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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Child Rights Connect, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2019]

* Issued as received, in the language(s) of submission only.



Empowering children with disabilities for the enjoyment of their human rights, including through inclusive education

Child Rights Connect is an independent, not-for-profit organisation founded in 1983. Today, we are the largest global network working for the realization of children's rights. Through our more than 80 member organisations coordinated by a Secretariat in Geneva, we reach out to every country in the world. Our members are national, regional and international organisations and coalitions with the shared aim to ensure that all children can fully enjoy their rights as defined by the Convention on the Rights of the Child (CRC).

Children with disabilities are particularly vulnerable to discrimination and face several barriers to the full enjoyment of the rights enshrined in the CRC and the UN Convention on the Rights of Persons with Disabilities (CRPD). They experience what the Committee on the Rights of the Child (the Committee) has referred to as 'double denial', suffering discrimination due to their age and disability¹. Their exclusion and marginalisation is often stronger in school, public and cultural life, employment and access to public services². Moreover, the lack of information and opportunities and space for expressing their opinion leads children with disabilities to be disproportionately vulnerable to the risk of violence.³⁴

Following a child rights-based approach, ensuring the right of children with disabilities to be heard in all procedures affecting them and the obligation to take their opinion into account - in accordance with their evolving capacities - is of utmost importance for their empowerment and inclusion. The support of child-led initiatives and children's rights organisations can help to provide meaningful and safe spaces in this regard.⁵

However, the right of children to express and have their views taken into account is constantly blocked by social attitudes, political and economic barriers, which are even greater for children with disabilities.⁶ In fact, most of the time, policies and decisions related to children with disabilities are made without involving them in the process. Member States must promote participation and expression of children with disabilities by providing all methods of communication which may be necessary to facilitate this. This leads to greater inclusion and empowerment and helps to ensure that the policies are effective and respond to the views and experiences of children with disabilities⁷.

All children are entitled to special protection and empowerment due to their special and dependent status, as enshrined in the CRC. Children with disabilities are among the most vulnerable members of our societies,⁸ and often require additional protection measures to ensure that they are able to enjoy their human rights. Yet an overly protective approach is often taken by adults, which can place additional obstacles and barriers to their empowerment for the enjoyment of their human rights. Overprotection can deny children with disabilities the chance to explore, discover what is possible and learn how to keep themselves safe.⁹

As noted by the Committee in the context of children acting as human rights defenders, striking the balance between empowerment and protection can be particularly challenging and the best interest principle can be difficult to determine.¹⁰ A child rights-based approach recognises the evolving capacities of every child and takes into account the intersectionality between statuses in striking this balance, such as disability, age, socio-economic background, sexual orientation and gender identity. As highlighted by the Committee in relation to adolescents, it is also important to have regard to the level of risk involved, the

¹ CRC/C/69/par.334.

² CRC/GC/9/par.2

³ CRC/GC/9/par.8

⁴ UNICEF (2005) Summary Report on Violence Against Disabled Children – Findings and Recommendations.

⁵ CRPD/GC/6/par.38

⁶ CRC/GC/12/par.4

⁷ CRC/GC/9/par.32

⁸ https://www.unicef.org/sowc2013/files/SWCR2013_ENG_Lo_res_24_Apr_2013.pdf

⁹ https://www.unicef.org/disabilities/files/Take_Us_Seriously.pdf

¹⁰ DGD Concept Note

https://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2018/ConceptNote_EN.docx

potential for exploitation, understanding of adolescent development, recognition that competence and understanding do not necessarily develop equally across all fields at the same pace and recognition of individual experience and capacity.¹¹

To ensure the empowerment of children with disabilities and thus guarantee the protection and full enjoyment of their rights, Child Rights Connect wishes to therefore recommend the following:

Grounded by the principle of non-discrimination: this principle must be based on an intersectional approach and take into account a broad and inclusive definition of disability¹².

Grounded by the best interest of the child: This principle must be considered in all the aspects of the life of a child with disabilities and in relation to the enjoyment of all the rights provided for in the CRC¹³¹⁴. The significance of this principle is particularly relevant for institutions, parents and other professionals that provide services and care for children with disabilities, as they are expected to conform to regulations and should have the protection and care of children as their primary consideration, under all circumstances¹⁵. At the same time, however, this principle should not be used as justification for paternalistic approaches and it should promote a fostering participatory approach.

Ensuring and promoting the right of every child to be heard: The right to be heard in all procedures affecting children with disabilities and the obligation to take their opinion into account - in accordance with their evolving capacities - is of utmost importance for their empowerment and inclusion, and the protection of children responding to their vulnerabilities should not create barriers to their empowerment.

Ensuring the right to life, survival and development: many risks and practices that affect the right to live and development of children with disabilities, including infanticide¹⁶, need to be systematically identified and adequately responded to.

Regarding the topic of the 2019 Annual Day on the Rights of the Child, Child Rights Connect wishes to highlight and call for the prioritisation of the following topics:

Inclusive education: Empowerment of children with disabilities to enjoy their rights can happen in many different ways, including through inclusive education¹⁷. Even if education is a fundamental right, millions of children are out of school. Even when this right is complied with, most of the time education is not inclusive: children with disabilities are often isolated from their peers and teaching is of inferior quality.¹⁸

Fulfilling a child's right to an inclusive education promotes their well-being, dignity and autonomy and can offer more job opportunities in the future¹⁹. It is also a primary means for children living in poverty to break this cycle, to protect themselves from exploitation and to promote an inclusive society²⁰²¹. In line with the CRPD, CRC and the SGD Goal 4, Member States must adopt all of the appropriate measures to ensure that all children with disabilities receive an inclusive, equitable and quality education²². They should also, through international cooperation, share information and exchange best practices and researches on inclusive education²³.

Promote and support the role of parents: According to the CRC, parents have a key role in the development and protection of children with disabilities²⁴; they are central actors to

¹¹ CRC/C/GC/20

¹² CRPD/GC/6/par.8

¹³ CRC/GC/9/par.29

¹⁴ CRPD/GC/6/par.38

¹⁵ CRC/GC/9/par.30

¹⁶ CRC/GC/9par.31

¹⁷ See: UNICEF (2017). Inclusive education. Including children with disabilities in quality learning: what needs to be done?

¹⁸ CRPD/CG/4/par.3

¹⁹ CRC/GC/9/par.8

²⁰ CRPD/GC/4/par.10

²¹ Committee on Economic, Social and Cultural Rights/GC/13.

²² CRPD/GC/4/par.24

²³ CRPD/GC/4/par.43

²⁴ CRC, Article 5.

the creation of an enabling environment for children and to supporting the opportunity to express their views and act in their own organisations. Moreover, children are best cared for within their own family, if families are adequately provided for in all aspects²⁵. Thus, Member States should take all the appropriate measures (e.g. financial assistance, supportive social services for parent, training and respite care when needed²⁶) and provide to support parents or guardians to perform their caregiving role. In particular, Member States should support families whose competencies to perform their role are limited by various factors (such as addiction, disability, financial situation or living in armed conflict region)²⁷.

Ensure access to information and adapted tools for children with disabilities: Access to information enables children with disabilities to live independently, to express their views freely and to enjoy the participation principle²⁸. However, access to information is more challenging for children with disabilities²⁹, especially children with a visual impairment. Member States should provide relevant, accessible and age-appropriate information for children with disabilities and ensure that it is available in any format with the appropriate technology (e.g. Braille and sign language). States must also provide the access to all forms of media, including radio, Internet, television, and printed paper.

Promote quality care for children with disabilities: In the line with the CRC Committee and the UN Guidelines for Alternative Care of Children, Member States should promote the rights of the child in alternative care settings³⁰³¹. Member States should ensure that children with disabilities are included in the planning, implementation and evaluation of alternative care measures. Children with disabilities should also be appropriately encouraged and supported to participate in the planning of their aftercare life³².

Implement training tools for parents and professionals working with children with disabilities: Ensure that parents or guardians and professionals in contact with children with disabilities receive training and tools³³³⁴, that allow the empowerment of children with disabilities in decision affecting their lives and in the participatory process. There should be a specific focus on police officers, juvenile magistrates and all the professionals involved in the judicial process. They must have appropriate training to empower children with disabilities to express their views in the judicial process and thus ensure to them effective access to justice³⁵.

Encourage the improvement of data collection: Specific call for Member States to implement the collection of qualitative and quantitative data on children with disabilities, to qualify their situation. Much of the time States continue to not prioritise data collection and underestimate its importance³⁶. However, data collection is one of the general measures of implementation according of the CRC Committee³⁷ and it is relevant to quantify the and adequately respond to the full extent of discrimination against children with disabilities³⁸.

²⁵ CRC/GC/9/par.41 ; A/RES/64/142/par.3.

²⁶ A/RES/64/142/par.34 ; 38.

²⁷ A/RES/64/142/par.9.

²⁸ See: UNICEF (2013). *Take Us Seriously! Engaging Children with Disabilities in Decisions Affecting their Lives*, p.7.

²⁹ CRC/GC/9/para.37

³⁰ A/RES/64/142/par.34.

³¹ CRC/GC/9/para.47; A/RES/64/142.

³² A/RES/64/142/par.134.

³³ A/RES/64/142/par.34.

³⁴ See as example: Sammon, E. and Burchell, G. (2018). *Community-level Case Management Guidance to Support Family Care for Children with Disabilities*.

³⁵ CRPD, Article 13.

³⁶ CRC/GC/9/par.19

³⁷ CRC/GC/9/par.19

³⁸ CRPD/GC/6/par.34;71