragraphs 36, 38 and 53 of the draft. [↑](#endnote-ref-2)
3. Recognitions to SOGIE by Treaty Monitoring Bodies’ observations, jurisprudence, and general comments and recommendations can be tracked over 15 years ago and has progressively advanced in time. [↑](#endnote-ref-3)