

**Mandates of the Special Rapporteur on the rights of persons with disabilities and the Special Rapporteur on the right to education**

REFERENCE:  
OL ARM 4/2019

11 November 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights of persons with disabilities and Special Rapporteur on the right to education, pursuant to Human Rights Council resolutions 35/6 and 26/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the decision by the Government of Armenia to endorse the "Caritas City" or "Children's City" program of the Armenian Caritas organization which would, if implemented, violate Armenia's obligations under international human rights law, including the Convention on the rights of persons with disabilities and the Convention on the rights of the child.

According to the information received:

In March 2019, the Armenian Caritas met with the Minister of Labour and Social Issues and the Deputy Minister of Education to present a project on "Caritas City"/"Children's City". The stated goal of this project is to build a city with programmes aimed at children's care, health, upbringing and education, which can "create an unprecedented opportunity in Armenia for the full development and self-expression of children living in disadvantaged communities". Furthermore, it aims to provide opportunities for education, talent development and opportunities to develop their own environment. The program aims to target approximately 600 children and youth with their family members, with a total of 8,000 people ultimately falling under the program, many of whom are reportedly children with disabilities. The total cost of the project is stated to be USD 20,000,000.

The Minister of Labour and Social Issues reportedly stated that they were not in favour of the project as it would contravene the deinstitutionalization policy of the Government. Caritas later presented the project to the Ministry of Territorial Administration and Development, which responded positively to the project.

On 7 August 2019, the Government's Committee on Charity Projects qualified the project as charitable and thus eligible for tax exemption by Decree 5543.

On 8 August 2019, the Government of Armenia made the decision to provide land in the Ararat province for the construction of the project. It has been reported that the decision was not preceded by any prior discussion or broader consultation with civil society.

Before explaining our concerns, we would like to reiterate your Excellency's Government's obligation to respect and protect the rights to equality and non-discrimination under article 5 of the Convention on the Rights of Persons with Disabilities (CRPD), ratified by Armenia on 22 September 2010. Article 5 of the CRPD reiterates the guarantees of equality and non-discrimination that are established also under the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, to which Armenia is also State Party. In light of these standards, we are concerned that the endorsement of the project would be incompatible with the obligations of Armenia under international human rights law.

Historically, different forms of special "cities" for children or disadvantaged groups, for the purpose of providing care and services was implemented in a number of countries in the previous century. However, the practice and policies endorsing such segregated cities, even for the well-intended purposes of providing support and services, are not in line with international human rights standards. Such practices therefore may stand in direct contravention of States' obligations under international human rights law, in particular the right of persons with disabilities to non-discrimination, inclusive education and living independently in the community. With the entry into force of the Convention on the Rights of Persons with Disabilities (CRPD), the endorsement of segregated communities and failure to take immediate measures towards the full and meaningful inclusion of persons with disabilities in society on an equal basis as everyone else is no longer acceptable.

Article 5 of the CPRD requires States to, *inter alia*, prohibit all discrimination on the basis of disability and to take all appropriate steps to ensure reasonable accommodation. In interpreting article 5 of the CRPD, the Committee on the Rights of Persons with Disabilities has established that segregation, separate treatment and institutionalization constitute a *prima facie* form of discrimination and thus a breach of article 5 (CRPD/C/GC/6). The provision has in mind practices of segregation and exclusions that persons with disabilities have experienced as a result of laws, policies and practices in the past.

Even if one may consider that segregated "cities" might be warranted to respond to the particular needs of individuals or groups, this must always be achieved within a system that has inclusion as its overall aim. For the purposes of the present project, such an overall aim of inclusion appears to be absent. Moreover, separate or segregated treatment must be functionally responsive to a particular need. Furthermore, there is a high risk that the general population would only see the disability that unites the residents of the "Children's city". Being placed remotely from the community would only exacerbate this perception and make inclusion very difficult, if not impossible, as it perpetuates unwarranted assumptions that persons that live in segregated communities are not able to participate in community life.

The creation of such "cities" means that resources that should be invested in developing possibilities for persons with disabilities to live independently in the community, instead are spent on establishing segregated communities. Article 19 of the CRPD elaborates on article 5 of the CRPD in that it recognizes two concepts: the equal right of all persons with disabilities to live independently and the right to be included in the community, with the freedom to choose and control their lives. As

interpreted by the Committee of the CRPD, the notion of “independent living” applied in article 19 means that individuals with disabilities are provided with all necessary means enabling them to exercise choice and control over their lives and make all decisions concerning their lives (CRPD/C/GC/5). The Committee thus reiterates the bond between non-discrimination and community living. The provision’s notion of “Independent living arrangements” means living outside residential institutions of all kinds, and represents a positive responsibility to develop inclusive environments. This places an obligation on States to remove barriers to live independently within the community. In this regard, separate “cities” as envisioned by the Caritas project would imply a form of large-scale segregated community, similar to forms of institutionalized settings. As underlined by the CRPD Committee, in order for the right to live independently to be realized, States must take effective and appropriate measures to facilitate the full enjoyment of the right and full inclusion and participation of persons with disabilities in the community (CRPD/C/GC/5).

Furthermore, we would like to recall that persons with disabilities should not be placed in segregated facilities for the purpose of receiving support services and social protection. All support services must be designed to be supporting living included within the community and preventing isolation and segregation from others. Therefore, any institutional form of support services, which segregates and limits personal autonomy, is not permitted under article 19(b) (CRPD/C/GC/5). Segregation and institutionalization would demonstrate a failure to create support and services in the community for persons with disabilities.

As provided for by article 19(c), services and facilities cover a wide range of services, such as housing, schools, transport, hospitals, and must be available, universally accessible, acceptable and adaptable for all persons with disabilities within the community. The State should put in place comprehensive service and community development programs and structural reforms to improve overall accessibility within the community, which may also reduce the demand for disability-specific services.

While segregated treatment in some cases may be warranted, it would have to be shown that the voice of the persons affected has been genuinely sought and respected, that the treatment is genuinely part of a broader inclusion strategy and that institutions or segregated communities that effectively deny any meaningful connection with the broader community are not permitted.<sup>1</sup>

In this connection, we would also like to highlight the 2017 report of the Special Rapporteur on the right to education to the General Assembly, (A/72/496), on the role of equity and inclusion in the right to education. In her report, she highlights that “the goal of inclusive education is to ensure that all students learn and play together, with a sense of safety and belonging. By living and learning together, inclusive education directly tackles discrimination and bias and teaches tolerance and an appreciation for diversity. Supported by trained educators, and adequately equipped schools, inclusive education can change discriminatory attitudes and

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<sup>1</sup> Committee on the Rights of Persons with Disabilities, General Comment No. 5 (2017) on living independently and being included in the community (CRPD/C/GC/5). See also Committee on Economic, Social and Cultural Rights, highlighting that “segregation and isolation achieved through the imposition of social barriers” count as discrimination. General Comment No. 5, para. 15 and paras. 48-49.

practices.” (paragraph 27). The Special Rapporteur also stresses that “[c]hildren who are educated alongside their peers have a much better chance of becoming productive members of society and being included in their communities (paragraph 44).

Furthermore, in her 2019 report to the General Assembly the Special Rapporteur underlines the “destructive role played by social segregation, when too often the gap and the mistrust between the so-called elites and the rest of society are not given the attention they deserve” (paragraph 45). She stressed that “... education should always promote [...] belonging, by creating, for all individuals and groups, a feeling of belonging to society, fostering a sense of security and thus averting policies and practices that lead to discrimination, exclusion and segregation” (paragraph 68(c)).

While the process towards deinstitutionalization is encouraged, we recall that any such effort must be guided by article 19 of the CRPD and the principle of autonomy and freedom of choice and control. Progressive realization of the obligations under article 19 of the CRPD is not compatible with other forms of institutions. The support to the “Children’s City” project therefore contradicts the deinstitutionalization policy of your Excellency’s Government.

For a comprehensive guidance on phasing out institutions and transitioning to community based support, we encourage your Excellency’s Government to peruse the General Comment on living independently and being included in the community, adopted by the Committee on the Rights of Persons with Disabilities and the report of the Special Rapporteur on the rights of persons with disabilities on how to ensure the provision of different forms of rights-based support and assistance for persons with disabilities.<sup>2</sup>

We urge your Excellency’s Government to reconsider its decision to support the “Children’s City” and to ensure access to human rights compliant support, education and social protection for persons with disabilities in their existing communities.

In particular, we would like to highlight the general obligations of State Parties to the CRPD as set out in Article 4, which point to a dynamic of change that requires State Parties, inter alia, to enact new laws and policies where needed to give effect to the Convention; to refrain from engaging in any act or practice that is inconsistent with the CRPD; and to ensure that public authorities and institutions act in conformity with the Convention. This also entails that expenditures must reflect these obligations. Similarly, I underline the obligation of your Excellency’s Government to prevent discrimination on the hands of private actors, in line with article 4 (1) e of the CRPD. Finally, we would like to underline the obligation in article 4(3) to closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organization, in decision-making processes concerning issues relating to persons with disabilities.

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<sup>2</sup> Ibid., and A/HRC/34/58.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information about whether your Excellency's Government engaged with civil society organizations, including organizations of persons with disabilities, prior to its endorsement of the project.
3. Please provide information about how the endorsement of the project complies with Armenia's obligations under international human rights law, including under the Convention of the Rights of Persons with Disabilities, in particular articles 4 and 19.
4. Please provide information about why the initial decision by the Ministry of Labour and Social Issues to reject the project was later changed.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 48 hours. It will also subsequently be made available in the periodic communications report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Catalina Devandas-Aguilar  
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Koumbou Boly Barry  
Special Rapporteur on the right to education