**COMMITTEE ON THE RIGTHS OF PERSONS WITH DISABILITY**

**18TH PERIOD OF SESSIONS /EVALUATION ON ARGENTINA**

**STATUS OF PERSONS WITH DISABILITY IN ARGENTINA 2013/2017**

**SUBMMITED JOINTLY BY:**

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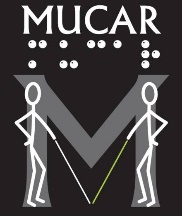


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**FOUNDATION INTEGRANDO**

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**Introduction**

The present report has been elaborated with the joint work of civil society organizations and national universities; they have contributed from their experience and trajectory, to a perspective on the rights of person with disability (from now on PWD) in our country, in the light of the Convention on Rights of Person with Disabilities, (from now on CRPD).

It should be stressed the involvement of PWD organizations running by PWD, all of them with remarkable trajectory on humans right issues, as well as, the valuable contributions from national universities, that have conformed specific work areas destined to right of PWD, most of them coordinated by PWD.

It´s appropriate to emphasize the federal focus on developing the present document, since it has been enriched by contributions from different areas of the country, in order to reflect humans right-approached of PWD, cut-crossed by current local law and practices.

The inform is aimed to give a tool to make visible PWD in the argentine social fabric and in the dialogue with the State, explaining the difficulties they get trough and the inflexion points necessaries to advance towards a society really inclusive, egalitarian and respectful of the fundamental rights of all.

Hereunder, is a detail of 28 organizations and universities participating of the actual report[[1]](#footnote-1):

* Permanent Assembly for Human Rights (APDH)
* Users of Mental Health Services Assembly for our rights (Rosario)
* Azul Association
* Andar Civil Association
* Críos Civil Association
* Association for Equality and Justice (ACIJ)
* Colibrí Association
* Association for the Support of Persons with Schizophrenia and Relatives of the province of Jujuy (AJUPEF)
* Association of Parents of Person with Down Syndrome (APPSIDO)
* Association for Civil Rights (ADC)
* Center for Legal and Social Studies (CELS)
* “Alicia Moreau” Center for Research and Teaching in Human Rights "Alicia Moreau" – National University of Mar del Plata
* Commission for Inclusion of Persons with Disability (CIPcD) –National University of Salta
* University Commission of Disability (CUD) – National University of La Plata
* Argentine Federation of Institutions of Blind and Visually Impaired (FAICA)
* Argentine Federation of Rare Diseases (FADEPOF)
* Sheltered Workshops Federation (FETAP)
* Despejarte.com Foundation
* Integrando Foundation
* Tigre for Inclusion Foundation
* Take Action Foundation
* Rumbos Foundation
* Specialized Institute on Rights of Persons with Disability of Rosario Bar Association
* Intersectional Working Group on Disability and Humans Rights of Córdoba
* Movement of Unity of Blind and Amblyopic eye Persons of Rosario (MUCAR)
* Observatory of Mental Health and Human Rights of Córdoba
* Program of Disability and Human Rights- Faculty of Law- National University of Rosario
* Network for the Rights of Persons with Disability (REDI)

The information hereby embodied provides data sustained by precedents, normative and public polices assessment, interviews to PWD and the own experience of who draft this inform, departing from the Concluding Observations produce by the Committee to Argentine Sate during the 8th Period of Sessions. Hereafter, several articles of CRPD are developed, reflecting the barriers that PWD have to face to exercise their fundamentals rights and freedom in equal conditions with the rest of persons.

**Article 4 – General Obligations[[2]](#footnote-2)**

***Concluding Observation****: N° 6, N° 8 y N° 10*

In 2016, Argentine State started the process of adaptation to Sustainable Development Goals[[3]](#footnote-3), which is directly linked to objectives defined in the 100 government priorities[[4]](#footnote-4). Within the latter, emerges the National Plan of Disability, launched in May of 2017 *“to achieve that PWD reach an independent project of life and have guaranteed their rights in terms of health, education, employment and accessibility”.*

Due to the nonexistent information on the Plan, its goals, indicators, timeframe, allocated budget and administrative departments involved, REDI submitted an access to public information request. The government answer is far form give clarity, because its circumscribes to mention three axis of the Plan -“inclusion, heterogeneity and community commitment”-, to mention that the Plan is in the scope of CONADIS and includes two work lines: one intra-government and the other involves civil society, PWD and their communities.

It is clear from the above described, that the Plan has no content, nor exists into the institutional framework as an administrative process, since there is no file to legitimate his implementation, neither budget assigned for its execution, and its lack the minimal contents and specific actions[[5]](#footnote-5).

Furthermore, a month after launching the National Plan on Disability, the National Social Development Ministry, started cancelling non contributory pensions drew by PWD, by applying a 1997 Decree ([Dec 432/97](http://servicios.infoleg.gob.ar/infolegInternet/anexos/40000-44999/43325/norma.htm)), which indiscriminately affected the acquired right to draw these pension. At present, it´s serious the situation of countless PWD whose pensions haven´t been restored.

Likewise, concerning National Mental Health Act (NNMHA) N° 26657, legislative alignment in provinces is not yet tackled, as is the case of San Luis. Special recognition deserves the case of Santa Fe, because this province has started the process to adapt N° 9325 Act to CRPD by opening a consultation process to civil social institutions, in order to accomplish the participation of PWD in the Act reform.

Is remarkable the lack of progress in designing public policies aimed to the full implementation of NMHA and still remains practices in flagrant violation of PWD human rights[[6]](#footnote-6).

Regarding Single Disability Certificate (SDC), that in erected as a requirement to access to basic health services, there is a no uniform criteria on evaluating PWD, with particular barriers that Psychosocial Disability Persons (PDP) have to face.

In addition, whereas comprehensive health care involves not only health sphere, but it must be addressed with a cross-cutting scope, taking into account social development, education, employment and housing, SDC is insufficient to meet these demands.

With regard to Basic Disability Services, no progress was observed in local jurisdictions which not even adopted National Act 24901, and is a critical need the standardization of its parameters to cover services for PWD ruled by presidential decrees, and resolutions issued by ministries and union healthcare entities.

No global public polices has been developed to promote or facilitate the implementation of reasonable accommodation, according to specific cases and needs of PWD.

*Questions suggested to Argentine State:*

1. Please, inform the specific measures adopted towards the effective and prompt implementation of SDC all over the country, in particular in local jurisdictions that not yet adopted it
2. Provide information about the progress provinces adopting BDA, Act N° 24901 and its alignment with NNMHA
3. Please inform the proceedings intended to introduce a rights -based approach on disability into the actions linked to SDG 2030 and the participation of PWD in it
4. Provide information about the National Disability Plan, its indicators, goals, actions, allocated budget, time scheduled, involvement of PWD in its development and implementation, competent authority, and bodies involved at national and local levels.

**Article 5: Equality and Non Discrimination[[7]](#footnote-7)**

***Concluding Observation****: N° 11 y 12*

***SDG 2030:*** *Reduced inequalities (10)*

Yet, the current anti-discrimination legislation -Acts N° 23592[[8]](#footnote-8), 24.782[[9]](#footnote-9) y 25.608[[10]](#footnote-10)- has not explicitly included denial of reasonable accommodation as a form of discrimination on grounds of disability, nor has provided for multiple discrimination either.

During 2013, National Institute against Discrimination, Xenophobia and Racism (INADI, according to its initials in Spanish) issued the “National Map of Discrimination 2013” with a specific annex referring to direct, indirect and multiple discrimination that PWD and their families suffer in several aspects of their life. The report concluded that more than 50% PWD was victim of discriminatory behavior, and there was no correlation with government steps towards adjusting current legislation; still remains the need of appropriate legal protection against discrimination on the basis of disability, as well as the implementation of measures concerning multiple discrimination.

It should be emphasized the complete absence of policies and programs targeted to addressed the specific situation of PWD belonging indigenous people.

*Questions suggested to Argentine State:*

1. Please, inform national and local measures adopted in order to include into current law the denial of reasonable accommodation as a discrimination on the basis of disability , and multiple discrimination to the PWD
2. Provide information on specifics measures, programs and actions implemented from 2011 until now, both at national and local level, in order to guarantee non discrimination of PWD in the enjoinment and exercises of its rights, in particular referring to Acts. 20.744, y 24.013 on Labor Law, Acts 23.592, 24.782 y 25.608 on discrimination, Acts 26.206 on education, Act 24.901 on BHS and Act 266I7 NMHA,

**Article 6: Women with Disabilities[[11]](#footnote-11)**

***Concluding Observation****: N° 13 y 14*

***SDG 2030:*** Good Health and Well-being (3); Gender Equality (5); Reduced Inequalities (10)

There is no evidence of significant and systematic progress on including a right-based approach on disability into the National Sexual Health and Responsible Parenthood Program (NSHRPP), which constitute the main public policy in this subject. The limited actions targeted to women with disability doesn´t generate substantive results and were discontinued[[12]](#footnote-12).

The most significant step was the adoption of Resolution 65/2015[[13]](#footnote-13) of the Ministry of Public Health, which provides that any person over 13 years old, with or without disability, has the right to access to sexual and reproductive health practices (SRHP)[[14]](#footnote-14) making an independent decision. It also establishes the presumption of legal capacity of PWD to make they own decisions and recognize their right to have a support system and to “receive healthcare in the most accessible and acceptable form, and with the best available quality”

However, in practice most of the SRHP:

1. Don´t respect privacy and confidentiality of women with disability[[15]](#footnote-15);
2. Don´t respect the right of women with disability to give their informed consent, nor guarantee her access to the support system she may require in making her decisions, especially in legal abortion and sterilization
3. Don´t satisfy any accessibility standards, prevailing in most of them attitudinal barriers due to stereotypes developed on the basis of women with disabilities, her sexuality and reproduction[[16]](#footnote-16).

Argentine State has not mainstreamed yet a disability perspective in public policies addressed to gender-equality. There are no statistical data on violence against women with disability and the devices implemented by the government in order to contain gender-based violence, are inaccessible.

Public policies on disability issues also reflect the lack of gender-based approach, which is evident in mental health policies, and in the absence of bodies in charge of promoting and protecting the rights of women with disabilities.

*Questions suggested to Argentine State:*

1. Please, inform measures taken to mainstream a right-based on disability approach, on public policies about gender, in particular, policies about sexual and reproductive rights, violence against women; and do inform the steps adopted to guarantee that all public policies addressed to women, at each stage, include women with disability and their representative organizations.
2. Please, inform on all programs or campaigns addressed to disseminating women rights, how many and which of them make visible women with disabilities and are designed in an accessible format.
3. Provide information on measures undertaken to step forward on the implementation of Resolution 65/2015, enacted by the Community Health Secretariat of National Health Ministry, concerning PWD, specifically on accessibility, informed consent, and health professional training to attend women with disability.
4. Please, inform the measures implemented for recruiting trained-women with disability personnel, in order to work in all existing national programs.

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**Article 7: Children with Disability[[17]](#footnote-17)**

***Concluding Observation****: N° 15 Y 16*

***SDG 2030****: Good Health and Well-being (3); Gender Equality (5); Reduced inequalities (10)*

It´s important to stress the lack of up-dated and disaggregated information about children with disability, which will enable the development of an effective public polices, nor a right-basis on disability approach has been incorporated into Children Rights Protection Act, N° 26021, neither in the plans of the competent national authority, which is the National Secretariat for the Children, Adolescents and the Family.

It is alarming the situation of children users of mental health services, hospitalized in mental institutions due to hegemonic psychiatric criteria. This situation is compounded by the permanent or long-term separation from their nuclear family and from their affective bonds, with disproportional impact in children´s life. Also, high indicators of childhood “medicalization/psychiatrizacion” are observed as a consequence of the absence of public policies addressed to give support and contention, mainly due to the lack of personnel trained to handle appropriate tools for their care.

National Mental Health Revision Body observed circuits of trans-institutionalization and recurring discharge and admission of the same children, in particular those with high level of psychosocial vulnerability. It also recorded long-term institutionalizations which, with meaningful frequency, lead to referral towards adult psychiatric hospitals, when they reach civil majority (18). The deficits in monitoring these cases by competent judicial authorities and the lack of awareness of their own rights, contribute to this situation.

At Children Hospital “Santísima Trinidad”, located in Córdoba province, there is a ward only for children and adolescents users of mental health services; this ward is permanently locked and is isolated from the other rooms of the institution.

*Questions suggested to Argentine State:*

1. Please, inform specific measures, including the budget, established to mainstream a right-based approach to disability on all public policies regarding children and to undertake actions to ending discrimination against children with disability

2. Provide data about implemented measures addressed to guarantee that children with disability will receive health services and benefits to which they are entitled, such as pensions and housing.

**Article 9: Accessibility** [[18]](#footnote-18)

***Concluding Observation****: N° 17 y 18*

***SDG 2030****: Sustainable Cities and Communities (11)*

The Audiovisual Media Services Act, N° 26522, was partially cancelled; and this leaded to regressions in fulfill visual accessibility clauses, affecting therefore blind and deaf people. The situation described is aggravated because there is no national body competent to monitoring that open signal licensee observes it.

Even more, the situation above described became worse in the provinces that buy contents produced in Buenos Aires City, and acquire them without accessibility resources.

Despite its specific regulation in 2013, The Accessibility of Public Information in Websites Act N° 26.653, is far to be effectively fulfilled and most of available websites contents are inaccessible**[[19]](#footnote-19)**.

Regarding architectural and infrastructural barriers, current Accessibility Act Nº 24.314 –which adoption is still optional to provinces- is far to be accomplished, and the ad hoc Monitoring Committee doesn´t play its role. In Córdoba Province, the Accessibility Office (Under-Secretariat of Disability, Rehabilitation and Health Inclusion) it is no competent to intervene on complaints and claims. In Autonomous City of Buenos Aires, there are serious irregularities, inter alia: explicit exceptions to accessibility (commercial stores), different requirements for school building, depending on its public or private management, and the absent governmental control generates a false and risky accessibility in public road [[20]](#footnote-20)[[21]](#footnote-21)[[22]](#footnote-22).

Architectural barriers in private enterprises and public buildings –health, education, employment, entertainment, and sports- still persist, in a clear violation of current law. For instance, 93% of school building located in Buenos Aires province yet remains inaccessible, despite of the reformulation of technical documents for its construction

Accessibility for public transportation: Even though various provinces assert the insufficiency of legal framework, with few exceptions, nor the private operators (licensees) neither the State, accomplish their obligations**[[23]](#footnote-23)*.*** Transport unities provided don´t meet to existing demands, and in provinces don´t exist accessible units. There are not accessible units in long–distance bus lines, despite of the current Decree Nº 914/97, and the private companies operating the services often set arbitrary quotas for free passage in each unity. Although the companies providers of this service must deliver to PWD and their assistants for free tickets – always proving with the SCD -, the limited accessible unities and the lack of information about its frequency and schedule, aborts the right to free travel in Salta.

*Questions suggested to Argentine State:*

1. Provide information about specific measures taken to ensure that physical and communicational accessibility specified in legislation, including websites, be implemented within the scope of arts. 4.5 and 9 of CRPD

2. Provide detailed information on the compliance with article 66 of Audiovisual Media Services Act N° 26.522, by publics and privates TV stations, both national and regional, as well as details about the quality control of these services

3. Please inform about the adjustment of protocols of design and adjudication of social housing plans, in order to ensure accessibility for families in which are members with disability

4. Please, inform the progress to reverse inaccessibility of public transportation and to make effective the availability of accessible public transportation where it does not exist at present.

5. Please indicate steps taken to adjust workplace at offices, of public departments or private providers of utilities and in educational institutions, regarding architectural design, access to information and communication for persons with hear and visual impairment, in social aspect and in didactic material in the latter case.

**Article 12: Equal recognition before the law[[24]](#footnote-24)**

***Concluding Observation****: N° 20 y 22*

***SDG 2030:*** Reduced Inequalities (10) y Peace, Justice and Strong Institutions (17)

The new National Civil and Commercial Code passed in 2015 –Act Nº 26994/2015) - (NCCC) meant a relative progress towards the respect of the full exercise of legal capacity for persons with psychosocial and intellectual disability (from now on PWPID). The supported decision-making system, the limited extent of interdiction ruling and the mandatory periodic review were incorporated into this new legal body. However, according to the text of article 32 final paragraph of the above mentioned Code, the State retains the possibility of restricting the exercise of legal capacity within the framework of certain cases –in a limited and specific manner-. In extreme cases, legal incapacitation and curatorship still remains and prevails –potentially- substitute decision-making regime[[25]](#footnote-25).

In practice, many courts decisions issued after the legal reform, as they stand, are inconsistent. They starts expressing the determination of “support in the exercise of legal capacity” and ends, in the adjudication, returning to the tutelary paradigm, by pointing out a curator for some functions and a support for others, or assign both functions –substitutive and support- under the same concept of curator. Article 40 of current NCCC provides mandatory periodic review of court ruling issued within judicial processes undertaken in order to determine the legal capacity of a person. Still have to move forward in the review of those judicial decisions issued under the former regime.

It´s deeply concerning that the access to disability pensions is conditioned –in an arbitrary manner- to the promotion of judicial process to determine legal capacity. Because of the federal structure of the State, this requirement is not spread around all provinces, but is current in some of them.[[26]](#footnote-26). For example, in Córdoba province, the Pension Commission spread a memorandum in February this year, setting out that in case of applying for a non-contributory pensions “to start the procedure shall not be required the promotion of curatorship process, even though the intervener professional had so recommended. But the applicant, or the person who submit on his/her behalf, shall be warned about the requirement if the benefit was granted to him/her”

*Questions suggested to Argentine State*:

1. Please, inform how shall comply with the review of all legal incapacitation sentences non-revised yet, how do you will avoid the promotion of unnecessary and illegal processes to questioning legal capacity (for instance to access to pensions); and how you´ll avoid that courts continue illegally ruling that deprives PWD of legal capacity.
2. Please inform the current stage of the reform process of both National Civil and Commercial Procedure Code and each province´s civil and commercial procedure codes, in order to align with article 12 of CRPWD
3. Please inform measures adopted to review both civil law and others in order to align with article 12 of CRPWD.

**Article 13: Access to justice[[27]](#footnote-27)**

***SDG 2030:*** Reduced Inequalities (10) y Peace, Justice and Strong Institutions (17)

In different ways, barriers in access to justice are a usual experience for PWD, but they are particularly exacerbated in case of PWIPSD.

Argentine State has not generates accessible, updated, disaggregated and rigorous data about access to justice of PWIPSD. However, a recent investigation carried out on 4 provinces, in which were interviewed 266 users of mental health services, both in process of leaving psychiatric institutions or already out of them, evidences how these barriers still persist[[28]](#footnote-28).

Among the common obstacles these rights face, there are deficiencies in the following dimensions[[29]](#footnote-29):

1) Effectiveness in judicial protection

The effective protection in access to justice or PWIPSD it is undermined by the restrictions on legal capacity, the impossibility of intervening in the judicial process and, finally, the lack of monitoring in the judgment enforcement and the absence of periodic review to reverse more restrictive-rights dispositions. The institutional resources available to PWD in order to obtain an effective monitoring of his or her institutionalization legacy vary from one province to another.

Only 16% of the interviewee had direct contact with the judge in charge of the civil case during the last institutionalization , 65% asserted that they had no contact with the judge, and the rest of them haven´t remembered if they had been in contact or hadn´t a civil case, either. The usual contact between the court and the institutionalized person is undertaken by information requested to the hospital.

Among the interviewees, predominate the lack of knowledge on the civil interdiction on his/her person and, therefore, of his/her eventual procedural stage. The reviews often emerge as an answer to medical team requests, which is the evidence of the complete absence of regular mechanisms of evaluation and updating of the restrictive measures.

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2) Legal assistance

In the case of PWIPSD, the restrictions on the exercise of his or her legal capacity implies a structural disadvantage in the right of defense, by limiting the right to choose, appoint and remove his/her lawyer.

The availability of legal assistance in civil cases wherein mental health subjects are involved varies from province to province, depending on both procedural legislation and competent authorities. Personal contact with the represented person is rare and internments - that became chronic and was ordered by judgment previous to the NHMA- are often little or no monitored.

Judicial actions aimed to rehabilitation promoted by curatorship, defendants and councilors are few, and the incidence of private legal aid in the people interviewed is non-existent, both in cases involving civil interdictions or consented or forced internment.

3) Right to a hearing

Judiciary yet maintains institutional, communicational and attitudinal barriers in the access of PWIPSD to the exercise of their fundamental rights. From the respondents that said to be aware of the process to restrain his/her legal capacity, only 4,4% expressed they had met the judge in charge and 20% said that they didn´t know his/her judicial appointed curator.

The participating of PWIPSD in direct hearing with the judge in charge of her or his case are minimum, what evidence that in hearings, the reports of experts appointed by the court and of medical teams, are more relevant that the PWD own voice.

4) Equality of arms

Little accessible facilities, without proceedings adjustment taken by the judicial system, relegate PWIPSD to a passive role in trials wherein there are involved. Due to communicational deficit of justice workers, PWIPSD nor are provided with previous and detailed information on the subject of the proceedings neither on the extent and consequences of the procedural acts. They are no provided, either, of adequate time and means to articulate their speech in order to defend their interests.

The main means of evidence in civil interdiction´s or in involuntary committing is a technical opinion requested by the judge to mental health professionals. The psychiatrist is perceived by the people interviewed as a professional with a preconceived idea linked to a previous psychiatric diagnosis, in spite of evaluating PWD within his/her environment and identifying support agents.

None of the interviewees said, at any moment, that he or she had have the opportunity of providing any kind of data to be assessed by judge during the interdiction o interment proceedings.

5) Professional suitability of justice workers

Often, PWIPSD face many socio-cultural and procedural barriers in the judicial proceedings wherein they are parties. The lack of regular contact between public officials and the PWD on whose behalf they act, shows the fact that legal representatives do not maintain an effective communication with the PWD whose rights they must defend.

Even though the curatorship is addressed to protecting particular interests of the person subjected to it, in many cases regarding persons with civil interdiction judgment, it was noted practices whereby the appointments were made on the same officer of the psychiatric hospital for all the PWIPSD therein confined.

6) Reasonable timeframe

The undue delays appear are a structural problem in access to justice of PWIPSD, both in proceedings undertaken to legal capacity determination and involuntary or long-term hospitalization. Legal timeframe in the proceeding of people interviewed, were extended on average 24 or more month, considering the initiation, the evaluations, the court ruling and the review, in the cases that had it.

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*Questions suggested to Argentine State:*

1. Please inform the measures adopted to ensure that the legal defence provides in NMHA N° 26657 be implemented throughout the country, regardless of its federal structure; and the measures to ensure legal defense in case of PWD deprived of their liberty due to criminal reasons but subjected to an hospitalization regime by virtue of their mental health
2. Please point out the steps undertaken to ensure the access to technical defence for each PWD housed in every service existing within all inpatient facilities, both private and public, located all over the country.
3. Provide information about measures to ensure PWIPSD accessibility and reasonable adjustment to enable access to justice.

**Article 14: Liberty and Security of the Person[[30]](#footnote-30)**

***Concluding Observation:*** *N° 24 y N° 26*

***SDG 2030:*** *End of Poverty (1), Good Health and Well-being (3); Peace, Justice and Strong Institutions (16)*

NHMA implied a shift in public policies on the subject, and the replacement of psychiatric hospitals in 2020 was set as a goal. However, Argentine State is far to achieve this goal, and on the contrary, current national administration had been likely to strengthen its politics of institutionalization in mental asylum.

Judicial monitoring of hospitalization, which shall oversee the lengthening of them and impact in avoiding they become chronic, even though is ruled by NHMA an NCCC, still maintains meaningful deficits regarding efficiency and effectiveness.

Involuntary commitment, incompatible with CRPD is still allowed by NNMHA in exceptional cases, but prevails as a therapeutic answer. Thus, in some occasions the institutionalization is used as a way to avoid that a person becomes homeless, and in other ones, the hospital discharge makes the person a homeless one[[31]](#footnote-31). This is because of the general lack of nets and programmatic strategies in intermediate devices, which shall allow inpatient planning a sustainable institutional discharge.

Yet exists lack of data about inpatients, both in public or private sphere and lack of public statistic which shall allow the review of long-term institutionalization and know if they are voluntary or not, as well as the conditions in which they are undertaken.

*Security measures*, ruled in article 34 of National Criminal Code, are the legal answer to most of persons declared exempt of criminal responsibility. These measures are, in general, depriving of freedom ones, and are often served in psychiatric wards within the prison, o more usually in penitentiary areas of psychiatric hospitals. They are deep-rooting in dangerousness concept, which added to the undetermined nature –criminal or civil- of its monitoring, and to the specific restrictions above mentioned, make them violate constitutional principles of equality and non-discrimination, and opposed to legal paradigm instituted by CRPD and NNMHA.

The ruling declaring exempt of criminal responsibility y and the consequent security measure put the PWD outside both the criminal procedure and the scope of guarantees. In addition, his or her seclusion is ordered, monitored, and eventually ceased by a criminal court. This poses a contradiction and an inequality with respect to civil commitments based on mental health causes, shall be monitored by civil and family courts.

Being court-ordered compelled interventions, the criteria ruling the intervention is any more the medical-clinical one, and therefore is not an mental health action but a legal one; this generate a problem with the legacy of the detention –according to argentine legal framework-[[32]](#footnote-32), apart from other constitutional violations such as, arbitrariness in the long-term security measures.

The regime of progressive penalties, regulating the basic execution modality, provides some limitations that affect, in particular, those person users of mental health services[[33]](#footnote-33). Regarding to them, remains suspended “behavior and concept qualification of the inpatient housed in a specialized penal institution of psychiatric nature or in a similar and appropriate centre of free environment”, thus this segment of prison population is excluded from the basic mechanism to access to the progressive penalty system, which includes limiting the permanence of the person in locked establishments, among others rights.

In the same way, de decree regulating the above mentioned law expressly provides the impossibility of conjugal visit for the “intern housed in facilities or specials sections of assistant, medical or psychiatric nature or in those wherein specialized therapeutic regimes are developed”[[34]](#footnote-34). In this way, the right to sustain bond relationship it´s violated, generating an unjustified and discriminatory treatment.

*Questions suggested to Argentine State:*

1. Please inform about the measures undertaken to aligning the exempt of criminal responsibility regime to CRPD, including the elimination of security measures from NCC (art. 34 and concordant).
2. Provide information about measures adopted to gathering quantitative data on PWD detainees in all country prisons and the unmet needs they have according with his or her disability.
3. Please point out the steps forward to ensure the sustainable and non-regressive implementation of existing mental health devices for persons with psychosocial disability involved in criminal proceedings, and to ensure that similar intervention devices will be implemented in penitentiary institutions throughout the country, regardless de jurisdictional sections.
4. Provide information on mechanisms existing all over the country to ensure that treatments focused on deprivation of freedom as a main therapeutic measure, will progressively turn into answers focused in open doors community mental health centers with a comprehensive approach to person.
5. Please inform the control mechanism upheld to guarantee that persons under an involuntary commitment, with a progressive plan, have the adequate safeguards according the needs she or he may has.

**Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment[[35]](#footnote-35)**

***Concluding Observation****: N° 27 y 28*

***SDG 2030:*** *Good Health and Well-being (3) Peace, Justice and Strong Institutions (16)*

Strengthening of external and independents mechanism of control is a fundamental step to reverse the current situation of detention centers all over the country, because of the extent practices of tortures and cruel, inhuman and degrading treatment.

The N° 26.827[[36]](#footnote-36) Act, which establishes the National Mechanism for Torture Prevention (NMTP) rules that its members shall be designed after a selection process carried out by a bicameral committee within National Congress. Although this selection process must have been started on 1st April of 2015, was only on 17th March of 2017 when the bicameral committee launched the selection process of social civil organization representatives, therefore the NMTP yet is not operating in Argentina.

It´s clear that setting -up a mechanism doesn´t means fulfilling the objective of the Optional Protocol of the Convention against Torture, but this mechanism must have the necessary tools to achieve an effective prevention of torture. Mendoza is one of the first argentine provinces which set-up a local mechanism, however it yet have not received budget line, despite of having been established five years ago.

Considering the federal structure, provinces must have local mechanisms aimed to Prevention from Torture; Buenos Aires, Santa Fe and Córdoba have legislative projects to implement this body, but they have no passed by Legislature.

There are no effective and specific institutional mechanisms to prosecute and punish actions that evidence torture and cruel, inhuman and degrading treatment or penalties carried out in prison or psychiatric hospitals, nor protocols made regarding that situation.

In 2013, National HMA was regulated and it was created National Review Body of Mental Health (NRBMH), collegiate entity located inside National Public Defense Ministry, which among its competences, has functions equivalent to NMPT for protecting the human rights of impatiens with psychosocial disability

The NRBMH started in service in 2014, its plenary session is integrated by both permanents members from National General Defender, National Health Ministry and National Secretariat of Human Rights, and temporal members chosen by the permanent ones, representing organization of users of mental health services and their relatives, professionals of mental health associations and human rights organization.

Is underlined the relevant role played by this body in identification, recording, complaints and intervention in particular cases of torture and cruel, inhuman and degrading treatment occurred in psychiatric institutions, both public and privates, as well as in monitoring institutions, and in recommending to other state bodies public policies and the adoption of right human standards.

Notwithstanding the forgone, the NRBMH competence for monitoring has generated resistance and attempted to obstruct its functioning from executives authorities. Namely, in August of 2015 the Government of the Autonomous City of Buenos Aires, as an answer to the outputs of the monitoring carried out by NRBMH at Interdisciplinary Psycho-assistance Hospital Dr. J. T. Borda, submit a judicial claim requesting from the court an interim measure The claim was founded on the basis of the incompetence of the body to act within the City jurisdiction, because of its federal nature. The measure was rejected by the court[[37]](#footnote-37).

There is a notorious lack of will to create locals review bodies, and this, restrict the homogeneous access and exercise of the rights recognized by NNMHA to all persons inhabiting the national territory[[38]](#footnote-38).

As the MNPT is not nor constituted neither operative yet, it had been impossible set up mechanisms to institutional articulation between this and the NRBMN; this dynamic its replied at local level due to the same motives.

*Questions suggested to Argentine State:*

1. Please, inform the specific measures undertaken to articulate with local jurisdictions in order to make effective the constitution of local Mental Health Review Bodies
2. Provide information on the steps taken to implement urgently the NMPT
3. Please inform the device instituted to the articulation of NMPT and NMHRB
4. Please inform the measures carried out to ensure the adoption of the standards ruled by the existing mental health review bodies and by other bodies, as well as the mechanisms for prevention of torture, by psychiatric and addiction institutions.

**Article 16: Freedom from exploitation violence and abuse**

***Concluding Observation****: N° 29 y 30*

***SDG 2030****: Gender Equality (5); Peace, Justice and Strong Institutions (16)*

Argentine State has not implemented any program; policies or strategies specifically target to ensure the full protection and enjoyment of women and girls with disability rights, nor had incorporated a disability perspective into policies and programs about gender violence. The National Plan of Action for the Prevention, Assistance and Eradication of the Violence against women (2017-2019), doesn´t incorporate the disability perspective nor mentions women and girls with disability.

The telephone line 144 gives –during 24 hours- phone answer and advice for women victims of violence, but the only way to access to it is by means of an oral telephonic device, consequently deaf women remain out of this service, intensifying their isolation what strengthen the situation of abuse and mistreatment.[[39]](#footnote-39)

The help desks set for cases of gender violence has no accessible devices, there is no personnel using sign language and the workshops given to make aware on the subject are inaccessible for women with psychosocial and intellectual disability[[40]](#footnote-40).

In the case of institutionalized person, the situation of abuse by means of the seclusion in solitary cells and the physical, psychological and sexual mistreatment executed against them by the authorities, sanitary personnel, caregivers and other person therein lies is something that has not stopped[[41]](#footnote-41), but continue as disciplinary practices.

*Questions suggested to Argentine State:*

1. Provide information on the implementation of measures of prevention, early detection investigation and punishment of violence, abuse and exploitation against PWD, specifically women and child with disability.
2. Please dive information about protocols for the prevention and repair of violence against institutionalized PWD.
3. Provide current and disaggregated statistics about violence against women and children with disability.

**Article 17: Protection the Integrity of the person [[42]](#footnote-42)**

***Concluding Observation****: N° 31 and 32*

***SDG 2030:*** *Health and Well- being (3); Gender Equality (5); Peace, Justice and Solid Institutions (16).*

The Argentine State has not modified article 86 of the Criminal Code, which requires “the consent of her legal guardian” for a woman with intellectual or psychosocial disability (“idiot or insane”, according to the Code’s text) to have access to legal abortion.

This requirement is reflected in many of the procedural guides that rule access to abortion. In 2016, an “explanatory note” was included in the protocol developed by the National Ministry of Health, establishing that those women who do not have a “restriction to their legal capacity specifically related to healthcare decision making may consent autonomously to abortion, using or not a voluntary and trusted support on terms that they wish” [[43]](#footnote-43). However, this protocol does not have legal status as a ministerial resolution. As a result, many health professionals object its enforceability and act upon article 86 of the Criminal Code, which requires the consent of the legal guardian.

Out of 16 jurisdictions with protocols, only 6 have adhered to the national protocol. The protocols of the other 10 jurisdictions (excepting Misiones) rule that in the case of women with disabilities, consent must be given by their legal guardian.

In the City of Buenos Aires, although it is contradictory[[44]](#footnote-44), the normative framework recognizes that women with disability have the right to support systems to take decisions on legal abortion, a role that must be played by a person whom they trust.[[45]](#footnote-45) This framework was established in the context of court proceedings brought by organizations of women and people with disabilities.

The State must guarantee that women will be heard and that her will and preferences will not be replaced. Assuming that women have support for decision-making, the safeguard would be a system of periodic review conducted by an external and independent body and in charge of controlling that the support respects her will. In the context of the Supreme Court of Justice ruling in “F. A. L. s/self-enforcing measure”, it may be concluded that the safeguards should neither result in the judicialization of the case nor become a new barrier[[46]](#footnote-46).

A paradigmatic case of intersectional discrimination against women with disabilities in their access to legal abortion took place in 2016, in the province of Salta. Juana, an indigenous 12-year old girl with intellectual disability, member of the Lhaka Honhat wichí native community, gave birth to an anencephalic fetus. Her pregnancy was the result of a sexual abuse committed by 8 men. The girl had to undergone a forced pregnancy[[47]](#footnote-47)  during almost 7 months, even after determining that the fetus was not viable. She had access to neither the healthcare she needed, nor information about her right to have access to legal abortion[[48]](#footnote-48).

Although the new National Civil and Commercial Code modified the regime of restrictions to legal capacity of people with disabilities, replacing it with a procedure aimed at appointing support measures, in the practice of the Judiciary and the institutions still is required the person appointed (public official or not) to validate the decisions taken by women with disabilities.

Nor has the State modified Article 3 of Act 26.130 that rules sterilization, as the Committee has recommended. A project was presented to modify this article, but it was not considered by the National Congress[[49]](#footnote-49).

In the case of women with disabilities, contraceptive and sterilizing procedures are performed with their informed consent. These practices are common in asylum-like institutions, such as colonies and monovalent psychiatric hospitals, asylums and private houses.

In Salta, public hospitals perform tubal ligation practices and legal abortion to women with disability. However, not all of them are consulted to guarantee that they give their informed consent. In many cases, the decision is taken by their family.

*Questions suggested to the Argentine State:*

1. Please inform about measures to guarantee access to legal abortion and unify public policies on the matter in all the territory of the State, in accordance with the exhortation made by the National Supreme Court of Justice in the “F.A.L.” case in 2012.

2. Please mention measures adopted by the National Ministry of Health to generate a public policy on legal abortion for women with intellectual disabilities, in accordance with the rights recognized by the CRPD, the National Mental Health Act and the National Civil and Commercial Code.

3. Please inform about what measures have been adopted by the State to avoid that public officials- health professional and members of the Judiciary- authorize and/or perform forced abortions, contraceptive practices and sterilizations to women, girls and adolescents with disabilities.

4. Provide information about the number of women with disabilities who have been sterilized or performed abortions, without their free and informed consent in the last year, disaggregated by age and type of disability.

5. Provide information about protocols for the implementation of free and informed consent, designed to avoid violations to the right of people with disabilities to make decisions about their treatments and health interventions.

**Article 19: Living independently and being included in the community [[50]](#footnote-50)**

***Concluding Observation:*** *N° 33 and 34*

***SDG 2030:*** *Health and well-being (3)*

In spite of the existing normative framework and the recommendations issued to the Argentine State, the confinement of people with psychosocial disabilities in psychiatric institutions for long and/or indefinite periods remains the main public policy on mental health.

It is apparent the lack of a generalized plan for sustainable deinstitutionalization of persons confined in institutions. The average length of stay for persons confined under “chronic” condition- that is, those who the institution considers that would not recover from their psychiatric condition- is alarming. For example, in the Dr. Alejandro Korn Hospital, according to calculations made on three wards for chronic patients in 2012, out of a total of 461 persons confined, the average length of stay was 19.6 years, with stays ranging from 1 to 53 years. The longest length of stay detected was 63 years.

The derogation of Resolution 1484/2015, which established “minimum standards for the authorization for the functioning of facilities and services of mental health and addictions”, is stressed as a setback. Although this resolution was subsequently re-instated, a resolution passed in 1996 was re-instated at the same time. As a result, there are two totally opposed regimes ruling the authorization for the functioning of mental health institutions in force; the older one legitimizes medium and long-term confinement in psychiatric institutions and provides for the possibility of authorizing the functioning of spaces for biological treatments such as insulin shocks and electro-convulsive therapies, also known as electroshock[[51]](#footnote-51).

This last resolution was administratively questioned by organizations of human rights; by the time this report was concluded, this claim has not received an official reply from the Ministry of Health.

The State has not made progress in developing residential devices or settings capable of functioning as a community-based alternative to institutionalization; this type of institutions are very scarce in the public sector, and the great majority of the existing function as extensions of psychiatric hospitals. In some provinces, such as Mendoza, these alternative systems are outsourced as “hogares” (homes) privately administered, which results in a greater relaxation of State control over the living conditions in these places[[52]](#footnote-52).

In 2014, public officials from the Public Defense Office filed a legal action of protection[[53]](#footnote-53) against the Ministries of Health of the federal State and the City of Buenos Aires and a private health provider, on behalf of 4 persons which met the conditions for deinstitutionalization, which was not being guaranteed by the State. The National Justice upheld the action and urged the ministries to adopt the necessary measures to comply with the CRPD and its Optional Protocol and the content of the National Mental Health Act, providing community-based settings suitable for the continuation of the treatment of the persons involved, and of all the persons that prove to be in the same position.

This judicial warrant was a precedent-setting decision about this failure in the public policy on mental health. No measure has been adopted at the national level to comply with the judicial decision. The lack of halfway and community-based housing settings is a constant in other provinces of the country.

The lack of specific funding for the deinstitutionalization, along with the scarce availability of halfway housing settings, results in a clear institutional expulsion. This creates a particular stigma for young users of mental health services undergoing deinstitutionalization: in addition to the vital and social vulnerability that their situation implies and the lack of support from their families or other acquaintances, this State failure creates obstacles that undermine their possibilities to find job alternatives suitable for their subsistence.

We must stress the lack of access to personal assistance for independent living for PWD and, as a backside, it is necessary to mention the lack of State supervision over the “hogares” (private houses) for PWD within the framework of the System of Services for the Comprehensive Attention of Persons with Disabilities.

In the City of Buenos Aires, in December 2016, the Commission for the Full Participation and Inclusion of Persons with Disabilities (COPIDIS) created the “Program of Support for Independent Living for Persons with Disabilities”,[[54]](#footnote-54) aimed at advancing a plan for independent living, which must be designed by each beneficiary and will be evaluated by COPIDIS; providing a monthly allowance, and creating a register of personal assistants. However, the amount of the allowance is very low, not enough to cover the costs involved in paying for a personal assistant. The allowance is provided for a 6-month period, and can be extended for 2 additional periods and, after this period elapses, people with disabilities are deprived of any State support for their plan for independent living. The pre-registration form for the allowance must be signed by the applicant and a family member, which may suggest a possible attempt to substitute his/her will.

Moreover, in June 2017, “Casa SIS” (SIS standing for “Health with Social Inclusion” in Spanish) was closed. This setting, jointly implemented by the Ministries of Health and Justice, promoted the social inclusion of people with disabilities undergoing a process of deinstitutionalization. As a result, the beneficiaries of this setting were left in a situation of complete abandonment[[55]](#footnote-55).

*Questions suggested to the Argentine State:*

1. Please describe legal and administrative measures, including budgetary ones, adopted to guarantee that PWD have access to support services for independent living.

2. Please provide information about specific measures adopted to make progress in the replacement of psychiatric hospitals and segregationist institutions with community-based settings.

3. Please inform about measures implemented to prevent the confinement of people with disabilities in psychiatric institutions from becoming chronic; improve the living conditions during institutionalization and promote and enable the deinstitutionalization.

**Article 23: Respect for home and the family**

***Concluding Observation:*** *N° 35 and 36*

***SDG 2030:*** *Gender equality (3)*

The State does not guarantee that women with intellectual and psychosocial disability receive the support they need for the voluntary performance of their responsibilities as mothers, so as to avoid that they are deprived of their child-rearing responsibilities by a judicial decision and that their sons and daughters are institutionalized.

To illustrate this point about the real meaning of maternity rights for women with disabilities, it is useful to introduce the case of Marisa[[56]](#footnote-56), who received legal counseling from REDI in the appellate stage of her case. Marisa is a young woman with intellectual disability. She lives in the City of Buenos Aires, attends a public school of special education specialized on professional training and is poor. She faces serious difficulties related to housing, access to both job opportunities and healthcare and social protection. Her immediate family comprises PWD, including her sister who is undergoing judicial proceedings aimed at restricting her legal capacity due to alleged “insanity”.

In 2012, Marisa gave birth to J.M., a baby boy. After receiving notice of the birth, the Court that was conducting the proceedings against her sister decided ex officio to initiate proceedings for the “special protection” of the baby. In this context, the judge issued a decision establishing that J.M. was under a state of material and moral abandonment and he was institutionalized in another jurisdiction.

The option of deriving Marisa and her son to an institution capable of hosting both of them was considered, but failed because only Marisa was hosted there. Later on, she was requested to submit a plan of living for her and her son, within 5 days. She did not know what she was being requested and nobody explained the content of the request to her. As a result, Marisa was deprived of her child-rearing responsibilities and a declaration of adoptability was issued in relation to her son.

Although Marisa visited her son, after more than four years of physical separation and several judicial stages, in June 2016, the National Supreme Court of Justice ordered J.M. to be reintegrated to his mother, after an adaptation process, and the immediate implementation of a series of measures by the competent entity, aimed at guaranteeing the rights of the boy. In spite of this favorable ruling, given the years that have elapsed and State inaction, family life has not been reestablished yet.

*Questions suggested to the Argentine State:*

1. Please inform about measures adopted to guarantee that parents are not separated from their child on the basis of a disability, through a judicial or administrative decision; and specific measures adopted to offer support systems needed to guarantee that PWD can perform their child-rearing responsibilities.

**Article 24: Right to Education[[57]](#footnote-57)**

***Concluding Observation:*** *N°37 and 38*

***SDG 2030:*** *Quality Education (4); Reduced inequalities (10)*

The Argentine education system comprises two sub-systems: a mainstream education system and a special/segregated education system. This scheme is based on National Education Act 26.206, whose article 42 establishes that Special Education is a modality of education aimed at guaranteeing the right to education for PWD when their needs cannot be addressed by regular schools; and regulations issued by the Federal Bureau of Education, in particular, Resolution 155 and Resolution 174, both of which are currently in force.

Although the latest relevant resolution passed by the Federal Bureau of Education (Resolution 311/2016) brings positive changes to the regulation of the school trajectory of people with disabilities, it is not fully in accordance with the CRPD and establishes that local jurisdictions must guarantee the functioning of the modality of Special Education. This resolution is the expression of a segregationist paradigm and the fact that it continues to have legal force conflicts with the State obligation to guarantee the right to inclusive education.

In spite of this new resolution ruling the school trajectory of PWD in regular schools, many provinces refuse to implement it, alleging that it is not compatible with their normative framework. For this reason, it is necessary for the national State to implement the new regulation in the light of the CRPD and urge local jurisdictions to do the same.

It is stressed that discriminatory refusals to enroll PWD, the lack of teaching of Braille and sign language in regular schools, the lack of accessibility of accessibility of physical environments, furniture and work materials. There is no serious educational policy aimed at providing interpreters or removing barriers so as to achieve the full accessibility of the education system for students.

In the case of the province of Córdoba, whereas the State closes kindergarten courses in special schools and imposes the correlative obligation to include all students with disabilities in kindergarten courses of regular schools; the integration of students in regular schools is significantly restricted at the high school level.

The education system lacks professionals capable of supporting the “educational integration” of those low-income students whose parents lack access to healthcare insurance providers, which, under the exiting normative framework, have the duty to cover the costs of these professionals. Even in the case of those who have access to healthcare insurance providers, the provision of support services is deficient and the State does not monitor non-compliant providers.

The lack of training programs for teachers is also notorious. Teachers frequently allege that they are not trained to undertake the “educational inclusion” of PWD and consider that these students depend on the person acting as support teacher and not on the teacher in charge of the class. The lack of reasonable accommodation in the school trajectory is a persistent flaw of the education system.

The information collected by the Argentine State is not the same for regular schools than for special schools, the majority of whose students are PWD. This means that there is essential information that it is not collected in relation to students attending special schools. Although the State collects some information about PWD integrated in regular schools, it does not so in a scientifically validated way, as authorities have recognized. In addition, this information is not complete.

In the light of this situation, in 2015, four organizations devoted to advancing the right to inclusive education filed a legal action of protection to urge the State to collect the information missing. In 2016, a court ruling[[58]](#footnote-58) ordered the Argentine State to take the necessary steps to ensure the collection of information regarding the education of PWD, in the terms requested by the Plaintiffs. Far from complying with this ruling, the National State filed two appeals against this decision, which was upheld by two appellate chambers. The case is currently pending a final decision by the Supreme Court of Justice.

In the higher level of education, there is neither specific budget nor programs aimed at providing students with the support they need. For instance, the registration form for the current system of scholarships is not accessible for persons who are blind.

*Questions suggested to the Argentine State:*

1. Please provide detailed information about the implementation of the transformation of the education system into a system of quality inclusive education, including the measures adopted to guarantee adequate funding to ensure that people with disabilities have access to inclusive education; the transformation of special schools into resource centers for inclusion; the provision of reasonable accommodation; the provision of support systems that are freely chosen by PWD; to elimination of the practice of forcing PWD to be enrolled in both regular and special schools; the provision of continuing professional training for teachers and the implementation of inclusive education at the higher level of education.

2. Please inform about measures implemented to collect information about the education of PWD who attend both regular and special schools.

3. Please inform about progress achieved in the implementation of Resolution 311/2016 of the Federal Bureau of Education in the whole country, in conditions of equality and in compliance with the school trajectory of PWD at all levels.

**Article 25: Health**

***Concluding Observation:*** *N°40 and 42*

***SDG 2030:*** *Health and well-being (3); Gender Equality (5)*

It is evident that there is a deliberate non-compliance with the duty to address the right to health from a human right perspective and implement comprehensive health programs- accessible, well-resourced, with qualified personnel- capable of creating a favorable context for PWD to exercise their right to health, on an equal basis with others.

Healthcare is deficient within the public health system. In order to have access to healthcare out of the public system, the person must have a registered job, which is problematic given the fact that PWD face greater social barriers to enter the job market.

There are still material barriers preventing PWD from having access to medical facilities and to specific services needed for the performance of medical tests. There is a lack of human assistance for communication accessibility (such as sign language interpreters, materials in Braille and easy-to-read and easy-to-understand materials) and a lack of professional trained in the social model of disability.

Persisting obstacles in the healthcare system are heightened in relation to people living with rare diseases (EPOF). This category (rare diseases) is neither recognized by the healthcare system nor included in comprehensive programs related to disability. In Argentina, it is estimated that there 3.2 million people living with rare diseases[[59]](#footnote-59). Health professionals that take part in Evaluating Boards at the federal level have scarce knowledge about this matter, leading to clear disparities in the application of the International Classification of Functioning, Disability, and Health (ICF) criteria in the process for granting the Unique Disability Certificate.

This results in the violation of the rights of people living with rare diseases. This persons need an accurate diagnosis and to have access to healthcare facilities and support measures; treatments; habilitation and rehabilitation.

**The right to health for women with disabilities**

There are serious shortfalls in the recognition of the right to sexual and reproductive health for women with disabilities. They experience the lack of accessibility to healthcare services on the matter, as a result of multiple barriers which are not identified by relevant State programs and offices.

Barriers are related to the lack of accessibility of the information disseminated by the State, the lack of accessible gynecological beds, the lack of accessibility to contraception (condoms does not have tags in Braille, even the expiration date is not in Braille; pills’ packaging rarely includes easy-to-follow instructions); pregnancy tests are visual (thus, they are not accessible for women who are blind; they cannot make use of these test without the support of someone capable of seeing the result); and women who are deaf face many barriers to have access to sexual and reproductive healthcare services due to the fact that health professional ignore sign language.

**Mental Health[[60]](#footnote-60)[[61]](#footnote-61)**

At the provincial level, the State has failed to create Local Review Boards (ORL) responsible for monitoring compliance with the rights of users of mental health services. The existence of these bodies would allow for monitoring, evaluating and making recommendations in matters related to mental health to the three branches of government. According to the users of mental health services[[62]](#footnote-62), the failure to create ORL results in the lack of mechanisms to submit complaints for violations of the National Mental Health Act.

There is no information available about the number of persons confined in mental health institutions. On the other hand, there are situations of physical, psychological and sexual ill-treatment against persons confined in these institutions, which are perpetrated by authorities, medical personnel, caregivers, and other inmates. There are not efficient systems to channel complaints for these acts of violence. In addition, there is an improper use of prescription drugs and overmedication is used to control, discipline and punish inmates.

At the same time, policies related to both persons with intellectual and psychosocial disabilities and mental health do not involve labor and social inclusion and inclusion in the community, through the articulation of the competent areas dealing with health, social security, job and education issues.

There are scarce material resources and in-service professionals for deinstitutionalization. There is also a lack of alternative settings to institutionalization. This reality prevents persons from undergoing a real process of deinstitutionalization, based on comprehensive, humanized and quality healthcare. As a result, users cannot exercise their right to live in the community (out of the institutionalization circuit), pursuing a project for independent living.

Mental health approaches are assistance-based. Most of the economic resources available are devoted to maintaining public and private asylum-like psychiatric institutions. At the same time, efforts aimed at replacing all monovalent psychiatric hospitals by 2020 were paralyzed and withdrew. Monovalent psychiatric hospitals are among the hospitals in the most critical condition. For example, in the psychiatric ward of the Dr. Alejandro Korn Hospital (province of Buenos Aires), the rate of deaths from preventable causes is 4 times higher than the overall average in the province; 7 times higher than the overall average in the whole country, and 18 times higher than the rate of deaths from preventable causes in the prison system of the province of Buenos Aires[[63]](#footnote-63).

The emphasis on confinement that characterizes State’s response towards persons with intellectual and psychosocial disabilities in psychiatric hospitals has its correlation in the lack of adequate services in general hospitals for people undergoing mental health crisis. This is one of the key factors that promote institutionalization for long or indefinite periods of time.

The segregation that characterizes psychiatric hospitals also impacts the effective enjoyment of the right to a comprehensive healthcare, especially in relation to physical health. According to a recent investigation, even if they succeed in overcoming long periods of confinement in psychiatric hospitals, persons with intellectual and psychosocial disabilities have low access to healthcare services other than psychiatric ones. Many of these non-psychiatric services are provided in the same hospital from which the person was deinstitutionalized[[64]](#footnote-64).

At the federal level, mechanism for joint work and cooperation among ministries, and for consultation with civil society (and, in particular, with users of mental health services) were dismantled. This includes mechanisms for civil society participation in State policies aimed at guaranteeing the right to health, such as the National Inter-ministry Commission on Polices on Mental Health and Addiction (CONISMA), which met for the last time in December 2015. In September 2016, CONISMA was transferred from the office of the Head of the Cabinet of Ministers to the National Ministry of Health. The Ministries of Justice and Human Rights, the Ministry of Security, the Secretariat for Planning the Prevention of Drug Abuse and the Fight against Drug Trafficking (SEDRONAR) and the National Institute against Discrimination, Xenophobia and Racism (INADI) were excluded from its membership, in spite of the fact that they are strategic actors for the cross-cutting implementation of the National Mental Health Act.

On the other hand, the National Honorary Consultative Council of Polices on Mental Health and Addiction (CCH)[[65]](#footnote-65), created by the National Mental Health Act, has not been summoned by the State since December 2015. In February 2015, the National Mental Health Commission was created. This commission was mentioned neither in the National Mental Health Act nor in any other law. Its membership includes so-called “experts” in the field, who are appointed by the Ministry of Health on discretionary basis. Civil society organizations requests to participate in this space and have access to its official working documents received a negative reply from the State.

*Questions suggested to the Argentine State:*

1. Please inform about the implementation of comprehensive primary healthcare services for PWD.

Please provide information about health promotion aimed at expanding knowledge on rare diseases (EPOF) and the criteria set by the International Classification of Functioning, Disability, and Health (ICF) of the WHO among health professionals that take part in Evaluating Boards at the federal level. This is particularly relevant in relation to the assessment of people with visceral disability.

3. Please inform about measures adopted to guarantee that women with disabilities have access to accessible health programs, including sexual and reproductive health services, on an equal basis with others.

4. Please state specific progress achieved in the implementation of the National Mental Health Plan, so as to guarantee progressive advancements in the process of deinstitutionalization of PWD deprived of their freedom in asylum-like psychiatric institutions, private houses and any other institution. Also inform about measures adopted to encourage the provinces and the Autonomous City of Buenos Aires to adopt mental health programs on this matter, and allow for the participation of civil society and users of mental health services in the design, monitoring and evaluation of public policies on mental health.

5. Please inform about specific measures implemented to adjust the allocation of resources to the mandate of Article 32 of the National Mental Health Act, according to which 10 percent of the budget of the Ministry of Health must be devoted to mental health. Also inform about measures to encourage the provinces and the Autonomous City of Buenos Aires to adopt the same 10-percent mandate.

**Article 27: Work and employment[[66]](#footnote-66)**

***Concluding Observation****: N° 43 and 44*

***SDG 2030:*** *No poverty (1); Decent Work and Economic Growth (8), Reduced Inequalities (10)*

The Argentine State does not guarantee the right to work for PWD and systematically infringes the normative framework that sets a 4-percent labor quota for PWD in the public sector[[67]](#footnote-67).

In December 2015, within the framework of the National Public Administration, 0.88% of the employees were PWD. Out of 186 entities depending on the National Public Administration (including ministries, decentralized bodies and national universities), only nine of them meet or surpasses the 4-percent labor quota[[68]](#footnote-68).

This situation is worsened by Administrative Decision 12/2017[[69]](#footnote-69), which authorizes the suspension of the recruitment of personnel for the public sector. This decision does not exclude PWD, in violation of the labor quota established in the normative framework.

According to information provided by the National Ministry of Labor, Employment and Social Security, only 3% of those PWD who benefited from specific actions and/or professional training got a job.

As far as the private sector is concerned, Draft Bill S-4041/16 was submitted to the National Congress. If this bill is passed, any firm with more than 100 workers would have the duty to employ PWD meeting eligibility conditions, up to at least 4% of its staff.

To this date, the State has not complied with the CRPD mandate to establish a normative framework capable of promoting the design, implementation and execution of reasonable accommodation for the employment of PWD. In response to an access to public information request submitted by REDI, the State informed that it is assessing a framework of this kind.

In the case of persons who are blind, there are many cases of denials of necessary labor adjustments, even by public entities. Given the lack of specific public policies on the matter, requests for assistance on the matter are dealt with by programs developed by civil society organizations[[70]](#footnote-70).

The chances for labor inclusion an equal basis is particularly hindered for those persons whose legal capacity is restricted by measures such as guardianship. This kind of measures excludes PWD from any possible competition within the labor market[[71]](#footnote-71).

At the same time, the Unique Disability Certificate allows PWD to have access to specific training programs, but the certificate also represents an obstacle preventing persons with intellectual and psychosocial disabilities from having access to a registered job. Thus, while those PWD who have a certificate are trapped in a circuit of training programs, without having access to registered jobs, those without certificate cannot have access to training programs.

On the other hand, competent authorities have implemented several actions in accordance with the normative framework passed to promote the labor development of PWD (Act 26.816[[72]](#footnote-72) - Federal Regime of Protected Employment for Persons with Disabilities, passed in 2013, and its Regulatory Decree 1771/15[[73]](#footnote-73)). However, to this date, Act 26.816 has not been effectively implemented[[74]](#footnote-74). There has been a notorious reduction in the number of applications submitted by Protected Workshops, due to bureaucratic obstacles, insurmountable requirements and delays in processing funds devoted to these workshops.

*Questions Suggested to the State:*

1. Please inform about the programs implemented to equalize opportunities for education, training and employment for PWD and the financing of programs aimed at guaranteeing the implementation of adjustments for job positions.

2. Please provide detailed information about the current level compliance with the labor quota for PWD; measures adopted by the government of the Autonomous City of Buenos Aires to comply with the ruling adopted in the *ASSOCIATION REDI C/GCBA Y OTRO s/AMPARO* case, involving the violation of the labor quota.

3. Please provide information about controls carried out over private entities that receive public funding to develop training actions and promote the labor inclusion of PWD. Also inform about follow-up and monitoring actions to verify that the training programs developed by this organization result in increased opportunities for labor inclusion.

4. Please indicate measures implemented to achieve the effective application of Act 26.816 in the whole country; the type of monitoring actions conducted over existing Protected Production Workshops to verify that they comply with the labor and union rights of the beneficiaries; and measures adopted to prioritize these workshops in public calls for tender (that is, calls for tender made by the State) in order to advance their self-sustainability.

**Article 28: Adequate Standard of living and social protection**

***Concluding Observation****: N° 45 and 46*

***SDG 2030:*** *No poverty (1); Health and well-being (3); Decent Work and Economic Growth (8), Reduced Inequalities (10)*

In June 2017, the Argentine State decided to massively withdraw non-contributory pensions already granted to PWD, arbitrarily and indiscriminately infringing their rights. This decision was based on Decree 432/97, which preceded the entry into force of CRPD and its ratification by the Argentine State[[75]](#footnote-75)[[76]](#footnote-76).

For their beneficiaries, pensions represents the possibility to have access a minimum income, cover their educational needs, and have access to adjustments in transportation, medical treatments, and assistance for personal care and other special needs. In many cases, covering these needs represents a substantial monthly expenditure. As a result, the withdrawal of these pensions seriously affects their rights, living conditions and livelihood.

Several organizations, such as REDI, filed legal actions[[77]](#footnote-77) against the decision to withdraw non-contributory pensions. Some of these actions were upheld by the Judiciary. In spite of the favorable case law and although the government announced its intention to reverse the decision, pensions were not restored in the great majority of cases. This is also the case of pensions for mothers of 7 children or more, and the Universal Child Allowance, of which many PWD are direct or indirect beneficiaries.

The decision to withdraw of these social security benefits was not notified to the beneficiaries in advance. As a result, they could not properly exercise their right of defense. It is stressed that the requirements established by the normative framework are based on the idea that, in order to be granted a pension, PWD must demonstrate that they experience a situation of indigence or poverty, a requirement that goes against the legal status of non-contributory pensions as a right of person with disabilities.

**Migrant workers with disabilities[[78]](#footnote-78)**

In Argentina, the normative framework that rules the granting of non-contributory pensions establishes a distinction between national and foreign residents. In order to receive an old-age pension, persons must demonstrate a minimum of 40 years of residence. For non- contributory pensions granted to mothers of seven children or more, it is necessary to demonstrate a minimum of 15 years of residence.[[79]](#footnote-79)

Regarding pensions granted for disability reasons, Decree 432/97 establishes that foreign residents must demonstrate a minimum of 20 years of residence, a requirement that does not apply to foreign children and adolescents with disabilities. In spite of receiving several requests to do so, the State has not modified this requirement in relation to foreign adults with disabilities.

Migrants also face barriers to have access to the Universal Child Allowance[[80]](#footnote-80), a non-contributory system of allowances for social protection that is granted per child. In order to benefit from this allowance, the child must be Argentine, or the child of a native Argentine or Argentine by option, either naturalized or with legal residence in the country of at least three years prior to the request.

The regulation provided by the National Social Security Administration (ANSES, according to its initials in Spanish) added new requirements: a minimum of 3 years of residence for children born outside Argentina and a minimum of 3 years of legal residence for foreign parents, even if the child was born in Argentina.

Notwithstanding the content of the Migration Act 25.871, in practice, there are several difficulties affecting the right to health of migrant. This right is also restricted through distinctions based on nationality and migratory condition. The most serious situations are observed in relation to the policies for the management of organ transplants: given the requirements in force, only migrants with permanent resident status can be included in waiting lists for transplants.

This is the case of Gina, a Colombian 11-year-old girl that is a refugee, whose case is dealt with by the CAREF and CELS Legal Clinic. She suffers from chronic and end-stage renal failure. She has already undergone a transplant in Colombia, but it was not successful. She is currently receiving hemodialysis treatment at Gutierrez Hospital. She needs a new transplant. However, the National Institute for the Coordination of Ablation and Implant (INCUCAI, according to its initials in Spanish), which is the competent organ, does not authorize Gina’s inclusion in the waiting list for transplants because she does not have permanent resident status. As a result, a request for precautionary measures was filed requesting the Judiciary to order INCUCAI to include her in the waiting list, on the basis of her status as refugee. The claim is still pending before the Judiciary.

*Questions suggested to Argentine State:*

1. Please inform about the number of persons affected by the withdrawal of pensions already granted to PWD or their families; measures adopted to restore them; and whether there is a project to modify the existing normative framework ruling the pensions directly or indirectly perceived by PWD.

2. Please indicate actions implemented to guarantee access to health, education and other rights for migrants with disabilities and their migrant or Argentinean children have, without making any distinction based on their migratory status.

3. Please provide information about specific measures adopted to adjust the normative framework about non-contributory pension and family allowances to international standards on non-discrimination on the basis of nationality in the access to the right to social security.

**Article 29: Participation in Political and Public Life [[81]](#footnote-81)**

***Concluding Observation****: N° 47 and 48*

***SDG 2030:*** *Reduced Inequalities (10); Peace, Justice and Solid Institutions (16)*

In 2013, the Argentine State signed a Cooperation Agreement with Federation Argentina de Instituciones de Ciegos y Ambliopes (FAICA), which resulted in relevant progress in the legislative election that took place that year. A pilot project was implemented in several districts to guarantee accessibility, such as accessible polling places (known as Accessible Darkrooms), accessible online electoral registers and the implementation of several augmentative and alternative devices.

This progress had a huge setback in the 2015 election. According to information collected in several provinces, there were almost no Accessible Darkrooms, augmentative and alternative devices and training programs for electoral officials.

The National Electoral Commission[[82]](#footnote-82) stated that those devices successfully used in 2013 would not be available for the 2015 election at the national level, ignoring its duty to guarantee the right to vote of PWD. It is particularly troubling that the full enjoyment of the right of PWD to participate in the public life is conditioned by “material limitations”. These limitations, alleged by the State itself, result from the lack of adequate budget allocations.

*Questions Suggested to Argentine State:*

1. Please inform about reasonable accommodation and support systems designed to guarantee that PWD participate in the legislative reforms and adjustments to public policies related to their rights.

2. Please provide information about steps taken to adjust the National Electoral Code to CRPD standards and the mechanisms adopted to guarantee the participation of persons with in the process aimed at adjusting the normative framework.

**Article 31: Compilation of Data and Statistics**

***Concluding Observation****: N° 49 and 50*

***SDG 2030:*** *Peace, Justice and Solid Institutions (16)*

There are still shortfalls in the collection and dissemination of data and statistics about the situation of the rights of PWD. The collection and public availability of information are essential for the formulation of efficient public policies capable of guaranteeing and promoting the rights of PWD.

Access to Public Information Act 27.275[[83]](#footnote-83), which will come into full force in September 2017, is a tool to urge the State to comply with its obligation to collect, systematize and disseminate data related to PWD. However, there has not been progress on the matter yet.

The lack of information is apparent in relation to:

* Indigenous people;
* Women with disability;
* Boys, girls and adolescents, particularly in relation to violence, abuse and the prevalence of practices of institutionalization and medicalization;
* Persons deprived of their legal capacity and progress made in the appointment of support measures for decision-making;
* Inclusive education, the number of PWD that attend school, and the type of school they attend;
* Persons institutionalized in private homes, psychiatric institutions and prisons.

**National Mental Health Act**

There is no official source of information about the number of persons institutionalized on the basis of their condition as persons with intellectual and psychosocial disabilities, and the conditions of their institutionalization. This reality infringes the mandate of the National Mental Health Act, according to which the State had to conduct a national census on the situation of persons confined in psychiatric institutions, within 180 days of the enactment of the law (2010).

Instead of complying with this mandate, the State created the National Register of Persons Institutionalized for Mental Health Reasons (RESAM), an electronic database which does not comply with the mandate of the National Mental Health Act. The database (at least, its statistical and epidemiological aspects) is not publicly available. In addition, no public report has been produced about the data collected by the register[[84]](#footnote-84).

Given the structural lack of information about the characteristics of the population of PWD institutionalized in monovalent psychiatric hospitals, it is not possible to make a diagnosis of their situation. This diagnosis would be essential to design a public policy in accordance with the normative framework on the matter.

*Questions suggested to the Argentine State:*

1. Please indicate the tools designed to collect information needed to develop public policies for the implementation of the CRPD, particularly in relation to the process of deinstitutionalization of PWD. Also provide information about the process developed to design these tools, actors convened to participate in this process and the criteria used to take the decision to convene them.

2. Please inform about the measures implemented to collect complete, disaggregated, updated and publicly accessible information about the situation of persons with intellectual and psychosocial disabilities institutionalized in psychiatric hospitals.

**Article 33: Application and follow-up at national level[[85]](#footnote-85)**

***Concluding Observation****: N° 51 and 52*

***SDG 2030:*** *Peace, Justice and Solid Institutions (16)*

The National Advisory Commission for the Integration of Persons with Disabilities (CONADIS)[[86]](#footnote-86) still lacks hierarchy as a Ministry or State Secretariat. The hierarchically superior body, the National Council for the Coordination of Social Policies, also lacks hierarchy as a Ministry or State Secretariat. This reality impact the budget allocations made to these bodies and their advocacy capacity.

The CONADIS manages a specific fund, created by the Law on Checks 25.730[[87]](#footnote-87), aimed at financing programs for PWD and NGOs. To this date, resources from this fund are only spent on personal aids. In addition, there are several administrative barriers preventing access to these programs. This represents a form of excessive formalism, as a result of which services are not accessible for PWD and organizations of PWD, especially those located in inland regions.

On the other hand, the Disability Observatory, created by Decree 806/2011, is not an autonomous body, given the fact that it hierarchically depends on the CONADIS. As mentioned, CONADIS is part of the National Executive Branch of government. The decree does not include any provision mandating the participation of civil society organizations; and, in particular, of PWD and the organizations that represent them.

Decree 948/1992 establishes that CONADIS must have Advisory Council constituted by organizations “of and for” PWD (article 13)[[88]](#footnote-88). The fact that the membership of the Council includes organizations for PWD infringes the CRPD, which states that political representation of PWD may not be a substitute for their voices and will.

The same applies to the Federal Disability Council[[89]](#footnote-89), which is part of CONADIS. Its membership includes “representatives of non-governmental organizations of and for persons with disabilities.” As organizations for PWD, the great majority of the members of the Council lack legitimacy as political representatives of PWD under the terms set by the CRPD.

*Questions suggested to Argentine State:*

1. Please provide information about measures adopted to facilitate access to CONADIS’ programs for PWD and the organizations that represent them.

2. Please provide information about measures adopted to make the Disability Observatory an independent body from the Executive Branch and the role of the National Ombudsman Office (which is vacant) as national human right institution in the defense of the rights of PWD.

3. Please indicate actions adopted to guarantee that organizations of PWD (and not providers of services) are the only ones participating in CONADIS’ councils on behalf of PWD.

1. For further detail on organizations, consult the document “Participating Organization” at: <https://drive.google.com/file/d/0BwUonvwXVQjaSkJVYjdMVlRlMzA/view?usp=sharing>

   [↑](#footnote-ref-1)
2. See more at MUCAR Report; CIPED-UNAS Report ; Asociación Colibrí Report; APDH Report; Asamblea Usuarios de Servicios de Salud Mental Santa Fe Report; Córdoba Report (Mesa de Discapacidad y DDHH / Observatorio de SM y DDHH); Report San Luis; Report Instituto Especializado en Derechos de Personas con Discapacidad at: <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-2)
3. [http://www.SDGargentina.gob.ar/](http://www.odsargentina.gob.ar/) [↑](#footnote-ref-3)
4. <http://www.casarosada.gob.ar/objetivosdegobierno/> [↑](#footnote-ref-4)
5. [http://www.redi.org.ar/index.php?file=Prensa/Comunicados/2017/17-05-22\_Comunicado-Plan-Nacional-de-Disability.html](http://www.redi.org.ar/index.php?file=Prensa/Comunicados/2017/17-05-22_Comunicado-Plan-Nacional-de-Discapacidad.html) [↑](#footnote-ref-5)
6. <http://chaconoticias.com.ar/chaco/6983-chaco-dan-de-baja-el-programa-nacional-> [↑](#footnote-ref-6)
7. See more at Report REDI ; Report Córdoba (Mesa de Discapacidad y DDHH / Observatorio de SM y DDHH); Fundación Integrando at: <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-7)
8. Act 23.592 (B.O. 23/8/1988) See at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/20000-24999/20465/texact.htm> [↑](#footnote-ref-8)
9. Act 24.782 (B.O. 31/3/1997) See at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/40000-44999/42477/norma.htm> [↑](#footnote-ref-9)
10. Act 25.608 (B.O. 5/7/2002) See at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/75000-79999/75734/norma.htm> [↑](#footnote-ref-10)
11. See more at Report REDI; Report Córdoba (Mesa de Discapacidad y DDHH / Observatorio de SM y DDHH); Report Fundación Integrando at: <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-11)
12. See more at Report ” El derecho de las personas con discapacidad a la salud sexual y reproductiva: 20 preguntas fundamentales sobre las políticas públicas del Estado argentino” at: <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk> This inform was drafted on the grounds of three access to public information requests submitted by REDI and ACIJ. [↑](#footnote-ref-12)
13. <http://servicios.infoleg.gob.ar/infolegInternet/anexos/255000-259999/257649/norma.htm> [↑](#footnote-ref-13)
14. This rule is extent to “all practices of reproductive health that don´t s pose a serious risk for health, life and integrity of teenage”, and in particular, to temporal contraceptive methods, VIH diagnosis and pregnancy test. Resolution 65/2015. [↑](#footnote-ref-14)
15. <http://bit.ly/2pY3gBj> [↑](#footnote-ref-15)
16. <http://bit.ly/2pY3gBj> [↑](#footnote-ref-16)
17. See more at Report CELS; Report Foundation Integrando; Report Córdoba (Mesa de Discapacidad y DDHH / Observatorio de SM y DDHH) at: <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-17)
18. See more at Report FAICA; Report CIPED – UNSA; Report Rumbos y UNLP; Report MUCAR; Report Mesa de Discapacidad y DDHH Córdoba at: <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-18)
19. <http://www.cud.unlp.edu.ar> [↑](#footnote-ref-19)
20. <http://www.rumbos.org.ar/borrador-nuevo-codigo-edificacion-caba-discrimina> [↑](#footnote-ref-20)
21. <http://www.rumbos.org.ar/GACETILLA-RELEVAMIENTO> [↑](#footnote-ref-21)
22. <http://www.rumbos.org.ar/PEATONES-EN-PELIGRO-RELEVAMIENTO-COMUNAS-5-6-13> [↑](#footnote-ref-22)
23. [↑](#footnote-ref-23)
24. See more at Report CELS; Informe Córdoba (Mesa de Discapacidad y DDHH / Observatorio de SM y DDHH) at: <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-24)
25. NCCC – Act 26.994; Title I: Human Person; Chapter 2: Capacity, articles 31-50. Curatorship is ruled in Chapter 10 (arts. 100 to 140). Complete text of the Code at : <http://servicios.infoleg.gob.ar/infolegInternet/anexos/235000-239999/235975/norma.htm#6> [↑](#footnote-ref-25)
26. Decree 432/97. Art. 5: f) In the case of petitioners that, in according with expert ruling or medical certificates were allegedly incapable, previous to grant the benefit, the institution or person in charge of him, shall initiate the curatorship proceeding and prove this circumstance. [↑](#footnote-ref-26)
27. See more in Report CELS; Report Asociación Colibrí Salta; Report Córdoba (Mesa de Discapacidad y DDHH / Observatorio de SM y DDHH); Report REDI Caso Galeano; Report Instituto Especializado en Derecho de las Personas con Discapacidad at: <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-27)
28. CELS (2015) Cruzar el muro: desafíos y propuestas para la externación del manicomio. Complete text available at: [www.cels.org.ar/especiales/cruzarelmuro](http://www.cels.org.ar/especiales/cruzarelmuro). [↑](#footnote-ref-28)
29. In Salta, Resolution N° 11.600 de 2014 issued by Supreme Court of Justice of the Province, passed the Protocol to Access to Justice for PWD. See more at Report Asociación Colibrí. [↑](#footnote-ref-29)
30. See more at Report CELS; Report Córdoba (Mesa de Discapacidad y DDHH / Observatorio de SM y DDHH); Report CIPeD: <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-30)
31. A good development on this point could be found in the recent Inform by Mr. Dainius Puras, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to the Committee of Human Rights,

    28/03/2017. Available at: <https://goo.gl/nYeX6p> [↑](#footnote-ref-31)
32. In its official visit to Argentina, in may of 2017, the Working Group in Arbitrary Detentions expressed its concern by the status of persons institutionalized by mental health motives. See more in: <https://goo.gl/iFC4c5> [↑](#footnote-ref-32)
33. Art. 73 of Annex I of Decree 369/99 regulating Act 24.660. [↑](#footnote-ref-33)
34. Art. 68 of Annex I of Decree N° 1136/97 regulating Act 24.660. [↑](#footnote-ref-34)
35. See more at Report CELS; Report Córdoba (Mesa de Discapacidad y DDHH / Observatorio de SM y DDHH) at: <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-35)
36. <http://servicios.infoleg.gob.ar/infolegInternet/anexos/205000-209999/207202/norma.htm> [↑](#footnote-ref-36)
37. Federal Contentious-Administrative Court n° 12, CABA. [↑](#footnote-ref-37)
38. At present, only 4 out of 23 argentine provinces (Buenos Aires, Chaco, Entre Ríos y Santa Cruz) had created and constituted its respective Mental Health Local Review Bodies, and just two of them (Buenos Aires and Santa Cruz) have stable staff with operational capability to exercise its monitoring functions. [↑](#footnote-ref-38)
39. <http://www.desarrollosocial.gob.ar/linea144> [↑](#footnote-ref-39)
40. See more in Report Córdoba (Mesa de Discapacidad y DDHH / Observatorio de SM y DDHH) at: <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-40)
41. See more in Report de Asamblea de Usuarios de Servicios de Salud Mental de Santa Fe at: <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-41)
42. See more in REDI report and CELS report at:

    <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-42)
43. <http://bit.ly/2qAuB9Z>, p. 7. [↑](#footnote-ref-43)
44. Resolution N° 1860/13-MSGC y Resolution N°1312-MSGC-2014. [↑](#footnote-ref-44)
45. Resolution N°1312-MSGC-2014. [↑](#footnote-ref-45)
46. National Ministry of Health, Resolution 65/2015, Annex I, point 3.4. [↑](#footnote-ref-46)
47. A pregnancy that derives from a sexual abuse is equivalent to a forced pregnancy, which amounts to torture. [↑](#footnote-ref-47)
48. See information at: <http://www.pagina12.com.ar/diario/suplementos/las12/13-10633-2016-06-11.html> [↑](#footnote-ref-48)
49. Folder 8295-D-2016. [↑](#footnote-ref-49)
50. See more in CELS report; Córdoba report (Mesa de Disability y DDHH / Observatorio de SM y DDHH) at: <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-50)
51. This is alarming given the content of resolution 17/14 of the ORNSM which advised against the application of electro-convulsive therapies in all the territory of the country, which was adopted by the great majority of the provincial health ministries. A particular situation took place when the province of Jujuy decided to terminate its adhesion to the ORNSM resolution on electro-convulsive therapies, simultaneously with the evaluation of the Argentine State by the Human Rights Committee in 2016. The consequences derived from this action were so serious that the province decided to reverse this setback. [↑](#footnote-ref-51)
52. CELS (2015). Cruzar el muro. Desafíos y propuestas para la externación del manicomio. Annex: Particularidades regionales [↑](#footnote-ref-52)
53. S. A. F. y otros c/ Estado Nacional – Ministerio de Salud y otros s/ Amparo” (Expediente n° 074516/2014), before the Federal Contentious Administrative Court N° 9 l. [↑](#footnote-ref-53)
54. Res. N° 1447/MHYDHGC/16. See at: <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-54)
55. See more at: <https://www.tiempoar.com.ar/articulo/view/68648-cierran-programas-de-salud-mental> y <http://www.marcha.org.ar/cerro-casa-s-s-el-fin-de-un-sueno-libertario/> [↑](#footnote-ref-55)
56. See more in Right to Maternity– REDI report at:

    <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-56)
57. See more in Art. 24 Report; CIPED Report; Association Colibrí Report; Córdoba (Mesa de Discapacidad y DDHH / Observatorio de SM y DDHH) Report; Educación Superior UNLP Report at:

    <https://drive.google.com/drive/folders/0BwUonvwXVQjacjJoaWV2UXZ6REk?usp=sharing> [↑](#footnote-ref-57)
58. See more at: <http://acij.org.ar/wp-content/uploads/2016/12/Sentencia-C%C3%A1mara_3.11_ACIJ-y-otros-c-EN-ME-s-amparo.pdf> [↑](#footnote-ref-58)
59. See more in FADEPOF report at: <https://drive.google.com/file/d/0BxLYNKPKJ4oiYXVIYUtmWG1iNWc/view?usp=sharing> [↑](#footnote-ref-59)
60. See more in CELS Report; Córdoba (Mesa de Disability y DDHH / Observatorio de SM y DDHH) Report; Asamblea de Usuarios de Salud Mental de Santa Fe Report at:

    <https://drive.google.com/file/d/0BxLYNKPKJ4oiYXVIYUtmWG1iNWc/view?usp=sharing> [↑](#footnote-ref-60)
61. Public policy on mental health in Argentina is ruled by the National Mental Health Act 26.657, passed in 2010 and regulated by Decree 603/2013. [↑](#footnote-ref-61)
62. Conclusions of the First National Meeting of Mental Health Users (2016) at:

    <https://drive.google.com/file/d/0BxLYNKPKJ4oibklTaHJrT2dlRDA/view?usp=sharing> [↑](#footnote-ref-62)
63. This data derives from a submission made by the Comisión Provincial por la Memoria (CPM) in judicial proceedings derived from a collective habeas corpus. It also was produced as part of a request for the production of evidence, submitted by the Centro de Estudios Legales y Sociales (CELS) and the Movimiento Desmanicomializador de Romero (MDR), as part of a collective action of amparo on behalf of persons confined in that hospital. [↑](#footnote-ref-63)
64. CELS (2015). Cruzar el muro. Desafíos y propuestas para la externación del manicomio. Chapter 3: Health. Full text available at: [www.cels.org.ar/especiales/cruzarelmuro](http://www.cels.org.ar/especiales/cruzarelmuro) [↑](#footnote-ref-64)
65. The Council comprises representatives of 30 organizations of different areas of civil society. [↑](#footnote-ref-65)
66. See more in REDI report at: <https://drive.google.com/file/d/0BxLYNKPKJ4oiWHRrQ3d6dG05M2c/view?usp=sharing> [↑](#footnote-ref-66)
67. Act N°25689. See at : <http://servicios.infoleg.gob.ar/infolegInternet/anexos/80000-84999/81041/norma.htm> [↑](#footnote-ref-67)
68. Actions implemented in relation to the labor quota – Modernization Ministry at: <https://drive.google.com/file/d/0BxLYNKPKJ4oiLXFzR1BQVjdBZms/view?usp=sharing> [↑](#footnote-ref-68)
69. See <https://www.boletinoficial.gob.ar/#!DetalleNorma/157621/20170112> [↑](#footnote-ref-69)
70. See more in FAICA report at: <https://drive.google.com/file/d/0BxLYNKPKJ4oiOHktOUdVeWZsMnc/view?usp=sharing> [↑](#footnote-ref-70)
71. See more in Córdoba (Mesa de Disability y DDHH / Observatorio de SM y DDHH) report at: <https://drive.google.com/open?id=0BxLYNKPKJ4oibjlISUlWbEItSlU> [↑](#footnote-ref-71)
72. See more at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/205000-209999/207088/norma.htm> [↑](#footnote-ref-72)
73. See more at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/250000-254999/251275/norma.htm> [↑](#footnote-ref-73)
74. See more in Association Civil Andar report at: <https://drive.google.com/open?id=0BxLYNKPKJ4oiSnhsWGYwVV9Mbkk> [↑](#footnote-ref-74)
75. See more at: <http://www.centrocepa.com.ar/PROpension.pdf>; [http://chequeado.com/ultimas-noticias/clarin-el-gobierno-empezo-a-dar-de-baja-pensiones-por-disability/](http://chequeado.com/ultimas-noticias/clarin-el-gobierno-empezo-a-dar-de-baja-pensiones-por-discapacidad/) [↑](#footnote-ref-75)
76. Documento sobre Pensiones at: <https://drive.google.com/open?id=0BxLYNKPKJ4oiV1BEdno2N3pIdzQ> [↑](#footnote-ref-76)
77. <http://www.redi.org.ar/index.php?file=Prensa/Comunicados/2017/17-07-17_Amparo-por-pensiones-no-contributivas.html> [↑](#footnote-ref-77)
78. See more at Report CELS at: <https://drive.google.com/open?id=0BxLYNKPKJ4oiUGg3T293MDRhaDA> [↑](#footnote-ref-78)
79. In previous years , both National Secretariat of Human Right and the Ombudsman Office of Autonomous City of Buenos Aires (Affaire Nº 68.859, of 2007), has spoken out in favor of legislative reform. Nevertheless, the latter stills unmodified. [↑](#footnote-ref-79)
80. See more at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/155000-159999/159466/norma.htm> [↑](#footnote-ref-80)
81. See more in FAICA report at: <https://drive.google.com/open?id=0BxLYNKPKJ4oiOHktOUdVeWZsMnc> [↑](#footnote-ref-81)
82. Note DINE 1754/15, October 15, 2015. [↑](#footnote-ref-82)
83. See more at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/265000-269999/265949/norma.htm> [↑](#footnote-ref-83)
84. Information about RESAM is available at: [www.sisa.msal.gov.ar](http://www.sisa.msal.gov.ar) [↑](#footnote-ref-84)
85. See more at REDI report at: <https://drive.google.com/open?id=0BxLYNKPKJ4oiWHRrQ3d6dG05M2c> [↑](#footnote-ref-85)
86. See more at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/180000-184999/183511/norma.htm> [↑](#footnote-ref-86)
87. See more at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/80000-84999/83397/norma.htm> [↑](#footnote-ref-87)
88. See more at <http://www.infoleg.gov.ar/infolegInternet/anexos/5000-9999/9030/texact.htm> [↑](#footnote-ref-88)
89. See more at <http://www.infoleg.gov.ar/infolegInternet/anexos/35000-39999/37771/texact.htm> [↑](#footnote-ref-89)