



HUMAN
RIGHTS
WATCH

“I Want to be a Citizen Just like Any Other”

Barriers to Political Participation for People with Disabilities in Peru

Summary and Key Recommendations



**“I Want to be a Citizen
Just like Any Other”**

Barriers to Political Participation for People with Disabilities in Peru



Peru has no system in place to support people with disabilities in making their own decisions. In the absence of such a mechanism, family members of people with disabilities, like Vanya (second from right) are considering interdiction because they perceive this to be the only way under Peruvian law to protect their property or legal interests.

The Convention [on the Rights of Persons with Disabilities] says that we have equal recognition as a person before the law. I have the right to vote. I have the right to work. It's not someone else's decision.

MARIA ALEJANDRA VILLANUEVA, A YOUNG WOMAN WITH DOWN SYNDROME,
PERUVIAN ASSOCIATION OF PEOPLE WITH DOWN SYNDROME, JANUARY 2012

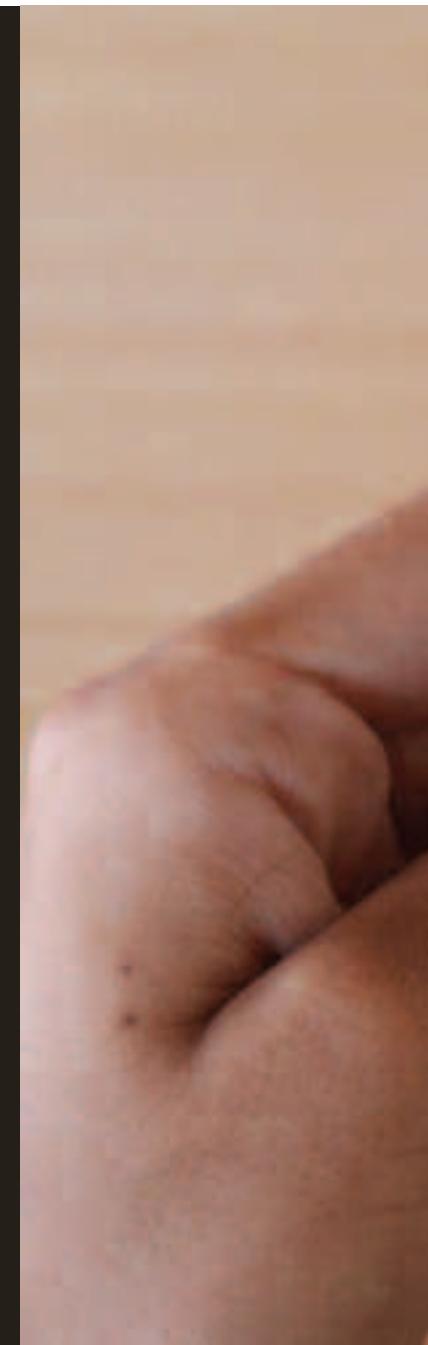
Peru was among the first countries in the world to become a party to the Convention on the Rights of Persons with Disabilities (CRPD) in 2008. This step signified its commitment to ensure equal rights for all persons with disabilities, including the right to political participation, which encompasses the right to vote, stand for office, and participate in decisions about public affairs.

Peru has inscribed disability rights protections in a wide range of domestic laws and public policies. Peru's national disability law, enacted in 1999, establishes a national council for persons with disabilities, charged with formulating public policies regarding persons with disabilities. The 1999 law also requires the Public Ombudsman to appoint an ombudsman specializing in defending the rights of persons with disabilities, and for municipal and regional governments to establish offices to support the inclusion of people with disabilities in local decision-making. Congress, government agencies, and civil society have been engaged in policy and legal reforms to ensure that national laws conform to the

CRPD, including on the right to political participation of people with disabilities, and for dedicated budgets to advance such reforms.

However, despite ratifying the CRPD and having many progressive legal provisions on disability rights, other laws and policies still in place in Peru mean that people with disabilities, particularly those with intellectual or psychosocial disabilities, may be prevented from exercising fundamental legal rights including the right to vote.

This report documents legal, physical, communication and attitudinal barriers experienced by people with different disabilities in exercising their right to political participation





just like others in society. It also examines how restrictions on legal capacity impact the ability of people with intellectual and psychosocial disabilities in particular to enjoy a range of rights, including the right to own or inherit property, be employed or legally represent their children.

Between July and November 2011, Human Rights Watch interviewed 65 persons with disabilities or their relatives, as well as more than 35 representatives of disabled persons organizations, legal experts, parliamentarians and government officials in three regions in Peru (Lima, Cusco and Puno). These regions were chosen because of their geographic and demographic diversity (including people from

A national identity card, shown here, is required for voting as well as for financial matters, such as opening a bank account. Human Rights Watch interviewed people with disabilities who have been unable to obtain these cards or have cards marked with the phrase “mentally disabled” and do not designate a polling station.

rural or indigenous communities) and because there are active organizations working with persons with disabilities that offered to facilitate interviews with people with disabilities.



Maria S., the mother of Javier, a 22-year old man with a mild intellectual disability, told us about her son's experience at the bank, when they asked him for his identity card. "They check for the voting number and the sticker. When there is no sticker, it's like they ignore them, their capacity as an adult, as a person."

Human Rights Watch spoke with several people with disabilities who had been interdicted or were at risk of interdiction, a legal process provided for in Peru's Civil Code by which a judge declares a person either absolutely or partially incompetent to take care of one's self and property and imposes another person as guardian to act on their behalf, in effect suspending their civil rights.

Peru has no system in place to support people with disabilities in making their own decisions. In the absence of such a mechanism, family members of people with disabilities sought interdiction because they perceived this to be the only way under Peruvian law to protect their property or legal interests, including their right to pension or social security benefits.



Marcelino, the father of three young men with intellectual disabilities, shows his sons' identity cards, all of which are marked with the phrase "mentally disabled".

The process of interdiction provided for in the Peruvian Civil Code is incompatible with the government's obligations under the CRPD, which states that people with disabilities "enjoy legal capacity on an equal basis with others in all aspects of life." The Organization of American States' (OAS) Committee for the Elimination of all Forms of Discrimination against Persons with Disabilities has called on states parties to ensure the recognition of legal capacity of all persons, including all persons with disabilities, for example, by replacing interdiction and related practices with supported decision-making. The CRPD Committee, which monitors implementation of the treaty, has further called on the Peruvian government to "abolish the practice of judicial interdiction."¹

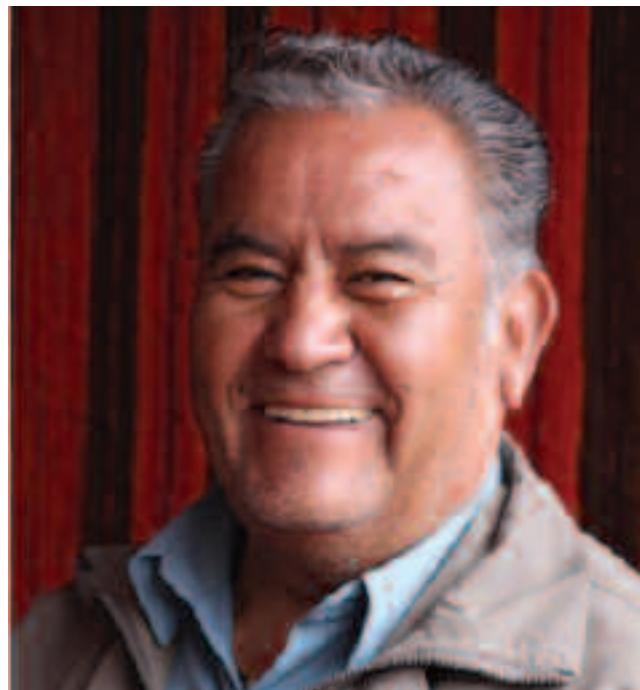


(above) Members of FEDEPRODDIS gathered in the center of Cusco city after a demonstration on the rights of persons with disabilities.

(right) Aquiles Delgado Cosio, president of FEDEPRODDIS, which has worked with local disabled persons' organizations throughout the region to support their engagement in participatory budgeting processes.

People with disabilities in Peru also face challenges related to identity cards, an important document for all citizens in Peru. The possession of a national identity card with proof of or, absent such proof, dispensation from voting is essential for an individual to complete civil, commercial, administrative, and judicial transactions. Without such a card, Peruvians face obstacles in practically all spheres of life: travel, employment, owning or inheriting property, opening a bank account, accessing the healthcare system, getting

¹ UN Committee on the Rights of Persons with Disabilities, "Consideration of reports submitted by States parties under article 35 of the Convention, Concluding observations of the Committee on the Rights of Persons with Disabilities, Peru," CRPD/C/PER/CO/1, April 20, 2012, paras. 25.





Claudia (left), a 24-year old woman with Down Syndrome, with her mother Gina. Claudia voted in the 2010 and 2011 municipal and presidential elections. If she were to be judicially interdicted, a process which would declare her legally incapable and appoint her a legal guardian, she would lose her right to vote under Peruvian law.





Javier Diez Canseco is among five parliamentarians with disabilities in the national Congress.



Wilfredo Guzman, president of CONADIS, the national disability council, ran for Congress in 2011.



Susana Stiglich, an advocate for the deaf community, told Human Rights Watch that communication barriers limit deaf persons' opportunities to stand for election: "I think few deaf people want to run for office because there are many limitations."



In October, 2011, members of SENSE International Peru, an NGO that works with people who are deafblind, marched to the municipal government office in San Borja, Peru to demand their rights. This was the first time that members of the deafblind community had been engaged in political advocacy.

married, or legally representing their children. They also have difficulty accessing government social security benefits.

The National Registry for Identification and Civil Status (Registro Nacional de Identificación y Estado Civil, or RENIEC, one of three independent institutions constitutionally mandated with coordinating and conducting elections) and the Public Ombudsman's office have undertaken national campaigns since 2004 to protect the rights to identity and citizenship of people with disabilities (among other marginalized populations), including by providing identity cards free of charge. Despite these campaigns, some people with disabilities, especially those living in rural areas and people living long-term in institutions, remain without identity cards, effectively making them invisible as citizens. In fact, some people with disabilities who arrived in institutions without

identity cards have for years been identified with the initials "N.N." (no name); it falls to hospital staff to decide to give them names. In November 2011 RENIEC established a government working group to address disenfranchisement linked to undocumented status, and also launched a campaign to provide identity cards with voting assignments for people living in institutions. An identity card with a voting assignment signifies that the holder is eligible to vote.

By law, people with disabilities can choose whether to include information about their disability on their identity card. Many people with disabilities told Human Rights Watch that they preferred not to include this information, as doing so may subject them to discrimination based on their disabilities. However, this choice has not always been respected. Our research documented several cases in which RENIEC employees included information about a person's disability without the person's authorization, and even in some cases against the explicit wishes of the person or their family members.

RENIEC's civil registry includes information about disability, regardless of whether it appears on the identity card, as well



Maria Alessandra (left), a 21-year old woman with mild intellectual disability, and her mother Lourdes. Maria Alessandra was one of over 23,000 people with disabilities in Peru who were excluded from the voter registry for the 2010-2011 municipal and presidential elections under a former government policy.





Irma Quispe Meseco, founder, Association of People with Disabilities, Chinchero District, Cusco said that in rural areas like hers, some people with disabilities could not vote because they had no identity documents, notwithstanding government efforts to address lack of documentation for people with disabilities.

as information related to voting (restrictions on voting and compliance with voting obligations). There are legitimate reasons to collect information about disability, but of concern is the fact that RENIEC's civil registry is available to private institutions and government, and they use it as a basis to decide a person's competence to make legal and financial decisions, such as opening a bank account or getting married.

People with intellectual or psychosocial disabilities interviewed by Human Rights Watch told us that they could not cash checks or make basic decisions such as distributing property to their children because of the designation on their card that they had not voted or could not vote. They also said that the phrase "mental disability" on their identity card made them a target of ridicule by friends and people in the community.

Until October 2011 the Peruvian authorities systematically excluded over 23,000 persons with intellectual or psychosocial disabilities from the voter registry. Based on a RENIEC policy in force between 2001 and October 2011, people with intellectual or psychosocial disabilities were either unable to obtain a national identity card that is required for voting, or were issued with identity cards that labeled



Juan Manuel, pictured here, lived in an institution for 17 years, but now lives in the community, with support from an organization called HANOPREM. While in an institution he was unable to exercise his right to vote.

them as persons who were not entitled to vote or take other legal, financial, and even personal decisions.

For example, in 2009, Maria Ramos, president of ASUMEN (an organization of users of mental health services), went to RENIEC in Lima to renew her identity card. As a person with a disability, Ramos was entitled by law to a free identity card (normally there is a fee of 20 soles, about US\$8), and therefore presented a certificate stating that she was schizophrenic-paranoid. When her ID card was ready, a RENIEC employee informed her that she was not considered competent to collect the card and, under the law, only a guardian or someone else could pick up the card. "I've never had a tutor or guardian. I've been independent all of my life," she told Human Rights Watch.

One year later Ramos discovered an additional cost of disclosing her disability to RENIEC. During the 2010 municipal election, her name was no longer on the voter registry. At the polling station, "they told me that schizophrenics don't have the right to vote." After the election, she went to the RENIEC office to be put back on the electoral registry, but was told that her name was excluded because of her disability. "[The RENIEC employee] told me, 'Your type cannot vote.'"



FEDDIP, an NGO that works with marginalized people with disabilities in Puno region, aims to strengthen awareness and implementation of the Disability Rights Convention.

In November 2010, after years of pressure from disability organizations and interventions by the Ombudsman's office, RENIEC acknowledged that the policy of excluding people with certain disabilities from the voter registry was wrong and hastily invited people with disabilities to re-register. However, due to insufficient time to register and poor communication, fewer than 60 people with disabilities were added back to the registry before the 2011 presidential elections. As a result, thousands of persons with disabilities were unable to vote in the national elections in April and June 2011. In October 2011 RENIEC issued a resolution to nullify its policy and pledged to work with relevant government agencies to promptly address this situation.

While current RENIEC policies and initiatives go a long way in remedying the disenfranchisement of people with disabilities who have not been interdicted, a number of barriers to political participation still need to be addressed to ensure the right to political participation for people with all types of disabilities.

For example, Peru's election law requires that voting facilities be made accessible to facilitate voting for all people with disabilities. However, no specific measures have been developed for people with psychosocial or intellectual

disabilities. As a result, government officials, nongovernmental organizations (NGOs), and citizens who administer or monitor elections have little guidance about these voters' entitlement to accommodations or practical experience about how to provide them.

For persons with physical and sensory disabilities, physical inaccessibility of polling stations, limited availability of appropriate accommodations such as Braille ballots, and lack of accessible materials on the election process continue to be problems.

In the April 2011 elections, 13 people with disabilities, including three women, and from seven (of thirteen) political parties, stood for election to Congress. Five of them won, all of them men with physical disabilities, and three of these five men were re-elected. But people with disabilities still face obstacles in joining political parties and participating on an equal basis with others in these organizations. Access to mass media—television, radio, print—and physical access to events are critical to campaigning for office. According to local disability advocates, many structures for community use are not accessible; and candidates with disabilities for example did not necessarily enjoy equal access to the media at public events during the 2010 and 2011 campaign seasons.

Peru's disability law requires local and regional governments to promote the political participation of people with disabilities, including by creating regional and municipal agencies designated to mainstream disability issues and promote and facilitate participation of people with disabilities

HOSPITALIZACIÓN SECTOR MUJERES 1



in the conduct of public affairs. However, many municipalities and regions have not established such offices, or have not devoted financial or other resources to them.

While international NGOs, donors and United Nations (UN) agencies are active in the area of good governance, civic engagement and democracy building in Peru, they have yet to include people with disabilities as part of their analysis or as a focus of their work.

In 2011 Peru launched a series of law reform projects to align its domestic laws and policies with the CRPD, including its obligations to ensure that people with disabilities can participate in political life on an equal basis with other citizens.

But how to ensure that people with disabilities are able to fully enjoy their rights to political participation without discrimination remains a challenge. The government, together with disabled persons' organizations (DPOs), needs to develop and implement a system of supported decision-making. More broadly, relevant ministries and government agencies should systematically engage disabled persons' organizations and persons with disabilities in decision-making and legal reform processes.

An unknown number of persons with disabilities remain without identity cards, and are effectively invisible as citizens. This is particularly true for those living in psychiatric hospitals, like the women in this ward in Hospital Hermilio Valdizan, who in a number of cases were simply identified with the initials "N.N." (no name) until hospital staff decided to name them.

The Peruvian parliament should amend the Civil Code to reflect the international legal standard that all people with disabilities should have equal legal capacity as other citizens, in order to meet its obligations under the CRPD and to comply with the OAS directive and recommendations from the CRPD Committee.

The government of Peru also needs to ensure that voting infrastructure and processes are accessible for people with diverse disabilities and that all those involved in running and managing elections have adequate training to facilitate their right to political participation on an equal basis as others. Failure to do so effectively denies people with disabilities their rights and citizenship. As one young woman with Down Syndrome whose name was excluded from the voter registry told Human Rights Watch, "I want to be a citizen just like any other."

KEY RECOMMENDATIONS

TO THE GOVERNMENT OF PERU

- Comprehensively review all domestic legislation and make amendments to fully comply with the CRPD, including by:
 - revising the definition of disability in the General Law on Persons with Disabilities, Law No. 27050.
 - fundamentally reforming the law on legal capacity to create a system in which all people with disabilities are supported in making decisions rather than deprived of the ability to exercise their rights, including by amending articles 43 and 44 of the Civil Code so that judicial interdiction resulting in deprivation of legal capacity for persons with disabilities cannot take place on the basis of a disability.
- Take urgent measures to ensure that the legal system does not permit approval of new cases of interdiction based on disability.
- Take measures to ensure all buildings open to the public and used as voting stations or public meeting spaces are universally accessible.
- Ensure that training for election officials, election administrators, police, judges, lawyers and political party leaders includes information and education about the rights and needs of persons with disabilities.
- Actively involve people with disabilities in training election officials, election administrators, police, and political party leaders on the political participation rights of people with disabilities.
- Disseminate accessible information regarding elections, political party platforms, and participation in political life (including in Braille, sign language, and easy-to-read formats).
- Implement public awareness campaigns about the rights of persons with disabilities and ensure that people with disabilities and their family members know their rights including the right to an unencumbered national identity card.
- Consult with disabled persons' organizations, persons with disabilities, and families of persons with disabilities to better understand and support their needs with respect to their right to political participation.



FEDDIP

FEDERACIÓN DEPARTAMENTAL DE PERSONAS CON DISCAPACIDAD

PROYECTO:

"PROMOCIÓN DE LOS DERECHOS DE LAS PERSONAS CON DISCAPACIDAD EN LA REGIÓN PUNO"

DURACIÓN ENERO - DICIEMBRE 2009

AUSPICIA:

DISABILITY
RIGHTS
FUND

"Destruyendo capacidad
barria para realizar los
derechos humanos de todas
las personas con
discapacidad"



Peru was one of the first states to become a party to the Convention on the Rights of Persons with Disabilities and has enshrined protection for many disability rights in its laws. This should help to ensure equal rights for all persons with disabilities, including the right to vote, stand for office, and participate in decisions about public affairs. However, gaps in Peruvian laws and policies mean that many people with disabilities can still not fully exercise some of their fundamental rights as citizens.

In *"I Want to be a Citizen Just like Any Other,"* Human Rights Watch examines the legal and practical barriers that people with diverse disabilities in Peru face in exercising their right to political participation. It also examines how restrictions on legal capacity impact the ability of people with intellectual and psychosocial disabilities in particular to enjoy a range of rights, including the right to own or inherit property, be employed or legally represent their children.

Human Rights Watch calls on the government of Peru to reform discriminatory laws and practices, and to actively involve people with disabilities in planning and decision-making processes, thereby honoring its obligations to protect the right of all people with disabilities to participate in public affairs.

(above) Participants at a workshop on disability rights organized by FEDDIP, a regional umbrella organization that works with marginalized persons with disabilities in the Puno region, particularly members of indigenous, rural communities in the Peruvian highlands.

(front cover) Using sign language, Monica, a deafblind woman, expresses her opinion on her right to political participation. She is a member of SENSE International Peru, an NGO working with deafblind people and their families.

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