**Questionnaire: The right to liberty and security of persons with disabilities**

1. **Context**

For her report to the Human Rights Council, 40th session, the Special Rapporteur on the rights of persons with disabilities, Ms. Catalina Devandas Aguilar, intends to focus on the right to liberty and security of persons with disabilities.

The Special Rapporteur intends to undertake an innovative research on the various forms of deprivation of liberty experienced exclusively by persons with disabilities across the globe. In her report, she aims to examine the global challenges in relation to securing enjoyment of the right to liberty and security of person by persons with disabilities on an equal basis with others, identify disability-specific forms of deprivation of liberty and scrutinize them through the lens of human rights, as well as to present emerging trends and good practices related to securing implementation of this right.

The Special Rapporteur hopes to further develop the understanding of the scope of the right to liberty and security of the person in relation to persons with disabilities and to provide a clear guiding framework aimed at assisting governments in the implementation of rights as set under the article 9 of the International Covenant on Civil and Political Rights, article 37(b) of the Convention on the Rights of the Child, and article 14 of the Convention on the Rights of Persons with Disabilities.

The following questionnaire will assist the Special Rapporteur to identify instances in which persons may be deprived of their liberty for reasons tied to their actual or perceived disabilities and to better grasp the current situation when it comes to the enjoyment of the right to liberty and security by persons with disabilities.

1. **Questionnaire**
2. Please provide information in relation to the existence of legislation and policies that are intended to ensure and protect the right to liberty and security of persons with disabilities.
3. Please provide information on relevant legislation and policies related to:
   1. exercise of legal capacity;
   2. the rights of persons with disabilities in institutions[[1]](#footnote-1) including processes of deinstitutionalisation;
   3. involuntary admission to mental health services or other institutions;
   4. criteria to be found not criminally responsible (insanity defence, *inimputabilidad*, etc.);.
   5. unfitness to stand trial or unfitness to plead;
   6. security measures and diversion programmes.
4. Please provide the most recently available data, disaggregated by sex and age if possible, on the number of:
   1. persons under guardianship;
   2. cases where the state or an organisation has been appointed guardian;
   3. institutions for persons with disabilities;
   4. persons with disabilities placed in institutions;
   5. persons in institutions under guardianship;
   6. registers of the use of seclusion and restraints and its frequency;
   7. involuntary admissions to mental health services or other social care facilities;
   8. existing inpatient mental health facilities;
   9. beds for mental health inpatients in psychiatric hospitals and general hospitals;
   10. average days a person spends under involuntary admission at mental health facilities;
   11. persons who have been declared unfit to stand trial or unfit to plead;
   12. persons who have been found not to be criminally responsible;
   13. institutions where persons who have been declared unfit to plead, stand trial or found to be not criminally responsible are placed and number of inmates;
   14. security or preventive measures applied in the criminal justice context.
5. Please provide information on jurisprudence, complaints or investigations in relation to abuses and violence against persons with disabilities at home.
6. Please provide any other relevant information (including information from surveys, censuses, administrative data, reports, studies, and case law) in relation to the right to liberty and security of persons with disabilities in your country. Please also refer to any innovative initiatives that have been taken at the local, regional or national level to promote and ensure the right to liberty and security of persons with disabilities and identify lessons learned from these.

Thank you for your responses and contributions.

1. **Submission of responses**

Due to limited capacity for translation, we kindly request that you submit your answers, if possible, in **English, Spanish or French** and, no later than **30 May 2017.** Kindly identify links or provide copies of any laws, documents or cases, related to your answers. All responses will be posted in the official web page of the Rapporteur unless you indicate otherwise at:

[http://www.ohchr.org/EN/Issues/Disability/SRDisabilities](https://www.ohchr.org/EN/Issues/Disability/SRDisabilities)

Kindly be concise in your responses and them preferably via email to: [sr.disability@ohchr.org](mailto:sr.disability@ohchr.org), copying [registry@ohchr.org](mailto:registry@ohchr.org).

For any question, please contact the Special Rapporteur through Ms. Alina Grigoras, human rights officer at Special Procedures Branch- OHCHR: email: agrigoras@ohchr.org; phone: +41 22 917 92 89; or Ms. Cristina Michels, human rights officer at Special Procedures Branch- OHCHR: email: cmichels@ohchr.org, phone +41 22 928 9866.

1. For the purposes of this questionnaire, institutions include all facilities that are aimed to provide shelter, care or a living arrangement **for persons with disabilities** such as residences, nursing homes, orphanages, homes for the elderly, community homes, tutorised homes, farms, faith based institutions, boarding schools, prayer camps, or others. [↑](#footnote-ref-1)