



Convention on the Rights of Persons with Disabilities

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Summary record of the 269th meeting

Held at the Palais Wilson, Geneva, on Monday, 15 August 2016, at 3 p.m.

Chair: Ms. Cisternas Reyes

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by parties to the Convention under article 35

Initial report of Uruguay (CRPD/C/URY/1; CRPD/C/URY/Q/1 and Add.1)

1. *At the invitation of the Chair, the delegation of Uruguay took places at the Committee table.*
2. **Ms. Costa** (Uruguay), introducing her country's initial report (CRPD/C/URY/1), said that Uruguay remained committed to the multilateral system for the protection of human rights. The country had ratified all the fundamental treaties in the field of human rights and the optional protocols thereto. It cooperated with human rights mechanisms and had extended an open invitation to rapporteurs, experts and other special procedures. Uruguay had also gone through two cycles of the universal periodic review and, in the most recent cycle, had accepted all the recommendations made except one, which it considered ran counter to the country's legislation on discrimination.
3. The preparation of the report under consideration had involved the participation of a wide range of institutions and civil society organizations. Her delegation welcomed the opportunity to update the Committee on the steps that had been taken to implement the Convention since the submission of the report in 2013. The adoption of the Convention in 2008 had marked the beginning of the harmonization of domestic law with the provisions of the Convention, which, as the Committee would no doubt be aware, was an ongoing process.
4. Until recently, persons with disabilities had been all but invisible in Uruguay. However, over the previous few decades, civil society organizations had campaigned tirelessly for their rights, and they now enjoyed greatly increased visibility in society. Although much work remained to be done to ensure the full implementation of the Convention, major legislative and institutional advances had been made at both the national and municipal levels.
5. Her delegation looked forward to discussing with the Committee both specific achievements, such as the adoption of a national plan on access to justice and legal protection of persons with disabilities, and specific areas of concern, such as the absence of standardized criteria for the certification of disability. Disability had been included as a variable in the national census for the first time in 2011, but more could nevertheless be done to improve the collection of data on persons with disabilities.
6. **Mr. Parra Dussan** (Country Rapporteur) said that the State party was to be commended for its commitment to the implementation of the Convention and its Optional Protocol. He was grateful that the State party had made its replies to the list of issues available in Braille. While Act No. 18651 of 19 February 2010 had gone some way towards bringing domestic law into line with the Convention, there was still much to be done in that regard. Articles 37 and 80 of the Constitution, for example, seriously restricted the legal capacity of persons with disabilities, and standardized criteria for the certification of disability were still wanting. However, he was confident that the dialogue with the State party would make it possible to strengthen the implementation of the Convention in the longer term.

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7. **Mr. Tatić** said that he would like to know the outcomes of the complaints of discrimination on the basis of disability that had been mentioned in the State party's report. Had any further complaints of discrimination been filed since its submission? It would be helpful to know how mechanisms for monitoring accessibility were implemented in

practice and how effective they were. He also wished to know whether the necessary support services and accessibility features were in place to allow wheelchair users visiting Montevideo to travel from the airport to the city centre without hindrance and whether hotels and government buildings were also accessible to them.

8. **Mr. Basharu** said that it would be helpful to know what specific measures had been taken to ensure that persons with disabilities and the organizations that represented them were consulted in the development of any policies that would affect them. He would also like to know how the State party assessed the impact of its awareness-raising campaigns. As for accessibility, he wondered what provision was made for persons with disabilities in the field of information and communications technology (ICT).

9. **Ms. Degener** said that, although the State party had affirmed its commitment to the social model of disability on which the Convention was based, some of its policies seemed to suggest otherwise. The prevention of impairment, for example, which was incompatible with the social model, was cited in the report as evidence of the implementation of the Convention. She would like to know whether the State party intended to classify denial of reasonable accommodation as a form of discrimination in line with the definition given in article 2 of the Convention. It would also be helpful to know how many children with disabilities had been institutionalized, how many institutional care centres there were and whether they were residential. In view of the low percentage of children with disabilities who completed their education, the Committee would welcome information on any plans to combat the exclusion of such children from mainstream education.

10. **Ms. Kingston** said that she would like to know how multiple and intersectional discrimination, for example discrimination against women with disabilities and indigenous persons with disabilities, was dealt with in legislative terms. In its concluding observations on the combined third to fifth periodic reports of Uruguay (CRC/C/URY/CO/3-5), the Committee on the Rights of the Child had recommended various measures to combat discrimination against children with disabilities. It would be helpful if the delegation could provide an update on their implementation. She would also like to know what progress had been made over the previous few years on the implementation of the State party's child poverty reduction strategy. More generally, to what extent was the State party's approach to persons with disabilities, and above all children with disabilities, based on human rights? She would also like to know whether women with disabilities and children with disabilities were consulted in decision-making processes, in particular in the development of policies that would affect them.

11. **Ms. Quan-Chang** said that she would like to know whether a time frame had been established for the passing of regulations to implement Act No. 18651 of 2010. It was unlikely that the five complaints recorded the previous year reflected the true extent of the problem of discrimination on the basis of disability. She therefore wished to know how the complaint mechanism was publicized and what remedies it provided for. In the light of reports that the only civil society organizations permitted to participate in the consultation process involving the Honorary National Commission on Disability were those that had been incorporated into a larger federation, the Committee would like to impress upon the delegation the importance of ensuring the widest possible participation of civil society organizations in such processes.

12. **Ms. Peláez Narváez** said that the Committee was grateful to the State party for having made the replies to the list of issues available in Braille. Referring to the response to question 2 of the list of issues, she was surprised that the State party had adopted legislation and decrees on the use of the green cane for persons with low vision, as that instrument had not yet been recognized by the World Blind Union, and the regulation of such mobility aids was not standard practice. She would be interested to know what had inspired the regulation

of such aids and what kind of restrictions were imposed. She wondered why the use of special canes by deaf-blind persons had not been taken into account in the regulations.

13. Welcoming the adoption of regulations on personal assistants for persons with disabilities, she asked what status such assistants had under employment law and whether they had the same rights as workers in other sectors.

14. Noting with satisfaction that Uruguay was one of the few States to have started mainstreaming disability issues into its general gender policies, and that the National Women's Institute was strongly committed to the rights of women with disabilities, she wondered how the State party was directly supporting associations of women with disabilities and ensuring that they were included in consultations with the broader disability movement. Although the National Plan for Equal Opportunities and Rights of Persons with Disabilities included some positive actions for women and girls with disabilities, she wondered what efforts were being made to ensure their real participation in decision-making on matters that affected them. She would be interested to know what steps were planned to implement the recent recommendation by the Committee on the Elimination of Discrimination against Women that the State party should consider including the disability dimension in all studies on women in general.

15. She would be interested to hear what efforts were made to prevent the abandonment and institutionalization of children with disabilities and what legislation was in place to protect the rights of such children, including freedom of expression and opinion. She asked what steps were taken to ensure that the Convention was taken into account during the annual televised telethon fundraising campaigns so as to ensure that the rights of persons with disabilities were respected.

16. **Mr. Ruskus** said that the definition of disability in Uruguay was not in line with that of the Convention, as the concept of disadvantage referred to in Act No. 18651 emphasized impairment rather than social barriers, which were seen as more of a secondary condition of disadvantage. The Convention, however, clearly provided that "barriers may hinder their full and effective participation in society on an equal basis with others". The Uruguayan definition also provided for the coexistence of two different models of disability — the medical and biopsychosocial models — both of which were impairment-based rather than human rights-based. He wished to know whether the Government had any plans to adopt a human rights-based approach to disability, including a definition in line with the Convention, a single human rights-based disability certification system and a coherent support mechanism.

17. **Mr. You Liang** thanked the State party for its frank acknowledgement of the challenges it faced in the field of disability. Noting that economic and social development played an important role in ensuring the rights of persons with disabilities, he asked to what extent disability issues were included in the national comprehensive economic and social development programme so as to promote disability-inclusive development. Bearing in mind that the first of the Sustainable Development Goals was related to eradicating poverty, he would welcome further information on poverty reduction programmes for persons with disabilities in Uruguay. He would also be grateful for information on efforts to raise awareness of reasonable accommodation. Stressing the need to pay attention to issues concerning women and girls with disabilities, he requested statistics on the number of female members of the National Parliament.

18. **Mr. Buntan** asked whether the State party had taken any legislative or policy measures to empower representative organizations of persons with disabilities so that they could participate meaningfully in decision-making processes, in accordance with article 4 (3) of the Convention. He would be interested to hear details of the implementation of the anti-discrimination legislation, particularly the outcome of cases and the remedies provided

for those whose rights had been violated. He wondered whether there was an official authority in charge of bringing national accessibility standards into line with internationally recognized standards and whether the State party had adopted a public procurement policy to enhance further accessibility in all areas.

19. **Mr. Pyaneandee** said that, judging by information received from civil society organizations, it appeared that there had not been much consultation prior to the process of legislative reform and adoption of anti-discrimination legislation. While the enactment of legislation was very important, it served little purpose if people could not assert their rights because of a lack of effective remedies in practice. He wondered whether the State party planned to undertake a review of all legislation and policies that violated the Convention and, if so, when.

20. **Mr. Parra Dussan** said that there appeared to be broad concern among civil society organizations with regard to the institutional framework for disability in Uruguay and the insufficient budget allocated for disability issues. He wondered whether any alternative institutional design might be considered for disability policy.

21. **The Chair** said that she would be interested to hear about intersectoral policies that covered disability issues in relation to women, children and older persons. She would particularly welcome information on how disability was dealt with among indigenous peoples and in the interior of the country.

The meeting was suspended at 4 p.m. and resumed at 4.35 p.m.

22. **Ms. Grau** (Uruguay) said that the National Plan of Action on Access to Justice and Legal Protection of Persons with Disabilities, which had been adopted in 2015 following consultation with civil society and was currently being implemented, contained a number of strategic focus areas and was based on the provisions of the Convention. A time frame of between six and eight months had been set to bring all Uruguayan legislation on disability into line with the Convention, since such action was considered a priority. Strategic areas included strengthening public institutions working in the area of access to justice through awareness-raising and training for all staff on disability and access to justice, the production of statistics on disability and access to justice and the promotion of universal access to the physical environment and technological and other resources, in line with the principle of reasonable accommodation. The implementation of the Brasilia Regulations Regarding Access to Justice for Vulnerable People was also being promoted. Training on disability and access to justice would be provided to undergraduate and postgraduate students in public and private universities. Attention would also be paid to persons with disabilities in situations of deprivation of liberty. The Committee would be provided with a copy of the national plan on access to justice and legal protection of persons with disabilities.

23. In rural areas, the Uruguay without Barriers programme, which operated under the National Disability Programme, employed psychologists, social workers and other professionals who travelled to remote parts of the country to work with persons with disabilities. In collaboration with other government programmes, it identified and located persons with disabilities in isolated areas.

24. Under Uruguayan law, all State-run websites must be accessible to persons with disabilities. Moreover, the Government had worked with the State telecommunications company, Antel, to launch a service that enabled deaf persons to contact emergency services and request help through an intermediary. Work was also being carried out with Antel to develop other, affordable devices for persons with disabilities. Initial trials were being conducted of a virtual sign-language interpretation centre that would initially operate on office-based computers and subsequently on hand-held devices. All children in State schools were given tablets and laptops and children with disabilities were able to modify their devices in accordance with their disability.

25. The Honorary National Commission on Disability worked with Government ministries, university departments and other bodies at a national level and with associations at a departmental level to enhance the rights of persons with disabilities. Meanwhile, the Government was working with the National Women's Institute to ensure that the issue of women with disabilities was addressed in a forthcoming bill and to tackle the problem of gender-based violence.

26. The programme "Uruguay Grows with You" worked with children aged between 1 and 3 years of age in the most vulnerable populations. Rather than creating a specific body to work with children with disabilities, appropriate training in working with such children was given to the staff of early-childhood groups. Inclusive early-childhood centres that worked with children with disabilities had also been established.

27. The National Disability Programme had a sizeable budget and would work in a cross-cutting manner with other ministries, many of which, on their own initiative, had asked to work with the Programme.

28. **Mr. Lezama** (Uruguay), speaking as a member of the departmental government of Montevideo, said that accessibility conditions in the city were not yet ideal. However, a series of changes was being made to enhance accessibility. Under the city's planning regulations, construction companies were obliged to consider the question of accessibility when designing new buildings. Other legislation aimed to make all public transport accessible to persons with disabilities. Currently, 30 per cent of public transport vehicles had been made accessible and tourism and taxi services had also been modified. In spite of the changes mentioned, it had to be acknowledged that persons with disabilities still faced many obstacles when attempting to travel around the city.

29. Groups known as participation coordinators had been created to give a voice both to organizations and to individuals who did not belong to any organization. One such group had been set up for users of public transport in Montevideo. Changes in accessibility conditions were also being made in the areas of communication and culture. Accessible theatres and cinemas had been opened and funding had been provided to encourage broadcasters to make their programmes accessible.

30. The Uruguayan Institute of Technical Standards had published an online map that showed the accessibility conditions of various public areas. The map raised awareness of accessibility issues and also contributed to the creation of policy and plans on accessibility. Generally speaking, priority had been given not to tourism services but rather to the improvement of living conditions in neighbourhoods that were not part of the tourist route. For instance, the Accessible Neighbourhood programme attempted to enhance accessibility on a local, human level. It was hoped that the progress made by the programme would be reflected in future reports.

31. **Ms. Grau** (Uruguay), responding to a question that the delegation had previously neglected to address, said that Act No. 18651 contained 94 articles. Articles 1-18 set out general provisions and commitments; articles 19-24 concerned the constitution of family property; and articles 25-30, the implementing regulations of which had been adopted, established that the carers of persons with severe disabilities would have the same rights as all other workers. The implementing regulations of articles 31-34, and of articles 35-47, which concerned health care, had not yet been adopted, while articles 48-66, which concerned education and social inclusion, and articles 67-81, which concerned architecture and town planning, had been partially regulated. Articles 82-87, which concerned transport, still awaited implementing regulations; the implementing regulations of articles 88-92, which concerned the taxes imposed on imported vehicles, had been adopted; and articles 92-94 were transitional regulations.

32. The most recent large-scale campaign to raise awareness of persons with disabilities had been held in 2010. Although it was difficult to measure the impact of that campaign, there was no doubt that it had been significant.
33. Legislation had been adopted to promote the use of white sticks, green sticks and guide dogs and to create a register of centres that provided training in the handling of guide dogs.
34. The National Plan on Access to Justice and Legal Protection of Persons with Disabilities, which was being developed in conjunction with civil society, would provide answers to questions concerning protection and reasonable accommodation. The question of the definition of disability would shortly be resolved by forthcoming legislative changes.
35. **Ms. Costa** (Uruguay) said that 9 out of 30 senators, and 19 out of 99 members of the National Parliament, were women.
36. The current Chair of the National Human Rights Institution had stated that one of the two complaints of disability-based discrimination cited in her country's report concerned inclusive education. No legal measures had been taken in that case and no compensation had been awarded. However, the Institution had made a specific recommendation to the educational establishment concerned.
37. The low number of complaints received possibly reflected the fact that people did not believe that much could be achieved by lodging an official complaint. However, persons with disabilities who had suffered discrimination should be encouraged to lodge complaints and should not remain silent.
38. The General Education Act, No. 18437, affirming that education was a human right and a public good, established a mechanism to improve the inclusion of children with disabilities in educational establishments. Since 2011, a commission had been in place to ensure that pupils who had graduated from such schools could participate fully in all areas of professional and social life. The University of the Republic supported deaf students by recruiting sign-language interpreters and other practical measures had been taken to enhance educational inclusion. Nevertheless, the delegation would be grateful for the Committee's recommendations in that regard.
39. As for the question concerning the institutionalization of children with disabilities in Uruguay, the delegation had received updated, specific information on that question and would provide it to the Committee in written form.
40. Policies to tackle child poverty had been in place for a number of years and had yielded positive results, but no specific policies were directed towards children with disabilities. The approach was rather to focus on the family as a whole. National economic policies were intended to improve the quality of life of the entire population. She was not aware of any civil society groups that existed specifically for women with disabilities; at any rate, none had come forward during the consultation period when the State party's initial report was being prepared. The telethon campaign existed in Uruguay, but had so far not given cause for concern in terms of violating any national laws. Families participating were consulted and treated appropriately.
41. Under the Code on Children and Adolescents, a council had been created for dialogue with children. Children with or without disabilities and children from other vulnerable groups and minorities were represented; however, there was no specific policy on consultation with children with disabilities who belonged to those groups. Lastly, she said that the country currently had one member of the National Parliament who was deaf.

Articles 11-20

42. **Mr. Tatić** asked whether the plans outlined in the State party's initial report to introduce free legal aid for persons with disabilities had been implemented and, if so, how. He requested additional information on the results of the training courses referred to in paragraph 259 of the report, on the financial support provided for persons with disabilities to engage personal assistants and on any training given to such assistants.

43. **Ms. Degener** expressed surprise that the State party's Constitution still took an incapacity approach to disability with regard to issues of immigration and citizenship and that several of its laws allowed for discrimination on the grounds of disability. Of particular concern was the fact that the directors of institutions housing persons who had been declared legally incapable and thereby deprived of their rights were appointed the legal guardians of residents and their children, all of which conflicted with article 12 of the Convention as interpreted in the Committee's general comment No. 1, even if judges tended to interpret the provisions in question in the light of the Convention more than they had done previously. When did the Government plan to replace the system of substitute decision-making with supported decision-making? Expressing concern about the forced institutionalization of certain persons with disabilities who were perceived as dangerous and forced medical treatment for those regarded as insane, she asked when the situation would be changed and the current laws and policies abolished and replaced with a rights-based approach. How many persons with disabilities had been institutionalized or forced to live with their families?

44. **Mr. Buntan** asked whether the State party had any policy on the use of public procurement policy to enhance accessibility. He also enquired about the practical, rather than the legal, implementation of article 12 of the Convention: for instance, could a person with a disability own or inherit property, sign cheques or take out a bank loan in Uruguay without depending on another person? In relation to article 13 of the Convention, he asked whether there existed any policy to promote the involvement of persons with disabilities in the legal profession, so as to help facilitate access to justice.

45. **Ms. Quan-Chang** asked what the State party was doing to halt violations of human rights in institutions where persons with disabilities, particularly mental or intellectual disabilities, lived and to hold those responsible to account. She also enquired what role the National Human Rights Institution had in monitoring such institutions and whether the new mental health act being prepared followed a rights-based approach. Expressing concern that some centres for youth offenders also held persons with disabilities, she asked what steps were being taken to monitor those institutions and to return persons with disabilities to the community and family life. While the State party had made progress on the issue of gender violence, she asked what was being done specifically to prevent violence against women with disabilities and to hold the perpetrators of such acts responsible.

46. With regard to the State party's programme to provide personal assistants for persons with disabilities, she noted an apparent contradiction between that programme and the law on carers, which took a more medicalized approach to disability issues. She wondered what was being done to ensure respect for the independence of persons with disabilities under the programme, what degree of control such persons had over who became their assistant and what sort of assistance — financial or otherwise — they received.

47. **Mr. Pyaneandee**, drawing attention to cases in which the National Human Rights Institution had been unable to deal with human rights violations because they fell outside its mandate, asked whether the State party delegation was prepared to commit itself to undertaking a review of all legislation that violated the Convention, in consultation with civil society, so as to ensure that the National Human Rights Institution could provide effective remedy.

48. **Ms. Peláez Narváez** asked how the State party made reasonable accommodation for children with disabilities in its justice system and what provision was made in the Code on Children and Adolescents to ensure that acts resulting from a young person's disability were not considered criminal offences. She also asked when legislation to prevent gender violence, including violence against women with disabilities, would take effect and whether any follow-up mechanism was envisaged. Lastly, she asked whether a woman with a disability who had been deprived of legal capacity could be forcibly sterilized and whether any such cases had occurred.

49. **Mr. You Liang** asked whether the State party planned to revise its immigration legislation to remove the provision discriminating against persons with disabilities. He enquired about the current situation with regard to the General Technical Guidelines referred to in paragraph 299 of the State party's initial report, which stipulated that 15 per cent of new housing should be designed for users with disabilities. Had those Guidelines been put into practice?

50. **The Chair** asked under what circumstances a person might be declared immune from criminal liability on the grounds of disability and what procedures applied within the criminal justice system in that event. What reintegration measures were included in the State party's National Plan on Access to Justice and Legal Protection of Persons with Disabilities? Referring to the 2014 concluding observations of the Committee against Torture (CAT/C/URY/CO/3), she asked what the definition of the offence of torture was under the law and whether any cases of torture or other cruel, inhuman or degrading treatment of a person with a disability had been brought to court.

The meeting rose at 5.55 p.m.