



## 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 Mexico\*

##### I. Introduction

1. The Committee considered the initial report of Mexico (CRPD/C/MEX/1) at its 145th and 146th meetings, held on 16 and 17 September 2014, and adopted the following concluding observations at its 167th meeting, held on 30 September 2014.
2. The Committee welcomes the submission of the initial report of Mexico and wishes to express its appreciation to the State party for its written replies (CRPD/C/MEX/Q/1/Add.1) to the list of issues (CRPD/C/MEX/Q/1).
3. The Committee also expresses its appreciation for the constructive dialogue during the consideration of the report and commends the State party on its large delegation.

##### II. Positive aspects

4. The Committee notes with satisfaction the adoption of legislation and public policies in the State party and of protocols and guidelines for the purpose of promoting and protecting the rights of persons with disabilities. In particular, it takes note of:
  - (a) The General Act on the Inclusion of Persons with Disabilities (2011);
  - (b) The reform of the Federal Act on the Prevention and Elimination of Discrimination (2014);
  - (c) The Federal Telecommunications and Broadcasting Act (2014);
  - (d) The National Human Rights Programme 2014–2018;
  - (e) The National Programme for the Advancement and Inclusion of Persons with Disabilities 2014–2018;
  - (f) The National Programme of Work and Employment for Persons with Disabilities 2014–2018;
  - (g) The National Programme for Equality and Non-Discrimination 2014–2018;

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\* Adopted by the Committee at its twelfth session (15 September–3 October 2014).



- (h) The Comprehensive Programme to Prevent, Address, Punish and Eliminate Violence against Women 2014–2018;
- (i) The Programme for the Protection, Rehabilitation and Social Inclusion of Persons with Disabilities;
- (j) The Special Migration Programme 2014–2018; and
- (k) The Protocol for the Administration of Justice in cases involving persons with disabilities.

### III. Principal areas of concern and recommendations

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

- 5. The Committee is concerned that the civil legislation of some federal entities still contains pejorative language in reference to persons with disabilities.
- 6. **The Committee recommends that the State party redouble its efforts to harmonize its laws with the Convention, so that all the federal states eliminate pejorative terminology relating to the rights of persons with disabilities.**
- 7. The Committee is concerned that disabled persons' organizations have only limited involvement in the implementation and monitoring of the Convention.
- 8. **The Committee recommends that the State party establish regular mechanisms for convening consultations with disabled persons' organizations, thereby ensuring that their opinions are properly taken into consideration.**

#### B. Specific rights (arts. 5–30)

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

- 9. The Committee is concerned at discrimination against persons with disabilities, which is compounded by other factors of social exclusion, such as age, gender, ethnicity and rural isolation. It is also concerned that, in some states, action is still pending on the adoption of laws prohibiting discrimination on grounds of disability and recognizing the denial of reasonable accommodation as a form of discrimination based on disability.
- 10. **The Committee recommends that the State party establish specific budget lines to meet its targets in respect of equality, as well as specific actions to combat cases of intersectional discrimination based on disability, age, gender, indigenous background and rural isolation, among other factors of exclusion. The Committee also encourages the State party to step up its efforts, by developing strategies for dissemination, awareness-raising and dialogue with local authorities, to ensure that all the states issue laws prohibiting discrimination based on disability and recognize the denial of reasonable accommodation as a form of discrimination.**
- 11. The Committee is concerned at the low number of complaints and rulings regarding cases of discrimination on grounds of disability, the lack of regulations under the Federal Act on the Prevention and Elimination of Discrimination and the dearth of information on its dissemination in accessible formats, including in different indigenous languages.
- 12. **The Committee recommends that the State party allocate resources to have the Federal Act on the Prevention and Elimination of Discrimination translated into all indigenous languages in accessible formats (including Braille, sign language, easy-read**

and electronic formats). The Committee encourages the State party to conduct campaigns to fight discrimination against persons with disabilities, targeting the legal profession, including officials of the judiciary and lawyers.

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

13. The Committee is concerned at the lack of specific assistance measures implemented by the State party to prevent and combat intersectional discrimination against women and girls with disabilities and the lack of information in this regard.

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

(a) **Put into effect the legislation and all of the programmes and actions targeting women and girls with disabilities, including corrective measures and affirmative action, to eradicate discrimination in all aspects of life, in both urban and rural areas, and to ensure their effective participation in the design and implementation of these measures;**

(b) **Systematically compile data and statistics on the situation of women and girls with disabilities, together with indicators for the evaluation of intersectional discrimination.**

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

15. The Committee is concerned at the high rate of child abandonment and the institutionalization of children with disabilities, at the prevalence of the welfare approach to their care and at the limited scope of specific measures taken for them in rural areas and indigenous communities. The Committee is also concerned that children with disabilities are not systematically involved in decisions that affect their lives and that they do not have the opportunity to express their views regarding matters of direct interest to them.

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

(a) **Ensure that children with disabilities, especially those in rural areas and indigenous communities, are taken into account in laws, policies and measures regarding children, on an equal basis with their peers and based on the principle of inclusion in the community;**

(b) **Put in place safeguards to protect the right of children with disabilities to be consulted in all matters of concern to them and to ensure that they receive assistance appropriate to their disability and age.**

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

17. The Committee is concerned that a substantial part of the resources for rehabilitating persons with disabilities are administered by a private entity such as Teletón. It also observes that the relevant campaign promotes the stereotype that persons with disabilities are the object of charity.

18. **The Committee urges the State party to establish a clear distinction between the private nature of Teletón campaigns and the State's obligation to rehabilitate persons with disabilities. It also recommends that the State party develop campaigns to raise awareness of persons with disabilities as rights holders.**

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

19. The Committee notes with concern that the State party's current legal framework on accessibility for persons with disabilities does not address all the aspects covered by article 9 of the Convention. The Committee is also concerned that the State party has no specific

mechanisms for evaluating compliance with accessibility legislation in all the areas covered by the Convention.

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

(a) **Accelerate the regulation process in connection with the laws on accessibility, in keeping with the Committee's general comment No. 2 on accessibility (2014);**

(b) **Establish monitoring and complaints mechanisms and define effective penalties for non-compliance with accessibility laws;**

(c) **Take measures to ensure that accessibility plans encompass existing buildings, in addition to new constructions;**

(d) **Design and implement a national accessibility plan applicable to the physical environment, transport, information and communications, including information and communications systems and technologies, and other services and facilities open or provided to the public; and**

(e) **Ensure that private entities duly consider all aspects of accessibility for persons with disabilities and those that are subject to penalties for non-compliance.**

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

21. The Committee notes with concern the lack of specific prevention, protection and assistance plans for persons with disabilities in situations of risk and humanitarian emergencies.

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

(a) **Adopt a national plan of assistance in situations of risk and humanitarian emergencies that includes persons with disabilities on a cross-cutting basis and the institutions that care for them;**

(b) **Design and disseminate, in accessible formats in all of the State party's official languages, including those used by the indigenous communities, information on early warning mechanisms in case of risk and humanitarian emergency, protection systems, institutional and community crisis response networks, and identify adequate places of refuge and shelters accessible to persons with disabilities in urban and rural areas; and**

(c) **Train all civil defence staff in addressing issues of security and protection for persons with disabilities in situations of risk — such as armed violence, humanitarian emergencies and natural disasters — including a gender and age perspective.**

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

23. The Committee is concerned at the lack of measures to repeal the declaration of legal incompetence and the limitations on the legal capacity of a person on the grounds of disability. It is also concerned at the lack of social awareness in this respect and the reluctance of some justice officials to put into effect the recommendations made by the Committee in its general comment No. 1 on equal recognition before the law (2014).

24. **The Committee urges the State party to suspend any legislative reform that would perpetuate a system of substitute decision-making and to take steps to adopt laws and policies that replace the substitute decision-making system with a supported decision-making model that upholds the autonomy and wishes of the persons concerned, regardless of the degree of disability. At the same time, it urges the State**

party to review all federal and state legislation in order to eliminate any restriction of rights stemming from a declaration of legal incompetence or on the grounds of a person's disability. It recommends that the State party take steps to train the authorities and society regarding the right to legal capacity of persons with disabilities, on the basis of the recommendations made by the Committee in its general comment No. 1 (2014).

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

25. The Committee is concerned at the limited access to justice of persons with disabilities from indigenous communities, of women and girls with disabilities who are the victims of violence and abuse, of persons with disabilities living in institutions and of children with disabilities.

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

(a) **Adopt priority corrective measures to ensure that the groups of persons with disabilities who are particularly discriminated against also have access to justice;**

(b) **Provide legal aid to persons with disabilities who live in poverty or in institutions;**

(c) **Ensure that all children with disabilities have access to justice and may express their opinion in the course of the determination of the best interests of the child, through procedural accommodations appropriate to their age and specific disability-related needs.**

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

27. The Committee notes with concern that persons with intellectual or psychosocial disabilities have frequently been the subject of declarations of non-liability in the context of criminal proceedings, in the absence of procedural safeguards. It is also concerned that the reform of the Code of Criminal Procedure maintains non-liability by reason of disability as a concept in the legal system.

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

(a) **Adopt the necessary measures to guarantee due process for persons with disabilities in the context of criminal proceedings, whether as indicted persons, victims or witnesses, and define specific criteria for making reasonable accommodations during such proceedings;**

(b) **Promote training mechanisms for justice and prison officials in accordance with the Convention's legal paradigm.**

29. The Committee is concerned that Mexican legislation authorizes deprivation of liberty in the case of persons with intellectual and psychological disabilities, on the ground of their disability; in particular, that provision is made for their confinement in psychiatric institutions in the context of medical or psychiatric treatment.

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

(a) **Eliminate security measures that mandate medical and psychiatric inpatient treatment and promote alternatives that comply with articles 14 and 19 of the Convention;**

(b) **Repeal legislation permitting detention on grounds of disability and ensure that all mental health services are provided based on the free and informed consent of the person concerned.**

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

31. The Committee finds alarming the fact that human rights violations, such as physical restraint and placement in isolation, are committed against persons with disabilities interned in psychiatric hospitals and may even amount to acts of torture or cruel, inhuman or degrading treatment. It is also concerned that the mechanisms designated for the prevention of such situations do not offer effective remedies.

**32. The Committee urges the State party to initiate administrative and criminal investigation processes, with a view to punishing the perpetrators of practices that violate the rights of persons with disabilities living in institutions. The Committee recommends that the State party abolish the use of physical restraint and isolation in institutions for persons with disabilities. It also requests the Government to strengthen the national torture prevention mechanism by providing it with sufficient funds, trained staff and guaranteed independence in the exercise of its functions.**

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

33. The Committee notes that women and girls with disabilities, especially those from indigenous communities, are often the victims of violence and abuse and do not have access to effective protection or reparation measures.

**34. The Committee urges the State party to implement existing legislative and policy measures to prevent violence against women and girls with disabilities and to provide protection and reparation to those who fall victim to it. The Committee requests the State party to periodically compile data and statistics on the situation of women and girls with disabilities in respect of violence, exploitation and abuse, including femicide.**

35. The Committee is concerned at the lack of protection against violence and abuse for children with disabilities. It is further concerned by the absence of protocols for the registration of shelters and other residential centres for children with disabilities and the oversight of conditions there.

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

**(a) Take steps to prevent and eliminate all forms of domestic or institutional violence against children with disabilities;**

**(b) Duly investigate cases of violence and abuse against children with disabilities in order to avoid the impunity of perpetrators;**

**(c) Set up an independent oversight mechanism, in line with article 16, paragraph 3, of the Convention, to register and oversee conditions in shelters and other residential centres for children with disabilities.**

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

37. The Committee is concerned that persons with disabilities are being sterilized without their free and informed consent in institutions such as Casa Hogar Esperanza, where, according to reports received by the Committee, forced or coerced sterilization is recommended to, authorized or performed on girls, adolescents and women with disabilities.

**38. The Committee urges the State party to launch administrative and criminal investigations into the judicial and health authorities and institutions that recommend, authorize or perform forced sterilizations on girls, adolescents and women with disabilities and to guarantee access to justice and reparation for victims.**

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

39. The Committee is concerned that migrants with intellectual or psychosocial disabilities are detained in migrant holding centres, that the authorities set stricter requirements for entry into the country for persons with disabilities and that persons injured as a result of falling from the train known as “La Bestia” (“The Beast”) receive inadequate care.

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

**(a) Designate appropriate and accessible areas and appoint trained staff to assist persons with disabilities in migrant holding centres;**

**(b) Review and harmonize the operational guidelines under the Migration Act to ensure that persons with disabilities are treated equally in the issuance of visas and entry permits;**

**(c) Review and harmonize care protocols for migrants who are injured while in transit in Mexico, so that they are provided with not only emergency medical care but also sufficient recovery time and basic rehabilitation.**

41. The Committee notes that the steps taken to promote the registration of children with the civil registry have not led to the universal registration of children with disabilities.

42. **The Committee urges the State party to ensure that all children with disabilities are immediately registered at birth and are provided with an identity document.**

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

43. The Committee is concerned at the lack of a State strategy for the inclusion of persons with disabilities in society and their ability to live independently. The Committee is further concerned by the absence of a specific and effective strategy for the deinstitutionalization of persons with disabilities.

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

**(a) Adopt legislative, financial and other measures to ensure that persons with disabilities may live autonomously in the community. These measures should include personal assistance services, be culturally appropriate, enable beneficiaries to choose their lifestyle and place of residence and express their preferences and needs, and contain a gender and age perspective;**

**(b) Urgently define a strategy for the deinstitutionalization of persons with disabilities, including specific time frames and assessment measures.**

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

45. The Committee notes that the Civil Code restricts the right of some persons with disabilities to marry and their right to custody and guardianship of their children. It further notes that children with disabilities living in poverty are at greater risk of abandonment and placement in institutions.

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

**(a) Review and harmonize the Civil Code to ensure that all persons with disabilities have the right to marry and to have custody or guardianship of their children;**

**(b) Set up programmes to provide sufficient support to mothers with psychosocial disabilities so that they may discharge their responsibilities towards their children;**

(c) Establish family support mechanisms in keeping with the recommendation made by the Committee on the Rights of the Child following the consideration of the third periodic report (CRC/C/MEX/CO/3, para. 55); and

(d) Opt for the placement of all abandoned children with disabilities in foster care instead of in institutions and ensure that foster families receive the requisite support for their care.

**Education (art. 24)**

47. The Committee is particularly concerned at:

- (a) The persistence of the special education model;
- (b) The fact that not all children with disabilities receive an education; and
- (c) The lack of accessible schools and didactic materials, including textbooks in Braille and sign-language interpreters.

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

(a) **Establish, in law and policy, an inclusive education system at all levels — primary, secondary and post-secondary — along with provisions for reasonable accommodations, adequate funding and training for regular teachers;**

(b) **Adopt measures to ensure that all children with disabilities receive an education, especially those with intellectual and psychosocial disabilities, blind-deaf children and those from indigenous communities; and**

(c) **Urgently implement measures for the accessibility of schools and didactic materials, including Braille and sign language, and ensure their use from the start of education.**

**Health (art. 25)**

49. The Committee is concerned at the lack of community mental health services. It is further concerned by restrictions on the right of women with disabilities to safely access sexual and reproductive health services and by the pressure to undergo an abortion when they become pregnant.

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

(a) **Ensure that informed consent is obtained for any medical treatment of persons with disabilities, including the possibility of advance directives; that appropriate community health services are available to persons with disabilities, based on the right to free and informed consent; and that any medication required for a disability are included in the support system and are available at no or low cost;**

(b) **Ensure that women with disabilities may enjoy their right to accessible and safe sexual and reproductive health services, in both urban and rural areas, and prevent pregnant women with disabilities from being pressured to undergo abortions, investigate any such cases and punish the doctors involved.**

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

51. The Committee is concerned at:

(a) The low employment rate among persons with disabilities, especially intellectual and psychosocial disabilities, and the limited coverage of strategies and programmes to promote their employment;



- (b) The lack of information on the working conditions of persons with disabilities;
- (c) The particular discrimination women and indigenous persons with disabilities face in accessing the labour market;
- (d) The lack of mechanisms to achieve the 3 per cent quota of persons with disabilities in the public sector; and
- (e) The lack of regulations on the provision of reasonable accommodations for persons with disabilities in the workplace, both public and private.

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

- (a) Boost access-to-employment programmes for persons with disabilities, especially intellectual and psychosocial disabilities, by allocating resources and through measures to encourage their recruitment by private sector companies;**
- (b) Set up mechanisms to protect persons with disabilities from all forms of forced labour, exploitation and harassment in the workplace;**
- (c) Take corrective measures to ensure the recruitment of women and indigenous persons with disabilities;**
- (d) Set up a mechanism to monitor the achievement of the public sector quota of persons with disabilities and roll out similar affirmative action measures in the private sector; and**
- (e) Regulate the criteria for the provision of reasonable accommodations for workers with disabilities and allocate the necessary budget for such accommodations in the public and private sectors.**

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

53. The Committee is deeply concerned at the exclusion, poverty, lack of access to drinking water, sanitation and decent housing, and the overall conditions of poverty experienced by indigenous persons with disabilities and at the lack of information in this regard. It is further concerned that the National Commission for the Development of Indigenous Peoples does not have a work programme for persons with disabilities and that its own premises and services are not accessible.

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

- (a) Step up efforts to include indigenous persons with disabilities in post-2015 development policies, with a community and rural focus, and ensure that their needs, perspectives and views are taken into account in these policies;**
- (b) Set up a system to periodically monitor initiatives for indigenous peoples under the National Programme for the Development and Inclusion of Persons with Disabilities; and**
- (c) Take special measures to eliminate the particular disadvantages faced by indigenous women, children and older persons with disabilities who have been abandoned or live in extreme poverty.**

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

55. The Committee is concerned that persons with intellectual and psychosocial disabilities are denied the right to vote and that voting procedures, facilities and materials are not accessible.

56. **The Committee urges the State party to amend the Federal Code of Electoral Institutions and Procedures to give all persons with disabilities the right to vote. It further recommends that the State party ensure the accessibility of voting procedures, facilities and materials in urban and rural areas alike.**

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

57. The Committee notes that the State party has yet to ratify the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

58. **The Committee encourages the State party to take all necessary steps to ratify and implement the Marrakesh Treaty as soon as possible.**

### **IV. Specific obligations (arts. 31–33)**

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

59. The Committee notes that the State party has set up a specialized technical committee for information on disability. However, it is concerned that there are no up-to-date statistics on the situation of persons with disabilities.

60. **The Committee recommends that the State party ensure the effective participation of disabled persons' organizations in the specialized technical committee for information on disability. The Committee enjoins the State party to urgently establish a system for the compilation, analysis and publication of statistical data on persons with disabilities — disaggregated by urban and rural place of residence, state and indigenous community — taking into account the situation of all marginalized groups and the Committee's recommendations contained in paragraphs 14 and 34 and the concerns expressed in paragraphs 43 and 47 above.**

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

61. The Committee notes that despite the establishment of an independent mechanism to monitor the implementation of the Convention in Mexico, its structure, functions and activities have not been defined with regard to the promotion, protection and monitoring of the rights enshrined in the Convention at the federal and state levels.

62. **The Committee urges the State party to ensure that the National Human Rights Commission and the 32 state human rights entities, as the independent monitoring mechanism for the Convention, define the mechanism's structure, goals, indicators and resources. Moreover, the State party should strengthen the National Commission so that it may fulfil its mandate effectively and independently.**

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

63. Under article 37 of the Convention, the Committee can provide technical guidance to the State party on any queries addressed to the experts via the secretariat. The State party can also seek technical assistance from United Nations specialized agencies with headquarters in the country or the region.

#### **Follow-up to concluding observations and dissemination**

64. The Committee requests the State party to implement the recommendations of the Committee as set forth in these concluding observations. It recommends that the State party forward the concluding observations, for consideration and action, to members of the

Government and the Congress, officials in the competent ministries, members of the judiciary and of relevant professions, such as education, medical and legal specialists, as well as to the local authorities, the private sector and the media, using accessible social communication strategies.

65. The Committee requests the State party to disseminate these concluding observations widely in accessible formats, particularly to NGOs, disabled persons' organizations, persons with disabilities themselves and members of their families.

66. The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its next periodic reports.

#### **Next report**

67. The Committee requests the State party to submit its combined second and third periodic reports no later than 17 January 2018. The Committee also offers the State party the opportunity to submit its combined reports under the simplified reporting procedure, whereby the Committee prepares a list of issues at least one year before the due date of the reports. The State party's reply to this list of issues would constitute the State party's report.

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