



Legal Seat – Helsinki, Finland

WORLD FEDERATION OF THE DEAF

An International Non-Governmental Organisation in official liaison with ECOSOC, UNESCO, ILO, WHO and the Council of Europe. WFD was established in Rome in 1951.

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Committee on the Rights of Persons with Disabilities

Office of the High Commissioner on Human Rights

Geneva, Switzerland.

By email to: jaraya@ohchr.org

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Re: Draft Guidelines for periodic reporting to the Committee on the Rights of Persons with Disabilities (CRPD).

Introduction

The [World Federation of the Deaf](http://www.wfdeaf.org) (WFD) presents its compliments to the Committee and is pleased to provide the following comments on the *Draft Guidelines for periodic reporting to the Committee on the Rights of Persons with Disabilities (CRPD)* ('draft Guidelines').

WFD's main concerns are to ensure that the indicators used for Article 24 do not unduly downplay the role of specialist education in assisting deaf children achieve their potential. WFD strongly emphasises the right to bilingual education with quality content instruction (and assessment) in sign language. WFD is concerned that none of the proposed indicators appear to be in favour of any form of deaf bilingual education, except for that at paragraph 260. Indeed, the indicator in paragraph 234 contains a proposition that seeks to eliminate deaf schools in favour of inclusion and is of great concern to WFD.

WFD strongly advocates - as an urgent and high priority - for indicators for Article 24 which measure the right to bilingual education with quality content instruction (and assessment) in sign language in both mainstream and deaf schools, provided that the instructional quality in all educational contexts is either directly provided by qualified teachers of the deaf or qualified educational interpreters. Proposed amendments to the indicators are outlined below in the section dealing with Article 24.

Proposed additions and deletions are provided below in underline against the relevant paragraphs of the draft Guidelines. WFD also proposes a number of new or additional indicators, also highlighted in underline below.

Paragraph-specific comments

Article 1- Purpose

Para 5:

(S) Steps taken to eliminate the use of derogatory terminology and language concerning persons with disabilities [insert: 'including medical or charitable terminology'] and replace them with terminology and language in line with the Convention

Article 4 – General obligations

Paragraph 3

Consider an additional indicator:

(P) Number and names of organisations of persons with disabilities (disaggregated by impairment type) provided with funding support by the State party to assist advise on and monitor implementation of the Convention.

Article 9- Accessibility

Para 86. This indicator, as currently drafted, deals with two separate issues and also omits key elements of Art 9(1). It should be split into two as follows -

‘(S) Legislative and other measures adopted to guarantee to all persons with disabilities, regardless of impairment, access to inclusive, safe, affordable, sustainable and accessible transport (including among others taxi, air and sea transport) [consider inserting: and to buildings, roads, indoor and outdoor facilities, including schools, housing, medical facilities and workplaces] ;

(S) Legislative and other measures adopted to guarantee to all persons with disabilities, regardless of impairment, access to printed or electronic information and communication and other services including information and emergency services, to users in accessible and usable formats (including sign languages)’

Paragraph 2e

Para 97.

(P) Provide information on the forms of live assistance and intermediaries, including guides, readers and [insert: ‘qualified’] professional sign language interpreters, to facilitate accessibility to buildings, services and other facilities open to the public.

Article 11: Situations of risk and humanitarian emergencies

The indicators should take into consideration the recommendations of the Office of the High Commissioner for Human Rights (OHCHR) in its annual thematic study on the rights of persons with disabilities on 'Situations of Risk and Humanitarian Emergencies.'

*In particular, "the Committee highlights (in paragraph 7) the duty to ensure that all emergency-related information be made available in formats accessible to persons with different types of impairments, **including to deaf persons through sign language**. It also requires **disability-awareness training for all civil defence staff, rescue and emergency personnel, and for all potential actors involved in humanitarian emergencies, including on accessible communication**."*

The OHCHR also notes that **health and counselling services** following emergencies must also be accessible (Para: 32). Importantly it also recommends (Para: 56) that: **"Adequate and timely delivery of accessible information is crucial in times of emergency. The use of multiple and innovative means of communication can improve accessibility and help to ensure that no constituency of persons with disabilities is excluded throughout the different stages of the emergency response, including recovery and reconstruction. States, non-State actors and other humanitarian actors should ensure the effective management and dissemination of accessible information at all stages of response."**

To take into consideration these findings, recommended strengthening of indicators is as follows:

Para 111: Amend as follows:

(P) Measures taken to ensure the inclusiveness and accessibility of preparedness and disaster risk reduction measures and management strategies, needs-assessment, emergency evacuation procedures, early public warning systems, and recovery strategies and to guarantee that they reach all members of the community, including persons with disabilities, particularly persons who are deaf or hard of hearing or deafblind, and persons with ~~visual~~ vision impairments, and are developed in accessible formats and languages [insert: including sign languages].

Para 112: Amend as follows:

(P) Measures taken to optimise the use of mass media with the aim of providing [insert: adequate, accessible and timely] information on situations of risk and humanitarian emergencies, including emergency warning systems, to persons with disabilities, especially persons who are blind, deafblind, deaf and hard of hearing.

Para 113: Amend as follows:

(P) Measures taken to ensure the protection and safety of persons with disabilities in situations of risk, including among others, through the provision of the necessary assistive devices accessible shelters, relief and other services and facilities, social support and health services/treatment, trained rescue teams and accessible communication channels [insert: including qualified professional sign language interpreters].

Para 114:

(P) Measures taken to ensure that post-emergency rehabilitation, resettlement, reconstruction and rebuilding processes [insert: including health and counselling services following emergencies] are inclusive and accessible to persons with disabilities, ~~among others,~~ [insert: including] through the application of universal design principles.

Para 115: amend as follows:

(P) Measures to regularly and effectively train [insert: civil defence,] rescue and emergency personnel [insert: and other relevant humanitarian actors] ~~on the inclusion of an age and disability perspective~~ [insert: preparing and responding to persons with disabilities in emergency situations, including on accessible communication,] based on human rights.

Article 13- Access to Justice

Several proposed indicators for Article 13 contain an inaccuracy. There is no concept of 'reasonable accommodation' in Article 13, only 'accommodation' – ie a higher standard than usual. Address this as follows:

Paragraph 1

Para 125: The indicator at para 125 needs to be amended to address this inaccuracy as follows:

(P) Measures to ensure the availability of [delete: ~~reasonable~~] accommodation, including procedural accommodation, throughout legal processes to ensure the effective participation of all persons with disabilities in the justice system, whatever the role they find themselves in (for example, as victims, perpetrators, [insert: parties to legal action, judges, lawyers,] witness or member of jury).

Paragraph 2

Para 125: The indicator at Para 128 needs to be amended to address this inaccuracy as follows:

(P) Measures taken to ensure the effective training of personnel, including but not limited to lawyers, magistrates, judges, prison staff, sign language interpreters and the police, in the national justice and prison system, on the rights of persons with disabilities, inter alia, on respecting the right to a fair trial and the obligation to provide [delete: ~~reasonable~~] [insert: procedural and age appropriate] accommodation [add: 's'] for persons with disabilities.

Article 16: Freedom from exploitation, violence and abuse

Paragraph 2

Para 153: Many deaf people miss information about recognising and reporting abuse, and this needs more explicit measures to address. Proposed strengthened indicator:

(P) Measures to [insert: provide information in accessible formats including in sign languages] to inform and raise awareness among persons with disabilities on how to prevent, identify, report and seek support against violence, exploitation and abuse.

Article 17: Protecting the integrity of the person

Consider adding a **new indicator**, which deals with parental consent to surgical procedures for babies and children before they reach the age of legal consent.

WFD's intent here is to address situations where parents of deaf children and babies are making decisions about surgical procedures to 'fix' deafness, but are not given adequate information about what can realistically be achieved through surgical procedures, about deafness, deaf culture, sign language and linguistic rights by what is often only medical and surgical teams.

Deaf children do not acquire spoken language as easily as those who hear (even with the cochlear implants). Many later choose sign language but may not become proficient in it as late learners.

WFD's position is that deaf children should be exposed to bilingual forms of language learning (e.g. not only speaking but sign language as well) to maximise successful communication and language skills and future full participation in all facets of life. The proposed indicator for consideration is:

(P) Measures to ensure that parents and legal guardians of deaf babies and children have appropriate information prior to consenting to surgical procedures (e.g. cochlear implants) about the impact and effect, and to ensure the deaf child has access to sign language and the Deaf Community regardless of parental decision about any such procedures.

Article 21: Freedom of expression and opinion, and access to information

Para 204: This indicator omits some important details around sign language as required by the Article 21 and Art 2. It can be strengthened as follows:

(S) Legislative and other measures to ensure that persons with disabilities can exercise their right to freedom of expression and opinion on an equal basis with others [add: including by seeking, receiving and imparting information in the communication method or language of their choice (e.g. sign languages, and other forms of non spoken languages)].

Para 205: Article 21(e) requires not just recognition of, but the active promotion of sign language. This would include initiatives such as early learning of sign language by deaf children and families of deaf children. Suggest strengthening this indicator as follows:

(S) [Add: Constitutional,] Legislative and other measures adopted, including budget allocations, ~~to ensure the necessary number of quality official sign language interpreters and~~ to recognise and promote the use of sign language as [delete: 'the' substitute 'an'] official language [add: and to ensure the necessary number of qualified professional sign language interpreters and effective interpreter services].

WFD propose an **additional new Process indicator** to supplement the indicator in Para 205:

(P) What measures have been taken (including budgetary measures) to ensure sign languages can be learned, including free early sign language learning for deaf children and their families, teaching of sign languages in schools and places of education, in community settings and in the workplace?

Para 208: Many live broadcasts are repeated at a later time slot or made available on e.g. web platforms or DVDs without the relevant accessibility requirements that apply to live broadcasts. The indicators at Paras 208-210 should be amended to require strengthened practices. Proposed indicators are:

(O) Percentage of first-time (live) broadcasts (hours) that are subtitled on public service television channels ~~as well as~~ {add: and on} private channels, and of these - what percentage of repeat broadcasts, content made available on web platforms and made available on physical media (e.g. DVDs) are also subtitled.

Para 209: amend as follows:

(O) What percentage of first-time (live) broadcasts (hours) are provided with quality [add: professional] sign language interpretation on public service television channels ~~as well as~~ {add: and on} private channels, {add: and of these - what percentage of repeat broadcasts, content made available on web platforms and made available on physical media (e.g. DVDs) are also signed}.

Paras 208-209: Increasingly, material is webcast directly (not televised). Another key indicator here is the timeliness of subtitled web content; how soon after web broadcast is the content subtitled? Proposed **new indicator**:

(O) What proportion of live web broadcasts are captioned/subtitled within 24 hours?

Article 24: Education

WFD strongly emphasises the right to bilingual education with quality content instruction (and assessment) in sign language. WFD strongly advocates for indicators which measure this in both mainstream and deaf schools, provided that the instructional quality in all educational contexts is either directly provided by qualified teachers of the deaf or qualified educational interpreters. WFD is concerned that none of the proposed indicators appear to be in favour of any form of deaf bilingual education, except for that at paragraph 260. The indicator in paragraph 234 contains a proposition that seeks to eliminate deaf schools in favour of inclusion and is of particular concern to WFD.

Paragraph 1

Para 233: there is need to also identify early 'language' needs (language is defined in Art 2 to include sign languages). Proposed amendment to:

(P) Measures taken by the State party to ensure the early identification of persons with disabilities and their education and linguistic/communication needs.

Paras: 234 and 237: WFD is extremely concerned that these indicators as currently drafted appear to suggest that all specialist schools are inherently undesirable and should be gradually phased out or closed in favour of 'inclusive' mainstream schools. This is not the position of WFD and nor is it the view of millions of deaf people globally in respect of deaf schools which provide a locus for deaf cultural identity and language acquisition (CRPD Art 30). Nor does this reflect the "sensory exception" to inclusion in local schools that was written into the CRPD by State Parties in Art 24(3) (c). These indicators must not undermine the intent of Art 24(3)(c) which clearly recognises that ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development. This is not necessarily in a 'mainstream' classroom.

If these indicators are retained, then WFD considers it imperative to disaggregate by impairment type so we can clearly monitor which children are moving into mainstream schools and to track the longer term impact of this on educational outcomes. Proposed amendments are:

234 : (P) Measures to enable all children with disabilities to attend inclusive educational settings, namely to decrease the number of children with disabilities not attending school, [~~delete : attending segregated schools or~~] attending school on a part-time basis, or attending segregated schools [add : (other than specialist schools for blind, deaf, or deafblind children who choose to attend those schools as their preference)], and to increase the number of those attending mainstream primary and secondary schools.

237: Either **delete** this indicator entirely, or amend as requested: (P) Number and percentage of students with disabilities transferred from special schools to regular schools (disaggregated by impairment type).

WFD strongly urges inclusion of **three new (additional) indicators**:

(P) Number of students receiving direct instruction in sign language in all classes.

AND

(P) Number of schools which teach classes by direct instruction in sign language.

AND

(P) In respect of deaf students: Number of **schools** which provide instruction and assessment by trained bilingual teachers in sign language.

Para 235: "(P) Number and percentage of accessible schools." As currently drafted this indicator is overly broad and vague. E.g. does it mean simply having ramps to access classrooms? Some guidance would be useful. We submit that our proposed **new indicators** above will assist measure accessibility of schools for deaf students.

Para 238: For comparison and tracking of which environments are most conducive to educational outcomes of students with disabilities (Art 24(3)(c)) we request that this indicator also include statistics on the number progressing to secondary school from specialist schools as a comparator:

(O) Percentage and proportion of students with disabilities in [delete: ~~mainstream schools~~ and replace with: (a) mainstream schools and (b) specialist schools] that started basic education and obtained their final certification, and the percentage and proportion of students [add: in (a) mainstream schools and (b) specialist schools] admitted to secondary education.

Para 244: It is not clear what this indicator means or requires in practice. We submit that this indicator should be **deleted** as the subject is already adequately covered in the indicator at Para 233 (about assessing educational and language needs). If this indicator is nevertheless retained against our advice, we submit that it be amended as follows:

(P) Measures taken to discontinue assessments of persons with disabilities based on impairments to assign schools and instead carry out early identification of the support requirements of persons with disabilities for their effective participation in mainstream schools or schools of the student's/ family's choosing which use sign language/bilingual teaching.

Paragraph 2d

Para 255: amend to include extra words as follows:

(P) Information on the support measures that exist for persons with disabilities to exercise their right to education, including the use of a learning support assistant [add: or a sign language interpreter].

Paragraph 2e

Para 256: proposed amendment as follows:

(P) Measures to ensure that all persons with disabilities, in particular children, have access [add: (including language access)] to education in environments that maximize their academic, [add: cognitive, linguistic] and social development.

Paragraph 3a (Article 24)

Para 258: this indicator as currently drafted misses the intent of Art 24(3)(a) which is about measures a state must take to facilitate learning or skills that will stand a student in good stead to participate in learning (not simply providing access to materials in e.g. Braille or sign language without them having been learned). WFD strongly urges a redraft of this indicator as follows:

(P) Steps to facilitate ~~access to~~ learning of Braille, other alternative scripts, augmentative and alternative modes, diverse means and formats of communication [add: (including the learning of sign language)], learning of orientation and mobility skills, and [add: to facilitate] peer support and mentoring.

Para 259: WFD is very concerned that this indicator as currently drafted does not measure/ address the intent of Art 24(3) which is to recognise that certain categories of students with disabilities (e.g. deaf students) may wish to exercise freedom of choice to attend specialist schools that can provide the support, culture and environment for them to exercise their linguistic and cultural rights and to thrive. We *strongly* propose a review of this indicator to ensure it appropriately addresses the core issue of receiving instruction in appropriate modalities, and not duplicate issues already addressed under existing indicators for Paragraph 1. Proposed new indicator:

(P) Steps to ensure that persons facing communication barriers [add: (particularly those who are deaf)] ~~are not excluded from the general education system and that they~~ receive instruction in the appropriate languages [insert: including sign languages], modes and means of communication in environments which maximize their academic and social development.

As set out above, WFD proposes a new indicator which will strengthen monitoring of Art24(3)(c) as well. WFD strongly urges inclusion of **new (additional) indicators**:

(P) Number of students receiving direct instruction in sign language in all classes.

AND

(P) Number of schools which teach classes by direct instruction in sign language.

AND

(P) In respect of deaf students: Number of **schools** which provide instruction and assessment by trained bilingual teachers in sign language and number of deaf students receiving such instruction.

Paragraph 3b

Para 260: WFD **strongly welcomes** this indicator: (P) Steps to facilitate access to the learning of sign language, and promotion of the linguistic identity of the Deaf Community.

Paragraph 3c

Para 261: Amend this indicator for emphasis given Art 2 defines 'languages' as including sign languages:

(P) Steps taken to ensure that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual [add for emphasis: (including in sign languages)], and in environments which maximize academic and social development.

Paragraph 4

Para 262:

(S) Mandatory training policies and programmes for teachers and school personnel, both in the public and private sectors to support the development of inclusive education [add: and deaf bilingual education (including fully qualified teachers with professional qualifications in sign language)].

Para 263: WFD proposes to amend this indicator to have a clearer focus on individual learning instead of setting:

(P) Number and proportion of teachers trained in inclusive education [add: and deaf bilingual education]

WFD emphasises the need to incorporate deaf role models within schools (classroom aides, teachers, residential advisors, counsellors, coaches etc...). WFD wishes to propose two **new indicators** for Paragraph 4:

(O) Number and proportion of teachers with disabilities (disaggregated by impairment type) teaching in (a) specialist schools which use sign language and (b) in mainstream schools.

(O) In schools teaching deaf children, proportion of deaf staff employed as deaf role models (classroom aides, teachers, residential advisors, coaches, counsellors etc).

Paragraph 5

Para 265:

(S) [insert: Legislative and policy requirements in place for] reasonable accommodation ~~provisions~~ and other measures ~~in place~~ to ensure [add: persons with disabilities have effective] access to general tertiary education, vocational training, adult education and lifelong learning [delete education].

Para 266:

(P) Measures [insert: including budget allocations for the provision of reasonable accommodation] to ensure access to general tertiary education, vocational training, adult education and lifelong learning for persons with disabilities without discrimination and on an equal basis with others.

Proposed **new outcomes indicator** for Paragraph 5:

(O) Number and proportion of students with disabilities completing tertiary education, disaggregated by disability type and further disaggregated by students using sign language teachers and/or interpreters.

Article 25: Health

Paragraph 1a

Para 269: WFD proposes inclusion of an explicit reference to sign language in this indicator (per Article 2 definition):

(P) Legislative and other measures to ensure that general public health campaigns are accessible for persons with disabilities, in various formats and languages (including sign languages).

Proposed **new process indicator** for Paragraph 1a:

(P) Measures (including budgetary provision) to ensure that sign language interpreters are provided free of charge to deaf persons seeking medical assistance in public and private settings to ensure access to health care on an equal basis with others.

Paragraph 1f

Para 278: This indicator adds emphasis to conditions that are not contained in the CRPD. WFD recommend redrafting to either remove or minimise the importance of those health conditions and/or to make clear that these are not in fact 'impairments' as follows:

(P) Measures taken to prevent the discriminatory denial of health care (including for HIV/AIDS and malaria) on the basis of impairment. Particularly (including for HIV/AIDS and malaria).

Article 27: Work and employment

Para 294: amend as follows to ensure appropriate data is available on public sector employment of persons with disabilities

(O) Statistical data on the employment rates of persons with disabilities [insert: in the public sector and outside the public sector], disaggregated by sex, impairment, type of work and other relevant factors [insert comma: ,] compared to the [insert: corresponding] employment rates of men and women without disabilities.

Para 293: This indicator needs to be strengthened to more explicitly align with protections in CRPD Art (27(1) (a). Also many public sector rules require people to be of 'good health' which is used to discriminate and to exclude people with disabilities from public sector employment. Proposed amendment:

(S) Measures, including those of a legal nature, adopted to ensure protection against discrimination of persons with disabilities in all stages of employment [insert: including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions] [insert: including in public sector employment] and in any form of freely-chosen employment and to recognize the right of persons with disabilities to work on a basis of equality with others, in particular the right to equal pay for equal work.

Article 28: Adequate standard of living and social protection

Paragraph 1

Proposed new indicator to address the additional costs of disabilities:

(S) Measures to ensure that assistive devices are tax free and tax deductible for persons with disabilities.

Article 30: Participation in cultural life, recreation, leisure and sport

Paragraph 4

WFD strongly **welcomes** the indicator:

(S) Measures undertaken to recognize and support the specific cultural and linguistic deaf identity, including sign languages and deaf culture of persons with disabilities.

WFD proposes an additional **new indicator** to measure substantive progress on the right in Art 30(4) as follows:

(P) Measures to support the early learning of sign languages by deaf children, their parents, siblings and carers, and to provide broader community education in sign language.

Article 32: International Cooperation

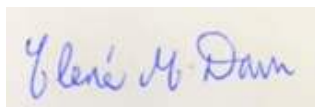
Para 368: It would be good to encourage States to report on working with DPOs at different levels as follows:

(P) Degree of participation of persons with disabilities through their representative organisations [insert: (at local, national, regional and global levels)], in the design, implementation, monitoring and evaluation of programmes and projects.

We trust that these detailed comments will be useful to the Committee in reviewing and strengthening the standard reporting guidelines.

Please do not hesitate to contact me regarding any clarification required to the above.

Yours sincerely,



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Colin Allen
President

About the World Federation of the Deaf

The World Federation of the Deaf (WFD) is an international non-governmental organisation representing and promoting approximately 70 million deaf people's human rights worldwide. The WFD is a federation of deaf organisations from 132 nations; its mission is to promote the human rights of deaf people and full, quality and equal access to all spheres of life, including self-determination, sign language, education, employment and community life. WFD has a consultative status in the United Nations and is a member of International Disability Alliance (IDA). (www.wfdeaf.org) Email: info@wfdeaf.org