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**Indigenous Persons with Disabilities Global Network**

### Submission from on the rights of the indigenous child under the UN Declaration on the Rights of Indigenous Peoples

Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)

February 2021

Submitted by

Indigenous Person with Disabilities Global Network (IPWDGN)

International Disability Alliance (IDA)[[1]](#footnote-1)

**Background**

The Indigenous Person with Disabilities Global Network (IPWDGN) is a network of indigenous organisations and persons with disabilities from across the world. The International Disability Alliance (IDA) is the network of global and regional organisations of persons with disabilities (DPOs) currently comprising eight global and six regional DPOs. Established in 1999, each IDA member represents a large number of national disabled persons’ organisations (DPOs) from around the globe, 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 organisations of persons with disabilities utilising the Convention on the Rights of Persons with Disabilities and other human rights instruments.

IDA welcomes the initiative of the Expert Mechanism on the Rights of Indigenous Peoples (*hereinafter* ‘EMRIP’) to hold a Study on the rights of the indigenous child under the UN Declaration on the Rights of Indigenous Peoples. This submission focuses on the rights of the indigenous child with disabilities to access education and the specific challenges which they face in the enjoyment and exercise of this right, particularly at COVID-19 time. It concludes with recommendations related to certain key provisions of the UNDRIP and the UNCRPD to ensure that the perspective of indigenous child with disabilities are consistently considered by States and other actors.

According to Article 14 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)[[2]](#footnote-2) where it’s established that indigenous peoples have the right to establish and control their educational systems and institutions, so that they are able to be educated in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

It is strongly recommended that indigenous individuals, in particular boys and girls, have the right to education at all forms and levels of public education without discrimination on the basis of disability or ethnicity.

Besides, Article 24 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD[[3]](#footnote-3)), states that in order to fully develop their human potential, the sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity; States Parties must ensure an inclusive education system at all levels and lifelong learning for people with disabilities, this it includes indigenous children with disabilities in every sense.

We draw special attention to Article 24 of the CRPD, section 2, paragraph a, b, c and d, where by making this right effective, the States Parties ensure that:

1. *“Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;*
2. *Persons with disabilities can access an inclusive, quality and free primary education and secondary education, on an equal basis with others in the communities in which they live;*
3. *Reasonable accommodation of the individual’s requirements is provided;*
4. *Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;”*

Furthermore, Agenda 2030 and its Sustainable Development Goal 4 highlights the commitment of States to until 2030:

*"Build and adapt educational facilities that take into account the needs of children and persons with disabilities and gender differences, and that offer safe, non-violent, inclusive and effective learning environments for all."*

In the same line, the Committee on Economic, Social and Cultural Rights indicates in its General Comment 13 that:

*“For article 24 (2) (b) to be realized, persons with disabilities must have access to inclusive, quality and free primary and secondary education and be able to transition smoothly between the two on an equal basis with others in the communities where they live. The Committee draws on the recommendation of the Committee on Economic, Social and Cultural Rights that, to fulfil that obligation, the education system must comprise four interrelated features: availability, accessibility, acceptability and adaptability.”*

In addition to this, Article 17, paragraph 2 of the UNDRIP, guarantees that States, in consultation and cooperation with indigenous peoples will take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment, and Article 21 of the UNDRIP that says that States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions.

As we consider it is necessary to draw particular attention on the rights and specific requirements of indigenous elders, women, youth, children and persons with disabilities, we decided to prepare the following contributions on the situation of education of indigenous children with disabilities with a special emphasis on distance learning as a response to the current COVID-19 pandemic.

The pandemic has exacerbated a significant number of pre-existing inequities and disadvantages that are part of the daily experience of indigenous persons with disabilities. The challenge of interconnecting capacities, social and community assets with the design and implementation of public policies in response to the emergency due to COVID19 should begin with the use of valuable territorial information, as this study can help to focus the most urgent responses on indigenous children with disabilities and their families who are the ones who need it most.

**Evidence of the problem**

For indigenous persons with disabilities, a major issue is discrimination in the availability and quality of services as compared with other persons with disabilities, as well as ack of prioritization of their needs, unique capabilities and potential contributions to the development of their communities.[[4]](#footnote-4)

Indigenous peoples with disabilities including indigenous children with disabilities face multiple and intersecting forms of discrimination while receiving education at different levels. Racism, stigmas, ableism, sexism, and other categories of discrimination (exclusion, distinction or restriction) that prevent indigenous individuals from participating fully and effectively in the education process. For example, an indigenous child may be unable to attend school if the facilities are not accessible and also if instruction is not available in his or her indigenous language.[[5]](#footnote-5)

They experience direct and indirect challenges such as the absence of inclusive educational policies, lack of tailored educational curriculum, educational plans focused on their cultural assimilation, lack of pedagogy and learning enabling environment, the involvement of teachers in the classroom, and the engagement of parents with the teachers.

Furthermore, evidence shows that the lack of support and services for families with indigenous children with disabilities has led to the displacement of families from their communities and often even to the separation of children from their families and communities. In many societies, indigenous children with disabilities continue to be at a high risk of being separated from their families and placed in institutions or with non-indigenous families.[[6]](#footnote-6)

We can broadly categorize the situation of indigenous children with disabilities in two phase first is before the pandemic, and the second is during the Covid-19 Pandemic.

**Before the pandemic:**

Bilingual education in native languages and the national languages is almost non-existent, as teachers do not receive enough preparation to teach indigenous children, which implies a lack of knowledge to work with indigenous children with disabilities, who generally are forced to learn a language that is not their own, which reflects traces of colonialism and increases discrimination and exclusion.

We have to be aware that there’s a resistance from the States to allow indigenous peoples and communities to keep preserving their educational systems, therefore there is a preparation of non-native teachers and the native language begins to be an optional part of education.

Additionally, the teachers of these boys and girls with disabilities are not able to prepare the materials in accessible formats, as they have little preparation and lack of knowledge about how to adapt their classes to the educational requirements of indigenous children with disabilities.

In some countries, there is a lack of coordination between educational units because the national public education system has an area that produces some materials for children with visual or hearing impairments. However, these materials are not delivered to children in indigenous communities because its unknown the procedure to obtain them because is not disseminated within the bilingual education system and this is one of the main reasons for which the materials are not taken to the schools of indigenous peoples and their communities.

Speaking about accessibility requirements of indigenous children with disabilities, we must consider that there is a very different reality between urban and rural areas, a fact that has not been taken into account when actions are taken to support boys and girls with disabilities in indigenous communities, since architectural, technological and transportation barriers are not identified and eliminated.

The conception of accessibility to physical spaces in indigenous communities is different from urbanized areas, and that the lack of accessibility in the same schools, threatens the safety of people, and puts women and girls with disabilities in higher risk situations, and in particular indigenous girls with disabilities.

**During the Pandemic:**

As a consequence of the Pandemic, the States have created new methods for ensuring the education, such as the “Distance Learning” that are broadcasted on radio, television, online platforms, and others. These models have worked at different levels, but in case of inclusive education for indigenous children with disabilities, it is found that in different countries it faces the same difficulties and barriers to become achievable.

For example, indigenous girls and boys with disabilities do not receive materials in accessible formats, and most of the times they are not available in their native and local languages either. An example of this, is the number of different Home Learning Platforms, which exist in several countries, where the contents are not in native languages even though they do have sign language during their broadcasts (that also vary depending on the different regions of the same country), and preventing indigenous children from understanding the contents easily and effectively.

Accessible formats for children with disabilities need to include information from an intercultural perspective, such as sign language, captioning, plain language, easy reading, mother tongue/native language including other accessible formats but, in most cases, it only include sign language. Children with visual disabilities also do not have accessibility since the audiovisual contents do not include audio description. At the same time, we have to be aware that not all deaf children may use the proper sign language, and most of them do not have access to learn sign language.

We also find that indigenous children with disabilities have a digital illiteracy gap, this concept created by the UNESCO says that

*"Ignorance of technological advances or new technologies, because individuals do not have how to interact with these types of tools and obtain further studies of them, which translates into not using a computer, software, internet, etcetera.”*[[7]](#footnote-7)

In most indigenous communities there is no appropriate equipment like computer, laptops or other technological devices and the tools and equipment for online digital classes, including online information portal, because the communities carry obsolete equipment that can no longer be updated, and what arrives is what has been rejected from the urban schools.

And even when some schools have some equipment, these cannot be used because the schools remain closed. Additionally, there’s a set of restrictive COVID measures in some communities that must be complied, that prevent children to go to the internet spots.

Therefore, these tools and equipment for online digital classes, including the online information sites, cannot be considered the best option for indigenous children and adolescents with disabilities to continue to be included in distance education.

As a consequence of this, the participation of indigenous boys and girls with disabilities is much limited in terms of technology, since the equipment in rural schools does not have accessible software. Besides, many times they do not have internet connectivity to be able to access content, and therefore they are separated from computer classes, which leads us to the fact that indigenous children with disabilities are not ready for the new distance learning through digital devices, which makes their learning difficult.

In addition, in several countries, the communities are unaware about all these services, facilities and its function at community level and do not have any access on it. Access to information remains one of the greatest barriers for them and they fall behind in all spheres of lives including receiving education.

A high population of family members of indigenous children with disabilities are illiterate, unaware and live remotely which hinders them to actively engage in educational activities and lifelong learning skills. And this is why indigenous children with disabilities including their parents and family members remain backward in engaging in educational learning process, or in the worst case, they stop supporting their children with disabilities.

From our experience, we can observe that there are higher drops out rates among indigenous children and indigenous children with disabilities. There are many underlying causes, structural led policies and mechanism driven by structural violence, education system and curriculum, lack of support and enabling learning environment including lack of intercultural friendly education system. And there is no system, rules, mechanism to monitor, evaluate and feedback on these gaps.

Additionally, indigenous communities are framed by western, colonized and patriarchal mindset so in indigenous communities also the preference for boy child exist. It is only men who make the decisions, which lead us to an issue of discrimination experienced by girls, and women with disabilities because they are not sent to school by their decision because it is considered as unnecessary, since it is preferred that boys have access to education and have better opportunities, and performance in community positions.

It should be noted that when 2 or more intersectional factors converge, as in the case of an indigenous girl or woman with a disability, faces a polynomial in which it turns out that the sum of a greater number of identities, greater poverty and less exercise of human rights, therefore there is less chances to receive formal or informal education. They are most likely to remain hidden at home by their own families and engaging in educational activities remain challenge and this situation leads us to a new exclusion, and in more aggravated form.

The intersecting different identities engulfs them socially, economically, culturally and in many other forms and create barriers to access education and to the decision-making process.

There is lack of fact, findings, information, case studies, statistical data on both indigenous peoples and persons with disabilities,[[8]](#footnote-8) which is accentuated regarding children with disabilities, and some of the available data that exist are not disaggregated by ethnicity, sex, age, geography, economic situation and disability.

Most often when studies, research, fact findings and National census are carried out, the indigenous communities are seen as a homogeneous group or lumped into other marginalized groups. Ethnicity, gender and disability is not integrated in same line. Like the “*Indigenous Navigator Project*”[[9]](#footnote-9), where indigenous boys and girls were not considered separately when talking about violence against them, even if evidence shows that girls and women with disabilities are at higher risk of violence than girls and women without disabilities,[[10]](#footnote-10) as well as more restrictions on their legal capacity and lack of an accessible legal system.[[11]](#footnote-11)

For this reason, the information obtained orally among people and indigenous populations with disabilities is the best way to analyze and offer opportunities for change and improvement.

In several countries where the families took their children to rehabilitation therapies faced new challenges as these centers closed abruptly when the pandemic started and the young people who had some advances suffered setbacks, we have even found children with disabilities that had increased or developed further impairments[[12]](#footnote-12) due to the total closure of these instances.

According to our observations, indigenous children with disabilities continue to require ongoing government organizational and community support to ensure that their right to basic education is met. Despite some progress, in several countries around the world, indigenous children with disabilities still do not have access to primary education on an equal basis with others.

In general, many statistics and findings indicate that the basic right of indigenous children with disabilities are not being met.

**Recommendations**

Due to the above, we make the following recommendations:

1. We urge governments to address distance learning considering the General Comment no. 4 of the Committee on the Rights of Persons with Disabilities (2016) based on article 24 of the Convention on the Rights of Persons with Disabilities, which recognizes as one of the core features of inclusive education, the respect for and value of diversity of all members of the learning community,
2. Urge Governments and other stokeholds to implement the UNESCO Report 2020 - Global education monitoring report, 2020: Inclusion and education: all means all [[13]](#footnote-13) as well as IDA’s “What an inclusive, equitable, quality education means to us”. IDA Report on Inclusive Education,[[14]](#footnote-14)
3. Support that services provided for indigenous families with children with disabilities, particularly access to education, must be designed in a culturally sensitive way and particular attention is paid to avoiding the use of an approach that might replicate, to some extent, past practices that have created traumas,
4. Urge States to guarantee that education is available in native languages, as well as ensuring some connectivity specific plans, and to ensure that the necessary materials for the development of indigenous children with disabilities can be available for them,
5. Regarding face-to-face education, we urge States to ensure the availability of schools in rural areas, the access to transportation, and access to education for indigenous children with disabilities with special emphasis on indigenous girls with disabilities,
6. We recommend that education must be accessible to every indigenous boy and girl with disabilities,
7. That teachers could be prepared on inclusive methodologies and selected from the same community, or region,
8. That the materials are based on the Universal Learning Design[[15]](#footnote-15), and to take in account it’s principle about providing multiple ways of representation of learning.
9. We recommend that education offers enough flexibility regarding the ways in which students access to materials, so in this way it can be more accepted among indigenous children with disabilities, and this is particularly beneficial for their personal and educational development,
10. We recommend that the materials must be prepared in native languages or with the linguistic variants of the area or to allow that the indigenous peoples are the ones who translate the texts, to avoid in this way all traces of colonialism and discrimination against them, as they are forced to learn a language that is not their own,
11. In the same way, it is necessary to place special emphasis on the Universal Design of learning in both face-to-face education and distance learning, in order to seek in this way that both indigenous boys and girls with disabilities have the same development opportunities.
12. We request that the infrastructure and accessibility for rural communities can be considered according to their specific requirements and preferences according to the Universal Design, in order to ensure the participation of indigenous boys and girls with disabilities in their environment, especially in their access to education.
13. It is necessary to reinforce the article 14 of the Declaration on the Rights of Indigenous Peoples during this time of pandemic, in form of an educational classes, to teach the histories of their peoples, language, traditions, philosophy, writing systems, literature, etcetera with the purpose of keeping the children in a learning state and not losing interest so that when the pandemic comes to the end, these little ones who attended schools do not lost interest in learning,
14. We recommend to the Expert Mechanism to promote on the CEDAW the creation of a Study about the situation of the specific challenges that the indigenous girls and adolescents with disabilities face,
15. We urge the generation of actions that ensure that food is provided to indigenous children with disabilities during time of COVID-19 to avoid malnutrition among indigenous children, including those with disabilities,
16. We urge to the States and the Mechanisms the creation of studies about migration and indigenous families with children with disabilities during this time of pandemic, that moved from their communities to the city, to look for better opportunities of education and support for them,
17. We urge that indigenous boys and girls with disabilities can be taken in to account, and their education to be guaranteed especially in distance learning issues derived from the SARS-COVID19 pandemic, as well as ensuring the preparation of teachers who carry out their work in indigenous communities, to leave no one behind, especially indigenous boys and girls with disabilities, and to ensure they can access to quality education, free from discrimination,
18. We urge the state to ensure Equity by Design by developing a socio-ecological model, building on family, community and educator assets to develop knowledge and skill in the application of Universal Design for Learning (UDL) to achieve educational inclusion and community mobilization,
19. In this way we ensure to build experiences, insights, knowledge of indigenous peoples including culturally-led and culturally responsive means to understand how the interconnections of education is related between racial healing, racial equity and education operate within that community.

For further information, please contact: [rgalarza@ida-secretariat.org](http://rgalarza@ida-secretariat.org)

International Disability Alliance

150 Route de Ferney

CH-1211 Genève 2

[www.internationaldisabilityalliance.org](http://www.internationaldisabilityalliance.org)

1. This submission reflects a consultation with members of the Indigenous Person with Disabilities Global Network and their members, particularly the Indigenous Person with Disabilities Latin-American Network, Group of Indigenous Peoples supported by RIADIS, Paso a Paso Foundation, Indigenous Person with Disabilities Asia Network, Indigenous Person with Disabilities African Network, Indigenous Person with Disabilities Pacific Network, National Indigenous Disabled Women Association- Nepal (NIDWAN), Narok South Disability Network and Pacific Disability Forum, [↑](#footnote-ref-1)
2. [United Nations Declaration on the Rights of Indigenous Peoples](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf) [↑](#footnote-ref-2)
3. [Convention on the Rights of Persons with Disabilitis and Optional Protocol, pages 18-19 about education](https://www.un.org/disabilities/documents/convention/cohttps:/www.un.org/disabilities/documents/convention/convoptprot-e.pdfnvoptprot-e.pdf) [↑](#footnote-ref-3)
4. E/C.19/2013/6, Study on the situation of indigenous persons with disabilities, with a particular focus on challenges faced with regard to the full enjoyment of human rights and inclusion in development, EMRIP, 2013, para 30, [↑](#footnote-ref-4)
5. Ibid., [↑](#footnote-ref-5)
6. Ibid, para 46, [↑](#footnote-ref-6)
7. [UNESCO guidelines for Digital Inclusion](https://unesdoc.unesco.org/ark:/48223/pf0000214485_eng), [↑](#footnote-ref-7)
8. E/C.19/2013/6, Ibid., para 3, [↑](#footnote-ref-8)
9. The Indigenous Navigator Project, is a framework and set of tools for and by indigenous peoples to systematically monitor the level of recognition and implementation of their rights. [Learn more,](https://indigenousnavigator.org/what-is-the-indigenous-navigator) [↑](#footnote-ref-9)
10. See A/HRC/20/5, [↑](#footnote-ref-10)
11. E/C.19/2013/6, Ibid., para 50, [↑](#footnote-ref-11)
12. In line with Art 25 on Health of the CRPD, b., [↑](#footnote-ref-12)
13. unesdoc.unesco.org/ark:/48223/pf0000373718, [↑](#footnote-ref-13)
14. www.internationaldisabilityalliance.org/news-inclusive-education-2020, [↑](#footnote-ref-14)
15. Universal Learning Design, created on 1997 by Ron Mace for CAST, at www.cast.org, [↑](#footnote-ref-15)