

November 2014

## The situation of persons with disabilities in Colombia

It is estimated that over 3 million persons live with some kind of disability in Colombia, equivalent to 6% of the population. Regional disparities are however significant and the departments with the largest number of persons with disabilities have an average prevalence rate of between 7.8% and 9.5%. Out of the 20 departments, five have particularly high rates of persons with disabilities, namely Caquetá, Tolima, Vichada, Córdoba and Cauca. The legacy of armed conflict has resulted in many land mine victims and the situation for persons with disabilities is also aggravated by displacements caused by the conflict.

Disability is both a cause and a consequence of poverty and over 80% of persons with disabilities in Latin America live in poverty, according to the World Bank. In Colombia, the number of persons with disabilities is higher in low-income households relative to other households (Fundación Saldarriaga Concha). Among persons with disabilities in Colombia, 61% have no income. According to *Dane*, the Administrative Department of National Statistics, only 15.5% of those of a productive age have some kind of occupation and only 2.5% receive the stipulated minimum wage. Of economically active persons with disabilities, women constitute only 34%. The indigenous and afro-Colombian minorities have higher rates of disabilities than the majority mestizo population.

The level of illiteracy is three times higher among persons with disabilities (22.5%) than in the rest of the population (7%). Over a third of all illiterate persons with disabilities are under 15 years of age. Children and adolescents with disabilities are under-represented at all levels of education and normally enter school later than children without disabilities. Only 27% of children with disabilities have access to primary school, less than 50% complete basic primary education and only 3% proceed to secondary education. Boys with

disabilities have better access to education at all levels, with an average of 58.2% for all levels in relation to girls.

A report on psychosocial disabilities (Disability Rights Promotion International 2014) highlights the large gap between official policy and its implementation in Colombia. It reveals a group that is overlooked due to lack of awareness and voice. The report draws attention to high levels of abuse and discrimination against people with disabilities, including systemic violations of their rights to social participation, privacy and family life, health, habilitation and rehabilitation, education, information, communication and access to justice. The existing regulations and legal obligations are not widely known. There is also a lack of acknowledgement of the legal capacity of persons with disabilities, which hinders the effective enjoyment of human rights.

Colombia's current legal framework on legal capacity allows for the sterilisation of women with disabilities without their consent, in the case of women who are placed under plenary guardianship and therefore are deemed incapable. Widespread and persistent discrimination against women and girls with disabilities results in the systematic denial of their right to sexual education, to experience their sexuality, to have sexual relationships, and to start families on equal footing than women without disabilities (IGLHRC report 2013).

## The legal and policy framework

Colombia has ratified the UN Convention on the Rights of Persons with Disabilities (CRPD), the first international, legally binding treaty aimed at protecting the human rights of persons with disabilities – but not the optional protocol. The Convention is available at

[www.un.org/disabilities/convention/conventionfull.shtml](http://www.un.org/disabilities/convention/conventionfull.shtml).

Colombia has also signed and ratified a number of other treaties that advance the rights of people, including those with disabilities, for example:

- the UN Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women – both of which make reference to protecting the rights of persons with disabilities to fair treatment, appropriate care and full participation in society;
- the Inter American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities (2001) , also confirmed in the national Law 762 of 2002.

Colombia's national legislation on disability rights is complex and includes national and regional policies, as well as special measures for displaced persons with disabilities. There is a national system for disability rights and a National Public Disability and Social Inclusion Policy, for which the Ministries of Health and Social Protection are responsible. The system includes a focus on Community Based Rehabilitation (CBR) in coordination with DPOs and a national CBR network. In terms of other national laws and policies, the following have the most direct bearing on the rights of persons with disabilities:

- **The Constitution of Colombia** guarantees the rights of persons with disabilities in Article 16 (universal rights to individual development, Article 25 (the right to work in dignified and fair conditions) and Article 49 (the right to public health and sanitation services). These articles do not however make any specific reference to disabilities. Article 13 on the equal rights, freedoms and opportunities of all persons stipulates the responsibility of the State to protect marginalised groups from discrimination, including persons with physical or intellectual disabilities. Article 47 places an obligation of the State to institute policies for the prevention, rehabilitation and social integration of persons with disabilities, as well as the implementation of special measures when required.
- **Law 324** (1996) provides specific rights to persons with hearing impairments.

- **Law 361** (1997) establishes mechanisms for the social inclusion for persons with disabilities, including subsidies for assistive devices.
  - **Law 1145** (2007) regulates and coordinates the implementation of the National Public Disability and Social Inclusion Policy amongst national, regional and local public entities, Disabled People's Organisations (DPOs) and civil society, in order to guarantee the fundamental human rights of persons with disabilities. **EI Sistema Nacional de Discapacidad – SND** is a system consisting of regulations, norms, activities, resources, programmes and institutions that aim to ensure that the general principles of Law 1145 (2007) are put into practice.
  - **Law 1346** (2009) regulates the responsibilities of government institutions at different levels to ensure that general policies, plans and programmes include persons with disabilities (Article 3). Furthermore families, private companies, NGOs, professional associations, labour unions and society at large are seen as duty bearers with the responsibility to promote, respect and visualise the full enjoyment of the rights of persons with disabilities, to eliminate all barriers to the full participation of persons with disabilities and their families and to denounce discriminatory behaviour against persons with disabilities. The Council for Disability Inclusion coordinates the promotion of the rights of persons with disabilities in the private sector, and includes representatives from companies, professional associations, NGOs, Chambers of Commerce, trade unions and DPOs. It provides persons with disabilities with the right to special social protection (Article 28). The **Ministry of Labour** is responsible to ensure that companies fulfil their obligations in relation to disabilities, including the employment of new staff and the work environment (Article 27).
  - The **Statutory Law on Disability** (Ley Estatutaria 1618/2013) in accordance with **Law 1346** guarantees the rights of persons with disabilities through inclusion, affirmative action and other reasonable measures to eliminate all forms of discrimination due to disabilities.
-

- **The National Disability Plan** of 2004 was updated in 2013 to be coherent with the current national development plan “Prosperidad para Todos” (Law 1450/2011). The new plan (Conpes 166), developed by the Consejo Nacional de Política Económica y Social, is a rights-based and focuses on human development rather than on assistance and protection. The overall objective of the plan is “to guarantee the full enjoyment, in equal conditions of all the human rights and freedoms of persons with disabilities by strengthening the implementation of the National Public Disability and Social Inclusion Policy”. The first step is to recognise persons with disabilities as rights-holders and the obligation of the State is not to assist persons with special needs, but to respond to their rights.
- **Directriz de discapacidad y desplazamiento** – Guidelines for disability and displacement - have been developed by the Ministry for Social Protection, in agreement the UNHCR in Colombia. The aim is to support departmental, district, municipal and local entities, as well as civil society, to develop their programmes, plans and actions so that displaced persons with disabilities can regain their autonomy and independence (in the individual, family, cultural, social and community spheres).
- The **Register for the Localisation and Characteristics of Persons with Disabilities (RLCPD)** provides the country with a baseline on the situation of persons with disabilities across the country. When it is used properly, the register should lead to the design of measures especially geared to counteract discrimination in different territories. The register is based on a free and voluntarily registration via the web page.
- **The National Health Plan** guides local and regional administrations on how to decrease or at least maintain the disability prevalence recorded in the 2005 census.
- According to the **National Development Plan (2010-2014)**, disability should be mainstreamed in all government policies. The Ministry for Social Protection, in coordination with DANE

and municipalities, should implement measures to improve the situation of persons with disabilities, based on information derived from the register (see below). .

- Colombia has introduced the **International Classification of Functioning, Disability and Health (ICF)** as the basis of its disability assessment systems.

### Implementing agencies

- **The National Disability System (SND)** has four levels: 1) The Ministry of Social Protection has the overall responsibility for the system; 2) The National Disability Council, *El Consejo Nacional de Discapacidad (CND)* works to monitor, evaluate and co-ordinate the system and the implementation of the national disability policy, while also making recommendations to the *National Disability Observatory (OND)* 3) The *Department and District Disability Committees (CDD)* act as intermediary levels for coordination and monitoring of the policy; and 4) *Municipality and Local Disability Committees (CMD and CLD)* are responsible for the local implementation and follow-up of public disability policies. The coordination between the CDD, CMD and CLD is managed by the *Territorial Councils of Social Policy (CTPS)*, in which persons with disabilities should be represented.
- National Territorial Encounters - **Encuentros Nación Territories** - are spaces to exchange and discuss case studies and good practices in the design and implementation of public disability policies. Governmental entities at local levels, including disability committees and the National Disability Council, civil society organisations for and of persons with disabilities, social and community networks, service providers, scholars, persons with disabilities and their families, and communities participate in these spaces.
- The **Ministry of Education** is responsible to guarantee access to quality and inclusive education to persons with special needs in accordance with the right to habilitation, comprehensive rehabilitation, full inclusion and participation of persons with disabilities,

- **Public service television** is obliged to include closed captioning, sub-titles or sign language.
- The **Ministry of Information Technology and Communication** has launched the project ConVertic which provides companies, libraries, universities and service hubs with free text-to-sound-converters and magnifying programmes to benefit the 1.2 million Colombians with visual impairments.

### Accountability measures

- The **Constitutional Court** is responsible to ensure that the constitutional rights of persons with disabilities are upheld. Despite this the Constitutional Court endorsed in March 2014 the practice of surgical sterilisation of minors with cognitive and psychosocial disabilities without their consent. Article 7 of the law 1412 protects minors against this practice, yet despite the fact that the Court found Art. 7 to be constitutional, it declared itself in favour of the right of parents and legal guardians to deny minors with intellectual disabilities their reproductive rights. National and international organisations protested against the decision declaring it to be against the commitments of Colombia under the CRPD and CEDAW and a case was also brought to the Inter-American Commission on Human Rights. (Source Centre for Reproductive Health)
- The **National Plan of Action 2010-14 (“Prosperidad para todos”)** contains a broad range of measures to improve the promotion, protection, respect for and guarantee of human rights. This could be used by DPOs and other civil society actors to hold the government to account for their progress in implementing the plan. Existing mechanisms include institutionalised spaces for dialogue and exchange of information between the government and the civil society.
- The **Defensoría Delegada para la Salud, la Seguridad Social y la Discapacidad** is part of the Defensoría del Pueblo Colombia, the Ombudsman for Human Rights. It conducts studies and evaluations, formulates defence resolutions, gives advice and builds the capacity of other sections of the Ombudsman, among other things. The Defensoría del

Pueblo promotes, raises awareness about and defends the rights of all Colombians. It also exercises oversight over the constitutional justice.

- The **Inter-American Commission for Human Rights**, which performs hearings and issues recommendations to governments.

These accountability systems have not yet been very helpful to in terms of assisting persons with disabilities to monitor and access their rights. The well-designed and elaborated legal and policy frameworks have yet to be implemented in practice. Colombia has not yet reported on the CRPD.

### Main civil society actors

Some of the main national organisations of persons with disabilities (DPOs) in Colombia are:

- **Federación Colombiana de Organizaciones de Personas con Discapacidad Física – FECODIF** – was established in 2003 to give voice to and defend the rights of persons with disabilities and their organisations. It is a member of a number of national structures (Mesa Nacional de Pensar la Discapacidad; Mesa Nacional para la inclusión laboral de las PcD; Comité Técnico sobre accesibilidad al medio físico, al transporte y a las comunicaciones; Instituto Colombiano para el Desarrollo de Normas Técnicas y Certificación; Red Colombiana de Capacidad y Derechos) and of Latin-American networks such as la Red Iberoamericana de Entidades de Personas con Discapacidad Física and RIADIS, Red latinoamericana de organizaciones no gubernamentales de personas con discapacidad y sus familiares. FECODIF has members at local, regional and national levels.
- **La Asociación Colombiana Para el Desarrollo de Personas con Discapacidades- ASCOPAR** - works in a broad range of areas for the development of person with different disabilities.
- **La Asociación Colombiana de sordociegos –SURCOE** – is a national organisation of deaf-blind persons and works for the rights of persons with multiple disabilities and their families.

- **Federación Nacional de Sordos de Colombia – FENASCOL** - was formed in 1984 by 12 regional Deaf Associations and today has 29 member organisations all over Colombia.
- **Coordinadora Nacional de Organizaciones de Limitados Visuales - CONALIVI** - is a national platform that has 30 member organisations representing or working for the rights of persons with visual impairments in different parts of Colombia.
- **Asociación Colombiana de Síndrome de Down (ASDOWN)**. The association has brought a case of forced sterilisation to the Inter-American Commission for Human Rights.

A major international actor in Colombia is **Handicap International** which works in the areas of victim assistance, community based rehabilitation and rights. There are also regional networks such as **Red Latino Americana de Organizaciones No Gubernamentales de Personas con Discapacidad y sus Familias** (Latin America Network of Non-Governmental Organisations of Persons with Disabilities and their Families – RIADIS) which is a cross-disability network formed by DPOs from 19 countries in Latin America and the Caribbean and regional programmes such as **Disability Rights Promotion International (DRPI)**, Latin America.

### What Sweden can do: 7 questions to discuss

The legal and policy framework for disability rights is rather good, with exception of laws on legal capacity, but implementation is still very weak. Within the country strategy for Colombia, there are opportunities to address these issues, in cooperation with other agencies. Some questions to consider:

- Could the Swedish support to the Ombudsman and other accountability systems more

explicitly include monitoring of the rights of persons with disabilities? Monitoring tools can be downloaded [here](#).

- Could women with various disabilities be more systematically and deliberately included in programmes focussing on gender equality, women’s empowerment/participation and gender based violence?
- Could the Swedish civil society support in Colombia also consider including DPOs - as voice and representatives of the rights holders, including those injured by the conflict? DPOs need capacity to raise awareness around disability rights, to monitor the implementation of legal and policy commitments and to advocate for the harmonisation of international commitments.
- Could Sweden do more to include and enable persons with disabilities and their organisations to participate in professional networks and in social and cultural events?
- Could Sweden do more to include persons with disabilities in peace building efforts, particularly amongst ethnic minorities and in the departments with the highest rates of persons with disabilities? Examples of resources and tools are
  - ✓ Disability and the post-conflict agenda [here](#)
  - ✓ Involvement of Persons with Disabilities in Conflict Resolution and Peace Building Efforts [here](#)
- Could Sweden do more to bring a disability perspective into joint donor planning meetings with bilateral and multilateral agencies, taking into consideration that article 32 of the CRPD requires donors to do? What support and additional information would the embassy need to take such initiative? E.g. Inclusion Made Easy - a quick programme guide to disability in development [here](#).

## References

Discapacidad en Colombia: Retos para la Inclusión en Capital Humano Fundación Saldarriaga Concha (2011) .

Handicap International <http://www.handicap-international.us/colombia>

Human Rights Monitoring in Persons with Disabilities, with an Emphasis on Psychosocial Disability in Colombia: A Comprehensive Analysis, DRPI (2014). <http://drpi.research.yorku.ca/node/2467>

IGLHRC, From Forced Sterilization to Forced Psychiatry: Violations of the Human Rights of Women with Disabilities and Transgender Persons in Colombia <http://iglhrc.org/content/forced-sterilization-forced-psychiatry-violations-human-rights-women-disabilities-and>

WHO and World Bank (2011). *World Report on Disability*. Geneva: WHO. Available in Spanish.

Situación de la Educación en Colombia Preescolar, Básica, Media y Superior, Una apuesta al cumplimiento del derecho a la educación para niños, niñas y jóvenes, Alfredo Sarmiento Gómex, Proyecto Educación Compromiso de Todos.

Sida's tools on disability: Disability as a human rights issue – conducting dialogue, [http://www.sida.se/English/publications/Publication\\_database/publications-by-year1/2012/june/disability-as-a-human-rights-issue-conducting-a-dialogue/](http://www.sida.se/English/publications/Publication_database/publications-by-year1/2012/june/disability-as-a-human-rights-issue-conducting-a-dialogue/)

The human rights of persons with disabilities are a Swedish government priority. As a service to staff, briefs have been prepared to provide basic information about the situation of this (often forgotten) group and inspire discussions on what Sweden could do to better include disability rights in diplomacy and programming.