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促进和保护所有人权——公民权利、政治权利、  
经济、社会和文化权利，包括发展权

## 残疾人权利问题特别报告员访问巴拉圭的报告

## 秘书处的说明

秘书处谨向人权理事会转交残疾人权利问题特别报告员访问巴拉圭的报告。报告分析巴拉圭落实残疾人权利的情况，同时既考虑到在协调立法和公共政策方面取得的进展，也考虑到在实施这一领域的国际规范和标准方面遇到的障碍；还就促进这些人的权利问题列入了一系列的建议。

特别报告员说，建设一个具有包容性的巴拉圭，需要考虑限制享有残疾人权利的不平等的结构性条件。国家必须承认，目前在其境内没有无障碍便利、没有机会、得不到现有的公共服务，这对残疾人欠下了社会债务；并承认，确保残疾人参与、融入和独立生活的社会保护权是至关重要的。

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## Report of the Special Rapporteur on the rights of persons with disabilities on her visit to Paraguay\*

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\* Circulated in English and Spanish only.

## I. Introduction

1. With the agreement of the Government, the Special Rapporteur on the rights of persons with disabilities conducted an official visit to Paraguay from 18 to 28 November 2015, with the aim of assessing the enjoyment of the rights of persons with disabilities in accordance with international standards and of identifying good practices and challenges, in order to provide the State with recommendations for properly implementing those standards.

2. As part of the visit, technical meetings were held in Asunción and Villarrica with senior representatives of State, departmental and municipal authorities, organizations of and for persons with disabilities and other representatives of civil society, the donor community and United Nations agencies. The Special Rapporteur met with judges of the Supreme Court and of the High Court of Electoral Justice; ministers from the Technical Planning Secretariat for Economic and Social Development, the Civil Service Secretariat and the Secretariat for National Emergencies; deputy-ministers from the Ministry of Foreign Affairs, the Ministry of Public Works and Communications and the Secretariat for Information and Communication; representatives of the Ministry of Education and Culture, the Ministry of Justice, the Ministry of Public Health and Social Welfare, the National Secretariat for the Human Rights of Persons with Disabilities (SENADIS), the Secretariat for Social Action and the National Secretariat for Children and Adolescents; and the President of the National Institute of Indigenous Affairs. She also held meetings with the governmental coordination mechanism set up to facilitate the adoption of measures for the implementation of the Convention on the Rights of Persons with Disabilities, the national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment and Mario Ferreiro, the elected mayor of Asunción. Unfortunately, the meeting scheduled with the representative of the Ministry of Labour, Employment and Social Security did not take place.

3. During her visit, the Special Rapporteur went to Asunción Psychiatric Hospital, the Nueva Paz foster home for persons with psychosocial disabilities and the Albino Luis shelter for boys and girls with disabilities located in Asunción. She spoke to persons with disabilities residing in these institutions, as well as with children with disabilities attending inclusive primary school No. 409, “República Federal de Alemania”, in Asunción. The Special Rapporteur also held working sessions with numerous organizations of and for persons with disabilities, non-governmental organizations (NGOs), human rights organizations, private media and international partners. At the Government’s invitation, she gave a presentation at a seminar of the High-level Authorities on Human Rights of the Southern Common Market (MERCOSUR) held in Asunción.

4. The Special Rapporteur thanks the Government for its cooperation in organizing the visit and for its full cooperation, which enabled her to carry out her work freely and independently. She also extends particular thanks to persons with disabilities and the organizations that represent them and to other members of civil society for the information that they conveyed. The Special Rapporteur is particularly grateful to the Office of the Human Rights Adviser for Paraguay of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and to the entire United Nations team for the crucial support provided in the preparation of the visit and during the visit itself.

## II. Context

5. In 1989, after three decades of military dictatorships, Paraguay began a period of democratic transition, together with legal and institutional reforms.

6. Following a long period of stagnation, the country's gross domestic product began to rise and has continued to do so steadily over the past decade. Its macroeconomic indicators, including fiscal surpluses, low inflation, low debt and substantial international reserves, are positive. In addition, significant progress has been made towards providing free access to health care and basic education. However, Paraguay has been ranked by the Economic Commission for Latin America and the Caribbean (ECLAC) as having one of the highest rates of inequality in Latin America, owing to the high level of exclusion and informal employment. In 2013, ECLAC estimated that poverty affected 40.7 per cent of the population, and indigence 19.2 per cent of the population.<sup>1</sup> Inequality in access to land is a major source of social tension in the country: according to the 2008 national agricultural census, approximately 85 per cent of the land belongs to 2.6 per cent of the population.<sup>2</sup>

7. The minimum monthly wage is 1,824,055 guaraníes (approximately US\$ 324), although it is estimated that half of economically active persons work in the informal economy, for even lower income. In 2015, Paraguay ranked 112th in terms of the human development index and its gross national income per capita was \$4,400, or half the regional average.<sup>3</sup>

8. Paraguay has a population of approximately 6,818,180 inhabitants. While the exact number of persons with disabilities is not known, preliminary data from the 2012 national population and housing census provided by the Directorate-General for Statistics, Surveys and Censuses indicates that, in 2012, there were 514,635 persons with disabilities, equivalent to 7.5 per cent of the national population. Of that number, 275,271 were women and 239,364 were men.<sup>4</sup> The results of the census, which for the first time included questions of the Washington Group on Disability Statistics, have not yet been published.

9. According to the final results of the third national population and housing census for indigenous peoples, conducted in 2012, 117,150 indigenous persons (approximately 1.8 per cent of the total population) live in Paraguay; of these, 11.3 per cent have some form of disability.<sup>5</sup> In addition, the final results of the 2012 census of indigenous communities indicated that there were persons with disabilities living in all 711 indigenous communities in Paraguay.<sup>6</sup>

### III. Legal and institutional frameworks

#### A. Legal framework

10. Paraguay has ratified virtually all the international and regional instruments on human rights, including the Inter-American Convention on the Elimination of All Forms of

<sup>1</sup> [www.cepal.org/sites/default/files/pr/files/tabla\\_panoramasocial-2014\\_eng.pdf](http://www.cepal.org/sites/default/files/pr/files/tabla_panoramasocial-2014_eng.pdf).

<sup>2</sup> L. Ortiz Sandoval, "Concentración agraria y conservación social. Una interpretación del Censo Agropecuario 2008", *Población y Desarrollo*, No. 37 (2009), p. 64; available from [www.eco.una.py/descargas/poblacion37.pdf](http://www.eco.una.py/descargas/poblacion37.pdf).

<sup>3</sup> <http://hdr.undp.org/en/indicators/137506>.

<sup>4</sup> Directorate-General for Statistics, Surveys and Censuses, preliminary data from the 2012 national census (see A/HRC/WG.6/24/PRY/1, para. 3). The 2012 national census had an omission rate of approximately 25 per cent of the population.

<sup>5</sup> Directorate-General for Statistics, Surveys and Censuses, *Indigenous peoples in Paraguay: final results of the 2012 population and housing survey*, pp. 48 and 65.

<sup>6</sup> Directorate-General for Statistics, Surveys and Censuses, *2012 census of indigenous communities: final results*, pp. 103-107.

Discrimination against Persons with Disabilities, in 2002, and the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, in 2008.<sup>7</sup>

11. The Constitution of 1992 refers to persons with disabilities in articles 6 (quality of life), 58 (rights of exceptional persons) and 88 (non-discrimination). Other types of legislation also make reference to persons with disabilities, for instance the Civil Code (Act No. 1183/85), the Code of Civil Procedure (Act No. 1337/88) and the Code on Children and Adolescents (Act No. 1680/01).

12. Since 2008, the country has made strides in bringing its legislation into line with the Convention on the Rights of Persons with Disabilities, through the adoption of a score of specific laws and decrees aimed at protecting the human rights of persons with disabilities. The most significant of these are Act No. 4720/12 establishing SENADIS, Decree No. 10514/13 governing SENADIS and establishing the National Commission on the Rights of Persons with Disabilities (CONADIS), Act No. 5136/13 on inclusive education, Act No. 4934/12 on the accessibility of the physical environment, Act No. 4336/11 making it compulsory to provide sign language interpretation in information and news broadcasts in the audiovisual media and Act No. 3585/08 amending the Act that makes it compulsory to provide access to persons with disabilities to employment in public institutions. Furthermore, a number of relevant decisions have been adopted, including Decision No. 224/15 of the Ministry of Justice, adopting a protocol to facilitate access to justice for persons with psychosocial disabilities, Decision No. 270/14 of the High Court of Electoral Justice, approving the regulations on accessible voting for the municipal elections of 2015, and Decision No. 1024/15 of the Supreme Court, setting out a policy on access to justice for older persons and persons with disabilities.

13. Notwithstanding these initiatives, the process of bringing legislation into line with the Convention is far from complete. Further efforts are needed to modify or abolish laws, regulations, customs and practices that discriminate against persons with disabilities and to eliminate derogatory terms referring to them. For instance, article 58 of the Constitution, which refers to “exceptional persons”, should be amended. Amendments are pending to provisions of the Civil Code and the Code of Civil Procedure that limit the exercise of legal capacity by persons with disabilities, as are reforms to the Criminal Code, Act No. 1160/97, and the Code of Criminal Procedure, Act No. 1268/98, regarding therapeutic placement measures. There is also a need to revise the articles of the Electoral Code, Act No. 834/86, that provide for restrictions on the right to vote of persons with intellectual or psychosocial disabilities and “deaf mutes”. In addition, an ongoing review and revision process should be established to assess the extent to which these legal reforms are consistent with the Convention on the Rights of Persons with Disabilities.

14. Paraguay is one of the few Latin American countries that have no comprehensive anti-discrimination legislation, an essential element for the promotion of inclusive societies. Accordingly, it is fundamental that the bill against all forms of discrimination that pays tribute to Julio Fretes, one of the most eminent leaders of the Latin American disability movement, should be adopted.

<sup>7</sup> The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure are pending ratification, as are, at the regional level, the Inter-American Convention against All Forms of Discrimination and Intolerance and the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance.

## **B. Institutional framework**

15. There are several institutions in Paraguay responsible for promoting the rights of persons with disabilities, in accordance with article 33 (1) of the Convention on the Rights of Persons with Disabilities. SENADIS, an executive branch secretariat established in 2013 which is headed by a minister and has six offices nationwide, is the lead agency for the design, development and implementation of public policies on disability issues. CONADIS, a joint body headed by SENADIS which brings together public institutions and representatives of civil society organizations of and for persons with disabilities, is responsible for formulating inclusive national and sectoral policies aimed at persons with disabilities. The governmental coordination mechanism, headed by SENADIS and made up of State bodies and entities, was set up in early 2015 with a view to facilitating the adoption of measures related to the implementation of the Convention. In addition, other governmental bodies deal with issues of importance to persons with disabilities. Some of those bodies have specific departments for that purpose, such as the Directorate-General for Inclusive Education of the Ministry of Education and Culture.

16. The State has not yet designated a national independent monitoring mechanism in accordance with article 33 (2) of the Convention. It should designate and establish this mechanism promptly; the mechanism thus established should operate in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), have the necessary resources for it to function independently and consult fully with organizations of persons with disabilities at the national level.

17. It is a matter of concern that the post of Ombudsman has been vacant for four years; this has an adverse impact on the proper functioning of the Office of the Ombudsman. With due guarantees to ensure that it operates in accordance with the Paris Principles, the Office of the Ombudsman could be designated as the independent monitoring mechanism for the Convention.

18. The Government, with the technical cooperation of the Office of the Human Rights Adviser for Paraguay of the Office of the United Nations High Commissioner for Human Rights, has developed the Recommendations Monitoring System to oversee the implementation of recommendations by international and regional human rights mechanisms, including recommendations on the rights of persons with disabilities. This inter-institutional mechanism has won awards and received international recognition as an example of good practice, which is being replicated by several countries. As a member of the Human Rights Council, Paraguay sponsored a resolution, which was adopted without a vote, to promote international cooperation to support national human rights follow-up systems and processes. Furthermore, an executive branch human rights network has been established.

19. Significant progress has been made following the adoption of a range of public policies, programmes and initiatives of relevance to persons with disabilities. These include the National Human Rights Plan, the National Plan for Human Rights Education, the National Development Plan for the period 2014-2030 and the National Plan of Action for the Human Rights of Persons with Disabilities, which was approved in December 2015. This latter plan, which was the result of a broad and participatory process, was prepared with the technical cooperation of the Office of the United Nations High Commissioner for Human Rights on the basis of recommendations by human rights mechanisms drawn from the Recommendations Monitoring System; the recommendations served to develop lines of action. The National Plan of Action for the Human Rights of Persons with Disabilities is a key instrument which embodies the Government's commitment to adopting a human rights approach in public administration and the implementation of sectoral disability policies.

20. With the technical support of the Office of the United Nations High Commissioner for Human Rights, the State has made major efforts to develop human rights indicators in respect of health, education and fair trials and is developing indicators on the human rights of persons with disabilities on the basis of the guidelines of the National Plan of Action for the Human Rights of Persons with Disabilities. This programme framework represents an important opportunity for the State to establish indicators that would enable it to begin implementing the Sustainable Development Goals.

21. The country is also facing substantial challenges to implementing its development and human rights plans. Despite the significant efforts made by SENADIS to harmonize the planning and implementation processes for plans, programmes and public policies, the lack of adequate funding affects its capacity to operate. Furthermore, action by the State continues to be highly fragmented; this makes it difficult to coordinate and establish linkages between the various governmental bodies, notwithstanding the fact that agreements have been concluded between SENADIS and other State agencies and bodies.

22. The State lacks reliable and up-to-date statistical information. In particular, there is no demographic or administrative information on persons with disabilities, disaggregated by age, gender and other criteria. Although the 2012 national population and housing census included the set of questions of the Washington Group on Disability Statistics, it is a matter of concern that the preliminary results of the census have not been published, even partially. The Special Rapporteur is also concerned about the lack of administrative information on the recipients of public services and about the fact that annual household surveys do not include a disability component. The State should improve its administrative and demographic data collection systems so as to ensure that data can be disaggregated by type of disability, age and gender, and use the human rights indicators that have been developed.

23. The State should also make greater efforts to implement the National Human Rights Plan, in accordance with the recommendations of the Human Rights Committee, and the National Plan for Human Rights Education.

24. The Special Rapporteur urges the national authorities to properly implement the National Plan of Action for the Human Rights of Persons with Disabilities; to this end, it is essential that sustainable funding should be allocated as soon as possible. Although SENADIS fully assumes its coordinating role in implementing the Plan, there is an urgent need for focal points to be established in each State institution with the task of coordinating the implementation of disability policies. Local government offices and municipalities must assume their responsibilities for implementing the Plan at the regional and local levels.

## **IV. Major advances and challenges**

### **A. Accessibility of the physical environment**

25. The lack of accessibility is a cross-cutting problem that prevents persons with disabilities from participating fully in their communities, since accessibility is an enabling factor and prerequisite for the enjoyment of other rights.

26. With regard to physical accessibility, despite the enactment of Act No. 4934/12 on the accessibility of the physical environment for persons with disabilities and the efforts made to acquire a fleet of accessible public transport vehicles and to build ramps on some pavements in the municipality of Asunción, the Special Rapporteur noted the general lack of safe and accessible infrastructure, both public and private, for persons with disabilities in both the capital and the provinces, especially in the poorest neighbourhoods. The Special

Rapporteur urges all municipal authorities, including through the Municipal Council for the Human Rights of Persons with Disabilities of Asunción, to pay urgent attention to this matter and to take the measures necessary to ensure physical access to public and private spaces throughout the country.

## **B. Access to information and communication**

27. With regard to access to information and communication, information and communications technologies must be accessible to all persons with disabilities. The Special Rapporteur noted with concern the lack of a systematic plan for promoting access to accessible information and communications technologies for all persons with disabilities and of a plan to make all State websites and online services accessible, as well as the absence of any accessibility standards for information and communication technologies.

28. However, mention should be made of the considerable efforts by the State to increase the use of Paraguayan sign language interpretation services during official events and in service delivery, including through the Relay Centre of the Technical Planning Secretariat, although such efforts are very specific in nature. Since the growing demand for interpretation services cannot be met by the available interpreters, it is essential that the State should promote, in coordination with organizations of deaf persons, training and certification programmes for sign language interpreters in order to meet this demand and ensure that deaf persons are able to communicate effectively, including in situations involving the health and emergency services, the national police and the reporting of violence.

29. Apart from the efforts to ensure the use of Braille ballot papers in the November 2015 municipal elections, the Special Rapporteur was unable to obtain information about measures taken by the State to ensure access by blind persons to information. Information must be available in accessible formats so as to enable blind persons to have access to essential information concerning, for example, medical prescriptions, medicines and the national currency. The Special Rapporteur is particularly concerned that she received no information about steps taken to promote access to information by deaf-blind persons or persons with intellectual disabilities. The State should consider the need to provide all such persons with information in accessible formats.

## **C. Multiple and aggravated forms of discrimination**

30. The State should acknowledge the multiple and aggravated forms of discrimination faced by women with disabilities, persons with intellectual or psychosocial disabilities, autistic, deaf-blind and deaf persons, children and older persons with disabilities, especially when they live in poverty and/or in rural or remote areas, including indigenous persons with disabilities. The State does not provide such persons with comprehensive care. It is essential that public service providers should highlight intersectional discrimination and develop coordinated and multidisciplinary responses so as to ensure that all persons with disabilities are able to exercise their rights throughout their lives.

31. The Special Rapporteur took note of the training and outreach activities undertaken by the Secretariat for Information and Communication (SICOM), in conjunction with SINADES, to promote inclusive language and its proper use, to which end it has set up the Network of Inclusive Communicators. However, in both the public and private sectors, the media broadcast campaigns run by charitable associations that have a negative impact, reinforce stereotypes and help to maintain the public perception that persons with disabilities are objects of charity rather than subjects of rights. In order to fully perform its

role as the lead agency for the media, SICOM should provide training for its officials and ensure that it is adequately funded.

32. Owing to the centralization of most public services, the situation of persons with disabilities, especially indigenous people, who live far from the major urban areas is particularly worrying, since such persons are more difficult to identify and they are isolated from the main support networks and social assistance, health, rehabilitation and education services. In addition, many of these persons are not registered in the civil registry and have no identity cards, which prevents them from receiving pensions and other social benefits.

33. The Special Rapporteur acknowledges the efforts of the National Institute of Indigenous Affairs to collect information on the situation of indigenous persons with disabilities, including through the 2012 census for indigenous persons (see para. 9 above). Nevertheless, she noted that this issue is not taken into account in public policies and basic front-line community services. The State should acknowledge the needs of indigenous persons with disabilities and facilitate access to their rights on an equal basis with others. The Special Rapporteur received alarming allegations concerning the killing of newborn indigenous children with disabilities and the isolation of indigenous persons with disabilities within their communities, as well as cases of violence against indigenous women with disabilities.

#### **D. Participation in decision-making**

34. The Special Rapporteur took note of the national consultation and participation processes conducted by CONADIS and SENADIS during the preparation of the National Plan of Action for the Human Rights of Persons with Disabilities; those processes constitute good practice. Thanks to these efforts, public policies for the sector were developed on a participatory basis. However, figures from SENADIS show that only 7.2 per cent of those who took part in the departmental consultation forums were persons with disabilities. Major challenges remain to ensuring the effective participation of persons with disabilities, in particular persons with intellectual, hearing and psychosocial disabilities, their representative organizations and those located in the interior of the country. Furthermore, membership of CONADIS should be as inclusive as possible so as to ensure a wide representation of groups of persons with disabilities.

35. The State should ensure and strengthen the effective participation of all persons with disabilities (including children and adolescents, older persons and women) on an equal basis with others. To that end, it should foster a process to strengthen their rights and technical capacities, in accordance with the Convention on the Rights of Persons with Disabilities. This includes allowing and facilitating the formation of organizations that represent the diversity of persons with disabilities.

36. The registration process for organizations, especially those located in rural areas, is an obstacle to their representation in CONADIS, owing to the formalities and financial costs involved in acquiring legal personality, a requirement for participating in this body.

#### **E. Participation in political life**

37. Major efforts were made during the municipal elections that took place on 15 November 2015 — just before the Special Rapporteur's visit to Paraguay — to ensure that persons with disabilities were able to exercise their right to vote. Significant achievements in this regard include Decision No. 270/2014 of the High Court of Electoral Justice, approving the regulations on accessible voting; the setting up of accessible voting booths and voter information points in polling stations; the provision of accessible tools (for

example Braille ballot papers) and the system of home voting, which enabled some 160 persons with disabilities with a greater need for support to cast their vote at home in six pilot districts. According to figures from the High Court, 2,075 inclusive polling stations were set up, and 3,548 applications to vote in accessible booths were received. However, the Special Rapporteur was informed that persons with disabilities found it difficult to vote for various reasons. For instance, school entrances were not always accessible, booths and information points for persons with disabilities did not always meet accessibility requirements and in many instances there was a lack of adequate signage to identify polling stations.

38. This important initiative should be accompanied by a review to identify lessons learned and opportunities for improvement, to be acted upon in the upcoming 2018 general election. One area for improvement is coordination between the High Court of Electoral Justice and the Ministry of Education and Culture with a view to making the adjustments needed to ensure accessibility in schools that serve as polling stations. Likewise, consideration should be given to establishing more effective mechanisms to ensure that support measures for persons with disabilities do not interfere with their right to vote by secret ballot.

39. Although the steps taken are a positive development, the High Court of Electoral Justice should regulate election campaigns and make accessibility a permanent requirement throughout the entire electoral process, by requiring political parties to produce information and publicity materials in accessible formats for persons with disabilities and ensuring that public debates and other campaign events are accessible for all. The State should also ensure the right of persons with disabilities to stand as candidates for elected office on an equal basis with others. The State should revise articles 55 and 61 of the Electoral Code that prohibit persons with disabilities who have been legally “disqualified” from belonging to a political party and standing as candidates for party positions. It should also revise article 153 (2) of the Constitution, which provides for the suspension of citizenship rights by means of a judicial declaration of incapacity; this provision impedes the right to vote and to be elected.

## **F. Education**

40. The Ministry of Education and Culture has developed the National Education Plan 2024 and the National Plan for Human Rights Education. Following the adoption of Act No. 5136/13 on inclusive education and its regulatory Decree No. 2837/14, the Ministry launched a process to convert special schools and classes into centres and classes supporting inclusion. According to data from the Ministry, in 2015 there were in Paraguay 12,405 schools distributed across 17 departments. Of these, 84 were special schools; there were 104 special classes in mainstream schools. In addition, there were five centres where materials were produced for students in need of educational support, six centres supporting inclusion and 23 early care units for children up to the age of 4 years. The Directorate-General for Inclusive Education maintains a register of students with disabilities who moved from special schools to mainstream schools (approximately 300); however, the total number of students with disabilities nationwide is unknown because of a lack of administrative data from schools. According to figures from the Ministry, it is estimated that only 36 per cent of persons aged from 6 to 18 years with a disability attend some kind of educational establishment, as compared with 82 per cent of persons without a disability.

41. The Special Rapporteur welcomes the enactment of legislation on inclusive education and the establishment of the Directorate-General for Inclusive Education. However, she is concerned that the Directorate-General does not have an adequate budget to enable it to achieve progress in strengthening the technical capacities of teachers to use

an inclusive approach in the classroom. Although the training programmes provided for more than 500 school officials in 2015 are a positive development, there are still few technical and financial resources available for introducing inclusive quality education across the country as a whole, a situation that produces resistance on the part of teaching staff. In order to help bring about this paradigm shift, more support should be provided to teaching staff.

42. Ensuring progress towards inclusive education should be treated as a priority; it should be understood not only in terms of access to educational establishments but also in terms of the need to adapt the teaching materials and methods used by teachers and students in the classroom. The State should carry out a comprehensive review of the school curriculum, and teaching staff should take any necessary steps to adapt the curriculum to meet specific needs so as to ensure that students with disabilities remain in a quality education system. It is also important that students with disabilities should be able to enrol in schools that are closest to their home and that they are provided with the support measures that they need; the Special Rapporteur was informed of the case of a child with an intellectual disability who was denied admission to 18 so-called “inclusive” schools before being able to enrol in a school.

43. During a visit to an elementary school in Asunción, which included among its pupils children with intellectual disabilities, the Special Rapporteur observed that several students with disabilities were provided with support by “shadow” teachers in the classroom. While this appears to be an example of good practice, it is of concern that the cost of these teachers must be borne by pupils’ parents and that to date no student with an intellectual disability has graduated from the school, despite having completed the school programme. It is also a matter of concern that mainstream teachers have not received specialized training.

44. Of particular concern are the quality of inclusion and the retention of deaf children in the education system. The information obtained underscores the urgent need to take steps to ensure access to quality bilingual education for these children. For example, during a meeting of organizations of and for persons with disabilities, the Special Rapporteur learned that in Coronel Oviedo deaf students attend mainstream classes but are not provided with sign language interpretation. As a result, the deaf association runs remedial classes in sign language on Sundays in an attempt to cover the content taught during the week. It is imperative that deaf persons should have access to bilingual education in Paraguayan sign language; this will facilitate their learning, including in terms of literacy in written Spanish. It is essential to have classroom teachers, preferably deaf themselves, with the ability to transmit knowledge using sign language.

## **G. Social protection**

45. The right to social protection is essential to ensuring that persons with disabilities are able to participate and be included in society and to live independently. However, Paraguay has no comprehensive social protection policy. There are only uncoordinated programmes and benefits, with very low coverage; this is reflected in the high levels of informal and precarious employment and the fragmentation of the health system. According to data from the Directorate-General for Statistics, Surveys and Censuses, only 20.3 per cent of the total population contribute to health insurance and to the private pension fund of the Social Security Institute; 8.9 per cent have another type of insurance; while 70.8 per cent of the population have no insurance at all.<sup>8</sup> In particular, persons with disabilities are

<sup>8</sup> Directorate-General for Statistics, Surveys and Censuses, permanent household survey 2014.

mostly excluded from contributory social protection schemes because of the high levels of unemployment and informal employment that they experience. The State should move towards recognizing a social protection floor, in accordance with the International Labour Organization's Social Floors Recommendation, 2012 (No. 202).

46. This fragmentation is further reflected in the social assistance programmes that are offered according to age or the area of competence of the various institutions, without any real coordination between them that would allow the various stages and aspects of a person's life to be taken into account. For example, the Secretariat for Social Action has five social programmes; the National Secretariat for Children and Adolescents has several programmes for children and adolescents; and the Ministry of Finance has a food support programme for older persons living in poverty. Furthermore, persons with disabilities cannot benefit from more than one programme at a time, even though some programmes are complementary. Against this background, the Special Rapporteur welcomes the adoption in 2014 of the first National Development Plan 2030, which was prepared with a view to eliminating extreme poverty and fostering the income growth of the most disadvantaged sectors of the population, and the *Sembrando Oportunidades* (Sowing Opportunities) poverty reduction programme, which seeks to increase the income of vulnerable families and to improve their access to social services. She hopes that these two programmes will improve coordination and enhance the impact and coverage of existing social protection programmes.

47. The Special Rapporteur wishes to highlight the Government's objective of providing universal coverage of public health services and the inclusion in the *Tekoporã* extreme poverty reduction programme of a differentiated conditional cash transfer programme for families with one or more members with a "severe disability". According to figures from the Secretariat for Social Action, in August 2015 554,970 persons (111,896 families) were benefiting from this programme, including 10,046 persons with severe disabilities.

48. Nonetheless, during the productive meetings that she held with the Technical Planning Secretariat for Economic and Social Development and the Secretariat for Social Action, the Special Rapporteur identified major challenges to targeting and selecting beneficiaries (including the certification of persons with disabilities), as well as to assessing the relevance of the package of services offered and ensuring the accessibility of the programme. The Special Rapporteur received a specific request to provide technical assistance in the area of inclusive social protection; in response, she reiterated her willingness to explore opportunities for collaboration with a view to designing inclusive programmes for persons with disabilities.

## H. Health

49. In relation to the enjoyment of the highest attainable standard of health, the fragmentation of the health system is a matter of concern, as is the existence of numerous uncoordinated plans and programmes that do not follow a human rights-based approach, which particularly affects persons with disabilities. The Special Rapporteur noted the efforts made by the State to increase primary health-care coverage nationwide and the operationalization of 795 family health units. However, Paraguay is still far from achieving universal health coverage under equal conditions for all persons with disabilities in all regions of the country. The enormous difficulties faced by persons with disabilities in accessing basic health services in their communities are alarming, including the lack of services, lack of accessibility, lack of specialized staff and resistance to providing care to persons with disabilities in general public centres. In addition, it is reported that the majority of children with disabilities do not receive any health care in their community health centres and hospitals, but are referred to the SENADIS-affiliated centres to see

“specialist paediatricians”. The Special Rapporteur was informed of the lack of accessible information for deaf persons, with the exception of materials on sexual and reproductive health developed for deaf women by the Ministry of Public Health and Social Welfare.

50. The Special Rapporteur observed a high level of centralization of specialized services for persons with disabilities. It is a matter of great concern that the management of rehabilitation and habilitation services in the health sector, which until 2012 was the responsibility of the National Institute for the Protection of Exceptional Persons, now comes under the remit of SENADIS. These services are not incorporated into the general health system, which represents a major barrier for many persons with disabilities, who in most cases have to travel to the capital to receive these services, at a high personal and financial cost. In order to ensure universal health coverage without discrimination, the Ministry of Public Health and Social Welfare must take responsibility for such services as soon as possible.

51. Owing to the continued prevalence of the medical model of disability, it is necessary to improve training of health personnel on how to care for persons with disabilities following a rights-based approach, including in emergency services. The provision of training to 60 health workers in Paraguayan sign language to allow them to communicate with deaf persons is a positive step, but insufficient to cover the Ministry’s 1,000 health units.

## **I. Legal capacity**

52. The Special Rapporteur regrets the existence of a procedure for declaring persons with disabilities in Paraguay legally incapable, as well as the lack of specific data on the number of persons with disabilities who have been declared legally incapable. The declaration of incapacity is an obstacle for persons with disabilities to fully exercising their legal capacity in all aspects of life. The full recognition of legal capacity, as provided for in article 12 of the Convention on the Rights of Persons with Disabilities, is essential to guaranteeing all their rights and fundamental freedoms.

53. It is worrying that Paraguay has not yet started revising its legislation to bring it into line with the Convention. The State should amend all provisions of the Civil Code that allow the declaration of incapacity on the ground of disability and that impose measures of substituted decision-making through such systems as “guardianship”. These provisions should be replaced by a system of support for the exercise of legal capacity, ensuring that persons with disabilities are able to exercise all their rights, including the rights to access to justice, to vote, to marry and to choose their place of residence.

54. Persons with psychosocial and intellectual disabilities are particularly vulnerable to being deprived of their legal capacity, which results, *inter alia*, in them being denied the right to participate in judicial proceedings, including as witnesses. In the short term, while the relevant legal reforms are introduced, the State must urgently train and raise awareness among judges so that a moratorium is established and persons with such disabilities are not declared without legal capacity and instead are afforded the necessary support to enable them to exercise their rights on an equal basis.

## **J. Institutionalization and deprivation of liberty**

55. The institutionalization of children with disabilities requires urgent and immediate intervention by the State. There is no reliable information on the number of children’s homes operating in the country, or on the number of children placed in such centres or how many of them have disabilities. Based on the information gathered, at least three State

homes that operate as special institutions for children with disabilities were identified. During a visit to one such home in Asunción, the Special Rapporteur noted that the children have minimal support to survive, do not have real access to health care, rehabilitation and education, and many face premature death. The State should take all measures within its power to prevent the abandonment of children with disabilities in institutions, ensure the immediate introduction of measures for the deinstitutionalization of those who are currently in these centres and find sustainable solutions. It should also give priority to the development of an intervention strategy that in the short term guarantees the right of children to live in a family and fully enjoy all their rights.

56. The Special Rapporteur visited one of the six “foster homes” for persons with psychosocial disabilities, with a capacity of 10 persons. According to the information received, there are more than 150 people on the waiting list for these homes. The foster homes initiative should be revived as a transitional support measure to promote a return to community living for persons with disabilities who have been institutionalized in the psychiatric hospital in Asunción. However, the initiative should be improved and extended throughout the country, guaranteeing a rights-based approach, reducing the number of persons per home and ensuring a full range of support services for independent living in the community. In discussions with the authorities of the Ministry of Public Health and Social Welfare, the Special Rapporteur was apprised of two projects to create day-care centres and provide personal assistants, known as “life facilitators”. These should be adopted by the State as urgent measures to support the process of deinstitutionalization of persons with psychosocial disabilities.

57. During the visit to the psychiatric hospital in Asunción, the Special Rapporteur noted that the majority of patients had been placed there forcibly and were being medicated without their consent. She also noted that electroconvulsive therapy is still a common practice and is performed without the free and informed consent of the person concerned. In addition, persons there are living in conditions that threaten their physical and mental integrity, and may be placed in single cells and isolation rooms. All of these practices that are contrary to fundamental rights should stop immediately. These persons do not have access to justice and some do not even have identity documents.

58. The Special Rapporteur was also informed of the growing practice of institutionalizing persons with disabilities by court order, through both civil and criminal protective measures for indefinite periods or several years. These individuals are detained arbitrarily and without any access to justice as a result of this ad hoc procedure for which there is no legal basis. Despite the fact that in 2015 the psychiatric hospital in Asunción released 50 individuals following the lifting of protective measures, 17 individuals remained in detention by court order. The State should take immediate and urgent measures to release these individuals and compensate them for the damage caused. It should also take steps to guarantee the integrity and dignity of these persons and support their transition to independent living in their communities.

59. For these reasons, the Special Rapporteur urges the State to act immediately to permanently close the hospital’s rooms for “chronic patients”, in which persons with disabilities are deprived of their liberty on the ground of their disability. The State should take urgent steps to stop involuntary placements and any form of forced treatment. In addition, the Special Rapporteur urges the State to reconsider the decision to expand the psychiatric hospital and instead to reallocate the budgeted resources to strengthening and developing community support services throughout the country that respect the freedom and integrity of persons with such disabilities and promote their independence and autonomy.

## K. Access to justice

60. Access to justice for persons with disabilities in Paraguay is virtually non-existent due to a lack of accessibility, procedural accommodations that are age-appropriate and proper training of justice officials (including within the police) and other professionals. The loss of legal capacity (see section I above) is a fundamental obstacle to access to justice, which particularly affects persons with psychosocial and intellectual disabilities.

61. Persons with disabilities do not have information on how to assert their rights through judicial proceedings, nor do they have sufficient financial resources to cover the costs associated with such proceedings. For example, the staff of bodies before which complaints are brought are not appropriately trained and do not have the resources to facilitate access to these services for persons with disabilities. In addition, existing public services have not been used to a significant extent by persons with disabilities due to physical and attitudinal barriers and lack of access to information and communication. The Special Rapporteur noted the absence of an effective mechanism to ensure accessible communication for persons with disabilities who are involved in judicial proceedings, especially for deaf persons. All laws and procedural acts must be made available in accessible formats.

62. In this context, the adoption of the protocol for access to justice for persons with psychosocial disabilities, launched by the Ministry of Justice in 2015, marks a step forward. The protocol must be implemented promptly by the institutions involved. Another positive development was the training of some 300 officials of the Public Prosecution Service through workshops on “access to justice, justice with access”. Also noteworthy is the adoption by the plenary of the Supreme Court of the policy on access to justice for older persons and persons with disabilities at the end of 2015. In order to progress towards the effective implementation of these new instruments, it is necessary for these measures to be accompanied by adequate budgetary allocations.

63. It is also positive that processes are being initiated in the area of restorative juvenile justice, which is based, *inter alia*, on the Brasilia Regulations Regarding Access to Justice for Vulnerable People, ratified by the Supreme Court in 2010, which includes persons with disabilities.<sup>9</sup>

## L. Employment

64. The Special Rapporteur welcomes the State’s efforts to implement Act No. 2479/04 and its amending act No. 3585/08, which provide for a mandatory employment quota of at least 5 per cent of persons with disabilities in public institutions, as well as the establishment of an inter-institutional committee for the effective inclusion of persons with disabilities in the civil service. However, according to data from the Civil Service Secretariat, only nine State institutions (10 per cent of all institutions) meet the minimum quota in their payroll. In this regard, the Special Rapporteur invites the State to expedite the process of adoption of the Ministry of Finance bill that would introduce penalties in the form of fines for non-compliance with laws, as well as its early implementation.

65. According to the information received, very few persons with disabilities tend to participate in competitive examinations. The State should implement a two-pronged approach. It must increase efforts to ensure that all competitive examinations are accessible

<sup>9</sup> Decision 917/14 ratifying the content of the Lima Declaration on Restorative Juvenile Justice, [www.pj.gov.py/descargas/ID1-442\\_acordada\\_917\\_justicia\\_restaurativa\\_juvenil.pdf](http://www.pj.gov.py/descargas/ID1-442_acordada_917_justicia_restaurativa_juvenil.pdf).

to all persons with disabilities, including those with multiple disabilities, and that these persons are provided with reasonable accommodations to enable them to take part on an equal basis with other applicants. It should also organize specific competitions open only to persons with disabilities when necessary, as a measure of affirmative action. The State could establish a fund for reasonable accommodations financed by income from fines for legislative non-compliance. It is a matter of concern that most competitive examinations for persons with disabilities are aimed at filling temporary positions that expire at the end of each year rather than permanent positions. Consideration should also be given to the implementation of affirmative measures to achieve equity for women with disabilities in the civil service.

66. With respect to the process of certification of disability and labour potential, as of mid-November 2015, SENADIS had issued 824 certificates and 948 records of disability. This process is an obstacle to persons located in the interior of the country, owing to the lengthy procedures and financial costs involved, coupled with the lack of accessibility of public transport. However, the Special Rapporteur welcomes the efforts undertaken by SENADIS to decentralize this process with the objective of facilitating the participation of persons with disabilities in public competitions and accessing jobs in the public service. She hopes that the process can be accelerated and extended to all departments to ensure that lack of certification does not become an obstacle to accessing the right to work for persons with disabilities.

67. The Special Rapporteur did not receive any information concerning State initiatives for the promotion of employment of persons with disabilities in the private sector. She is also concerned that regulations have not yet been adopted for Act No. 4962/13, which introduces incentives for employers to encourage the employment of persons with disabilities in the private sector.

## **M. Risk or emergency situations**

68. The Special Rapporteur welcomes the adoption in 2014 of the national policy on risk management and reduction, one of whose cross-cutting themes is the rights-based approach and the disability perspective. In order to ensure its full implementation and improve prevention and response to situations of risk and natural disasters with respect to persons with disabilities, the State must strengthen training of the armed forces, firefighters and other professionals involved in this area, adapt facilities in shelters and camps to ensure accessibility and involve persons with disabilities in the State response.

69. It is worth noting that the National Emergency Secretariat is developing a comprehensive institutional protocol to include persons with disabilities in emergency and evacuation plans, in consultation with SENADIS and organizations of persons with disabilities. The Special Rapporteur recommends the development of indicators to measure results, with data disaggregated by gender, age and disability, to ensure the effective mainstreaming of disability in situations of risk or emergencies and that the information and support provided are accessible, especially for persons with hearing, visual and intellectual disabilities.

## **N. Budgetary provision and international cooperation**

70. Despite progress in the development of inclusive public policies, challenges remain for the allocation of adequate financial and human resources sufficient to ensure the effective realization of the rights of persons with disabilities. The Special Rapporteur noted that budgetary allocation is inadequate and insufficient to implement public policies,

programmes and initiatives relevant to persons with disabilities, such as the National Plan of Action for the Human Rights of Persons with Disabilities. In addition, she was informed that the SENADIS budget for 2016 would be reduced by 13 per cent.

71. It is therefore crucial that, in the context of existing international cooperation efforts, the State increase resources allocated to this area. The Technical Planning Secretariat for Economic and Social Development should include the issue of development and the rights of persons with disabilities as a priority in the country's international cooperation portfolio. It is also necessary to ensure that persons with disabilities and their representative organizations participate in the design of international cooperation programmes.

72. The development cooperation framework between the Republic of Paraguay and the United Nations for the period 2015-2019 represents an important opportunity to continue to work in close coordination with the United Nations system and with the technical assistance of the Office of the Human Rights Adviser for Paraguay of the Office of the United Nations High Commissioner for Human Rights to advance the process of implementation and monitoring of public policies from a human rights perspective, which will ensure the effective inclusion of persons with disabilities.

## **V. Conclusions and recommendations**

### **A. Conclusions**

73. **Paraguay has important opportunities to make progress on the full recognition of the rights of persons with disabilities. The country has made substantial participatory efforts to revise its normative, institutional and programme frameworks in line with the provisions of the Convention. The greatest challenge now is to translate these new frameworks into concrete actions that result in the sustainable active participation of all Paraguayan citizens with disabilities.**

74. **The construction of an inclusive Paraguay requires the following measures:**

- (a) Taking into account all the structural conditions that limit the enjoyment of the rights of persons with disabilities;**
- (b) Recognizing the social debt towards persons with disabilities and the need to increase the human and financial resources allocated to meeting this debt;**
- (c) Continuously consulting with persons with disabilities and their organizations and involving them in the design, implementation and monitoring of all public policies that affect them;**
- (d) Increasing investment in education, training and awareness-raising on the new paradigm that recognizes persons with disabilities as subjects of rights;**
- (e) Generating greater commitment and coordination between all government bodies, not only those that have a specific mandate to work with the sector and not only at the central level;**
- (f) Strengthening and maintaining strategic partnerships for technical cooperation;**
- (g) Achieving the involvement of all social actors, including international cooperation partners, the United Nations system, the private sector and the media.**

75. **The United Nations country team in Paraguay plays a very important role in supporting the State in implementing disability policies and plans, and it is important**

that different agencies based in the country combine their efforts to make progress in this regard and to mainstream the disability perspective in all their programmes.

## **B. Recommendations**

76. With regard to the legal and institutional framework, the Special Rapporteur recommends that the State:

(a) Harmonize legislation and public policies with the Convention in order to modify or abolish laws, regulations and practices that discriminate against persons with disabilities, including the provisions of the Civil Code, the Code of Civil Procedure, the Electoral Code and the Constitution which limit the exercise of legal capacity by persons with disabilities;

(b) Adopt the bill against all forms of discrimination (“Julio Fretes” bill);

(c) Establish a governmental coordination mechanism, in accordance with article 33 (1) of the Convention, and designate an independent national mechanism to monitor implementation of the Convention, in accordance with article 33 (2), in full consultation with organizations of persons with disabilities at the national level;

(d) Appoint the Ombudsman, with due guarantees to ensure that the Office of the Ombudsman operates in accordance with the Paris Principles;

(e) Implement the National Human Rights Plan and its action lines, in accordance with the recommendations of the Human Rights Committee, and the National Plan for Human Rights Education;

(f) Provide SENADIS with the budget required for it to perform its tasks in designing, developing and coordinating public policies on disability, including the National Plan of Action for the Human Rights of Persons with Disabilities;

(g) Incorporate the set of questions of the Washington Group on Disability Statistics in all national surveys to allow for the disaggregation of data by disability.

77. With regard to the accessibility of the physical environment, the Special Rapporteur recommends that the State adopt norms and instruments that regulate and ensure accessibility of the physical environment at the national level, and to make the necessary adjustments to ensure accessibility of public and private infrastructure and public transportation.

78. With regard to access to information and communication, the Special Rapporteur recommends that the State:

(a) Ensure that all persons with disabilities have access to information intended for the general public, in accordance with article 21 of the Convention;

(b) Guarantee interpretation services in Paraguayan sign language in all public services and promote training and certification programmes for sign language interpreters in coordination with organizations of deaf persons;

(c) Provide information in accessible formats for persons with disabilities, especially blind and deaf-blind persons and persons with intellectual disabilities, adopt accessibility standards and plans (including for information and communications technologies) and make all State websites and online services accessible.

79. With regard to discrimination, the Special Rapporteur recommends that the State:

(a) Prevent and eliminate all forms of discrimination against persons with disabilities, in particular those faced by women, indigenous persons and those living in poverty and/or in rural or remote areas;

(b) Run a public campaign to raise awareness about the rights of persons with disabilities and train staff of the Secretariat for Information and Communication to ensure that messages issued by public media services are inclusive.

80. With regard to participation, the Special Rapporteur recommends that the State:

(a) Ensure the effective participation of persons with disabilities in all decision-making processes and the design and implementation of public policies on an equal basis, and strengthen technical capacities and rights;

(b) Guarantee the right of persons with disabilities to vote by secret ballot and stand as candidates for elected office;

(c) Regulate election campaigns and ensure that public debates and information are accessible throughout the entire electoral process for all persons with disabilities.

81. With regard to education, the Special Rapporteur recommends that the State:

(a) Prioritize the implementation of an inclusive education system throughout the country, through the adaptation of the physical environment and educational materials and teaching and learning methodologies, and ensure technical training for teachers on how to deal with children and adolescents with disabilities in the classroom;

(b) Ensure that deaf persons have access to bilingual education in sign language, through the provision of teachers, preferably deaf themselves, with the ability to transmit knowledge using sign language.

82. With regard to social protection, the Special Rapporteur recommends that the State:

(a) Coordinate the various social protection programmes to ensure complementarity and coverage of persons with disabilities throughout their lives;

(b) Ensure the implementation of the International Labour Organization's Social Protection Floors Recommendation, 2012 (No. 202);

(c) Develop public policies that include persons with disabilities in contributory programmes.

83. With regard to health, the Special Rapporteur recommends that the State:

(a) Transfer responsibility for rehabilitation and habilitation services from SENADIS to the Ministry of Public Health and Social Welfare, and ensure that such services are provided in a decentralized manner in the public hospital network;

(b) Ensure universal health coverage for all persons with disabilities in the country (including indigenous persons with disabilities), decentralize services for persons with disabilities to the local level and ensure that they are accessible.

84. With regard to institutionalization and deprivation of liberty, the Special Rapporteur recommends that the State:

(a) Identify the number of children with disabilities living in residential homes, urgently develop a strategy for their deinstitutionalization and promote support and awareness-raising services to prevent them from being abandoned;

- (b) Reconsider the decision to expand the psychiatric hospital in Asunción;
- (c) Permanently close rooms for “chronic patients” in the psychiatric hospital and urgently develop a strategy for the deinstitutionalization of persons with disabilities, with specific timelines and monitoring indicators, including the creation of community support services throughout the country;
- (d) Immediately stop involuntary placement and the administration of medical treatments and electroconvulsive therapy without the free and informed consent of persons with disabilities placed in the psychiatric hospital;
- (e) Immediately stop court-ordered forced placements under protective measures and release persons who have been arbitrarily deprived of their liberty through this procedure;
- (f) Facilitate and strengthen the role of the national mechanism for the prevention of torture.

85. With regard to employment, the Special Rapporteur recommends that the State:

- (a) Accelerate the process of adopting the decree on the imposition of fines for legislative non-compliance and penalize State institutions that do not comply with act No. 2479/04 and its amending legislation;
- (b) Ensure that all State competitive examinations are accessible to all persons with disabilities with the reasonable accommodations needed for them to compete on an equal basis with others, and take affirmative measures to achieve equity for women with disabilities in public employment;
- (c) Decentralize the process for obtaining a certificate of disability to the departmental level to facilitate access to public employment for persons with disabilities;
- (d) Take measures to promote the employment of persons with disabilities in the private sector.

86. With regard to legal capacity, the Special Rapporteur recommends that the State:

- (a) Remove all restrictions and limitations on the exercise of legal capacity by persons with disabilities, including access to justice, to vote, to give informed consent, to acquire property, to marry and to choose a place of residence;
- (b) Develop a support system for the exercise of legal capacity that respects the autonomy, will and preferences of persons with disabilities.

87. With regard to access to justice, the Special Rapporteur recommends that the State:

- (a) Ensure access to justice for persons with disabilities through accessibility measures and support, procedural accommodations, and making all laws and procedural acts available in accessible formats;
- (b) Remove all provisions that deny access to justice for persons with disabilities;
- (c) Incorporate training on the Convention into all training programmes for the police and the judiciary and ensure the active participation of organizations of persons with disabilities in their design and implementation.

88. With regard to international cooperation, the Special Rapporteur recommends that the issue of development and the rights of persons with disabilities be included as a priority in the international cooperation portfolio.

89. The Special Rapporteur recommends that the United Nations country team prioritize the disability perspective and coordinate and mainstream it into all its programmes to support the State in the effective implementation of the National Development Plan, the Sustainable Development Goals and the National Plan of Action for the Human Rights of Persons with Disabilities.

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