



## 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 El Salvador, adopted by the Committee at its tenth session (2–13 September 2013)

#### I. Introduction

1. The Committee considered the initial report of the Republic of El Salvador (CRPD/C/SLV/1) at its 109th and 110th meetings, held on 4 and 6 September 2013, and adopted the following concluding observations at its 119th meeting, held on 13 September 2013.
2. The Committee welcomes the initial report of the Republic of El Salvador, prepared in keeping with the Committee's reporting guidelines, and is grateful for the written replies (CRPD/C/SLV/Q/1/Add.1) to its list of issues (CRPD/C/SLV/Q/1) as well as for the reports of the Office of the Human Rights Advocate and organizations of persons with disabilities.
3. The Committee expresses its appreciation for the dialogue held between the delegation of the State party and the members of the Committee. The Committee commends the State party for its delegation, which was headed by Juan José García, Deputy Minister of Foreign Affairs, and included among its member representatives of the National Council for Persons with Disabilities and the Secretariat for Social Integration.

#### II. Positive aspects

4. The Committee notes with satisfaction the adoption of legislation and public policies that include provisions regarding the rights of persons with disabilities, especially:
  - (a) The Child and Adolescent Protection Act (Legislative Decree No. 839 of 26 March 2009, published in the Official Gazette No. 68, vol. 383, of 16 April 2009);
  - (b) The policy on sexual and reproductive health (Agreement No. 1181 of 9 August 2012) of the Ministry of Health;
  - (c) The Special Act on a Violence-Free Life for Women (Legislative Decree No. 520 of 25 November 2010, published in the Official Gazette No. 2, vol. 390, of 4 January 2011).

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2011), which provides for the offence of aggravated femicide when the victim is a woman with disabilities;

(d) The Act on equality, fairness and the elimination of discrimination against women (Legislative Decree No. 645 of 17 March 2011, published in the Official Gazette No. 70, vol. 391, of 8 April 2011);

(e) Executive Decree No. 80 of 17 June 2010 establishing the new National Council for Persons with Disabilities.

### III. Principal areas of concern and recommendations

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

5. The Committee is concerned about the general reservation made by the State party upon ratifying the Convention, according to which implementation of the Convention is contingent on its compatibility with the Constitution.

6. **The Committee urges the State party to expedite the process of withdrawing its general reservation to the Convention. It also recommends that the State party should incorporate a definition of disability in accordance with the criteria and principles in articles 1 to 3 of the Convention.**

7. The Committee is concerned about the absence of a national strategy, also covering rural areas, for the implementation of the rights-based disability model set out in the Convention. The Committee is also concerned that the State party's legal framework on disability is not fully in line with the Convention and that, among other facts:

(a) The Equal Opportunities for Persons with Disabilities Act has not been aligned with the provisions of the Convention and does not provide for all the human rights elements covered in the Convention;

(b) The State party has not conducted a thorough review of its legal framework in order to identify the areas that still need to be harmonized, especially in the Civil Code, the Code of Civil Procedure, the Criminal Code, the Employment Act and the Special Act on a Violence-Free Life for Women.

8. **The Committee recommends that the State party conduct a full review of its legal framework to align it with the Convention.**

9. The Committee notes with concern the absence of provisions recognizing discrimination on the grounds of disability and the fact that the Equal Opportunities for Persons with Disabilities Act focuses on a social welfare approach rather than the human rights model set out in the Convention.

10. **The Committee recommends that the State party recognize discrimination on the grounds of disability in its legislation and ensure that the review of the Equal Opportunities for Persons with Disabilities Act brings it into compliance with the human rights approach of the Convention.**

11. The Committee is concerned that the organizations of persons with disabilities are not consulted in the design of laws and policies and that the law includes demeaning terminology regarding persons with psychosocial, intellectual or motor impairments.

12. **The Committee recommends that the State party adopt new legislation specifically defining the obligations contained in the Convention and that the process include the broad participation of organizations of persons with disabilities. The**

Committee recommends that the State party revise its legislation with a view to removing any discriminatory terminology against persons with disabilities.

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

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

13. The Committee is concerned about the absence of measures prohibiting and punishing all forms of discrimination against persons with disabilities and the fact that the law does not recognize the denial of reasonable accommodation as a form of discrimination.

14. **The Committee recommends that the State party adopt legislation prohibiting all forms of discrimination on the grounds of disability, setting out penalties in cases of discrimination and defining the denial of reasonable accommodation as a form of discrimination.**

15. The Committee notes that there are no affirmative action measures to speed up the de facto equality of persons with disabilities nor any mechanisms for reparation if they suffer discrimination.

16. **The Committee recommends that the State party adopt measures to achieve real equality for persons with disabilities and that it establish fast-track legal and administrative remedies to obtain reparation in cases of discrimination.**

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

17. The Committee is concerned that the Special Act on a Violence-Free Life for Women does not recognize the multiple forms of discrimination against women with disabilities. It is also worrying that organizations of women with disabilities are not encouraged to participate in decision-making.

18. **The Committee recommends that the State party recognize in the law the multiple forms of discrimination against women and girls with disabilities and that it adopt specific legislation and strategies to fight them. The Committee recommends setting up a mechanism for the collection of disaggregated data on the situation of women and girls with disabilities, in consultation with organizations of women with disabilities.**

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

19. The Committee is concerned that the Child and Adolescent Protection Act does not include specific actions to ensure the protection of children with disabilities, aside from a few regarding health care. The Committee is concerned that children with disabilities living in poverty are more vulnerable to abandonment or placement in institutional care.

20. **The Committee recommends that the State party strengthen its legislation and set up specific programmes to guarantee the rights of children with disabilities on equal terms, paying particular attention to children with disabilities living in rural areas and indigenous communities and to children with hearing, visual and intellectual impairments, ensuring their social inclusion and preventing abandonment and institutionalization, with priority for actions for underprivileged families.**

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

21. The Committee is concerned at the lack of national awareness-raising campaigns designed to combat negative stereotypes of persons with disabilities. It is also concerned

about the fact that organizations of persons with disabilities do not benefit from training programmes on the Convention.

22. **The Committee recommends that the State party launch public information campaigns on the Convention and its application in the various spheres of life, in conjunction with organizations of persons with disabilities. In addition, it recommends promoting disability education as a cross-cutting theme in university courses. The Committee recommends that the State promote training programmes on the Convention for persons with disabilities and their representative organizations, in accessible formats and media.**

#### **Accessibility (art. 9)**

23. The Committee is concerned at the absence of a mechanism monitoring compliance with accessibility standards and the lack of technical aids provided to low-income persons with disabilities. The Committee is also concerned at the lack of efforts to ensure access in rural areas and community services.

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

(a) **Establish a mechanism to monitor laws on accessibility, involving organizations of persons with disabilities, and impose penalties for non-compliance;**

(b) **Urgently adopt an action plan on accessibility that includes all aspects covered in article 9 of the Convention, allocates a larger budget and focuses on rural areas.**

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

25. The Committee is concerned that information regarding plans on prevention, risk mitigation and care of persons with disabilities in emergency situations are not available in accessible formats, and that organizations of persons with disabilities are not assigned a role in such situations.

26. **The Committee urges the State party to define a concrete role for organizations of persons with disabilities in the design of the national civil protection system and to ensure that information on emergency mechanisms is made available in accessible formats.**

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

27. The Committee is concerned at the legal disqualification arising in civil and family law when persons with intellectual, psychosocial, hearing or visual impairments are interdicted or declared legally incapable, limiting some of their rights. The Committee regrets the lack of information provided on persons with disabilities placed in the system of guardianship or protection, and on the propriety of the processes for lifting interdictions. The Committee notes with concern that the Public Notaries Act limits possibilities for “blind”, “mute” and “deaf” persons and those who “are not in full command of their mental faculties” to work as notaries.

28. **The Committee recommends that the State party replace the rules on interdiction based on disability by a decision-making support mechanism that respects the autonomy, will and preferences of the individual, and that it adopt immediate measures, in cooperation with organizations of persons with disabilities, to set up adequate decision-making support services, in keeping with the provisions of the Convention. The Committee requests that the State party abolish the restriction on persons with disabilities working as notaries and provide the necessary reasonable accommodation for them to exercise this profession.**

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

29. The Committee is concerned about the barriers to access to justice encountered by persons with disabilities and the lack of reasonable accommodation. The Committee is also concerned at the limited access to justice for women and girls with disabilities who are victims of abuse or neglect owing to the low credibility ascribed to their witness statements.

30. **The Committee calls on the State party to:**

(a) **Put in place reasonable procedural accommodation with a gender and age focus to ensure access to justice for persons with disabilities and to provide free legal assistance, information on each case — as early as the police investigation — in accessible formats, access to judicial buildings and the services of trained Salvadoran sign-language interpreters;**

(b) **Strengthen the mandate of the Office of the Human Rights Advocate regarding legal remedies for the defence of the rights of persons with disabilities;**

(c) **Design training programmes for all those involved in the legal system, including the police, judges, legal professionals, social workers and health-care workers, in both urban and rural areas;**

(d) **Adopt measures to secure access to justice for women and girls with disabilities, with due consideration paid to their role as witnesses and victims during the trial phase.**

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

31. The Committee is concerned that disability constitutes grounds for deprivation of liberty in the State party. The Committee regrets the lack of information about the situation of persons with psychosocial or intellectual impairments who are held in psychiatric centres and other institutions and about legal remedies available to challenge involuntary institutionalization. The Committee is concerned at the lack of reasonable accommodation for persons with disabilities held in prisons and other detention centres.

32. **The Committee calls on the State party to abolish the rules that allow for deprivation of liberty on grounds of disability, which portray persons with disabilities as potentially dangerous to themselves or others or as being in need of care or treatment. It urges the State party to establish suitable procedures for ensuring that health-care services, including mental health services, are provided solely on the basis of the prior free and informed consent of the person concerned. The Committee calls on the State party to establish a mechanism to monitor the situation of persons with disabilities in prisons and other detention centres and to set up a legal framework for the provision of reasonable accommodation that preserves their dignity.**

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

33. The Committee notes with concern that there is no legal requirement to obtain the prior, free and informed consent of persons with disabilities regarding psychiatric procedures. It is also concerned at the lack of a mechanism overseeing the conditions of persons with disabilities being treated in psychiatric institutions, including children, and the lack of measures to prevent torture and other cruel, inhuman or degrading treatment or punishment in such institutions and to punish perpetrators.

34. **The Committee urges the adoption of legislation and other effective measures for the prevention of torture and other cruel, inhuman or degrading treatment or punishment against persons with disabilities in psychiatric or other institutions.**

**Specifically, the Committee recommends that the State party prohibit and prevent the practice of conducting medical or scientific experiments on persons with disabilities without their free and informed consent, and that it establish a mechanism to oversee psychiatric and other institutions.**

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

35. The Committee is concerned at:

(a) The lack of official records of cases of exploitation, violence and abuse of persons with disabilities, especially children and women, and of preventive measures in both institutions and family settings;

(b) The lack of protocols on handling women with disabilities who are victims or witnesses in trials for exploitation, violence or abuse;

(c) The recourse to institutionalization as the main option envisaged by the State party for the restoration of rights in cases of exploitation, violence and abuse;

(d) The lack of an express ban on corporal punishment of children with disabilities;

(e) The exploitation of persons with disabilities, especially children, for the purpose of begging.

36. **The Committee urges the State party:**

(a) **To adopt legislation to prevent, investigate and punish exploitation, violence and abuse involving persons with disabilities, with a particular focus on women and children;**

(b) **To set up protocols for and training in the investigation of cases of violence against persons with disabilities;**

(c) **To follow up on the recommendations of the Committee on the Rights of the Child (CRC/C/SLV/CO/3-4) regarding the express prohibition of all forms of corporal punishment and ensure that the prohibition includes practices in institutions for children with disabilities;**

(d) **To follow up on the recommendations made by the Committee on the Elimination of Discrimination against Women to El Salvador following the consideration of its report regarding the need to take a comprehensive approach to violence against women and girls (CEDAW/C/SLV/CO/7, para. 24);**

(e) **To adopt measures to prevent the exploitation of children with disabilities for the purpose of begging and establish programmes to promote their integration in society and their right to live in the community.**

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

37. The Committee is concerned at the fact that the law permits the forced sterilization of women with disabilities and the abortion of pregnancies often resulting from sexual abuse, as well as the paucity of information about how the use of physical and pharmaceutical restraint and similar treatments in psychiatric facilities undermines the integrity of the person and about cases brought before the Office of the Human Rights Advocate.

38. **The Committee recommends that the State party repeal provisions permitting the forced sterilization of women with disabilities and that it prevent and investigate the practice of aborting pregnancies resulting from sexual abuse. It also recommends**

**that the State party ensure that the administrative authorities provide the information needed to monitor the situation of persons with disabilities in psychiatric hospitals.**

**Liberty of movement and nationality (art. 18)**

39. The Committee is concerned that children, adolescents and adults with disabilities living in rural areas remain unregistered and therefore do not have identity documents.

40. **The Committee calls on the State party to ensure that children with disabilities are entered in the civil registry at birth.**

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

41. The Committee notes that the State party does not have a legal and public policy framework on the right to live independently and that poverty serves as a background for the abandonment and isolation of persons with disabilities and their separation from their families and communities. The Committee regrets that children with disabilities remain subject to institutional placement.

42. **The Committee urges the State party to adopt, in cooperation with organizations of persons with disabilities, an adequately funded strategy to deinstitutionalize persons with disabilities, including children with intellectual and/or psychosocial impairments, and ensure their social inclusion and their right to live independently in the community, with the possibility of a personal assistant or support services in the home. It also recommends the adoption of measures to prevent persons with disabilities being hidden or isolated from society or being separated from their families and social circle, including through granting their families the necessary support.**

**Personal mobility (art. 20)**

43. The Committee is concerned that the distribution of mobility aids is not universal and notes that measures ensuring personal mobility are either insufficient or non-existent.

44. **The Committee recommends that the State party ensure access to equipment and various other forms of mobility aids, technical aids, live assistance and support technologies for all persons with disabilities, including those living in rural areas and those who do not benefit from any specific social security or insurance.**

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

45. The Committee is concerned that Salvadoran sign language does not enjoy official recognition and that insufficient steps have been taken to develop and provide augmentative and alternative communication. It is also concerned at the limited access to and promotion of Braille and other forms of accessible communication for persons with visual impairments, especially new information technologies.

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

(a) **Recognize Salvadoran sign language as an official language and encourage its dissemination, including through the training of professional interpreters, and its use as a means of ensuring access to information for persons with hearing impairments;**

(b) **Ensure that the necessary resources are available to provide public information in accessible formats, including augmentative and alternative communication for persons with intellectual or psychosocial impairments and accessible information technologies for persons with visual impairments.**

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

47. The Committee is concerned about the rules depriving persons with intellectual, psychosocial or hearing impairments of their legal capacity and about other barriers preventing them from entering into marriage and exercising their rights regarding family, maternity and personal relationships.

48. **The Committee urges the State party to put in place adequate measures to make it easier for persons with disabilities to exercise their family and maternity rights.**

**Education (art. 24)**

49. The Committee is concerned at the low school enrolment rates among children with disabilities and the lack of reasonable accommodation to guarantee their access to education, in both urban and rural areas, and access to adult education. The Committee is concerned about discrimination in access to school and retention in school for children with psychosocial or intellectual impairments. It is also of concern to the Committee that the State party has not laid down the principle of free education for children with disabilities.

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

(a) **Develop an inclusive education model at all levels, in both urban and rural areas, including a gender and cultural perspective and the reasonable accommodation needed to ensure children and adolescents with disabilities can access education;**

(b) **Adopt a plan and allocate the requisite budget for the compulsory training of teachers in inclusive education techniques in respect of persons with disabilities, thereby removing the barriers to access and retention for children with psychosocial or intellectual impairments in education;**

(c) **Implement initiatives and public-private partnerships to design accessible pedagogical tools and teaching methods and provide students with disabilities with access to new technologies and the Internet.**

**Health (art. 25)**

51. The Committee is concerned about the discrimination against persons with disabilities in terms of access to health, including sexual and reproductive health, caused by barriers including the lack of equipment suitable for use by all, for example for obstetrical and gynaecological care. The Committee is also concerned about the lack of information on the right to health of persons with disabilities in rural areas and the availability of community rehabilitation services. The Committee is concerned about the fact that medical procedures are conducted without the free and informed consent of persons with disabilities.

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

(a) **Adopt the requisite legislative measures to protect persons with disabilities against discrimination in health matters; ensure their access to health insurance schemes; carry out public health campaigns directed at persons with disabilities, including components on gender and age, sexual and reproductive rights and HIV/AIDS prevention and care; and involve women with disabilities in campaigns to prevent breast and cervical cancer;**

(b) **Adopt plans and allocate resources for the accessibility of health-care services, including equipment suitable for use by all;**

(c) **Produce statistics and data on persons with disabilities so that better planning can facilitate their access to health-care services, and identify options for their access to community rehabilitation services;**

(d) **Adopt measures to ensure persons with disabilities can exercise their right to free and informed consent regarding medical treatment.**

#### **Habilitation and rehabilitation (art. 26)**

53. The Committee is concerned at the number of people acquiring a disability following migration-related accidents and the lack of vocational and social rehabilitation programmes for their integration in the community.

54. **The Committee urges the State party to design and implement rehabilitation programmes for repatriated Salvadoran migrants who have acquired a disability with a view to their integration in the labour force and society.**

#### **Right to work (art. 27)**

55. The Committee is concerned at the discrepancy in access to employment between men and women with disabilities and the fact that there are no mechanisms for monitoring equal work conditions for persons with disabilities. The Committee is concerned that providing reasonable accommodation is not an integral part of employment policies, perpetuating discrimination against persons with disabilities in that domain. The Committee is also concerned at the lack of vocational training for persons with disabilities.

56. **The Committee recommends that the State party adopt measures, including affirmative action, to ensure equal access to the labour market for women and men with disabilities. It also recommends that the State party implement programmes on access to vocational training for persons with disabilities and encourage their formal and informal training free of charge through the technical body recognized by the State for that purpose.**

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

57. The Committee notes that social protection measures mainly protect persons whose disabilities result from the armed conflict, and that the State does not have strategies for fulfilling the various aspects of the right to an adequate standard of living and social protection, such as a home, clothing, food, drinking water and poverty reduction. The Committee is concerned that persons with disabilities tend to be illiterate, that those living in rural and remote areas cannot access certain basic services, such as drinking water and sanitation, and that plans to provide water do not take their needs into account.

58. **The Committee recommends that the State party adopt measures to ensure that persons with disabilities, including children, have access to social protection and non-contributory pension schemes. It also recommends that the State party adopt public policies, including poverty reduction strategies, which foster the fulfilment of the right to an adequate standard of living and social protection of persons with disabilities, as well as allocate the necessary budget for their implementation. The Committee urges the State party to adopt, through consultation with organizations of persons with disabilities, measures for the elimination of barriers to the access of such persons to basic services, drinking water and sanitation in rural and remote areas, and to include the organizations in monitoring their implementation.**

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

59. The Committee regrets that the Electoral Code prevents persons with psychosocial or intellectual impairments from exercising their right to run for municipal office. The Committee notes with concern that there are no mechanisms in place to ensure that persons with disabilities can vote in secret and that measures to ensure the accessibility of polling centres are inadequate.

**60. The Committee recommends that the State party repeal the provisions limiting the right to vote of persons with disabilities and adopt measures to ensure that such persons can run for public office. The Committee encourages the State party to increase opportunities for the political and social participation of organizations of persons with disabilities.**

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

61. The Committee is concerned at the lack of measures regarding access to and participation in cultural activities, such as the theatre and museums, and at the meagre progress in private-sector promotion of participation in cultural life by persons with disabilities, including children and adolescents.

**62. The Committee recommends that the State party continue to devise policies and measures to ensure participation in cultural life, recreational activities, relaxation and sports by persons with disabilities, including the conclusion of public-private agreements with civil society organizations and businesses to establish accessible recreational and cultural spaces.**

**C. Specific obligations (arts. 31–33)****Statistics and data collection (art. 31)**

63. The Committee, while concerned that official statistics do not reflect the situation of persons with disabilities, takes note of the conclusion of agreements to conduct a survey of such persons.

**64. The Committee urges the State party to incorporate in its next census the collection of data on the status of the rights of persons with disabilities, including children, in rural and urban areas.**

**International cooperation (art. 32)**

65. The Committee regrets that the State party has not mandated the participation of civil society in international cooperation programmes, especially those relating to disability, which is a key to promoting an inclusive society.

**66. The Committee calls on the State party to create the conditions for the participation of organizations of persons with disabilities in the design and implementation of projects financed by international aid, and to base its international cooperation programmes on the human rights model contained in the Convention.**

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

67. The Committee is concerned that the National Council for Persons with Disabilities still does not meet the requirements of the Convention regarding implementation mechanisms.

68. **The Committee recommends that the State party establish a system for the implementation of the Convention fully in line with the provisions of article 33 of the Convention.**

69. The Committee is concerned that the State party has not set up a framework to oversee the implementation of the Convention.

70. **The Committee recommends that the State party officially designate mechanisms to monitor the implementation of the Convention in the country, involving both civil society and an institution fulfilling the Paris Principles regarding independent human rights institutions.**

#### **Technical cooperation**

71. The Committee recommends that the State party request technical assistance from the organizations belonging to the Inter-Agency Support Group on the Convention on the Rights of Persons with Disabilities in order to receive guidance and support on fulfilling the Convention and the present concluding observations.

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

72. The Committee requests that the State party 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, the officials of relevant ministries, the judiciary and members of relevant professional groups, such as education, medical and legal professionals, as well as to local authorities, the private sector and the media, using accessible social communication strategies.

73. The Committee requests that the State party disseminate the present concluding observations widely, particularly to NGOs, representative organizations of persons with disabilities, persons with disabilities themselves and members of their families, in accessible format.

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

#### **Next report**

75. The Committee requests that the State party submit its combined second and third periodic reports by no later than 14 January 2018.

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