

International Disability Alliance (IDA)

Disabled Peoples' International, Down Syndrome International,
International Federation of Hard of Hearing People, Inclusion International,
Rehabilitation International, 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, Pacific Disability Forum,
Red Latinoamericana de Organizaciones No Gubernamentales

IDA Submission to the Committee on the Rights of Persons with Disabilities Day of General Discussion on Accessibility- Article 9 CRPD, 7 October 2010

Articulating accessibility

Accessibility is a key element of the CRPD which aims to remove barriers and ensure access to and equal opportunities for the realisation of other rights, including education, employment, rehabilitation and health services and recreation.

Article 9 on accessibility requires that States Parties take appropriate measures to ensure access to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. Accessibility is a process linking information, transportation, the public domain and built environment. Accessible information and communications are the essential first steps in obtaining details about any service or facility. Transportation and public domains need to provide seamless accessible paths of travel to enable equitable access to the built environment and services. Services in the form of personal assistance, support persons or interpretation provide access to the exercise of rights and enhance independence and participation of persons with disabilities in all aspects of life.

In the CRPD, Article 9 is linked to all other provisions there inscribed, and acts both to ensure equal opportunities to the realisation of those rights as well as being a right in itself. Given the all encompassing nature and importance of this provision, IDA believes that a General Comment on Article 9 would be a welcome tool to assist in the understanding and scope of accessibility.

IDA Recommendation 1: IDA recommends that the CRPD Committee produces a General Comment on accessibility, Article 9 of the CRPD, to comprehensively address the scope of Article 9 and provide concrete guidance to States Parties on implementing the right. The process for drafting the General Comment should involve all relevant stakeholders, including representative organisations of persons with disabilities.

Accessibility for all

While welcoming the Committee's Day of General Discussion on accessibility, IDA would like to highlight that the day's programme and outline of discussion does not address all facets of the provision of accessibility as set out in Article 9 of the CRPD. Sessions 1 and 2 restrict discussion on accessibility to the physical environment and transportation, and virtual and material information and communications, thereby limiting debate to the built environment or communications, whereas Article 9 is formulated to complement every right inscribed in the CRPD. While physical accessibility and information accessibility may respond to the needs of particular communities of persons with disabilities, it cannot be purported to cover the diverse needs for accessibility of every person in the disability community. In addition, a particular focus should be made on the accessibility of information and services for children with disabilities.

Accessibility to services, as explicitly set out in the provision, should feature as an essential element to any comprehensive discussion on Article 9. Accessibility to services permits persons to effectively exercise and invoke their CRPD rights; this is a crucial part of the paradigm shift that moves from segregated to inclusive provision. For example, accessibility provided by the services of interpreters/personal assistants ensures the exercise on an equal basis with others of the right to legal capacity, right to education, right to employment, right to participation in political and public life, right to live in the community, right to health, right to adequate standard of living and social protection, freedom of expression, etc... Implicit in accessibility through services is accessibility of services, i.e. training service personnel whether it is personal assistants, judges, teachers, ICT designers, architects, transport staff, etc., on the needs of persons with disabilities and how they can be responsive to them. In addition, industry associations which are responsible for developing, implementing and monitoring standards must assume their role in ensuring that services are accessible to all persons with disabilities, and this must involve DPOs in the development, implementation and monitoring of standards.

IDA advocates that the scope and implementation of the right to accessibility remain broad, apply across all types of disability and allow for emerging standards in order to best respond to the lived realities of persons with disabilities.

As stated by the Special Rapporteur on Disability when commenting on the complexity and diversity within the disability movement itself and among the different types of disabilities, "[I]n many cases accessibility takes on a different meaning for people with different disabilities living in different geographical areas. This recognition of diversity has given rise to a richer culture within the disability movement, but it also requires that we monitor the equalisation of opportunities in different ways by applying a variety of methods and looking at it from different angles and dimensions."¹

¹ Report of the Special Rapporteur on Disability of the Commission for Social Development, Monitoring the implementation of the Standard Rules on the Equalisation of Opportunities for Persons with Disabilities [E/CN.5/2005/5]

IDA Recommendation 2: IDA recommends that the CRPD Committee's General Comment on accessibility calls on States to establish standards on accessibility which address the needs of all children and adults with disabilities and who will be included in a continuous consultative process in the development and monitoring of standards. These standards should not be restricted to measures related to the physical environment and information and communications technologies, but shall also encompass accessibility to services, and be incorporated into legislation. In addition, IDA recommends the CRPD Committee to call on stakeholders such as industry trade associations, IATA, ISO, ITU, IEC and other UN bodies to produce more accessibility related standards through the active participation of all relevant stakeholders, including organizations of persons with disabilities, and to increase vigilance in guaranteeing their application.

Accessibility legislation and standards

The first step to achieving accessibility is creating systemic accessibility standards and guidelines developed as appropriate to particular contexts (e.g. urban/rural, developing/developed countries). Systemic accessibility promotes individual autonomy and inclusion and participation of persons with disabilities in all activities on an equal basis with others, because there is no need for special negotiations and the provision of the accessibility measure can be automatic.

It is imperative that accessibility standards are concretised in the law and a national accessibility plan is established with concrete deadlines and budget allocation.

For accessibility legislation to be effective, the following elements need to be a part of it:

- a) Accessibility standards should be mandatory: Either legislated as law, or referred to by the law, and requiring infrastructure, services, communication, etc, to be accessible.
- b) Those aforementioned accessibility standards should be concrete, and translate accessibility into numbers and technical requirements that amount to accessibility (and not, as happens in some countries, talk about 'ramps that make it easy for persons with disabilities to enter buses' etc).
- c) The government should have a resort to sanctions against those who do not abide by accessibility standards.
- d) Persons with disabilities and organisations should have a resort to civil claims against violation of accessibility requirements.
- e) Accessibility is not only about ramps and elevators. Standards should address accommodations and technical requirements for all types of disabilities, for example people with psychosocial disabilities and people with intellectual disabilities.

- i. All accessibility legislation and standards should be formulated in ways that are responsive to the needs and concerns defined by people with psychosocial disabilities.
 - ii. Accessibility for people with intellectual disabilities should provide services to render materials understandable, possible accommodations where waiting on line is involved, training to service personnel in how to respond to their needs, regard for equity of access and more. Alternative forms of communication should also be acknowledged and encouraged for those persons who cannot read or speak.
- f) States should put into immediate effect legislation and standards requiring that new infrastructure, and all services, are accessible. Legislation should foresee that opening licenses shall not be granted to new infrastructure (transport, communication, buildings, etc.) which does not meet accessibility standards. In particular, States should take a leadership role in ensuring that state owned housing, public transport, and public service delivery, are rendered accessible.
- g) Legislation and standards must address existing infrastructure as well. Otherwise, with the entire infrastructure already in place, no meaningful accessibility will be achieved. In this case, gradual implementation is relevant and reasonable timeframes should be legislated for that. Although gradual implementation and a system of balances and exemptions could in some cases be relevant (as opposed to those of new infrastructure), time frames and any exceptions, should they be permissible, should be defined in close consultation with persons with disabilities through their representative organizations. These should be kept to the narrowest possible, and should be defined in close consultation with persons with disabilities through their representative organisations. Where gradual changes are agreed upon, this cannot inhibit the requirement of individual accommodation, and in some cases gradual changes or exceptions will never be permissible.
- h) Legislation must ensure that information and communication infrastructures and technologies, including emergency services and information (such as emergency phone calls and protocols), as well as information and materials are universally accessible to children and adults with different types of disabilities (through use of Braille, large print, plain language, visual information, audio information, TTY, assistive hearing devices such as inductive loop systems, etc). Technological developments should systematically have accessibility as one of its underlying criteria as well as the need to remove economic barriers of accessibility.
- i) Make accessibility a condition for public procurement and the receipt of public funding. For instance, any organisation providing cultural services (or similar) should only be able to obtain public funding if it is accessible or in the process of becoming accessible within an established timetable.

- j) Accessibility is also about linguistic accessibility in sign language: professional sign language interpreter services and provision of all information in a sign language and other accessible formats in all media. Accessibility must also respond to the diversity of cultural and linguistic groups, including indigenous and minority groups, to ensure that services, information and cultural materials are available in one's linguistic sign language.
- k) For projects funded by international cooperation, the responsibility to ensure accessibility shall lie both with the recipient country and with the donor.

IDA recommendation 3: IDA recommends that the CRPD Committee recognises that States which do not have adequate accessibility legislation and standards and a national accessibility plan with the requirements mentioned above would not be in compliance with Article 9. Accessibility legislation and standards and national accessibility plans must be developed with the involvement of DPOs which should also continue to participate in the review and monitoring of the plans. In particular, effective remedies must be available to DPOs, NHRIs and others to challenge the failure to implement standards which may be directed at private persons/companies, or public authorities responsible for accessibility breaches.

Accessibility, universal design and reasonable accommodation

IDA believes that further guidance provided in a General Comment on accessibility would be welcomed by all stakeholders to clarify how accessibility, universal design and reasonable accommodation interrelate. The General Comment should insist on the indivisibility of CRPD rights and the essential role of accessibility, reasonable accommodation and universal design in ensuring the availability of those rights in practice. For example, it would be untenable that all buildings are made accessible (Article 9) if the person wanting to use those facilities does not have a wheelchair to render them mobile (Article 20); or that a person who requires assistance in effecting day to day activities such as banking, signing contracts, taking decisions regarding one's health, etc (Article 12), has no personal assistant or support person to help them lead their lives in the community on an equal basis with others (Article 19).

Accessibility, reasonable accommodation and universal design should work towards removing discriminatory barriers and mainstreaming accessibility measures to the end of ensuring greater independence and full participation of all persons with disabilities in all aspects of life.

IDA recommendation 4: IDA recommends to the CRPD Committee to include in a General Comment on Article 9, comprehensive guidance on the interrelatedness of accessibility with reasonable accommodation and universal design, and their role in reinforcing all CRPD provisions, by leading discussions with all DPOs and stakeholders.

Access to information and cultural materials

Any restriction which impedes access to information including cultural materials by persons with disabilities, whether legal, technological or economic poses as a barrier and should be removed. For example, blind, partially sighted and print disabled people are entitled to read the same material on an equal basis with others, yet in practice only a small proportion of material published currently becomes available in accessible formats. Copyright restrictions which delay or prevent access to published material in an accessible format inhibit access to education, information and culture. The World Intellectual Property Organisation (WIPO) is currently discussing drafting an international treaty on copyright exceptions and limitations and cross-border movement of copies of works made under exceptions to ensure accessible formats to the visually impaired. Accessible formats should be made available to respond to the needs of every group of persons with disabilities in order to support their full and effective participation in society on an equal basis with others and to ensure the opportunity to develop and utilise their creative, artistic and intellectual potential. In particular, the UN should play a leading role in ensuring that resources available in meetings and on its websites are available in accessible formats (e.g. the UN should review its policy of posting virtually all documents in PDF form on its websites which is inaccessible for persons with visual impairments and its failure to provide documents in Braille during its meetings).

IDA Recommendation 5: IDA recommends that the CRPD Committee supports current efforts by WIPO to establish an international instrument on exceptions and limitations to intellectual property laws to ensure full and equal access to information and cultural materials for blind persons and persons with visual impairments. The CRPD Committee should also call on WIPO to further explore extending those exceptions and limitations to allow for accessible formats for other groups of persons with disabilities, for example easy to read versions for people with intellectual disabilities. Furthermore, the CRPD Committee should call on all UN bodies to ensure that all resources are available in accessible formats on its websites and at meetings.

Annex: IDA Recommendations to the CRPD Committee

Day of General Discussion on accessibility, 7 October 2010

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