



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities Seventh session

Summary record of the 66th meeting

Held at the Palais des Nations, Geneva, on Tuesday, 17 April 2012, at 10 a.m.

Chairperson: Mr. McCallum

Contents

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

Initial report of Peru

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The meeting was called to order at 10.10 a.m.

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

Initial report of Peru (CRPD/C/PER/1); list of issues (CRPD/C/PER/Q/1); written replies of Peru to the list of issues (CRPD/C/PER/Q/1/Add.1); core document (HRI/CORE/PER/2010)

1. *At the invitation of the Chairperson, the delegation of Peru took places at the Committee table.*
2. **Mr. Rojas Julca** (Peru) said that Peru had been the first Latin American country to ratify the Convention on the Rights of Persons with Disabilities, in 2007 (Supreme Decree No. 073-2007-RE). It was a developing country of around 30 million people characterized by considerable cultural, ethnic and linguistic diversity. Despite having significant natural resources and a long and rich cultural legacy, it was still affected by major social inequalities. Like other vulnerable population groups, persons with disabilities were subject to discrimination and exclusion. Recognizing that problem, the Government was committed to implementing the provisions of the Convention and achieving the de facto social integration of persons with disabilities, while at the same time working to consolidate democracy, the rule of law and the country's development.
3. Among other significant advances made, in 2008 the Ministry of Women and Social Development had approved the 2009–2018 Equal Opportunities Plan for Persons with Disabilities and had supported the creation of a permanent cross-sectoral commission to assume responsibility for follow-up. The National Congress was currently considering a bill presented in March 2011 by the National Confederation of Persons with Disabilities of Peru and the NGO Sociedad y Discapacidad. The bill proposed the adoption of a new human rights-centred law on persons with disabilities, in line with the provisions of the Convention. The bill was also aimed at amending various legal provisions of general application, such as the Civil Code and the General Health Act, so as to ensure that disability issues were mainstreamed in Government policy.
4. Under Budget Act No. 29812 for the fiscal year 2012, additional budget appropriations were envisaged for the public sector in 2013, intended specifically to support inclusive and special education and early intervention programmes and improve health care, rehabilitation services, access to the labour market and accessibility for persons with disabilities. A number of agencies, led by the Ministry of Economy and Finance, had been involved in the development of that programme. The National Institute of Statistics and Informatics (INEI) had been awarded approximately \$3 million to fund a nationwide survey on disability and the National Council for the Integration of Persons with Disabilities (CONADIS) had been tasked with analysing the results.
5. A pilot accessibility programme that was the fruit of experience-sharing agreements in the area of disability concluded between Peru and Ecuador had recently been launched in the region of Tumbes. The aim of the pilot was to collect data on persons with disabilities residing in the Tumbes region and to validate instruments and develop methodologies and protocols that could gradually be rolled out across the entire country.
6. The first stage of the programme entailed establishing intersectoral and inter-institutional coordination at the national, regional and municipal levels. The second stage, scheduled to commence in May 2012, would entail a comprehensive genetic, biomedical and psychosocial study of persons with disabilities living in the region. The results would help the authorities more precisely to define the intervention strategies and public policies to be adopted in order to ensure that the persons concerned received support appropriate to their degree of disability.

7. The above examples were a testament to the Government's resolve to give effect to the provisions of the Convention and demonstrated that disability issues were addressed in a consistent and comprehensive manner. However, there remained much to accomplish and many obstacles to surmount in order to achieve the social integration of persons with disabilities.

8. **Mr. Guzmán Jara** (Peru) said that disability issues were addressed at three administrative levels in Peru. CONADIS had responsibility at the national level. In the regions, there were regional offices providing support for persons with disabilities in that area. Lastly, article 84 of the Municipalities Organization Act provided for the establishment of service units responsible for the protection and integration of persons with disabilities at the local level.

9. In the current year, approximately \$34 million would be invested in health care. The funds would be used to build a modern, high-tech rehabilitation centre for persons with disabilities. Six million dollars would be invested in physical rehabilitation facilities and \$13 million would be used to improve mental health services.

10. The national disability survey would cover 230 families and would enable the authorities to target the needs of persons with disabilities. The survey would examine the situation of persons with disabilities at the medical, biomedical, psychosocial and genetic levels and assess the extent of their integration in terms of education, health, employment and accessibility. Both the mainstream and the special education systems, which catered for some 50,000 young Peruvians, would benefit from significant investment. The aim of the budget programme was to use the funds due to be allocated in 2013 in an effective manner and so achieve tangible improvements in the area of disability.

11. **Mr. Rios Espinosa** (Country Rapporteur), commending the Peruvian Government's efforts to implement the provisions of the Convention, asked how the measures taken to promote the rights of persons with disabilities tied in with the National Human Rights Plan. Noting that the legislative framework governing the rights of persons with disabilities in Peru was under review, he asked how the eight fundamental principles enshrined in the Convention would be incorporated in the new national legislation and how the law would be harmonized with the concepts of the Convention.

12. It would be useful to know how the State party aimed to ensure that associations and organizations for persons with disabilities were involved in planning, implementing and monitoring compliance with the Convention and that the 2009–2018 Equal Opportunities Plan for Persons with Disabilities embraced all persons with disabilities. An indication as to whether it planned to investigate the discrimination suffered by persons with disabilities belonging to indigenous or Afro-descendent communities, and particularly by women and children living in rural areas, would also be appreciated.

13. The Committee wished to know how the principles of the Convention were taken into account in Government awareness-raising campaigns such as the Telethon, which were carried out in cooperation with the private sector, and how the State party intended to meet the 60 per cent target for public building accessibility for persons with disabilities, set for 2010, and ensure that private sector organizations providing services to the public also complied with the Convention's accessibility requirements.

14. He further enquired whether, as part of the current review process, the State party envisaged aligning the provisions of the Civil Code with those of article 12 of the Convention so as to recognize the full legal capacity of persons with disabilities, and modifying Act No. 29737, amending article 11 of the General Health Act, which infringed personal freedom by permitting the involuntary internment of persons with a psychosocial disability or drug addiction.

15. Noting that 28 persons with disabilities had died in the Cristo es Amor centre in 2011, he said that it was imperative that the State party took action to protect the physical integrity of persons with disabilities in privately run institutions. He would welcome any additional information about the Larco Herrera psychiatric institution, where patients apparently did not receive specific care conducive to their rehabilitation and about the administration of psychotropic drugs as a means of chemical restraint in general.

16. He wished to know whether the State party envisaged amending the Foreigners Act to remove the requirement for persons with disabilities to provide a certificate attesting to their mental capacities, as that prerequisite infringed their right to acquire Peruvian nationality. Did the State party plan to take action to prevent the systematic institutionalization of persons with disabilities, pursuant to article 19 of the Convention, and to amend the existing legal provisions, particularly Ministerial Resolution 536/2005/MINSA of 18 July 2005, that permitted the sterilization of persons with disabilities for contraceptive purposes.

17. The Committee wished to know what action the State party intended to take to reduce the number of persons with disabilities who were excluded from any form of education, particularly in Afro-descendent communities, and to develop inclusive education systems.

18. Greater detail about planned Government measures to ensure that persons with disabilities enjoyed the right to health and access to health-care services and social security protection would be appreciated, as would information about measures to facilitate access to the labour market for the many disabled job seekers and to guarantee a decent standard of living for all persons with disabilities by introducing a non-contributory pension scheme.

19. While welcoming the State party's decision, in October 2011, to reinstate on the electoral register all persons with disabilities who had not been permitted to exercise their right to vote in the 2011 municipal elections, the Committee remained concerned that certain persons, including those confined to psychiatric institutions, continued to be excluded from public life and political participation. The delegation's views on that situation would therefore be appreciated. Lastly, the Committee noted with concern the lack of a State body officially charged with monitoring implementation of the Convention, in accordance with paragraph 2 of article 33.

20. **Mr. Tatić** asked whether legal remedies were available to persons who suffered discrimination on the basis of their disability and whether the Government planned to include provisions addressing that matter in the legislation currently being developed. He wished to know whether the new legislation would expressly stipulate that denial of reasonable accommodation constituted discrimination on the basis of disability. Lastly, he asked for additional information on mechanisms designed to ensure accessibility and on the sanctions applicable to private individuals or entities that contravened the relevant legislation.

21. **Mr. Al-Tarawneh** asked whether an assessment of public places had been completed before the launch of the pilot project in the Tumbes region and whether a national strategy on disability had been adopted to facilitate the application of article 9. He also wished to know whether any building laws or codes had been adopted to ensure compliance with that article and to what extent universal design was envisaged. Lastly, he sought clarification regarding the role of the municipalities, which were the bodies generally responsible for issuing building permits, and the role of the private sector in promoting accessibility.

22. **Mr. Gombos** asked what action was planned by the State party to combat the multiple discrimination suffered by persons with disabilities, noting that experience had

shown that conclusive results in that area could be achieved only if multiple discrimination was expressly recognized as an offence in its own right.

23. **Ms. Cisternas Reyes**, noting that the State party was home to more than 40 indigenous and Afro-descendent peoples, asked whether the delegation could provide statistics on disability disaggregated by population group, sex and age. She also wished to know whether the needs of persons with disabilities belonging to those communities were fully taken into account and whether impact indicators were used to assess the efficacy of social assistance programmes undertaken on their behalf.

24. **Mr. Langvad** asked whether domestic legislation included provisions expressly prohibiting discrimination and guaranteeing reasonable accommodation on the basis of disability. If that was the case, he would like to know whether those provisions applied to all persons with a long-term disability and whether the prohibition on discrimination extended to persons receiving no support under State legislation on disability.

25. **Mr. Ben Lallahom** asked for further information about the specific role of civil society in the fight to eliminate discrimination against persons with disabilities and about practical measures taken to ensure not only physical but also digital and social accessibility, including concrete initiatives to change the manner in which persons with disabilities were perceived in Peruvian society. He also sought clarification regarding access to the right to vote and the exercise of that right.

26. **Ms. Yang Jia** said that the presence of a blind person in the delegation was commendable. She asked whether persons with disabilities had access to banking services or whether any measures were currently being taken to ensure such access.

The meeting was suspended at 11.05 a.m. and resumed at 11.20 a.m.

27. **Mr. Rojas Julca** (Peru) said that Peru was firmly committed to implementing the provisions of the Convention and that any remaining obstacles would gradually be overcome. The authorities needed to obtain a more precise overview of the situation of persons with disabilities, in terms of both their numbers and the nature and characteristics of their disabilities. At the same time, they must endeavour to improve accommodation for disability, focusing on increasing the social integration of persons with disabilities and their participation in public life. The whole of civil society had a part to play in that endeavour since, without its involvement, it would be impossible to obtain satisfactory and lasting results and to strengthen the social fabric of the country. To that end the Government was working closely with the local authorities, who were physically closest to citizens and their problems. Peru had various structures at the national, regional and local levels which were in need of a new impetus. The central authorities were committed to working for the development of the country and the most vulnerable segments of society.

28. **Mr. Guzmán Jara** (Peru) said that Peru was a democratic country that was working to strengthen the rule of law. With that aim in mind, it had ratified the Convention and the Optional Protocol, the International Labour Organization (ILO) Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) and the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities.

29. Under the National Human Rights Plan that had recently reached its term, the specific situation of persons with disabilities was addressed in 19 areas of action including education, health, rehabilitation, employment and associative development. CONADIS participated in the National Human Rights Council of the Ministry of Justice and Human Rights in order to ensure that the exercise of the rights of persons with disabilities was taken into account as the State party prepared for the universal periodic review. Civil

society was closely involved in initiatives undertaken by the public authorities at the national, regional and local levels.

30. Act No. 28867 amending article 323 of the Criminal Code made discrimination against persons with disabilities a criminal offence carrying a prison sentence of 2 to 3 years, extendable to up to 4 years when the offender was a public servant. Members of civil society could also avail themselves of constitutional safeguards, for example, through a writ of mandamus, in cases where a public servant or public or private sector institution violated the rights of persons with disabilities.

31. **Ms. Caballero de Clulow** (Peru) said that Act No. 28867 established severe penalties for discrimination, including discrimination against persons with disabilities, and that any person who, directly or through a third party, practised discrimination aimed at undermining or jeopardizing the recognition, enjoyment or exercise of the rights of persons with disabilities would henceforth be liable to prosecution. Article 200 of the Constitution of Peru established the following constitutional guarantees: the writ of habeas corpus, the writ of *amparo*, the writ of habeas data, the writ of unconstitutionality, the writ of popular action and the writ of mandamus. Persons with disabilities could also file a complaint with the Office of the Ombudsman, whose mandate included ensuring that public servants fulfilled their obligations in regard to safeguarding fundamental human rights, mediating between the authorities and members of the public and making recommendations.

32. A number of legal texts addressing the issue of reasonable accommodation had been adopted, including Supreme Decree No. 013-2009-MIMDES of 11 December 2009 approving regulations for the promotion of Internet access for persons with disabilities and the provision of public Internet terminals and Act No. 29478 of 18 December 2009 on measures to facilitate access to the vote for persons with disabilities. Act No. 29487 of 23 April 2009 established that health-care services should be free for all armed forces personnel who had some form of disability as well as for members of their immediate family. Act No. 29535 of 20 May 2010 officially recognized Peruvian sign language. Act No. 28683, amending Act No. 27408 on the preferential treatment of pregnant women, children, and elderly persons in places providing services to the public, extended that treatment to persons with disabilities, besides providing that all services and establishments open to the public should take the necessary steps to ensure ease of use and access, on pain of financial penalties.

33. To achieve compliance with the provisions of article 9 of the Convention, Regulation A.120 on Accessibility for Persons with Disabilities and Older Adults had been published in 2006 and was regularly reviewed and updated. Peru had made considerable progress in the regulatory field in spite of flaws in the relevant legislation. It aimed to remedy those flaws with the National Plan for Accessibility that was currently being drafted.

34. To make towns and cities better adapted to the needs of persons with disabilities, the National Institute for the Defence of Competition and Protection of Intellectual Property had adopted Peruvian technical standard NTP 940.001 on the accessibility of the physical environment and installation of fixed ramps in urban areas, published in the Official Gazette on 9 October 2011. The Technical Committee for the Regulation of Physical Accessibility, established in 2010, was committed to establishing other technical standards for buildings and structures that would cover roads, pedestrian crossings, signs and signals and would be designed to meet the specific needs of persons with disabilities in urban areas.

35. Peru did not for the moment have information on the implementation of measures to meet the target accessibility figure of 60 per cent in 2010 set by Supreme Decree No. 027-2007. However, the pilot accessibility project in Tumbes, under which central Government

and local authorities in the Tumbes region were required to prioritize accessibility in their expenditures, and to carry out the work necessary to make the urban environment accessible to persons with disabilities, was an important development in that area.

36. The State had not received any specific complaints of failure to meet accessibility standards. It was worth noting, however, that the new general law on persons with disabilities currently being considered in Congress might include a specific section on infringements of the accessibility regulations and the applicable penalties.

37. **Mr. Gombos** asked how many persons with disabilities in the State party did not enjoy legal capacity on an equal basis with others, and what support services were envisaged to ensure that those with a psychosocial disability could enjoy that capacity. He also sought information about the amendments planned to national legislation to ensure that all persons with disabilities were able to enjoy the right to liberty on an equal basis with others and about measures aimed at ensuring reasonable accommodation in prison for persons with disabilities who were deprived of their liberty, in accordance with article 14 of the Convention.

38. **Ms. Peláez Narváez** asked for more details about the trafficking in organs of which children with disabilities could sometimes apparently be victims. She also sought information about the measures taken by the State party to address the considerable number of deaths that were attributed to illegal abortions performed following rape, noting that women and girls with disabilities were particularly vulnerable to violence of that type.

39. **Ms. Cisternas Reyes**, noting that Peru was a highly seismic country, asked how disability issues were factored into emergency protocols and to what extent persons with disabilities were involved in disaster preparedness emergency drills. With regard to article 13 of the Convention, she would appreciate information about any age-appropriate accommodations made to ensure effective participation in legal proceedings for persons with disabilities and about the training provided to judges, police officers and prison staff.

40. **Ms. Degener** asked whether the programme to combat domestic and sexual violence contained specific provisions addressing the situation of women and children with disabilities, who were more exposed to violence in both the institutional and the family environment. She would also like to know what type of assistance was provided to women with disabilities in the Emergency Women's Centres.

41. **Mr. Langvad** enquired about specific measures taken by the State party to enable persons with disabilities to live independently, to ensure their integration in society and, in particular, to guarantee them access to education and transport.

42. **Mr. Gombos** asked what the State party was doing to eliminate the use of corporal punishment against children with disabilities in institutions and other environments and how it aimed to guarantee that all services provided to persons with disabilities were assessed by independent authorities to ensure that human rights were respected. Information would also be appreciated about measures envisaged to provide the necessary assistance to persons with disabilities who were not equipped to consent to a specific treatment, so that they could make an informed decision as to whether to accept or refuse the treatment.

43. **Mr. Chowdhury** asked whether the 2009–2018 Equal Opportunities Plan for Persons with Disabilities included measures to facilitate access to primary, secondary and higher education for children and young people with disabilities, whether in special or mainstream institutions.

44. **Ms. Degener** asked how inclusive education was defined in the State party and what reasonable accommodations were made for children with disabilities attending mainstream schools. She would also like to know whether the State party planned to revise the Electoral

Code so that it would no longer be possible to deny anyone the right to vote on disability grounds.

45. **Mr. Gombos** asked what the State party was doing to ensure that increasing numbers of persons with disabilities, and especially those with intellectual disabilities, had the opportunity to form representative organizations and benefit from capacity-building to ensure effective management of those organizations.

46. **Mr. Langvad** asked whether there were any children with disabilities in Peru who did not have access to education and whether, under Peruvian law, persons with disabilities could be sterilized without their consent.

47. **Ms. Cisternas Reyes**, turning to the right to health, asked to what extent the additional budget appropriations mentioned would be used to extend health services in rural areas so that they were accessible on an equal basis to aboriginal and multicultural peoples. She also asked whether persons with a mental disability would benefit from the additional appropriations, in view of the inadequacy of the relevant services available, whether they would have access to medicines either free of charge or at affordable prices, and whether there were any differences between branded and generic medicines. She would also appreciate information about sexual and reproductive health services for persons with disabilities, including indigenous persons and, in particular, women and girls belonging to multicultural groups.

48. With regard to social security benefits, she asked whether persons with disabilities, and especially the most disadvantaged, would be entitled to benefits under the non-contributory pension scheme as well as to retirement benefits and, if so, when those benefits would be introduced. She would likewise be interested to know about any measures taken to ensure that persons benefiting from welfare pensions could also enter into an employment contract. Lastly, she asked whether any indicators had been developed which could be used to measure the quality of the education provided to pupils with disabilities, whether in mainstream or special schools.

49. **Ms. Peláez Narváez** asked when the State party intended to amend article 43 of the Civil Code, which prohibited persons with certain disabilities from marrying.

50. **Mr. Ben Lallahom** asked what percentage of television programmes were broadcast with subtitles or sign language interpretation, and what measures were envisaged and what technologies had been adopted to facilitate Internet access for persons with visual disabilities, in accordance with the provisions of Act No. 28530. He also enquired how deaf children attending mainstream schools were able to follow lessons and what measures were in place to help deaf children at the preschool level. It would be useful to know, in that connection, whether there was an otoacoustic emissions testing programme in place for the prevention and early identification of deafness, given that, where deafness was diagnosed before the age of 2, appropriate aids favouring speech communication could be fitted.

The meeting was suspended at 12.20 p.m. and resumed at 12.40 p.m.

51. **Ms. Caballero de Clulow** (Peru), addressing the issue of legal capacity, said that the Government was working to address the challenge of collecting data on persons with disabilities placed under guardianship. Regarding the legal criteria for placing a person under guardianship and the procedure for appointing a guardian or challenging such a decision, she pointed out that the provisions had been adopted with a view to helping persons who were unable to make their own decisions, deaf-mute, deaf-blind and blind-mute persons who were not able to express their wishes unequivocally, and persons who were unable to look after themselves due to a physical or mental disability or were a threat to the safety of others. Guardians were appointed by decision of a medical committee that attested to the disability of the person concerned in accordance with legal criteria

established for that purpose, and were not permitted to disregard the wishes of the persons placed under their guardianship.

52. **Mr. Guzmán Jara** (Peru) said that the Government consistently strove to implement the provisions of the Convention in spite of the lacunae still present in Peruvian legislation. Persons who were deaf or mute or had some other form of disability that affected their ability to communicate were classified as disabled. He added that, under the impetus of CONADIS and civil society, an amendment to domestic legislation was planned so as to ensure that persons with disabilities had full legal capacity in all areas and that those who had a severe disability received due assistance in making decisions. Wishing to lead by example, CONADIS had plans to recruit a deaf-mute person and thus to demonstrate that deaf-mute persons were as capable as anyone. CONADIS was also undertaking initiatives in association with persons affected by psychosocial disorders or hearing impairments.

53. **Ms. Caballero de Clulow** (Peru), responding to requests for information on the education of children with disabilities, said that the Government favoured an inclusive approach, as evidenced by article 8 of the General Education Act defining the principles that underpinned the Peruvian education system, such as the principle of inclusion for all, including those with a disability, and article 39 of the Act establishing that persons with special educational needs should receive support to enable them to participate in society.

54. Citing statistical data broken down by level of study, age, sex and disability, she said that significant progress in improving school enrolment rates for young people with disabilities had been achieved between 1993 and 2006.

55. **Mr. Guzmán** (Peru) said that the various censuses and surveys addressing the issue of disability that the Peruvian Government had conducted since 1940 had enabled it progressively to refine the relevant statistics. According to the latest official figures published by the National Institute of Statistics and Informatics (INEI), in 2012 around 3.2 million Peruvians, or 10.9 per cent of the total population, had some form of disability. There was therefore a need for a focused nationwide survey on the incidence of disability, and the survey that was due to be conducted in the Tumbes region should allow for the collection of real and reliable data.

56. According to school enrolment figures for children from indigenous communities, 50 per cent of children with disabilities aged over 12 defined themselves as mestizo, 27.4 per cent as speakers of the Quechua language, 3.1 per cent as belonging to the Aymara community and 4.9 per cent as white. The task of collecting statistics on mainstream or special school placement would take time. The figures provided by Ms. Caballero de Clulow related to all children rather than those enrolled in special schools.

57. Ministry of Education figures indicated that there were 406 special educational institutions in Peru and 59 institutions running early intervention programmes for children with disabilities up to the age of 7 years. Approximately 30,000 pupils with disabilities were enrolled in mainstream schools, 18,000 were in special schools and 2,000 were in early intervention centres. The Government of Peru had recently launched a far-reaching early intervention social programme for children with disabilities and CONADIS and the Ministry of Women and Vulnerable Populations had asked it to extend that programme's coverage to all children with disabilities up to the age of 3.

The meeting rose at 1 p.m.