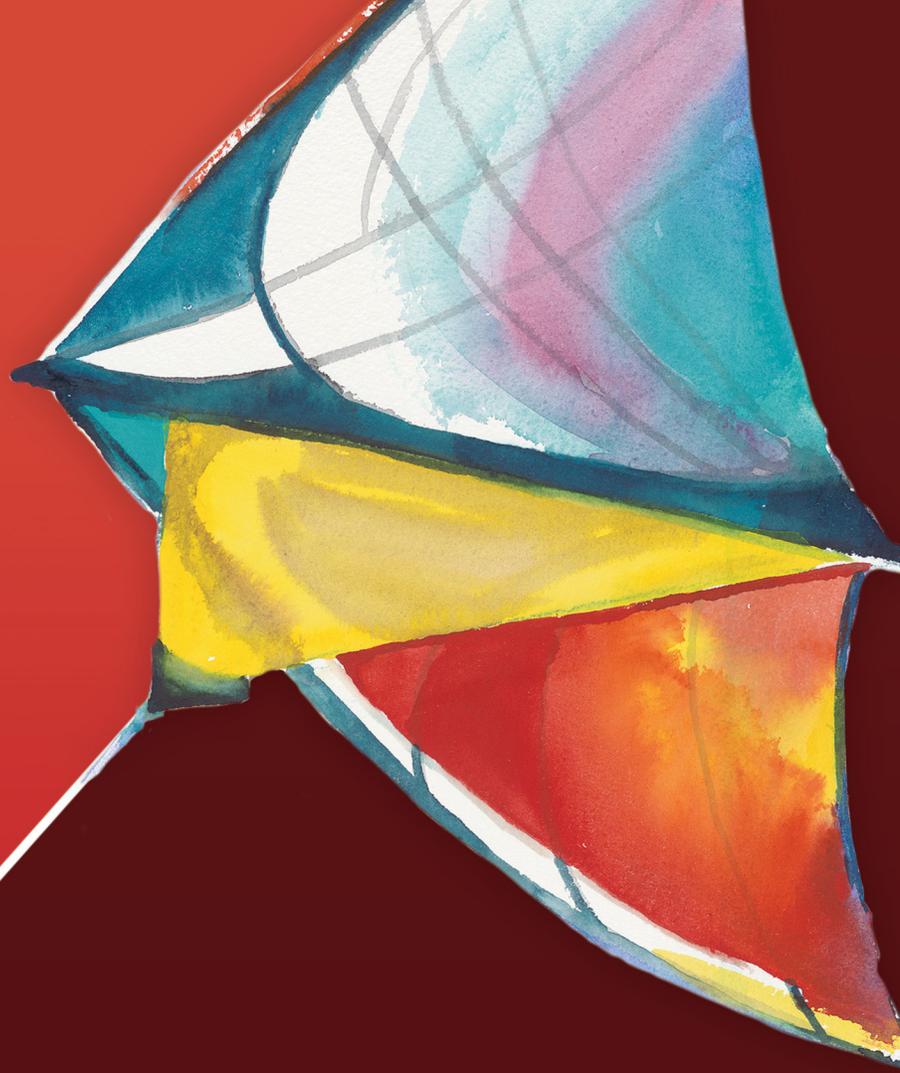


SERIES ON HUMAN RIGHTS AND HEALTH



3. PEOPLE WITH DISABILITIES

A Human Rights-based Approach

PAHO



Pan American
Health
Organization



World Health
Organization
REGIONAL OFFICE FOR THE
Americas

3. PEOPLE WITH DISABILITIES: A Human Rights-based Approach

"The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition."

Preamble to the Constitution of the World Health Organization

MANUEL'S HARDSHIPS¹

Manuel suffered a very serious accident at the age of eight, when he fell off a slide at a park in his hometown. He was admitted to the intensive care unit of the national hospital and was diagnosed with a traumatic brain injury. He was unconscious, in a grade 2-3 coma, and had fractured his right parietal bone.

Following the accident, his family filed a lawsuit against the government, claiming compensation for damages arising from the disability caused by their son's accident. Manuel was medically diagnosed as having a 70% disability. Despite having obtained favorable judgments ordering the government to pay compensation, the costs of the various physical and mental health services that Manuel requires were very high and far from covered by the government's payments. Other support provided by the State was also insufficient.

Manuel had to leave his school and was never again admitted to regular schools; for the rest of his educational life, he had to attend special-education institutions.

In adulthood, Manuel was unable to continue his studies, and finding a job was an ordeal. No one wanted to interview him or even consider him for jobs for which he was qualified. This caused numerous financial difficulties, leading to him becoming homeless and forcing him to live on the street for an extended period of time.

On several occasions he was admitted to health facilities as an inpatient, sometimes forcibly and without his consent, without even being provided information about the treatments performed on him.

¹ This account is based on a similar incident that occurred in Latin America. The United Nations and Inter-American Commission and Court of Human Rights bodies for the protection of human rights have been presented with similar cases relating to the human rights and fundamental freedoms of persons with disabilities.

People with disabilities: who they are and the situations they face

People with disabilities include those with long-term physical, mental, intellectual, or sensory impairments that, in interaction with various barriers, can hinder their full and effective participation in society on an equal basis with others (1).

According to data from March 2021, 15% of the world's population, experience some form of disability, and disability prevalence is higher in low- and middle-income countries. One-fifth of the estimated global total, or between 110 million and 190 million people, experience significant disabilities (2).

However, these figures do not give a true idea of the barriers that people with disabilities face. Society generally sympathizes with or ignores people with disabilities, and often neglects and stigmatizes them, forcing them to live in conditions in which their human rights and basic freedoms are not respected.

Children with disabilities suffer especially. The vast majority live in poverty, with minimal or no access to the right to the highest attainable standard of health without discrimination based on disability ("right to health"), which includes access to medical and rehabilitation services. Only 30% of children with disabilities in Latin America and the Caribbean attend school and enjoy the right to education (3). This is no surprise, since many public schools in developing countries are not accessible to students with disabilities, thus adversely affecting their exercise of fundamental rights, such as the right to freedom of movement. Worse still, in certain jurisdictions, children with disabilities are denied admission to the general education system, and are abandoned by a transportation system that does not take account of their basic human rights and cannot even transport them to school. With inadequate education, or no education at all, these children are condemned to live a life of poverty and discrimination.

Women with disabilities suffer double discrimination: as women and as people with disabilities. Statistics show that women with disabilities tend to be victims of violence at much higher rates than other women (4).

People with disabilities are also more likely to suffer adverse socio-economic consequences, such as less education, worse health outcomes, lower levels of employment, and higher rates of poverty. Disability has a particularly strong negative link with poverty. Poverty involves widespread malnutrition, poor housing conditions, high-risk work, and poor access to health care, and can both cause disability and exacerbate existing disabilities. At the same time, a person with a disability will likely have few educational opportunities, and will therefore remain trapped in low-paying jobs or performing unpaid work, making it impossible to break the vicious cycle of poverty. More than 80% of people with disabilities in Latin America and the Caribbean live in poverty, and up to 90% of people with disabilities in that region are unemployed (5).

People with disabilities must overcome various types of barriers: , such as discrimination, stereotypes, prejudices, and beliefs; environmental, such as physical barriers in the environment; communicative; problems accessing services such as health, education, transportation, and employment; and institutional, including discriminatory legal norms, laws, policies, and institutional practices, which prevent them from fully enjoying fundamental freedoms and rights such as personal integrity, freedom of movement, the right to vote, equal protection before the law, and the right to health. In addition, they must overcome cultural, legislative, and social barriers, which keep them trapped in second-class status. While poverty plays a predominant role, violence, armed conflict, undetected and untreated perinatal and early childhood risks, occupational hazards, drug abuse, and ageing also contribute to the ranks of people with disabilities.

Today, many people with disabilities face significant barriers to accessing health care, thus contributing

to worsening health outcomes for this population. To overcome these barriers, a comprehensive approach to disability-inclusive development, consisting of community-based rehabilitation (CBR) and community-based inclusive development (CBID), is being implemented. This multisector approach, originally developed by the World Health Organization (WHO), is designed to make it easier for communities to engage, empower, and include people with disabilities as fully participating members of their communities. It includes five components: health, education, livelihood, social, and empowerment (6).

Similarly, Pan American Health Organization (PAHO) maintains that inclusive health is achieved when people with disabilities can access health services on an equal basis as people without disabilities. It is critical that the health system be designed to ensure that all people, including people with disabilities, have full access to services, while reducing social and health inequalities. Inclusion in the health system is important as it allows people with disabilities to receive the same benefits from health services as people without disabilities, including the same access to, and advancement of, health services (6).

The 2030 Agenda for Sustainable Development clearly states that disability cannot be a reason or criterion for lack of access to development programming and the realization of human rights. The Sustainable Development Goals framework includes seven targets that explicitly refer to persons with disabilities, and six additional targets on persons in vulnerable situations, which include persons with disabilities (2).

Finally, it should be noted that the Convention on the Rights of Persons with Disabilities was the culmination of five years of negotiations and decades of struggle by people with disabilities and organizations dedicated to promoting their interests and seeking to have disability recognized globally as an inherent human rights issue. The Convention was opened for signature on 30 March

2007, and entered into force on 3 May 2008. It is unique in that it is both a human rights instrument and a cross-cutting, legally binding public policy instrument.

In order for a country to effectively promote and protect the human rights and fundamental freedoms of people with disabilities, it must adopt measures to progressively implement the Convention on the Rights of Persons with Disabilities through appropriate policies, plans, laws, and programs that specifically protect the rights of this population.

Protection under international and regional human rights instruments

Both the United Nations and the Inter-American System of Human Rights contain an important set of legal instruments that recognize and protect the rights and freedoms of all people. Because international human rights instruments protect all persons without distinction of any kind, such as race, color, sex, language, religion, political or other ideology, national or social origin, economic status, birth, or any other social condition, they are also considered to protect the rights and freedoms of persons with disabilities.

Conventions or treaties are legal instruments that are binding on the States that have ratified them. There are also other instruments, such as declarations, resolutions, and comments emanating from the mechanisms of the United Nations and the Inter-American System, which establish international human rights standards. Human rights standards represent a consensus of international opinion. In most cases they are issued by the United Nations General Assembly, the Human Rights Council, treaty monitoring mechanisms, other United Nations bodies, the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS), and specialized agencies of the United Nations and the Inter-American System.

These standards constitute an fundamental guide for the implementation of human rights treaties in coun-

tries, through the formulation and revision of legislation, policies, plans, and programs for greater protection of the right to health and other related rights of persons with disabilities.

The UN human rights system

The United Nations human rights monitoring system consists of two types of bodies: United Nations Charter-based bodies and treaty-based bodies (7). The charter-based bodies include the Human Rights Council (an inter-governmental body composed of 47 States responsible for the promotion and protection of all human rights) (8); the Universal Periodic Review (a State-led process for reviewing the human rights situation in all States, which provides the opportunity for each State to declare what actions it has taken to address and improve the human rights situation in the country) (9); and the special procedures of the Human Rights Council (a mechanism whereby independent human rights experts are given a mandate, either individually or as a task force, to report and advise on human rights issues in a thematic area or specific situation (10); an example of this mechanism is the mandate of the Special Rapporteur on the rights of persons with disabilities).²

United Nations treaty bodies are committees of independent experts that monitor the implementation of international human rights treaties (11). Their existence derives from the treaties themselves; for example, the Committee on the Rights of Persons with Disabilities is a group of 18 independent experts that monitors implementation of the Convention of the same name (12). These treaty bodies are mandated to receive and examine reports submitted periodically by States Parties detailing how they are implementing the provisions of the treaty at the national level. Following a review

process, the Committee communicates its concerns and recommendations to the State Party in the form of “concluding observations.” Treaty bodies are also empowered to issue general comments on matters affecting their mandate and to engage in individual communications to issue recommendations related to a specific case before them.

Legally binding international instruments³

International Covenant on Civil and Political Rights (1966)

The International Covenant on Civil and Political Rights provides that every human being has the inherent right to life, that no one shall be arbitrarily deprived of life, and that each State party to the Covenant shall respect all persons within its territory and subject to its jurisdiction, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, economic position, birth, or other status. With regard to equality, it recognizes that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.

In addition, the Covenant ensures that no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment. In particular, no one shall be subjected without their free consent to medical or scientific experimentation. It also guarantees that everyone has the right to personal liberty and security, and that no one shall be subjected to arbitrary arrest or detention. No one shall be deprived of their liberty, and all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Finally, it recognizes that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law (13).

² <https://www.ohchr.org/en/Issues/Disability/SRDisabilities/Pages/SRDisabilitiesIndex.aspx>

³ The designations “covenant,” “convention,” or other forms do not change the binding nature of these instruments. These are treaties within the meaning of the Vienna Convention on the Law of Treaties (1969), which provides that every treaty in force is binding upon the parties to it and must be performed by them in good faith. A party may not invoke the provisions of its domestic law as justification for non-compliance with a treaty.

International Covenant on Economic, Social and Cultural Rights (1966)

This treaty recognizes a wide range of economic, social, and cultural rights, such as the right to health, education, work, and to social security and culture, among others, without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, economic position, birth, or other status.

In particular, this treaty recognizes the right of all persons to the enjoyment of the highest attainable standard of physical and mental health. Measures to be taken by States Parties to the Covenant to ensure the full realization of this right shall include those necessary for: (a) reduction of stillbirths and infant mortality and the healthy development of children; (b) improvement of all aspects of environmental and industrial hygiene; (c) prevention, treatment, and control of epidemic, endemic, occupational, and other diseases; and (d) creation of conditions which would ensure access to all medical services and medical attention in the event of illness. Likewise, the Covenant also recognizes the right of everyone to an adequate standard of living for themselves and their family, including adequate food, clothing and housing, and to the continuous improvement of living conditions (14).

Convention on the Elimination of All Forms of Discrimination against Women (1979)

This instrument of international law condemns discrimination against women in all its forms, and recognizes the rights and obligations of States Parties to promote and protect women's rights. States Parties should eradicate any discriminatory act or practice against women, including women with disabilities, and in particular should take all appropriate measures to eliminate discrimination against women in the field of health care to ensure, on an equal basis between men and women, access to health care services (15).

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

The provisions contained in this Convention provide States Parties the obligation to take effective legislative, administrative, judicial, or other measures to prevent acts of torture and other cruel, inhuman, or degrading treatments in any territory under their jurisdiction. In addition, the Convention requires States Parties to ensure that these offences are punishable by appropriate penalties under criminal law that reflect their grave nature. This instrument provides that each State Party shall take the necessary steps to prevent cruel, inhuman, or degrading treatment or punishment in all territories under its jurisdiction when such pain or suffering is inflicted by, or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity (16). These provisions are vital for the protection of the physical and mental health of persons with disabilities in the context of public institutions.

Convention on the Rights of the Child (1989)

This Convention recognizes the civil, political, economic, social, cultural, and environmental rights of children and adolescents without discrimination of any kind. States Parties recognize that a child with a mental or physical disability should enjoy a full and decent life, in conditions which ensure dignity, promote self-sufficiency, and facilitate the child's active participation in the community.

States Parties recognize the right of the child with disability to special care are obligated to guarantee and ensure the continuation, subject to available resources, to the eligible child and those responsible for his or her care, of assistance that is requested and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child. In addition, the Convention provides that assistance shall be provided free of charge, whenever possible, and shall be designed to ensure that the child with disability has effective access to education, training, health care ser-

vices, and rehabilitation services in a manner conducive to the child achieving social integration and individual development, to the fullest extent possible (17).

Convention on the Rights of Persons with Disabilities (2006)

This Convention recognizes the special protection that States Parties must guarantee to persons with disabilities, in order to ensure all of their political, civil, economic, social, and cultural rights with the specificity that this population requires. This international instrument has reflected a paradigm shift with respect to this population group, since it abandons the old medical model of both physical and mental disability, moving instead to a social model, which recognizes that the causes of disabilities are largely social.

The Convention is intended as a human rights instrument with an explicit dimension of social and economic development. It reaffirms that all people with all types of disabilities are entitled to enjoy all human rights and fundamental freedoms. It clarifies and describes how all categories of human rights and fundamental freedoms apply to persons with disabilities, and identifies areas in which accommodations have been made so that persons with disabilities can effectively exercise their rights in areas where their rights have been violated, as well as in areas in which the protection of rights should be strengthened. In particular, this instrument establishes the obligation of States Parties to provide persons with disabilities the health services they need, including early detection and intervention, where appropriate, and services aimed at preventing and minimizing the development of new disabilities (18).

International declarations, principles, recommendations, and guidelines

Universal Declaration of Human Rights (1948)

The Universal Declaration of Human Rights states that all human beings are free and equal in dignity and rights.

This general provision implies that persons with disabilities are also entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind. With regard to equality, it recognizes that all persons are equal before the law and are entitled without any discrimination to equal protection of the law (19).

Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1993)

The Standard Rules on the Equalization of Opportunities for Persons with Disabilities establish guidelines for implementation of the fundamental freedoms and basic rights set forth in international treaties in relation to persons with disabilities. These Standards recommend that persons with disabilities and their organizations be involved in the drafting of legislation on matters affecting them. Governments are expected to facilitate this participation and to do so in a meaningful way. Rather than the purely symbolic participation of a few persons with disabilities lost among large committees of numerous professionals or government representatives, the Standards provide for a level of participation that ensures that the voices of these people are fully heard in the process. According to the Standard Rules, persons with disabilities and their families must be included in the planning, design, implementation, and evaluation of services, support measures, and monitoring programs (20).

Committee on Economic, Social and Cultural Rights, General Comment No. 5: Persons with Disabilities (1994)

This General Comment analyses the obligations of States with regard to equal rights for men and women with disabilities before the law, in labor-related rights, social security, protection of the family and mothers of children with disabilities, freedom of movement, enjoyment of physical and mental health, education, participation in cultural life, and the enjoyment of the benefits of scientific progress (21).

Committee on Economic, Social and Cultural Rights, General Comment No. 14: The Right to the Highest Attainable Standard of Health (2000)

This General Comment is central to understanding the scope of the right to health and the obligations assumed by States upon ratification of the International Covenant on Economic, Social and Cultural Rights. In this comment, the Committee on Economic, Social and Cultural Rights analyzes the content and scope of Article 12 regarding the right to health, as well as the obligations of States Parties arising from it, and provides clear guidelines on the measures to be taken to ensure the right. In the comment, the Committee establishes that the right to health is closely related to other human rights, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly, and movement. These and other rights and freedoms address integral components of the right to health. It refers to persons with disabilities as a group whose vulnerable status requires special programs that offer access to health facilities, goods, and services without discrimination.

The Committee also sets out the four interrelated and essential elements contained in the right to health in all its forms and at all levels, the precise application of which will depend on the conditions prevalent in a particular State Party:

(a) Availability. Functioning public health and health-care facilities, goods and services, as well as programs, have to be available in sufficient quantity within the State Party. The precise nature of the facilities, goods, and services may vary depending on numerous factors, including the State Party's level of development. They will include, however, the underlying determinants of health, such as safe and potable drinking water and adequate sanitation facilities, hospitals, clinics and other health-related facilities, trained medical personnel and other professionals receiving domestically competitive salaries, and essen-

tial drugs, as defined by the World Health Organization (WHO) Action Programme on Essential Drugs.

(b) Accessibility. Health facilities, goods, and services have to be accessible to everyone without discrimination, within the jurisdiction of the State Party. Accessibility has four overlapping dimensions: (i) non-discrimination; (ii) physical accessibility; (iii) economic accessibility (affordability); and (iv) access to information.

(c) Acceptability. All health facilities, goods, and services must be respectful of medical ethics and be culturally appropriate, i.e. respectful of the culture of individuals, minorities, peoples, and communities, sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned.

(d) Quality. As well as being culturally acceptable, health facilities, goods, and services must also be scientifically and medically appropriate and of good quality. This requires, *inter alia*, skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, safe and potable water, and adequate sanitation (21).

Committee on the Rights of the Child, General Comment No. 9: The rights of children with disabilities (2006)

The Committee on the Rights of the Child issued this General Comment in 2006 to provide guidance and assistance to States Parties in their efforts to implement the rights of children with disabilities in a comprehensive manner, covering all provisions of the Convention on the Rights of the Child. The General Comment presents recommendations and guidelines related to legislative, administrative, judicial, and other measures to prevent discrimination against children with disabilities in accessing their rights and guaranteeing them the enjoyment of a full and decent life, in conditions that ensure dignity, promote self-sufficiency, and facilitate active participation in the community. To this end, the

Committee recommends that States Parties establish legislative measures and national action plans with the strategies needed to guarantee the rights of this population, and provide measurable results, along with data collection mechanisms that are accurate, standardized, and disaggregated, and that reflect the real situation of children with disabilities (22).

2030 Agenda for Sustainable Development (2015)

The 2030 Agenda for Sustainable Development proposes ending poverty for all people, including persons with disabilities, and moving toward gender equality, women's empowerment, healthy living, well-being at all ages, economic growth, full employment, and inclusive cities and human settlements. The Agenda clearly states that disability cannot be a reason or criterion for lack of access to development programming and the realization of human rights (23). The Sustainable Development Goals framework includes seven targets that explicitly refer to persons with disabilities, and six further targets on persons in vulnerable situations, which include persons with disabilities (2).

Committee on the Rights of Persons with Disabilities, General Comment No. 3 (2016) on women and girls with disabilities

In this General Comment, the Committee on the Rights of Persons with Disabilities urges States Parties to modify or abolish discriminatory laws, policies, and practices that prevent women with disabilities from enjoying all the rights enshrined in the Convention. States Parties must take all appropriate measures to eliminate discrimination on the basis of sex or disability by any person, organization or private enterprise. It also includes the duty to exercise due diligence by preventing violence or violation of human rights, protecting victims and witnesses from violations, investigating, prosecuting, and punishing those responsible, including private actors, and providing access to redress and reparations where human rights violations occur. In addition, the Committee states

that States Parties should adopt a dual approach by: (a) systematically mainstreaming the interests and rights of women and girls with disabilities in all national action plans, strategies, and policies concerning women, childhood, and disability, as well as in sectoral plans concerning, for example, gender equality, health, violence, education, political participation, employment, access to justice, and social protection; and by (b) taking targeted and monitored action aimed specifically at women with disabilities (24).

Committee on the Rights of Persons with Disabilities, General Comment No. 5 (2017) on living independently and being included in the community

This General Comment interprets Article 19 of the Convention on the Rights of Persons with Disabilities, which recognizes the equal right of all persons with disabilities to live independently and be included in the community, with the freedom to choose and control their lives (18). The foundation of the article is the core human rights principle that all human beings are born equal in dignity and rights and that all life is of equal worth. The General Comment specifies that "living independently means that individuals with disabilities are provided with all necessary means to enable them to exercise choice and control over their lives and make all decisions concerning their lives" (25).

Furthermore, the Committee recommends that States promote, facilitate, and provide appropriate legislative, administrative, budgetary, judicial, programmatic, promotional, and other measures to ensure the full realization of the right to live independently and be included in the community as enshrined in the Convention. States Parties are also required to take measures to eradicate practical barriers to the full realization of the right to live independently and be included in the community, such as inaccessible housing, limited access to disability support services, inaccessible facilities, goods, and

services in the community, prejudices against persons with disabilities, as well as actions by family members and third parties that directly or indirectly interfere with the enjoyment of the right. Finally, it establishes the obligation of States Parties to refrain from directly or indirectly interfering with or in any way limiting the individual exercise of the right to live independently and be included in the community (25).

Committee on the Rights of Persons with Disabilities, General Comment No. 6 on equality and non-discrimination (2018)

In this General Comment, the Committee states that “The human rights model of disability recognizes disability as a social construct and impairments must not be taken as a legitimate ground for the denial or restriction of human rights. It acknowledges that disability is one of several layers of identity. Hence, disability laws and policies must take the diversity of persons with disabilities into account. It also recognizes that human rights are interdependent, interrelated and indivisible” (26). Thus, States should modify or abolish existing laws, regulations, customs, and practices that constitute such discrimination.

In addition, the effective enjoyment of the rights to equality and non-discrimination calls for the adoption of enforcement measures, such as: (a) measures to raise the awareness of all people about the rights of persons with disabilities under the Convention, the meaning of discrimination, and the existing judicial remedies; (b) measures to ensure rights contained in the Convention are actionable in domestic courts and provide access to justice for all persons who have experienced discrimination; (c) protection from retaliation, such as adverse treatment or adverse consequences in reaction to a complaint or to proceedings aimed at enforcing compliance with equality provisions; (d) the legal right to bring a lawsuit to court and to pursue claims through associations, organizations, or other legal entities that

have a legitimate interest in the realization of the right to equality; (e) specific rules relating to evidence and proof to ensure that stereotyped attitudes about the capacity of persons with disabilities do not result in victims of discrimination being inhibited in obtaining redress; (f) effective, proportionate, and dissuasive actions for breach of the right to equality and adequate remedies; and (g) sufficient and accessible provision of legal aid to ensure access to justice for the claimant in discrimination litigation (26).

Committee on the Rights of Persons with Disabilities, General Comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention

In this General Comment, the Committee on the Rights of Persons with Disabilities emphasizes that the active and informed participation of everyone in decisions that affect their lives and rights is consistent with the human rights-based approach in public decision-making processes, and ensures good governance and social responsibility. It notes that States Parties should include the obligation to closely consult and actively integrate persons with disabilities, through their own organizations, in legal and regulatory frameworks and procedures, across all levels and branches of Government. States Parties should also consider consultations and the involvement of persons with disabilities as a mandatory step prior to the approval of laws, regulations, and policies, whether mainstream or disability-specific. Therefore, consultations should begin in the early stages and extend to include input to the final product and in all decision-making processes.

All persons with disabilities, including persons with psychosocial or intellectual disabilities, should be able to effectively and fully participate without discrimination on an equal basis with others. States should adopt

legislation and regulations, and develop programs to ensure that everyone understands and respects the will and preferences of children, and considers their personal evolving capacities at all times. The recognition and promotion of the right to individual autonomy is of paramount importance for all persons with disabilities, including children, to be respected as rights holders (27).

Inter-American System of Human Rights

The Inter-American System of Human Rights is composed of two principal entities: the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (IACtHR) (28).

The IACHR is composed of seven members elected by the OAS Member States, and focuses on three main areas: (a) the petition and case system (through which complaints related to specific cases are brought to the IACHR); (b) monitoring the human rights situation in OAS member countries, for example, through country visits and the publication of reports with recommendations; and (c) work in priority thematic areas, including monitoring and technical cooperation by existing rapporteurships and working groups (29), which include the Rapporteur on the Rights of Persons with Disabilities.⁴

The Inter-American Court of Human Rights, composed of seven judges, is an autonomous institution with contentious and advisory functions, whose objective is to interpret and apply the American Convention on Human Rights. Under its contentious function, the Court may determine whether a State has incurred international responsibility for the violation of a right guaranteed in the Convention or in other treaties of the Inter-American System. The Court also plays an advisory role, under which it may answer questions from Member States or other OAS bodies on the interpretation of the American

Convention and other treaties, or on the compatibility of national legislation with the Convention (28).

Legally binding inter-American instruments⁵

American Convention on Human Rights (“Pact of San José,” 1969)

This treaty is the principal human rights instrument of the Region, due to the number of rights it recognizes and its predominant role in the human rights obligations of the States Parties. It recognizes, among other rights, the right to life, physical integrity, and personal liberty. These provisions are fundamental to the situation of institutionalization in which persons with disabilities often find themselves. In addition, this instrument establishes the obligation of States Parties to protect the rights and freedoms of all persons without discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition. The Convention also recognizes that all persons, including persons with disabilities, are entitled, without discrimination, to the equal protection of the law (30).

Inter-American Convention to Prevent and Punish Torture (1985)

In accordance with the provisions of this Convention, each State shall take effective measures to prevent and punish torture and other forms of cruel, inhuman, and degrading treatment or punishment within its jurisdiction. This treaty also provides that States Parties must ensure that all acts of torture and attempts to commit torture are offenses under their criminal law and shall make such acts punishable by severe penalties. In addition, States Parties should take measures so that, in the training of police officers and other public officials

⁴ <https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/r/dpd/default.asp>.

⁵ The designations “covenant,” “convention,” or other forms do not change the binding nature of these instruments. These are treaties within the meaning of the Vienna Convention on the Law of Treaties (1969), which provides that every treaty in force is binding upon the parties to it and must be performed by them in good faith. A party may not invoke the provisions of its domestic law as justification for its non-compliance with a treaty.

responsible for the custody of persons temporarily or definitively deprived of their freedom, special emphasis is put on the prohibition of the use of torture in interrogation, detention, or arrest, especially for those deprived of their personal liberty in public institutions, including psychiatric or other hospitals (37).

Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (“Protocol of San Salvador,” 1988)

The States Parties to this protocol undertake to guarantee the exercise of the rights set forth therein without discrimination of any kind for reasons related to race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition. The Protocol guarantees that every human being should enjoy the right to health, and the States Parties agree to recognize health as a public good, prevent further abuses, and promote education on issues of health. It specifically covers the rights of persons with disabilities by obligating States Parties to establish programs to provide such persons with the resources and environment necessary to achieve the maximum possible development of their personhood. States Parties further undertake to provide special training to the families of persons with disabilities (32).

Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (“Convention of Belém do Pará,” 1994)

The foundation of this instrument is the conviction that the elimination of violence against women is essential for their individual and social development. The Convention provides that every woman, including women with disabilities, has the right to the recognition, enjoyment, exercise, and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others, the right to respect for life, and to respect for physical, mental, and moral integrity (33). This

instrument is highly useful in eradicating the physical, sexual, and psychological violence against women with disabilities that frequently occurs within the family, the community, and in medical and psychiatric facilities.

Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities (1999)

The objectives of this Convention are to prevent and eliminate all forms of discrimination against persons with mental or physical disabilities, and to promote their full integration into society. It is the first international convention to specifically address the rights of persons with disabilities. It defines discrimination against persons with disabilities as “any distinction, exclusion, or restriction based on a disability, record of disability, condition resulting from a previous disability, or perception of disability, whether present or past, which has the effect or objective of impairing or nullifying the recognition, enjoyment, or exercise by a person with a disability of his or her human rights and fundamental freedoms” (34).

This treaty sets out the obligations of States Parties with respect to the administrative, legislative, judicial, and other measures to ensure equal access to the rights of persons with disabilities.

To monitor the commitments made in this Convention, the Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities was established, composed of a representative designated by each State Party (34).

Inter-American Convention against All Forms of Discrimination and Intolerance (2013)

This Convention states that discrimination is “any distinction, exclusion, restriction, or preference, in any area of public or private life, the purpose or effect of which is to nullify or curtail the equal recognition, en-

joyment, or exercise of one or more human rights and fundamental freedoms enshrined in the international instruments applicable to the States Parties” (35). It further states that discrimination may be based on various grounds, such as disability, among many others, which in certain cases may overlap. It also provides that “indirect discrimination shall be taken to occur, in any realm of public and private life, when a seemingly neutral provision, criterion, or practice has the capacity to entail a particular disadvantage for persons belonging to a specific group, or puts them at a disadvantage, unless said provision, criterion, or practice has some reasonable and legitimate objective or justification under international human rights law” (35). These provisions are central to formulating, implementing, and evaluating public policies relating to persons with disabilities.

Inter-American Convention on Protecting the Human Rights of Older Persons (2015)

This Convention recognizes the specific rights of older persons, including older persons with disabilities, such as the right to independence and autonomy, the right to long-term care, the right to free and informed consent on matters of health and security, the right to a life free of violence of any kind, and the right not to be subject to torture or cruel, inhuman, or degrading treatment or punishment, as well as economic, social, cultural, and environmental rights.

With regard to the right to health, this treaty is also very advanced in its various provisions, since it establishes that older persons have the inalienable right to express their free and informed consent on health matters, as well as the right to a comprehensive system of care that protects and promotes their health, provides social services, food and nutrition security, water, clothing, and housing, and promotes the ability of older persons to stay in their own home and maintain their independence and autonomy (36).

Regional declarations, principles, recommendations, standards, and technical guidelines

American Declaration on the Rights and Duties of Man (1948)

The objective of this Declaration is to protect civil, political, economic, social, and cultural rights and fundamental freedoms (37), and forms part of what is known as the regional *corpus juris* in the field of human rights. Although it is not an international treaty that States must ratify, it is understood, as a matter of international custom, that this Declaration is binding on the countries of the Americas.

Caracas Declaration (1990)

This PAHO Declaration states that the resources, care, and treatment available to people with mental health conditions must safeguard their personal dignity and human and civil rights. It calls upon health authorities, mental health professionals, legislators, lawyers, and civil society organizations to advocate for and develop programs that promote integrated and community-based health services. It also invites these groups to monitor and defend the human rights of persons with disabilities in accordance with national legislation and international agreements. The Declaration calls for legislative reforms based on increasing awareness of the human rights of persons with mental disabilities. It establishes that the exclusive use of hospitalization in a psychiatric hospital isolates patients, thereby generating a deeper disability that can jeopardize the right to health and other rights (38).

Panama Consensus (2010)

Twenty years after the Caracas Declaration, PAHO organized the Regional Conference on Mental Health, in which mental health workers from the Region of the Americas from the public sector, national health authorities, representatives of human rights organizations, non-governmental organizations, academic institutions, and PAHO/

WHO collaborating centers, as well as users of mental health services and family members, called on States to promote implementation of the Strategy and Plan of Action on Mental Health, through a process adapted to the particular conditions of each country, to respond appropriately to current and future mental health needs. They committed to: (a) strengthen the community mental health care model in every country in the Region to ensure eradication of the insane asylum system in the coming decade; (b) recognize protection of the human rights of users of mental health services as a basic objective, especially their right to live independently and be included in the community; (c) identify current and emerging challenges in national situations that demand an appropriate response by the mental health services, especially psychosocial problems in children, adolescents, and women, as well as population groups in special and vulnerable situations; and (d) increase the allocation of resources to mental health programs and services and ensure appropriate, equitable distribution of these resources, so that they are adequate to the growing burden of mental health and substance use disorders, with the understanding that investing in mental health means contributing to overall health and well-being, as well as to the social and economic development of countries (39).

***Montreal Declaration on Intellectual Disabilities (2004)**

Adopted in Montreal at the International Conference on Intellectual Disability, this technical instrument states that all persons with intellectual disabilities are equal before the law and have the right to exercise all of their civil, political, economic, social, and cultural rights and fundamental freedoms on an equal basis with others. One of the most important recommendations from this Declaration concerns the procedures to be followed and the protection to be afforded in the event of temporary suspension of certain rights of a person with an intellectual disability. The Declaration also includes recommendations related to procedures for assigning

personal representatives in the context of the human rights and fundamental freedoms of these persons (40).

PAHO CD47.R1 (2006): Disability: Prevention and Rehabilitation in the Context of the Right to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health and Other Related Rights

Through this resolution, the 47th Directing Council of PAHO issues recommendations to Member States and to the Director on the promotion and protection of human rights and fundamental freedoms, especially regarding the right to physical and mental health of persons with disabilities. This resolution refers to specific measures that can improve the well-being of persons with disabilities, such as creating community-based rehabilitation strategies and programs with the participation of organizations of persons with disabilities, providing adequate, timely, and effective medical care for persons with disabilities, and amending disability laws in accordance with relevant international human rights norms and standards. The resolution urges the Director of PAHO to consolidate and strengthen collaboration with human rights organizations, such as the Committee on the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, among others (41).

Brasilia Consensus (2013)

The objectives of the First Regional Meeting of Users of Mental Health Services and their Families, convened by PAHO, were, among others: (a) to promote the sharing of personal and institutional experiences on the autonomy and empowerment of users of mental health services and their families in the Region of the Americas, so as to promote their social organization and involvement in decisions related to mental health policies; (b) to promote discussion and reflection on mental health public policies in the Region; and (c) to empower family members and users to assess the quality of mental health services and their respect for human rights (42).

WHO Resolution WHA 71.8 (2018): “Improving Access to Assistive Technology”

In this Resolution, WHO urges Member States to: (a) develop, implement, and strengthen policies and programs, as appropriate, to improve access to assistive technology, within the framework of universal health and/or social services coverage; (b) ensure that adequate and trained human resources for providing and maintaining assistive products are available at all levels of health and social services delivery; (c) ensure that assistive technology users and their care givers can access the most appropriate assistive products and use them safely and effectively; (d) where appropriate, based on national needs and context, develop a national list of priority assistive products that are affordable, cost-effective, and meet minimum quality and safety standards, drawing on WHO’s priority assistive products list; (e) promote and invest in research, development, innovation, and product design to make existing assistive products affordable; and develop a new generation of products including high-end or advanced assistive technology, taking advantage of universal design and new evidence-based technologies, in partnership with academia, civil society organizations, in particular with persons with disabilities, older persons and their representative organizations, and the private sector, as appropriate; (f) encourage international and/or regional collaboration for the manufacturing, procurement, and supply of priority assistive products, ensuring that these remain affordable and available across borders; (g) collect population-based data on health and long-term care needs including those that may be met by assistive technology, in order to develop evidence-based strategies, policies, and comprehensive programs; (h) invest in and promote inclusive and barrier-free environments so that all people in need of assistive technology can make optimal use of it, so that they can live independently and safely and participate fully in all aspects of life; and (i) promote the inclusion of priority assistive products and inclusive barrier-free environments within emergency preparedness and response programs (43).

Plan of Action on Disabilities and Rehabilitation: Final Report (2020)

The Plan of Action on Disabilities and Rehabilitation (document CD53/7, Rev. 1, and resolution CD53.R12) was approved by PAHO Member States at the 53rd Directing Council in 2014. The Plan of Action also relates to the WHO Global Disability Action Plan 2014–2021: Better Health for All People with Disability, the United Nations Convention on the Rights of Persons with Disabilities, and the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities.

The goal of the Plan of Action was to strengthen the comprehensive health sector response for persons with disabilities. The Plan’s final report notes that progress is being made across the Region, but also that much remains to be done to ensure that persons with disabilities are not left behind, and that those in need of rehabilitation and assistive technologies have access to these services. To this end, the following actions are envisaged: (a) ensure that persons with disabilities are incorporated into the agenda on health equity and human rights, including within the new framework on health equity; (b) strengthen the coordination of the broader disability and development agenda (social inclusion) with the initiatives being led by the OAS and other agencies; (c) promote more explicit reference to rehabilitation and assistive technologies within PAHO’s health initiatives on universal health care, chronic disease management, healthy aging, and emergencies; (d) include rehabilitation professionals in data collection on human resources for health; (e) promote data collection on the functioning of the health information system, utilizing the ICF and other measures; (f) propose a new action plan on rehabilitation services in the Americas to continue the progress that has been made so far and to advance toward the attainment of universal health care; and (g) ensure that the WHO resolution WHA71.8 (2018), “Improving Access to Assistive Technology,” is implemented across the Region (44).

IACHR Resolution 1/2020: “Pandemic and Human Rights in the Americas” (2020)

On 10 April 2020, the IACHR adopted Resolution 1/2020, entitled “Pandemic and Human Rights in the Americas,” in light of the unprecedented global health emergency facing the Americas and the world caused by the rapid global spread of COVID-19. The document recognizes that pandemics and their consequences, including containment measures implemented by States, have serious impacts on mental health, which is part of the right to health, particularly with respect to certain individuals and groups at greatest risk.

The section on recommendations specifically provides that States must guarantee the following specific measures for persons with disabilities: (a) ensure that persons with disabilities receive preferential medical care without discrimination, even in cases where medical resources are rationed; (b) ensure that people with disabilities participate in the design, implementation, and monitoring of measures adopted to address the COVID-19 pandemic; (c) adapt the physical facilities in confinement settings and health care institutions, both public and private, to ensure that people with disabilities can enjoy the greatest possible independence, and make use of measures such as social isolation and frequent handwashing, among other things; (d) make reasonable adaptations and provide the necessary support to ensure that persons with disabilities can exercise their human rights equally in the context of isolation or containment measures; and (e) use accessible communications strategies to inform people about the evolution, prevention, and treatment of COVID-19 (45).

How these standards should be applied and how international and regional human rights systems can be used strategically

The instruments and mechanisms of the United Nations and the Inter-American System of Human Rights establish a firm legal basis for the adoption of measures that promote and protect the rights of persons with disabili-

ties in the Region of the Americas. Such measures must involve all segments of society: the various branches of government, civil society, academia, the media, and society as a whole. All stakeholders and interest groups should be aware of the human rights and protections guaranteed by these instruments, and should use them to review and improve national laws, policies, plans, programs, and practices. In addition, all sectors of society must respect the dignity and personal integrity of persons with disabilities, and promote the protection of their fundamental rights and freedoms.

For their part, the bodies of the United Nations human rights system and the Inter-American System of Human Rights are central tools to complement and support the work done by States at the national level, and can function both as monitoring and reporting bodies, and as bodies that cooperate with and provide technical assistance to States in promoting and protecting the human rights of persons with disabilities.

Ministries of health, education, and labor and other relevant bodies have an obligation to know, apply, and disseminate the international instruments, ratified voluntarily by their States, that recognize and protect human rights. These legal instruments create a range of obligations in terms of public policy, legislation, budget, and practices related to people with disabilities. Among other obligations, human rights conventions require that persons with disabilities be protected with regard to life, liberty, dignity, legal capacity, the ability to live independently, free from cruel, inhuman, and degrading treatment, and with regard to other economic, social, cultural, and environmental rights.

Governments have an obligation to ensure that their programs, plans, policies, and practices comply with the human rights standards set forth in these international instruments. To this end, the recommendations of the various bodies of the United Nations System and the Inter-American System are extremely useful, offering guidance and guidelines to States on which measures to adopt and on how to do so from a human rights perspective.

States not only have the obligation to not violate the rights of these groups, but also the responsibility to ensure that third parties are prevented from doing so. This is particularly relevant when establishing regulations, for example, on public and private health systems that must guarantee that treatment and hospitalization of persons with disabilities are approached from a human rights perspective. Human rights education is also a central tool for the promotion and protection of the rights of these populations, to avoid the innumerable situations of stigmatization and prejudice that they experience. In this regard, States must also ensure that they provide State actors with the most comprehensive level of education and training in protecting the human rights of persons with disabilities.

Health care center management teams must ensure that the admission, accommodations, and care of persons with disabilities are always in line with human rights standards. In addition, they must ensure that all staff are aware of, understand, and apply these standards.

Nursing and other personnel involved in medical care in hospitals and other health facilities must be aware of and implement the rights of persons with disabilities, and ensure that those rights are respected and protected in all contacts with them. Health care personnel should bear in mind that they may be the last line of defense in protecting the physical, psychological, and moral integrity of persons with disabilities, and thus are required to report any violation of any of the rights of such persons to the appropriate officials.

Admissions staff must, in all cases, obtain the informed consent of persons with disabilities who are admitted to a medical facility, in order to comply with international human rights standards. All other personnel of these institutions must ensure that they have obtained informed consent, whenever possible, for any treatment and care provided.

Legislators must be thoroughly familiar with international human rights law, and are responsible for ensuring that all national laws comply with obligations under international human rights conventions and instruments. If legal instruments are not in compliance, they should be analyzed and reformed to harmonize them with international standards. This is particularly important for countries that do not yet have normative frameworks that protect the rights of persons with disabilities, in accordance with the standards of international human rights law.

Justice system officials must apply the international and regional human rights legal framework in each of their decisions, and promote respect for human rights and fundamental freedoms without discrimination. The role of the judiciary is central to the observance of international human rights law that promotes and protects the rights of persons with disabilities. To this end, members of the judiciary should receive human rights training to ensure that the human rights approach, as well as the relevant standards, are incorporated in all judicial processes and in each of their decisions and sentences.

Members of the security forces must fully understand the importance of international human rights law in protecting the rights and freedoms of individuals and groups within the society. They must ensure respect for and protection of those rights and freedoms for all persons with disabilities. Governments have an obligation to provide human rights training to all security force personnel.

National human rights institutions or Office of the Ombudsman should follow up on citizen complaints and visit persons with disabilities in health facilities to ensure that their human rights are respected in accordance with international and national laws. They should also prioritize the human rights of persons with disabilities, since they have a central role in disseminating and promoting the human rights of this population.

Families have a central role in the protection of the rights of people with disabilities, since through their relationships they can promote cultural transformation in the perception of this population, and prevent instances of discrimination, stigmatization, and mistreatment throughout society.

Nongovernmental organizations working with persons with disabilities or working to promote and protect their rights have a central role in the ongoing requirement that States provide for the full realization of rights. These organizations should work to raise awareness on rights and utilize regional and international mechanisms for the protection of human rights, invoking them in cases where rights are violated at the local level within countries. Networks and partnerships among nongovernmental organizations are highly effective in combining forces and making optimal use of available resources.

The media play a fundamental role in transforming perceptions of people with disabilities and in promot-

ing their human rights. To this end, they should ensure that communication involving this group is always free from stereotypes, stigma, and discrimination, and should promote images or videos that show people with disabilities as independent, able to care for themselves, and contributing in different ways to the development of society and of their families. The media should also responsibly cover problems of abuse, neglect, and failure to respect the human rights of persons with disabilities, as well as the violence to which they are subjected.

People with disabilities should know their rights, given that they are protected by national and international law. In addition, they should understand the function of existing national, regional, and international mechanisms to promote and protect those fundamental rights and freedoms. They should unite to actively participate in the development and review of policies, plans, programs, and laws that affect them, and in any evaluation of services that purport to protect their human rights, reflecting the slogan “Nothing about us without us.”

References

- General Assembly. Convention on the Rights of Persons with Disabilities [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 13 December 2006 [consulted: 25 October 2021]. Available at: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>.
- World Bank Group. Disability Inclusion [Internet]. Washington, D.C.: World Bank; 23 December 2015 [last updated: 19 March 2021; consulted: 25 October 2021]. Available at: <https://www.worldbank.org/en/topic/disability#1>.
- United Nations Children's Fund. Children and Adolescents with Disabilities [Internet]. New York: United Nations Children's Fund; 21 September 2020 [last updated: 23 October 2021; consulted: 25 October 2021]. Available at: <https://www.unicef.org/lac/en/children-and-adolescents-disabilities>.
- United Nations. Women and girls with disabilities [Internet]. New York: United Nations; 18 September 2015 [last updated: 2 May 2019; consulted: 25 October 2021]. Available at: <https://www.un.org/development/desa/disabilities/issues/women-and-girls-with-disabilities.html>.
- Stang Alva MF (Centro Latinoamericano y Caribeño de Demografía, División de Población de la Comisión Económica para América Latina y el Caribe). Las personas con discapacidad en América Latina: del reconocimiento jurídico a la desigualdad real. Serie población y desarrollo [Internet]. Santiago, Chile: United Nations; April 2011 [consulted: 25 October 2021]. 84 pages. Available at: https://www.cepal.org/sites/default/files/publication/files/7135/S1100074_es.pdf.
- Pan American Health Organization. Disability [Internet]. Washington, D.C.: Pan American Health Organization; 3 December 2020 [last updated: 25 October 2021; consulted: 25 October 2021]. Available at: <https://www.paho.org/en/topics/disability>.
- Office of the United Nations High Commissioner for Human Rights. Human Rights Bodies [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 25 August 2015 [last updated: 19 October 2021; consulted: 25 October 2021]. Available at: <https://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>.
- Human Rights Council. United Nations Human Rights Council [Internet]. Geneva: United Nations Human Rights Council; 20 February 2018 [last updated: 19 October 2021; consulted: 25 October 2021]. Available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx>.
- Human Rights Council. Universal Periodic Review [Internet]. Geneva: United Nations Human Rights Council; 5 December 2015 [last updated: 19 October 2021; consulted: 25 October 2021]. Available at: <https://www.ohchr.org/EN/hrbodies/upr/pages/uprmain.aspx>.
- Office of the United Nations High Commissioner for Human Rights. Special Procedures of the Human Rights Council [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 13 September 2015 [last updated: 19 October 2021; consulted: 25 October 2021]. Available at: <https://www.ohchr.org/SP/HRBodies/EN/Pages/Welcompage.aspx>.
- Office of the United Nations High Commissioner for Human Rights. Human Rights Treaty Bodies [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 30 September 2015 [last updated: 19 October 2021; consulted: 25 October 2021]. Available at: <https://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>.
- Office of the United Nations High Commissioner for Human Rights. Committee on the Rights of Persons with Disabilities [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 5 May 2009 [last updated: 19 October 2021; consulted: 25 October 2021]. Available at: <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>.
- United Nations General Assembly. International Covenant on Civil and Political Rights [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 16 December 1966 [consulted: 25 October 2021]. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>.
- United Nations General Assembly. International Covenant on Economic, Social and Cultural Rights [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 16 December 1966 [consulted: 25 October 2021]. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.
- United Nations General Assembly. Convention on the Elimination of All Forms of Discrimination against Women [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 18 December 1979 [consulted: 25 October 2021]. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>.
- United Nations General Assembly. Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 10 December 1984 [consulted: 25 October 2021]. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>.
- United Nations General Assembly. Convention on the Rights of the Child [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 20 November 1987 [consulted: 25 October 2021]. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>.
- United Nations General Assembly. Convention on the Rights of Persons with Disabilities [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 13 December 2006 [consulted: 25 October 2021]. Available at: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>.
- United Nations. Universal Declaration of Human Rights [Internet]. New York: United Nations; 18 March 2021 [last updated: 25 October 2021; consulted: 25 October 2021]. Available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.
- United Nations General Assembly. Standard Rules on the Equalization of Opportunities for Persons with Disabilities [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 4 March 1994 [consulted: 25 October 2021]. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/PersonsWithDisabilities.aspx>.
- Committee on Economic, Social and Cultural Rights. General Comments Approved by the Committee on Economic, Social and Cultural Rights [Internet]. Geneva: United Nations Office at Geneva; 5 March 2012 [last updated: 20 October 2020; consulted: 25 October 2021]. Available at: https://conf-dts1.unog.ch/1%20spa/tradutek/derechos_hum_base/cescr/00_1_obs_grales_cte%20dchos%20ec%20soc%20cult.html#GEN5.
- Committee on the Rights of the Child. General Comment No. 9 (2006). The rights of children with disabilities [Internet]. Geneva: United Nations; 27 February 2007 [consulted: 25 October 2021]. Available at: https://www2.ohchr.org/english/bodies/crc/docs/GC9_en.doc.
- United Nations. Sustainable Development, the 17 Goals [Internet]. New York: United Nations; 20 April 2018 [consulted 25 October 2021]. Available at: <https://sdgs.un.org/goals>.
- Committee on the Rights of Persons with Disabilities. General Comment No. 3 (2016) on women and girls with disabilities [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 25 November 2016 [consulted: 25 October 2021]. Available at: <https://www.refworld.org/docid/57c977344.html>.

25. Committee on the Rights of Persons with Disabilities. General Comment No. 5 (2017) on living independently and being included in the community [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 27 October 2017 [consulted: 25 October 2021]. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/5&Lang=en.
26. Committee on the Rights of Persons with Disabilities. General Comment No. 6 (2018) on equality and non-discrimination [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 26 April 2018 [consulted: 25 October 2021]. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/6&Lang=en.
27. Committee on the Rights of Persons with Disabilities. General Comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention [Internet]. Geneva: Office of the United Nations High Commissioner for Human Rights; 9 November 2018 [consulted: 25 October 2021]. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/7&Lang=en.
28. Inter-American Court of Human Rights. What is the I/A Court H.R.? [Internet]. San José: Inter-American Court of Human Rights; 1 January 2010 [consulted: 25 October 2021]. Available at: https://www.corteidh.or.cr/que_es_la_corte.cfm?lang=en.
29. Organization of American States. What is the IACHR? [Internet]. Washington, D.C.: Organization of American States; 2021 [last updated: 25 October 2021; consulted: 25 October 2021]. Available at: <https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/mandate/what.asp>.
30. Organization of American States. American Convention on Human Rights [Internet]. Washington, D.C.: Organization of American States; 22 November 1969 [consulted: 25 October 2021]. Available at: https://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm.
31. Organization of American States. Inter-American Convention to Prevent and Punish Torture [Internet]. Washington, D.C.: Department of International Law, Organization of American States; 9 December 1985 [consulted: 25 October 2021]. Available at: <https://www.oas.org/juridico/english/treaties/a-51.html>.
32. Organization of American States. Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights "Protocol of San Salvador" [Internet]. Washington, D.C.: Department of International Law, Organization of American States; 17 November 1988 [consulted: 25 October 2021]. Available at: <http://www.oas.org/juridico/english/treaties/a-52.html>.
33. Organization of American States. Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women "Convention of Belém do Pará" [Internet]. Washington, D.C.: Department of International Law, Organization of American States; 9 June 1994 [consulted: 25 October 2021]. Available at: <https://www.oas.org/juridico/english/treaties/a-61.html>.
34. Organization of American States. Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities [Internet]. Washington, D.C.: Department of International Law, Organization of American States; 7 June 1999 [consulted: 25 October 2021]. Available at: <https://www.oas.org/juridico/english/treaties/a-65.html>.
35. Organization of American States. Inter-American Convention against All Forms of Discrimination and Intolerance [Internet]. Washington, D.C.: Organization of American States; 5 June 2013 [consulted: 25 October 2021]. Available at: http://www.oas.org/en/sla/dil/inter_american_treaties_A-69_discrimination_intolerance.asp.
36. Organization of American States. Inter-American Convention on Protecting the Human Rights of Older Persons [Internet]. Washington, D.C.: Organization of American States; 15 June 2015 [consulted: 25 October 2021]. Available at: http://www.oas.org/en/sla/dil/inter_american_treaties_A-70_human_rights_older_persons.asp.
37. Ninth International Conference of American States. American Declaration of the Rights and Duties of Man [Internet]. Washington, D.C.: Organization of American States; 2 May 1948 [consulted: 25 October 2021]. Available at: <http://www.oas.org/en/iachr/mandate/Basics/declaration.asp>.
38. Pan American Health Organization. The Caracas Declaration [Internet]. Caracas: Pan American Health Organization; 14 November 1990 [consulted: 25 October 2021]. Available at: <https://www.globalhealthrights.org/instrument/caracas-declaration/>.
39. Pan American Health Organization. Panama Consensus [Internet]. Panama City: Pan American Health Organization; 8 October 2010 [consulted: 25 October 2021]. Available at: <http://new.paho.org/hq/dmdocuments/2010/Panama%20Consensus.pdf>.
40. PAHO/WHO Montreal Conference on Intellectual Disabilities. The Montreal Declaration on Intellectual Disabilities [Internet]. Montreal: Pan American Health Organization, World Health Organization; 6 October 2004 [consulted: 25 October 2021]. Available at: <https://www.mpsba.gov.ar/files/documents/decl-montreal-discap-intelectual.pdf>.
41. 47th Directing Council of the Pan American Health Organization. Disability: Prevention and rehabilitation in the context of the right to the enjoyment of the highest attainable standard of physical and mental health and other related rights [Internet]. Washington, D.C.: Pan American Health Organization; 16 August 2006 [consulted: 25 October 2021]. Available at: https://www3.paho.org/hq/index.php?option=com_content&view=article&id=15162:47th-directing-council&Itemid=40507&lang=en.
42. Pan American Health Organization. The Brasilia Consensus 2013 [Internet]. Washington, D.C.; 17 October 2013 [consulted: 25 October 2021]. Available at: https://www3.paho.org/hq/index.php?option=com_content&view=article&id=12287:mental-health-mandates&Itemid=42059&lang=en.
43. 71st World Health Assembly. WHA71.8. Improving access to assistive technology [Internet]. Geneva: World Health Organization; 26 May 2018 [consulted: 25 October 2021]. Available at: https://apps.who.int/gb/ebwha/pdf_files/WHA71/A71_R8-en.pdf.
44. 58th Directing Council of the Pan American Health Organization. Plan of Action on Disabilities and Rehabilitation: Final Report [Internet]. Washington, D.C.; 10 August 2020 [consulted: 25 October 2021]. Available at: https://www.paho.org/en/file/72615/download?token=ds-u_adl.
45. Inter-American Commission on Human Rights. Pandemic and Human Rights in the Americas. Resolution 1/2020 [Internet]. Washington, D.C.; 10 April 2020 [consulted: 25 October 2021]. Available at: <https://www.oas.org/en/iachr/decisions/pdf/Resolution-1-20-en.pdf>.

Annexes

Annex 1. United Nations Human Rights System

Table A.1.1 shows seven international instruments of the United Nations human rights system that protect the fundamental rights and freedoms indicated. Table A.1.2 lists the countries that are parties to these instruments.

Table A.1.1. Select International Instruments of the United Nations Human Rights System that Protect the Listed Fundamental Rights and Freedoms

Fundamental rights and freedoms	Universal Declaration of Human Rights	International Covenant on Civil and Political Rights	International Covenant on Economic, Social and Cultural Rights	Convention on the Elimination of All Forms of Discrimination against Women	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Convention on the Rights of the Child	Convention on the Rights of Persons with Disabilities
Life	Art. 3	Art. 6, para. 1				Art. 6	Art. 10
Personal integrity	Art. 5	Art. 7			Arts. 1 and 16	Art. 19	Art. 17
Personal liberty	Art. 3	Art. 9				Art. 37	Art. 14
Due process	Art. 8	Art. 14			Art. 13	Art. 40	
Privacy	Art. 12	Art. 17				Art. 16	Art. 22
Freedom of expression	Art. 19	Art. 19, para. 2				Art. 13	Art. 21
Movement	Art. 13	Art.12		Art. 15, para. 4			Art. 20
Equal protection of the law	Art. 7	Art. 26		Arts. 3 and 15, para. 1			Art. 12
Judicial protection	Art. 10	Art. 14		Art. 15, para. 2	Art. 13	Art. 6	Art. 13
Work	Art. 23		Arts. 6 and 7	Art. 11			Art. 27
Enjoyment of the highest attainable standard of physical and mental health	Art. 25, para. 1		Art. 12	Art. 12		Art. 24	Art. 25
Education	Art. 26		Art. 13	Art. 10		Art. 28	Art. 24
Culture	Art. 27		Art. 15	Art. 13, section c)		Arts. 30 and 31	
Autonomy							Art. 19
Accessibility							Art. 9
Protection of women	Art. 25, para. 2		Art. 12, para.2 a)	All			Art. 6
Social security	Art. 23		Art. 9	Art. 11		Art. 26	Art. 28

Table A.1.2. Countries in the Region of the Americas that are Parties to Select International Instruments of the United Nations Human Rights System

International instrument	States Parties
Universal Declaration of Human Rights	Not subject to ratification
International Covenant on Civil and Political Rights	Argentina, Barbados, Belize, Bolivia (Plurinational State of), Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States of America, Uruguay, and Venezuela (Bolivarian Republic of)
International Covenant on Economic, Social and Cultural Rights	Argentina, Barbados, Belize, Bolivia (Plurinational State of), Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, and Venezuela (Bolivarian Republic of)
Convention on the Elimination of All Forms of Discrimination against Women	Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia (Plurinational State of), Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, and Venezuela (Bolivarian Republic of)
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Antigua and Barbuda, Argentina, Belize, Bolivia (Plurinational State of), Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Vincent and the Grenadines, United States of America, Uruguay, and Venezuela (Bolivarian Republic of)
Convention on the Rights of the Child	Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia (Plurinational State of), Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, and Venezuela (Bolivarian Republic of)
Convention on the Rights of Persons with Disabilities	Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia (Plurinational State of), Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, and Venezuela (Bolivarian Republic of)

Annex 2. Inter-American System of Human Rights

Table A.2.1 shows eight international instruments of the Inter-American System of Human Rights that protect the fundamental rights and freedoms indicated. Table A.2.2 lists the countries that are parties to these instruments.

Table A.2.1. Select International Instruments of the Inter-American System of Human Rights that Protect the Listed Fundamental Rights and Freedoms

Fundamental rights and freedoms	American Declaration of the Rights and Duties of Man	American Convention on Human Rights	Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights	Inter-American Convention on Protecting the Human Rights of Older Persons	Inter-American Convention Against All Forms of Discrimination and Intolerance	Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities	Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women	Inter-American Convention to Prevent and Punish Torture
Life	Art. I	Art. 4		Art. 6			Art. 4, section (a)	
Personal integrity	Art. XXV	Art. 5		Arts. 9 & 10			Art. 4	Art. 6
Personal liberty	Art. I	Art. 7		Art. 13			Art. 4, section (c)	
Due process	Art. XVIII	Art. 8					Art. 7, section (f)	Art. 8
Privacy	Art. V	Art. 11		Art. 16				
Freedom of expression	Art. IV	Art. 13		Art. 14				
Movement	Art. XIII	Art. 22		Art. 15				
Equal protection of the law	Art. II	Art. 24		Art. 30	Art. 2	Arts. II & III	Art. 4, section (f)	Art. 8
Judicial protection	Art. XXVI	Art. 25		Art. 31	Art. 10		Arts. 4, section (g), & 7	
Work	Art. XIV		Arts. 6 & 7	Art. 18		Art. III, para. 1 (a)		
Enjoyment of the highest attainable standard of physical and mental health	Art. XI		Art. 10	Art. 19		Art. III, para. 2 (a) & (b)	Art. 4, section (b)	
Education	Art. XII		Art. 13	Art. 20		Art. III, paras. 1 (a) & 2 (b)		
Culture	Art. XIII		Art. 14	Art. 21		Arts. III, para. 2, & IV, para. 2		
Autonomy				Art. 7				
Accessibility				Art. 26				
Protection of women	Art. VII			Arts. 5, 20 and 23			All	
Social security	Art. XVI		Art. 9	Art. 17	Art. 7			

Table A.2.2. Countries in the Region of the Americas that are Parties to Select International Instruments of the Inter-American System of Human Rights

International instrument	States Parties
American Declaration of the Rights and Duties of Man	Not subject to ratification
American Convention on Human Rights	Argentina, Barbados, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago, Uruguay, and Venezuela (Bolivarian Republic of)
Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador)	Argentina, Bolivia (Plurinational State of), Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela (Bolivarian Republic of)
Inter-American Convention on Protecting the Human Rights of Older Persons	Argentina, Bolivia (Plurinational State of), Chile, Costa Rica, Ecuador, El Salvador, Peru, and Uruguay
Inter-American Convention Against All Forms of Discrimination and Intolerance	Mexico and Uruguay
Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities	Argentina, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela (Bolivarian Republic of)
Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women	Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Saint Lucia, Suriname, Trinidad and Tobago, Uruguay, and Venezuela (Bolivarian Republic of)
Inter-American Convention to Prevent and Punish Torture	Argentina, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Uruguay, and Venezuela (Bolivarian Republic of)

PAHO



Pan American
Health
Organization



World Health
Organization
REGIONAL OFFICE FOR THE
Americas

525 Twenty-third Street, NW
Washington, D.C., 20037
United States of America
www.paho.org