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The situation of persons with disabilities in Guatemala

It is estimated that over two million¹ people live with some kind of disability in Guatemala, equivalent to around 13% of the population (15.47 million 2013) which is over the estimated average for Latin America (10% WHO). Disability is both a cause and a consequence of poverty and over 80% of the people with disabilities in Latin America live according to the World Bank in poverty. Only 15% of people with disabilities in Guatemala are estimated to have an income; 13% are occupied within the informal sector and only 2% have a formal employment according to the National Council for the Attention to People with Disabilities (CONADI).

Disability is a source of impoverishment both to the persons with disabilities and their families. Poverty dimensions in Guatemala are as elsewhere gendered and enhanced by racial discrimination, which is reflected in the life of persons living with disabilities. The National Institute of Statistics (INE) informs in the report *Mujeres y Hombres en cifras 2008*, that 66% of the persons with disabilities in 2005 were indigenous. They are highly overrepresented given that approximately 40% of the citizens belong to indigenous populations. The report shows that almost 60% of the women and 45% of the men with disabilities in the country have never enrolled in school, approximately 15% of the girls and 20% of the boys with disabilities had completed year 4 to 6 of the primary school and less than 5% of attended secondary school (2005).

The high rates of violence have contributed to an increase of disabilities particularly among young people. According the Guatemalan Institute of Social Security (IGSS) 80% of the cases of acquired disability are caused by firearms. The World Report on Disability (WHO/World Bank 2012) also notes that the risk of being exposed to

violence is in general higher for people with disabilities than those without disabilities. One extreme example is the sexual, physical and psychological violence committed by inmates, armed guards and other staff against children and adults with disabilities at the psychiatric Federico Mora Hospital. In 2012 the Inter-American Commission on Human Rights (IACHR), on the demand of Disability Rights International² and the Human Rights Office of the Archdiocese of Guatemala City (ODHAG), called on the government to take immediate actions to stop the human rights abuses. After continued pressure from the IACHR an Accord was signed with the government in October 2013 in which promises are given to create a system of community-based mental health services within two years, to reduce the number of detainees at the institution, to establish group homes for adults and new family-based supports for children with disabilities are to be established and that no new admissions of children will be allowed.

The national disability movement witnesses about widespread discriminatory attitudes towards persons with disabilities and lack of basic services (both due to the inexistence of services and economical and physical barriers). One matter that has been on the Disabled People's Organisations' (DPO) agenda during recent years is the low accessibility to public transport in Guatemala and other urban municipalities. Another critique refers to media's use of derogatory expressions and how it encourages images of pity rather than discussing rights. Local authorities are said to legitimise and intensify the exclusion and the literacy of disability rights is low both among public officials, the public and persons with disabilities (Grech 2008).

¹ CONADI

² <http://www.disabilityrightsintl.org/disability-rights-international-continues-to-pressure-guatemalan-government-to-end-human-rights-abuses-at-notorious-psychiatric-facility/>

The shadow report by DPO's to the Office of the Commissioner of Human Right (April 2012) mentions the lack of harmonisation of national policies and legislation with international commitments and highlights that:

Article 6 of the legislation of housing (Decree 9-2012) speaks about the right to a dignified, adequate and healthy home but does not mention the need special programmes or special approaches in order to respect the rights of people with disabilities. The Law on Special Education has no assigned funds which makes it dependent on the will of public officials. Actions for inclusive education in public schools, job opportunities and improvement of health services to people with disabilities have been announced without specifying how this will be implemented. No special measures are considered in relation to food security and there are no special initiatives to counteract malnutrition and its effects on people's intellectual, physical or sensorial disabilities. This is according to the shadow report particularly serious in relation to the high number of children suffering of malnutrition in the country.

In general disability rights tend to be framed in isolation and are not raised when rights to gender equality, education, health, housing, social protection, sexual and reproductive rights for instance are discussed. Given the serious human rights situation in the country disability rights seem to be overshadowed by other forms of discrimination and are rarely considered in national social programmes or in donor support to human rights defenders.

The legal and policy framework

Guatemala 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. The Convention is available at www.un.org/disabilities/convention/conventionfull.shtml.

Guatemala 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);

In terms of **national laws and policies**, the following have the most direct bearing on the rights of persons with disabilities:

- The Decree No.135-96 Law on the Attention to People with Disabilities from 1996. It has not been harmonised with the Inter-American Convention or UN Convention of the Rights of Persons with Disabilities. The implementation of the Law has been weak and it is criticised as inapt by civil society organisation. A new legislation proposal was presented to the Congress in November 2013 by the High Level Commission for the Harmonization of the Legal Framework of Disabilities (appointed by the Health and Social Assistance Commission of the Congress and with representatives from various DPOs). The proposal has not been approved.
- Modification of the Decree 135-96 in 2011 to recognise short people as persons with disabilities.
- The National Disability Policy (2006).
- The Law on Special Education for Persons with Special Education Needs with and without Disabilities (2007).
- Decree No. 76-97 National Law on the Development of Physical Culture and Sports (1990) and the National Law on Sports Decree 76-97 Non-Affiliated Sports (Deporte no Federado) (1998).

In spite of the policy commitments above disability remains a low priority for decision-makers. The formation of the parliamentary Disability Commission has been stalled over five years despite the multiple demands by DPOs and CONADI on the Congress. The disability movement stresses that the lack of alignment of national legislation to the international agreements shows the low level of commitment of the government. The law that regulates the annual national budget does not consider the legislative

and administrative measures needed to implement the international and national commitment to disability rights.

Implementing agencies

El *Consejo Nacional de Personas con Discapacidad* (Conadi), governmental agency with the purpose to coordinate, advice and implement the national disability policy for the integration and social inclusion of persons with disabilities on equal terms. Apart from monitoring the policy implementation of governmental entities it also provides training to different professionals, promote and participate in information campaigns. It makes public denouncement of cases of discrimination as in its recent critique of the National Council of Sports and Recreation for denying support to the Latin American Championship of Wheelchair Basketball, as the council's block of reforms of the Law of sports and Physical Culture.

The 2012 shadow report produced by the disability movement states that the relations with CONADI has not always been good and mentions that the board has been reported to the Attorney for Human Rights for violating the freedom of expression of a person with disabilities.

The *Defensoría de las Personas con Discapacidad* (Office for the Defence of the rights of Persons with Disabilities) was formed in 2003 and is part of the Ombudsman of Human Rights in Guatemala (PDH). Its principal functions is to define policies and strategies for the PDH on matters concerning the rights of people with disabilities, to conduct periodic analysis of the status of this population, to decide mediation policies in conflicts between authorities that are responsible to defend the rights of people with disabilities and to provide technical assistance to the Unit of Specific Rights, support the development of DPOs and participate as an observer in the CONADI.

Accountability measures

The two entities mentioned above are responsible for overview the implementation of disability policies and function as complaint mechanisms. Only state parties and the Inter-American Human Rights Commission can bring cases to the Inter-American Human Rights Court, but victim of human rights abuses can present their complaints to the Commission that in its turn decides if the

case should be brought to the Court (Art. 49 and 51 of CADH)

Main civil society actors

As far as organisations of people with disabilities are concerned, some of the actors in Guatemala are:

Asociación Central de Ciegos de Guatemala – ACCG, is a member of the World Blind Union and Latin American Blind Union, providing support and training in ICT and Braille among other activities.

Asociación Nacional de Ciegos de Guatemala

Asociación Guatemalteca de Personas con Discapacidad Visual

Asociación de Sordos de Guatemala- ASORGUA, a DPO formed in 1994, member of the World Federation of the Deaf (WFD). Programmes for the members (education, health, labour market).

Asociación de Personas con Discapacidad y Vida Independiente – PAVIDI, a DPO formed in 2010 promoting independent living for persons with disabilities.

Asociación Guatemalteca de Apoyo al Limitado Físico – AGALFI, member of *Comité Paralímpico Guatemalteco-COPAG*, works for the quality of life and the integration and social, economic and political equality of persons with disabilities through awareness raising, advocacy and the creation of spaces for its members.

Personas Productivas Con Discapacidad – ASODISPRO, focuses on labour rights and opportunities using a web platform to link persons with disabilities with companies and employers. It is also a spot for information particularly for persons that recently are facing disabilities.

Colectivo Vida Independiente de Guatemala is a DPO with members with and without disabilities that promote structural change through analysis, reflection, debate, education and research with the aim to strengthen the social, political and economic participation of persons with disabilities.

As the disability movement is rather fragmented there are also a substantial number of smaller DPOs at departmental level. There is no umbrella or national civil society platform for the DPOs and other civil society organisations working for disability rights.

What Sweden can do: 10 questions to discuss

Within the framework of the on going Swedish cooperation with Guatemala, focussing on peace and reconciliation, human rights, poverty reduction/inclusive economic growth, social equality and inclusion, basic health and gender equality - Sweden has great opportunities to include the rights of persons with disabilities. Some questions to discuss:

- Could Sweden do more to systematically include disability rights as an explicit part in its support to accountability mechanisms, human rights institutions and watchdog organisations? Especially in its support to indigenous organisation given that out of the 2 million persons with disabilities 1.3 are indigenous persons? Examples of monitoring tools can be downloaded [here](#).
- Could Sweden do more to include DPOS in civil society capacity development programmes in order to strengthen their capacity to raise awareness around disability rights and engage in monitoring of the implementation of legal and policy commitments?
- Could Sweden do more to include and enable DPOs and persons with disabilities to participate in its professional networks, academic engagements and in social and cultural events?
- Could Sweden do more to ensure that women with disabilities are included in programmes focussing on women economic empowerment, SRHR and gender-based violence?
- Could Sweden do more to promote inclusions of disability rights in access to justice programmes, for example efforts to assist children with disabilities to be registered and access their educational and health rights?
- Could Sweden do more to ensure that supported economic empowerment, rural development, microcredit, entrepreneurship and private sector programmes are accessible to and inclusive of persons with various disabilities? Examples of tools can be found [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 so? What support and additional information would the embassy need to take such initiative?
- Could Sweden do more to ensure that women, men and children with disabilities (and mental health conditions) are systematically included and even prioritised in emergency relief and humanitarian aid efforts? Could Sweden raise the issue of malnutrition as a cause to and consequence of disabilities? Examples of tools can be found at the IDDC web site [here](#). Other tools are:
 - ✓ Manual on mainstreaming disability in disaster risk reduction [here](#)
 - ✓ Disability and the post-conflict agenda [here](#)
 - ✓ Involvement of Persons with Disabilities in Conflict Resolution and Peace Building Efforts [here](#)
 - ✓ Disability Inclusive Disaster Risk Management: Voice from the Field and Good Practices [here](#)
- Could Sweden do more to ensure that deliberate measures are taken to make supported social and basic health services accessible and inclusive of men, women and children with various disabilities? Inclusion Made Easy - a quick programme guide to disability in development [here](#).
- Could Sweden do more to keep up to date on the situation of the rights of persons with disabilities in Guatemala?

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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.