



## Human Rights in Mexico

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### Abstract

The content of this work focuses on three aspects, the first highlights the importance of human rights, which are integrated into our constitution, with the aim of safeguarding human dignity for the healthy development of the individual in society, based on the principles of freedom, justice and peace; secondly, the need for respect for human rights is highlighted and finally highlights the role that each of us, as a society, is playing in defending these universal rights. We start from the idea that simply because we are people, we all deserve to be treated as such, especially when we act within a democratic society. It is concluded from the analysis that our "defensive" conduct is a key part of the prevalence of human rights.

**Keywords:** Democracy; Constitutional Law; Human Rights; Humanitarian Law; Individual Rights

### Introduction

It is important to recognize that our Mexican society is very diverse and that it is constantly transformed, due to the intervention and influence exerted by globalization, and consequently those changes are forming part of our identity as Mexicans, this interaction being the basis for constituting ourselves as beings social, where there must be certain values that allow us to express ourselves with total respect and freedom. In our environment, there are various material and immaterial cultural manifestations, which even though they are not customs practiced throughout the national territory are recognized as Mexican culture and tradition, such as the Historic Center of Puebla and Oaxaca, the pre-Hispanic city of El Tajín, the whale sanctuary of El Vizcaíno, the Central Campus of the University City of the National Autonomous University of Mexico, the indigenous festivals dedicated to the dead, the Pirekua traditional song of the P'urhépechas, the ritual ceremony of the flyers, the Mariachi string music, song and trumpet, the traditional Mexican food, among many other elements; They must be preserved because they contribute to give us a feeling of identity and continuity by creating a link between the past, the present and the future.

"The Nation has a multicultural composition originally based on its indigenous peoples, who are those who descend from populations that inhabited the current territory of the country at the beginning of colonization and who retain their own social, economic, cultural and political institutions, or part of them" [1]. Our Republic is made up of 31 States and a capital city, of which 67 native peoples are distributed in 20 of these States [2], and each one with different social uses and cultural expressions. The native peoples are distributed as follows: Baja California: 5, Chiapas: 11, Guanajuato: 1, State of Mexico: 3, Oaxaca: 15, Sinaloa: 1, Veracruz: 2, Campeche: 4, Chihuahua: 3, Guerrero: 4, Michoacán: 1, Puebla: 2, Sonora: 5, Yucatán: 1, Coahuila: 1; Durango: 1, Hidalgo: 2, Nayarit: 2, San Luis Potosí: 2 and in Tabasco 1 [2]. Within the Mexican national mosaic that we form, each person has the freedom to express their identity, as well as to belong to different social groups with which they share similar characteristics, thus evidencing social diversity.

To promote coexistence, freedom and equality, the universality of human rights was declared, as a consequence of the atrocities and the enormous loss of life during World War II; thanks to the publication of the United Nations

Universal Declaration of Human Rights [3], which was signed in 1948, it was possible to provide a common understanding of what the rights of all people are; This regulation makes it possible to recognize diversity, respect it and avoid falling into conditions of social inequality and exclusion; These universally recognized rights are the basis for the construction of a world, where it is possible to live with freedom, justice and peace.

It is important to analyze how society influences us and the role we play in it, because our actions depend on the respect of human rights that correspond to us by the simple fact of being people. Not defending or not respecting human rights has disastrous and unjust consequences. These rights are established within our national laws, but do we know how to defend our rights and that of others?.

### What are Human Rights?

“Human rights are the set of prerogatives based on human dignity, the effective realization of which is essential for the integral development of the person” [4]. This set of prerogatives is established within the national legal order: in the Political Constitution of the United Mexican States, international treaties and in national laws.

In the Universal Declaration of Human Rights and in the Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights drawn up by the United Nations, it is stated that all human beings have rights, without any distinction of nationality, place of residence, sex, national origin or ethnicity, color, religion, language, or any other condition.

The Universal Declaration of Human Rights consists of a preamble that sets out six considerations on rights and 30 articles enunciated as follows:

1. All human beings are born free and equal.
2. All people have the rights proclaimed in this charter.
3. Every individual has the right to life, liberty and security.
4. No one shall be held in slavery or servitude.
5. No one shall be subjected to punishment, torture or cruel or inhuman treatment.
6. Every human being has the right to recognition of his legal personality.
7. Everyone has the right to protection against discrimination.
8. Everyone has the right to an effective remedy before the courts.
9. No one may be arbitrarily detained, exiled or imprisoned.
10. Everyone has the right to an independent and impartial tribunal.
11. Everyone has the right to the presumption of innocence and to just penalties.

12. Everyone has the right to privacy, honor and reputation.
13. Everyone has the right to free movement and to freely choose their residence.
14. Everyone has the right to asylum in any country.
15. Everyone has the right to a nationality and to change nationality.
16. All individuals have the right to a free marriage and the protection of the family.
17. Everyone has the right to individual or collective property.
18. Everyone has the right to freedom of thought, conscience and religion.
19. Everyone has the right to freedom of opinion and expression.
20. Everyone has the right to freedom of assembly and association.
21. Everyone has the right to participate, directly or indirectly, in the government of his country.
22. Everyone has the right to social security.
23. Everyone has the right to work and protection against unemployment.
24. Everyone has the right to rest and enjoy free time.
25. Everyone has the right to well-being: food, housing, medical assistance, clothing and other basic social services.
26. Everyone has the right to education and the free development of personality.
27. Everyone has the right to take part in the cultural life of his community.
28. Everyone has the right to a social order that guarantees the rights of this charter.
29. Everyone has duties towards their community.
30. Nothing in this letter may be used to suppress any of the rights” [5,6].

For its part and in our country, the National Human Rights Commission, the guarantor body of Human Rights in the country, defines Human Rights as: “The set of powers, prerogatives, freedoms, civil, political, economic claims, social and cultural, including the resources and guarantee mechanisms of all of them, which are recognized to the human being, considered individually and collectively” [7]. To understand these rights, they can be analyzed from two perspectives: Individual and collective. Individual. They are defined by the fact that each person is considered a subject of law, for which limits and guarantees common to the States are established, thereby protecting the freedom and dignity of individuals. Examples: life, pursuit of happiness, freedom, private property.

### Collectives

They are defined by the fact that groups of people are empowered to construct their different realities through

individual and collective relationships, in accordance with their social practices, their lives in community and their needs. Examples: Enjoy a healthy environment, security of public health, economic competition, security and prevention of foreseeable disasters [8].

### Collective Rights

Collective rights are applied progressively and require positive actions from the State, that is, temporary measures are needed to promote equal opportunities and to correct or minimize discrimination. Possible categorizations of collective rights are those common to all human beings; for example, the right to development, to peace, to a healthy environment, to self-determination of peoples. Those relating to specific groups; among them: women, children, young people, the elderly, people with disabilities, people with HIV, people with non-hetero normative sexual orientation, migrants, and so on. Those specific to indigenous peoples; These guarantee the possibility of making collective decisions in accordance with their worldview or way of seeing the world, and respond to their idea of the whole and their sense of community applied to the group [9].

The simple fact of universally recognizing human rights is not enough to ensure that they are respected and recognized, for years the struggle to achieve these objectives has been constant, because within societies there are groups in disadvantaged conditions in relation to Most of the population, for this reason and in response to support for these people, various groups have emerged to defend these rights, such as women's groups [10], groups in favor of sexual diversity, indigenous groups, among others.

These groups demonstrate before the State to fight for the recognition, protection and guarantee of their rights, many of them have achieved their objective, others have not yet; But, in general, it is emphasized that what is common for this type of groups of disadvantaged people is the promotion of rights such as equality, freedom and dignity; The way in which they can materialize those rights for which they fight is through the guarantee that the State grants them in a public and private way, as well as that they are guaranteed the sanction of all types of discrimination in any field, be it family, social, school, work, recreation, among others; also, to assure them the guarantee of the creation of necessary and sufficient conditions for the recognition of their differences.

### Transgression

When we exercise our human rights, we can live and enjoy life fully. However, when our rights are violated, the negative consequences can be irreversible. That is why it is necessary to know the truthful and timely information that

allows us to exercise our human rights.

At the national level, there are two ways to demand the guarantee of such prerogatives: the jurisdictional route and the non-jurisdictional or subsidiary route. The jurisdictional route: In this way the Amparo Trial is processed. The Amparo trial is a means of controlling the constitutionality of the acts issued as a result of the exercise of power, provided for by the Mexican legal system, which aims to protect human rights and fundamental rights established in the Political Constitution of the States Unidos Mexicanos, as well as in the International Treaties to which Mexico is a party, when these are violated by general norms, acts or omissions of authority or of individuals indicated in the law. The Mexican amparo trial is regulated by articles 103 and 107 of the Political Constitution of the United Mexican States and its regulatory law: Amparo Law.

The Amparo Trial is a contribution of Mexico to the world since 1841. The Amparo Trial is the main instrument of defense of the rights that people have to protect themselves from acts of authority. There are two types of protection: direct and indirect. The Direct Amparo Trial is the one that is filed against any action carried out by an authority; while the Indirect Amparo Trial is the one that is filed when a law is considered unconstitutional.

The non-jurisdictional or subsidiary route: To exercise this route, a complaint must be filed with the National Human Rights Commission or the State Human Rights Commission. The violation of the fundamental rights of a person or a group begins when their rights are not guaranteed, that is, when the access of the person or group to the object of that right is not protected [11]. The object of a human right is everything to which it gives access; an example of the object of a human right is established in the third article of the Universal Declaration of Human Rights, which states that all people have the right to live in freedom. Therefore, one object of that right is freedom of movement. It is necessary to clearly identify the object of each of the human rights, to recognize its three factors [12].

First factor, the importance of guaranteed access to that object, since that object serves the interests of all. For example: "Freedom of expression is important not only for those who want to communicate, but also for those who have communications at their disposal or for those who benefit when injustice and abuse are stopped for fear of publicity" [12].

Second factor, the breach of a fundamental right inevitably causes the violation of many others; because human rights are indivisible. Example: Poor people do not have access to an adequate standard of living. In turn, these

people enter into unequal and unfair relationships, exposing them to abuse by those who hire them, such as domestic employers. In this case, when the right of the person expressed in article 25 of the declaration of human rights is violated, consisting of the right to an adequate standard of living, the one corresponding to article 23 of said declaration is inevitably violated, consisting of the right to work and fair conditions at work.

Third factor, the responsibility of other people or agents to ensure that everyone has guaranteed access to said objects. Example: When a person does not have what to eat or where to live, it is the responsibility of the rest of the community to promote that person's access to food and decent housing. The only cases in which there would be no responsibility of the other human agents for the fulfillment of that object of law, which are food and housing, would be: "If the person were far from any other human agent and no one can get to where they are find the person to provide what you need" [12] (or) if the rest of the people are in the same conditions of poverty.

### The Defense

After recognizing the importance of human rights, we must think about what will be done to guarantee them and prevent people in positions of power from violating human rights. We can all be human rights defenders Office of the high Commissioner United Nations Human Rights, 2019 [13].

Mexico is a multicultural country, whose diversity is expressed in traditions, some of which are common throughout the country, while others are specific to a region, State, community or even a family; This diversity is protected by human rights, but also promotes respect, equality and freedom for all human beings. To feel supported by these rights, it is necessary to know them and know the implications that arise when they are violated, in order to contribute to their fulfillment and become aware of their importance in social coexistence.

### Prison Human Rights in the Constitution

With the federal constitutional reform of 2008, called: Security and Justice, a new paradigm was introduced in the execution of the custodial sentence: thus, first, in Article 18, second paragraph, it was established: The prison system will be organized on the basis of respect for human rights, work, training for it, education, health and sports as means to achieve the reintegration of the sentenced person into society and ensure that he does not commit a crime again , observing the benefits that the law provides for him [1].

Likewise, in the aforementioned 2008 constitutional

reform, in article 21, third paragraph, it was established that: "the imposition of penalties, their modification and duration are proper and exclusive to the judicial authority [1], with which an effective guarantee of protection of the human rights of captives in Mexico is established, through oral hearings where the principles of legality, due process, among others, are promoted. Correlating the constitutional precepts, with the subsequent constitutional reform of 2011, on "Human Rights and their guarantees", in article 1, first paragraph, it is indicated that: In the United Mexican States, all persons shall enjoy the human rights recognized in this Constitution and in the international treaties to which the Mexican State is a party, as well as the guarantees for their protection, the exercise of which may not be restricted or suspended, except in the cases and under the conditions that this Constitution establishes ... The norms related to human rights will be interpreted in accordance with this Constitution and with the international treaties on the matter, favoring the broadest protection for people at all times [1]. Undoubtedly, the framework for the protection of prison human rights is perfectly established.

### Instituciones

In Mexico there are institutions that we can go to in case someone violates our human rights. These institutions are listed below, describing their functions. The National Human Rights Commission is an autonomous public body of the Mexican State, whose main objective is to protect human rights. In addition, it carries out other activities such as: defending, promoting and disseminating human rights, which are recognized in the Political Constitution of the country, international treaties and laws.

The Human Rights Commission of the Federal District was created on September 30, 1993; It is in charge of following up on the complaints and reports related to the alleged violation of human rights committed by an authority or person in charge of the public administration of Mexico City. The president of the CDHDF is appointed by the Legislative Assembly of the Federal District and is called the Ombudsman [13].

The National Council to Prevent Discrimination is a State body created by the Federal Law to Prevent and Eliminate Discrimination, which promotes policies and measures that contribute to cultural and social development, and seeks progress in social inclusion and the right to equality. It is also in charge of receiving and resolving complaints for alleged discriminatory acts committed by individuals or by federal authorities in the exercise of their functions.

Another function is to protect all people against any distinction or exclusion based on their ethnic or national

origin, sex, age, disability, social or economic condition, health conditions, pregnancy, language, religion, opinion, sexual preference, status. Civil, or any other condition [14].

The Mexican Commission for the Defense and Promotion of Human Rights is a civil, secular, autonomous and independent organization founded in 1989. Its purposes are to disseminate and defend human rights in Mexico and to carry them out it has four strategic areas: advocacy, promotion, investigation and comprehensive defense [15].

The General Directorate of Human Rights is a specialized agency in applying public policies that promote a culture of respect for human rights. Its function consists of advising the Secretariat of National Defense on issues of human rights and international humanitarian law, and responding to human rights complaints notified by public bodies that protect them. Amnesty International is a democratic, independent and international movement. In Mexico it is made up of more than 4000 members, activists and supporters who join this movement so that all people can enjoy their human rights [16].

## Conclusion

From the foregoing, we have come to the conclusion that human rights must be disseminated and recognized by everyone, regardless of whether they are different or feel different, because as a person they have rights the same as others, before the law we are all equal.

Likewise, it is concluded that, in case of being part of some groups of people with a common trait or interest that distinguishes them from others, it is valid to demonstrate socially to obtain the recognition of their collective rights, due to disability or, either by any quality of different; because it should be noted that the recognition of human rights is possible individually as a person and in turn as part of a collective.

Now, by making effective the collective right and the recognition of said groups as such, the existence of different cultural identities and political-organizational visions is created [17-20], which indicate the existence of unequal citizenship, in gender, in economy, in culture, among others; What fosters the generation of social differences, consequently [20], the challenge in this context is to make society aware that the holders of these individual and collective human rights form the nation [21], and that as a society we must be inclusive so that all as a group we feel included and recognized to have an authentic national identity.

And finally, because society suffers from the violation of

its human rights, as citizens, we are doing something wrong, because by being part of society there is always a degree of responsibility. Therefore, it is important that we reflect on these rights, recognize what actions we take to disseminate, enforce and defend them, we can ask ourselves what is our attitude when we witness the violation of human rights of other people or groups? Do we do something to avoid it or are we just spectators? With our attitude we can initiate a change in society.

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