

COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)

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CONSIDERATION OF COUNTRY REPORTS

EL SALVADOR

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(Initial State Party report (CRPD/C/SLV/1), 5 January 2011)

DisabCouncil's Independent Review

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CONTENTS

- A. Basic country information (EL Salvador)**
- B. Status of Persons with Disabilities in EL Salvador under the Convention**
 - I. Summary review of most critical issues**
 - II. General requirements concerning the contents of the reports to the Committee**
 - III. Analysis of the report (article by article)**

ELSALVADOR

Initial State party report (CRPD/C/SLV/1) submitted
5 JANUARY 2011

BASIC COUNTRY INFORMATION (El Salvador)¹

Government type: A republic (divided in 14 departments)

Independence (from Spain): 15 September 1821

Constitution: 20 December 1983

Population: July 2012 estimate: 6,108,590

Age structure: 2012 estimate:

0-14 years: 28.9% (male 905,236/female 859,468)

15-24 years: 20.9% (male 638,938/female 635,460)

25-54 years: 37% (male 1,037,173/ female 1,224,227)

55-64 years: 6.5% (male 179, /female 217,472)

65 years and over: 6.7% (male 182,773/female 228,469)

Ethnicities: Mestizo 86.3%, white 12.7%, Amerindians 1%

Religion: Roman Catholic 57.1%; Protestant 21.2%; other Christian 4.9%, none 16,8%

Executive branch: Head of State and Government: President Carlos Mauricio FUNES Cartagena (since 1 June 2009).

Cabinet: Council of Ministers selected by the President.

Parliament: Unicameral legislative Assembly (84 seats, MP elected for 3 years by direct popular vote)

Elections: President and Vice-President elected by direct vote for single 5 years (next elections, February 2014).

Suffrage: 18 years of age; universal.

GDP, 2012: \$45.98 billion

GDP, annual growth rate (2012): 1, 5%

GDP per capita, 2012: \$7,700

Major exporting products: coffee, sugar, textiles, gold, offshore assembly exports, electricity, iron, steel manufacturers

Employment (2.593 million): 58% (2011 est.) services, 20% industry, 21% agriculture

Unemployment rate, 2012: 6.9%

Annual population growth rate, 2012: .0.303%

Infant mortality rate, 2012: 19.66 deaths per 1,000 live births

Life expectancy at birth (2012): *male:* 70,41 years

female: 77,12 years

Maternal mortality rate (2010): 81 deaths per 100,000 live births

Literacy rate (2003 estimate): *male:* 82%

female: 79%

¹See Core Document forming part of the Reports of the States Parties (EL Salvador) (HRI/Core/SLV/2010); US Department of State, Human Rights Reports EL Salvador, 2012; World Fact Book, EL Salvador, 2013 Update.

A. STATUS OF PERSONS WITH DISABILITIES IN EL SALVADOR IN LIGHT OF THE CONVENTION

I. Summary Review of most critical issues

Article 1 (Definition of persons with disabilities)

The State party uses a medical model definition of persons with disabilities

Although the State party does not provide any definitions in the report, the review of the various pieces of legislation mentioned in the report shows that the State party has a medical model definition of persons with disabilities in its national legislation. This definition has not been changed yet to conform to the CRPD Convention.

The State party is encouraged to amend its legislation and adopt a social and human rights model definition of persons with disabilities.

Article 12 (Legal capacity)

Restrictive concept of legal capacity in practice

The State party makes the distinction in its national legislation between capacity for rights and capacity to act. On this basis it restricts the legal capacity of persons with disabilities on a number of ways, including a full guardianship system over the so called “adult minors”. Restrictions even concern the right to have a passport and leave the country without permission of the guardian.

The State party is encouraged to harmonize its national legislation with the provisions of the Convention.

The State party is encouraged to remove its general reservation to the Convention.

Article 23 (home and family)

The so-called “incompetent” persons are denied the right to marry

Persons with certain mental forms of disability are denied their right to marry and establish a family.

The State party is encouraged to revise its national legislation to conform it to articles 12 and 23 of the Convention.

4

Article 29 (Political and Public life)

Persons with certain forms of disabilities are denied a right to hold public offices

Persons with certain forms of disability for example the blind are denied their right to hold public offices.

The State party itself recognises this to be wrong and is seeking guidance from the Committee on global issues of the Convention to change it. The State party should be encouraged to amend its national legislation to conform it to articles 12 and 29 of the Convention, without waiting for the Committee recommendations, since it has already identified this to be wrong.

II. General issues to consider when preparing reports to the Committee

In its Reporting Guidelines, the CRPD Committee requests State parties preparing their reports to meet a number of objectives including:

1. States parties should use the opportunity of the report drafting process to conduct a comprehensive review of the measures undertaken to harmonize national law and policy with the Convention

The report enumerates a number of measures that the State party has undertaken (most of which occurred before the adoption of the Convention), but the report frankly acknowledges that very little was done to harmonize the existing national laws with the Convention. Instead the State party is seeking guidance from the Committee, before embarking on a comprehensive harmonization work. Therefore crucial provisions under article 12 (legal capacity), article 14 (deinstitutionalization), article 23 (home and family), article 24 (right to education), article 27 (right to work) and article 29 (right to vote) remain to be harmonized in the national legislation.

The State party is encouraged to:

- (1) harmonize its national legislation with the Convention;*
- (2) proceed with efforts to adopt specific plans of action for each Convention right by confronting existing legislation, policies and plans with the requirements of the Convention; and*
- (3) develop a strategy for implementation with clear benchmarks, timelines and appropriate funding.*

The State is strongly encouraged to follow the recommendations of the Committee.

2. States parties should use the reporting process as an opportunity to identify problems and shortcomings in their approach to the implementation of the Convention

The State party recognises that persons with disabilities face a number of challenges in enjoying their rights on an equal basis with others, and that a number of existing provisions in its legislation require uniformization with the Convention. The State party seeks guidance from the Committee on the way to proceed with this harmonization process.

The State party is encouraged to follow up and implement the recommendations of the Committee.

3. States parties should encourage and facilitate the involvement of NGOs including Disabled Peoples Organizations (DPOs) in the preparation of the report and explain the procedure used to consult with civil society organizations and the measures taken to ensure that this process is fully accessible.

The report informs that it consulted with (an unspecified number of NGOs) in the process of drafting the report (paras. 178, 182).

The State party is praised for engaging the civil society and should be encouraged to update the Committee about the NGOs involved in the preparation of its report.

4. The report should not merely list or describe the legislation adopted by the State party. It should contain specific information relating to the implementation in law and in fact of Articles 1 to 33 of the Convention, taking into account

analytical information on recent developments in law and practice affecting the full realization of the rights recognized in the Convention by all persons with all forms of disabilities within the territory or jurisdiction of the State party.

The report presents information on State party's measures to implement the Convention on an article by article basis; however, in most cases and on crucial issues, these measures remain largely behind the requirements of the Convention. Legislation needs to be updated and comprehensive plans adopted and implemented with clear benchmarks, control mechanisms and sanctions for non-implementation.

Despite its position that it is waiting to follow the recommendations of the Committee, the State party is encouraged to update and share with the Committee its own views on the best ways of implementing in good faith each provision of the Convention and provide an indicative timeline for the comprehensive reform of its legal framework to embrace the social and human rights model of the Convention.

5. The report should indicate whether the State Party has adopted a comprehensive disability anti-discrimination legislation in accordance with the Convention

The State party has adopted the Equal Opportunities for Persons with Disabilities Act 2000. However, as the State party itself recognizes, the Act needs to be updated to conform it to the Convention, in many aspects for which it seeks guidance from the Committee (paras. 16, 17).

The State party is encouraged to proceed with updating its national legislation to conform it to the Convention.

6. The report should indicate any mechanisms in place to monitor progress toward the full realization of the Convention rights, including recognition of indicators and related national benchmarks in relation to each of the Convention rights.

The report contains little information about State's mechanisms (such as indicators and national benchmarks) used to measure and monitor the progress in the realization of the Convention rights.

The State party is encouraged to establish such mechanisms of measuring progress. This enables the State party itself to have a better picture of its real achievements in implementing its own agenda for the promotion of the rights of persons with disabilities consistent with its obligations under the Convention.

The State party is encouraged to follow the recommendations of the Committee.

7. The report should indicate the judicial and other appropriate remedies in place enabling victims to obtain redress in the case of violation of their Convention rights

There is little information specifically with regard to a mechanism of enforcing the implementation of the Convention rights.

The State party is encouraged to provide comprehensive information on how the system of remedies for enforcement of the Convention rights operates in the national system and to disseminate this information among persons with disabilities (including their right to address the Committee with petitions as a last resort).

The State party is further encouraged to establish a comprehensive and effective system of remedies to ensure the implementation of each of the Convention rights, enabling persons with disabilities to address this system in case of violations of their rights under the Convention, especially in cases when the provisions of the Convention are not matched with corresponding national legislation.

8. The report should indicate any structural or other significant obstacles arising from factors beyond the State party's control which impede the full realization of the Convention rights including details of the steps being taken to overcome them

The State party in its report does not suggest the existence of factors beyond its control that could have prevented it from adopting measures (legislative and otherwise) for the full realization of the Convention rights.

The State party is encouraged to follow the recommendations of the Committee and promote the full realization of the Convention rights in good faith.

9. In the report, any reservation to or declaration relating to any article of the Convention by the State party should be explained and its continued existence clarified

EL Salvador signed the Convention and its Optional Protocol on 30 March 2007 and ratified these two texts on 14 December 2007. The Convention and the Protocol entered into force for the State party on 13 January 2008.

The State party has made one general reservation rather than a reservation to a specific article of the Convention or its Additional Protocol. A number of States (Austria, Czech Republic, Germany, the Netherlands, Portugal, Slovakia and Sweden) raised objections to this reservation. The reservation reads that the State party has signed the Convention and its Protocol, only "to the extent that it does not violate" the principles and norms of the Constitution. In its report the State party explains that according to Article 145 of the Constitution, "treaties in which constitutional provisions are in any way restricted or affected may be ratified only if the ratification is accompanied by the corresponding reservations" (para. 13).

It would appear from this additional information submitted by the State party, that the reservation itself was not made in accordance with the Constitution of EL Salvador, which requires the reservations to be specific in relation to only those provisions of a treaty which "restrict or affect" in any way the Constitution.

Furthermore the report explains that an interpretation made by the Constitutional Division of the Supreme Court of EL Salvador in 2004, has indicated that the "relationship between constitutional provisions which establish fundamental rights and the provisions of International treaties which establish similar rights is not a hierarchical one but one of compatibility and coordination, so that a substantive connection between the two should be considered to exist." The report concludes that "on this basis, a human rights treaty cannot be considered unconstitutional, but should be interpreted as being complementary to the Constitution" (para. 14).

Therefore since the State party failed to identify a specific provision which would run against the Constitution, the CRPD Convention is a human rights treaty to be interpreted as complementary to the Constitution, and the reservation therefore remains invalid, and should be removed.

The State party has accepted the contention of the objecting States that the reservation was not valid and the treaty had entered for each of them with EL Salvador in its entirety. Furthermore, EL Salvador said that it was looking for guidance from the Committee in order to proceed to review and eventually withdraw it (paras.3-5).

The State party is encouraged to withdraw its general reservation to the CRPD Convention.

10. If the State party is a participant to any of the International Labour Organization (ILO) Conventions listed in appendix 2 of the harmonized guidelines or to any other relevant Conventions of United Nations specialized agencies and has already submitted reports to the supervisory Committee(s) that are relevant to any of the rights recognized in the Convention, it should append the respective parts of those reports rather than repeat the information in the treaty-specific document

The State party indicates that it has ratified two relevant ILO Conventions (111,159), however it provides no information about how it has implemented them.

The State party is encouraged to provide information with regard to its implementation of these relevant ILO Conventions and, if necessary, append the relevant parts of its reports to ILO.

11. The report should indicate any provisions of legislation currently in force that the State party considers to be an obstacle to the implementation of the Optional Protocol and whether or not there are plans to review such provisions

The report provides no indication of existence of any such obstacles; therefore ***nationals of El Salvador could report any violations of the Convention to the Committee as a mechanism of last resort.***

III. Analysis of the report (article by article)

Articles 1 to 4 of the Convention

Under these Articles, the Committee has recommended that the State party provide information clarifying, *inter alia*, the following issues:

- a) The definition of “disability” and “long-term impairment” under national law
- b) The definition of “reasonable accommodation” and “disproportionate and undue burden”
- c) The implementation of the Convention principles including, but not limited to, promotion of the full realization of the rights
- d) The specification of each right as being immediately or progressively implemented

A,b) Defining “disability” and “reasonable accommodation”

The State party report does not indicate how it defines “disability” or “reasonable accommodation” (para. 98) under its national legislation.

However, the State party indicates that it recognizes that “owing to differing circumstances which may be inherited or acquired, the physical, mental, psychological and sensory capacities of an individual may be diminished, placing them at a disadvantage to their peers and constituting an impediment to their full integration within society” (para. 16)(emphasis added).

Throughout the report, the term: “legal incapable” (for example paras. 84, 86) is used to designate those under guardianship. The State party promptly acknowledges that “there is a strong probability that these provisions are not duly aligned with the provisions of the Convention” (para. 87). It further notes that the implementation of the Convention requires “an overhaul of the paradigm that previously guided legal disqualifications”, and that such a change would require “a shift away from the nineteenth century concept of protection of property towards a model based on the protection of human rights and respect for the freedom and autonomy of persons with disabilities on equal footing, in line with the Convention” (para. 87).

Indeed, although the report does not provide a definition of a person with disabilities, it looks like the State party maintains a medical model definition in its legislation. This definition based on the impairments alone of persons with disabilities needs to be updated to incorporate the social and human rights model definition of persons with disabilities enshrined in the Convention.² Under the Convention the problem is not related to the impairments per se, but the involving environment. It is only but because of the barriers found in society (stereotypes, inaccessible environment, lack of reasonable accommodation), that persons with impairments become ‘disabled’. Therefore, there is a need to remove those barriers in the first place and allow persons with impairments to be useful members of society: working, studying and actively participating in the political life of their nations by electing and being elected or appointed to public positions, including ambassadors, ministers in the Government etc.

It should be noted that to define “persons with disabilities” is not just a matter of terminology. The more or less emphasis given either to the impairments or the barriers in society defines the long term approach of the State party to the issues of protection and promotion of their rights. Where there is a medical model definition, the tendency is to provide such remedies to the situation of persons with disabilities like, charity and special schools, but more importantly it results in denial of legal capacity and restriction of the rights of such persons to marry and establish a family or dispose of their own financial assets etc. In the later cases an assigned guardian will decide for persons with disabilities.

² Compare: ‘Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments ***which in interaction with various barriers may hinder their full and effective participation*** in society on an equal basis with others.’ (article 1 CRPD Convention) (emphasis added).

The Convention, however, represents a radical departure from such approaches since it requires replacing “substitute decision-making systems” (the guardianship regime) with “supported decision-making arrangements”, which are regularly reviewed and take into account the particular circumstances of the persons requiring such support. Further, instead of charity and special care institutions, the Convention requires State parties to promote a barrier free society, that can accommodate the education needs of children with disabilities in the common general schools; more employment opportunities for persons with disabilities in working places that offer reasonable accommodations to everyone; and communities that offer a number of in-house services to allow independent life of persons with disabilities, among other measures.

It is also important to incorporate in the national legislation of the State party a definition of persons with disabilities which effectively works to prevent discrimination of any persons on the basis of disability as required under article 4(1)(e) of the Convention. Often time people are also discriminated because of their association to a person with disability.

The State party is encouraged to provide updated information about how it defines “disability” and if it has not yet done so to adopt a social and human rights model definition of persons with disabilities.

The State party is also encouraged to update the Committee on how it defines the concepts of “reasonable accommodation” and “disproportionate and undue burden” in its national legislation.

c. The implementation of the Convention principles and the promotion of the full realization of the rights

The State party should be praised for establishing the *National Council for Persons with Disabilities* in 2010 and adopting the relevant Act after the entry into force of the Convention:

- Presidential Executive Decree No. 80, of 17 June 2010, published in the Official Gazette of 22 June 2010, on the establishment of the National Council for Persons with Disabilities (CONAIPD) (paras.21-28).

A number of other acts, policies and guidelines on the basis of which the National Council for Persons with Disabilities carries out its work were adopted before the entry into force of the Convention such as:

- (a) The national policy on equal opportunities for persons with disabilities introduced in April 2000;
- (b) The Equal Opportunities for Persons with Disabilities Act (Decree No. 888 of 27 April 2000, published in the Official Gazette of 24 May 2000, No. 95, vol. 347);
- (c) The regulations implementing the Equal Opportunities for Persons with Disabilities Act (Decree No. 99 of 28 November 2000, published in the Official Gazette of 1 December 2000, No. 226, vol. 349);
- (d) The technical guidelines for architectural, urban, transport and communications accessibility (Decision No. 29 of 17 February 2003);
- (e) The technical guidelines on comprehensive rehabilitation (reviewed, agreed and approved in 1998);
- (f) The guidelines for the issue of special licence plates for vehicles driven by or used to transport persons with disabilities, which entered into force on 1 June 2002;
- (g) The guidelines for integration of persons with disabilities in the workforce (para. 27).

The State party has promptly acknowledged that these acts, policies and guidelines adopted before the entry into force of the Convention, may require updating for which it is hoping to have guidance from the Committee (paras. 4,5,17).

9

These measures are indeed insufficient to implement the Convention as recognised by the State party itself. The State party is encouraged to proceed with the adoption of a comprehensive anti-discrimination law framework and an action program and plan to implement each Convention right.

d. Rights for immediate implementation versus rights for progressive implementation

The State party fails to give information about the existence of any policies and strategies distinguishing between those rights that need immediate implementation and those that do not. However, the Convention in article 4(2) states that social, economic and cultural rights could be implemented in a progressive way. This should be done without prejudice to those rights that should be implemented immediately according to international law. *This category includes the civil and political rights (such as the right not be deprived of liberty and placed in institutions against the will of the person with disability or the right to vote on account of disability). The State party should be recommended to ensure immediate implementation of these rights by conducting a long-term policy of deinstitutionalization of persons with disabilities and to develop and expand services enabling life in the community. The State party should also remove restrictions to the right to be elected to public offices of persons with certain forms of disabilities for example the blind (see further comments on article 29).*

The State party is encouraged to ensure the immediate implementation of these civic and political rights.

The State party is further encouraged to adopt plans and strategies, and a concrete roadmap to fully implement each of the Convention rights indicating which rights it will or has implemented immediately and others that it intends to implement within an achievable realistic timespan.

Article 5 Equality and non-discrimination

Under this article, the Committee encouraged the State party to provide information, *inter alia*, pertaining to:

- a) The real possibility of using existing laws to protect rights;
- b) measures to guarantee equal and effective protection, including reasonable accommodation; and
- c) policies, programs and affirmative action to ensure a de facto equality of persons with disabilities with other members of society

The report states that the principles enuniated in article 5 of the Convention are “recognized as constituent part of *jus cogens* in El Salvador”, and “provisions of the same order are contained in the Constitution of El Salvador.”

However it should be noted that Article 3 of the Constitution of El Salvador omits “disability” or “other grounds” from the enumeration of grounds of discrimination: “All persons are equal before the law. No restrictions on the exercise of civil rights that are based on differences of nationality, race, sex or religion may be established.” (para. 35,c).

The report states that the *Equal opportunities for persons with disabilities Act 2000* remains the main instrument ensuring the realization of the principle of non discrimination against persons with disabilities as it grants for them the following substantive rights (paras 34,35):

- a) to comprehensive rehabilitation;
- b) to accessible architectural facilities (also established under the Land, Transport, Transit and Road Safety Act (unspecified date of adoption) (para. 35);
- c) to education;
- d) to employment.

The State party is frank to recognise that “ despite these provisions, the rights of sizeable population groups – foremost among them persons with disabilities – are infringed by a lack of access to information and communications, obstacle-free spaces and real participation” (para. 35,c)

The report fails to indicate how efficient is the system of guarantees to equality and non-discrimination; the system of remedies available to ensure the protection of these rights established under the Equal opportunities Act 2000.

The State party should be encouraged to update the Committee on any practical measures being implemented to combat discrimination against persons with disabilities (such as controlling and inspecting organs, fiscal and economic incentives, judicial and non-judicial measures of redress including sanctions or compensations for violations of rights). The State party is encouraged to update its anti-discrimination legislation.

The State party is also encouraged to establish a comprehensive and effective system of remedies to ensure the implementation of each of the Convention rights, enabling persons with disabilities to address this system in case of violations of their rights under the Convention.

Article 6 Women with disabilities

Under this article, the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Recognition of gender inequality of women and parity of rights between women, girls, men and boys, and among persons with and without disabilities (in schools, employment, etc.; prevention of violence against women)

The report states that a draft Act on “equality, fairness and the elimination of discrimination against women in El Salvador”, containing a section on the situation of women with disabilities, was submitted to the Parliament. The draft Act is a result of the work of the Salvadorean NGO for the Advancement of Women together with women’s NGOs. (para. 39)

The Women’s section of the Association for the Blind of El Salvador has also submitted in 2008 a project of reform of the national policy for women (para. 41).

The First National on Women with Disabilities was held in October 2009 (para. 43).

In terms of prevention of domestic violence a number of awareness-raising campaigns were launched from 2008 to 2010 by the Institute for the Advancement of Women (paras. 43, 44).

There is not specific information about how the State party intends to address the gender inequality of women with disabilities and other members of society, and between men and women with disabilities in such specific areas like labour, social security, reconciliation of working and family life, and education of boys and girls with disabilities.

There is no information about how the State party intends to address the issue of violence against women (any plans or strategies etc).

The State party is encouraged to adopt specific legislative acts countering discrimination against women and to adopt action plans for the promotion of the rights of women with disabilities, including strategies, plans, programs and methodologies for correcting the inequalities between men and women with disabilities. The State party should also be encouraged to adopt specific measures to prevent violence against women and girls with disabilities including through regular collection of disaggregated statistical data on discrimination against women with disabilities, types of disabilities, by location (urban/rural), and the results of the measures taken to prevent discrimination.

The State party is also encouraged to provide information on discrimination practices between boys and girls with disabilities including in access to education in urban and rural areas.

Article 7 Children with disabilities

Under this article, the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

11

The issues concerning children with disabilities, including children being able to freely express their views and children having appropriate assistance

The report states that in order to ensure the all children enjoy their rights and freedoms, training was conducted for staff in 7 of the 14 departments of the State party (*date unspecified*). Inspections were also conducted in 9 centers in the capital city (*date unspecified*) (para 45). In addition 18 preschool education specialisties supervise child welfare centers in the whole country (para. 46).

In 2010 a new Special needs Schools was inaugurated in the capital city, which provides support to a number of other similar institutions (paras. 47, 48).

The report attests that the State party ensure preschool education to all children with disabilities (para. 49).

The report provides no evidence of any Act in the State party that deals specifically with the rights of children. In particular it mentions no Act in the State party that ensures the right of children to freely express their views. Likewise it mentions no strategies, plans or programs adopted in the State party to address the barriers faced by children with disabilities in enjoying their rights in a global manner.

The report gives no data on cases of ill-treatment of children with disabilities in schools or family contexts and the strategies adopted to counteract against such cases .

The State party is encouraged to provide further information with regard to the legal and practical measures undertaken to give effect to the provisions of the Convention concerning children with disabilities (in strategies, plans, programs to address barriers faced by children in education, on issues such as the real possibility of using available institutions to protect rights enshrined in the Convention etc); the extent of the support provided to families with disabilities; it should also provide disaggregated data with regard to cases of ill-treatment of children and measures planned to counter such acts.

Article 8 Awareness-raising

Under this article, the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Work done in the education system and the media to portray a positive image of persons with disabilities (to change attitudinal behaviour and bias with regard to persons with disabilities); work done with persons with disabilities and others to inform about the contents of the Convention

A. Work done in the education system and the media to portray a positive image of persons with disabilities (to change attitudinal behaviour, and bias with regard to persons with disabilities)

In order to portray a positive view of persons with disabilities, the report states that the following measures were adopted (paras. 50-54):

- a) The National Council for Persons with Disabilities organized a number of workshops (*numbers and dates unspecified*) for students of journalism, communications and public relations in five universities in El Salvador (para. 50);
- b) Three campaigns under the slogan "Respect is my right" were organized (*date unspecified*) providing information in morning newspapers about disability issues (para. 50);
- c) The government is ensuring that all public service communications promoting human rights are available in sign language and subtitles (*unspecified the number of such activities*) (52,53);
- d) The Ministry of Labour and Social Security also organized a series of awareness-raising workshops (*numbers and dates unspecified*) intended for companies to improve their compliance with the Equal opportunities Act (para. 54);
- e) Other workshops were organized to raise awareness about the need to ensure accessible communications (para. 56)

The State party is encouraged to proceed with the dissemination of positive information about persons with disabilities. The State party should also be encouraged to extend its dissemination work to cover the education system with programs intended to portray a positive image of persons with disabilities among the children and all university students (not just those specializing in journalism and public relations).

B. Work done with persons with disabilities and others to inform about the contents of the Convention

The report states that the National Council for Persons with Disabilities helped to draft basic guidelines for persons with disabilities (para. 51). *The report does not specify whether the guidelines were based on the CRPD Convention.*

An unspecified number of other workshops to disseminate information about the CRPD Convention were organized for the members of the military on how to make information accessible for persons with disabilities in the military (para. 57).

There is no other information on specific steps taken by the State party to disseminate information about the text of the Convention itself among persons with disabilities in formats easily accessible to them.

The State party is encouraged to develop other methods of disseminating information about the Convention, including the use of the media, the incorporation of provisions of the Convention in the school and university programs on human rights education.

The State party should also develop and disseminate information about remedies that persons with disabilities could utilize in case of violation of their Convention rights, including their right to address their grievances directly to the Committee under the Optional Protocol.

Article 9 – Accessibility

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures (legislative and others) for access to the environment (physical (built in, transport), information, communications, social (facility and services provided to the public); accessibility standards, control, and sanctions for non-compliance

A. *Measures (legislative and others) for access to the environment (physical (built in, transport), information, communications, social (facility and services provided to the public)*

The State party has adopted a number of measures (including acts and implementation plans) aimed at facilitating the accessibility of the built in environment, communications and social services (paras. 42-47).

These Acts include:

- i) The General Equal Opportunities for Persons with Disabilities Act 2000 (paras. 44, 45);
- ii) The Equal Opportunities implementing regulations 2000 (para. 59);
- iii) The First National Accessibility Plan (*adoption date unspecified*) (paras. 65-67);
- iv) The Guidelines for the design of educational spaces of the National Directorate for Educational Infrastructures 2009 (para.75);
- v) The Proposal for an Inclusive Education Policy 2009 (para. 76);
- vi) A draft Act on the elimination of architectural and urban barriers (which is being prepared)(para. 64);

In terms of activities, the report states that the following were carried out:

- vii) A total of 142 building permits were requested between 2008 and 2011, of these 82 were approved. Additional 48 permits for accessibility compliant constructions were given. 12 other buildings have been verified as accessibility compliant after construction (paras. 58-62);
- viii) An Inclusive Cities Project is under development in implementation of the First National Accessibility Plan (para. 65);
- ix) The construction of seven ramps in the capital city (*date unspecified*) (para. 68);
- x) Medical centers and public offices are also taking steps to adapt their buildings to ensure easy access for persons with disabilities (para. 69-71, 77);
- xi) A number of other rebuilding and adaptation decisions were adopted by the capital city authorities during the period 2008-2010 (para. 72-73);

The report notes however that the accessibility measures undertaken do not cover the rural area (para. 73).

The accessibility measures only cover 7.63 % of the educational institutions (para. 74).

Building pre-dating the reporting period were not required to meet the new accessibility requirements (para. 63).

The State party is praised for its accessibility measures and is encouraged to proceed with the adoption of legislative and other measures to ensure full accessibility of public spaces, information and social communication media in urban and rural areas, including the adoption of accessibility roadmaps and standards with detailed phases of implementation.

B. Accessibility standards - control and sanctions for non-compliance

There is no specific information about any accessibility action plans with established benchmarks.

The report provides no information about the existence of any system of sanctions for breach and non-implementation of the accessibility measures.

The State party is encouraged to provide additional information with regard to the work of control mechanisms and sanctions for non-compliance with the accessibility measures.

Article 10 – Right to Life

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Right to life of persons with disabilities; Prohibition of arbitrary deprivation of life

While the report notes that the State party respects the right to life of persons with disabilities and not to be arbitrary deprived of life (paras. 78, 79); nonetheless, it says nothing about whether or not guardians and caregivers may under the existing legislation, decide on behalf of a person deprived of legal capacity about termination or withdrawal of medical treatment, nutrition or any other life support, without his/her free and informed consent.

The State party is encouraged to update the Committee on whether or not the right of guardians to decide about termination of medical treatment is established in the State party. If so the State party is encouraged to update the Committee on the measures planned or undertaken to ensure the free and informed consent of persons with disabilities under all circumstances in accordance with the principle and right of full legal capacity of persons with disabilities (article 12), and the right of everyone not to be arbitrarily deprived of life (article 10).

Article 11 - Situations of risk and humanitarian emergencies

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures taken to include persons with disabilities in national emergency protocols; Measures taken to ensure that humanitarian aid relief is distributed in an accessible way to persons with disabilities caught in humanitarian emergency

The report frankly recognizes that the Civil Protection Action Plan of the State party “lacks a specific component for persons with disabilities.” But that steps are being undertaken to address the situation (para. 80).

The State party is encouraged to adopt comprehensive legislation and action plans protecting persons with disabilities in situations of emergency (including specific measures to ensure that humanitarian aid and relief are distributed in accessible way to persons with disabilities; provide special training both for persons with disabilities and for professionals whose mission is working with persons with disabilities in such situations and the necessary budget allocations).

Article 12 - Equal recognition before the law

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Legislation does or does not exist which restricts the full legal capacity on the basis of disability and measures being taken towards conformity with article 12; support for persons with disabilities to exercise their legal capacity and manage their financial affairs; existence of safeguards against abuse of supported decision-making models

The national legislation of El Salvador adopted before the entry into force of the CRPD Convention differentiates between legal capacity to rights and capacity to act (paras. 83, 84). In particular the so-called persons of “unsound mind” and deaf persons “who are unable to make themselves clearly understood” are equated to children under 14 years of age, and as such are considered to be “legally incapable”, and “their acts shall not therefore give rise to natural obligations” (para. 84). These are the so-called “adult minors”.

Despite the fact that the State party recognises that “there is a strong probability that these provisions are not duly aligned with the provisions of the Convention” (paras.87, 88), *the State party mentions no steps under way to reform the existing legislation in accordance with the provisions of the Convention.* Instead the State party asks the Committee to hold a day of general discussion on Article 12, *perhaps because it is not aware that one such day of general discussion was already organized by the Committee in 2008 (para.91).*

The State party should be encouraged to adopt a comprehensive law reform strategy and action plan to replace the present substitute decision-making (guardianship) system by mechanisms that only support persons with disabilities in their decision-making to ensure their full legal capacity as required under the Convention. Any such measures of supported decision-making should be subject to regular review. The lack of legal capacity to act of persons with disabilities has implications for the realization of practically all other rights granted by the Convention.

Article 13 - Access to justice

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Effective access to justice at all stages of the legal process; effective training of personnel in the national justice and prison system; age-related accommodations

The denial of legal capacity of persons with disabilities has several implications for them in the access to justice on equal terms with others. The report is silent about whether persons with disabilities who are denied legal capacity may have access to justice and if so to what extent. In particular, their right to report crimes and to testify in court. The report is also silent on the issue of the application of the doctrine of insanity.

The report provides information about efforts made to facilitate physical accessibility of court buildings and other buildings housing institutions of justice (paras.93-94). Efforts are also being undertaken to promote accessibility of communications for deaf persons (the report notes that sign language court interpreters are assigned by the General Secretariat of the Supreme Court, *however there are not yet sign language interpreters as permanent staff of courts despite efforts* (para. 92). *The report is silent about any possible similar efforts to accommodate the needs of blind persons (braille).*

The report is also silent about any awareness raising campaigns intended for personnel of the justice and prison systems.

The report states that the justice system handled a number of cases involving persons with disabilities, *but does not specify numbers, instead it only provides dry percentages out of unknown global numbers (paras.95-97).*

The report is silent about any age- related accommodations being developed in the State party justice system.

The State party is encouraged to ensure for persons with disabilities an effective access to justice. A first step towards this goal would be to replace the full guardianship system by a mechanism that supports persons with disabilities in their decision-making. The State party should also provide further information about the status of persons with disabilities under guardianship in the justice system as well as the application of the doctrine of insanity.

The State party is further encouraged to adopt a full fledged, effective, accessible and affordable system of remedies and redress in case of violations of the Convention rights, including the possibility of addressing international human rights institutions such as the CRPD Committee.

Article 14 - Liberty and Security of the Person

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures to ensure that persons with disabilities are not deprived of liberty on the basis of disability; prohibition of institutionalization of persons with disabilities

The report does not answer the question whether or not persons with disabilities may be placed in institutions on account of their disability. Neither there is any information about any prohibition in law or in practice against the institutionalization of persons with disabilities.

Instead it provides in two paragraph generic information about persons with disabilities in the prison system for common offences (paras. 98, 99).

The State party is encouraged to provide information about the practice of placement of persons with disabilities in institutions on account of their disability. If this practice exists the State party is encouraged to take steps for the prohibition in law and in practice of the institutionalization of persons with disabilities in full compliance with provisions of articles 12 and 14 of the Convention, and to develop conditions for independent life in the community of persons with any forms of disability.

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Article 15 - Freedom from torture or cruel, inhuman or degrading treatment or punishment

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Prevention from medical or scientific experimentation without their free and informed consent; persons with disabilities should be made part of national strategies and mechanisms to prevent torture

The report fails to provide information about any specific legislation adopted in the State party to prevent medical and scientific experimentation without the free and informed consent of persons with disabilities. There is no information either about the existence and work of psychiatric institutions, or the existence of national strategies and mechanisms to prevent torture (paras.100,101).

The State party should be encouraged to provide statistical data regarding practices of medical experimentation in hospitals, and the strategy and policies adopted to prevent such experiments without free and informed consent of persons with disabilities including forced interventions to purportedly correct a form of disability. It should be noted that informed consent by persons with disabilities may be provided beforehand within the framework of a mechanism of supported decision-making.

The State party is further encouraged to adopt specific legislation, which takes into consideration more subtle forms of torture and ill treatment justified by the supposed need to cure a form of disability against the will of persons with disabilities. The State party is also encouraged to provide information about the existence and work of psychiatric institutions.

It is important to emphasize that the denial of full legal capacity of everyone in the State party hampers the realization of the rights of persons with disabilities in all areas of society life, as already noted. The State party should amend its legislation to unequivocally recognise the full legal capacity of persons with disabilities, and replace its substitute decision-making arrangement with supported decision-making mechanisms.

Article 16 - Freedom from exploitation, violence and abuse

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures to protect persons with disabilities from all forms of exploitation, violence and abuse; social protection measures to assist and support persons with disabilities; measures to ensure that all services and programmes designed to serve persons with disabilities are accessible and effectively monitored by independent authorities; measures to ensure that all persons with disabilities who are victims of violence have access to effective recovery, rehabilitation programmes; and acts of violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted

The report states that the State party has adopted a number of measures intended to reduce violence against women and children with disabilities such as:

-The National Council for Persons with Disabilities has participated in various meetings convened by the Salvadoran Institute for Advancement of Women in which the topics of exploitation, violence and abuse directed at women, including measures to facilitate access to information and the dissemination of information on women's rights were discussed (*numbers and dates unspecified*) (paras.102, 103);

-The National Council for Persons with Disabilities has participated in various activities and workshops by the Network for Children and Adolescents and the Salvadoran Institute for Children and Adolescent Development to raise awareness of the rights of children with disabilities and ensure they receive proper care. One result of these activities was the inclusion of a specific article on disability in the Child and Adolescent Protection Act (paras. 104-106);

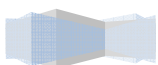
-The State party has a number of institutions responsible for preventing and combating acts of exploitation, violence and abuse against persons with disabilities including the Salvadoran Institute for the Advancement of Women, the Office of the Human Rights Advocate and the Salvadoran Institute for Child and Adolescent Development (107);

-The National Council for Persons with Disabilities has also acted on complaints of inhuman treatment of persons with disabilities in prisons and to this effect has asked the Directorate General of Prisons to ensure that rights of persons with disabilities in the prisons concerned were respected and they received the care needed (*dates and results of the actions unspecified*) (para. 101).

The report provides no disaggregated statistics regarding the incidence of acts of violence against persons with disabilities; neither there is any information concerning legal criminalization of offences against persons with disabilities such as abandon of a child with disabilities;

The report contains little and vague information (para. 101) about work done by institutions entrusted with the monitoring of places of deprivation of liberty of persons with disabilities, or statistics on cases of prosecution of abuse against persons with disabilities.

The State party is encouraged to provide information about the legal acts criminalizing violence against persons with disabilities including children with disabilities, in institutions, prisons, schools and in the family. The State party is



further encouraged to provide disaggregated data regarding the number and nature of cases of violence against persons with disabilities reported to the authorities and the number of convictions and sanctions on perpetrators.

The State party is also encouraged to provide information about measures available for assistance and rehabilitation of persons with disabilities victims of violence in the State party.

The State party is encouraged to provide detailed information pertaining to the work of independent monitoring authorities. The State party should also encourage the use of the Convention to protect rights of persons with disabilities via courts of justice.

Article 17 - Protecting the integrity of the person

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Protection of persons with disabilities from medical (or other) treatment given without the free and informed consent; protection of persons with disabilities from forced sterilization, and girls and women from forced abortions; independent review organizations (role and composition) and programmes of work

The report states that the Constitution of El Salvador recognises “the right of all persons to life, physical and mental integrity, liberty, security, work, property and ownership, and to be protected in the preservation and defence of those rights.” (para. 108). In particular to enforce these provisions of the Convention, the General Act on Prevention of Workplace Risks was adopted (*date unspecified*), which requires workplaces including passage ways and toilets used by persons with disabilities to be adapted to accommodate such workers with disabilities (para. 109-111). *However the report does not indicate the degree of implementation of these provisions by both public and private institutions.*

The report is likewise silent with regard to the issue of protection (by laws and relevant mechanisms) of persons with disabilities from medical treatment without the free and informed consent, including protection from forced sterilization and forced abortion. The State party is encouraged to update the Committee in this regard.

The State party is also encouraged to adopt specific legislation prohibiting forced sterilization and forced abortion based on disability, and to set up independent review boards in the composition of NGOs, human rights entities and medical and judicial institutions to review cases of consented therapeutic sterilizations, to prevent abuse.

Article 18 - Liberty of movement and nationality

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures to ensure the right of persons with disabilities to acquire a nationality and not to be deprived of it; to ensure the right of a person with disabilities to enter or leave his/her country freely; measures to ensure that every new-born child with a disability be registered upon birth and given a name and a nationality

The report states that legislation exists in the State party which grants everyone without discrimination (*presumably including every new-born child with disability*) the right to be registered upon birth and the right to have a nationality (paras. 112-115).

However, the report notes that despite these provisions, 10 % of the population or some 600.000 Salvadorans did not have a birth certificate (including some 86,623 children) (para. 116). The report does not indicate the number of persons with disabilities without birth certificates.

More problematic is the right to freely enter or leave the country. In particular according to the Passport Issuance and Validation and Entry Permission Act, national of El Salvador persons without legal capacity (the so called “incompetent” persons) require “authorization of the person exercising custody or guardianship”, over them. In addition to that, permission in such cases must also be granted by the Director-General for Migration (para. 117).

The “incompetent” persons include those with the so called “chronic and incurable mental illness” and those with “deafness, except where the deaf person can clearly understand others and make themselves understood” (para. 118).

The report notes that Salvadoran persons with disabilities returning from abroad specially those in situation of unlawful migration are given special attention (paras. 121, 122).

There is little information about non-nationals persons with disabilities seeking to immigrate to El Salvador (paras.113-114).

The State party is encouraged to update its legislation and adopt a social model definition of persons with disabilities with emphasis on removing environmental and attitudinal barriers faced by persons with impairments; establishing in law and in practice the recognition of the full legal capacity of persons with disabilities .

Article 19 - Living independently and being included in the community

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

The existence of independent living schemes, including the provision of personal assistants for persons who so require; the existence of in-house support services allowing persons with disabilities to live in their community; the existence and range of options of residential services for living arrangements, including shared and sheltered accommodation which take into account the form of disability; the degree of accessibility for persons with disabilities to community services and facilities provided to the general population

In terms of arrangements for accessibility of persons with disabilities to community services and facilities provided to the general population, the report mentions efforts to provide access for persons with disabilities to polling stations during the elections between December 2008 and March 2009; the National Council for Persons with Disabilities also provided advice on accessibility issues to construction companies, universities and other institutions (para. 124).

The report provides very little information about the existence of any specific independent living schemes, in-house support services to allow persons with disabilities to live in their community; or any options of residential services for living arrangements such as shared and sheltered accommodation to take into account the form of disability (paras.123-127).

There is no information either about the number of persons with disabilities presently living in institutions.

The State party is encouraged to update the Committee on efforts to implement the fundamental rights of persons with disabilities enshrined in Article 19 of the Convention. In particular it is encouraged to provide information about the range of support services for persons with disabilities and independent living schemes if any developed in the State party.

The State party is also encouraged to provide statistics about persons with disabilities living in institutions. It is further encouraged to develop a comprehensive medium and long term program of deinstitutionalization of persons with disabilities with clearly defined benchmarks and controlling mechanisms.

Article 20 - Personal mobility

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures to facilitate the personal mobility of persons with disabilities, including the use of street signs for accessibility; measures taken to ensure that the technologies are user-friendly; measures taken to give training in mobility skills to persons with disabilities and specialist staff

The report states that personal mobility and assistive devices are provided to persons with disabilities in the State party through their affiliation to the Fund for Disabled Combatants and the Social Insurance Institute or the Armed Forces Occupational Rehabilitation Center. Those persons with disabilities not affiliated to these Institutions are assisted by the Salvadoran Institute for the Rehabilitation of Invalids subject to funding (para.128).

The report states that a range of mobility devices were provided to an unspecified number of persons with disabilities including prostheses to some 2,244 persons with disabilities in the period May 2008 to March 2010 (paras. 129-144).

Among the measures to facilitate the personal mobility of persons with disabilities, the report refers that the National Council for Persons with Disabilities provided assistance with the issuance of driver licences to persons with disabilities (paras. 125-126).

The report provides no information about any programs or extent of the use of street signs for accessibility across the territory of the State party.

There is little information on measures concerning training in mobility skills for persons with disabilities and specialist staff.

The State party is encouraged to provide information about any plans concerning the building and use of street signs for accessibility and the provision of training in mobility skills.

Article 21 - Freedom of expression and opinion, and access to information

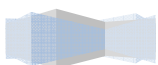
Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures to ensure that information provided to the general public is accessible to persons with disabilities; measures to ensure that persons with disabilities can use their preferred means of communication in all forms of official interaction and access to information, such as sign language, Braille, and other accessible means; measures to urge private entities and mass media to provide their information and services in an accessible form for persons with disabilities; degree of accessibility of mass media and percentage of public websites that comply with the Web Accessibility Initiative (WAI) standards; Legislative and other measures taken linked to the official recognition of sign language(s)

The report states that the Constitution of the State party (Articles 2,6) recognises the freedom of expression and freedom of information for of all without discrimination (paras. 135-136).

In terms of practical measures to ensure that the information provided to the general public is accessible to persons with disabilities, the report states that the Access to Public Information Act was adopted in December 2010 (para. 137), and the Transparency Institute was charged with implementing the Act (paras. 138,139). *However, there is little information about the contents of the Act and the degree of its implementation.*

The report states that official communications have been translated into sign language since 2009; *however, deaf persons cannot yet use sign language to communicate with public institutions (paras. 141).*



In terms of *Web Accessibility*, efforts are underway to render all official websites accessible (paras. 142-146); the measures included training of 33 employees responsible for communications, and making 45 official websites WAI compliant (para. 143).

In terms of measures to *urge mass media to provide information in accessible forms*, the report states that meetings were organized with media directors (*number and dates unspecified*), and other efforts are being undertaken to introduce a sign language certification process (para. 147) .

The report provides little information about any measures taken to facilitate official interaction of persons with disabilities with public institutions in Braille or other accessible means.

There is little information on whether or not the State party has designed strategies and action plans for the expansion of the education of sign languages as an option in schools and universities.

The report is also silent about any specific plans, incentives and strategies adopted to urge private entities to provide their information and services in accessible format, as well as the control measures and sanctions in place for non-compliance.

The report offers little information about facilitation of access of persons with disabilities to public TV channels and radio channels including production of regular programs for persons with disabilities.

The State party is encouraged to proceed with work towards ensuring full freedom of expression and access to information for persons with disabilities, including the promotion of the optional study of sign languages in equal terms with other languages in the general system of education.

The State party is further encouraged to update the Committee with regard to efforts towards recognition of Braille as a script for blind and deaf-blind persons and efforts to promote the use of subtitling and audio description services to facilitate access to audio-visual environment

Article 22 - Respect for privacy

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures to protect the privacy of personal, health and rehabilitation related information of persons with disabilities; measures taken so that persons with disabilities are not concealed on the pretext of protection of privacy

The report states that the privacy of “personal, health and rehabilitation information relating to persons with disabilities is protected on an equal basis with that of other persons” (para. 150), *however there is no information concerning any legal Act protecting the privacy of persons with disabilities let alone any nationals of the State party.*

Instead the report states that the “confidentiality of user of information is regulated in the Technical Guidelines for Rehabilitation Institutions” (para. 148). In addition the National Registry of Natural Persons has been signing specific agreements with the National Council for Persons with Disabilities to protect the privacy of personal information (para. 149).

There is no information either on where persons whose privacy of personal health information has been violated by an hospital for example may go to complain.

The State party is encouraged to update information concerning legal acts protecting the privacy of information concerning persons with disabilities.

The State party is also encouraged to provide information about any mechanisms established in the State party to protect and sanction violations of the privacy of personal, health and rehabilitation information of persons with disabilities.

The State party is further encouraged to adopt specific legislative and other measures intended to prevent concealing of persons with disabilities on pretext of protection of privacy.

Article 23 - Respect for home and the family

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures to ensure that persons with disabilities may exercise the right to marry and to found a family on the basis of full and free consent; that persons with disabilities have access to family planning, assistive reproduction and adoption or fostering programmes; that parents with disabilities, who so require, are provided with the adequate support in their child-rearing responsibilities, ensuring the parent-child relationship; that no child is separated from her/his parents because of the disability of either the child or one or both of the parents; to support fathers and mothers, in order to prevent concealment, abandonment of the boy or girl with a disability; to avoid institutionalization of boys and girls with disabilities whose parents are unable to care for them

The report states that under the Family Code of El Salvador, persons who are supposedly “not in full possession of their mental faculties” and cannot supposedly “express consent in an unequivocal manner” are prevented from contracting marriage (paras. 151,152).

Despite the fact that the report states that “no person may be deprived of parental authority on grounds of disability, the rule does not apply to persons with mental forms of disability who may still be deprived of their parental authority (paras. 154-157).

No information is provided concerning any programs of support to parents with disabilities in their child-rearing responsibilities.

The report frankly acknowledges the absence of any programs of support to prevent abandonment or institutionalization of abandoned children (para. 158).

The State party is encouraged to expand its system of disability support programs to enable families to educate their children with disabilities in the family environment.

The State party is further encouraged to provide statistical data on the number of institutions and number of children with disabilities in institutions and to adopt measures such as fostering programs to prevent institutionalization of children with disabilities.

Article 24 - Education

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures to ensure that every child with disabilities has access to early-stage education, and mandatory primary, secondary and higher education

The report states that the State party does not have yet a national policy of inclusive education to cover schools in both urban and rural settings outside San Salvador, the capital city. There is also shortage of qualified teachers in inclusive education (para. 178).

The situation is particularly difficult in the rural areas where most children go to special schools whose curriculum does not give an equal amount of academic knowledge with the general schools (para. 178).

Despite this, the report states that a policy of inclusive education was developed and started being implemented in 2009 at least in the capital city (para. 168, 163). To implement the policy special training was given to 315 by the Ministry of Education. Another training course was given to 360 professionals since 2008, in a project funded by Italy (paras. 169, 170).

A number of other training projects were developed to facilitate inclusive education for the visually and hearing-impaired (paras. 172-174).

While efforts to provide inclusive education are still timid, a number of special education projects are developed in the State party (paras. 176,177). In addition the Ministry of Education has designed a special program in which students can combine education in mainstream schools with education in special schools and other special support is provided to children with disabilities (paras.164-167).

In terms of pre-school education, the report notes that the Ministry of Education has developed in 2008 preschools sections in special education centers (para. 159). In 2009 the Ministry of Education began working on a national preschool policy entitled “inclusive education and attention to diversity” (paras.161-163). *However, there is little information about the degree of implementation of this project.*

The report notes that the State party does not have information with regard to the number of persons with disabilities in higher education institutions (para. 175). There is no indication either of any programs tailored to persons with disabilities in higher institutions of education.

The State party is encouraged to design and implement a plan of school integration of children with disabilities with specific benchmarks, control and sanctions for non-implementation which includes university education.

The State party is also recommended to increase available resources in order to meet its obligations to provide for the same school opportunities to all including children with disabilities by gradually replacing the special education system with an integrated school system offering all reasonable accommodations for children with disabilities in both the capital city and other urban and rural areas.

Article 25 - Health

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures that protect against discrimination and ensure that persons with disabilities have the same access to quality health services, including in the area of sexual and reproductive health; to ensure that persons with disabilities have access to disability-related health rehabilitation in their community freely and without financial cost

The report states that the State party ensures to persons with disabilities access to quality healthcare on the basis of the Equal Opportunities Act (para. 180).

In terms of access to reproductive healthcare a project is now being developed that consists in including disability in the National HIV/AIDS Program (para. 181) to enable the collection of data in order to improve State party's responses.

The report notes that fees for healthcare assistance in national hospitals have been abolished for persons with disabilities (para. 182). *However it is not clear whether the measure applies to all healthcare institutions of the State party.*

Further, in terms of accessibility of healthcare institutions, the report states that architectural and communication barriers persist (para. 182).

Likewise the report notes that there is a shortage of certain aids and medicines (para. 183), and efficient control over healthcare institutions by the Ministry of Health is also lacking (para.184).

The report is silent about the services of mental healthcare institutions.

There is no information about the extent and degree of effectiveness of the model of healthcare assistance provided to persons with disabilities in the State party.

There is little information about the measures undertaken or planned to improve physical accessibility of healthcare institutions.

There is little information about programs of sexual and reproductive health specially intended for persons with disabilities.

The State party is encouraged to provide updated information with regard to the work of mental healthcare institutions.

The State party is encouraged to adopt and implement a comprehensive and global healthcare strategy and plan for persons with disabilities (comprising the promotion, preventive measures, assistance and rehabilitation) and covering all types of disabilities in urban and rural areas.

The State party is also encouraged to adopt specific accessibility implementation plans for healthcare and health institutions and services, with specific benchmarks, control mechanisms and sanctions for non-compliance.

Article 26 - Habilitation and Rehabilitation

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

General habilitation and rehabilitation programmes for persons with disabilities, in the areas of health, employment, education and social services, including in rural areas; and to ensure that participation in habilitation and rehabilitation services and programmes is voluntary

The report states that the provision of habilitation and rehabilitation services to persons with disabilities is established under the Equal Opportunities for Persons with Disabilities Act 2000. Under the Regulations implementing the Act authority to design habilitation and rehabilitation programs is vested with the Ministry of Health and Social Welfare (para. 198).

Rehabilitation services in the State party are essentially provided by the Armed Forces Occupational Rehabilitation Center (paras. 207-2011; 192). No military persons with disabilities are assisted by the Salvadoran Social Insurance Institute (paras. 203-206); the Ministry of Health and the Salvadoran Institute for the Rehabilitation of the Invalid (paras. 186,187, 201). These services consist in the provision of assistive devices (paras. 205-208), social insurance schemes (para. 206; 193, 196) in the area of health (paras.186-191), employment (para. 192,194), and other social projects (para. 195).

However, the State party recognises that the rehabilitation services are poorly developed in general. Reasons for the poor work include poor coordination of the relevant services, and the centralization of these services in only three main cities of the State party: San Salvador, Santa Ana and San Miguel (paras. 199-200; 210) with no coverage of the rural areas.

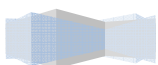
The report is silent about the work of psychiatric institutions, or about the steps undertaken by the State party to ensure that participation in habilitation and rehabilitation services and programs is voluntary in particular for persons with mental forms of disabilities.

Little is said about mechanisms to prevent violations of the rights of persons with disabilities in the provision of rehabilitation services.

The State party is encouraged to provide updated information about the work of psychiatric institutions and mechanisms in place to ensure voluntary participation of persons with mental forms of disabilities in rehabilitation programs.

The State party is encouraged to develop an efficient program of habilitation and rehabilitation services to cover all persons with disabilities both in urban and rural areas, war veterans and others.

Article 27 - Work and employment



Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures taken to ensure protection against discrimination in all stages of employment; the impact of targeted employment programmes and policies in place to achieve full and productive employment among persons with disabilities; affirmative and effective action measures for the employment of persons with disabilities in the regular labour market; accessibility of persons with disabilities to open employment and vocational training services, including those for the promotion of self-employment; availability of technical and financial assistance for the provision of reasonable accommodations; measures to assure the retention and retraining of workers who suffer a workplace injury resulting in a disability preventing them from performing their previous tasks; to ensure various forms of work, such as work on location, telecommuting (off-site/at home) and subcontracting, and work opportunities offered by new communication technologies

The report states that the Equal Opportunities for Persons with Disabilities Act 2000 sets out the general framework for the protection of the right to work and employment of persons with disabilities (para. 212). In particular, it establishes a quota of 1 person per 25 employees for all public and private institutions (para. 219).

In terms of *monitoring mechanisms*, the report states that the Equal Opportunities Act also sets out this body (para. 212). In this regard to give effect to the Equal opportunities Act, the Directorate-General of Labour Inspections conducted more than 26,000 inspections in the period between 2008 and 2010, and found 81 companies in breach of the Equal Opportunities Act (para. 216).

In terms of *affirmative actions* to facilitate employment of persons with disabilities, the report notes that a number of institutions in the State party work to promote the employment of persons with disabilities (the Employment Department of the Ministry of Labour and Social Security; the National Employment Network (a joint initiative of the Ministry of Labour and municipalities and vocational training centers of the State party); the Secretariat for Social Integration; the Salvadoran Social Insurance Institute, the Armed Forces Occupational Rehabilitation Center and the Salvadoran Vocational Training Center) (paras. 213-215; 220-230). These institutions jointly or separately developed a number of projects, including accessibility of workplaces; training; work placement projects and prevention of occupational risks (para. 218; 220; 224-225; 230).

Despite these efforts the State party recognizes that the lack of accessibility of workplaces and unemployment of persons with disabilities persists. The quota of 1 person per 25 employees is ignored (paras. 217,219).

There is no information in the report concerning the development of such affirmative actions like financial incentives for employers, subsidies for provision of reasonable accommodation in workplaces.

The report also fails to provide global comparative statistics on employment of persons with disabilities and those without disabilities in the State party.

Likewise there is little information about any specific legislative measures preventing the unfair dismissal of persons with disabilities, or measures taken to facilitate reemployment of persons with disabilities who have lost their jobs.

The State party is encouraged to adopt a global action Strategy for the employment of persons with disabilities with benchmarks, control mechanisms and sanctions for violations to ensure an effective implementation of the Convention.

The State party is also recommended to continue awareness raising campaigns to develop a national culture of inclusion of persons with disabilities by offering more effective opportunities for their valid engagement in productive employment.

The State party is further encouraged to continue finding ways of promoting the implementation of its quota system and develop other incentives discouraging violations of the law.

Article 28 - Adequate standard of living and social protection

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures taken to ensure availability and access by persons with disabilities to clean water, adequate food, clothing and housing; to ensure access by persons with disabilities to services, devices and other appropriate assistance at affordable

prices, including the availability of programmes that cover disability related extra financial costs; to ensure access by persons with disabilities, in particular women and girls and older persons with disabilities, to social protection programmes and poverty reduction programmes

The State party frankly recognises that they have not yet designed any social protection programs specifically intended for persons with disabilities (para. 234).

The only exception is made in relation to persons with disabilities, who acquired their disability as a result of the war, because of the requirements of the Peace Agreement on social reintegration of former combatants. In this connection the Act on Benefits for Persons Wounded and Disabled in the Armed Conflict is in force since January 1993 (para. 235). The report claims that the funds awarded to war veterans or members of their families are insufficient to meet the basic needs of these families.(para. 242). In 2009 some 8, 691 persons benefited from this subsidy project (paras 243-247).

The State party is encouraged to continue developing and implementing these programs and to extend them to cover all persons with disabilities in the State party and not just the war veterans. At the same time particular attention should be given to working to open opportunities for full integration of persons with disabilities in the labour market in accordance with the human rights model of disability, through the provision of incentives for work on an accessible and fully inclusive environment with reasonable accommodations.

Article 29 - Participation in political and public life

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Legislation and measures to guarantee to persons with disabilities, in particular, persons with mental or intellectual disability, political rights, including, if it is the case, existing limitations and actions taken to overcome them; support provided, if any, to persons with disabilities for the establishment and maintenance of organizations to represent their rights and interests at local, regional and national level

The report notes efforts by the State party's authorities to enable everyone to cast a vote in particular persons with visual impairments by allowing them to be assisted by persons of their choice or to use a Braille grid placed on the ballot paper (para. 248);

However, it recognises that still a lot remains to be done. For example despite the right of everyone to vote, the report notes that this right can often not be implemented, because the polling stations are usually placed in school and university buildings which are not accessible to persons with physical or visual impairments (paras. 248,249).

The report does not specify whether or not there is a specific legal obligation to make the premises in which voting takes place accessible to persons with mobility impairments; or to provide information on the voting via TV in accessible formats with subtitles and sign language interpretation.

The report is silent on whether persons with mental forms of disability are allowed to vote.

The State party frankly recognises that article 222 of the Electoral Code still imposes an "unacceptable restriction on the right of persons with disabilities to seek election to municipal councils" (para. 250). Indeed this article provides that "no blind, deaf, mute, or mentally disturbed person may seek election to a municipal council" (para. 250).

The report is not clear on whether these same persons may be elected to the national Parliament or if they can hold positions in the Government and Judiciary including in senior positions such as ministers and ambassadors, and judges and prosecutors.

The report states further that article 6 of the Public Notaries Act provides that those who are blind, deaf or mute are disqualified to exercise the profession of a Notary (para.250).

In this connection, the State party seeks guidance from the Committee on whether or not such provisions are contrary to the Convention (para.251).

It is clear that the absence of a human rights model definition of persons with disabilities hampers the implementation of virtually all the Convention rights, in particular articles 12 and 29. Once the State party define disability in accordance with the CRPD Convention as the result of the interaction of a person with impairments and an inaccessible environment, it becomes clear that the problem is not with the impairments. People are “disabled” by the lack of accommodations around them and not because of their impairments.

The report states that persons with disabilities are entitled under the law to participate in public affairs through political parties or NGOs, both national and internationally based (para.252).

The State party is praised for the measures undertaken to ensure that persons with visual impairments may exercise their rights to vote and participate in political and public life.

The State party is encouraged to revise its legislation to conform it to the requirements of the Convention under articles 29 and 12 and provide in law and practice that the right to vote and to be elected for public offices can never be removed from a person on grounds of the disability. Whether or not a person wishes to exercise his right to vote or to be elected should be a matter for that person to decide of his free will. It should be noted that the right to vote and be elected to public offices is a civic and political right and therefore it may be implemented without delay in the legal order of the State party.

The State party is further recommended to consider amending its legislation in a way that ensures an effective representation of persons with disabilities at all levels of the decision-making (Government, Parliament, Judiciary) which affects their interests if possible through a quota system to ensure diversity.

Article 30 - Participation in cultural life, recreation, leisure and sport

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures taken to recognize and promote the right of persons with disabilities to take part on an equal basis with others in cultural life, including opportunities to develop and utilize their creative, artistic and intellectual potential; to ensure that cultural, leisure, tourism and sporting facilities are accessible to persons with disabilities, taking into account children with disabilities, including through the conditional use of public procurement and public funding; to ensure that intellectual property laws do not become a barrier for persons with disabilities in accessing cultural materials, including participation in relevant international efforts

The report states that among the measures taken to grant the right of persons with disabilities to take part on equal basis with others in cultural life, leisure and sports are:

1. In terms of access to *cultural life*, activities included setting up a contemporary dance group and a choir for deaf people (para. 255) (*dates and number of beneficiaries unspecified*).

2. In terms of facilitating participation of persons with disabilities in *recreation, leasure and sports*, the State party has worked through the National Sports Institute (INDES) and the Salvadoran Tourism Institute (ISTU) “to boost cultural, sporting and leisure activities, including for persons with disabilities.” (para. 253). The activities included adaptation of sport facilities, promotion of courses for specialists, and organization of events for international teams (para. 254).

In addition, decisions on renovation and maintenance work in parks and leisure centers were taken with the needs of provision of access to persons with disabilities in mind.

The National Council for Persons with Disabilities also ran a campaign to promote sporting and artistic activities (para. 257), and a team of persons with disabilities members of the Armed forces also took part in an international competition (para. 256).

There is no information in the report about any comprehensive strategies and programs intended to enable participation in cultural life recreation, leasure and sports. Indeed the State party recognises that a lot remains to be done in this area, where “initiative and programs have been scattered” (para.253)

The State party is recommended to proceed with its efforts to fully integrate persons with disabilities in cultural life, sports and leisure and adopt a comprehensive strategy and program of inclusion of persons with disabilities in the cultural life, recreation, leisure and sports.

Article 31 - Statistics and data collection

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

Measures taken to collect disaggregated appropriate information, including statistical and research data, to enable the State party to formulate and implement policies, to give effect to the Convention, respecting human rights and fundamental freedoms, ethics, legal safeguards, data protection, confidentiality and privacy; the dissemination of these statistics and measures to ensure their accessibility by persons with disabilities

The report states that efforts to collect statistics and data about persons with disabilities in the State party *have been unsuccessful so far*. Some first steps are being made now to have these services fully working in the future (para. 258).

The State party is encouraged to proceed with its work in order to enable proper functioning of these services in the near future in full accordance with the Convention and the recommendations of the Committee.

Article 32 - International cooperation

Under this article the Committee has recommended that the State party provide information, *inter alia* pertaining to:

Measures taken to guarantee that international cooperation be inclusive and accessible by persons with disabilities; actions toward facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices; on the progress, and effectiveness of programmes for the exchange of technical know-how and expertise for the assistance of persons with disabilities

The report states that the State party has conducted workshops on inclusive education for 360 professionals with funding from the Development Cooperation Agency of Italy. The project was developed from 2008 till 2012 (para. 263).

A second project to make orthoses and prostheses was developed in 2007-2009 in the State party with funding from the Technology Transfer Fund of Canada (para. 265-266). The same Fund supported other projects to build capacity of the Ministry of Health and Social Welfare of the State party in the period 2002-2007 (paras. 267-269).

A number of other projects are listed in the report, but it is not clear whether they are a result of international cooperation efforts (paras. 259-262; 264; 270,271).

The report says nothing about how it has planned to implement its programs of the Millennium Development Goals with a disability perspective.

The State party is encouraged to update its information with regard to the sources of funding of the projects listed in this part of the report.

The State party is further encouraged to include a disability perspective in its program for the achievement of the MDGs, and inform how it intends to achieve the MDGs for persons with disabilities.

The State party is also encouraged to continue engaging in international cooperation efforts to implement the Convention.

Article 33 - National implementation and monitoring

Under this article the Committee has recommended that the State party provide information, *inter alia*, pertaining to:

The designation of one or more focal points within the Government for matters relating to the implementation of the Convention and facilitate related action in different sectors and at different levels; the establishment of a framework, including one or more independent mechanisms, as appropriate and measures taken to promote, protect and monitor implementation of the Convention taking into account the principles relating to the status and function of national institutions for the protection and promotion of human rights; budget allocations for the purpose of national implementation and monitoring

The State party has designated the National Council for Persons with Disabilities as the *monitoring body* for the implementation of the Convention (para. 272). The composition and the mandate of this body are provided under paras 18-28.

In addition, the functions of *monitoring body* are also entrusted to the Standing Committee on Persons with Disabilities in the Office of the Human Rights Advocate, an organ which works closely with civil society organizations. (para. 272). *The full mandate of this latest organ is not spelled out in the report.*

Further the report says nothing about the budget allocations to enable these organs to fulfill their functions under the Convention.

The report says nothing about the organ the government has designated as the focal point for the implementation of the Convention.

The State party is encouraged to provide information concerning the organ of the government indicated as the focal point on the implementation of the Convention, and if it does not exist appoint one to serve in this capacity in line with the Convention.

The State party is encouraged to enable these organs to fulfill their proper role by ensuring that proper budget allocations are made for the purpose of national implementation and monitoring of the Convention.

The State party is further encouraged to officially designate by Act of Parliament, national NGOs working for persons with disabilities in the State party as monitoring institutions under the Convention.