



## Convention on the Rights of Persons with Disabilities

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### Committee on the Rights of Persons with Disabilities Twelfth session

#### Summary record of the 153rd meeting\*

Held at the Palais Wilson, Geneva, on Monday, 22 September 2014, at 3 p.m.

*Chairperson:* Ms. Cisternas Reyes

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\* No summary records were issued for the 151st and 152nd meetings.

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*The meeting was called to order at 3 p.m.*

**Consideration of reports submitted by States parties under article 35 of the Convention** (*continued*)

*Initial report of Ecuador (CRPD/C/ECU/1; CRPD/C/ECU/Q/1 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Ecuador took places at the Committee table.*
2. **Ms. Ruilova** (Ecuador), introducing her country's initial report (CRPD/C/ECU/1), said that a number of steps had been taken to fulfil the obligations of Ecuador under the Convention, notably the introduction of the Organic Act on Disability and the establishment of the National Council for Persons with Disabilities (CONADIS). In 2008, the Constitution had been amended to include specific provisions on the rights of persons with disabilities, including the right to health care, employment and education, and a series of national oversight mechanisms had subsequently been established to guarantee the realization of those rights. The Government remained firmly committed to the full inclusion and participation of persons with disabilities in society and had launched a number of initiatives to promote and protect their rights, such as the "Ecuador without Barriers" programme, the Manuela Espejo Solidarity Mission, the Joaquín Gallegos Lara programme and the National Plan for Good Living. A neonatal disability prevention programme had also been introduced.
3. In addition to national disability policies, the State party had also been a key advocate of the rights of persons with disabilities at the regional and international levels through its support of the "Latin America without Barriers" programme and the World Health Organization Global Disability Action Plan, respectively.
4. **Mr. Rivadeneira** (Ecuador) said that the Ombudsman's Office served as the national human rights institution and was responsible for overseeing the promotion and protection of the rights of persons with disabilities. National legislation had been brought into line with the Convention and a series of rights-based policies and standards for persons with disabilities had been developed, notably the amended Criminal Code and the Organic Communications Act. The State party recognized, however, that further efforts must be made, particularly with regard to accessibility to information and communication. It had improved its collection of disaggregated data in an attempt to better understand the requirements of persons with disabilities and design more effective, cross-cutting public policies.
5. A national mechanism had recently been established in the Ombudsman's Office to prevent acts of torture or ill-treatment in places of detention and would take steps to improve the physical accessibility of prisons and detention centres in the near future. Regarding access to health, the Government had implemented reasonable accommodation measures for persons with disabilities and specific disability training was provided for health-care professionals. In addition, a social security scheme had been introduced whereby persons with disabilities could access private insurance policies, notwithstanding the pre-existing medical exclusion clauses. As for participation in political and public life, alternative arrangements had been provided for persons with disabilities, such as assisted voting and electronic voting, and public buildings had been rendered more accessible.
6. **Mr. Ríos Espinosa** (Country Rapporteur) said that, while the State party was to be congratulated on its efforts to implement the Convention, several areas of concern identified by the Committee had yet to be addressed. They included, inter alia, the continued reliance on a medical approach to disability, the lack of participation of disabled persons' organizations, the absence of provisions on reasonable accommodation in anti-discrimination legislation, the lack of formal participation by children with disabilities, the

failure to promote a positive image of persons with disabilities, and the absence of programmes and supported decision-making measures to guarantee access to justice. There was also concern about the high rates of sexual abuse and pregnancy among girls with intellectual disabilities and the low number of persons with disabilities receiving a basic education. He urged the State party to improve access to health in rural areas and indigenous communities and called for an improvement in data collection to enable more comprehensive policy measures to be introduced.

#### *Articles 1–10*

7. **Ms. Quan-Chang**, noting the pejorative language used in the Civil Code to refer to persons with disabilities, asked whether the State party intended to reform national legislation and bring its definition of disability into line with the Convention. She also wished to know what steps had been taken to replace the medical classification of persons with disabilities with a rights-based assessment model. Lastly, she enquired whether the Criminal Code contained provisions to combat multiple discrimination, specifically in the case of indigenous persons and women and girls with disabilities.

8. **Ms. Mulligan** asked what steps had been taken to ensure the managerial autonomy and independence of disabled persons' organizations.

9. **Mr. Langvad** asked whether the State party's definition of disability included persons with intellectual and psychosocial disabilities and sought clarification of the percentage of persons with disabilities in the Ecuadorian population. He enquired what steps had been taken to ensure the incorporation of the Convention in national legislation.

10. With regard to the participation of disabled persons' organizations, he requested additional information on the composition of the National Council for Persons with Disabilities and asked whether funding had been provided to enable disabled persons' organizations to attend the dialogue with the Committee. He sought further details on the status of the national human rights institution, in particular whether it complied with the Paris Principles, and enquired whether efforts had been made to prohibit corporal punishment of children with disabilities. Lastly, he asked what percentage of public transport was accessible to persons with disabilities and whether sign language interpretation was available in all national sign languages.

11. **Mr. Tatić** asked the delegation to provide up-to-date information on cases of disability-based discrimination that had been brought before the courts and on their outcomes. He also wished to know what sanctions had been imposed on companies or organizations that failed to comply with national accessibility standards and whether accessibility training had been provided to all stakeholders at the State and regional level. Lastly, he enquired whether specific steps had been taken to provide access to information and communication for indigenous persons with disabilities.

12. **Mr. McCallum** asked what avenues were available to persons with disabilities seeking redress for discrimination they had suffered and what penalties could be inflicted for discriminatory acts.

13. **Ms. Peláez Narváez** said that the absence of disabled persons' organizations at the meeting was a serious problem that should be addressed. While she commended the State party's commitment to gender equality, she noted that the National Agenda for Women and Gender Equality 2014–2017 referred only to "*personas con discapacidad*" (persons with disabilities), rather than mentioning women specifically. In addition, the Agenda made little reference to women and girls with disabilities in relation to important issues such as unwanted pregnancies, incest, violence and employment. There was also a lack of statistics disaggregated by gender, and organizations representing women with disabilities had not participated directly in drawing up the Agenda. She asked how actions to implement the

Agenda would be applied to women with disabilities, whether there was an organization representing women with disabilities and, if so, how it was supported.

14. The Committee on the Elimination of Discrimination against Women was due to consider the State party's report in February 2015. She wondered how information on women and girls with disabilities would be presented and whether organizations representing them would participate. In 2010, the Committee on the Rights of the Child had made recommendations regarding the elimination of corporal punishment in Ecuador. She wished to know what action would be taken to implement those recommendations in the light of information that corporal punishment still occurred in institutions for children with disabilities, schools and homes.

15. **Mr. Kim Hyung Shik** said that the Government's deliberations on how to define disability did not appear to have been extensive, yet the decision had wide-ranging implications for policies and programmes addressing the rights of persons with disabilities. He asked how many disabled persons' organizations existed in Ecuador, how democratic they were and why none were in attendance at the meeting. He asked how successful initiatives to raise awareness of disability issues had been and how their impact was monitored and measured.

16. **Mr. Al-Tarawneh** said that the absence of disabled persons' organizations at the meeting reflected negatively on the relationship between the Government and civil society. Noting the very low rate of disability mentioned in the report, he asked what definition of disability was being used and how disability was prevented. He also wished to know how the Government ensured compliance with article 9 of the Convention, how the removal of architectural barriers was tackled and whether building codes and other technical standards were in line with international standards. Was the concept of universal design included in action plans? Lastly, he asked what measures had been adopted to make public transport accessible to all.

17. **Mr. Ben Lallahom** said that the lack of information from NGOs and civil society, as well as their absence at the meeting, was regrettable. He enquired what strategy had been adopted following the declaration in 2008 of a state of emergency regarding disability services and whether NGOs had participated in its implementation. He would like to know which World Health Organization definition of disability was used in Ecuador. Lastly, he would appreciate statistics reflecting the impact of the amendments to the Criminal Code aimed at combating discrimination, violence against and hatred towards persons with disabilities.

18. **Mr. Babu** said that he wished to echo the concerns of other Committee members regarding the absence of disabled persons' organizations at the meeting. Information on the status of the plan to construct 2,500 homes for persons with disabilities would be welcome, as would an evaluation of the awareness-raising campaigns launched by the Government five years previously, the challenges remaining and the measures envisaged for future campaigns. He wished to know more about the consequences for municipalities and private sector organizations that failed to adhere to technical standards and guidelines relating to accessibility.

19. **Mr. Buntan** said that the lack of input from disabled persons' organizations made understanding the situation on the ground difficult. He asked whether the State party had any specific plans to amend legislation permitting corporal punishment within the family. He would like to know whether legislation recognized sign language as an official language and Braille as an official script, whether the State party had ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled and, if not, whether it planned to do so in the near future.

20. **The Chairperson**, speaking in her personal capacity, asked for clarification of the time frame for aligning domestic legislation with the Convention. Noting the significant number of indigenous peoples and persons of African descent in Ecuador, she asked how policies addressing those groups took persons with disabilities into account, and vice versa. Although a representative from Ecuadorian civil society was present at the meeting as an observer, the active participation of civil society would enrich the interactive dialogue and the State party should reflect on the matter.

*The meeting was suspended at 4.25 p.m. and resumed at 4.50 p.m.*

21. **Ms. Ruilova** (Ecuador) said that the representative of Ecuadorian civil society, Mr. Baquero, was in fact a member of the delegation.

22. **Mr. Baquero** (Federaciones Nacionales de y para la Discapacidad del Ecuador (FENASEC)) said that civil society had participated in drafting the report and the replies to the list of issues and worked with the Government to promote public policies on disability and to implement the National Agenda for Equality for Persons with Disabilities. While much work remained to be done, his organization, one of five national federations of persons with different types of disability in Ecuador, was committed to achieving those objectives in line with the Constitution. Three regional committees monitored public policies to ensure that they promoted respect, diversity and dignity.

23. **Ms. Ruilova** (Ecuador) said that a number of NGOs represented persons with disabilities, in addition to the five federations.

24. **Mr. Peñaherrera** (Ecuador) said that disabled persons' organizations had campaigned to increase their representation in the National Council for Persons with Disabilities and were currently represented by the presidents or vice-presidents of the five national federations of persons with disabilities. The Vice-President of the Republic, who himself had a disability, chaired the Council, which had always worked with disabled persons' organizations and allocated significant financial resources to such cooperation. The development of disabled persons' organizations was funded by the Council and the Government, through the Ministry of Economic and Social Inclusion, and the Government had invested in areas such as physical accessibility, rehabilitation and technical assistance. The National Agenda for Equality for Persons with Disabilities had been drawn up with the assistance of disabled persons' organizations during workshops and had been the basis for other agendas addressing specific groups of persons with disabilities, such as women, migrants and children.

25. **Ms. Ruilova** (Ecuador) said that the Technical Secretariat for Disability had been established in 2013 to promote full inclusion of persons with disabilities, both within a conceptual framework and through specific actions.

26. **Ms. Narváez** (Ecuador) said that the Technical Secretariat for Disability, together with civil society organizations, had implemented inclusive community development strategies enabling persons with disabilities to participate in various sectors, including education, health and culture. At the national level, there was an intersectoral coordination network on disability. A portal for institutions and organizations providing services for persons with disabilities had been created and accurate statistics gathered on those bodies.

27. **Ms. Ruilova** (Ecuador) said that the work of NGOs complemented the Government's efforts in the area of social participation. The authorities consulted with NGOs to obtain a clear idea of what measures should be taken. Coordination with NGOs was the responsibility of the Ministry of Economic and Social Inclusion.

28. **Ms. Rosero** (Ecuador) said that work that had once been the responsibility of the central Government was in some cases being delegated to autonomous entities throughout the country. Some had long histories of providing services to persons with disabilities,

although they had often been working in isolated fashion. To overcome that isolation, the Ministry of Economic and Social Inclusion and civil society organizations entered into annual service provision agreements; the organizations received approximately one third of the amounts budgeted for services for persons with disabilities.

29. At the outset, most programmes had been geared towards providing care. In the past two years, however, programmes had been developed to help persons with disabilities achieve their potential and live independently. They targeted not only persons with disabilities themselves but also their family members. Budgets were not unlimited, so priorities had had to be identified. Persons with disabilities who were living in poverty or extreme poverty were thus the primary intended beneficiaries of the State's efforts.

30. In early 2014, working agreements had been entered into with the five national federations of and for persons with disabilities. The agreements focused on strengthening the capacity of the federations' member organizations. Because the monies invested in the context of those agreements did not come from operating budgets, the projects they funded would not be imperilled in the event of budget cuts. The five agreements had been developed keeping in mind the needs and interests of each organization. Training relating to specific types of disability and organizational learning were the priorities.

31. Little by little, the lack of vision and goals that had once perhaps characterized the work of many NGOs was becoming a thing of the past. The Ecuadorian model of government also made it possible to reach the different areas of the country, and to take their specific needs and characteristics into account, without losing sight of overarching policy objectives.

32. **Ms. Ruilova** (Ecuador) added that NGOs had once had a great deal to do in Ecuador as a result of the State's inaction. However, strides had been made, with the Government assuming its responsibilities and making social development a priority. It was perhaps for those reasons that NGOs were less active in the country and that their presence was not what it had once been.

33. **Mr. Baquero** (Federaciones Nacionales de y para la Discapacidad del Ecuador) said that Ecuadorian sign language had been recognized in the Constitution and that a sign language dictionary had been created. A project to raise awareness of sign language and to teach it was well under way.

34. **Ms. Ruilova** (Ecuador) said that she acknowledged the concerns that had been expressed about the definition of disability contained in national legislation and the strikingly low reported percentage of patients with disabilities. In that connection, she noted that the comprehensive health-care model that the country had opted for was based on proximity to patients, whether they had disabilities or not.

35. **Mr. Panchi** (Ecuador) said that Ecuador was going through a transition as far as the definition of persons with disabilities was concerned. The definition incorporated in Ecuadorian law drew on terminology used in the International Classification of Functioning, Disability and Health (ICF). Assessment did not rely exclusively on medical criteria. Instead, as part of a social assessment that was also completed, a person's ability to gain access to services, to education and to the labour market was also considered, as were any socioeconomic factors that could exacerbate his or her condition.

36. The Ministry of Public Health was currently developing an assessment tool that encompassed not only assessment of a person's impairment but also of all the other aspects relating to functioning suggested by the World Health Organization. The very low reported percentage of persons with disabilities must be seen in that context. The percentage was based on past figures, that for the most part, reflected the numbers of persons with moderate, severe and very severe disabilities. Some persons with moderate disabilities and many with

minor disabilities had not been counted. In recent years, those persons had begun to be included, and for that reason the rate of persons with disabilities appeared to be rising. The purpose of the new assessment tool was to make possible a full record of the persons with disabilities in Ecuador; it should reflect Ecuadorian reality as accurately as possible but would not differentiate between degrees of severity.

37. Some 30 per cent of disabilities in Ecuador were the result of genetic disorders. For that reason, the State was making efforts to train genetic counsellors to work in primary health care, as well as geneticists to work on treatments. Screening was also offered, not only in the health system but also in the education and social welfare systems. Screening of newborns for genetic metabolic disorders was compulsory. Newborns were also screened for hearing and visual impairments; tests for neurodevelopmental disorders were currently being rolled out.

38. The unifying aim of the different service provision strategies that had been developed was to help all persons with disabilities in Ecuador live independently. The authorities had nonetheless identified priority groups, notably rural dwellers and persons with severe disabilities. To enable the families of those persons to take better advantage of the resources available for them, the Ministry of Economic and Social Inclusion was issuing them with vouchers. To obtain the vouchers, family members of persons with disabilities, as well as their communities at large, were required to commit to assuming their share of responsibility for the care of those persons. For its part, the Ministry of Public Health sought to make treatment and rehabilitation services, including physical therapy, speech therapy, psychological therapy and occupational therapy, available to people living in rural areas at primary health-care level.

39. **Ms. Ruilova** (Ecuador) added that the goal was to treat 80 per cent of the most common pathologies, including conditions that could give rise to disability, in primary health-care centres, which now offered access not only to medical treatment but also to preventive care and education on healthy living and even served as venues for citizen participation. Many local health committees had members who were persons with disabilities.

40. **Ms. Jaramillo González** (Ecuador) said, with regard to the legality of corporal punishment, that the Ecuadorian Constitution recognized the jurisdiction of indigenous communities and their collective right to live by their own laws as long as doing so did not violate the constitutional rights of others. That was consistent with article 8, paragraph 2, of the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169), which stated that indigenous peoples should have the right to retain their own customs and institutions where they were not incompatible with fundamental rights defined by the national legal system and with internationally recognized human rights. In that connection, the right to physical integrity was enshrined in the Constitution of Ecuador, and national legislation therefore prohibited any form of corporal punishment that violated it. Hate crimes and discrimination, for their part, fell under articles 176 and 177 of the Comprehensive Organic Criminal Code, which had entered into force in August 2014. As the Code had been adopted little more than 40 days before, it was difficult for the moment to provide figures attesting to the enforcement of the relevant provisions.

41. **Ms. Velasco Mancheno** (Ecuador) said that the Government was pressing ahead with a national plan for the eradication of violence against women, girls and youth. The plan included measures specifically for the benefit of women, girls and youth with disabilities. Fourteen centres for protection and five shelters in strategic locations around the country were available to victims of gender-based violence, including persons with disabilities. In the newly enacted Criminal Code, physical, psychological and sexual violence against family members, including women, had been criminalized. Committing crimes against persons with disabilities was deemed an aggravating circumstance.

42. **Ms. Jaramillo González** (Ecuador) noted that the word “*idiot*” (imbecile) had appeared not in the Civil Code, as had been asserted, but in the since-repealed Criminal Code, in an article indicating that, in certain circumstances, an abortion performed on a woman with an intellectual disability was not subject to punishment. The language used in the Civil Code had been revised in 2009.

*Articles 11–20*

43. **The Chairperson** observed that primary prevention of disability did not fall within the scope of the Convention.

44. **Ms. Mulligan** noted that, in the event of a national emergency, guidance and advice were available for institutions involved in managing mobilization of, communication to and care for persons with sensory, intellectual and physical disabilities. She wondered, however, why persons with psychosocial disabilities were excluded.

45. **Ms. Quan-Chang** said that she shared the concerns expressed about the scant representation of disabled persons’ organizations at the meeting and the lack of parallel reports from independent civil society organizations. The persistence of the substitution model of decision-making was another cause for concern. The failure to embrace supported decision-making had a negative effect on the enjoyment of other rights recognized in the Convention; persons whose legal capacity was limited were obviously prevented from seeking justice, for instance. The role of the Advocate for Persons with Disabilities was unclear. She wished to know whether the Advocate acted as court-appointed counsel for persons with disabilities who were being prosecuted for criminal offences or advised them on civil or labour relations cases or whether he or she came to the aid of persons with disabilities who were seeking justice but could not afford legal advice. On a related note, she wondered whether persons with disabilities, especially blind or deaf blind persons and persons with intellectual disabilities, could serve on juries or act as judges. Additional information on the way that the Office of the Ombudsman responded when rights violations were referred to it would also be welcome. Were that Office’s resolutions binding and did it have the power to issue any administrative penalties?

46. Noting that in Ecuador large numbers of persons with intellectual or psychosocial disabilities were apparently committed to psychiatric hospitals, she asked what recommendations the Ombudsman had made in that respect. The State party’s creation of a national mechanism for the prevention of torture was a commendable development. The mechanism had made recommendations concerning the situation in psychiatric hospitals and she would like to know what the Government had done in response. Involuntary confinement in an institution was not the sole rights violation that persons who were denied legal capacity were subject to. With the consent of a guardian, they could also be sterilized, a practice that was a clear violation of their right to physical integrity.

47. Lastly, regarding the voucher programme, it was not clear to her on what conditions the vouchers were awarded. She also wondered why the vouchers were given not to the person with a disability himself or herself but to that person’s caregiver or guardian.

48. **Ms. Degener** said that she had serious doubts about the genetic counselling on offer in primary health-care facilities. There were questions about whether such counselling and other preventive policies were entirely in line with the Convention, as they seemed to be based on the idea that it was better not to be born than to be born with an impairment. She herself did not believe that the Convention covered the rights of the unborn, but what was clear, as had already been mentioned, was that, under the Convention, implementing such primary prevention policies was not incumbent on States parties, who instead were bound to protect the rights of persons living with disabilities.



49. **Mr. Ríos Espinosa** noted that in its replies to the list of issues (CRPD/C/ECU/Q/1/Add.1) the State party had asserted that the persons with intellectual disabilities in institutions were a minority who had been abandoned by their families and whose institutionalization was in compliance with protocols for mental health care. However, no protocol advocating institutionalization could be compatible with the Convention. In that regard, a programme was needed to enable the members of the institutionalized minority to live in their communities.

50. The delegation should indicate whether the authorities had plans to amend the Comprehensive Organic Criminal Code in order to ensure that safeguards were in place for the treatment of persons who could not be deemed legally responsible for their acts. Although the word “*idiot*” did not appear in the new Code, it seemed to him that, since an abortion could still be performed on a woman with an intellectual disability with the consent of her legal representative, the underlying violation remained. It was therefore not just the language of the Code that needed changing. Lastly, he wished to know what steps the State party was taking to repeal the article of the Naturalization Act that prevented persons with a chronic illness from becoming naturalized Ecuadorian citizens.

51. **Mr. Tatić** asked whether voucher recipients were entitled to hire assistants who were not members of their families. Information on the training available to providers of support services would also be welcome. Lastly, he wondered whether the home support services that were mentioned in the State party’s report were provided only to those under the age of 18, as the report seemed to suggest.

52. **Ms. Peláez Narváez** said that, while forced sterilization was defined as a crime against humanity in the Comprehensive Organic Criminal Code, the State party had acknowledged that the practice nonetheless existed. The relevant article of the Code provided for a prison term of from 26 to 30 years but made no mention at all of legal representatives. She wondered what the State party was doing to ensure that the article was enforced. In accordance with another article of the Code, abortions performed on women or girls with intellectual or psychosocial disabilities were not always punishable. In many cases, the pregnancies of those women and girls were the result of rape, which often took place in the home. In that connection, she wished to know how the State party penalized that rights violation and what it did to ensure that women and girls on whom abortions were being performed were not sterilized.

53. **Mr. Langvad**, noting that there were no reports of persons with disabilities being denied the right to life, asked whether the absence of information in that regard really meant that such denials were not taking place. Regarding situations of risk and humanitarian emergencies, he would welcome additional information on the relevant guidance and on the languages and formats in which it had been made available. He would also like to know whether sign language interpretation was available in the event of an emergency. On the issue of equality before the law, he asked how many people in Ecuador were deprived to one degree or another of legal capacity, what the main reasons for deprivation were, which groups of people were most often affected and how it was guaranteed that the persons concerned had given their full and informed consent. Lastly, he wondered whether the 2,500 accessible houses mentioned in the State party’s report had been built, how they would be distributed and whether that number really met the needs of persons with disabilities around the country.

54. **Mr. Babu** noted that, according to the State party’s report, any person who had suffered discrimination on grounds of disability or whose exercise of his or her rights and benefits was threatened could register a complaint. In that connection, he wished to know how many such complaints had been registered, what redress the complainants had obtained and what penalties had been imposed on offenders. Lastly, he said that the virtual absence of civil society organizations at the meeting made consideration of the State party’s

report a somewhat hollow exercise, since there was no one to turn to for corroboration of the State party's assertions.

55. **The Chairperson**, speaking in her personal capacity, asked how the serious problems that women from the country's minority groups faced when they sought to gain access to justice had been addressed, particularly insofar as they affected women with disabilities. She also wished to know how the State guaranteed that due process was afforded to persons with psychosocial disabilities who had been accused of being perpetrators of or accessories to an offence and whether judges received periodic training on the rights of persons with disabilities. Lastly, she wished to emphasize that language created reality. In that connection, the term "patients with disabilities", used by the delegation in place of "persons with disabilities", reflected a medical view, a partial view, of the broader reality that the Convention sought to encompass.

*The meeting rose at 6:05 p.m.*