**Constitutional and legislative framework on Human Rights – International Covenant on Civil and Political Rights**

**1.** In regards to the list of topics, previous to the presentation of the fourth periodic report of Guatemala on human rights and the non-implementation of the recommendations, Comité Pro-Ciegos y Sordos de Guatemala, Asociación de Ciegos para la Cultura y el Deporte “ACCD Guatemala”, Sociedad para el Desarrollo de la Juventud -SODEJU-, and Frente Nacional de Juventud -FNJ- developed an alternative report on disabilities in Guatemala and the right to legislation in benefit of youth, particularly in regards to new bills that provide the necessary conditions in order to respect the rights of persons with disabilities and youngsters.

**2.** In the XXI Century, the rights of persons with disabilities are still not guaranteed, notwithstanding the Convention on Rights of Persons with Disabilities of the United Nations (2006) ratified by Guatemala, in addition to the Declaration of the three powers of government, according to the political agreement on Sustainable Development Objectives, which include fundamental rights of persons with disabilities.

In Guatemala, youth is a social human group that has been excluded from social, political, economic, environmental, and cultural processes. Youth is a great asset, for the Guatemalan society focuses and hopes they will change the situation the society and the country face, due to the crisis and lack of institutional credibility, corruption and impunity, poverty and extreme poverty, crisis of the political, economic, and judicial system, and the depredation and exploitation of natural elements. The contribution of youth, in order to build an equal, inclusive, multicultural, democratically transparent and non-corrupted society, which respects human rights, depends on the development conditions that the society and the State offer them.

**3.**      In Guatemala, according to the II National Disability Survey ENDIS (2016), there is a prevalence of 10.2% of persons with disabilities, meaning 1,6 million people, in addition to their family members, which is an evidence of a much greater disadvantage, for our country has still not reduced poverty, 69%, and extreme poverty, 23%, percentages which include most persons with disabilities, for there is a vicious circle between disability and poverty. Guatemala has an eminently young population, according to 2015 INE projections, 36.87% (5,964,075) of the total population (16,176,133) is between the age of 13 and 30. Adolescents between the age of 13 and 17 represent 12.29% of the total population of the country; youngsters between 18 to 30 years of age represent 24.58% population. Out of the total of youngsters between the age of 13 and 30, 49.73% are men and 50.27% are women, however, girls and women are the ones least benefited with weak government programs. The magnitude of poverty and extreme poverty levels in which youngsters between the age of 13 and 30 live in, is alarming, out of the total of youngsters, 5,964,075, 23.4% live in extreme poverty conditions, equal to 1,395,594 youngsters; 35.9% live in non-extreme poverty conditions, equal to 2,141,103 youngsters, a total of 59.3% live in general poverty conditions, equal to 3,536,696 youngsters. 40.7% of youngsters are not considered poor, although many of them are not able to fully provide for their basic needs or comprehensively enjoy their rights, for the poverty line is not a parameter that indicates that those that are above it, have dignified conditions of life.

**Regulation on persons with disabilities and youngsters:**

**PERSONS WITH DISABILITIES**

**4.**      Enacting of laws in Guatemala by the Legislative Branch, in favor of persons with disabilities, is very limited, and existent legislation continues following a traditional medical rehabilitation focus, not reaching a real scenario of full compliance and respect of human rights.

Bills in benefit of persons with disabilities have still not been passed by the Congress of the Republic of Guatemala; notwithstanding, the civil society has made relevant efforts to advise the Government in regards to the feasibility of the law, for there are economic resources in order to implement the law and provide an immediate and concrete answer to the needs of the population with disabilities, in regards to prevention and comprehensive health assistance, the right of inclusive education, setting aside the current focus of special education, as well as implementation of specific actions to pass the school grade and develop skills that enable persons with disabilities to have access to worthy jobs or entrepreneurships, due to their abilities and not their disabilities.

1. Framework Bill on Persons with Disabilities, registry number 5125: Still not passed by Congress of the Republic of Guatemala, submitted on August 3rd, 2016, with a recommendation from the Committee on Rights of Persons with Disabilities (OHCHR) of the United National (UN), with a period of 12 months, established by the Committee, in order to be passed, ending on August 2017. This bill includes fundamental rights and liberties established in the Convention on the Rights of Persons with Disabilities (CRPD). This bill has not been approved by articles, due to arguments among congressmen in regards to the lack of budget in order to comply with obligations with persons with disabilities, established in the bill. In order to respond to that argument, civil society organizations, together with Government dependencies, such as the Department of Health, Department of Education, Department of Public Finances, and Department of Labor, proposed amendments in order to make the law economically feasible and only use resources already contemplated in the General Budget of the National, which are disperse and have not been specifically assigned for disabilities or, according to the First Exam of the Country, on behalf of the Committee of Experts on the Rights of Persons with Disabilities, in Geneva, on August 2016, the Government of Guatemala has assigned resources for disabilities, however these have been executed on a discretionary basis.
2. Bill on Guatemalan Sign Language (LENSEGUA, acronym in Spanish), registry number 5128: In Guatemala, persons with hearing disabilities have still not solved their communication needs homogeneously, for each region in our country has differences in the signs used, limiting a more significant inclusion of this population. In addition, it is concerning that in the Central American Region, Guatemala is the only country that does not have an official sign language, which makes it complicated to establish a series of strategies in favor of the inclusion in education, health, labor, culture, access to justice, media and information, and access to accessible technology for persons with hearing disabilities, among other physical and behavioral barriers in regards to respecting their dignity.

**c.**      Bill to amend the Copyrights Act and Related Laws, registry number 5149: Bill that amends article 63, related to the format of access to reading, based on the Government Decree 7-2016, which ratified the Marrakesh Treaty, to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, promoted by the World Intellectual Property (WIPO) in 2013, which has still not been passed by the Legislative Branch, notwithstanding the few articles that have no economic implications.

Comité Pro Ciegos y Sordos de Guatemala and Asociación de Ciegos para la Cultura y el Deporte have participated as civil society, supporting the processes to determine the situation of children and adolescents with disabilities at Hogar Seguro Virgen de la Asunción, visiting Centro Alida España, together with OACNUDH representatives, and monitoring their transfer to Hogar Seguro Virgen de la Esperanza in Quetzaltenango. During the visits, an urgent need to diagnose each person was established, most of them persons with intellectual disabilities, and therefore, to implement a protocol for each case, those of visual or hearing disabilities are already assisted by Comité Pro Ciegos y Sordos de Guatemala at its hospital and education centers.

**GUATEMALAN YOUTH**

The rights of Guatemalan youth to have national mechanisms for protection of their rights and a specific national legislation, are systematically violated. In 2005, the first bill was submitted (3285), Law for the Comprehensive Development of Youth, and then a new bill, 3896, National Law of Youth, which made it to its third reading by the Legislative Branch. 16 years later, the Congress of the Republic has still not passed a legal instrument that develops rights, institutionality, and policies in favor of their well-being: a) Right to a dignified life and social and economic development; b) to physical and psychological protection of youth; c) to health, and access to health care (general); d) to education; e) to labor and fair and worthy conditions of labor.

**d.** A new legislative branch in 2016 elaborated an agenda that included the approval during third hearing and per article of the Bill 3896 and its amendments, to which economic groups of Comité Coordinator de Asociaciones Agrícolas, Comerciales, Industriales y Financieras (CACIF), congressmen, who represent their interests, and Conferencia Episcopal de Guatemala, opposed to, blocking its approval, with distorted arguments regarding topics of comprehensive health in sexuality, budget, and youth participation/organization. Congress of the Republic created a Specific Commission to discuss the amendments, abrogating powers they did not have, generating conflict, therefore the Law was shelved once again. On November 18th, 2016, a new bill was submitted (5208), the Law for Development of Youth, which contains a consensus reached in 2016, focusing on 13-30 year old youngsters. On January 13th, 2017, the Commission of Youth of the Congress issued an opinion, which states “In view of the foregoing and based on the analysis performed, this Commission issues a FAVORABLE OPINION in regards to Bill Number 5208, which approves the Law for Development of Youth, for it is coherent, necessary and timely…” 10 congressmen signed that Opinion, however it has not moved forward in spite of youth lobbying and incidence efforts.

**Recommendations:**

**5.**      It is recommended for the Government of Guatemala to develop and implement an awareness raising campaign and to carry out specific actions to ensure the full execution and respect of the rights of persons with disabilities, beyond the reform to the definition of disabilities contained in the Government Decree 135-96, as well as to modify public policies that continue using the term and concept of assistance to disabilities, promoting a culture of segregation and non-inclusion of persons with disabilities; emphasizing that the media and government entities continue referring to persons with disabilities as: persons with different abilities, disabled persons, handicapped, special needs persons, therefore, society continues feeling pity for a person with a problem or condition and does not visualize the dignity of the human person in a disability situation.

**6.**     To urgently request to the Congress of the Republic to immediately pass the Framework Bill on Persons with Disabilities, number 5125, and its amendments agreed between the civil society and Executive Branch, in order to respond to the aspects contained in the Convention on the Rights of Persons with Disabilities, ratified by the Government of Guatemala, through the Decree 78-2009.

**7.**     To urgently pass a law that establishes an official sign language and enables the population with hearing disabilities to be included in the social, economic, cultural, and political life.

**8.**      To request to the Congress of the Republic to pass the Bill 5149, proposal of amendments to the Copyrights Act and Related Laws, Decree 33-98, in order to comply with the right to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled, reducing the high percentage of non-accessible books. Among millions of books published, 1% to 7% are accessible, in addition, 90% are in less developed countries and Guatemala does not even have 1%.

**9**. To request to the Government of Guatemala, through the Secretariat of Social Well-being, to implement actions to provide due assistance in comprehensive health, rehabilitation, and relocation in accessible conditions, for those children with disabilities who lived at Hogar Seguro Virgen de la Asunción, as well as to provide mechanisms to reduce institutionalization and ensure adequate processes for deinstitutionalization and return to their homes and communities, if the circumstances respond to valid criteria of respect and protection of their rights as persons with disabilities.

**10.** Youth organizations at Frente Nacional de Juventud, consider that this bill reflects the proposals they submitted in 2005, and request to the United Nations Commission and examining countries, to petition to the Congress of the Republic and congressmen of the different political parties, to promptly pass the bill. To strengthen defense and promotion mechanisms to comply with the rights of youth, through public policies and specialized institutions on the subject: a) To promptly pass and implement the Law of Development of Youth (Initiative 5208), b) To integrate, as an outcome of passing the Law of Development of Youth, the Secretaría Nacional de Juventudes, Consejo de Desarrollo de las Juventudes, Foro de Participación de las Juventudes, as promoting bodies in order to comply with the rights of youth, assigning budget resources for its operations, c) To strengthen the Defensoría de la Juventud of the Human Rights Ombudsman, providing budget resources for its operations and in order to comply with its role of surveillance of the rights of youth, d) Alliances and cooperation management with international organizations to support programs directed to youth (Ibero-American Youth Organization –OIJ-, International Labour Organization –ILO-, UNESCO, UNICEF, UE, United Nations System).

Questions

1. Why has the Congress of the Republic not passed the aforementioned bill?
2. Why are resources limited for the inclusion of persons with disabilities and youth?
3. When will the Government of Guatemala respond to the development of youth and persons with disabilities?

Guatemala, February 8th, 2018