

# People with Disabilities Reality Regardless of Legal Texts

David Enyier Monroy

**Biographical sketch** Master's in Humanistic Studies from the Tecnológico de Monterrey. Local Representative in the LIV Legislature of Colima. President of the Fundación Colima Accesible, AC (Accesible Colima Foundation).

## Abstract

Equality, non-discrimination and freedom of movement are rights guaranteed to us by our Constitution, as well as by numerous international treaties and agreements which the Mexican State has signed and ratified. However, in reality, still outside legal texts, there are many architectural, technological and communications barriers which condition the freedom of movement of those who have some kind of disability, preventing these people from exercising their rights and as a result their social inclusion. Implementing public policies which would make it possible for them to exercise these official rights is the challenge that six million Mexicans with disabilities face, in order for them to enjoy the democratic development of our society on equal terms with all other Mexicans.

**Keywords:** accessibility, convention, constitution, disability, democracy, rights, vulnerable groups, equality, public policies.

## A non-negotiable reality

The dynamics of the phenomenon of urbanization in our towns and cities has promoted the growth of population centers with architectural profiles based on the functional standards of the common person, without taking into account those who have problems in getting around or finding their way, especially those with some kind of disability.

Despite the technical criteria for universal accessibility and design, set forth in the International Convention on the Rights of Persons with Disabilities, actions which in this sense have been carried out in the development of urban infrastructure and

furnishings has been limited mainly to building ramps and fitting out parking spaces.

In Mexico there are no official studies or diagnosis on this problem, although the legal obligation does exist to provide "appropriate information, including statistical and research data, to enable them to formulate and implement policies"<sup>1</sup> meant to solve these problems.

The state of Colima is no exception to these insufficiencies. Following the formation in 2007 of the Fundación Colima Ac-

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<sup>1</sup> Convention on the rights of persons with disabilities. Article 31..

cesible, AC (Foundation for an Accessible Colima), we began a diagnostic process which would allow use to see more clearly the situational framework of the mobility aids which have been constructed in our state. Said studies were random, more due to a lack of our own and official resources than to methodological intention. The government agencies assigned the task of diagnosis and solving deficiencies with resources of the institutionalized society do not do their job, or they carry it out deficiently, while civic organizations which have been created to make up for this institutional insufficiency, do not have the human or financial resources needed to promote the creativity and intentions developed outside the government. This is a reality which we cannot ignore.

Through the diagnoses which we carry out we can see that, in the streets of our towns and cities, less than 10% of the sidewalks have ramps for wheelchairs and more than 80% do not comply with the technical norms set down in national legislation: slopes, width, texture of the surface and signposting among other features whose purpose is to safeguard the safety of those who use them.

It is impossible to walk 100 meters, on any street, without running into architectural barriers: deficient ramps, garage ramps, steps, tension wires, posts and signposts, among others. The sidewalks are unsafe, irregular in their trajectory, at times wide and at times narrow and others with surfaces which are not smooth, with obstacles and many of them are invaded by commercial stands.

The presence of architectural and communication barriers are not found only in our streets, but repeated in public infra-

structure, which is the property of all three levels of government; in the private infrastructure dedicated to tourism; in most schools at all levels; in urban, suburban and outlying public transportation, both land and air, as well as rental transport.

The lack of accessible environments is repeated in most of our houses, in our own homes, where we are not able to move about freely, safely and comfortably, in order to enjoy our own family environment, which is the primary space where affective and emotional ties are built, these allowing us to face with greater ease the challenges society places on us. In Mexico, leaving one's house is a challenge and a serious risk for those of us with problems of mobility or for finding our bearings.

In consequence, as acknowledge by the World Health Organization and the World Bank, "many people with disabilities do not have equal access to health care, education and employment opportunities, do not receive the disability-related services that they require, and experience exclusion from everyday life activities."<sup>2</sup>

### **Is the solution only ramps?**

The first thing that comes to mind when we talk about accessibility is ramps and parking spaces. The lack of information and experience do not allow us to place ourselves in the other person's shoes in order to understand the gamma of his/her needs.

All human beings have different ways of moving around, from place to place. We can observe this same variation in people who have some disabilities: some use wheelchairs, some have prosthesis, some use crutches or

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<sup>2</sup> WHO, World Bank (2011). World Report on Disabilities.



canes, some are very short, some are blind, some are deaf, some have problems of concentration, attention deficit in understanding, among others.

Each disability presents different limitations and therefore it is necessary to understand that each situation also requires different kinds of interventions.

A ramp on the sidewalk, for example, is meant to help a person in a wheelchair move around easier, but, it has no advantage for a deaf or blind person. The later need very specific architectonic and communication elements which guarantee their independent, comfortable and safe mobility. So when the only actions which have been taken are the installation of ramps and special parking spaces, the solution and thus the rights of many Mexicans with other types of disabilities for mobility are left out.

Moreover, we should not ignore the fact that new information technologies, as well as technological devices, have not been efficiently incorporated into the development of

universal design; and therefore their use is extremely limited among those with physical or sensorial disabilities.

Likewise, the human resources necessary for the access of the blind or deaf to inclusive communication systems, such as Mexican Sign Language (LSM) or the Braille system of reading and writing have not been developed.

This is the main problem for persons with disabilities in Mexico. There is no access to constructed environments; there is no access to technological environments; there is no access to communication environments.

This diagnosis may seem very severe, and someone might try to argue that there are some streets, areas, units of transportation or buildings which provide facilities for accessibility, but we must remember the Constitutional commitment to free mobility and full inclusion, of all persons on all streets, in all areas, on all transport units, and in all constructed environments. Isolated cases in no way represent a solution to this problem.

### Who is affected by this?

Disabilities are not only an individual health problem. The lack of public policies for prevention and attention have allowed this phenomenon to become a problem of family health, public health and even more than this, of social health, since it not only involves health issues, but it also results in difficulties for the productive development of individuals and their families.

In March 2011 the National Institute of Statistics and Geography presented the results of the Census on Population and Housing 2010, which gave us a more precise idea of the size of the problem. In Mexico there are 5,739,270 people with some kind of disability (5). That is, 5.1% of the Mexican population has some kind of problem, seeing, hearing, understanding or getting around to a degree which limits his/her basic activities for a social life.

But these numbers are not the end of the problem. It must be understood that when a person has a disability, while he/she is directly affected, there are many implications for the family: these vary from economic problems (due to medical expenses, rehabilitation, adaptation of the infrastructure of the house), physical (in order to provide support in mobility or basic movements without the proper equipment nor techniques, and this many times leads to injuries) and emotional (due to lack of productivity, isolation, dependency, resulting in vices and conflicts in family dynamics).

If we take into account that the average number of members in a family is 4, we then have 22 million Mexicans who are directly or indirectly affected, economically, physically or emotionally. More than five million Mexican families face the challeng-

es imposed by social life with diminished strength.

As can be seen, "in Mexico persons with disabilities are the holders of all the human rights acknowledged in the Political Constitution of the United Mexican States and the international treaties and agreements signed and ratified" (6) by the Mexican State. However, there are many deficiencies in legislative development towards general laws, secondary laws, state laws and codes, as well as municipal regulations; which result in the lack of a normative framework which would act as a basis for establishing and applying effective public policies.

Faced with these difficulties, what can a person with motor, intellectual or sensorial disabilities do to confront the challenges of our contemporary society? How can the State guarantee that Mexicans with disabilities are included, with equal opportunities in the economic, cultural, sports, academic or political development of our country?

### The challenges

Without a doubt, the first step is to promote the reconciliation of state laws and regulations with municipal regulations, based on the UN Convention on the Rights of Persons with Disabilities, and the General Law for the Inclusion of Persons with Disabilities, and in light of the constitutional reform on human rights approved in 2010, and which expressly points out the obligation of the Mexican State, at all levels of government, "to promote, respect, protect and guarantee human rights."<sup>3</sup>

<sup>3</sup> Constitution of the United Mexican States . Article 1, third paragraph.

The logical next step is the design and instrumentation of public policies which promote and drive integral programs of Universal Accessibility and Design, so that those who have problems of mobility or bearings may go to and from school, work, church, parks, gardens, rehabilitation centers, sporting and cultural centers or any other space where they can freely have the opportunity for personal development.

These programs should be given the administrative, political and financial elements they need for carrying out transversal policies at all three levels of government, in order to assure accessibility in physical surroundings and accessibility to communications thus assuring the enjoyment of the rights set down in our Constitution and various international treaties.

It is essential that all government agencies (federal, state and municipal) carry out integral actions "based on a scheme of action and coordination of commitments and resources in three directions: vertical, horizontal and in-depth,"<sup>4</sup> aimed at guaranteeing the full social inclusion of persons with disabilities.

We know full well that democracy is more than the fair counting of votes. It also begins with and is developed in order to guarantee that opportunities may be enjoyed under the principles of "equality and non-discrimination." Thus, with equal opportunities individuals may accede totally to all spheres of social development.

Only through the instrumentation of transversal public policies, based on the Political Constitution of the United Mexican States, the UN Convention of the Rights of

Persons with Disabilities, the General Law for the Inclusion of Persons with Disabilities, and other legal codes at the various levels of government, will the Mexican government be in conditions to contribute to the democratization of Mexican society and the full force of the rule of law.

As Miguel Carbonell (2011) says, beyond what the constitutional norms state, including in this framework international treaties which our country has signed, the important thing is to determine how many and which of these rights are really respected, protected and satisfied by the institutions. I will close by quoting: "Without public policies and mechanisms which assure that rights become reality, constitutional norms will be no more than good ideas."<sup>5</sup>

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<sup>4</sup> General Law for the Inclusion of Persons with Disabilities. Article 2, Section XXVIII.

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<sup>5</sup> Miguel Carbonell and Pedro Salazar (2011) . The Constitutional Reform of Human Rights : a new paradigm. UNAM.

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