



# Convention on the Rights of Persons with Disabilities

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## Committee on the Rights of Persons with Disabilities

### Concluding observations on the initial report of Panama\*

#### I. Introduction

1. The Committee considered the initial report of Panama (CRPD/C/PAN/1) at its 336th and 337th meetings, held on 15 and 16 August 2017. It adopted the present concluding observations at its 350th meeting, held on 24 August 2017.
2. The Committee welcomes the initial report of Panama and thanks the State party for its written replies (CRPD/C/PAN/Q/1/Add.1) to the list of issues prepared by the Committee (CRPD/C/PAN/Q/1).
3. The Committee expresses appreciation for the constructive dialogue held with the delegation of the State party.

#### II. Positive aspects

4. The Committee commends Panama for having signed the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto on 30 March 2007 and for having ratified them by Act No. 25 of 10 July 2007.
5. The Committee welcomes the State party's ratification of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled on 10 February 2017.

#### III. Principal areas of concern and recommendations

##### A. General principles and obligations (arts. 1-4)

6. The Committee notes with concern that the medical model of disability continues to be applied in the State party and that legislation and public policies and programmes have not been aligned with the human rights model of disability established in the Convention.
7. **The Committee recommends that the State party adopt a plan to amend, repeal, reform and/or adopt laws and policies with a view to recognizing persons with disabilities as fully fledged rights holders, in keeping with the Convention.**
8. The Committee notes that the criteria for classifying disabilities are not standardized or in line with the principles of the Convention, in that they are based on the impairment in question and do not take into account the barriers that persons with disabilities face.

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\* Adopted by the Committee at its eighteenth session (14-31 August 2017).



9. **The Committee recommends that the State party review its criteria for the classification and certification of disabilities and ensure that they reflect a human-rights-based approach.**

10. The Committee is concerned that consultation with persons with disabilities is not a mandatory step prior to the adoption of policies and programmes that affect them.

11. **The Committee recommends that the State party implement the coordination mechanism provided for in Act No. 15 of 2016 and ensure ongoing consultation, through the appropriate organizations, with persons with disabilities, including children with disabilities, in rural and urban areas and in indigenous regions concerning the adoption of laws and policies and other issues of relevance to them.**

12. The Committee is concerned at the limited economic, material and human resources available for the implementation of the National Strategic Plan.

13. **The Committee recommends that the State party ensure the provision of sufficient economic, material and human resources for the implementation of the National Strategic Plan.**

## **B. Specific rights (arts. 5-30)**

### **Equality and non-discrimination (art. 5)**

14. The Committee is concerned that, although Act No. 42 of 1999 recognizes discrimination on the basis of disability, it does not include the denial of reasonable accommodation as a form of discrimination against persons with disabilities. It is also concerned at the lack of policies to combat multiple and intersectional discrimination against persons with disabilities, especially women, indigenous persons and persons of African descent.

15. **The Committee recommends that the State party ensure that its legislation recognizes the denial of reasonable accommodation as a form of discrimination on the basis of disability in all spheres of activity and provides for appropriate penalties for such discrimination. It further recommends that the State party ensure that its legislation covers multiple and intersectional discrimination.**

### **Women with disabilities (art. 6)**

16. The Committee is concerned about the lack of a gender equality plan, the fact that disability policies do not specifically cover women and girls and the lack of policies and strategies on the prevention and punishment of violence against women and girls with disabilities, including indigenous persons and persons of African descent with disabilities.

17. **The Committee recommends that the State party, in consultation with organizations that represent women and girls with disabilities and bearing in mind the Committee's general comment No. 3 (2016) on women and girls with disabilities:**

(a) **Include women with disabilities in the plans and strategies of the National Secretariat for Disabilities;**

(b) **Revise its disability policies to incorporate a gender-based approach;**

(c) **Revise its policies on violence against women with a view to introducing a disability dimension;**

(d) **Allocate dedicated human and financial resources to the advancement and empowerment of women with disabilities;**

(e) **Be guided by article 6 of the Convention in pursuing targets 5.1, 5.2 and 5.5 of the Sustainable Development Goals.**

18. The Committee is concerned about the invisibility of discrimination and violence, including domestic and sexual violence, against women with disabilities in the State party and notes that women with disabilities in rural areas and indigenous regions are particularly

vulnerable. It is concerned that there are still some shelters for women victims of violence that are not accessible to all women with disabilities. The Committee regrets the lack of disaggregated data on cases of discrimination and/or violence against women with disabilities.

19. **The Committee urges the State party to take all necessary measures to:**

(a) **Combat violence against women with disabilities, including indigenous and Afrodescendent women with disabilities, in urban and rural areas and indigenous regions;**

(b) **Ensure that shelters for women victims of violence are accessible for women with disabilities and that the officials in charge have received training on assisting persons with disabilities;**

(c) **Systematically compile data and statistics on the situation of women and girls with disabilities and establish indicators that can be used to assess the impact of the measures taken to counter discrimination against them.**

#### **Children with disabilities (art. 7)**

20. The Committee is concerned that children with disabilities are exposed to inequalities and subjected to discrimination, violence, abandonment, ill-treatment and institutionalization, and it notes that indigenous and Afrodescendent children with disabilities are particularly vulnerable. It is also concerned at the lack of legislation setting forth measures to protect children with disabilities from ill-treatment, abuse and exploitation and to prevent the abandonment, neglect and institutionalization of children with disabilities.

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

(a) **Draw up and adopt legislation that sets forth measures to protect children with disabilities from ill-treatment, abuse and exploitation and to prevent the abandonment, neglect and institutionalization of children with disabilities and that it provide adequate resources for the effective implementation thereof;**

(b) **Adopt measures to ensure that children with disabilities have access to community services and programmes in order to strengthen the protection of their rights and to promote equal opportunities for family, community and social inclusion.**

22. The Committee is concerned that national legislation does not expressly prohibit all forms of corporal punishment in homes, schools, day-care centres and alternative care settings.

23. **The Committee urges the State party to repeal the provisions of the Civil Code and the Family Code that empower adults caring for children to “correct” and punish them moderately and recommends that it draw up legislation that completely prohibits corporal punishment in all settings, including in family settings and in indigenous and Afrodescendent communities, and take all necessary measures to ensure the implementation of that legislation.**

#### **Awareness-raising (art. 8)**

24. The Committee is concerned that the State party’s efforts to combat biased views and negative stereotypes of persons with disabilities remain insufficient, given the existence of public campaigns such as Teletón, which reinforce the charity-based model of disability.

25. **The Committee recommends that the State party combat discrimination and negative stereotypes in the media, such as those present in public campaigns like Teletón, and promote public campaigns that portray persons with disabilities as rights holders and focus on their abilities, ensuring that organizations of persons with disabilities are consulted during the design of these campaigns.**

**Accessibility (art. 9)**

26. The Committee notes the recent improvements made to public buildings and spaces but is concerned at the lack of accessibility in many public spaces, in particular in public transportation, airports, land terminals, tourist sites and government buildings, especially for persons with reduced mobility, deaf persons, persons with visual impairments and persons with intellectual disabilities. The Committee is further concerned at the limited progress in implementing Act No. 15 of 2016 on accessibility for persons with disabilities. It is also concerned by the failure to observe international standards on the accessibility of information and communications.

**27. In line with its general comment No. 2 (2014) on accessibility, the Committee recommends that the State party:**

**(a) Implement a plan containing measurable indicators to make transportation, public buildings and facilities, information and communication, including information and communications technologies, accessible in both urban and rural areas. The plan should provide for audits, specific time frames, penalties for non-compliance, the allocation of sufficient resources and the involvement of organizations of persons with disabilities in all stages of its implementation, in particular the monitoring of compliance;**

**(b) Adopt the international standards on the accessibility of information and communications;**

**(c) Take into consideration article 9 of the Convention and general comment No. 2 in its efforts to meet Goal 9 and targets 11.2 and 11.7 of the Sustainable Development Goals.**

**Situations of risk and humanitarian emergencies (art. 11)**

28. The Committee is concerned about the lack of a protocol on assistance for persons with disabilities in situations of risk and humanitarian emergencies and the limited dissemination of handbooks and guides on assisting persons with disabilities in potential disaster situations.

**29. In line with the Sendai Framework for Disaster Risk Reduction 2015-2030, the Committee recommends that the State party:**

**(a) Develop, adopt and disseminate widely a national plan on situations of risk and humanitarian emergencies that provides for priority assistance for all persons with disabilities, through specific and cross-cutting approaches, and a protocol on risk mitigation for persons with disabilities in situations of risk through accessible early-warning systems, including in sign language, Easy Read and Braille, focusing in particular on persons living in rural areas and indigenous regions, and continue to develop the road map and provide training to first responders;**

**(b) Incorporate a disability perspective in its policies and programmes on climate change;**

**(c) Include persons with disabilities in all stages of disaster management with a view to ensuring that their needs and rights are respected.**

**Equal recognition before the law (art. 12)**

30. The Committee is concerned that, even though Act No. 15 of 2016 provides for equal recognition before the law and the legal capacity of persons with disabilities, restrictions on their legal capacity contained in articles 404 to 407 of the Family Code, in the Commercial Code and in article 45 of the Civil Code remain in force.

**31. In keeping with article 12 of the Convention and its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

**(a) Repeal all legal provisions and end all practices that partially or completely limit the legal capacity of persons with disabilities;**

(b) **Take tangible steps to establish a supported decision-making system that respects the autonomy, wishes and preferences of persons with disabilities;**

(c) **Ensure that there are no barriers and that persons with disabilities are able to exercise their right to legal capacity on an equal basis with others.**

#### **Access to justice (art. 13)**

32. The Committee is concerned that no procedural accommodations have yet been made to ensure effective access to justice for all persons with disabilities. It is also concerned about the barriers, especially of a legal nature, that prevent persons whose legal capacity has been revoked or who live in institutions from effectively participating in legal proceedings.

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

(a) **Adopt, in line with the Convention, the action plan on access to justice for persons with disabilities, as well as the necessary legal, administrative and judicial measures to eliminate all restrictions on the effective participation of persons with disabilities in all stages of the judicial process;**

(b) **Ensure that women with disabilities have access to justice in practice;**

(c) **Make procedural adjustments, including the provision of personal or intermediary assistance, to ensure that persons with disabilities can effectively participate in the various aspects of legal proceedings;**

(d) **Step up efforts to ensure that sign language interpreters are present during judicial proceedings;**

(e) **Take steps to empower persons with disabilities with a view to their participating as professionals in the justice system;**

(f) **Intensify efforts to provide training on the Convention and the Optional Protocol thereto for justice officials, especially in rural areas and indigenous regions;**

(g) **Take into account article 13 of the Convention in its implementation of target 16.3 of the Sustainable Development Goals.**

#### **Liberty and security of person (art. 14)**

34. The Committee is concerned at the fact that persons with disabilities in the State party, including persons with psychosocial disabilities, continue to be placed in institutions and at the lack of data on this subject.

35. **The Committee recommends that the State party protect and safeguard persons with disabilities from institutionalization and explicitly prohibit their institutionalization.**

#### **Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)**

36. The Committee is concerned that, although the State party has various legal instruments that deal with the prevention of torture, none of them specifically covers the situation of persons with disabilities. The Committee is further concerned that persons with disabilities are administered treatment without their free and informed consent.

37. **The Committee recommends that the State party expressly prohibit practices deemed to be disciplinary or corrective against persons with psychosocial disabilities who are living in public or private psychiatric centres or are otherwise deprived of their liberty. It also recommends that the State party adopt protocols to guarantee that persons with disabilities may exercise their right to free and informed consent in connection with any type of treatment.**

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

38. The Committee is concerned at the incidence of exploitation, violence and abuse against persons with disabilities in the State party, especially women, children, Afrodescendants and indigenous persons. It is also concerned that so-called “safe havens” are used for long periods of time and thus come to resemble institutional settings.

**39. The Committee urges the State party to take all necessary steps to prevent exploitation, violence and abuse against persons with disabilities, both inside and outside of the home. In addition, it recommends that the State party adopt measures to prevent so-called “safe havens” from being turned into institutions and becoming yet another barrier to the achievement of independent living by persons with disabilities and to their inclusion in society.**

**Protecting the integrity of the person (art. 17)**

40. The Committee is concerned by the regulations being adopted regarding mental health care. It is also concerned at the lack of information on forced sterilization and forced abortion.

**41. The Committee urges the State party to prevent and prohibit forced sterilization and non-consensual abortions, ensuring, without exception, that persons with disabilities, including those whose legal capacity has been revoked, enjoy their right to free and informed consent. In addition, the Committee requests the State party to compile and publish clear statistics on the number of persons with disabilities subjected to forced sterilization or non-consensual abortion.**

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

42. The Committee is concerned at the limited progress made in implementing an independent living model and the lack of programmes and services, including personal assistance for persons with disabilities who require it, so that they may exercise their right to independent living and to be included in their community.

**43. In line with its general comment No. 5 (2017) on the right to independent living and to be included in the community, the Committee recommends that the State party promote independent living schemes and roll out programmes and services, including personal assistance for persons with disabilities who require it, so that they may exercise their right to live independently and be included in their community. It also recommends that the State party introduce a budget line to guarantee fair wages for individuals who provide personal assistance to persons with disabilities.**

**Freedom of expression and opinion, and access to information (art. 21)**

44. The Committee regrets how little public information is accessible to persons with disabilities, including through sign language interpretation, audio description and Easy Read on television.

**45. The Committee recommends that the State party make accessible the broadcasting of all public information, especially with regard to national processes of concern to all inhabitants and to emergency situations and/or natural disasters, irrespective of the media used, for all persons with disabilities, through accessible formats and technology adapted to the various types of disabilities, which should also be available in the native languages of the country’s indigenous communities.**

**Respect for home and the family (art. 23)**

46. The Committee is concerned that the Civil Code still contains provisions that prevent persons with disabilities from exercising the right to marry and to found a family on the basis of free and full consent of the intending spouses, and that there is a lack of necessary support for persons with disabilities to exercise their reproductive rights on an equal basis with others.

47. **The Committee recommends that the State party eliminate barriers to marriage for persons with disabilities and that it adopt the necessary support measures, including personal assistance, with a view to enabling persons with disabilities, especially women, to exercise their right to maternity or paternity free from prejudice and on an equal basis with others. In addition, it should introduce a review mechanism to restore custody of children to women with disabilities whose children were removed on grounds of disability. The Committee urges the State party to take measures to provide appropriate support to families that include persons with disabilities.**

#### **Education (art. 24)**

48. The Committee is concerned that inclusive education is not a priority with regard to children and adults with disabilities and that special and segregated forms of education prevail. It is also concerned at the lack of action by government authorities to promote inclusive higher education.

49. **The Committee recommends that the State party, in keeping with its general comment No. 4 (2016) on the right to inclusive education, ensure the implementation of a plan to transition definitively to inclusive education at all levels, including in higher education; the plan should provide for the training of teachers and the necessary support and resources, such as Braille and sign language, to foster inclusion, in particular of students with intellectual or psychosocial disabilities and girls with disabilities. It also recommends that the State party ensure the universal accessibility of educational premises, including universities. Lastly, it recommends that the State party be guided by the Convention and general comment No. 4 in its implementation of targets 4.1, 4.5 and 4.A of the Sustainable Development Goals.**

#### **Health (art. 25)**

50. The Committee is concerned that, despite the fact that Act No. 42 of 27 August 1999, subsequently amended by Act No. 15 of 31 May 2016, provides for priority access to prompt health care for persons with disabilities, this provision is not being adequately implemented. It is further concerned at the lack of access to accessible health-care services for persons with disabilities.

51. **The Committee recommends that the State party guarantee, in practice, priority access to health care for persons with disabilities and access to accessible health-care services for all persons with disabilities, including in rural areas and indigenous regions, on an equal basis with others.**

#### **Work and employment (art. 27)**

52. The Committee is concerned at the failure to achieve the 2 per cent quota, the limited participation of persons with disabilities in the labour market and the scarcity of statistical data on the wages of persons with disabilities. The Committee regrets the lack of mechanisms to ensure that persons with disabilities are not discriminated against in the open labour market and of measures to ensure that reasonable accommodations are made in the workplace.

53. **The Committee recommends that the State party put in place specific strategies to implement the 2 per cent quota and to increase the employment of persons with disabilities in the public and private sectors, including through mechanisms to ensure that reasonable accommodations are made and to prevent discrimination against persons with disabilities and their families in the open labour market. It also recommends that the State party be mindful of the linkages between article 27 of the Convention and target 8.5 of the Sustainable Development Goals, and that it ensure productive and decent work for everyone, including persons with disabilities, in accordance with the principle of equal pay for work of equal value.**

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

54. The Committee notes with concern the number of persons with disabilities living in poverty or extreme poverty in the State party, especially women, children, Afrodescendants and indigenous people. It is also concerned that there is no inclusive social system in the State party and, in particular, no specific retirement scheme for persons with disabilities or other financial support that would be sufficient to cover the additional costs that they face owing to their disability.

**55. The Committee recommends that the State party take concrete measures to enable persons with disabilities to enjoy a decent standard of living, including by guaranteeing access to drinking water, electricity and sanitation, and to mitigate the impact of disability-related poverty, especially the impact on groups subject to intersectional discrimination, such as women, children, Afrodescendants and indigenous persons with disabilities. The Committee urges the State party to establish an inclusive social system, including a retirement scheme for persons with disabilities, in its territory. It also recommends that the State party take into account article 28 of the Convention in its implementation of targets 1.3 and 1.4 of the Sustainable Development Goals.**

**Participation in political and public life (art. 29)**

56. The Committee is concerned at the small number of persons with disabilities involved in political and public life, especially how few of them hold elected office. The Committee is further concerned about the lack of accessibility at all stages of the electoral process, in particular the accessibility of polling stations and voting materials, for persons with disabilities.

**57. The Committee recommends that the State party take steps to encourage and help persons with disabilities to exercise their political rights, including the right to stand for public office, and that it ensure that there are no legal or practical barriers to the right to vote of persons with disabilities. It also recommends that the State party intensify its efforts to ensure that electoral procedures, facilities and materials are fully accessible to persons with disabilities in urban, rural and indigenous areas alike, including that all polling stations have sufficient accessible ballots, with a view to guaranteeing assisted and secret voting. In addition, it recommends that the State party adopt programmes to encourage persons with disabilities to stand for public office.**

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

58. The Committee is concerned at the lack of effective implementation of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled. Furthermore, it is concerned by the lack of State efforts at all levels to support access for persons with disabilities, especially children, to accessible sports activities.

**59. The Committee recommends that the State party take steps to support and encourage the participation of persons with disabilities, including children, in sports. It also recommends that the State party adopt accessibility plans with regard to historical, heritage and tourist sites and cultural and leisure facilities. Lastly, it recommends that the State party promptly take all necessary measures to implement the Marrakesh Treaty.**

**Statistics and data collection (art. 31)**

60. The Committee is concerned about the lack of comparable disaggregated data on persons with disabilities in all sectors of the State party.

**61. The Committee recommends that the State party systematically encourage the collection, analysis and dissemination of comparable disaggregated data on persons with disabilities in all sectors and that it be guided by the work of the Washington Group on Disability Statistics. The Committee further recommends that the State**

party consider the linkages between article 31 of the Convention and Sustainable Development Goal 17.

#### **International cooperation (art. 32)**

62. The Committee is concerned by the paucity of information on whether the State party has mainstreamed a disability perspective in its work towards the Sustainable Development Goals and development projects carried out through international cooperation.

63. **The Committee recommends that the State party mainstream the rights of persons with disabilities in its implementation and monitoring of the 2030 Agenda for Sustainable Development and the Sustainable Development Goals at all levels and that these processes be carried out in close collaboration with representative organizations of persons with disabilities.**

#### **National implementation and monitoring (art. 33)**

64. The Committee is concerned that there is no independent mechanism to monitor implementation of the Convention in the State party.

65. **The Committee recommends that the State party designate an independent mechanism for monitoring the Convention, in accordance with article 33 of the Convention and the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), and that it allocate material and human resources in sufficient quality and quantity for the mechanism to carry out its functions, involving organizations of persons with disabilities in the pursuit of its mandate.**

#### **Follow-up and dissemination**

66. The Committee requests that the State party provide information, within 12 months and in accordance with article 35 (2) of the Convention, on the measures taken to implement the Committee's recommendations contained in paragraphs 17, 19 and 55.

67. The Committee requests the State party to implement the recommendations contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and parliament, officials in relevant ministries, the judiciary and members of relevant professional groups, such as education, medical and legal professionals, as well as to local authorities and the media, using modern social communication strategies.

68. The Committee requests the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its next periodic report.

69. The Committee requests that the State party disseminate the present concluding observations widely, including to non-governmental organizations and organizations of persons with disabilities, and to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, including Easy Read, and to make them available on the government website on human rights.

#### **Next report**

70. The Committee requests the State party to submit its combined second to fourth periodic reports by 7 September 2021 and to include in them information on the implementation of the recommendations made in the present concluding observations. The Committee also invites the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the report of a State party. The replies of a State party to such a list of issues constitute its report.