

Face Equality International (FEI) Research Project

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Costa Rica

No.	Question		Answer
1.	<p>a. Do people with facial disfigurements (marks, scars, etc.) have any legal protection against discrimination?</p> <p>b. Which law relates or mentions the legal protections?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Law No 7600, Ley de Igualdad de Oportunidades (The Equal Opportunities Law for People with Disabilities) sets out to eliminate discrimination against persons with disabilities and enable them to achieve their maximum potential and fully participate in society through equal opportunity. An English translation of Law No 7600 can be found Here.</p> <p>On 30 March 2007 Costa Rica signed the UN Convention on the Rights of Persons with Disabilities (UNCRPD) and ratified the treaty on 1 October 2008. Ratification means that an individual/face equality activist can make a complaint to the UN Committee on the Rights of Persons with Disabilities.</p> <p>In February 2014, Costa Rica implemented Act No. 18283 to amend the Equal Opportunities Law for People with Disabilities (described above) to bring the definition of persons with disabilities into line with the UNCRPD.</p> <p>Law on the Inclusion and Protection of Persons with Disabilities in the Public Sector (Act 8862) This is the law meant for improving employment opportunities for persons with disabilities. The law reserves a quota of 5% for persons with disabilities. However, the reservation is granted only in the public sector. The private sector is not bound by any such quota.</p> <p>According to Article 48 of Costa Rica's Constitution, people have available remedies to maintain or re-establish the enjoyment of fundamental human rights.</p>
2.	<p>a. What is this country's legal definition of disability?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>a) The Equal Opportunities Law for People with Disabilities defines disability as "any physical, mental or sensory impairment which substantially limits one or more of an individual's major activities". The Act No. 18283 amendment and the ratification of the UNCRPD means another applicable definition is that provided for in paragraph 2 of Article 1 of the UNCRPD. This definition states that persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may</p>

	<p>b. When do people with a facial disfigurement fit within that definition?</p> <p>c. How does being excluded from that definition affect the protection of their rights?</p>		<p>hinder their full and effective participation in society on an equal basis with others. The definition reflects a social model of disability rather than a medical model.</p> <p>Another, similar definition is provided by the Law of the Promotion of the Personal Autonomy of Persons with Disabilities (2016) (only available in Spanish) which defines a person with disability as “those that have long-term physical, mental, intellectual, or sensory impairments that, when interacting with various barriers, may prevent their full and effective participation in society, on an equal basis with others.”</p> <p>b) The potential gap in protection for individuals with facial disfigurements is that neither the UNCRPD or domestic legislation specifically references facial disfigurement as a disability. This could leave these individuals vulnerable to discrimination.</p> <p>A facial disfigurement is likely to be considered a disability under the definition when the disfigurement has led to long-term physical or sensory impairments.</p> <p>For an individual with facial disfigurements to identify as disabled, they must complete the disability certification process. The issue with this process is that there are difficulties and long delays in obtaining the disability certificate, due in particular to the lack of clear criteria and trained personnel.</p> <p>c) Being excluded from the definition of disability would mean the individual cannot rely on the protections provided for in the legislation.</p>
3.	<p>Are there aspects of disability and/or disfigurement law that ensure a legal right to healthcare, education or employment?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p><u>Healthcare</u> Law No 7600, Ley de Igualdad de Oportunidades (The Equal Opportunities Law for People with Disabilities) states that access to health services must be provided equally to all. Life insurance and other insurance policies must not be denied on the basis of disability. The Costa Rican Social Security must establish the coordination and supervision procedures for public health centres offering specialized rehabilitation services. The public health institutions in charge of providing rehabilitation services, must ensure that such services are readily available, at all levels of attention, including the support services and technical aids as required by applicants.</p> <p><u>Education</u> Chapter I of Law No 7600, Ley de Igualdad de Oportunidades (The Equal Opportunities Law for People with Disabilities) provides for the equal access to education for persons with disabilities including both public and private education within the National Education System. The Ministry of Public Education must create programs to address the special education needs, ensure its proper</p>

		<p>performance at all levels of attention. Persons with disabilities must participate within the educational services that best meet his or her condition and development, this regulation includes the right to have access to the required support services and they must not be excluded from any activity. Educational centers must provide the necessary adaptations and will provide the support services as required to ensure the right to education for persons with disabilities. These accommodations and support services include specialized human resources, educational curriculum adaptations, evaluations, methodology, educational resources and physical facilities. These provisions will be defined by the staff of the educational institution and shall have the required technical assistance. The education of persons with disabilities must comply with the same standards of quality, the same schedule, and preferably imparted at the nearest educational facility to the students home, and at all times they must respond to the norms and aspirations guiding the national education system. The educational programs and materials that include text and images on disability topics must be presented in ways that reinforce the dignity and equality of all human beings (Article 19). The Ministry of Public Education must ensure that hospitalized or convalescent students who are not able to attend school, have the necessary options to continue with their studies during said period (Article 20). The studies performed during this hospitalization or convalescence period, will have official recognition (Article 21). In order to comply with the dispositions of this chapter, the Ministry of Public Education will provide the necessary support, assistance, resources, and training (Article 22).</p> <p><u>Employment</u></p> <p>Costa Rica has ratified the UNCRPD which under Article 27, recognises the rights of a person with disabilities to work free from discrimination. Article 27(a) prohibits discrimination on the basis of disability when recruiting and hiring. Further, State Parties to UNCRPD prohibit discrimination on the basis of disability with a very broad approach. For example (Article 27(a)) also protects the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances (Article 27(b)).</p> <p>Law No 7600, Ley de Igualdad de Oportunidades (The Equal Opportunities Law for People with Disabilities) contains a specific section on access to work at Chapter II. The State ensures persons with disabilities in rural and urban areas have the right to an adequate job, considering their personal conditions and needs (Article 23). Article 24 protects against discriminatory acts in employment and requires adaptation of hiring mechanisms to the conditions of applicants with disabilities. Article 25 establishes training as a priority for those with disabilities, who as a consequence of their disability had not had access to education and lack training. Article 26 requires the State to provide technical assistance to employers to assist them in adapting the environment and to job requirements of employees with disabilities. Article 29 states that whenever a government-insured person presents a disability due to illness or injury, the Costa Rican Social Security must provide him or her the corresponding medical and rehabilitation treatment, including the technical aids or support services as</p>
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<p>4.</p>	<p>a. How effective are the legal protections? Please describe evidence available of the effect of the legal protections.</p> <p>b. What are deficiencies or areas for improvement in these legal protection measures as they apply and affect people with facial disfigurement?</p> <p>c. What evidence exists to prove that the information and resources guaranteed by law are actually available to disabled persons?</p>		<p>a) The Committee on the Rights of Persons with Disabilities have recommended Costa Rica harmonize the definition of disability in laws and policies at all levels of government, as well as in the disability certification process.</p> <p>It also recommended intensifying efforts to simplify and expedite obtaining a disability certificate through clear criteria, and training mechanisms for professionals responsible.</p> <p>The Committee also reported that access to justice for people with disabilities, particularly women, children, indigenous and Afro-descendant people, and older people with disabilities, is limited and there is poor training of all judges in the country in terms of access to justice for people with disabilities.</p> <p>The Committee also noted with concern the low rates of representation and participation of persons with disabilities, especially women with disabilities, in political life and public decision-making, as well as the lack of implementation of affirmative actions so that people with disabilities can run as candidates in elections, be elected and effectively hold public office at all levels of government.</p> <p>This would suggest the effectiveness of the protections in Costa Rica is quite low and in some areas may be a cause for concern with improvement required.</p> <p>b) UNCRPD</p> <p>Although Costa Rica have ratified the UNCRPD, there are gaps in this protection in respect of persons with facial disfigurements. As discussed above, the UNCRPD does not explicitly include persons with facial disfigurements under their definition of disability, meaning these individuals could fall outside of the definition and not receive the protections provided for other disabilities. Secondly, much of the language of the UNCRPD is broad and open to interpretation by State Parties. This means that the general protections under the UNCRPD (e.g. concerning awareness raising, education and work and employment) may be insufficient</p>

			<p>to properly protect persons with facial disfigurement from complex issues of discrimination and prejudice. Costa Rica have signed the Optional Protocol to the UNCRPD meaning it is possible for an individual or group (e.g. a civil society organization) to complain to the relevant Committee about a State Party's alleged violation of the UNCRPD. This is positive however, the procedures for pursuing a complaint to the Committee may be daunting for an individual. Further, if the Committee finds in favour of the individual, there may be challenges when enforcing the decision in the individual's home country.</p> <p>Experts of the Committee on the Rights of Persons with Disabilities have commended Costa Rica on Employment Mechanism for Persons with Disabilities after responding to a recommendation of the Committee and establishing a mechanism for the employment of persons with disabilities in the public and private sector.</p> <p>c) Some 30,194 applications for disability certification had been submitted through the Disability Certification Service, of which 24,392 applications were approved, taking into account the barriers and obstacles faced, as opposed to medical factors. Costa Rica's national statistics indicated that there were 670,640 persons with disabilities over the age of 18 in the country. The Advisory Forum for Persons with Disabilities marked a significant step towards influencing the formulation of public policies with geographical and gender representation of persons with disabilities. Examples of good practice in the consultation of persons with disabilities could be seen in the construction of the 2024-2030 action plan of the national policy on disability, where persons with disabilities developed a set of proposals for action by public institutions. The National Population and Housing Census 2022 included the consultation of persons with disabilities, and this would continue to be done for future censuses.</p>
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