

Citizenship exercised by the right to suffrage in Brazil and Spain

A cidadania exercida pelo direito ao sufrágio no Brasil e Espanha

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Abstract

One of the most well-articulated rules of international human rights law, the right to participate in politics and public life through the suffrage, is also one of the more frequently denied for individuals with disabilities. This work intends to draw a parallel, based on the United Nations Convention on the Rights of Persons with Disabilities, about the structural power that the right to vote and to be voted can offer to all individuals who, somehow, are daily prevented from exercising them. The article 29 of this Convention, addresses the design and implementation of an electoral process that is non-discriminatory, while also requiring states to provide voters with disability-related other facilitative measures to enable their equal rights. Sovereignty makes the rights rise in each and every citizen and allows them to participate in political decision-making and to be part of the primary element in shaping the public interest. During the research, we look more closely at the rights of minorities, emphasizing the ones connected with persons with disabilities in the decision-making process, especially the political ones, so that their rights can be heard and enforced. Throughout the study, we observed that the guarantee of the right to suffrage and its manifestations requires, previously, the elimination of architectural, social, economic and attitudinal obstacles, among others. The rules contained in the Brazilian Inclusion Law and the UN Convention on the Rights of Persons with Disabilities are intended to shape parameters to protect and enforce this right of citizens with disabilities and drive the expression of this minority in all its political potential. Emerging practices around the globe, as in Spain and Germany, corroborating that persons with disabilities can be successfully incorporated in all phases of an electoral process. The suffrage rights become, therefore, a channel for participation and transformation of the subservient individual to a citizen capable of influencing decisions that will be taken on his behalf.

Keywords: Disabled people. Suffrage. UN Convention on the Rights of Persons with Disabilities. Brazilian Inclusion Law.

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Resumo

Oriundo de uma das mais bem articuladas regras internacionais acerca dos direitos humanos, o direito de participar da vida política e pública, através do sufrágio, também é um dos mais frequentemente negados aos cidadãos com deficiência. Esse trabalho procura traçar um paralelo acerca do poder estrutural que o direito de votar e ser votado pode oferecer a todos os indivíduos que, de alguma forma, são diariamente impedidos de exercer, tomando por base a Convenção dos Direitos das Pessoas com deficiência das Nações Unidas. O artigo 29 trata do desenho e implementação de um processo eleitoral não discriminatório, ao mesmo tempo em que exige que os Estados forneçam aos eleitores outras medidas facilitadoras relacionadas à deficiência, a fim de permitir seu direito de igualdade. A soberania faz nascer o direito em todo cidadão e os permite participar das tomadas de decisões políticas e fazer parte do elemento primordial na formação do interesse público. Durante a pesquisa, observamos mais atentamente os direitos das minorias, dando ênfase no das pessoas com deficiência, no processo de tomadas de decisões, mormente o político, com o fim de que seus direitos sejam ouvidos e efetivados. Ao longo do estudo realizado, observamos que a garantia do direito ao sufrágio e suas manifestações, exige, anteriormente, eliminar obstáculos arquitetônicos, sociais, econômicos, atitudinais, entre outros. As regras contidas na Lei Brasileira de Inclusão e na Convenção da ONU sobre os Direitos das Pessoas com Deficiência são destinadas a formatar parâmetros para proteger e efetivar esse direito do cidadão com deficiência e impulsionam a expressão desta minoria em todo seu potencial político. As práticas emergentes em todo o mundo como na Espanha e Alemanha, sustentam que as pessoas com deficiência podem ser incorporadas com sucesso em todas as fases de um processo eleitoral. O direito ao sufrágio passa a ser, portanto, canal de participação e transformação do indivíduo subserviente para um cidadão capaz de influenciar decisões que serão tomadas em seu nome.

Palavras-chave: Pessoas com deficiência. Sufrágio. Convenção da Organização das Nações Unidas sobre os Direitos das Pessoas com Deficiência. Lei Brasileira de Inclusão.

Introduction

When mentioning the right to political participation, it is necessary to add both meanings as accessibility to the vote and the influence of the disabled person in the decision-making process.

During the constructions of the ideas of popular sovereignty, the right of suffrage was placed in the ideals of the French Revolution (1789-1799). France was the forerunner of the fundamental political right. In 1789, with the Declaration of the Rights of Man and the Citizen, civil equality was proclaimed among men.

Through the Democratic State of Law, human dignity changes into a universal maxim for any and all public functions. By intensely influencing the consolidation of the public interest, political participation in the conduction of the state becomes a fundamental right and presupposition of popular sovereignty.

In 1848, the French government recognized men as politically equal, decreeing the new electoral principle - direct suffrage without census limitation, grounding the representation of the population, thus establishing a "partial" equality of votes, in a system of proportional representation, excluding the female vote that was granted to them in 1944.

The 15th and 19th Amendments to the Constitution prohibit the government from denying the right to vote to any U.S. citizen because of race, color, previous condition of servitude or sex. Other than those prohibitions, however, the Constitution gives States the power to set qualifications for voting, as long as they are not discriminatory, and do not violate the Constitution or any restrictions that Congress imposes in federal voting laws (U. S. A. Constitution, art. I, s. 4)². The Federal Voting Rights Act specifically gives states permission to enact laws to deny the right to vote to people for two reasons: "by reason of criminal conviction or mental incapacity." (42 U. S. A. Constitution, § 1973, gg-6 (a) (3) (B)).

Obviously, the participation of the people in the public mechanisms of decision-making, definition and execution of public policies and control of administrative management is still remote from a social ideal.

The Federative Republic of Brazil has shown sensitivity to the issue, which can be seen from its constant work with international organizations such as the United Nations and its commissions and councils. In this context, it is worth mentioning the participation of the Brazilian nation in the elaboration and ratification of the first international convention on human rights of the 21st

² UNITED STATES. **Constitution of the United States**. Available at: <https://web.oas.org/mla/en/Countries_Intro/USA_intro_fundtxt_eng_1.pdf>. Accessed: 13 jul. 2019.

century: the Convention on the Rights of Persons with Disabilities - December 2006, here and after identified by the acronym CRPD³.

With the incorporation of statements on human rights in Brazilian national constitutional texts, in terms of article 5, paragraph III of the Constitution of Brazilian Republic (CRFB)⁴, through Legislative Decree n° 186, July 9, 2008 and Decree n° 6, dated August 25, 2009, the opportunities for the individual's performance in the public sphere were gradually increased.

In order to exist a truly democratic society, it is necessary to protect and anticipate the possibility of participation in the political country life. The right to political participation, especially for persons with disabilities, is therefore firmly anchored in international laws as enshrined in the United Nations Convention on the Rights of Persons with Disabilities.

It is necessary to build a social model that ensures the removal of obstacles and that can be able to prevent excluded groups from having a voice so the chances for developing individual capacities can be multiplied.

Adopting the same thought Amartya Sen's⁵ "capacity" represents a series of alternative combinations of physical and mental states that a person is able to do, to become, or to be. They are opportunities or freedoms to achieve what an individual considers valuable. The connection between the expression of political will and other fundamental rights exists through the fact that the individual, by actively participating in the public sphere, interferes in the construction and legitimation of their fundamental civil, economic, social and cultural guarantees.

We note, however, that the barriers faced by people with disabilities - be they legal or technical - when they want to exercise this right, that we nowadays take for granted, are still far too high.

Collectively, Brazilian federal laws recognize and protect the right of people with disabilities to vote. They set standards to ensure access to polling places and to permit assistance to voters where it is needed. Many common

³ UNITED NATIONS. **Convention On The Rights Of Persons With Disabilities**. Available at: <https://www.un.org/disabilities/documents/convention/convention_accessible_pdf.pdf>. Accessed: 13 jul. 2019.

⁴ BRASIL. **Constituição da República Federativa do Brasil de 1988**. Available at: <http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm>. Accessed: 13 jul. 2019.

⁵ SEN, Amartya. **A ideia de justiça**. São Paulo: Companhia das Letras, 2011.

obstacles on voting for people with disabilities were removed. Subjecting a voter who has a disability to an impromptu challenge based on the voter's apparent incapacity flies in the face of these stringent federal guarantees of equal rights for voters with disabilities.

It is important to guarantee political accessibility for people with disabilities, banning obstacles and offering necessary conditions to seek their rights. Participating politically in a democratic society of rights is an instrument that ensures a social coexistence that can be effectively inclusive, fair and works in solidarity.

Disabled people must have favorable conditions of accessibility as citizens committed to participate in the political community life. Based on guardianship status, the voting rights of a minority can only be restricted if a judge rules that the person is not capable or competent in terms of voting, and courts retain the authority to preserve that ward's right to vote.

More than just exercising the right to vote in elections, from now, people with disabilities are capable to participate in a large number of political activities, including membership in political parties, witnessing political meetings and establishing contacts with elected representatives. Providing more accessible information and procedures, as well as better support and reasonable accommodation are adjustments capable to enable people with disabilities to enjoy their human rights in equality with other citizens – they can further, when necessary, increase this participation.

1. Democracy and accessibility

When women's suffrage leaders demanded equal rights, many of them were labeled as having mental disabilities which made them unfit to perform the same civic roles as men. Disability, in this case, was used as a justification for discrimination against women, as well as furthering the stereotypes and marginalization of people with disabilities.

People with disabilities have historically faced similar societal barriers to activities such as voting that people of color and other marginalized groups face,

by way of laws, policies and structural inequities that have disproportionately affect them.

Major challenges remain when speaking about realizing the right to political participation of people with disabilities. There are still some legal restrictions such as the ones imposed on the right to vote of certain persons with intellectual disabilities, for example, and the inaccessibility of polling stations or places web.

It is important to understand that those disabilities are constructed by inaccessible environments - meaning that a physical or mental characteristic of someone that may be considered a disability is only considered that way because our society is largely constructed for able-bodied people.

These obstacles end up excluding persons with disabilities from a possible opportunity to participate and influence in the development and application of laws and policies that rule their daily lives. These challenges need to be addressed as soon as possible in order to increase the legitimacy of public institutions and to build more equitable and inclusive societies in which full participation of all their members is possible.

Since suffrage is the cornerstone of the right to full political participation, we must consider its other manifold manifestations: the right to association and assembly, political pluralism, regular and universal voting, partisan militancy, presence in demonstrations, the pressure exerted on rulers, the diffusion of political information and discussion on public issues.

When we consider intersectionality and disability, it might be helpful to think about the ways that our society has historically made and continues to make things inaccessible for certain groups of people because of their race, gender identity, class, ethnicity, sexuality, immigration status, etc.

In general we need to observe the right to vote as: 1) active (right conferred to the citizen to elect Executive and Legislative representatives or show opinion on public policies) and 2) passive (prerogative to be presented as a candidate during the electoral process).

Social marginalization happens when is denied to a group of people equal and adequate opportunity to determine their treatment by the members of the

broader society. It usually includes the lack of representation, recognition of rights and equal redistribution of resources and services.

It is important to say that impediments to political participation do not equally affect all people with disabilities. Those with more severe disabilities and those facing specific diagnoses are faced with proportionally greater obstacles to their participation in political life. It turns out that these people are repeatedly among the most isolated and excluded, to promote their fully participation in the political process, represents a challenge for a whole society and its leaders.

The political expression of the individual is based on democracy, so far as it gives it legitimacy. There is no democratic regime where the collectivity - or a significant part of it, such as socially, economically or culturally vulnerable groups - is displaced from the spheres where debate and public orientation are forged, because democracy is characterized as the regime in which fundamental decisions flow from all citizens.

It is necessary to create policies that allow people with disabilities to fully participate in the political process. This includes ensuring the accessibility of polling locations and promoting the availability of accessible voting technology to achieve equality and democracy.

Significant progress has been made over the years in terms of integrating the right to political participation of people with disabilities into national legal and political systems. Brazil has signed the CRPD and formulated a relatively small number of reservations or declarations on essential provisions. Afterwards, measures were taken with a view to its ratification. In addition, it has developed national strategies or action plans to implement the CRPD, which addresses the right to political participation of persons with disabilities.

However, legal and administrative obstacles remain and continue to prevent some persons with disabilities from participating in political life on an equal footing with other citizens. These obstacles include: (1) legal restrictions on the right to vote of some persons with disabilities, in particular those who are diagnosed with psychosocial or mental disabilities; (2) inaccessible and complex administrative procedures which may deprive persons with disabilities of the right

to vote; 3) difficulties in accessing complaint mechanisms in cases where people with disabilities face problems in exercising their right to vote.

It is clear that offering access channels for the exercise of political rights, in addition to making the social environment more plural and in conformity with social justice, transforms the subservient individual into an active citizen with the power to influence in fact the political decisions taken in his name.

A virtuous cycle emerges among democracy, citizenship and political rights. By actively participating in the political process, the person with disability strengthens as a citizen, consolidates the democratic culture and materializes the Democratic State of Law.

It is necessary to actively fight for the fair and civic inclusion of people with disabilities in every political, social, and economic front. Disabled community has experienced violence beyond imaginable, being overly institutionalized, being denied access to competitive employment, and have often had their rights trampled on. There is a desperate need for those in politics and power to enforce the rights of that population – people with disabilities. Voting is the tool for expressing everyone voices and opinions. Voting gives the communities access to increased opportunities and satisfaction.

When one speaks of a society free from oppression and submission, they must consider the guarantee of the right to political participation in an equitable and inclusive dimension. Although freedom of participation is one of the democratic pillars, political will only be legitimate if everyone can exercise their right to equal suffrage in order to achieve social justice.

The fact is: there is no freedom without equality.⁶ The individual who possesses superior condition will always have more power, limiting others in inferior situation. Social justice will be achieved only when freedom is granted in the most perfect equality. The more equality is guaranteed, the greater the capacity of each citizen.

⁶ ANDRIOLI, Antônio Inácio. **A democracia direta em Rousseau**. 2017. Available at: <<https://andrioli.com.br/index.php/artigos/12-a-democracia-direta-em-rousseau>>. Accessed 10 July 2019.

To Habermas⁷, the exclusion of the "different" occurs through a conscious will of social homogeneity, which causes the internal marginalization of social groups. His proposal against this systematic exclusion consists in the defense that the proper politics of democracy must be managed in the direction of the "inclusion of the other", promoted independently of the individual characteristics of each one and with access to the political community. For this, public institutions must eliminate dense moral connotations, and adopt fully the procedures of modern law.

Some individuals need specific protection, on their own condition, what is indispensable for them to be able to participate socially and act on a level playing field (considered in their material dimension).

As Silva⁸ points out, in societies corrupted by inequality, the general norm applied equally to all (formal equality) can generate social injustices, since real inequalities will not cease to exist. One must, then, take into account the distinctions of social groups (material equality), because on the contrary the law ends up generating more inequalities.

The guarantee of the right of persons with disabilities to intervene in State decisions, especially in those matters that concern them more directly, must be seen as a crucial element in the constitution and promotion of their social inclusion.

The legislation aims to increase the political participation of the disability community while also engaging candidates and the media on disability issues. It is necessary to work with state and national coalitions on effective, non-partisan campaigns to address the concerns of people with disabilities, to eliminate barriers to voting, to promote accessibility of voting; to educate communities about issues and candidates; to promote turnout of voters with disabilities across the country; and to engage candidates and the media on disability issues.

⁷ HABERMAS, Jürgen. **A inclusão do outro: estudos de teoria política**. São Paulo: Edições Loyola, 2002.

⁸ SILVA, José Afonso da. **Curso de direito constitucional positivo**. 28. ed. rev. e atual. São Paulo: Malheiros Editores, 2007.

In addition to the different streams of legal analysis addressed, the political-science literature about disability-impairment-based suffrage restrictions features a lively normative debate. This literature advances, and disputes, several rationales for disenfranchising people on the basis of mental impairments, for example, because: 1) enfranchising people with mental impairments is inherently problematic; and 2) voters with mental impairments can be easily manipulated to vote in a manner that endangers the electoral process.

States may choose to utilize the electoral law to protect the legitimacy of the democratic process.

2. International Human Rights Law

As described above, the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)⁹ - the first International Human Rights Treaty incorporated into Brazilian legal system with equivalence of constitutional law (Legislative Decree nº 186, July 9, 2008¹⁰, promulgated by the Federal Executive Branch through Decree nº 6.949, August 25, 2009¹¹) - acts not only as a timely instrument for the realization of the most varied rights and fundamental guarantees, but also as a normative revolution of conducting the institutions to respect by democratic values of inclusion and social justice.

The Article 29 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD)¹² requires states parties to "[e]nsure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others (...) including the right and opportunity for persons with disabilities to vote and be elected."

⁹ UNITED NATIONS. **Convention On The Rights Of Persons With Disabilities.**

¹⁰ BRASIL. **Decreto Legislativo nº 186, de 2008.** Aprova o texto da Convenção sobre os Direitos das Pessoas com Deficiência e de seu Protocolo Facultativo, assinados em Nova Iorque, em 30 de março de 2007. Available at: <http://www.planalto.gov.br/ccivil_03/CONGRESSO/DLG/DLG-186-2008.htm>. Accessed: 13 jul. 2019.

¹¹ BRASIL. **Decreto nº 6.949, de 25 de agosto de 2009.** Promulga a Convenção Internacional sobre os Direitos das Pessoas com Deficiência e seu Protocolo Facultativo, assinados em Nova York, em 30 de março de 2007. Available at: <http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2009/decreto/d6949.htm>. Accessed: 13 jul. 2019.

¹² UNITED NATIONS. **Convention On The Rights Of Persons With Disabilities.**

The Convention has 172 parties, and 15 additional states (including the United States and Brazil) have signed the Convention. Additionally, the Optional Protocol, allowing individual recourse to the Committee on the Rights of Persons with Disabilities (CRPD Committee) for allegations of Convention violations¹³ has ninety-two parties."

Political tensions involving national and social minorities have motivated wide-ranging discussions between sovereign states, especially in Europe and within international organizations. The United Nations Human Rights Council¹⁴ has considered this issue and established the Forum on Minority Affairs through Resolution 6/15 in September 2007. At its second session in November 2009, the Forum began to discuss "Minorities and Effective Political Participation", giving the imperative to deal with the effectiveness of this group's right to participate in decision-making processes.

The number of individuals, who are incapable of voting, or of doing so in a rational manner, is miniscule compared to the number of capable voters who cast votes in error or based on irrational considerations.

Education and adaptation can effectively lower the rate of participation of voters' incapable of voting rationally by helping more voters to make rational decisions. Therefore, states must undertake inclusive measures rather than resort to exclusion.

The CRPD¹⁵ beacons were translated into a global framework that seeks to change the scenario of exclusion of persons with disabilities, highlighting the vulnerabilities faced by the beneficiaries and demanding from the national

¹³ Optional Protocol to the Convention on the Rights of Persons with Disabilities art. 1.1, Mar. 30, 2007, U.N. Doc. A/61/611 ("A State Party to the present Protocol ("State Party") recognizes the competence of the Committee . . . to receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the convention."); id. at art. 6 ("If the Committee receives reliable information indicating grave or systematic violations . . . the Committee shall invite that State Party to cooperate in the examination of the information and to this end submit observations. The State Party concerned shall, within six months of receiving the findings, comments, and recommendations transmitted by the Committee, submit its observations to the Committee.").

¹⁴ UNITED NATIONS. Human Rights Council. **Background document by the independent expert on minority issues, Gay McDougall, on minorities and effective political participation**. Geneva: Human Rights Council. Forum on Minority Issues, 2009. Available at: <<http://www.osce.org/cio/68837?download=true>>. Accessed: 15 set. 2019.

¹⁵ UNITED NATIONS. **Convention On The Rights Of Persons With Disabilities**.

authorities, and the various social actors, concrete actions for the implementation of the rights and guarantees.

There is a structuring purpose of ensuring and promoting the emancipation of people with disabilities, mainly from the principle of equality and social inclusion, which unfolds in the right to promote accessibility to human and fundamental rights.

The discussion on the subject is recurrent. In the philosophical field, Alves¹⁶, based on Ortega y Gasset, approaches the clash between minority and mass, understanding that the dynamism between these two factors generates society. As a majority, mass acts "directly without law, through material pressures, imposing tastes and aspirations", harming the full exercise of rights by minorities.

Hence the need to modify the democratic model as majority democracy, which, for us, is the tyranny of the majority. Ortega y Gasset¹⁷ deals with this when he speaks of the politicization of the masses:

"(...) when the mass feels unsatisfied, or simply has some strong desire, it is a great temptation for this permanent and sure possibility to achieve everything - without effort, struggle, doubt or risk - without having to do anything but tighten the spring and turn on the portentous machine. The mass says to itself: "I am the State," which is a complete error. The state is only mass in the sense that it can be said that two men are identical because none of them is called John. The contemporary state and the mass only coincide in being anonymous. But it happens that the mass-man thinks, in fact, that he is the State, and will tend more and more to make it work on any pretext, to crush with it any creative minority that disturbs him which disturbs any field: in politics, in ideas, in industry."

A special Chapter of the UN Convention (Article 4.1, "a")¹⁸ lists the rights and guarantees of participation in the public and political life of persons with disabilities, in order to ensure their political inclusion, reducing the debt of the system with human dignity and reinvigorating the democratic substratum of

¹⁶ ALVES, Fernando de Brito. As minorias e os novos sujeitos de direito em tempos de transição paradigmática. In: **Anais do XVIII Encontro Nacional do CONPEDI**. Florianópolis: Fundação Boiteux, p. 466-480. p. 469-470. Available at: <http://www.publicadireito.com.br/conpedi/anais/36/06_1364.pdf>. Accessed: 26 ago. 2019.

¹⁷ Our translation from: ORTEGA Y GASSET, José. **A rebelião das massas**. São Paulo: Martins Fontes, 1987. p. 132.

¹⁸ UNITED NATIONS. **Convention On The Rights Of Persons With Disabilities**.

electoral status. This time, Brazil assumed the onus of adopting necessary measures to guarantee and promote the political and electoral accessibility of persons with disabilities.

An important indicator of the opportunity for persons with disabilities to participate in public life is the number of those elected to public office. This, however, demonstrates a lack of clear evidence indicating the extent to which people with disabilities have been able to take advantage of the opportunity to be elected to political office throughout the nation.

In addition, the CRPD¹⁹ encourages the promotion of an environment in which people with disabilities can participate effectively and fully in the conduct of public affairs, through affiliation with non-governmental organizations related to public life and politics in the country, and the formation of international (regional, national and local) organizations representing their interests.

Therefore, there is a need to close involvement of people with disabilities, including through the organizations that represent them (example the National Coordinating Office for People with Disabilities, in Portuguese: Coordenadoria Nacional da Pessoa com Deficiência (Corde)), the current National Secretariat for the Promotion of the Rights of Persons with Disabilities, and the National Council of Rights of the Person with the Disability, in Portuguese: Conselho Nacional dos Direitos da Pessoa Portadora de Deficiência (Conade)), in the decision-making processes on matters that concern to them.

In this regard, it is necessary to strengthen existing mechanisms to involve these actors, including through the creation of advisory or consultative bodies. These bodies should include a significant proportion of organizations representing different groups of people with disabilities. Representatives of persons with disabilities should be members of such bodies on an equal footing with others and should be provided with the necessary resources to enable them to participate fully without compromising their independence.

This information must be accessed without any obstacles, thus transforming these people into protagonists of their own trajectory. By participating in public life, for example, people can help to lead actions that

¹⁹ UNITED NATIONS. **Convention On The Rights Of Persons With Disabilities.**

promote quality of life for all. Thus, we pass from taxable persons to active subjects in the construction of the society we dream of, for everyone, regardless of their personal and social conditions²⁰.

In the Inter-American System of Human Rights, the special normative protection of persons with disabilities is provided for Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities of the Organization of American States²¹ (Guatemala's Convention) text. Although it does not contain a specific article on political rights, it requires the signatory countries to adopt legislation, social, educational, employment or other measures necessary to eliminate discrimination against persons with disabilities.

In the European human rights system, the Charter of Fundamental Rights of the European Union prescribes that Member States should recognize and respect the right of persons with disabilities to benefit from measures designed to ensure their autonomy, social participation in community life.

Similarly, the Council of Europe Recommendation (2006) on April 5, 2006 of the Committee of Ministers to the Member States on the Council of Europe's²² Plan of Action to promote the rights of persons with disabilities argues that the participation of all citizens in political and public life, and in the democratic process, is fundamental to the development of democratic societies.

In addition, the Committee of Ministers' Recommendation (2004) on September 22, 2004²³ to the Member States about the protection of the human rights and dignity of persons with mental disorders suggests that such individuals

²⁰ RESENDE, Ana Paula Crosara; VITAL, Flávia Maria de Paula (Orgs.). **A Convenção sobre os Direitos da Pessoa com Deficiência Comentada**. Brasília: CORDE, 2008, p. 99. Available at: <<https://www.oab.org.br/arquivos/a-convencao-sobre-os-direitos-das-pessoas-com-deficiencia-comentada-812070948.pdf>>. Accessed: 18 jul. 2019.

²¹ ORGANIZATION OF AMERICAN STATES. **Inter-American Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities**. Available at: <<http://www.oas.org/juridico/english/treaties/a-65.html>>. Accessed: 13 jul. 2019.

²² COUNCIL OF EUROPE. **Recommendation Rec(2006)6 of the Committee of Ministers to member states on internally displaced persons**. Adopted by the Committee of Ministers on 5 April 2006 at the 961st meeting of the Ministers' Deputies. Available at: <<https://rm.coe.int/16806b5aaf>>. Accessed: 13 jul. 2019.

²³ COUNCIL OF EUROPE. **Recommendation n°. Rec(2004)10 of the Committee of Ministers to member States concerning the protection of the human rights and dignity of persons with mental disorder and its Explanatory Memorandum**. Adopted by the Committee of Ministers on 22 September 2004 at the 896th meeting of the Ministers' Deputies. Available at: <[https://www.coe.int/t/dg3/healthbioethic/Activities/08_Psychiatry_and_human_rights_en/Rec\(2004\)10%20EM%20E.pdf](https://www.coe.int/t/dg3/healthbioethic/Activities/08_Psychiatry_and_human_rights_en/Rec(2004)10%20EM%20E.pdf)>. Accessed: 13 jul. 2019.

should be able to exercise all their rights: civil and political. The justification is that any restrictions on the exercise of these rights should comply with the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms²⁴ and should not be based on discrimination against persons with mental disorders.

3. Electoral Procedures

According to World Health Organization (WHO) data²⁵, about one billion people (15% of the world's population) live with disability (physical, mental, intellectual or sensory), of which 200 million experience considerable functional difficulties. Census of the Brazilian Institute of Geography and Statistics (IBGE)²⁶ stated that 23.9% of the population has some type of disability, with higher incidence in the Northeast Region (26.63%).

Within that socially vulnerable group, there are currently millions of people who no longer exercise their rights to participate in state activities because they do not have access to the enabling means.

In 2020, over 35 million eligible voters will be people with disabilities. The number of “disability voters” increases to over 62 million when we consider the ripple effect of the disability vote that connects families, friends, advocates, educators, providers, and other individuals that interact with people with disabilities.

While common barriers to voting can't be removed from every polling place in a matter of days, there are steps that we all can take to help ensure that people who have a disability and are eligible to vote can be able to successfully cast their ballots.

²⁴ COUNCIL OF EUROPE. **Convention for the Protection of Human Rights and Fundamental Freedoms.** Available at: <https://www.echr.coe.int/Documents/Convention_ENG.pdf>. Accessed: 13 jul. 2019.

²⁵ WORLD HEALTH ORGANIZATION – WHO. **Relatório Mundial sobre a Deficiência.** Tradução: Lexicus Serviços Linguísticos. São Paulo: SEDPcD, 2012, p. 31. Available at: http://apps.who.int/iris/bitstream/10665/44575/4/9788564047020_por.pdf. Accessed: 03 ago. 2019.

²⁶ SECRETARIA DE DIREITOS HUMANOS DA PRESIDÊNCIA DA REPÚBLICA. **Cartilha do Censo 2010: Pessoas com Deficiência.** Brasília: SDH-PR/SNPD, 2012, p. 6 e 11. Available at: <http://www.pessoacomdeficiencia.gov.br/app/sites/default/files/publicacoes/cartilha-censo-2010-pessoas-com-deficienciareduzido.pdf>. Accessed: 04 ago. 2019.

There is also a great difficulty in delimiting the concept of minority, because here the idea of a social minority, composed of those who due to their physical or cultural differences, suffer from exclusion and discrimination, stands out. It should be pointed out that it is possible to consider social minorities as a numerical majority in the country, nevertheless being "largely minority in relation to access to political, economic, social and cultural power, that is, it is largely to their basic rights, in the area of Human Rights and Citizenship"²⁷

There is a WHO²⁸ classification that distinguishes disability, impairment and handicap. Costa²⁹ explains, according to this classification, that the first one would be "any" loss or abnormality of psychological, physiological or anatomical structure or function. Impairment is defined as "any reduction or lack (resulting from a disability) of ability to perform an activity in a manner, or within the limits considered normal for the human being." The disadvantage or handicap, finally, corresponds to an "impediment suffered by a given individual, resulting from a disability or incapacity, which limits or prevents the performance of an activity considered normal for this individual, considering age, sex and sociocultural factors".

To the American researcher Heward³⁰, it also applies to people at risk of suffering from a disability, those who have a higher than normal chance of developing a disability. According to their understanding, the term is applied to children who, due to birth conditions or the environment of their homes, may subsequently experience problems in their development. Another example is that of babies whose mothers are above or below the usual fertile age or are dependent on alcohol and/or drugs.

According to what Ricardo Tadeu Marques da Fonseca³¹ preaches:

²⁷ WOITOWICZ, Karina Janz. Minorias sociais na pauta da política midiaticizada: Identidade e diferença como expressões folkcomunicacionais no Horário Gratuito de Propaganda Eleitoral em 2006. **Revista Internacional de Folkcomunicação**, v. 4, n. 8, p. 1-15. Jul./dez. 2006.

²⁸ WORLD HEALTH ORGANIZATION – WHO. **Relatório Mundial sobre a Deficiência**.

²⁹ COSTA, Sandra Morais de Brito. **Dignidade humana e pessoa com deficiência**: aspectos legais e trabalhistas. São Paulo: LTr, 2008. p. 29.

³⁰ HEWARD, William L. **Exceptional children**: An introduction to special education. 6th.ed. New Jersey: Prentice-Hall, 2000. p. 4.

³¹ FONSECA, Ricardo Tadeu Marques da. **A ONU e seu Conceito Revolucionário de Pessoa com Deficiência**. Available at: http://www2.portoalegre.rs.gov.br/smacis/default.php?reg=4&p_secao=96. Accessed: 10 ago. 2019.

The concept of persons with disabilities adopted by the Convention goes beyond traditional legislation that normally focuses on the clinical aspect of disability. Physical, mental, intellectual or sensorial limitations are considered attributes of people, attributes that may or may not create restrictions for the exercise of rights, depending on the social or cultural barriers imposed on citizens with such limitations, which makes it possible to affirm disability is the combination of personal limitations with cultural, economic and social impediments. The issue of the scope of the individual with disability is shifted to societies that begin to assume disability as a problem of all.

From the studies above, the best approach is undoubtedly the one addressed in the Preamble to the CRPD (line "e")³², which describes disability as an "evolving concept, and that disability results from interaction between people with disabilities and the barriers due to attitudes and the environment that prevent the full and effective participation of these people in society on equal terms with others."

In its article 1st, the CRPD³³, defines a person with a disability as one with a long-term physical, mental, intellectual or sensorial disability, who, in interaction with various barriers (physical, attitudinal, socioeconomic), may obstruct their full and effective participation in society, in equal conditions with other people.

It is important to change the paradigm on the definition of people with disabilities, moving away from the previously used medical model. Deficiency is no longer treated as a limitation of the body, and it is seen as a social construction and contextual issue.

In accordance with these concepts, the right to accessibility becomes the right to access rights. It is the fundamental instrument to the realization of other rights and, therefore, presents an intrinsic relation between human dignity and the right to accessibility. A person with a disability can only enjoys a decent life if he or she has guaranteed access to fundamental rights.

The guarantee of electoral accessibility aims at eradicating the barriers that distract individuals from the exercise of their political rights. However, it is not limited to the right to vote with ease, it must overcome, among others, the obstacles: 1) architectural in the offices, zones and electoral sections; 2) linked

³² UNITED NATIONS. **Convention On The Rights Of Persons With Disabilities.**

³³ UNITED NATIONS. **Convention On The Rights Of Persons With Disabilities.**

to prejudice and social ignorance that mitigate the chances of candidates with disabilities being elected; 3) the inaccessibility of partisan and electoral advertisements, official reports and televised debates that do not have subtitles, big characters, audio descriptions, Braille and sign language; 4) attitudinal, etc.

In the meantime, there are norms regarding accessibility, which aim at the construction and renovation of public buildings according to the architectural rules suitable to each need. These standards also establish legal requirements for accessibility that must be met by information providers by the Internet and the media. It also determines that assistance is provided throughout the political process and in voting for persons with disabilities.

Although in the last elections there has been an increase in the availability of subtitles that make television programs that provide electoral information more accessible to the hearing impaired, the provision of audio description or interpretation in Brazilian sign language is less widespread.

The responsibility extends to political parties which, as the main vehicles for political decision-making at all levels of government, observe the accessibility of their campaign material to people with disabilities. It is up to them to make their manifests and other campaign materials available in alternative formats that reflect the needs of people with different disabilities, including easy-to-read texts, captioned videos, or interpretation in sign language, Braille, and large-character print, etc. They should always increase the opportunities for people with disabilities to participate in their activities by taking measures that make their events more accessible.

4. Brazilian Law on Inclusion

To put into practice the precepts listed by CRPD³⁴, the Law nº 13.146 (Brazilian Law on the Inclusion of Persons with Disabilities – Brazilian Inclusion Law (BIL)³⁵ was promulgated in Brazil on July 6, 2015, also known as the Statute of Disabled Person.

³⁴ UNITED NATIONS. **Convention On The Rights Of Persons With Disabilities.**

³⁵ BRASIL. **Lei nº 13.146, de 6 de julho de 2015.** Institui a Lei Brasileira de Inclusão da Pessoa com Deficiência (Estatuto da Pessoa com Deficiência). Available at:

It was a great expectation that the BIL came into force because it was built as a tool to ensure the social inclusion and citizenship of persons with disabilities, as well as to fulfill previously assumed international obligations.

It is a constitutional guarantee to reserve positions and public jobs for people with disabilities, in the search of incentive to perform public functions (article 37, VIII, of the Constitution of the Republic of 1988)³⁶.

According to Decree 3.298/99³⁷ (which regulates Law nº 7.853/89)³⁸, the disabled candidate will compete for all vacancies, being reserved at least five percent in the face of the classification obtained (article 5, paragraph 2).

Still in the construction of the process of realization of the rights of political participation, the Statute of the Person with Disability (Law nº 3.146, July 6, 2015)³⁹ has, in its art. 76, as follows:

<http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2015/lei/l13146.htm>. Accessed: 13 jul. 2019.

³⁶ BRASIL. **Constituição da República Federativa do Brasil de 1988.**

³⁷ BRASIL. **Decreto nº 3.298, de 20 de dezembro de 1999.** Regulamenta a Lei nº 7.853, de 24 de outubro de 1989, dispõe sobre a Política Nacional para a Integração da Pessoa Portadora de Deficiência, consolida as normas de proteção, e dá outras providências. Available at: <http://www.planalto.gov.br/ccivil_03/decreto/D3298.htm>. Accessed: 13 jul. 2019.

³⁸ BRASIL. **Lei nº 7.853, de 24 de outubro de 1989.** Dispõe sobre o apoio às pessoas portadoras de deficiência, sua integração social, sobre a Coordenadoria Nacional para Integração da Pessoa Portadora de Deficiência - Corde, institui a tutela jurisdicional de interesses coletivos ou difusos dessas pessoas, disciplina a atuação do Ministério Público, define crimes, e dá outras providências. Available at: <http://www.planalto.gov.br/ccivil_03/leis/l7853.htm>. Accessed: 13 jul. 2019.

³⁹ BRASIL. **Lei nº 13.146, de 6 de julho de 2015.**

Art. 76. The public power must guarantee to the disabled person all the political rights and the opportunity to exercise them in equal conditions with the other people.

Paragraph 1. The person with disabilities shall be entitled to vote and to be voted, including through the following actions:

I - ensuring that voting procedures, facilities, materials and equipment are appropriate, accessible to all and easy to understand and use, and the establishment of exclusive constituencies for the disabled person is forbidden;

II - encouraging persons with disabilities to apply and perform any public functions at all levels of government, including through the use of new assistive technologies, where appropriate;

III - guarantee that official pronouncements, mandatory electoral propaganda and debates transmitted by television stations have at least the resources listed in article 67 of this Law;

IV - guaranteeing the free exercise of the right to vote and, where necessary, and at their request, permission for the disabled person to be assisted in the voting by a person of their choice.

Paragraph 2. The public power shall to promote the participation of persons with disabilities, including when institutionalized, in the conduct of public affairs, without discrimination and on equal opportunities, observing the following:

I - participation in non-governmental organizations related to public life and politics in the country and in activities and administration of political parties;

II - formation of organizations to represent people with disabilities at all levels;

III - participation of persons with disabilities in organizations that represent them.

4.1 New rule for civilian capacity

The absolute civil incapacity, predicted as a cause of restriction of political rights, in item II of article 15 of the Brazilian Federal Constitution, was reduced with the advent of the BIL, by virtue of the provisions of article 114, to a single hypothesis: that of minors under 16 years of age.

It confers a new wording on Article 3 of the Brazilian Civil Code⁴⁰, guaranteeing the political capacity also to individuals with intellectual disabilities, giving, as stated in paragraph 1, article 76 of the BIL, guarantee to persons with disabilities of voting and being voted, reproducing the drafting of the CRPD⁴¹, congregating to the text, however, some additional measures to the implementation of this right.

⁴⁰ BRASIL. **Lei nº 10.406, de 10 de janeiro de 2002.** Institui o Código Civil. Available at: <http://www.planalto.gov.br/ccivil_03/leis/2002/l10406.htm>. Accessed: 13 jul. 2019.

⁴¹ UNITED NATIONS. **Convention On The Rights Of Persons With Disabilities.**

It is also important to highlight the article 85 of the BIL, which deals with the rights of persons with disabilities, expressly stating that the curator will only affect the acts related to patrimonial and business rights, and cannot restrict, among others, the right to vote.

Therefore, when there is a need for patrimonial protection, it is not necessary to limit the political and existential rights of the individual too.

In this context, when regulating the legal capacity of persons with disabilities, it is emphasized that curatorship is an extraordinary measure (BIL, article 84, paragraph 3), which cannot impose undue restrictions on them.

On the other hand, the institute of supported decision-making appears (BIL, article 84, paragraph 2). In the case of Alajos Kiss against Hungary (a mentally disabled person under partial guardianship), for example, the European Court of Human Rights has unanimously stated that "the Court cannot accept, however, that an absolute bar on voting by any person under partial guardianship, irrespective of his or her actual faculties, falls within an acceptable margin of appreciation" and more "the treatment as a single class of those with intellectual or mental disabilities is a questionable classification, and the curtailment of their rights must be subject to strict scrutiny."⁴²

In this sense, the Brazilian Inclusion Law operates a true paradigm shift, strictly complying with the Principle of the dignity of the human person, where the disabled person is no longer delimited as incapable and passes to a constitutionally foreseen perspective of equality, with full legal capacity or in accordance with special assistance institutes (supported decision making, partial guardianship and, exceptionally, trusteeship).

4.2 Architectural, communicational and attitudinal accessibility

The BIL preaches equal conditions with other individuals and innovates by expressly barring exclusive constituencies for people with disabilities. The Electoral Superior Court - ESC (Tribunal Superior Eleitoral - TSE) may only

⁴² EUROPEAN COURT OF HUMAN RIGHTS (ECtHR). **Application no. 38832/06, Case of Alajos Kiss v Hungary - Judgment.** Available at: <http://www.stammeringlaw.org.uk/cases/kiss.htm> e <https://www.legal-tools.org/doc/3a4ee7/pdf/>. Accessed: 29 jun. 2019.

continue to establish "special electoral sections" if these are not exclusive to persons with disabilities (eg TSE Resolution number 21.008/2002 (article 1)⁴³ and TSE Resolution number 23.381/12 (article 3, III and IV)⁴⁴.

The Decree No 5.296/2004⁴⁵, in its article 21, sole paragraph, describes about the accessibility rules for public buildings and collective use for people with disabilities or reduced mobility.

The BIL indicates, including §6º-A in article 135 of Law 4737/65 (Electoral Code)⁴⁶:

§6º -A. The Electoral Regional Courts shall, at each election, issue instructions to Electoral Judges to guide them in the choice of polling places, so as to guarantee accessibility for voters with disabilities or with reduced mobility, including in their surroundings and in transportation systems which give you access.

The BIL (art. 76, §1, III) requires that closed caption, Brazilian Sign Language (Libras) and audio description resources must be available in official pronouncements, in mandatory electoral publicity, and in debates broadcast by television broadcasters. Measure also recommended by the UN Report (2011) on the participation of persons with disabilities in public and political life.

In this sense, the Higher Electoral Court created the Electoral Justice Accessibility Program (Resolution number 23.381/2012)⁴⁷, which determined that electronic ballot boxes, in addition to Braille keys, should also be enabled with an audio system, providing, the Regional Electoral Courts, earphones in the special election sections or, when requested by voters with visual impairment.

⁴³ BRASIL. Tribunal Superior Eleitoral. **Resolução nº 21.008, de 5 de março de 2002**. Dispõe sobre o voto dos eleitores portadores de deficiência. Available at: <<http://www.tse.jus.br/legislacao/codigo-eleitoral/normas-editadas-pelo-tse/resolucao-nb0-21.008-de-5-de-marco-de-2002-brasilia-2013-df>>. Accessed: 13 jul. 2019.

⁴⁴ BRASIL. Tribunal Superior Eleitoral. **Resolução nº 23.381, de 19 de junho de 2012**. Institui o Programa de Acessibilidade da Justiça Eleitoral e dá outras providências. Available at: <<http://www.tse.jus.br/legislacao-tse/res/2012/RES233812012.htm>>. Accessed: 13 jul. 2019.

⁴⁵ BRASIL. **Decreto nº 5.296, de 2 de dezembro de 2004**. Regulamenta as Leis nos 10.048, de 8 de novembro de 2000, que dá prioridade de atendimento às pessoas que especifica, e 10.098, de 19 de dezembro de 2000, que estabelece normas gerais e critérios básicos para a promoção da acessibilidade das pessoas portadoras de deficiência ou com mobilidade reduzida, e dá outras providências. Available at: <http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2004/decreto/d5296.htm>. Accessed: 13 jul. 2019.

⁴⁶ BRASIL. **Lei nº 4.737, de 15 de julho de 1965**. Institui o Código Eleitoral. Available at: <http://www.planalto.gov.br/ccivil_03/Leis/L4737.htm>. Accessed: 13 jul. 2019.

⁴⁷ BRASIL. Tribunal Superior Eleitoral. **Resolução nº 23.381, de 19 de junho de 2012**.

It also determines that REC sites should be adapted to all types of disabilities, in order to guarantee full access, and to make electoral legislation available in audio.

Even so, it is still possible to observe non-compliance with these norms. Some Brazilian electoral campaigns are still not presented in an accessible format, especially regarding electronic sites and printed material.

5. Achieving the right to vote in European elections

Stereotypes about disability often lead to discrimination against those citizens in decision-making processes, in general, and, specifically, in the processes of voting, running for office, or participating in public outreach initiatives by political parties.

The same way that the article 21 of the Universal Declaration of Human Rights (UDHR)⁴⁸ recognizes the right, the article 25 of the International Covenant on Civil and Political Rights (ICCPR)⁴⁹ guarantees to all citizens “(...) the right and the opportunity (...) without unreasonable restrictions (...) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors”. These provisions are shored up in thematically oriented treaties, such as the Convention on the Elimination of All Forms of Discrimination against Women (article 7)⁵⁰ and the Convention on the Elimination of All Forms of Racial Discrimination (article 5)⁵¹.

It reflects a concept of accessibility⁵², which originates from the social model of disability and which recognizes them as active subjects and citizens with

⁴⁸ UNITED NATIONS. **Universal Declaration of Human Rights**. Available at: https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf. Accessed: 15 set. 2019.

⁴⁹ UNITED NATIONS. **International Covenant on Civil and Political Rights**. Available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>. Accessed: 20 jul. 2019.

⁵⁰ UNITED NATIONS. **Convention On The Elimination Of All Forms Of Discrimination Against Women**. Available at: <https://www.ohchr.org/documents/professionalinterest/cedaw.pdf>. Accessed: 13 set. 2019.

⁵¹ UNITED NATIONS. **International Convention On The Elimination Of All Forms Of Racial Discrimination**. Available at: <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>. Accessed: 20 jul. 2019.

⁵² In this article, we are going to take the Spanish legal framework as an example.

rights. Royal Decree 1612/2007⁵³, providing for an accessible voting procedure for people with visual disabilities, is the result of a legal mandate included in the amendment of the Electoral Act. As written in that legal document, those voters must inform the Minister of Interior about their special needs and then receive documentation in Braille and can use a standardized ballot. The Ministry has also to provide accessible information on candidates.

Royal Decree 422/2011 implements Law nº 51/2003⁵⁴, which contain a mandate for the government to establish the basic conditions of accessibility and non-discrimination to be met by environments, products, and services necessary for the participation of people with disabilities in political and electoral processes.

To assist its citizens, Spain introduced these two important regulations that eliminate a number of these barriers. With that implementation, state should provide those premises of polling stations, websites with electoral information, all institutional information and procedures, as well as spaces of Spanish election campaign must be accessible; and that deaf members of polling stations must receive free sign language interpretation. In addition, candidates, political parties, etc.

Even though everybody has the right to vote, there still are people who cannot do it on an equal basis with others. Gauging an electoral environment for the purpose of including persons with disabilities, as well as other marginalized groups, should happen as a matter of course within the general framework of a pre-election technical assessment.

Thinking about those people, the Spanish State seeks to guarantee the right to equal treatment and non-discrimination for all citizens with disabilities. The Spanish Constitution⁵⁵ itself establishes this in its article 14 that proclaims equality before the law of all Spaniards.

⁵³ SPAIN. **Royal Decree 1612/2007 of 7 December**. Regulating an accessible voting procedure enabling persons with a visual disability to exercise their right of suffrage. Available at: <https://www.ine.es/en/oficina_censo/normativaOCE/rd_1612_2007_en.pdf>. Accessed: 13 jul. 2019.

⁵⁴ BOLETÍN OFICIAL DEL ESTADO. **Ley 51/2003, de 2 de diciembre**. Available at: <<https://www.boe.es/buscar/pdf/2003/BOE-A-2003-22066-consolidado.pdf>>. Accessed: 04 out. 2019.

⁵⁵ BOLETÍN OFICIAL DEL ESTADO. **Constitución Española**. Available at: <<https://www.boe.es/legislacion/documentos/ConstitucionCASTELLANO.pdf>>. Accessed: 04 out. 2019.

The Spanish Organic Law 2/2018⁵⁶, of December 5, was drafted to modify the Organic Law 5/1985, of June 19, of the General Electoral Regime in order to guarantee the right to vote for all persons with disabilities. The Spanish law changes will guarantee the right to around 100,000 people with intellectual disability, mental illness or cognitive impairment who had previously been barred from voting. They will have their voting rights restored.

Recovering the right to vote to legally disabled people was an odyssey before the change of law. Having achieved the right to vote for everyone, disability organizations continue to struggle to make it easier.

Spanish judges and courts will no longer have the ability to decide whether a person meets the skills to exercise their right to vote. The modification of the Organic Law 5/1985 suppresses the sections that established, in its third article, the lack of the right to vote to "those declared incapable by virtue of a final judicial sentence" as well as "those admitted to a psychiatric hospital with judicial authorization during the period that lasts his internment." They may exercise their right to vote actively, consciously, freely and voluntarily.

Spain will be the eighth country in European Union that does not apply restrictions to disability people when voting. Austria, Croatia, the Netherlands, Italy, Latvia, Sweden and the United Kingdom previously removed this barrier that prevented a part of their citizens from voting.

Final Considerations

The opportunity to participate in political life, whether running for elections in public political office, affiliating in a political party, or following political news through the media, lies at the heart of what is meant by "living in a democratic society of law".

The management and administration of elections is a highly complex field that spans a wide range of subject matter and requires the engagement of multiple disciplines. Access and participation by traditionally disadvantaged

⁵⁶ BOLETÍN OFICIAL DEL ESTADO. **Spanish Organic Law 2/2018**. Available at: <https://www.boe.es/boe/dias/2018/12/06/pdfs/BOE-A-2018-16672.pdf>. Accessed: 04 out. 2019.

groups, whether persons with disabilities, women, youth, illiterate persons, or ethnic, linguistic, racial, and religious minorities, require specific and targeted interventions.

The dissemination of rights already in place is extremely important. It is necessary that, in addition to those responsible for making these rights effective, their recipients should also know them. Only this way they will be able to exercise them and promote oversighting case of suffering or witnessing their disrespect.

Indicators of human rights compliance highlighted that legal and administrative obstacles, inaccessible processes and information, and lack of sensitivity to political rights may deny persons with disabilities the opportunity to participate in the political life of their communities.

There is no reliable and comparable data on the experiences of persons with disabilities regarding participation in elections in Brazil. It is essential to respond to these challenges as soon as possible in order to increase the legitimacy of public institutions and to create more equitable and inclusive societies in which the full participation of all its members is possible.

Since society and government are agents of the inclusion of minorities and people with disabilities, it is necessary to remember that they cannot treat these segments with feelings of indifference, charity or paternalism, since such behavior will only perpetuate the view that these groups are inferior, not being able to express their political will and citizenship.

By actively participating in political decision-making, especially on issues that concern them most directly, people with disabilities create favorable conditions and directly affect the construction and realization of their fundamental rights.

Only through the development of strategies that integrate actions in the areas of education, social assistance, work and income, health, transportation, housing, culture and leisure, among many others, it will be possible to build a society that strive for inclusive development and enable people with disabilities

to escape from the cycle of poverty and marginalization in which they find themselves, to become real citizens⁵⁷.

Voting is one of our nation's most fundamental rights and a hallmark of our democracy. Still, for too long, many people with disabilities have been excluded from this core aspect of citizenship. People with intellectual or mental health disabilities have been prevented from voting because of prejudicial assumptions about their capabilities. People, who use wheelchairs or other mobility aids, such as walkers, have been being unable to enter the polling place to cast their ballot because there was no ramp. People who are blind or have low vision could not cast their vote because the ballot was completely inaccessible to them.

Any alternative method of voting must offer voters with disabilities an equally effective opportunity to cast their votes in person.

Public entities must ensure that they do not have policies, procedures, or practices in place that interfere with or prohibit persons with certain disabilities from registering to vote or voting based on their disability.

This movement also facilitates dialogue and cooperation with governments, other powers and social actors. As the motto of its international movement says, "nothing about people with disabilities, without people with disabilities".

Although the rules for the protection and promotion of electoral accessibility are another important step forward, the implementation of the right of participation of people with disabilities calls for the planning and execution of intersectoral public policies (which make universal access to public goods and services possible), human rights education (to enable persons with disabilities to recognize themselves as rights holders or subjects), and the development of programs to support participation in civil society⁵⁸.

⁵⁷ REICHER, Stella; ATALLA, Regina. **A Convenção da ONU sobre os Direitos das Pessoas com Deficiência** – Status de Implementação nos países do G20. Available at: <http://www.kas.de/wf/doc/4434-1442-5-30.pdf>. Accessed: 25 jul. 2019.

⁵⁸ REICHER, Stella; ATALLA, Regina. **A Convenção da ONU sobre os Direitos das Pessoas com Deficiência**.

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BRASIL. **Decreto nº 6.949, de 25 de agosto de 2009**. Promulga a Convenção Internacional sobre os Direitos das Pessoas com Deficiência e seu Protocolo Facultativo, assinados em Nova York, em 30 de março de 2007. Available at: <http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2009/decreto/d6949.htm>. Accessed: 13 jul. 2019.

BRASIL. **Lei nº 10.406, de 10 de janeiro de 2002**. Institui o Código Civil. Available at: <http://www.planalto.gov.br/ccivil_03/leis/2002/l10406.htm>. Accessed: 13 jul. 2019.

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