# IDA submission on the CRC Committee’s draft general comment 25 on children’s rights in relation to the digital environment

## INTRODUCTION

1. The International Disability Alliance (IDA) is a unique, international network of eight global and six regional organisations of persons with disabilities (OPDs). Each IDA member represents a large number of national OPDs, covering the whole range of disability constituencies. IDA thus represents the collective global voice of persons with disabilities counting among the more than 1 billion persons with disabilities worldwide, the world’s largest –and most frequently overlooked– minority group. IDA’s mission is to advance the human rights of persons with disabilities as a united voice of OPDs utilising the Convention on the Rights of Persons with Disabilities (CRPD) and other human rights instruments.
2. IDA welcomes the initiative by the Committee on the Rights of the Child (*hereinafter* “the Committee”) to call for comments to its draft general comment 25 on children’s rights in relation to the digital environment. Further, IDA highly appreciates section IX (paras. 96 to 100) that addresses very relevant issues on children with disabilities in relation to the digital environment. While the process towards this draft began years ago, the COVID19 pandemic and its response measures came to remind all stakeholders how pressing it is to address this topic, especially to prevent the creation of new barriers to and exclusions of children with disabilities.

1. This IDA’s submission addresses key issues and makes concrete suggestions to the text to enhance the draft general comment, based on the Convention on the Rights of Persons with Disabilities (*hereinafter* “the CRPD”) and the jurisprudence of the Committee on the Rights of Persons with Disabilities (*hereinafter* “the CRPD Committee”). In doing so, IDA suggests the incorporation of key legal concepts on the rights of children with disabilities and additional references to them throughout the document.

## ACCESS OF PERSONS WITH DISABILITIES TO AND ACCESSIBILITY OF THE DIGITAL ENVIRONMENT

1. The lack of access to and accessibility of the digital environment are the main barriers for children with disabilities to participate therein. Persons with disabilities generally have a lower access to the digital environment. Available data indicates that while 36% of other persons have access to the Internet, only 19% of persons with disabilities do.[[1]](#endnote-1) Other data on 3 Sub-Saharan countries show that only 8% of households with persons with disabilities can afford access to the Internet; being doubled by other households.[[2]](#endnote-2) Furthermore, households with persons with disabilities are also less likely to own a mobile phone.[[3]](#endnote-3) These situations are due to the lack of affordability and of accessibility for persons with disabilities of technologies and services.
2. Accessibility is a basic precondition for the exercise of rights by persons with disabilities, including to participate fully and equally in society.[[4]](#endnote-4) Article 9 of the CRPD requires States to “ensure to persons with disabilities access, on an equal basis with others, […] to information and communications, including information and communications technologies and systems…”. In this context, it must be clear that “**that ICTs [Information and Communications Technologies] is an umbrella term that includes any information and communication device or application and its content**.”[[5]](#endnote-5) In particular, “access to information and communication is a precondition for freedom of opinion and expression of persons with disabilities.[[6]](#endnote-6) The digital environment offers children with disabilities great opportunities for expression, access to information and social interaction,[[7]](#endnote-7) provided accessibility is ensured.
3. The CRC Committee very well addresses these issues in paragraphs 96, *in fine* (“barriers”), 97, 98 and 99 (second sentence). Yet, the references in the area of **accessibility** remain somehow general and can be strengthened based on two main points. Firstly, it should be clearly stated that State measures should aim at preventing the creation of new barriers (e.g. through inappropriate design of websites) and removing existing barriers of any kind.
4. Secondly, persons with disabilities from different constituencies have different accessibility requirements, regarding ICTs. For instance, blind persons require websites to be compatible with screen readers; deaf persons require information to be available in sign language; persons with intellectual disability require Easy to Read formats; hard of hearing persons require subtitles in videos and captioning in live conferences, etc. While the references to “universal design requirements” and “universal accessibility” in paras. 97 to 99 would cover the different format and means for the reader trained on disability, others may overlook several ones resulting in exclusion of specific groups of persons with disabilities.
5. Based on the previous paragraphs, IDA proposes these amendments to the text in bold letter:

Para. 96: “States should pursue these new avenues and also **~~take steps to overcome barriers faced~~** **adopt measures to ensure preventing the creation of new barriers for children with disabilities and removing existing ones ~~by~~** **~~children~~** in relation to the digital environment.”

Para. 97: “Further, many **ICTs, including devices,** websites, applications, games and other digital services fail to meet universal design requirements to ensure accessibility.”

To avoid repetition, the last sentence of current para. 99 should replace the last sentence of para. 98. It should also be completed by a sentence providing concrete examples, as follows:

Para. 98: “…digital technology. **~~They should also ensure that technologies are designed for universal accessibility so that they can be used by all children without exception~~**. States should ensure that technologies **(devices, application and contents)** are designed for universal accessibility […]. **Measures should require, for instance, compatibility with screen-readers and audio-description for blind children, information in sign language for deaf children, Easy-to-Read formats for children with intellectual disabilities, text description for deaf and hard of hearing children, among others.”**

1. IDA also proposes related amendments in the following paragraphs where it would be key to consider explicitly children with disabilities to achieve greater impact in practice:

Para. 39: “…regulatory frameworks, industry codes and terms of services that adhere to the highest standards of ethics, privacy**,** **~~and~~** safety, **accessibility for children with disabilities and inclusion and respect for diversity**­**~~,~~** into the design, engineering, development, …”

Para. 53: “…States should **adopt regulations to ensure that content produced for all children is made accessible to children with disabilities as well as ~~make particular efforts~~** to enhance the provision, from early childhood, of diverse, accessible and beneficial content **specific** for children with disabilities …”

## REASONABLE ACCOMMODATION TO PREVENT DISABILITY BASED DISCRIMINATION AND ADDRESS GENERAL ACCESSIBILITY DEFICITS

1. According to Article 2 of the CRPD, discrimination on the basis of disability includes denial of reasonable accommodation. That article also defines “reasonable accommodation” as the “necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.”[[8]](#endnote-8) As part of non-discrimination obligations,[[9]](#endnote-9) the duty to provide reasonable accommodation is of immediate realisation.[[10]](#endnote-10)
2. Importantly, reasonable accommodation “can be used as a means of ensuring accessibility for an individual with a disability in a particular situation.”[[11]](#endnote-11) Thus, it is a legal tool to prevent disability-based discrimination in particular cases where accessibility standards are not complied with or when, even complying with accessibility standards, individual requirements remain not met and thus the person is excluded. In this way, “reasonable accommodation” can operate as a complement of accessibility to prevent exclusion from policies implemented through the digital environment, whichever the accessibility deficit might be (inaccessible website, lack of sign language interpretation, etc.).
3. This Committee has reflected “reasonable accommodation” in its jurisprudence.[[12]](#endnote-12) However, the draft general comment does not. IDA thus proposes the following amendments in bold letter:

Para. 12: “Specific groups of children may require particular measures to prevent discrimination on the grounds of sex, **disability (including denial of reasonable accommodation)**, […] and migrant children, **children with disabilities,** …”

Add the following paragraph after current paragraph 98: “**Accessibility standards might not cater for the individual needs of all persons with disabilities, whether properly implemented or not. States must ensure the provision of reasonable accommodation to address individual requirements, in order to prevent disability-based discrimination excluding children with disabilities from a policy implemented through the digital environment or from content available in the digital environment.**”

## PARTICIPATION OF CHILDREN WITH DISABILITIES IN THE PUBLIC SPHERE AND IN PUBLIC DECISION MAKING AND ADVOCACY

1. IDA welcomes this Committee’s emphasis on the right of children to be heard (paras. 18 and 19). This is consistent with Article 4(3) of the CRPD and the CRPD General comment no. 7.[[13]](#endnote-13) Given that children with disabilities face exclusion from mainstream environments for children, e.g. schools, recreation centres, clubs, etc., the avenue opened by the digital environment becomes very important and the requirements for children with disabilities should be explicitly mentioned not to be overlooked.
2. In this sense, accessibility of the digital environment (addressed above) allows children with disabilities to access information, interact with their peers and to express their opinions and advocate for their rights. More specifically, when undertaking online consultation with all children, States should ensure “accessible digital formats and reasonable accommodation when required, such as the provision of sign language interpreters, Easy Read text and plain language, Braille and tactile communication,”[[14]](#endnote-14) without additional cost, to allow children with disabilities to fully engage on equal basis with other children.
3. Thus, IDA proposes the amendments below:

Para 18: “… children who lack access to technology, **and of children with disabilities who might be prevented to participate due to inaccessible digital tools and lack of reasonable accommodation**.”

Para. 96: “… access information, **~~and~~** participate in public decision-making processes, **and actively engage in the promotion and advocacy for their rights.”**

Para. 99: Children with disabilities should be involved through **accessible and inclusive means** in the design and delivery of …”. Suggestion to add to the end of the paragraph: “**States should support the development of organizations and initiatives of children and young persons with disabilities and their active engagement through the digital environment, as well as to promote that adults adopt a positive and supportive role.”**

## COMBATTING STEREOTYPES AND PREVENTING AND SANCTIONING VIOLENCE, ABUSE AND HARMFUL PRACTICES AGAINST CHILDREN WITH DISABILITIES

1. As it happens in society and in traditional media, negative stereotyping about persons with disabilities, based on ableist views, populate the content available in the digital environment. In line with CRPD article 8, States should encourage organs of the media, including online content producers, to portray children with disabilities consistently with the human rights based approach to disability and their rights under the CRPD, by e.g. drafting principles to promote diversity and combat disability-based discrimination online.[[15]](#endnote-15) Public campaigns should prioritise providing information about rights to children with disabilities and their families.[[16]](#endnote-16)
2. IDA welcomes paragraph 100 of the draft, as research suggests that children with disabilities face heightened risks of becoming victims of cyberbullying, grooming and other harmful, violent and abusive practices online.[[17]](#endnote-17) Yet, references to **complaint mechanisms and access to justice are essential to complete the paragraph** with States duties to provide for reparation and sanction of perpetrators. In this regard, Article 13(1) of the CRPD requires States to provide persons with disabilities with “procedural and age-appropriate accommodations,[[18]](#endnote-18) which distinguishing from “reasonable accommodation,” are not subjected to a proportionality test.[[19]](#endnote-19)
3. Thus, IDA proposes the following amendments:

Para. 26: “…including resource materials translated into relevant minority languages, **and in accessible formats for children with disabilities.**”

Para. 33: “how to minimize risks and how to recognize a child victim of online harm and respond appropriately, **and how children with disabilities might be particularly at risk and impacted.**”

Para. 55:

“…implement guidelines **to combat negative stereotyping of children with disabilities** **and** to enable children safely…”

Para. 45: Add **“Children with disabilities must be provided with procedural and age-appropriate accommodation, if they require, in order to access justice”.**

Para. 100: “… and forums relating to the digital environment **~~forums~~** should be provided in accessible formats. **In particular, awareness raising measures should inform children with disabilities about their rights and help them identify the harmful practices they might be subjected to.** **Complaint mechanisms and remedies should be available and accessible to children with disabilities autonomously, and age-appropriate and procedural accommodation should be provided to children with disabilities seeking to access justice.”**

## SUPPORT TO PARENTS OF CHILDREN WITH DISABILITIES: PREVENTING OVERPROTECTION, SUPPORTING EMERGING AUTONOMY

1. Children with disabilities suffer negative stereotyping and prejudice by society which considers them as “uneducable”, “incapable”, etc, in contrast with other children. Lack of awareness of and support to parents of children with disabilities might result in extreme overprotection, if not neglect, concealment, segregation and/or abandonment. For instance, parents of deaf children might struggle to support their child development without information and training in sign language.
2. In line with current paragraph 22 of the draft, Article 23(3) of the CRPD requires States to provide early comprehensive information, services and support to families of children with disabilities. Support services are essential for parents to be able to comply with their parental responsibilities, striking the appropriate balance between protecting their child and supporting the development of their autonomy in respect of their privacy. In this line, IDA proposes the following amendments in bold letter:

Para 21: “activity; **the negative stereotyping and prejudice faced by children with disabilities;** the nature…”

Para. 22: “privacy; **including specific support services to enable parents of children with disabilities to do so, preventing overprotection, concealment, neglect and abandonment**. They…”

## INCLUSIVE EDUCATION: DIGITAL TOOLS, ACCESSIBILITY, REASONABLE ACCOMMODATION AND PROVISION OF SUPPORT

1. While children with disabilities already faced great levels of exclusion from and in education,[[20]](#endnote-20) the COVID-19 pandemic’s impact on education systems and the turn to online instruction has only worsened the situation by creating new challenges and barriers for children with disabilities to access and participate in quality inclusive education on equal basis with their peers. This negative impact might be worse on girls with disabilities, due to stereotyping around both disability and gender.[[21]](#endnote-21) Inaccessible online tools and materials, losing the human support and assistance and difficulties of parents to be able to support their children with disabilities, are among the main problems they face. In addition, they may face increased difficulties in returning to school and in catching up.[[22]](#endnote-22)
2. The draft general comment constitutes an opportunity to address these concerns, including by suggesting positive practices that make use of digital technology to support the inclusion of children with disabilities in online learning.[[23]](#endnote-23) In particular, this Committee should stress that children with disabilities should be provided with support measures and reasonable accommodation in the context of education policies that rely on the digital environment. In this direction, IDA proposes the following amendments in bold letter:

Para. 107: “… enable and enhance children’s access to quality **inclusive** education, …”

Para. 109: “… understand **and accessible formats for children with disabilities**.”

Para. 110: “provide parents with guidance on online home schooling and learning environments, **including on accessible formats and on strategies for supporting their children with disabilities, as well as to provide individualised support directly to children with disabilities to ensure their inclusive education.**”

## DATA COLLECTION AND RESEARCH INCLUSIVE OF CHILDREN WITH DISABILITIES

1. Article 31 of the CRPD (Statistics and data collection) requires States “to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect” to the Convention. This includes data disaggregation by disability (Article 31, paragraph 2). The CRPD Committee has systematically suggested the use of the methodology of the Washington Group on Disability Statistics,[[24]](#endnote-24) which proposes different tools.
2. Given that children with disabilities are frequently overlook and considering the technical complexities involved in data disaggregation, IDA proposes to emphasize on children with disabilities, as follows:

Para 31: “…in the public domain. **Data collection and research efforts should be designed to cover children with disabilities, to ensure disaggregation by disability and to monitor compliance with accessibility for children with disabilities in the digital environment.** “

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1. UNDESA [*Disability and Development Report Realizing the Sustainable Development Goals by, for and with persons with disabilities*](https://social.un.org/publications/UN-Flagship-Report-Disability-Final.pdf) (2018), p. 173 (data on 14 countries). [↑](#endnote-ref-1)
2. Idem., p. 176. [↑](#endnote-ref-2)
3. Idem., p. 179 (data on 36 countries). [↑](#endnote-ref-3)
4. [CRPD/C/GC/2](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2&Lang=en), para. 1 [↑](#endnote-ref-4)
5. See [CRPD/C/GC/2](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2&Lang=en), para. 5 (emphasis added). [↑](#endnote-ref-5)
6. [CRPD/C/GC/2](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2&Lang=en), para. 1 [↑](#endnote-ref-6)
7. UNICEF - [*The State of the World’s Children — Children in a Digital World*](http://www.unicef.org/media/48581/file/SOWC_2017_ENG.pdf)(2017) [↑](#endnote-ref-7)
8. CRPD Committee, General comment No. 6 (2018) on equality and nondiscrimination (26 April 2018) CRPD/C/GC/6, paras. 25 and 26. [↑](#endnote-ref-8)
9. See Article 5(3) of the CRPD. [↑](#endnote-ref-9)
10. [CRPD/C/GC/6](http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsnbHatvuFkZ%2bt93Y3D%2baa2qtJucAYDOCLUtyUf%2brfiOZckKbzS%2bBsQ%2bHx1IyvGh6ORVZnM4LEiy7ws5V4MM8VC4khDIZJSuxotVqfulsdtPv), paras. 12 and 23. [↑](#endnote-ref-10)
11. [CRPD/C/GC/2](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/2&Lang=en), para. 26. [↑](#endnote-ref-11)
12. See e.g., CRC/C/GC/14, section 1(a) and 1(e); CRC/C/GC/17, section VIII(d); CRC/C/GIN/CO/3-6, para. 33; CRC/C/MLT/CO/3-6, para. 31(d) and CRC/C/KOR/CO/5-6, para. 48(c). [↑](#endnote-ref-12)
13. See CRPD/C/GC/7, para. 12(f) highlighting the role of “Organizations and initiatives of children and young persons with disabilities, which are fundamental for the participation of children in public and community life and for their right to be heard and their freedom of expression and association. Adults have a key and supportive role to play in promoting an environment that enables children and young persons with disabilities to establish and act, formally or informally, within their own organizations and initiatives, including through cooperation with adults and other children and young persons.” [↑](#endnote-ref-13)
14. CRPD/C/GC/7, paras. 22, 45, 77 and 84. [↑](#endnote-ref-14)
15. A/HRC/43/27, para. 59. [↑](#endnote-ref-15)
16. A/HRC/43/27, para. 62. [↑](#endnote-ref-16)
17. See e.g. Kowalski and Fedina, [*Cyber bullying in ADHD and Asperger Syndrome populations*](https://www.sciencedirect.com/science/article/pii/S1750946711000134?casa_token=1jffmVseEmIAAAAA:EE4MEKvcISes9qhB-JLUAk-VFY-kSEYWdtVbB8wOyVtxQJ638xRvkMrqF8OudJGHq6OjfepKrg) *(2011); Wells and Mitchel,* [*Patterns of Internet Use and Risk of Online Victimization for Youth With and Without Disabilities*](https://journals.sagepub.com/doi/pdf/10.1177/0022466913479141) *(2013).* [↑](#endnote-ref-17)
18. See [A/HRC/37/25](https://undocs.org/A/HRC/37/25), paras. 24-31. [↑](#endnote-ref-18)
19. See [A/HRC/37/25](https://undocs.org/A/HRC/37/25), para. 24. [↑](#endnote-ref-19)
20. See IDDC – international Disability and Development Consortium*,* [*IDDC Inclusive Education Task Group response to COVID-19*](https://www.iddcconsortium.net/our-work/covid-19-and-disability-inclusion/inclusive-education/)*,* (2020), indicating that “50% of children with disabilities in low- and middle-income countries out of school before the pandemic”. [↑](#endnote-ref-20)
21. UNESCO, [*Including learners with disabilities in COVID-19 education responses*](https://en.unesco.org/news/including-learners-disabilities-covid-19-education-responses)*,* (2020) [↑](#endnote-ref-21)
22. UNICEF’s East Asia and the Pacific Regional Office and UNICEF Australia; [*Children With Disabilities and Covid-19*](https://reliefweb.int/sites/reliefweb.int/files/resources/Children%20with%20disabilities%20and%20COVID-19_0.pdf)(2020) [↑](#endnote-ref-22)
23. UNICEF - [*The State of the World’s Children — Children in a Digital World*](http://www.unicef.org/media/48581/file/SOWC_2017_ENG.pdf)(2017). Page 32. See also, OHCHR, [*Covid-19 And The Rights Of Persons With Disabilities*](https://www.ohchr.org/Documents/Issues/Disability/COVID-19_and_The_Rights_of_Persons_with_Disabilities.pdf)*: Guidance* (2020), section 5. [↑](#endnote-ref-23)
24. See e.g. CRPD/C/ALB/CO/1, para. 52(b). [↑](#endnote-ref-24)