

CONTRIBUTIONS OF THE NATIONAL HUMAN RIGHTS COMMISSION FOR THE PRELIMINARY EVALUATION OF THE INITIAL REPORT OF MEXICO BEFORE THE UNITED NATIONS COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES

PRESENTATION

1. Since 2011, the topic of the attention and inclusion of persons with disabilities (PWD) is part of the national agenda regarding human rights. Therefore, it is notorious the unfolding of economic, material and human resources that Mexico is making to transit towards the human rights paradigm and effective inclusion on society of the persons with disabilities, assuming a transverse and inclusive approach on public policies that assure better life conditions for such persons.
2. However, it is necessary to multiply efforts to take down the obstacles that still negatively influence in the exercise of human rights of the persons with disabilities. It is necessary that the authorities of the Mexican state work in a coordinated manner to make the PWD enjoy the same opportunities that other people do, adopting, among others, measures that assure progressivity and pertinence of public policies, developing effective mechanisms that allow a wide consult of this social group.
3. On March 2011, the National Human Rights Commission (NHRC) as supervisor of the appropriate application of the ***Convention on the Rights of Persons with Disabilities (Convention)*** by the Mexican state, created the General Directorate of Attention to Disability, according to article 33 numeral 2, of the aforementioned document. This, with the purpose of strengthening the promotion, protection and observance of human rights of persons with disabilities, developing training and teaching activities all over the country, as well as providing legal advice in the formalization of complaints and linking with social organizations and public Institutions, among other actions.

4. Through the General Directorate of Attention to Disability of the NHRC, information has been delivered to the PWD in all federative entities of the country, and has a direct and close contact with the people that on a daily basis face barriers that restrain their participation with equal opportunities, including the rural surroundings in which unfortunately intersectoral marginalization and multifactorial discrimination are still accentuated.

5. As a result of the alliances established with social organizations of and for persons with disabilities and Institutions that promote and protect human rights of groups in vulnerable situation, it has been possible to gather impressions, concerns, and complaints formalized before the NHRC for violations to the rights of the persons with disabilities, that have derived in conciliations, press releases, recommendations and unconstitutional actions,

A. PUBLIC POLICIES

6. The ***National Program for the Development of Persons with Disabilities 2009-2012*** (PRONADDIS), since its launch on July 2009, it established nine objectives from which the inclusion of the persons with disabilities would be addressed from various perspectives as a multidimensional and interdisciplinary issue, making obligatory a cross-directional approach in the political task. This program incorporated scopes previously not contemplated in the Mexican legal system, such as the civil and political rights, legal certainty, the participation of persons with disabilities in culture, sports and political life, and it assumes as one of its main axis, the activities of awareness, according to article 8 of the Convention.

7. In 2011, the General Law for the Persons with Disabilities was abrogated (2005); and on May 30th of that year the General Law for the Inclusion of the Persons with Disabilities was issued in the Federation Daily Gazette. This law keeps an important relationship and it is in harmony with the Convention. It contains the decentralization of the National Counsel for the Development and the Inclusion of Persons with Disabilities, transferred by decree published in the Federation Daily Gazette on March 29th, 2013 to the Ministry of Social Development, previously assigned to the Ministry of Health, achieving an integral development perspective based in the auto-sustainability.

8. Similarly, in 2011 it can be observed an important strengthening in the public resources assigned in the federal order for the adoption of specific measures regarding the persons with disabilities and their effective inclusion in the Mexican society, such as the Fund for the Accessibility of the Persons with Disabilities to the Public Transport, circumstance that became in the fulfillment of greater actions of accessibility for the inclusion of the persons with disabilities in the federative entities with access to the aforementioned resource.

9. From the adoption of the **Convention on the Rights of Persons with Disabilities** and the entrance into force of the constitutional reform on human rights of 2011, it can be noticed a relevant institutional transformation in the federative entities, that are transforming from an assistance perspective to operate with an integral approach, including the thrust of measures like the management and attainment of its autonomy, in order to influence directly on public policies, like the case of the **Instituto Guanajuatense para las Personas con Discapacidad** in the state of Guanajuato.

10. There have also emerged public policies for the labour inclusion of the PWD without discrimination, such as the Work and Training Program for the Persons with Disabilities 2009-2012, and it is promoted modifications to make the facilities of the Mexican Social Security Institute (IMSS) accessible for the persons with disabilities, in addition that a plural committee has been integrated that influences in the IMSS internal policies, that handles issues regarding legislation and civil protection.

11. Additionally, measures have been encouraged regarding information and communication accessibility for persons with visual disabilities and the hearing impaired, including the positioning of tactile guides in strategic public places and graphics of easy comprehension; superior distance education programs have been implemented which in 2010 included a population with disabilities corresponding to 1.6 of the total student population.

12. Other measures to promote such issue are being implemented in the federative entities, by implementing municipal measures for the inclusion of the persons with disabilities, although some are still dependent of the National and State System for the Integral Development of the Family (DIF), an institution that historically has been responsible of the subject of the persons with disabilities in Mexico.

13. An increasing interest is perceived in order to comply with the Convention, as well as the increasing concern by the authorities in their different orders of competence to carry out strategies to harmonize their legislations according to the human rights contained in the United Mexican States Constitution and in the international treaties from which Mexico is part of.

14. In sum, important progresses are observed in the country regarding mainly in accessibility to health, education and employment. Topics are still pending to be reinforced, such as the equal recognition as person before the law, the access to justice, the right to live in the community and in an independent way, the respect of home and family, the right to participate in politics and public life of the country, among others.

B. ACTIONS OF THE MECHANISM FOR THE PROMOTION, PROTECTION AND SUPERVISION OF HUMAN RIGHTS OF THE PERSONS WITH DISABILITIES

15. Through the General Directorate of Attention to Disability, the National Human

Rights Commission has exponentially multiplied the promotion and defense actions of the rights of the PWD and has developed important national campaigns, generating more social awareness of such matter, and has empowered persons with noticeable disabilities in the spontaneous emerging of leaders with disabilities that become real change agents in their communities.

16. Since the creation of the General Directorate of Attention to Disability, from 2001 to 2013, 363 promotion events were held, and 45,356 people were trained; 569 meetings were carried out with civil society organizations, public servants and local organisms of human rights. In 2011, 21 promotion activities were developed and 7,265 persons were trained; 74 meetings were carried out with organisms of civil society, public servants and local organisms of human rights.

17. The National Human Rights Commission, through the General Directorate of Attention to Disability, in coordination with **Libre Acceso** AC., in 2012 developed an accessibility assessment to each of the regional offices of this Constitutional Autonomous Organism, with the scope to make easier the access and internal movement of the PWD within the facilities,

18. Concurrently, in 2012, 135 promotion events were held in the 32 federative entities of the country, making an impact on 17,741 people, highlighting by their relevance the following events: Fora for the Inclusion of the Persons with Disabilities in Veracruz, Puebla, Durango, Nayarit, Estado de México, Oaxaca, Baja California Sur, Campeche and Coahuila, Binational Forum about the Rights of the Persons with Disabilities and the National Forum of Disabilities, Sexuality and Human Rights.

19. In the same year, 75,760 publications were distributed related to human rights of the PWD in all the federative entities and in the Federal District, through the State Human Rights Commissions and the National System DIF, and its counterparts in the states, among which it is necessary to outline the **Convention on the Rights of the Persons with Disabilities and its Monitoring Mechanism**; the Universal Declaration of Human Rights; the Federal Law to Prevent and Eradicate Discrimination; the General Law for the Inclusion of the Persons with Disabilities; We Have Human Rights: A human rights handbook for people with developmental disabilities; and the International Convention about the Rights of the Persons with Disabilities (Easy Reading). 208 networking and connection meetings were carried out with organizations of civil society, 197 actions of protection



including guidance and counsels, and 1,005 supervision actions of the rights of the persons with disabilities.

20. During 2013, 207 promotion actions of the human rights were performed such as forums, international seminars, conferences, meetings and dialogue panels, making an impact on 20,350 people, among them, people with disabilities and their families and their organizations, public servants and students. The events with major impact on the population and relevance concerning the application, respect and compliance of the **Convention on the Rights of the Persons with Disabilities** during that year were: International Seminar: The Political Rights of the Persons with Disabilities: a pending subject, Forum: the Convention on the Rights of Persons with Disabilities: 5 years from its application, the Conference about Accessibility and Human Rights, the II Conferences about the Rights of the Persons with Disabilities, First Regional Forum of Human Rights of the Persons with Disabilities in the State entity of Mexico and the International Forum about the Human Rights of the Persons with Disabilities: Legal Ability and Disabilities.

21. These events have allowed to gather concerns and to make guidance and counsels about alleged violations to human rights of the persons with disabilities. 75,789 materials were distributed in several formats and conditions of accessibility such as ink, easy reading and braille, highlighting the following: Mémoire of the Event "First National Conference about Human Rights and Persons with Disabilities", Inter-American Convention on the Elimination of all Forms of Discrimination against Persons with Disabilities, Notebook on the Right of Girls and Boys to the Highest Health Possible Level, **Convention on the Rights of Persons with Disabilities and its Optional Protocol**, and the **Convention on the Rights of Persons with Disabilities and its Monitor Mechanism**. 287 meetings, 424 protection and 2,007 supervision actions were developed.

22. Regarding the material distributed on disability issues, from 2011 to 2013 the percentage of documents delivered increased by 233.9%, and from 2011 to 2013 the percentage of connection and networking meetings on human rights of people with disabilities increased by 287.83%.

23. In October 2009, the National Human Rights Commission prepared the first National Assessment of Accessibility, in an effort to develop a process for collecting objective and reliable information on the status of certain facilities where the Federal Administration is allocated. The goal of this National Assessment is to promote a culture of respect and promotion of the rights of vulnerable groups, especially people with disabilities, in a joint effort with the *Federación de Colegio de Arquitectos de la República Mexicana A. O.* and *Asociación Libre Acceso A. C.*

24. The National Human Rights Commission developed monitoring actions focused to analyze the accessibility as a tool for the full enjoyment of human rights of the

PWD, and therefore, the compliance by the Federal Administration of the obligation to ensure an inclusive society.

25. For 2014, the National Human Rights Commission is driving actions to empower persons with disabilities, their organizations and their families, in order to become agents of impact in the society and make changes according to the perspective of social inclusion and human rights through the National Strategy for the Rights of the Persons with Disabilities and the National Campaign for Empowerment of the Persons with Disabilities.

C. COMPLAINTS BEFORE THE NATIONAL HUMAN RIGHTS COMMISSION

26. Complaints received in reference to breaches of law, discrimination and abuse, violations of the right to health of women with disabilities caused by medical suggestions to practice sterilization, denial of reasonable adjustments in the workplace, restrictions on the right of education due to the lack of infrastructure and appropriate materials to ensure learning, as well as the limited adoption of institutional mechanisms to ensure equal opportunities for people with pervasive developmental disorders and people with psychosocial disabilities.

27. The information obtained in the special reports elaborated by the National Human Rights Commission reveal that in both, prison system and the hospitals and mental health centers, it is necessary to adopt measures of physical accessibility, protection of personal integrity and access to information for the enjoyment of human rights. Specifically on psychiatric hospitals, effective social protection systems are required, which must be accompanied by programs of inclusion and effective participation in the community.

28. It is worth to mention that since 2011, the National Human Rights Commission includes the categories of “Persons with disabilities” by type of disability inside the complaints and orientation system. On this topic, from 2012 to 2013 there was an increase on the issues resolved by providing advisory and support to people with disabilities in order to turn to the relevant government agencies.

D. RECOMMENDATIONS

29. The National Human Rights Commission has issued five recommendations during the period 2009-2013 related to violations of the rights of the PWD. For example, the Recommendation 56/2011 regarding the right to education and access to information, including the necessity to ensure access to reading, learning and information for the PWD, as well as the implementation of specific educational materials to ensure the inclusion of disabled children. As a result of this Recommendation, the Mexican State provided listening and braille system materials to more than 78,000 students in basic education with visual impairment.

30. The Recommendation 44/2012 stands out the urgent necessity for the Mexican Government to implement feasible mechanisms for habilitation and rehabilitation of the PWD, and ensure their integration to inclusive working environments, supported by explicit legislative prohibitions to affirm the enjoyment of the right to non-discrimination for disability reasons.

31. The Recommendation 75/2012 suggests that inclusion practices for people with psychosocial disabilities should be strengthened, including measures to discourage the establishment of centers of segregation of these people, and to promote the deinstitutionalization process through short and long term projects.

32. With regards to accessibility, the Recommendation 47/2013 emphasizes the necessity to establish uniform federal rates as an affirmative action for people with disabilities, as well as the incorporation of accessibility to federal transportation in order to ensure the autonomy and independent movement of the PWD.

33. In the Recommendation 66/2013, the National Human Rights Commission noted the insufficient development schemes in sexuality education for people with disabilities, and the lack of programs to facilitate communication in case of sexual offenses, taking into account the children in disadvantaged conditions.

E. UNCONSTITUTIONAL ACTIONS PROCEEDINGS

34. The National Human Rights Commission has presented a number of unconstitutional actions proceedings after considering that dispositions stipulated in international instruments on human rights of the PWD have not been considered in some legislative provisions. During 2009 this faculty was exercised against the **General Health Law**, which used a segregationist language to refer persons with disabilities, and against the **Law for the Persons with Disabilities in the Federal District**, which did not include people with temporary deficiencies.

35. In 2010 an unconstitutional action was presented against the **Law of Municipal Government and Public Administration of the State of Jalisco**, due to the fact that it established the possibility that members of the local government of the municipalities of the Mexican state of Jalisco could be removed from their jobs derived of having acquired a permanent physical disability, which clearly violated the right to non-discrimination, rehabilitation and to have a reasonable adjustment in the workplace.

F. COURT RULINGS

36. Significant progress in the recognition of the rights of the persons with disabilities has been developed within the last two years, through the issuance of several national courts' rulings by addressing these rights in accordance with the United Mexican States Constitution and the international treaties on human rights. For example, the decision of the Supreme Court of Justice of the Nation that stated that disability is not synonymous of disease, by forcing the insurance companies not to discriminate the PWD.

37. Similarly, a decision on the legal capacity of persons with disabilities was issued, and notwithstanding that the complainant pretention to adhere to the provisions of article 12 of the Convention was not fulfilled, the Court established the obligation of judges to listen to the person with intellectual disabilities, and decide which acts can be independently addressed and which require support. The Supreme Court of Justice of the Nation also issued a decision to protect a person with physical

disabilities, stating that during the process of hiring people the absence of deficiencies to develop a job should not be conditional criteria, while the academic profile requested by the bidder company is fulfilled.

CONCLUSIONS

FIRST. The National Human Rights Commission highlights the need to multiply efforts to reduce the barriers that negatively impact the enjoyment of human rights of the PWD. It is necessary for the authorities of the Mexican State to work in a coordinated manner in order to allow the persons with disabilities to enjoy the same opportunities others do, including the adoption of measures to ensure the progressiveness and relevance of public policies, by developing effective mechanisms for inclusive inquiry of this social group.

SECOND. It is important to strengthen the empowerment of the persons with disabilities through broadly coverage awareness campaigns, to allow the persons with disabilities, their families and social organizations have more tools and abilities



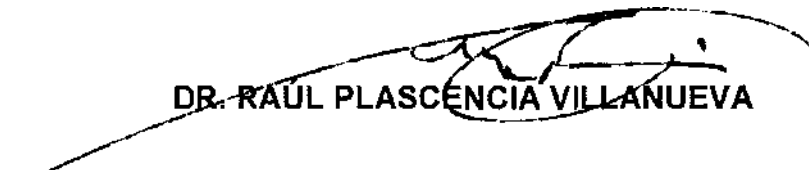
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to impact their environment and demand the observance and respect for human rights on the access to justice.

THIRD. This National Human Rights Commission considers necessary to promote in a more effective manner the rights of the persons with disabilities, particularly

issues related with women and children with disabilities, indigenous peoples and persons with disabilities and precarious situation. It should be pointed out the importance that institutions work jointly, as appropriate, in order for public servants to assume a culture of observance of the rights recognized in the United Mexican States Constitution and in the international human rights instruments.

FORTH. The Mexican State should adopt a twin-track approach as established in the ***Convention on the Rights of the Persons with Disabilities***, regarding the development of policies, plans and programs for the recognition and enforcement of the rights of persons with disabilities, by giving a transversal solution to issues such as health, education and employment to be effectively enjoyed and exercised by persons with disabilities, as well as the development of affirmative actions to compensate for the specific conditions of disadvantage faced on daily basis .



DR. RAUL PLASCENCIA VILLANUEVA

PRESIDENT