



## 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 the Plurinational State of Bolivia\*

### I. Introduction

1. The Committee considered the initial report of the Plurinational State of Bolivia (CRPD/C/BOL/1) at its 273rd and 274th meetings (CRPD/C/SR.273 and 274), held on 17 and 18 August 2016. At its 290th meeting (CRPD/C/SR.290), held on 30 August 2016, the Committee adopted the following concluding observations.

2. The Committee welcomes the initial report of the Plurinational State of Bolivia and thanks the State party for its written replies (CRPD/C/BOL/Q/1/Add.1) to the Committee's list of issues (CRPD/C/BOL/Q/1). The Committee appreciates the constructive dialogue held with the delegation of the State party.

### II. Positive aspects

3. The Committee commends the State party for:

(a) The adoption of the General Persons with Disabilities Act No. 223 (2 March 2012) and its regulatory decree;

(b) The adoption of the Act on the Elimination of Racism and All Forms of Discrimination (8 October 2010);

(c) The appointment of the Ombudsman's Office as the body responsible for independently monitoring the implementation of the Convention.

4. The Committee welcomes the establishment of the National Solidarity and Equity Fund.

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\* Adopted by the Committee at its sixteenth session (15 August-2 September 2016).



### III. Principal areas of concern and recommendations

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

5. The Committee is concerned that the Constitution does not recognize persons with disabilities as full holders of all human rights, but rather considers them as in need of protection.

6. **The Committee recommends that the State party review its entire legislation, including the Constitution, with a view to adopting laws that recognize persons with disabilities as full holders of all human rights.**

7. The Committee is concerned that the criteria used in certifying disability continue to reflect the medical model and take no account of the barriers facing persons with disabilities or of the human rights-based model. It is also concerned that the procedure for obtaining a certificate of disability is complicated and expensive for the majority of persons with disabilities, especially those living in rural areas and indigenous communities, with the result that disability is vastly underreported.

8. **The Committee recommends that the State party amend the criteria for certification of disability to reflect the social, human rights-based model of disability, and that it make the procedure accessible, simple and free of charge for all persons with disabilities.**

9. The Committee notes with concern the lack of consultation with organizations that represent persons with disabilities, including organizations of women and girls with disabilities and those that represent the interests of children. The Committee is further concerned that there is no established mechanism for such consultations when adopting legislation and policies or taking other decisions relevant to persons with disabilities. It is also concerned that the nine seats for civil society on the National Committee for Persons with Disabilities have not been filled.

10. **The Committee recommends that the State party adopt mechanisms for open, broad-based and democratic consultation with representative organizations of persons with disabilities, including those representing women and girls with disabilities and those representing the interests of children with disabilities, in connection with the adoption of policies and formulation of laws and when taking other decisions relevant to them. It also urges the State party to finish setting up the National Committee for Persons with Disabilities, so as to encourage the broad, democratic participation of independent organizations of persons with disabilities and other civil society organizations, and to consult organizations of persons with disabilities in accordance with Act No. 223.**

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

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

11. The Committee is concerned about the ineffectiveness of legal remedies, as reflected in the low number of complaints of discrimination on the basis of disability.

12. **The Committee recommends the creation and consolidation of a system for the submission of complaints of discrimination on the basis of disability that is effective, simple and accessible, and that provides redress for persons with disabilities who claim to have suffered discrimination, in all departments and in all languages, including Bolivian sign language.**

13. The Committee is concerned that denial of reasonable adjustments is not recognized as a form of discrimination on the basis of disability; it is also concerned at the scant efforts made to recognize and eliminate multiple and intersectional discrimination.

14. **The Committee recommends that the State party recognize denial of reasonable adjustments as a form of disability-based discrimination, and take measures to prevent and eliminate multiple and intersectional discrimination. It also recommends that the State party be guided by article 5 of the Convention in its efforts to achieve targets 10.2 and 10.3 of the Sustainable Development Goals.**

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

15. The Committee is concerned about the fact that women and girls with disabilities are not mentioned in policies and strategies aimed at equal opportunities for men and women, and most notably in the National Equal Opportunities Plan “Women Building a New Bolivia for Good Living”.

16. **The Committee recommends that the State party review and amend the National Equal Opportunities Plan to incorporate the perspective of women with disabilities. It urges the State party to review its policies on inclusion of persons with disabilities and ensure that they include a gender perspective. The Committee further recommends that the State party be guided by article 6 of the Convention and the Committee’s general comment No. 3 (2016) on women and girls with disabilities in its efforts to achieve targets 5.1, 5.2 and 5.5 of the Sustainable Development Goals.**

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

17. The Committee is concerned about the paucity of information on children with disabilities living in institutions, as well as the lack of measures to prevent their abandonment.

18. **The Committee recommends that the State party take steps to remove children with disabilities from institutions, to protect their right to live in a family environment and to be included in the community, and to prevent their abandonment.**

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

19. The Committee is concerned at the fact that the State party considers the primary prevention of impairments to be a measure contributing to implementation of the Convention. It is also concerned at the scant efforts made to disseminate the rights of persons with disabilities, and finds it regrettable that civil servants speak in an insulting and disrespectful manner about persons with disabilities.

20. **The Committee recommends that the State party launch awareness programmes on the rights of persons with disabilities, targeting policymakers and other officials and public servants, security and justice personnel and Bolivian society in general, and that it promote proper respect for the dignity of persons with disabilities.**

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

21. The Committee is concerned at the lack of accessibility plans with specific targets and time frames. It is also concerned that no account is taken of the views of persons with disabilities in the design of such plans and the definition of indicators and sanctions for non-compliance.

22. **The Committee urges the State party to implement accessibility plans with measurable goals and time frames, as well as sanctions for non-compliance. It also**

recommends that it allocate adequate budgetary funds to implement accessibility plans and ensure that they can be monitored and evaluated by organizations of persons with disabilities. The Committee also recommends that the State party be guided by its general comment No. 2 (2014) on accessibility and by article 9 of the Convention in its efforts to achieve targets 11.2 and 11.7 of the Sustainable Development Goals.

#### **Right to life (art. 10)**

23. The Committee is concerned at reports of cases of killing of newborn children with disabilities in the State party's most remote communities; these cases are motivated by persistent prejudices.

24. **The Committee urges the State party to strengthen measures to protect children with disabilities and guarantee their right to life. It recommends that it adopt awareness-raising and educational measures for families of children with disabilities and their communities. It also recommends that the State party provide the necessary assistance to the families of children with disabilities to ensure that they have general information, services and support in their family life and in attaining an adequate and dignified standard of living.**

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

25. The Committee is concerned that accessibility and inclusion of persons with disabilities in disaster risk reduction is insufficient, and that there are no response protocols in this regard.

26. **The Committee recommends that the State party take measures, in the light of the Sendai Framework for Disaster Risk Reduction (2015-2030), for the inclusion of persons with disabilities in strategies for climate change adaptation and disaster risk reduction, for the inclusion of accessibility in infrastructure and evacuation routes, and for the provision of information on disaster risk reduction, including in Braille and sign language and using alternative modes and formats of communication.**

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

27. The Committee is concerned at the continued existence in the State party of regimes that limit partly or completely the legal capacity of persons with disabilities, and at the lack of any measures to repeal such regimes.

28. **In keeping with its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party repeal legal regimes that partly or completely limit legal capacity, and that it implement systems to support persons with disabilities in the exercise for their legal capacity, having proper regard for their will and preferences.**

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

29. The Committee is concerned that there are restrictions on persons with disabilities — no right to represent themselves, for example — that prevent them from enjoying full access to justice; it is particularly concerned that these restrictions are imposed on those who need the most support.

30. **The Committee urges the State party to repeal any legal provision that limits access to justice for persons with disabilities, and recommends that it implement support systems for persons with disabilities who need them.**

31. The Committee is concerned that judicial bodies do not make procedural adjustments when persons with disabilities are involved in proceedings. It is also concerned that they do not have sign language interpreters or use Braille transcription or other accessible formats and modes of information and communication.

32. **The Committee recommends that the State party take steps to put in place the support necessary to ensure access to justice for persons with disabilities, notably by implementing procedural adjustments and measures to ensure the accessibility of facilities, information and communication.**

33. The Committee is concerned that no in-service training on the rights of persons with disabilities is provided for judicial personnel, leading to insufficient awareness of the rights of persons with disabilities and violation of their procedural guarantees and other fundamental rights.

34. **The Committee urges the State party to set up in-service training programmes on the rights of persons with disabilities for judicial personnel, the police, prison personnel and other justice officials. It also recommends that the State party be guided by article 13 of the Convention in its efforts to achieve target 16.3 of the Sustainable Development Goals.**

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

35. The Committee is concerned that due process guarantees are not observed in the State party, especially with regard to persons with intellectual or psychosocial disabilities. It is also concerned that security measures are applied to persons identified in connection with an offence but who have been declared not criminally responsible by reason of “mental disability”.

36. **The Committee urges the State party to apply due process guarantees, including the presumption of innocence and the right to a fair trial, to all persons with disabilities, on an equal basis with others. It also recommends that the State party review and amend its criminal legislation to eliminate declarations of non-responsibility on grounds of disability and the security measures that are imposed as a result of these declarations.**

37. The Committee is concerned that there is no information about the detention of persons with disabilities against their will in the State party.

38. **The Committee urges the State party to prohibit detention on grounds of disability, carry out a survey of persons with disabilities who have been placed in confinement by reason of their disability, and subsequently adopt and implement a plan for their deinstitutionalization that includes social alternatives, has an adequate budget, and is monitored by an independent authority in consultation with organizations of persons with disabilities. In order to implement these recommendations, the Committee recommends that the State party conform to the guidelines on liberty and security of the person (art. 14).**

#### **Freedom from torture (art. 15)**

39. The Committee is concerned that the Torture Prevention Service does not have a mandate to monitor the situation of persons with disabilities who are institutionalized against their will or, in particular, information on acts that could be deemed torture or cruel, inhuman or degrading treatment committed against persons with disabilities.

40. **The Committee urges the State party to broaden the powers of the Torture Prevention Service to include the monitoring of facilities where persons with disabilities are held and to put in place an effective mechanism for preventive action**

**and protection and defence of the rights of persons with disabilities who are institutionalized.**

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

41. The Committee is concerned that current legislation to combat violence does not recognize the specific forms of violence against persons with disabilities. It is further concerned that:

(a) There is a shortage of information on the situation with regard to violence against women and children with disabilities, and no records of acts of violence against them;

(b) There are no measures in place to prevent exploitation of persons with disabilities through begging, and no programmes for the rescue and compensation of victims;

(c) The lack of accessibility of programmes and institutions intended to provide protection against violence, exploitation and abuse.

**42. The Committee recommends that the State party amend its legislation against violence to include the disability, gender and age perspectives. It also recommends that the State party adopt a due diligence framework of social and penal measures to combat exploitation of persons with disabilities through begging, and that it set up and maintain accessible programmes for the rescue, redress and comprehensive rehabilitation of victims; measures should include social protection, access to justice with a gender and age focus, and psychosocial support.**

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

43. The Committee is concerned that sterilization and other surgical procedures are performed without the free and informed consent of persons with disabilities, and with no other authorization than that of the guardian or legal representative, or by court order.

**44. The Committee urges the State party to abolish the practice of sterilization of persons with disabilities without their free and informed consent and/or by decision of a third party, and recommends the adoption of protocols to regulate such consent in all surgical, psychiatric and other invasive procedures.**

45. The Committee deplores the acts of violence committed against the physical and psychosocial integrity of persons with disabilities as they exercised their legitimate right to demonstrate in public. It is also concerned at reports of excessive use of force, intimidation and physical and verbal violence by police officers, resulting in physical injury to demonstrators, including women and children with disabilities.

**46. The Committee urges the State party to launch an impartial and independent investigation to determine responsibility for the acts of repression and the use of violence during demonstrations by persons with disabilities, with the aim of bringing the perpetrators to justice and providing physical and psychosocial redress for those concerned.**

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

47. The Committee is concerned that universal registration of all persons with disabilities is not guaranteed and that newborns with disabilities are less likely to receive identity documents, which impedes their access to basic services. It is also concerned that not enough information is provided to families in this regard.

48. **The Committee urges the State party to guarantee all persons with disabilities the right to be registered, and to train the staff of official institutions to register all persons with disabilities, particularly in indigenous communities and in remote and rural areas.**

**Right to live independently and to be included in the community (art. 19)**

49. The Committee is concerned about the non-existence of support services to enable persons with disabilities to be included and participate fully in the community, which contributes to perpetuation of the institutionalization model.

50. **The Committee urges the State party to implement community support services, with qualified human resources and adequate budgets, to enable persons with disabilities to make independent decisions on where to live and to be included in the community.**

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

51. The Committee is concerned that Bolivian sign language is not recognized as an official language of the State party, which limits the freedom of expression and communication of persons with disabilities, particularly in terms of accessing and availing themselves of public services such as health, education, justice and others.

52. **The Committee recommends that the State party expedite the recognition of Bolivian sign language as an official language, promote the accreditation of qualified Bolivian sign language interpreters throughout the State party, and increase the availability of sign language interpreters in public services in order to promote the integration of the culture and linguistic identity of deaf persons, in collaboration with organizations of persons with disabilities.**

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

53. The Committee is concerned that persons under legal interdiction cannot exercise their right to marry or start a family.

54. **The Committee urges the State party to repeal any legal provision that restricts the right of persons with disabilities to marry freely and on the basis of the consent of the couple, and their access to information enabling them to exercise their sexual and reproductive rights.**

**Education (art. 24)**

55. The Committee is concerned at the low school enrolment and high dropout rates of persons with disabilities, and at the fact that most of those who are enrolled are in special, segregated schools.

56. **The Committee urges the State party to:**

(a) **Adopt, implement and oversee policies on inclusive, quality education throughout its territory;**

(b) **Promote the enrolment of all persons with disabilities, especially women and children, members of indigenous communities and those living in remote and rural areas;**

(c) **Ensure that teachers are trained in inclusive education at all levels, in sign language, Braille and other accessible formats of information and communication;**

(d) **Adopt a strategy for the provision of reasonable adjustments in schools and other learning institutions, including technology and classroom support, accessibility and learning materials;**

(e) **Be guided by article 24 of the Convention and by general comment No. 4 (2016) on the right to inclusive education in its efforts to achieve targets 4.5 and 4.8 of the Sustainable Development Goals.**

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

57. The Committee is concerned about:

(a) The absence of measures for the inclusion of persons with disabilities in the health services at all levels, and in particular the lack of protocols, the lack of accessibility in facilities and equipment, the lack of settings for the use of sign language and the lack of training for health personnel on the rights of persons with disabilities;

(b) The continuing discrimination against persons with disabilities by denying them some or all medical services and treatment;

(c) The lack of policies on the secondary prevention of the emergence of new impairments in persons with disabilities or the aggravation of existing disabilities;

(d) The failure to provide universal health coverage, as provided for in Act No. 475 on comprehensive health service provision.

58. **The Committee recommends that the State party take measures to promote physical and mental health and well-being, and:**

(a) **Implement a strategy to ensure the accessibility of medical facilities and furnitures, information and communication for persons with disabilities;**

(b) **Launch a training and promotion campaign on the rights of persons with disabilities for health professionals and staff throughout the national territory, including the right to free and informed consent and the adoption of treatment protocols that also cover sexual and reproductive health services;**

(c) **Allocate sufficient human and material resources to give effect to universal health service coverage, including specialized services in the field of disability, focusing on the secondary prevention of the emergence of new impairments and the aggravation of existing disabilities.**

(d) **Be guided by article 25 of the Convention in its efforts to achieve targets 3.7 and 3.8 of the Sustainable Development Goals.**

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

59. The Committee is concerned about the poor coverage of rehabilitation services for persons with disabilities, and particularly comprehensive services for community inclusion, especially in marginal urban and rural areas.

60. **The Committee urges the State party to adopt a community-based inclusive development and rehabilitation strategy, with a particular focus on early intervention, including training for parents of children with disabilities, which has sufficient resources for implementation and involves persons with disabilities in its design and implementation, through the organizations that represent them.**



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

61. The Committee is concerned at the failure to implement labour quotas and at the high rates of unemployment among persons with disabilities. It is also concerned that the measures to promote the employment of persons with disabilities do not include in-service training and conform to the “specialized” and segregated employment model. The Committee is further concerned that, owing to the lack of labour mobility of persons with disabilities and their families, employers are discouraged from hiring them.

**62. The Committee recommends that the State party adopt a policy on the employment of persons with disabilities that guarantees access to employment, that promotes work in open, inclusive and accessible markets and environments, equal opportunities and gender equality, and that provides for reasonable adjustments for persons with disabilities. The Committee also urges the State party to effectively implement binding affirmative action measures to promote the employment of persons with disabilities, in both the public and private sectors. It also recommends that the State party be guided by article 27 of the Convention in its efforts to achieve target 8.5 of the Sustainable Development Goals.**

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

63. The Committee is concerned at the fact that over 80 per cent of persons with disabilities live in poverty or extreme poverty and that very few receive the solidarity allowance. The Committee is also concerned that financial support is insufficient to guarantee an adequate standard of living for persons with disabilities and to cover additional disability-related costs.

**64. The Committee recommends that the State party take steps to guarantee an adequate standard of living for persons with disabilities and their families, especially those living in poverty, who are unemployed or who do not have a fixed income, in particular those in rural and remote areas, those who belong to indigenous communities, women and older persons, and to cover the added cost of living caused by disability by, inter alia, reviewing social security measures, such as the solidarity allowance, with a view to extending the coverage to all persons with disabilities. The Committee further recommends that the State party be guided by article 28 of the Convention in its efforts to achieve targets 1.3 and 1.4 of the Sustainable Development Goals.**

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

65. The Committee notes with concern that persons who have been declared legally unfit cannot exercise their right to vote or to be elected and that they are not registered on the electoral roll.

**66. The Committee urges the State party to repeal the provisions that limit the right to vote on grounds of legal capacity and to adopt the necessary legal measures to ensure that all persons with disabilities, especially with intellectual or psychosocial disabilities, are registered in the electoral roll and may exercise their right to vote and stand as candidates for elected office.**

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

67. The Committee is concerned at:

(a) The scant support provided to sportsmen and women with disabilities, especially elite sportsmen and women, and their lack of opportunities to participate in international competitions;

- (b) The lack of accessibility to historic, cultural, heritage and tourist sites;
- (c) The fact that the State party has not ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

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

- (a) **Allocate the necessary material and human resources to promote sports among persons with disabilities at the educational, recreational and elite levels;**
- (b) **Adopt accessibility plans, including indicators and specific time frames, at sites of historical and heritage value, tourist attractions and facilities that host cultural and recreational activities;**
- (c) **Ratify and implement the Marrakesh Treaty as soon as possible.**

### **C. Specific obligations (arts. 31-33)**

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

69. The Committee is concerned that the State party does not have up-to-date quantitative and qualitative data on the situation of persons with disabilities and the enjoyment of their human rights.

70. **The Committee recommends that the State party take a rights-based approach to the compilation and updating of data and statistics on persons with disabilities, disaggregated by age, sex, type of disability, barriers encountered, ethnicity and geographic location, including data on their type of housing or institution, and cases of discrimination or violence against them. The Committee also recommends that the State party consult with organizations of persons with disabilities in this process. It further recommends that the State party be guided by article 31 of the Convention in its efforts to achieve target 17.18 of the Sustainable Development Goals.**

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

71. The Committee is concerned that the rights of persons with disabilities recognized in the Convention are not covered in national plans on the implementation and monitoring of the 2030 Agenda.

72. **The Committee recommends that the State party mainstream the rights of persons with disabilities in its implementation and monitoring of the 2030 Agenda and the Sustainable Development Goals at the national level, and that these processes are undertaken in close collaboration with, and with the involvement of organizations of persons with disabilities.**

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

73. The Committee is concerned that the budget allocated to the Ombudsman's Office, as the body responsible for the independent monitoring of the implementation of the Convention, is unpredictable and insufficient.

74. **The Committee urges the State party to allocate sufficient resources for the Ombudsman's Office to effectively carry out its mandate in terms of monitoring of the Convention, and to ensure that its independence is not undermined in this process.**

75. The Committee is concerned at the fact that organizations of persons with disabilities are not taken into account or involved in the National Committee for Persons with Disabilities or in the performance of the functions of the Ombudsman.

76. The Committee recommends that the State party engage organizations of persons with disabilities in the national processes initiated by the National Committee for Persons with Disabilities and in the performance of the independent monitoring functions of the Ombudsman's Office.

#### **Cooperation and technical assistance**

77. Pursuant to article 37 of the Convention, the Committee offers technical guidance to the State party, on the basis of consultations with the members, through the secretariat. The State party may also request technical assistance from specialized agencies of the United Nations with offices in the country or region.

## **IV. Follow-up**

#### **Dissemination of information**

78. The Committee requests the State party to submit, within 12 months from the adoption of these concluding observations and in accordance with article 35 (2) of the Convention, a report on the measures taken to give effect to the Committee's recommendations contained in paragraphs 18 (on the deinstitutionalization of children with disabilities) and 48 (on the right of all persons with disabilities to be registered).

79. The Committee requests the State party to give effect to the recommendations contained in these concluding observations and recommends it to transmit these observations for consideration and the adoption of relevant measures by members of the Government and parliament, officials of the relevant ministries, members of the judiciary, relevant professional groups (e.g. in the areas of education, health care and law), local authorities and the media, using modern social communication strategies for that purpose.

80. The Committee strongly urges the State party to engage civil society organizations, especially organizations of persons with disabilities, in the preparation of its periodic reports.

81. The Committee requests the State party to disseminate the present concluding observations widely, in particular to non-governmental organizations and organizations representing persons with disabilities, as well as to persons with disabilities themselves and members of their families, in the national and minority languages, including sign language, and in accessible formats, and to publish them on the Government's human rights website.

#### **Next periodic report**

82. The Committee requests the State party to submit its combined second to fourth periodic reports by 16 December 2023, including information in the implementation of the present concluding observations. It invites the State party to consider the possibility of submitting its reports in accordance with the simplified reporting procedure, whereby the Committee prepares a list of issues at least one year prior to the scheduled submission of the State party's combined reports. The State party's replies to the list of issues would constitute its next report.