International Disability Alliance (IDA)
Member Organisations:
Disabled Peoples' International, Down Syndrome International, Inclusion International,
International Federation of Hard of Hearing People,
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,
Red Latinoamericana de Organizaciones no Gubernamentales de Personas con
Discapacidad y sus familias (RIADIS), Pacific Disability Forum

Suggestions for disability-relevant questions to be included in the
List of Issues for Country report task force
Human Rights Committee, 105th Session

The International Disability Alliance (IDA) has prepared the following suggestions for the list of issues, based on references to persons with disabilities to be found in the State report, and treaty body concluding observations (see annex).

HAITI


No state report submitted.

IDA proposed questions for the List of Issues:

• What steps are being taken to accede to the CRPD and its Optional Protocol?

Articles 3 and 7
• In the context of combating domestic violence, what steps have been taken to address the heightened risk for girls and women with disabilities of becoming victims of domestic violence and abuse? What measures are being adopted to ensure that both services (including shelters) and information for victims are made accessible to women and girls with disabilities?

Articles 2, 7, 10 and 26
• What measures are in place to ensure that all health care and services provided to persons with disabilities, including all mental health care and services, are based on the free and informed consent of the person concerned (and cannot be substituted by third party decision-makers such as family members or guardians)?

1 "Legislation authorizing the institutionalization of persons with disabilities on the grounds of their disability without their free and informed consent must be abolished. This must include the repeal of provisions authorizing institutionalization of persons with disabilities for their care and treatment without their free and informed consent, as well as provisions authorizing the preventive detention of persons with disabilities on grounds such as the likelihood of them posing a danger to themselves or others, in all cases in which such grounds of care, treatment and public security are linked in legislation to an apparent or diagnosed mental illness." (OHCHR Thematic Study on enhancing awareness and understanding of the CRPD, A/HRC/10/48, 26 January 2009, para 49; see also OHCHR Information note no 4, "The existence of a
• What measures are taken to ensure the inclusion of persons with disabilities in the implementation of policies and programs on disaster preparedness, response to natural disasters and at time of risk and emergency, and reconstruction? What steps have been taken to ensure a rights based approach and training in humanitarian and reconstruction projects?

Article 16
• What laws and policies are in place to ensure that persons with disabilities enjoy legal capacity on an equal basis with others in accordance with Article 16 ICCPR and as elaborated in Article 12 CRPD?

Articles 25 & 26
• What steps are being taken to repeal Articles 22 and 160 of the Electoral Law, which exclude from the right to vote persons whose legal capacity has been restricted or removed,\(^2\) and persons suffering from “severe mental incapacity”,\(^3\) which in violation of Article 25, ICCPR and Article 29, CRPD which comprises the latest international standards with respect to the right of participation of persons with disabilities in political and public life?\(^4\)

ANNEX – relevant recommendations made by special procedures mandate holders with respect to Haiti:


9. One year after the earthquake of 12 January 2010, which destroyed Port-au-Prince, Jacmel and other Haitian towns, the impact on the human rights of Haitians is still keenly felt throughout the country. Although it is inaccurate and counterproductive to claim, as many did on the first anniversary of the disaster, that little has been done or that there has been no progress with reconstruction work, the Independent Expert is nonetheless concerned by the plight of internally displaced persons, the incidents of violence against women and children and the lack of consideration for persons with disabilities.

15. In any crisis situation, violations of human rights take place and threats are very real, or are even accentuated, especially for people with special needs, such as internally displaced persons, women, children, older persons and persons with disabilities. Consequently, in the various phases of emergencies and rehabilitation and development processes, a rights-based approach must be promoted and followed. In applying that approach, each victim of a crisis requiring a humanitarian response must be seen as the holder of rights that the State must guarantee, and not merely as the recipient of humanitarian assistance. The disability can in no case justify a deprivation of liberty.”

\(^2\) Article 22 of the Electoral Law (1978, last amended 2008) states, “Every Haitian who satisfies the following conditions possesses the status of elector...d) Is in full possession of civil and political rights.”

\(^3\) Article 160 of the Electoral Law (1978, last amended 2008) states, “Incapacity cannot be cited as a reason for depriving a citizen from his right to vote. Only a citizen suffering from severe mental incapacity loses his right to vote.”

\(^4\) This is confirmed in OHCHR thematic study on participation in political and public life by persons with disabilities which explicitly states that there is no reasonable restriction nor exclusion permitted regarding the right to political participation of persons with disabilities, A/HRC/19/36, 21 December 2011.
Independent Expert recommends that specific rights-based training be provided, in particular to humanitarian aid workers.

D. Persons with disabilities

34. Following the earthquake of 12 January 2010, the Independent Expert turned his attention to the situation of persons with disabilities. In the course of his missions, he has visited camps that are accessible to persons with disabilities and met several representatives of NGOs actively involved in this area in Haiti, as well as the Secretary of State for the Integration of Persons with Disabilities.

35. In the wake of the earthquake, more than 4,000 severely injured people who had to undergo emergency operations and amputations were left with disabilities or were fitted with artificial limbs. More than one year on from the earthquake, specialized NGOs estimate that around 100 people will have to undergo an operation or an additional examination in order to have permanent artificial limbs fitted. Moreover, more than 100 people with spinal cord injuries who are in or are about to return to Haiti will require constant, specialized care. Isolated and often marginalized, they will need rehabilitative care and assistance and, in some cases, will have to be referred to medical centres that are equipped to assess and supply their needs in terms of technical aids and essential items. Although some humanitarian associations have done remarkable work, some of these people with spinal cord injuries could die because of a lack of proper care.

36. In the framework of reconstruction, measures ought to be taken to ensure that buildings, especially those open to the public, are made accessible to persons with disabilities. At meetings with donors, the Independent Expert was sometimes left with the impression that this concern was not necessarily considered a priority; yet, the need to rebuild Port-au-Prince presents a unique opportunity to demonstrate that the discrimination suffered by persons with disabilities is a thing of the past.

79. With regard to persons with illnesses or disabilities, the Independent Expert recommends that the following measures be taken:
(a) Specialized care should be provided for people with spinal cord injuries who are in or are about to return to Haiti;
(b) Buildings, especially those open to the public, should be made accessible to persons with disabilities;
(c) Action should be taken to put a stop to lynchings of cholera victims and people accused of witchcraft, by launching investigations and bringing the perpetrators to justice.

86. With regard to the involvement of civil society in reconstruction, the Independent Expert recommends that the following measures be taken:
(a) Specific rights-based training, in particular for humanitarian aid workers, should be provided;
(b) Training workshops on monitoring the application of a rights-based approach to reconstruction should be organized with the help of MINUSTAH and the involvement of Haitian or international experts;
(c) Reconstruction projects and, in particular, the application of the rights-based approach, should be subject to public oversight;
(d) Civil society, especially organizations dealing with vulnerable persons such as women, children and persons with disabilities, should be involved systematically in the rebuilding of the country;

25. Owing to their vulnerability certain population groups come under particular threat during humanitarian crises or major upheavals and therefore require even greater attention to be paid to their protection needs. The persons concerned are mostly women, children, the elderly, persons with disabilities, and persons who have suffered trauma or serious injury or have lost a limb.

34. Before the earthquake Haiti already had 800,000 persons with disabilities, i.e. a tenth of the country’s population; today, the proportion of persons who have lost a limb or have become paraplegic or tetraplegic will have exploded as a result of the earthquake and its aftershocks. According to Michel Péan, Secretary of State for the Integration of Persons with Disabilities, more than 5,000 persons have acquired disabilities as a result of injuries caused by the earthquake. The Committee on the Rights of Persons with Disabilities has pointed out that, under the Convention on the Rights of Persons with Disabilities, States should take all necessary measures to ensure the safety and protection of persons with disabilities in situations of risk and disasters such as earthquakes. Local NGOs working in this field have repeatedly pointed to the difficulties resulting from the scant attention paid to disability, as is unfortunately the case in many countries, as well as to extreme poverty, which is even more widespread among persons who find it difficult to work. The international community is now confronted with a sharp increase in the number of persons with disabilities as a result of the injuries and loss of limbs caused by the earthquake. At the beginning of February, Handicap International estimated that a minimum of 1,000 prosthetic lower limbs would have to be produced for the many persons who suffered amputation following the earthquake in early January. Haiti’s main source of prosthetic devices before the disaster (Healing Hands for Haiti) was largely destroyed, rendering international assistance with the provision of prosthetic and orthotic devices all the more necessary.

91. With regard to displaced persons and the strengthening of the measures for their protection, relocation and rehabilitation the independent expert recommends that:
(d) Particular attention should be given to the relocation of persons with disabilities and persons who lost limbs during the earthquake, especially with regard to the health requirements occasioned by their physical or mental condition;

94. With respect to persons with disabilities the independent expert recommends that:
(a) The General Guidelines for the protection and inclusion of injured persons and people with disabilities issued by Handicap International should be publicized widely and used to better effect;
(b) Particular attention should be given to the protection and security of persons with disabilities;
(c) The local branches of the Office of the Ombudsman should be commissioned to investigate possible infringements of the rights of persons with disabilities.

98. The independent expert stresses the importance to be accorded to human rights in the context of the reconstruction effort and recommends that:
(i) Particular attention should be given to the most vulnerable groups: women, children, persons with disabilities;

Annex Report of the independent expert on the situation of human rights in Haiti, Michel Forst, on his visit to Haiti (21 April to 1 May 2010), A/HRC/14/44/Add.1

D. Persons with disabilities
30. The independent expert singled out persons with disabilities from among the most vulnerable groups; a large number of people have in fact undergone operations and had a
limb or the extremity of a limb amputated, while others have been rendered paraplegic or
tetraplegic by the earthquake. The figures are difficult to establish with accuracy, but the
organizations working in the field estimate that they have taken more than 4,000 persons into
their care. The fitting of prosthetic and orthotic devices by the humanitarian organizations is
of a very high standard and is enabling many amputees to cope better with their disability.

31. Nevertheless, there is a very big demand for treatment and follow-up care; the
independent expert recommends that resources should be allocated to ensure the
continuation for as long as necessary of the treatment and care needed by persons with
disabilities. He further recommends that, as part of the reconstruction, authentic policy
measures should be put in place to facilitate the integration and participation of persons with
disabilities and to counter the exclusion which they suffer. The Secretary of State for the
Integration of Persons with Disabilities should receive broad support for his initiatives to
realize the rights of these persons and he should be invited to attend the sectoral meetings
organized by MINUSTAH.

49. The independent expert further recommends that:
(c) Resources should be allocated to ensure that medical care is provided for persons
with disabilities for as long as necessary;
(d) Haiti’s Secretary of State for the Integration of Persons with Disabilities should attend
the meetings on the protection of such persons and he should be given effective support in
his initiatives to secure realization of their rights;

50. As already stated in his report, the independent expert recommends that:
(b) Genuine policy measures should be introduced to facilitate the integration and
participation of persons with disabilities and to counter their exclusion.