Assessment of Individuals with Disabilities in Latin America: a Comparative Study of the Legislation

REVIEW

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Abstract

Objective: The aim of the present study was to analyze the legislation relating to individuals with disabilities in Latin America, focusing on the definition of individuals with disabilities and how they are certified as such.

Method: In this investigation, the legal provisions in force in Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Uruguay and Venezuela were retrieved via the internet. It was then sought to identify the following: the specificity of guarantees of human rights and fundamental freedoms for individuals with disabilities, in line with the United Nations Convention on the Rights of Persons with Disabilities; the definition of disability and individuals with disability; what criteria are applied, i.e. whether a specific table, the International Classification of Functioning (ICF) or the International Classification of Diseases (ICD) is used; and whether the disability is assessed in a biomedical or biopsychosocial manner, i.e. whether this is done solely by a doctor or is a multiprofessional assessment, and whether, if done by a doctor, there is any support through psychological or social worker evaluation when necessary.

Results: With the exception of Cuba, for which no specific legislation was found, the legislation dealing with individuals with disabilities in the other Latin American countries investigated in this study has been constructed in line with the main provisions of the United Nations Convention on the Rights of Persons with Disabilities. In Bolivia, Chile, Colombia, Ecuador, El Salvador, Guatemala, Honduras, Panama, Dominican Republic, Uruguay and Venezuela, disabilities are assessed and certified through tables or the ICD or ICF. Biopsychosocial assessments

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are made by doctors in Bolivia, El Salvador, Guatemala, Honduras, Uruguay and Venezuela. In Brazil, Chile and Ecuador, social assessments are made by other professionals to support evaluations made by doctors. In Argentina, Colombia, Costa Rica, Haiti and Panama, the assessment is biomedical. In relation to the other countries, it was not possible to understand, from the legislation, how disabilities are assessed.

Conclusion: This study demonstrated that the laws in the countries examined here all have the purpose of guaranteeing fundamental rights and freedoms for individual with disabilities through public policies. Their aim is to enable equality of opportunity in the fields of healthcare, rehabilitation, education, work, leisure, culture and justice, in accordance with the principles recommended in the United Nations Convention on the Rights of Persons with Disabilities. Out of all the countries investigated, social assessments by professionals of other specialties to support medical evaluations are only required in three of them; tables or the ICD or ICF are used in assessing and certifying disabilities in eleven of them; the biopsychosocial assessment is made by doctors in six of them; and the assessment is biomedical in another five countries. In the remainder, the assessment criteria were not made clear through the legislation examined.

Keywords

Disability, Human Rights Law, Impairment.

Introduction

All individuals are born free and equal in dignity and rights. They are bestowed with reason and conscience and should act in relation to each other with a spirit of fraternity, according to article 1 of the Universal Declaration of Human Rights (UDHR) [1]. Nothing more would be necessary, in the words of Dr. Izabel Maria de Loureiro Maior (2008), if equality between men and women was in fact unequivocal, independently of any adjective used to describe them, such as poor women, elderly men, black people or children with disabilities, among the possibilities for initial inequality [2].

Disability can be best understood as an evolving concept that results from interaction between an individual with a disability and the barriers im-

posed by other people's attitudes and environment, which prevent this person from fully and effectively participating in society on an equal footing with other people [2]. The needs and rights of individuals with disabilities have been a priority on the agenda of the United Nations (UN) and in 2006 it adopted the Convention on the Rights of Persons with Disabilities, which came into force on May 3, 2008 [3].

According to the World Health Organization, one billion people live with some form of disability, i.e. one in every seven people around the world. The lack of statistics on individuals with disabilities contributes towards making them invisible, which thus is an obstacle to planning and implementing development policies that can improve these individuals' lives [3] and make their rights fully accessible [4].

This convention, which according to the UN has been ratified by 177 countries, is a human rights instrument with an explicit dimension of social development. It declares that all individuals with all types of disability should enjoy full human rights and fundamental freedoms. Furthermore, it clarifies how the categories of rights should be applied [5]. The following principles are set forth in the convention: a) Respect for individuals' inherent dignity and autonomy, including the freedom to make their own choices and to be independent; b) Non-discrimination; c) Full and effective participation in society; d) Respect for differences and acceptance of individuals with disabilities as part of human diversity and humanity; e) Equality of opportunities; f) Accessibility; g) Equality between men and women; and h) Respect for the development of disabled children's capacities and for the right of these children to preserve their identity [5].

In order to guarantee that individuals with disabilities can make use of their fundamental rights and participate fully in society, countries have enacted specific legislation. Nonetheless, people with mild disabilities and without significant impairment of functionality can also benefit from the legislation. They may often take the place of people with series disabilities and functional limitations [6].

In the present study, a search for specific legislation relating to individuals with disabilities in Latin American countries was undertaken. Through this, it was sought to ascertain the following: the concepts adopted regarding disability and individuals with disability; the criteria applied in assessing and certifying the disability; whether the evaluation is biomedical or biopsychosocial; and whether it is done by a doctor or is multiprofessional.

In Brazil, the Brazilian Functionality Index (IF-BrA) is the instrument used by the National Social Security Institute (INSS) to quantify individuals' degree of disability with a view to granting special retirement pensions to individuals with disabilities. However, there is still a need to discuss the criteria used for

defining the rules for obtaining this benefit, in order to improve the precision of this instrument [6]. Because this is a novel instrument, within both the juridical and the public-policy sphere in Brazil, studies making comparisons with other countries' systems are important with regard to improving this instrument [7]. This was the justification for conducting the present study to find out about the legislation and methods applied for identifying, evaluating and quantifying disabilities in other Latin American countries.

Materials and Methods

A search was conducted in Spanish on the internet, using the expressions "*Ley para personas con discapacidad*" (law for individuals with disability) and "*Calificación y evaluación de discapacidad*" (qualification and evaluation of disability), always accompanied by "*en*"(in) and the name of the country: for example, "*Ley para personas con discapacidad en Argentina*" (law for individuals with disability in Argentina) and "*Calificación y evaluación de discapacidad en Argentina*" (qualification and evaluation of disability in Argentina).

With the exception of Cuba, legal provisions were found to be in force in all the other countries investigated: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Uruguay and Venezuela.

It was sought in the analysis on each country's legislation to identify the following: a) the specificity of guarantees of human rights and fundamental freedoms for individuals with disabilities, in line with the United Nations Convention on the Rights of Persons with Disabilities; b) the definition of disability and individuals with disability; c) what criteria are applied, i.e. whether a specific table, the International Classification of Functioning (ICF) or the International Classification of Diseases (ICD) is used; and d) whether the disability is assessed in a

biomedical or biopsychosocial manner, i.e. whether this is done solely by a doctor or is a multiprofessional assessment, and whether, if done by a doctor, there is any support through psychological or social worker evaluation when necessary

Results and Discussion

The results and discussion presented here are based on analysis of the legal texts of Latin American countries relating to public policies for individuals with disabilities, in accordance with the principles of the United Nations Convention on the Rights of Persons with Disabilities. They are organized per country, in alphabetical order.

Argentina

Law number 22,431/1981 (Comprehensive protection system for disabled individuals) instituted the eponymous system in Argentina, which had the following objectives:

To establish a wide-ranging system for protecting individuals with disabilities, thereby ensuring medical care, education and social security provision for them, and to grant concessions and incentives that make it possible to neutralize the disadvantage that these individuals' disabilities cause them. This would also provide them with opportunities, through their efforts, to play a role in the community equivalent to that of normal people. The law defined persons with disability as individuals who suffer permanent or prolonged physical or mental functional alteration that, in relation to their age and social environment, implies considerable disadvantages for them, with regard to family, social, educational or professional integration.

The National Disability Agency, which is a branch of the General Secretariat of the Argentinian Presidency, will certify the existence of disability in each case, with its nature and degree, along with the possibilities for rehabilitation of the individual affected. It will indicate the type of work or professional

activity that this person can do, taking into account personality and antecedents. The certificate thus issued is named the Unified Disability Certificate and provides accreditation for the disability throughout Argentina, for all situations in which this is required, with the exception of retirement pensions, for which there is separate legislation. The law does not make specifications for the criteria for certification or for assessment of the disability [8].

Law number 20,475/1973 instituted a special regime for disabled people and established special rules for blind people and for individuals affiliated to the national banks for social security savings who were affected by physical or mental diminution greater than 33%. These people would be entitled to ordinary retirement pensions after working for 20 years and after 45 years of age, when they were working in a relationship of dependence; or after 50 years of age, as independent workers, provided that they were able to securely certify that, during the 10 years immediately prior to ceasing work or requesting the benefit, they were working in this state of disability. The law also did not detail how these individuals with disability would be evaluated [9].

Bolivia

Law number 223/2012, known as the General Law for Disabled Persons, was enacted in Bolivia with the aims, among others, of promoting, protecting and assuring full enjoyment under conditions of equality, of all human rights and fundamental freedoms for all individuals with disabilities; promoting respect for their dignity; and guaranteeing full use of their rights and duties under equality of conditions and equivalence of opportunities through preferential treatment under a system of comprehensive protection. The law defines disability as the result of the interactions of an individual's deficiencies of physical, mental, intellectual and/or sensory functions over a long period or permanently, in relation to various psychological, social, cultural and communicational barriers that impede this

person's full and effective participation in society under equality of conditions with other people. The text of this law sets forth four levels of gradation: mild deficiency, which refers to people presenting signs, symptoms or sequelae that give rise to some difficulty in performing activities of daily living but which still allow these individuals to perform them; moderate deficiency, which refers to the existence of significant diminution of capacity or impossibility of performing some activities of daily living, while remaining independent regarding self-care activities; severe deficiency, when there is significant diminution of capacity or impossibility of performing the majority of activities of daily living, and some self-care activities may also be affected, such that help from other people is required for some of them; and very severe deficiency, when it is impossible to do activities of daily living and continual assistance from other people is required [10].

Law number 065/2000, the Pensions Law, which approved the regulated version of law number 1732/1996 was published through Supreme Decree 25,851. This had the aim of establishing the administration of the integrated pension system, along with benefit payments owed to citizens, subject to the provisions of the country's political constitution. Through article 31, item K, contracting of the services necessary for determining whether the insured individual's disability was caused by an ordinary or a professional risk, and whether this is partial or total and definitive, is enabled in accordance with the unified classification manual [11].

The evaluation and classification are done by insurance entities that provide services for the obligatory social security, with prompt action in all geographical localities. The degree, origin, cause and date of disability are classified and the origin, cause and date of death are determined by doctors who have been certified by the supervision body, in accordance with the manual of rules for evaluation and classification of the degree of disability (MANECGI) [12].

After a medical diagnosis has been made, a set of occupational medicine procedures is used to evaluate and classify the degree of disability through using MANECGI. For full evaluation of the loss of work capacity and classification of the disability, the functional, biological (anatomofunctional), mental and social components of humans need to be considered, consequent to accident or disease. These are defined as follows: a) independent variables: deterioration or deficiency, i.e. all temporary or definitive losses or abnormalities relating to a structure or anatomical, physiological or psychological function, as representations of a disease, reflecting alterations at an anatomofunctional level; deficiencies are all restrictions or losses of capacity to perform an activity in the manner that would be considered normal for humans, which were produced through deterioration, either of temporary or of permanent nature, with different degrees of progression and reversibility; these objectively represent how the alterations are reflected in the individual; in quantifying them, the formula and table set forth for this purpose are applied; b) dependent variables: situations of disadvantage caused through deterioration and deficiency that arose through an accident or illness that limit or restrict individuals from performing a list of activities because of gender, age or social, cultural or occupational factors; these represent the socialization of deterioration and deficiency because they reflect the cultural, socioeconomic, occupational and environmental consequences derived from them and alter the environment for activities of daily living, social activities and occupational disadvantage; c) adjustments for age effects and the capacity for economic self-sufficiency. To classify disability, a scoring system of 100 points has been established [12].

Brasil

The first comprehensive federal law in Brazil regarding people with disabilities was law number 7,853/1989 [13], which was then regulated through

decree number 3,298/1999 [14]. This law made provisions for support for people with disabilities and their social integration, through the national coordination office for integration of people with disabilities (CORDE), and instituted jurisdictional oversight for these individuals' collective interests. Special education was ensured through law number 9,394/1996 [15]. Law number 10,048 [16], law number 10,098/2000 [17] and decree number 5,296/2004 [18] were also enacted, to deal with accessibility and provide regulations regarding priority of attendance. In 2004, the Convention on the Rights of Disabled People was ratified based on paragraph 3 of article 5 of the Brazilian constitution [19]. Legislative decree number 186/2008 [20] ratified this, decree number 6,949/2009 [21] completed the process and the official term became *persons with disability*. In 2014, complementary law number 142/2013 [22] was published: this makes provisions regarding special retirement pensions through the general social security regime. The Brazilian Functionality Index (IF-BrA) was instituted so that doctors and social workers could assess disability in relation to the terms of special retirement pensions. In 2015, the Brazilian Law of Inclusion was sanctioned, under the number 13.146 [23], with the aim of ensuring and promoting enjoyment of fundamental rights and freedoms among persons with disability, under conditions of equality, so as to enable their social inclusion and active citizenship.

Chile

Chilean law number 20,422/2010 established rules for equality of opportunity and social inclusion for individuals with disabilities, with the aim of guaranteeing the right to equality of opportunities and, through this, to fulfill the principles of independent life, universal accessibility, universal design, intersectorality, participation and social dialogue. It defines individuals with disabilities as those who, with one or more physical, mental (from either psychological or intellectual causes)

or sensory deficiencies of temporary or permanent nature, are impeded or restricted from having full and effective participation in society under equality of conditions with other people, when interacting with the various barriers present in their environment. These rules guarantee accessibility, inclusion at school and work and discounted tariffs. They state that the country will promote personal autonomy and will care for individuals who are in a situation of dependency, through benefits or support services that will be provided taking the degree of dependence into consideration. The law established that classification and certification of disabilities would be done through preventive medicine and disability committees (COMPIN) that would be subordinate to the Ministry of Health and public or private institutions accredited by the ministry. The process of classification of disabilities would guarantee interdisciplinary attendance for every applicant. The preventive medicine and disability committees would be formed by a psychologist, a speech therapist, a social worker and a special-needs educator. These committees would have the power to make requests to public or private healthcare services and institutions and to care professionals, for information on clinical antecedents and other matters, as necessary. The law provided for creation of a national register of disability under the responsibility of the civil registry and identification service and the national disability service, succeeding the national disability fund and consultative council for disabilities [24].

The regulations for evaluating and classifying the degree of disability among workers affiliated to the new social security system 2012 stated that article 4 of decree-law number 3500/1980 established that members who did not retire under this law would have the right to a disability pension without meeting the age requirement for obtaining an old-age pension, consequent to disease or weakening of their physical or intellectual capacity that had permanently impaired their work capacity. A full disabili-

lity pension would be granted to members who had lost at least two thirds of their work capacity, and a partial disability pension to those who had lost 50% or more of their work capacity and less than two thirds. This would be determined by a medical committee composed of three surgeons working in each region who were nominated by the pensions superintendent. They would have autonomy regarding investigation and certification of the disabilities submitted for their consideration. The superintendency would supervise these committees and would issue the operational regulations needed for quantifying the deficiency. This would be done using a disability table, with a graduated reference scale of categories or classes for quantifying the disability, in ascending order. The impairments would need to be identified from the medical knowledge available, based on scientific objectivity, so as to provide consistency. Physical or mental manifestations would need to be supported by measurable clinical signs or abnormalities, to be consistent [25].

Colombia

Law number 361/1997 was based on principles that recognized the dignity of individuals with limitations, with regard to their fundamental economic, social and cultural rights and their personal fulfillment and complete social integration. For those with severe and profound limitations, it mandated the protection and assistance needed [26].

Law number 1,145/2007 organized the national system for disabilities (SND), which is the set of guidelines, regulations, activities, resources, programs and institutions that enable implementation of the general principles relating to disability [27].

Law number 1,346/2009 approved the convention on disabled people's rights, with the objectives of promoting, protecting and ensuring that these individuals can fully enjoy all human rights and fundamental freedoms under conditions of equality, and of promoting respect for their dignity. This law defined people with disabilities as those who had

long-term physical, mental, intellectual or sensory deficiencies that, when they interacted with various barriers, could prevent their full and effective participation in society, under equality of conditions with other people [28].

Decree number 1,507/2014 instituted the unified manual for classifying loss of occupational and work capacity. This manual does not apply to cases of certification of disability with the aim of obtaining the benefits established though law number 361/1997 [29].

Costa Rica

Law number 7,600/1996 made provisions regarding equality of opportunities for people with disabilities. It defined disability as any physical, mental or sensory deficiency that limited one or more of the individual's main activities. The law guaranteed fundamental rights and participation in society on the basis of equality of opportunities [30].

The regulations on assessment, opinion-giving and certification regarding individuals' state of disability, within the regime for disability, old age and death of the social security office of Costa Rica, provide rules for integration, nomination, functions, attributions and other matters pertaining to the missions of the certifying committee for states of disability and of other medical professionals and psychologists who participate in assessment and certification procedures for declarations of disability, as set forth in article 7 of the regulations on disability, old-age and death insurance. The medical assessments provide support for decisions by the certifying committee and the psychologist will apply tests when the individual concerned presents a mental disease. This psychological evaluation will be used by the doctor and by the certifying committee. The certifying committee for states of disability is constituted by surgeons who are registered with the doctors' and surgeons' college of Costa Rica [31].

Cuba

No specific law dealing with the fundamental rights of individuals with disabilities was found.

Ecuador

The organic law of disabilities has the aims of ensuring prevention, detection, capacitation and timely rehabilitation for cases of disabilities and of guaranteeing full validity, dissemination and exercising of the rights of people with disabilities, as established in Ecuador's constitution and in international treaties and instruments, along with rights derived from associated laws, with a focus on gender-based, generational and intercultural issues. The law defined individuals with disabilities as those who, consequent to one or more physical, mental, intellectual or sensory deficiencies, independent of cause, present permanent limitations on their biological, psychological or associative capacity to perform one or more essential activities of daily life. The law instituted the national subsystem for classification of disabilities, under the supervision of the national council for equality of disabled persons. This council, together with the national healthcare authority, coordinates assessments and diagnoses within the respective systems. Through the national health system, the national healthcare authority certifies disabilities and undertakes continuous training for teams with specialized qualifications regarding different types of disabilities, which then perform functions within their specialist fields. Furthermore, the national healthcare authority is responsible for maintaining a national register of disabled people presenting deficiency or incapacity, along with public, semi-public and private legal entities that are dedicated to attending to individuals with disability who present conditions of deficiency or incapacity. This forms part of the national system for public data, under the terms of the law. The national council for equality of disabled persons has powers for formulation, integration, observance, monitoring and evalua-

tion of public policies that are implemented by government bodies and public and private-sector institutions, so that disabled people can fully validate and use their rights, as established in Ecuador's constitution and in international treaties and instruments [32].

In 2018, a manual for classification of disabilities was published. This includes seven chapters that constitute a technical and methodological tool relating to disabled people, based on the Spanish scale and the international classification of disabilities and health. According to this manual, certification of disabilities is a process in which a biopsychosocial technical evaluation (medical, psychological and/or social) is performed on individuals with disabilities by collecting and analyzing documents (specialty certificates, complementary examinations, etc.) on consequential medical or psychological evidence of sequelae and organic and/or functional limitations that have resulted from irrecoverable disabilities. Social evaluation consists of analysis of the different elements relating to the individual, family, environment and individual and family experience, which enables identification of social risk factors and socioeconomic problems relating to incapacitating and health-related situations; and conversely, identification of the characteristics of provision of potentially effective care within the formal and informal support systems [33].

El Salvador

Decree number 888/2000 is the law for equalizing opportunities for persons with disabilities. It has the aim of establishing a regime of equalizing opportunities for people with physical, mental, psychological and sensory deficiencies, which may be congenital or acquired. The national council for comprehensive attention towards disabled people formulates national policies for comprehensive care for such individuals [34].

The Business Organization Foundation for Social Action (FUNDEMAS) has created a practical manual

for certification of individuals with disabilities, with the aim of providing companies and organizations with an instruction manual not only describing the national legislation applicable to inclusion of disabled people in the workplace, but also giving step-by-step instructions for the formalities required for compliance with article 24 of the law for equalizing opportunities for persons with disabilities.

The process of certification of a disability includes participation by a team of specialist doctors, to make a comprehensive physical-functional assessment with the objective of defining the percentage of disability. This needs to be functional incapacity greater than 20%, for this individual to be considered disabled. All the social, environmental and contextual circumstances of this individual are taken into account in the assessment [35].

Guatemala

Decree number 135/96, which instituted the law for attending to individuals with disabilities, also created the National Council for Attendance of Disabled People (CONADI). The aim of this law was to serve as a legal instrument for attending to people with disabilities, such that they would be able to reach their maximum development, have social participation and exercise their rights and duties within the country's juridical system. Furthermore, this would guarantee equality of opportunities for people with disabilities in fields like health, education, work, leisure, sports, culture and others, and would eliminate any type of discrimination.

CONADI promotes assessment and classification of disability functioning and health, done by forensic doctors, based on the current classification of disability functioning and health [36].

Haiti

Legislation on disability in Haiti was instituted after the earthquake of 2010. Three government bodies played important roles in developing policies and programs to improve the living conditions of disa-

bled people in this country. These were the National Council for Rehabilitation of Disabled People, the Office of the State Secretary for Integration of Disabled People and the Interministerial Committee for Follow-up of Disability Issues.

The legal definition of disability in Haiti is the existence of limitations on activities or restrictions on participation in the life of society that an individual suffers due to temporary or permanent alteration of one or more physical, sensory, cognitive or physical functions. A person with disability is a person with long-lasting physical, mental, intellectual or sensory deficiency.

Thus, the definitions established in the law do not adhere fully to the spirit of the convention, given that disability continues to be perceived as a medical problem and not as a situation relating to the environment. This would explain why the attention given to this sector falls mainly on the Ministry of Public Health and Population.

Regarding legal recognition of disability, Haiti has still not implemented a national system for certification and registration that would make it possible to identify and accredit the disabled population. There are also no statistics or administrative records regarding where these people live, what the origin of their disability was or what their economic level is.

Regarding the specific rights established through the law on integration of disabled people, it has been established that the government guarantees that disabled people will have access to healthcare, education at all levels, employment, adequate physical environment, adequate means of transportation, housing, justice, information, recreation and sports [37].

Honduras

Among the aims of this country's law on equity and comprehensive development for disabled people is that it should ensure accessibility to the environment, health, education, professional trai-

ning and placement in the workforce with equality of opportunities. It defines disability as any type of physical, mental or sensory deficiency that, in relation to the individual's age and social environment, substantially limits integration and performing of activities within society, which could be family-related, social, educational or work-related [38].

The regulations for classification and certification of disabilities, from the technical committee for disability of the Honduran Social Security Institute (IHSS) have the objective of regulating the administrative procedures of the technical committee for disability relating to insured individuals, with regard to access to different forms of pension for physical and/or mental disabilities caused by ordinary or professional risks. This committee is the administrative body authorized by the IHSS to issue reports through which disabilities among insured individuals are classified and certified. It is formed by doctors who are specialists in occupational medicine, medicine and occupational health, orthopedics and traumatology, physical medicine and rehabilitation, internal medicine, legal medicine and psychiatry (with a forensic subspecialty).

To adequately analyze the cases and, when justified because of complexity, the coordinator of the technical committee for disabilities (CTI) may require participation by non-medical personnel from the institute [39].

Mexico

The general law for inclusion of individuals with disabilities sets forth that the Mexican government must promote, protect and assure full use of human rights and fundamental freedoms among disabled people, so as to ensure their full inclusion in society, as a mark of respect, equality and equalizing of opportunities. According to this law, disability is the consequence of the presence of a deficiency or limitation in an individual that, when this person interacts with barriers imposed by the social envi-

ronment, may impede full and effective inclusion in society, under equality of conditions with other people. The law has also created a national council for development and inclusion of individuals with disabilities [40].

Nicaragua

The Nicaraguan law on the rights of disabled individuals aims to establish guarantees for promotion, protection of full enjoyment and equality for all these individuals' human rights, thus respecting their dignity and ensuring their complete human development. The objective is to equalize their opportunities for inclusion in society, without any discrimination, and to improve their standard of life. In this manner, full recognition of the human rights declared in the political constitution of the republic of Nicaragua and in the international laws and instruments ratified by this country is guaranteed. The law defines that disability is the result of interaction between an individual with deficiencies and the incapacitating environment. Disability occurs through the perpetual latent barriers set up by society, which make it impossible for disabled individuals to access social life actively, passively, directly or indirectly, as would be possible for other humans. Therefore, disability is not something that is rooted in an individual as a result of a deficiency. The same law has also created a national council for promoting and articulating application of rights for individuals with disabilities [41].

Panama

The objectives of the Panamanian law that establishes equalization of opportunities for individuals with disabilities included setting up the material and legal bases that allowed the government to adopt the measures needed for equalization of opportunities for people with disabilities, thereby guaranteeing for them health, education, work, housing, recreation, sport and culture, along with family and community life. The same law defined disability as

permanent or temporary physical, sensory or mental functional alteration that is total or partial, which limits the capacity to perform activities in a manner or within a range that is considered normal for humans [42].

Paraguay

The law dealing with disability ratified the Convention on the Rights of Persons with Disabilities and the facultative protocol of this convention. Law number 3,450 considered disability to be an evolving concept that results from the interaction between individuals with disability and barriers that exist because of attitudes and the environment, which impede these individuals' full and effective participation in society under equality of conditions with other people. The objective of this law was to promote, protect and guarantee full and equal enjoyment of all human rights and fundamental freedoms among all individuals with disabilities, and to promote respect for their inherent dignity.

These disabled people included individuals with long-term physical, mental, intellectual or sensory deficiencies whose full and effective participation in society under equal conditions with other people was impeded due to a variety of barriers. The law also created a committee on the right of disabled individuals [43].

Peru

The Peruvian general law on people with disabilities has the aim of establishing a legal regime for protection, health, work, education, rehabilitation, social security and social prevention for individual with disabilities so that they can attain development and social, economic and cultural integration, as envisaged in article 7 of the country's political constitution. The law defines disabled individuals as those who have one or more deficiencies, as shown through significant loss of some of their physical, mental or sensory functions, thereby implying diminished or absence of capacity to perform and

activity in the manner or within the timeframe considered normal, and limiting their ability to perform roles, functions or activities, or to take up opportunities, with equitable participation in society. The law also created a national council for integration of disabled people.

The Ministries of Health, Defense and the Interior, through their hospital centers, and the Peruvian Social Security Institute, are the competent authorities for declaring the status of an individual with disabilities and granting this person the corresponding certificate that provides accreditation [44].

Dominican Republic

This country's general law on disabilities defines disability as a restriction of absence (due to a deficiency) of the capacity to carry out an activity in the manner or within the timeframe considered normal for humans. The objective of the law is to protect and guarantee equality of opportunity for all individuals with functional, physical, mental and/or sensory deficiencies. The law also created a national council for disabilities and a national system for assessment, certification and continuous registration of disabilities. The ICF is used to assess disabilities [45].

Uruguay

Law number 18,651/2010, for comprehensive protection of people with disabilities, had the objective of establishing a system of wide-ranging protection for individuals with disabilities, so as to ensure medical care, education and physical, psychological, social, economic and professional rehabilitation, along with social security coverage and concession of benefits and incentives to neutralize the disadvantages that disability causes to these people. It also had the aim of giving them opportunities, through their efforts, to perform roles within the community equivalent to those of other people. The law defined people with disabilities as those who presented permanent or prolonged physical (motor,

sensory, organic or visceral) or mental (intellectual and/or psychological) functional alteration and who, in relation to their age and the social environment, had considerable disadvantages with regard to family, social, educational or work integration. The law also created a national honorary committee for disabilities [46]. Law number 4720/12 created the National Secretariat for Human Rights of Persons with Disabilities [47].

The rules for evaluating the degree of incapacity were revised in 2002, to be applicable to the activities covered by the Social Security Institute. This incorporated all the experience acquired by specialists involved in expert reports, technical committees, the Uruguayan Insurers' Association (AUDEA) and the medical school. These rules form an essential tool for unifying the criteria for a matter that is technically complex and of enormous social importance [48].

Venezuela

The Venezuelan law for people with disabilities has the objective of regulating the means and mechanisms that guarantee full and autonomous development of individuals with disabilities, according to their abilities, and enables integration in family and community life through direct participation as full citizens with participation from society and the family in solidarity. The law defines disability as a complex condition of humans, constituted by biopsychosocial factors, in which individuals present diminished or temporary or permanent suppression of some of their sensory, motor or intellectual capacities. This can be manifested through absences, anomalies, defects, losses or difficulties in relation to perception, movement without support, seeing or hearing, communication with other people or participation in educational, work, family or community activities. These manifestations limit these individuals' exercising of rights, social participation and enjoyment of good quality of life. They also impede their

active participation in family and social activities, without necessarily implying incapacity or inability to interact socially. People with disabilities are those who, through congenital or acquired causes, present some dysfunction or absence of capacities of physical, mental, intellectual or sensory nature, or a combination of these. This disability can be temporary, permanent or intermittent, and its interaction with various barriers gives rise to disadvantages that cause difficulty in or impede participation, inclusion and integration in family and social life, along with impairment of full exercising of human rights under equality of conditions with other people. Certification of disability is within the remit of professionals and technicians specializing in the field of disability, in the relevant sphere, who have links to the National Public Health System. This certification results from an individual or collective assessment that is made with the aim of determining the condition, class, type, grade and characteristics of the deficiency [49].

Conclusion

The laws studied have in common the purpose of guaranteeing fundamental rights and freedoms for people with disabilities, through public policies that have the objective of enabling equality of opportunities in the fields of health, rehabilitation, education, work, leisure, culture and justice. With the exception of Cuba, for which no specific legislation was found, legislation addressing the needs of people with disabilities has been constructed in the other Latin American countries investigated in this study, in line with the principles laid out in the United Nations Convention on the Rights of Persons with Disabilities.

The texts of these laws define people with disabilities in line with the UN convention, i.e. that they are individuals with long-term or permanent physical, sensory, mental or intellectual deficiencies that, in interaction with the various barriers in the

environment, impede them from fully and effectively participating in society under equality of opportunities with other people. However, in most of these countries, the rules do not determine that the assessment should be biopsychosocial, or what criteria should be adopted for this.

Like in Brazil, tables and the ICD or ICF are used in Bolivia, Chile, Colombia, Ecuador, El Salvador, Guatemala, Honduras, Panama, Dominican Republic, Uruguay and Venezuela, for assessment and certification of disabilities. Biopsychosocial evaluations are done by doctors in Bolivia, El Salvador, Guatemala, Honduras, Uruguay and Venezuela. In Brazil, Chile and Ecuador, social assessments are made by other professionals, to support the evaluations done by doctors. In Argentina, Colombia, Costa Rica, Haiti and Panama, evaluations are biomedical. In the other countries, it was not possible to understand, from the legislation, how disability assessments are done.

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