International Disability Alliance (IDA)

Member Organisations:

Down Syndrome International, Inclusion International, International Federation for Spina Bifida and Hydrocephalus, 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, African Disability Forum, ASEAN Disability Forum, European Disability Forum, Red Latinoamericana de Organizaciones no Gubernamentales de Personas con Discapacidad y sus familias (RIADIS), Pacific Disability Forum

IDA Statement for the Day of General Discussion on the CAT Committee’s draft General Comment No. 1 (2017) on the implementation of article 3 of the Convention in the context of article 22

IDA welcomes this opportunity to intervene in this discussion.

We argue that the risk of forced institutionalisation faced by persons with disabilities, which entails the risk of being subjected to torture and ill-treatment, should be explicitly considered when providing guidance for the application of Article 3 of the Convention against Torture.

**Forced Institutionalisation** of persons with disabilities, particularly those with psychosocial or intellectual disabilities, continues to be a persistent and widespread practice that lead to very serious human rights violations, including torture and ill-treatment. In many occasions, forced institutionalisation **is still authorised by national law in different ways**, including through deprivation of legal capacity and decision of a guardian, despite all being contrary to international human rights standards, most notably those under the Convention on the Rights of Persons with Disabilities, as developed by the CRPD Committee.

Furthermore, the lack of implementation of **Article 19 of the CRPD (the right to live independently and be included in the community)**, including lack of support services and accessible housing options for persons with disabilities, provokes that institutionalisation is seen as the only option for persons with disabilities to be able to access some kind of support, being thus coerced.

Under institutional care, and even legitimised by national legislation,persons with disabilities are very frequently subjected to prolonged and indefinite deprivation of liberty, forced medical and psychiatric treatments and interventions, including electroconvulsive treatment (ECT), isolation, physical and chemical restraints, **forced sterilizations and forced abortions**. These acts may amount to torture or ill-treatment, according to different UN Mechanisms, including the former Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The lack of clarity of the definitional threshold and the overlap between the obligation to prevent ill-treatment and to prevent torture call for strongly ensuring the non-refoulement of persons with disabilities who face a clear risk of for forced institutionalisation. This is so as many of the harmful practices to which persons with disabilities are typically subjected in institutions are undoubtedly considered ill-treatment and, as generally considered for now, might amount to torture.

In this sense, we would encourage the CAT Committee to consider explicitly suggest the application of the principle of non-refoulement when

1) legislation of the State of deportation allows for forced institutionalisation of persons with disabilities, which entails risk of torture and ill-treatment; and/or

2) there are no support services to ensure the right to live independently and be included in the community in the State of deportation, making institutionalisation the only option available (and thus coerced).

Thank you very much for your attention,

reatment or punishment;