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The right to life of persons with disabilities in the pandemic

The death of Oscar Walter, a person with Down Syndrome, sets off alarm bells regarding emergency care for persons with intellectual disabilities in the pandemic. His sister has indicated that: "he died of negligence and not of COVID-19". This situation will be the subject of a judicial investigation, but, in any case, staying five days in a hospital without access to a mechanical ventilator, even when his diagnosis was severe coronavirus pneumonia, will be easily verifiable.

As Special Envoy of the Secretary-General on Disability and Accessibility and together with the United Nations Independent Expert on the enjoyment of all human rights by older persons, we published the Joint Statement "The right to life of persons with disabilities and older persons infected by Covid-19", declaring that "every person with a disability and every older person infected with Covid-19 has the right to access intensive care units, including mechanical ventilation systems and other life-saving supports, on an equal basis with others" (April, 2020). A similar guideline is found in MINSAL's [Chilean Ministry of Health] "Recommendations for Healthcare Ethics Committees in support of ethical decision-making by health teams, in the context of the pandemic by COVID-19".

The questions of the investigation will be: Was the selection criterion or "triage" applied, negatively influencing Oscar's Down Syndrome? Did he have a dignified treatment? Was his will respected or was his opinion considered? Was there discrimination on the ground of disability in accordance with the United Nations Convention on the Rights of Persons with Disabilities or the Chilean Law Nº 20.422 on equality of opportunities and social inclusion of persons with disabilities? And, can this situation be classified as cruel and inhuman treatment in accordance with the aforementioned Convention and therefore a violation of human rights?

In addition to the respective judicial process, it is crucial for our society to structurally rethink the rights of persons with disabilities, which the entire world declares to recognize, respect and protect. We must make the legal framework a reality in the daily life of the community in interaction with a person with disability who has a face, a first and last name, an individuality with feelings and ties of her or his own. This involves the effective application of public policy with special consideration to human diversity, education from the family and the school, professional training of health care personnel, magistrates, teachers, journalists and police officers, among others. The curricula of the different university degrees must incorporate the theoretical and practical knowledge of the human rights model of persons with disabilities in accordance with the standard of the aforementioned International Treaty.

To avoid repeating Oscar's situation, we must work as a society in relation to the value of human life. The task of the Judiciary will be to investigate and sentence, but true inclusion must be based

on the deep awareness of all members of society, so that disability, which reaches 16.7% of the population, is not only news when we shudder at the death, in strange circumstances, of a person with Down Syndrome like Oscar. The inclusive response to the pandemic will be the first step, both during quarantine with full access to supplies for life and health, as well as in subsequent measures with effective exercise of rights such as quality inclusive education and work inclusion.

Prof. María Soledad Cisternas Reyes
2014 National Human Rights Award