



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of Ecuador*

I. Introduction

1. The Committee considered the initial report of Ecuador (CRPD/C/ECU/1) at its 153rd and 154th meetings, held on 22 and 23 September 2014, respectively, and adopted the following concluding observations at its 168th meeting, held on 2 October 2014.
2. The Committee welcomes the initial report of Ecuador and is grateful for the written replies (CRPD/C/ECU/Q/1/Add.1) to the list of issues prepared by the Committee (CRPD/C/ECU/Q/1).
3. The Committee appreciates the constructive dialogue that took place during the review process and commends the State party for its high-level delegation.

II. Positive aspects

4. The Committee welcomes the provisions contained in the Constitution of Ecuador (2008) on the rights of persons with disabilities, in particular articles 11, 16, 35, 42, 46–49, 51, 61, paragraph 7, 62, 66, 81, 330, 341, 369, 373 and 381.
5. The Committee notes with appreciation the State party's adoption of legislation, public policies and initiatives designed to promote the rights of persons with disabilities, in particular:
 - (a) The Disabilities Act (Act No. 180), which establishes the framework for protection in the area of disability;
 - (b) The National Plan for Good Living 2009–2013, part of the National Development Plan;
 - (c) The development of the Manuela Espejo Solidarity Mission.
6. The Committee welcomes the establishment in 2013 of the Technical Secretariat for Disability on the initiative of the Office of the Vice-President of the Republic to supplement the institutional framework on disability.

* Adopted by the Committee at its twelfth session (15 September–3 October 2014).



7. The Committee notes with satisfaction the increase in the State party's budgetary allocations for the protection of the rights of persons with disabilities in recent years.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1 to 4)

8. The Committee is concerned that, although the Organic Act on Disabilities was published after the State party's ratification of the Convention, it retains a definition and understanding of disability that are based on a medical approach. This definition of persons with disabilities emphasizes their limited abilities and neglects the social and relational dimension of disability.

9. **The Committee recommends that a comprehensive review of the Organic Act on Disabilities be carried out with a view to harmonizing it with the general principles and specific provisions in the Convention, particularly in matters relating to non-discrimination and full transition to a human rights-based model.**

10. The Committee expresses its concern that the State party's legislative framework has not been the subject of a comprehensive review, with the aim of bringing laws on education, transport, urban development, prevention of violence, health, family relationships, work, culture and sport into line with the rights contained in the Convention.

11. **The Committee recommends that the State party establish a multilateral commission, comprising independent organizations of persons with disabilities and the different government departments, to carry out a systematic review of the legislative framework relating to education, transport, urban development, prevention of violence, health, family relationships, work, culture and sport in order to bring it into line with the Convention.**

12. The Committee notes with concern the fact that organizations of persons with disabilities, including organizations representing women and children with disabilities, did not participate, through submission of independent contributions, in the Committee's consideration of the State party's initial report. It also notes with concern the absence of mechanisms in the State party for the independent participation of organizations of persons with disabilities outside the governmental structure.

13. **The Committee calls on the State party to adopt measures promoting the effective participation of organizations representing women with disabilities, children with disabilities, persons from indigenous nations and peoples, and Afro-Ecuadorian and Montubio people in decision-making processes in matters relating to disability. It urges the State party to guarantee the independence and autonomy of organizations of persons with disabilities in their participation in, and contributions to, the adoption of legislation, policies and programmes for the implementation and monitoring of the Convention.**

B. Specific rights (arts. 5 to 30)

Equality and non-discrimination (art. 5)

14. The Committee is concerned that Ecuadorian legislation does not contain a definition of reasonable accommodation and that the denial of such accommodation is not considered a form of discrimination. The Committee is also concerned at the absence of institutional mechanisms to sanction discriminatory acts against persons with disabilities

and identify and sanction intersecting forms of discrimination and the lack of measures to ensure the non-repetition of such acts.

15. **The Committee recommends that the State party include in its domestic legislation the express requirement to make reasonable accommodation where necessary in a particular case and establish that the denial of such accommodation constitutes a form of discrimination on grounds of disability. The Committee recommends the establishment of independent bodies that are competent to deal with complaints and cases filed by persons with disabilities to combat discriminatory acts. Such bodies should have sufficient powers to carry out investigations and impose sanctions on public or private bodies that commit acts of discrimination, including forms of intersectional discrimination.**

Women with disabilities (art. 6)

16. The Committee is concerned about the discrimination faced by women and girls with disabilities, which is aggravated by the convergence of various factors of social exclusion relating to gender and disability. It is also concerned that the National Council for Gender Equality has not taken measures to mainstream the needs of women and girls with disabilities and that such women and girls do not participate directly in the Council.

17. **The Committee recommends that:**

(a) **The State party implement the legislation and all programmes and activities targeting women and girls with disabilities, including measures of remediation and affirmative action, in order to eradicate discrimination against them in all spheres of life, in both urban and rural areas, by ensuring their effective participation in the design and implementation of such measures;**

(b) **The National Council for Gender Equality incorporate into its work measures to address intersectional discrimination against women, taking into consideration disability as a factor of exclusion, and ensure the direct participation of women with disabilities in the Council.**

Children with disabilities (art. 7)

18. The Committee is concerned that, despite the concerted efforts made by persons with disabilities in Ecuador, there are no dedicated structures for the participation of children with disabilities and no frameworks or incentives to promote the establishment of organizations of children with disabilities.

19. **The Committee recommends that the State party include a specific component for the participation of children with disabilities in its incentives supporting organizations of persons with disabilities, in order to preserve their identity and promote their involvement in protecting their own rights.**

Awareness-raising (art. 8)

20. The Committee is concerned that the prevention of disabilities is considered a State policy relating to the rights of persons with disabilities. The prevention of disabilities is not a policy that should be included in the promotion of the rights of persons with disabilities, because it tends to create a negative image of them.

21. **The Committee recommends that the State party amend public policy so that the prevention of disabilities is not considered a policy that promotes the rights of persons with disabilities.**

Accessibility (art. 9)

22. The Committee is concerned that:

(a) The concept of accessibility contained in the Ecuadorian Technical Regulation does not cover matters relating to information and communication, including information and communication technology (ICT) and simplified language tools, as set out in the Committee's general comment No. 2 (2014) on accessibility;

(b) Contrary to the provision contained in the Committee's general comment No. 2, public transport networks in Ecuador are not yet accessible to persons with disabilities, who have to use more challenging transport options to carry out their daily activities;

(c) Although guidelines on the accessibility of web content were adopted in January 2014, their implementation has been delayed, particularly in the case of websites providing government information.

23. **The Committee recommends that the State party:**

(a) **Amend the Ecuadorian Technical Regulation so that it includes specific accessibility requirements relating to information, communication and technology and to simplified language tools;**

(b) **Launch a comprehensive programme to adapt public transport in Ecuador, including in rural areas, so that all transport becomes accessible within a pre-agreed time frame;**

(c) **Step up efforts to implement regulation NTE INEN-ISO/IEC 40500:2012 "Information technology – World Wide Web Consortium (W3C) Web Content Accessibility Guidelines (WCAG) 2.0", so that persons with disabilities can have access to the Internet and ensure that the Guidelines are binding, particularly on the websites of public institutions offering various services to persons with disabilities.**

Equal recognition before the law (art. 12)

24. The Committee is concerned that the State party's civil legislation provides for a substitute decision-making model through the use of roles such as guardians and wards, and that there is no immediate plan to reform the Civil Code and the Code of Civil Procedure to include a supported decision-making model, as recommended in general comment No. 1 (2014) on equal recognition before the law.

25. **The Committee recommends that the State party establish a working group with representatives of independent organizations of persons with disabilities in order to carry out a timely review of civil legislation and introduce supported decision-making mechanisms. It also recommends that the State party draw up an agenda, with a timetable, for the implementation of the new plan.**

Access to justice (art. 13)

26. The Committee is concerned that judicial officials are unaware of the rights of persons with disabilities provided for in national and international instruments, that the justice sector has no programmes specifically designed to provide assistance to persons with disabilities and at the inaccessibility of judicial facilities. The Committee is concerned that there is no requirement under the criminal, civil, labour and administrative procedures in Ecuador for judicial authorities to make procedural accommodations when persons with disabilities take part in proceedings.

27. **The Committee recommends that the State party:**

(a) **Adapt training programmes for judicial personnel to ensure that they cover the rights of persons with disabilities included in national and international human rights instruments;**

(b) **Ensure that the Council of the Judiciary implement a national adaptation plan so that there is adequate accessibility to judicial facilities both in terms of both their architecture and communications and that the plan includes the requirement to provide Ecuadorian sign-language interpreters and easy-read facilities for the participation of deaf persons and persons with intellectual disabilities, respectively;**

(c) **Ensure that the legislature introduce legislative reforms so that the national criminal, civil, labour and administrative procedures include the requirement to make procedural accommodations for persons with disabilities, thereby enabling their access to justice on an equal basis with others.**

Liberty and security of the person (art. 14)

28. The Committee is concerned that the State party considers that certain persons with disabilities, specifically those who have been abandoned and classified as “serious and chronic cases of oligophrenia”, remain institutionalized and do not have the necessary support to live in the community. The Committee is also concerned that the State party has not taken action to guarantee due process for persons with disabilities accused of having committed an offence. It is also concerned that declaring persons with disabilities unfit to stand trial is a pretext for applying security measures involving their indefinite deprivation of liberty and that they are not entitled to the same guarantees as other persons in the criminal justice system.

29. **The Committee recommends that the State party:**

(a) **Draw up a comprehensive deinstitutionalization plan for persons currently in the Julio Endara Psychiatric Hospital that ensures their personal safety and provides them with the guarantees enabling them to exercise their right to be included in the community. The comprehensive plan must include actions to guarantee the accommodation, food and personal assistance services they require to ensure their full inclusion;**

(b) **Refrain from declaring persons with disabilities unfit to stand trial when they are accused of an offence so that they are entitled to due process, on an equal basis with others, and that the general guarantees of criminal law and procedure are observed;**

(c) **Eliminate the security measures that involve forced medical and psychiatric treatment in institutions and promote alternative measures that are in keeping with articles 14 and 19 of the Convention;**

(d) **Ensure that all mental health services are delivered with the free and informed consent of the person concerned.**

Freedom from exploitation, violence and abuse (art. 16)

30. The Committee is concerned about:

(a) The high level of pregnancy among adolescents and young people aged between 12 and 19 years, according to the most recent population and housing census of 2010, and the fact that the age at which most women with disabilities reportedly had their

first child was between 15 and 19 years old, which is indicative of a high incidence of sexual abuse of women with disabilities, particularly with intellectual disabilities;

(b) The absence of appropriate mechanisms to detect situations of violence against persons with disabilities, especially women with intellectual disabilities, both within families and in institutions for persons with disabilities;

(c) The fact that specific mechanisms have not yet been established for the effective social inclusion of and prevention of violence against children and adolescents with disabilities living in institutions, where they can remain until the age of 18. Enclosed spaces are likely to give rise to situations of violence towards, and the neglect and abuse of, children and adolescents.

31. **The Committee recommends that the State party:**

(a) **Launch a training programme on the sexual and reproductive rights of persons with disabilities, targeted specifically at women with intellectual disabilities, their families and the professionals who provide services in the various State institutions;**

(b) **Carry out institutional reforms and training programmes for professionals in the police and justice sectors so that they are able to detect situations of abuse and violence against persons with disabilities and to conduct investigations with the necessary procedural accommodations to ensure that criminal behaviour is punished;**

(c) **As programmes are being developed to guarantee the right of children with disabilities to live in the community, establish mechanisms for the systematic monitoring, by independent bodies, in accordance with article 16, paragraph 3, of the Convention, of the living conditions of such children in institutions, with the aim of preventing situations of abuse and violence.**

Liberty of movement and nationality (art. 18)

32. The Committee is concerned that article 7 of the Naturalization Act still provides that Ecuadorian nationality may not be granted to persons with a “chronic illness”. Given the close link between so-called “chronic illnesses” and disabilities, this article is overtly discriminatory and contrary to article 18 of the Convention.

33. **The Committee recommends that the State party repeal article 7 of the Naturalization Act so that any person with disabilities can choose to apply for Ecuadorian nationality on an equal basis with others.**

Living independently and being included in the community (art. 19)

34. The Committee is concerned that, although the Joaquín Gallegos Lara vouchers are provided so that persons with disabilities can have assistance in the home, these payments are made to the carers and not to the persons with disabilities themselves.

35. **The Committee recommends that the State party review the criteria for issuing Joaquín Gallegos Lara vouchers to persons with disabilities, with a view to ensuring that it is they who receive such support to live independently and be included in the community.**

Education (art. 24)

36. The Committee is concerned:

(a) That persons with disabilities are educated only up to primary level and that, out of a total of 4.14 million registered students nationwide, only 24,499 are students with disabilities. The Committee is also concerned that the average number of years of schooling of persons with disabilities is three to four years, compared with the national average of nine years;

(b) That, despite efforts to provide professional training for teachers so that they can cope with the demands of inclusive education, a further effort is still required to meet all educational needs;

(c) At the procedural and organizational guarantees that the State currently has in place for the review and monitoring by the National Council for the Equality of Persons with Disabilities and district units supporting inclusion of access by persons with disabilities to inclusive education;

(d) That few persons with disabilities have access to State universities, which have not yet adjusted their curriculum and made their main facilities accessible so that persons with disabilities can enrol in their various courses.

37. **The Committee recommends that the State party:**

(a) **Introduce a State programme to ensure that all persons with disabilities living in Ecuador can enrol in primary, secondary and higher secondary education and have access to an inclusive education system and that the system is strengthened at the higher levels;**

(b) **Deploy greater efforts in initial and continuous training for teachers so that they can cope with the demands of inclusive education for persons with disabilities;**

(c) **Facilitate procedures for persons with disabilities to submit complaints to the National Council for the Equality of Persons with Disabilities so as to ensure more effective monitoring of obligations in this area. The Committee also recommends that there be a district inclusion support unit in each school district and not in each province, as is currently the case;**

(d) **Step up efforts to implement models of inclusive education for persons with disabilities at the university level by encouraging adaptations to the curriculum and premises of universities for the various courses they offer.**

Health (art. 25)

38. The Committee is concerned that the health services provided for persons with disabilities by the Ministry of Public Health through comprehensive support centres are not accessible to persons with disabilities living there in rural areas.

39. **The Committee recommends that the Ministry of Public Health carry out an accessibility programme at the comprehensive support centres with a view to implementing protocols for different types of disabilities and ensuring that its facilities are accessible to persons with disabilities living in rural areas.**

40. The Committee is concerned that the Comprehensive Organic Criminal Code allows the spouse, partner, close family member or legal representative of a woman with an intellectual disability to take a decision on her behalf to have an abortion if the pregnancy is the result of rape.

41. **The Committee recommends that the State party amend article 150 of the Comprehensive Organic Criminal Code and any other similar legislation that authorizes a third party to take decisions concerning the body of a woman with a disability.**

Work and employment (art. 27)

42. The Committee is concerned at the low employment rate among persons with disabilities.

43. The Committee recommends that programmes be designed to increase the employment rate of persons with disabilities and that employment programmes for persons with disabilities be developed.

Adequate standard of living and social protection (art. 28)

44. The Committee is concerned that the social housing prototype of the Ministry of Urban Development and Housing has been designed without taking into account the universal design component that would make it possible for persons with disabilities to make use of such housing.

45. **The Committee recommends that the social housing prototype be reviewed and redesigned to take account of the needs of persons with disabilities and that housing planned from the perspective of universal design.**

Participation in cultural life, recreation, leisure and sport (art. 30)

46. The Committee is concerned that facilities for sports and cultural development at the national level may not have undergone the necessary adaptation for access and use by persons with disabilities. The Committee is also concerned that school and sports centres do not promote inclusive sports programmes for persons with disabilities, especially for the very young. The Committee further expresses its concern that theatres, cinemas and other recreational and cultural facilities do not have the necessary infrastructure and qualified staff for the inclusion of persons with disabilities.

47. **The Committee recommends that the State party launch a national plan for accessible sport and update its cultural and recreational policy so that its main facilities are accessible to persons with disabilities. The Committee also recommends that the plans and instruments used for overseeing theatres, cinemas and other recreational facilities take account of their accessibility to persons with disabilities, and that sanctions be imposed when such facilities do not have conditions suited to all users.**

48. The Committee is concerned that the State party has not yet ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, which would enable persons who are blind, visually impaired or otherwise print disabled to have access to published works.

49. **The Committee encourages the State party to take all the necessary steps to ratify and implement the Marrakesh Treaty as soon as possible.**

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

50. The Committee is concerned that there is still no unified data-collection system in Ecuador allowing for an assessment of the extent to which all persons with disabilities are exercising their rights.

51. **The Committee recommends the establishment of a system that will resolve any discrepancies between the various institutions that manage data on disabilities which are currently fragmented, as well as a monitoring system with clear indicators for gauging how much progress has been made in complying with the various rights under the Convention.**

52. The Committee is concerned that the national system for classifying disabilities does not include disaggregated data on indigenous children, Afro-Ecuadorian children and Montubio people. The situation of these sectors of the population may be aggravated by multiple discrimination and it is necessary to have reliable information to meet their specific requirements.

53. **The Committee recommends that specific surveys be conducted and that the national population census include information on the number of persons with disabilities, especially Montubio or Afro-Ecuadorian women and children living in rural areas, in order to devise programmes on access to rights especially tailored to their situation.**

National implementation and monitoring (art. 33)

54. The Committee is concerned that the Ombudsman's Office does not form part of the national mechanism for monitoring the Convention, which is made up of the Council for Citizen Participation and Social Control and the Centre for Citizen Monitoring of Respect for the Rights of Persons with Disabilities in Ecuador. The Committee is also concerned at the absence of specific mechanisms for the participation of civil society organizations in the entire process of monitoring the Convention, as set out in article 33, paragraph 3, of the Convention.

55. **The Committee reminds the State party that the national monitoring mechanism must be independent and carry out specific tasks related to promotion, protection and monitoring the implementation of the Convention. In this context, the Committee urges the State party to adopt the necessary legal measures to clearly establish the independent mechanism under the Convention in line with the Paris Principles, strengthen its capacities with the necessary budget and resources to fulfil its mandate effectively and ensure the full participation of persons with disabilities and their representative organizations in the monitoring process.**

Cooperation and technical assistance

56. Under article 37 of the Convention, the Committee can provide technical guidance to the State party on any queries addressed to the experts through the secretariat. The State party can also seek technical assistance from United Nations specialized agencies with offices in the country or the region.

Follow-up to concluding observations and dissemination

57. The Committee requests the State party to provide information in writing within 12 months, and in accordance with article 35, paragraph 2, of the Convention, on the measures

taken to implement the recommendations set forth in paragraph 29 (a) and paragraph 31 (a) and (b).

58. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. The Committee recommends that the State party transmit the concluding observations for consideration and action to members of the Government and National Assembly, officials in the relevant ministries, the judiciary and members of relevant professional groups, such as education, medical and legal professionals, and also to local authorities, the private sector and the media, using the available social communication strategies.

59. The Committee requests the State party to disseminate the present concluding observations widely in accessible formats, particularly to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families.

60. The Committee encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its next periodic reports.

Next report

61. The Committee requests the State party to submit its combined second and third periodic reports by no later than 3 May 2018. The Committee offers to the State party the possibility of the above-mentioned reports being submitted under the Committee's simplified reporting procedure, under which the Committee prepares a list of issues at least one year prior to the date when the combined reports are due. The replies of the State party to such a list of issues will constitute its report.
