



WORLD FEDERATION OF THE DEAF



EUROPEAN UNION OF THE DEAF



WORLD FEDERATION OF THE DEAF
YOUTH SECTION



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Committee on the Rights of the Child and the Committee on Migrant Workers
Office of the United Nations High Commissioner for Human Rights (OHCHR)
Palais des Nations
CH-1211 Geneva 10, Switzerland

Submission for General Comment on the rights of the child in the context of migration

Dear Committee members,

The [World Federation of the Deaf](#) (WFD), [World Association of Sign Language Interpreters](#) (WASLI), [European Union of the Deaf](#) (EUD), [World Federation of the Deaf Youth Section](#) (WFDYS), and [European Union of the Deaf Youth](#) (EUDY), (the Organisations) present their compliments to the Committee on the Rights of the Child and the Committee on Migrant Workers and are pleased to make this joint submission for a draft General Comment on the human rights of children in the context of international migration.

Introduction

The Organisations applaud the main goal of this initiative to contribute to improving the protection of the human rights of children which are, in the context of international migration, in a particular situation of vulnerability.

This submission provides some background and makes general comments and recommendations to assist the Committees in their pursuit of achieving its more specific goals of:

- elaborating for State Parties and other key stakeholders guidelines for developing migration, childhood and related policies aimed at protecting and realizing the rights of deaf children in the context of migration;
- providing the CMW and CRC Committees with a specific tool to facilitate their role to monitor the implementation of the respective treaties in States parties as mandated by the Conventions;
- promoting a clearly articulated interpretation of relevant provisions of the CMW and CRC to assist in the further implementation of the Conventions at the domestic level in both law and in practice; and
- highlighting the relevance of a rights-based approach in relation to the phenomenon of deaf children in the context of migration.

Issues faced by deaf migrant children

In this submission, ‘deaf migrant children’ refers to deaf children (under the age of 18) who:

- migrate with their parents who are migrant workers;
- are born to parents who are migrant workers in transit and destination countries;
- return to their country of origin, either voluntarily or by force, alone or with their parents;
- are left behind by their parents (or one of them) who have migrated to another country; and/or
- migrate unaccompanied and separated from their parents (for reasons such as seeking employment, family reunification or as victims of trafficking, labour exploitation and child labour).

The rights of deaf children generally – the right to language, cultural identity and non discrimination.

The [Convention on the rights of the Child](#) (CRC) clearly set out the rights of all children including deaf children. The Convention on the Rights of Persons with Disabilities (CRPD) set out the rights of people who are deaf (and/or have disabilities) to all rights on an equal basis with others. CRPD [Article 7](#) requires that States Parties take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children. This applies equally to deaf child migrants, irrespective of their place of residence.

Of particular importance to deaf children, the CRPD sets out the right to:

- Learn and use sign language ([Art 21](#))
- Give and receive information in official interactions in sign language ([Art 21](#))
- Attend school and learn in an accessible environment to maximise academic and social development ([Art 9](#), [Art 24](#))
- Receive reasonable accommodation to promote equality and eliminate discrimination ([Art 5](#))
- Receive early identification and early intervention and assistance services (such as sign language teaching and specialist assistance) ([Art 25\(b\)](#))
- Have a decent standard of living and social protection – including access to affordable services, devices and other assistance for disability needs, including sign language interpreters ([Art 28](#))
- Be free from torture, cruel degrading or inhuman practices and freedom from exploitation violence and abuse ([Art 15](#), [Art 16](#)).
- Participate in social, cultural activities and sport on an equal basis with others ([Art 30](#))

The Organisations strongly affirm that deaf children globally have the right to develop a sense of strong cultural and linguistic identity based on sign language, and to be proud of this cultural identity. Children have the right to communicate in the sign language of their choice e.g. at home, and to learn the host country’s national sign language to integrate into their local community and access services.

It is vitally important to their future education and integration into society that deaf children be provided with access to opportunities to develop sign language skills and to receive education in sign language. Evidence shows that deaf students who have *not* been provided with education in a sign language learning environment tend to have lower academic and social skills than those who have had opportunities to learn in sign language environments.¹

How these rights can be affected by migration generally (whether voluntary or forced)

Migration has the potential to affect these rights either positively or negatively. To allow for the best possible integration for migrants into society it is important they given the opportunity to learn the language of the country, for deaf migrants this means the national sign language. Education for deaf child migrants in sign languages is critical, especially if they have not had access to education in their home country, in refugee camps or in their communities in transition. So the need for sign language learning environments is key when deaf child migrants transition to host countries.

Referral to deaf organisations

In some countries (e.g. Canada was cited as an example in one submission) upon arrival in the adopted country, many deaf migrant children are fitted with hearing aids and placed within mainstream programs. This action needs to be done only alongside an intensive effort to allow that child full access to the sign language of the adopted country. The provision of sign language classes, resources and facilitated access to the Deaf

¹ Napoli et al (2013) ‘Bilingualism: A Pearl to Overcome Certain Perils of Cochlear Implants’ *Journal of Medical Speech-language Pathology*, Vol. 21 No. 2 p. 114-116 <http://works.swarthmore.edu/fac-linguistics/88/>

Community, including deaf adult role models and deaf peers, are all essential for the development of healthy cultural identity and linguistic fluency to allow the child to thrive in the adopted country. Government service providers, civil society must work with national, and bodies that ensure sign language rights for all deaf children to ensure that rights in CRPD can be achieved.

Whilst there is a growing willingness by mainstream agencies to include disability issues in their response mechanisms, many actors continue to feel they do not have the necessary ‘expertise’ to turn this enthusiasm into reality. Specialised organisations – such as those who represent and work with the deaf - therefore have an important additional role to play – in advocacy, training and awareness-raising to help mainstream actors ensure better inclusion of deaf people (including child migrants) in their programmes before, during and after displacement.

As one author has written:

“Invisible at the best of times, persons with disabilities [including deaf people] are among the most neglected during flight, displacement and return. Due to communication or physical barriers, negative attitudes or other obstacles, persons with disabilities face many hurdles in accessing assistance and protection. They may also face a heightened level of [discrimination and lack of access] during displacement, because of changes in their environment or lack of appropriate care and services. Moreover, they are often seen as passive recipients of aid rather than active participants with ideas, skills and expertise to share”.²

National deaf associations and deaf schools in adoptive countries are valuable resources and can provide their skills, expertise and insights to those wanting to maximise outcomes for deaf children.

There are countries where national deaf associations have cooperation with their governments and have been given the responsibility to assist in the management and integration of deaf migrants (adults and children). The Swedish National Association of the Deaf (Sweden) is one example.

Case study:

“Sweden was one of the hardest hit countries in Europe during the refugee crisis, we the deaf people did our best to handle it voluntarily. I am a member of DRW (Deaf Refugees Welcome) in Sweden and there are three different organisations in three different cities: Göteborg, Malmö and Stockholm. One is coming up in Örebro since we expect more migrants in Sweden, especially deaf children. We often met deaf children on train stations and bring them to [appropriate] departments but we always follow them because most of departments do not have deaf competence and tend not to take good care of them.”³

Deaf Flemish parliamentarian Helga Stevens MEP conducted a field trip to Za’atari refugee camp in Jordan in May 2015 (for Syrian refugees) and discovered that Jordan’s Holy Land Institute for the Deaf (HLID) is providing significant support to deaf child migrants (refugees) who would otherwise be without schooling opportunities and sign language assistance. She liaised with UNHCHR and authorities to find out about the needs and experiences of refugees within the camp. UNICEF says that there are over 43,000 children of whom it estimates 1500 have disabilities. Of those 119 are recorded as being deaf or hard of hearing. However large numbers of people are not registered – and these may include deaf children. Some deaf children have been referred to the Deaf school in Jordan (Holy Land Institute for the Deaf). It has established a program for deaf children from the camp. There are challenges to providing education for all children living in refugee camps, but deaf children face *additional* barriers to accessing specialised teaching such as in sign language and may face compromised capacity to communicate and learn without specialist services such as that provided by HLID. Much more funding is needed to ensure that deaf children access education on an equal basis with others in refugee camps and in the wider community.⁴

The only established schools for the deaf in the Middle East are in Jordan and Lebanon, meaning deaf child migrants (refugees) fleeing to other countries in this region are unlikely to obtain the required specialist supports.

One submission noted that Canada is accepting many Syrian refugees and noted that some families have been sponsored by faith based groups with no connection to the Deaf Community and who are recommending medical interventions based on their own ignorance of signed languages and Deaf Community organisations. It can take time for relevant sponsoring organizations to find and reach out to deaf organisations and more networking is required to ensure the best outcomes for deaf migrant children in achieving their full social and linguistic rights.

² <http://www.fmreview.org/disability-and-displacement/aleema-shivji#sthash.xkgIMxRd.dpuf>

³ Submission to WFD by private individual.

⁴ Helga Stevens MEP, <https://www.facebook.com/HelgastevensNVA/videos/423138874544159/>

Discriminatory immigration policies

Many of those who voluntarily migrate seek a better life for themselves and their children, including for children who are deaf.

However submissions received by the Organisations pointed out that many countries have discriminatory immigration policies, which prevent deaf migrant children from pursuing education or employment. For example some countries can deny entry on health grounds if they believe the health costs for that child will be too great.

In other situations, deaf children are made to wait until residency permits have been secured before they can access any early intervention services or specialised schooling. These delays have been to the potential detriment of educational outcomes and are an unacceptable infringement of these children's right to a non-discriminatory education. Whilst non disabled children have access to mainstream schooling opportunities, because deaf schools are often specialist funded by government with eligibility criteria, deaf migrant children fall behind due to a lack of access to schooling that meets their particular needs.

Outcomes for deaf migrant children vary depending on **eligibility for disability support schemes**:

Case study:

In Switzerland the impact of migration depends on the age of the deaf child migrant, whether he or she migrated before or after school age, was born in Switzerland or not, or migrated after the compulsory school attendance period. In Switzerland a disability insurance scheme provides access to school, work aids, interpreters, social assistance and further aids etc. However some deaf child migrants do not obtain support from this insurance scheme because they migrated after the compulsory school age or because they are refugees. In these cases deaf child migrants - and service providers which seek to assist them – do not receive any financial support from government. This creates resource constraints for assisting organisations, and means that children cannot access interpreters, meaning no support for education, no assistive devices or other technical supports and services.⁵

Refugees and migrants are ineligible for these schemes in many other countries as well, impacting adversely on the rights of deaf migrant children, who simply do not have years to wait for citizenship to access their rights.

Sign language interpreters

For all migrants it is crucial to have access to information in a language they understand such as their native language. Migrants being provided with an interpreter is established practice and commonly used in most EU Member States. However for deaf migrants this is rarely provided for. It is important for decision makers and governments to cooperate with the relevant national association of the deaf in their country as they possess the expertise of communication with deaf people and also provide contact information for interpreters, including the international associations such as WASLI and European Forum of Sign Language Interpreters ([efsl](#)).

Situations where parents are provided with a (verbal) translator from their country of origin, are likely not to provide sufficient 'access' and opportunity for direct engagement by a deaf migrant child, and thus do not sufficiently protect the primacy of the rights of the child. For example if parents take a deaf migrant child to hospital, or are involved in a legal situation, or are accessing services and request a translator who speaks the language of the country of origin – the deaf migrant child is at risk of not being provided with appropriate language and access support to fully participate in the situation. Whilst parents have legal responsibility for children, the CRPD recognises the 'emerging capacity' of children with disabilities, and they also have a right to participate meaningfully and to the highest state of their capacity and for their autonomy to be respected and facilitated. In some situations the right of the child and the right of the parents may not be the same or may in fact conflict.

In most cases a highly qualified sign language interpreter may be more adept at communicating with and for the deaf migrant than a translator of the 'home' spoken/written language. Best practices in interpreting for deaf immigrants shows it is most effective to have a deaf-hearing interpreter team, with the hearing interpreter translating from the country's spoken to signed languages and the deaf interpreter then continuing the translation into a form intelligible to the deaf migrant child. However, globally these sign language interpreters are in short supply. More should be done to encourage competence in sign languages (by both deaf and hearing interpreters).

The Organisations strongly support the use of qualified sign language interpreters and especially Deaf-hearing teams in these matters. They also support the need to work with spoken language interpreters in these complex issues. A Belgian project on interpreting for children in legal processes has stressed the need to refuse to use family members as interpreters in these matters. The Organisations strongly believe family members should not

⁵ Submission to WFD.

be used as interpreters in immigration matters, so that the rights of the child can take primacy over any potential conflicts of interest.

Case study:

I was assigned to a[n interpreting] job , there was a young deaf mother aged 17, her child was 13 months. The young mother was accompanied by her mother to the appointment. The appointment was a legal matter, seeking a temporary protection visa. She was continuously spoken for by her mother. The lawyer arranged to speak with the deaf girl without her mother present. Her communication needs were complex and she was literate in her written home language. We continued the session and communication was relatively easy. Upon her mother returning to the room she became withdrawn yet again and allowed her mother to speak on her behalf.

During the assignment, I acted as an advocate for the client and as a cultural bridge. With the lawyer present we deduced that she had not accessed the local deaf support services and had no knowledge of them. In this instance the young woman seemed to have a voice she wanted heard. She appeared reticent to do so with her mother present.

Legal services have little or no understanding of how to work with deaf people and the services that are available to specifically support a deaf person and their socio-cultural needs. Being held in mandatory detention as the only signing deaf person is isolating. Services are more inclined to use spoken language because it is convenient; spoken language interpreters are easier to find. Finding a skilled sign language interpreter for the deaf person may be too hard or expensive, resulting in neglecting the deaf child's needs.⁶

With the current migrant situation in the EU the demand for sign language teachers and interpreters in the different sign languages is increasing. However, despite the fact that the EU and 25 Member States⁷ have ratified the CRPD, which states that sign language should be recognised and promoted and the right to information in sign language should be provided for, this is still not a reality in some EU Member States.⁸ It is essential to recognise Sign Language in every country in order to provide for accurate access to information and communication to deaf migrants in general and to deaf child migrants in particular to ensure their integration in society and access to education.

Particular issues affecting each category of deaf child migrants

1. Deaf children of migrant parents (parents may be hearing or deaf themselves)

- **those who migrate with their parents**

As the migrant parents do not speak/ write/ read/ sign the local language it is very difficult for them to support their deaf children in school and in accessing services. Often these parents do not know about assistance available and where to get aid in generally.

- **those born during migration or in the destination countries**

The UN Committee on the Rights of the Child has highlighted the importance of early identification of disabilities to ensure that the necessary care is provided.⁹ For deaf child migrants this includes access to sign language and the local Deaf Community.

2. Deaf children who are left behind by their parents who migrate to another country

Sometimes this occurs because of discriminatory immigration policies, mentioned above. These children are deprived of the right to family life, and may be more vulnerable to abuse and trafficking through lack of carers to protect them. Reducing discriminatory immigration policies can reduce these risks.

3. Deaf children who migrate on their own

Access to qualified sign language interpreters in the native sign language is extremely important for this category of migrants, as is access to the local Deaf Community to provide advice, mentoring and care. In Sweden there were cases where deaf adult migrants were placed in different cities from deaf migrant children, as access to education in sign language was not found in the same cities. For families with deaf parents and children this was a barrier.

⁶ Submission to WFD by private individual.

⁷ The Netherlands, Finland and Ireland are the only EU Member States that have not yet ratified the CRPD. However, the Netherlands are currently in the process of ratifying it.

⁸ Italy, Luxembourg and Malta have not yet recognised sign language. Other Member States have very limited rights even if sign language is mentioned in some areas of the law.

⁹ United Nations Children's Fund (UNICEF) (2002) *Implementation Handbook for the Convention on the Rights of the Child*, United Nations Publications, Geneva, p 335.

One case study from Sweden demonstrates the possible consequence when sign language interpreters are not provided to this vulnerable group:

Case study:

One deaf unaccompanied migrant was asked by Swedish migration authorities if he was travelling alone, which he was. However, they really meant to ask him if he was alone or if he had family in Sweden, which he did. Due to the error in communication he was treated as having no family in Sweden. Fortunately this mistake was corrected before his case was finalised, as if it had not been rectified it would have had serious consequences for the decision of his asylum.

4. Specific issues of particular concern:

a. Deaf children who are trafficked

Whilst there is significant anecdotal evidence that deaf children are lured into criminal gangs and/or trafficked there is very little empirical research on this topic. A lack of capacity to communicate with others/ removal of phones to send text messages etc can increase vulnerability of this group. More must be done to understand the issue and increase protective factors, as well as to rescue, seek justice for, and provide services to this group.

b. Deaf children in refugee camps or immigration detention

In many cases of involuntary migration, or asylum seeking, deaf child migrants will find themselves in situations of potential risk. It is the special obligation of the host country to mitigate these risks and ensure the rights of the child. [Article 23](#) of the *Convention on the Rights of the Child* (CRC) is very explicit about the ‘special efforts’ that must be made to ensure that children with disabilities have access to services designed to promote the maximum possible integration in the community. However there is existing evidence that these needs are not met in many instances.

Case study:

The Australian Human Rights Commission has found that deaf migrant children in immigration detention have been denied their rights. It highlighted the case study of one deaf migrant child (and her deaf migrant parents) in immigration detention who did not receive appropriate language supports.¹⁰ The deaf child and her family were not able to communicate with others so they did not understand why they were in detention, did not understand any of the processes, their rights, were not able to fully access benefits of medical appointments, were not able to access early intervention such as sign language teaching support, not able to communicate with others within detention or with their own family etc. These factors compound the fear and isolation that deaf child migrants in detention already face.

The best outcome for children [who are deaf] will be achieved through addressing their individual needs via specific intervention programs that are incorporated into their daily routine which includes the education of their care-givers.¹¹ This includes in immigration detention and humanitarian camps.

In failing to take account of these persons with specific needs, humanitarian actors – mainstream and specialised agencies alike – are not achieving their collective objective of reaching – and protecting - extremely vulnerable populations.¹²

Recommendations

All stakeholders

- Ensure that the deaf child migrants’ best interests are paramount- this means considering language needs, language support, the right to have ones needs met in ones language of choice.
- Ensure that deaf child migrants have access to the appropriate, local services for deaf people.

¹⁰ Case study, p 68 Australian Human Rights Commission (2014) *Forgotten children: National Inquiry into Immigration Detention* <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/forgotten-children-national-inquiry-children> ; See too, case study p 553, AHRC (2004) *Last resort? Inquiry into children in detention*, <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/last-resort-national-inquiry-children-immigration> (deaf child denied access to education).

¹¹ NEDA, Submission 210 quoted in AHRC (2014) *Last resort? Inquiry into children in detention*, p11.

¹² <http://www.fmreview.org/disability-and-displacement/aleema-shivji#sthash.xkgIMxRd.dpuf>

Global/ UN agencies

- Organisations should work with national, and international bodies that ensure sign language rights for all deaf children regardless of location, nationalities, and resources.
- Use and promote resources in international sign on the work of their agencies, and of important resources, to increase knowledge of the Deaf Community about their rights.
- Multilateral or bilateral organizations working in the areas of child migration issues (including trafficking and forced labour) must ensure their programs are inclusive of deaf children (and children with disabilities) including at a minimum having a policy on disability inclusion that is operationalised.
- Ensure that their data collection is disaggregated by disability type.

Governments

- Remove discriminatory migration policies that discriminate against deaf migrant children (and children with other disabilities)
- States Parties to the CRPD should not differentiate between their own citizens and migrants in their disability laws, so that all deaf migrant children have access to education, work and health services, interpreters and devices on an equal basis with others based on need, and based on their human rights to non discrimination.
- Remove or waive the requirement that deaf children must obtain residence permits before being allowed to access specialist supports and schooling. WFD has received submissions stating that it can take up to three years to obtain relevant residence permits before being allowed to access specialist supports and schooling. Three years an onerous time to wait when considering the linguistic and educational needs and rights of young children.
- Provide appropriate access to qualified sign language interpreters (including those with international sign skills) for all relevant services, including -in particular- medical and legal interview situations, and that these be provided free of charge to the deaf client.
- Recognise the needs and rights of deaf child migrants in finding appropriate early intervention (eg sign language learning) and schooling options, and having appropriate referral pathways through e.g. migrant settlement services.
- Promote the necessity of learning sign language as an additional language upon arrival in the host country.
- Services should not simply fit deaf children with hearing aids and place them within mainstream programs unsupported. Children should be given access to deaf adult role models and deaf peers, provided sign language classes, resources and access to the Deaf Community.
- Promote the increase of interpreters competent in international sign, with a particular focus on deaf interpreters.

Aid and humanitarian agencies

- Follow UNHCR guidelines for working with displaced persons with disabilities, which emphasise the importance of ensuring access to education.¹³
- Be aware of the particular communication needs and rights of deaf children, and support these with appropriate programming responses. This includes making sure mainstream services and supports are accessible as possible e.g. hiring staff fluent in communicating with deaf people from different countries, including deaf staff, providing sign interpreter support, as well as providing for deaf-specific support e.g. early intervention sign language teaching, deaf education and cultural activities appropriate to the child to foster communication and resilience.
- Connect with national deaf associations in the host country for specialist advice and support and referrals, whilst recognising these agencies often work with resource constraints of their own.

NGOs (including faith based organisations) working with migrants in destination countries

- NGOs working in migration settlement schemes should work closely with national deaf associations to ensure that they are aware of the needs of deaf children and youth, and establish appropriate referral pathways for sign language support.
- They should be aware of - and provide advice on - all options for deaf education when providing referral advice, not simply recommending 'mainstream' inclusive education without access to sign language and the Deaf Community.

¹³ UNHCR (2011) *Working with Persons with Disabilities in Forced Displacement*.

DPOs and deaf associations

- Be aware of the rights and particular needs of deaf migrant children, and ensure that their services are provided in a culturally sensitive and non discriminatory manner.
- Work collaboratively to provide referral pathways within and between countries where possible.

Local deaf schools

- On humanitarian grounds should provide their educational services to deaf migrant children and should be funded by States Parties to do so.
- Should ensure that referral pathways are aware of their services and work with them to improve referral pathways - many receiving agencies and migration settlement services are not well informed about serving the needs of deaf children and youth. Many have little knowledge of the needs of deaf children and place these children into the mainstream schools without access to sign language and the Deaf Community.

Sign language interpreter services

- Promote the training and development of more international sign interpreters, in particular deaf sign language interpreters.
- Work with translation services and NGOs to highlight the right of deaf children to have a sign language interpreter in official interactions.

Language interpreter services

- Translator services must recognise that deaf migrant children have a specific right to and need for sign language interpretation, especially in medical or legal settings, and that this should be provided free of charge.
- Protocols should be set in place to obtain the services of highly qualified sign language interpreters (including deaf interpreters and international sign interpreters) in all situations where a deaf child presents for services where translation is needed.
- In some cases both a translator (for the parents) and a sign language interpreter (for the child) may be required, and adequate resources should be provided to facilitate good communication for all relevant parties.

Recommendations for further research

- Support specific research with key informants on their experiences as child migrants (with appropriate ethics approval and safeguards).
- Include incidence of deafness (and all disabilities) as a dimension of any child labour surveys.¹⁴
- Research is needed not only to identify where violence and abuse of children who are deaf (or children with all disabilities) occurs but also how these children are best able to live and thrive in safety, as well as to identify what policies, programs and practices most help these children, their families and their communities.¹⁵
- There is a need to discover whether deaf children are more vulnerable to trafficking and commercial / sexual exploitation, and what factors may protect these children.
- Include disability as a dimension in child trafficking studies, with attempts to analyse specific vulnerabilities and protective factors for deaf children (and for all children with disabilities).

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¹⁴ ILO (2011) http://www.ilo.org/jakarta/whatwedo/publications/WCMS_165280/lang--en/index.htm

¹⁵ UNICEF (2005) http://unicr.org.br/img/2011/04/UNVAC_World_Report_on_Violence_against_Children.pdf