

# Fundamental Rights And Access To Justice For People With Intellectual Disabilities: A View From Latin America

Liliana Aurora Alvarez Poémape<sup>1</sup>, Gerardo Francisco Ludeña Gonzales<sup>2</sup>, Nilton Isaías Cueva Quezada<sup>3</sup>, Eddy Eugenio García-García<sup>4</sup>

<sup>1</sup>Universidad Cesar Vallejo, Perú. Email: [lavarezpo@ucvvirtual.edu.pe](mailto:lavarezpo@ucvvirtual.edu.pe); ORCID: 0000-0002-3409-0652

<sup>2</sup>Universidad Cesar Vallejo, Perú. Email: [gludenag@ucv.edu.pe](mailto:gludenag@ucv.edu.pe); ORCID: 0000-0003-4433-9471

<sup>3</sup>Universidad Cesar Vallejo, Perú. Email: [ncuevaq@ucvvirtual.edu.pe](mailto:ncuevaq@ucvvirtual.edu.pe); ORCID: 0000-0002-1038-8884

<sup>4</sup>Universidad Nacional de Barranca (UNAB), Perú. Email: [egarcia@unab.edu.pe](mailto:egarcia@unab.edu.pe); ORCID: 0000-0003-3267-6980

**Abstract:** The right to access justice is essential to safeguard and ensure other human rights, especially for people with intellectual disabilities, who face various systematic, regulatory and cultural barriers that hinder their real exercise. In the Latin American region, despite the regulatory improvements that have been promoted by various international human rights agreements and legal reforms at the local level, there are still large discrepancies between the formal recognition of these rights and their effective application in justice systems. The purpose of this article is to examine how people with intellectual disabilities access justice from a fundamental rights perspective in Latin America, based on the social model of disability. The research was carried out with a qualitative approach, through analytical and descriptive design, using documentary and bibliographic analysis methods from relevant academic and regulatory sources. The findings show that physical, procedural, communicative, and cultural barriers continue to exist in judicial systems, as well as limitations in the recognition of legal capacity and in the application of reasonable accommodations. It is concluded that to ensure real access to justice for people with intellectual disabilities, a structural change is necessary that promotes the comprehensive adoption of the social model of disability, the creation of inclusive public policies and the strengthening of judicial systems under a human rights approach.

**Keywords:** Intellectual disability; fundamental rights; access to justice; social model of disability; human rights; Latin America.

**How to cite this article:** Alvarez Poémape LA, Ludeña Gonzales GF, Cueva Quezada NI, García-García EE. Fundamental rights and access to justice for people with intellectual disabilities: A view from Latin America. *Int J Drug Deliv Technol.* 2026;16(13s): 87-95. DOI: 10.25258/ijddt.16.13s.10

## I. Introduction

Intellectual disability is one of the most complex challenges in the field of human development and learning, given its multifaceted effect on the lives of those who suffer from it. It is not only an issue related to cognitive performance, but a situation that directly affects opportunities for inclusion in the social, educational, labor and legal spheres. Throughout history, people with intellectual disabilities have faced stigmas and exclusions, being labeled with derogatory terms such as "mentally deficient" or "mentally retarded", which has perpetuated prejudices and discriminatory practices deeply rooted in social and institutional structures (Peredo, 2016). These visions have limited the recognition of their dignity as human beings and have prevented the full exercise of their fundamental rights.

Individuals with intellectual disabilities often experience limitations in cognitive development and in the adaptive skills needed to function independently in various social situations. These restrictions can affect their ability to understand complex information, communicate efficiently, and make informed decisions, increasing their vulnerability to situations of abuse, discrimination, and exclusion. In the legal field, these difficulties translate into serious barriers to the defense of their fundamental rights, especially when justice systems do not consider reasonable accommodations or adequate support mechanisms (Aristizábal, 2022). This generates conditions of structural inequality that directly impact effective access to justice.

The identification of intellectual disability and the criteria used for its classification have been the subject of extensive academic and professional

## **Fundamental Rights And Access To Justice For People With Intellectual Disabilities: A View From Latin America**

debate, since these processes affect both access to support services and the recognition of legal rights. The way in which intellectual disability is defined and categorized has direct repercussions on the development of public policies, on the creation of social interventions and on the implementation of legal measures aimed at protecting this population. From this point of view, understanding intellectual disability implies recognizing its complexity and the need to adopt comprehensive approaches that overcome simplistic visions focused only on the individual deficit (Navas et al., 2008).

In recent decades, there has been a significant shift in the way disability is understood, moving from a traditional biomedical approach to a social model that explicitly includes contextual and structural factors. This new paradigm recognizes that disability is not only found in the person but arises from the interaction between their personal characteristics and an environment that is not designed to include human diversity. From this perspective, disability is considered the result of the lack of social inclusion and the inability of societies to adapt to individual differences, which generates physical, communicative, attitudinal, and normative barriers (Vásquez, 2019).

The term disability, from a social perspective, refers to a group of people whose full participation in society is limited not only by health problems, but also by structural elements that prevent the exercise of their rights. This vision allows us to understand that social exclusion is not an inevitable result of disability but is the product of contexts that do not ensure equality and access. Thus, disability should be seen as a social construct that highlights the failures of political, legal, and cultural systems to respond adequately to the diversity of humanity (Cabello, 2007).

According to the Pan American Health Organization, disability arises from a complex interaction between a person's state of health, their individual characteristics, and environmental factors that affect their daily lives. This approach has fostered a shift in research and policymaking, shifting the focus from rehabilitation to examining the social determinants of disability. As a result, the social model has been reinforced, which highlights how the sociocultural environment influences the formation of identity, autonomy, and life experiences of people with disabilities (Del Pilar & Melo, 2021).

Access to justice is an essential element of the rule of law and a fundamental part of the

protection of human rights. Ensuring this right means ensuring that all people, without distinction, can use effective judicial mechanisms for the defense of their rights and the resolution of conflicts. However, people with intellectual disabilities face major barriers that prevent them from accessing the justice system on equal terms, such as the lack of accessible information, the lack of specialized assistance, institutional prejudices, and communication difficulties during processes (Lathrop, 2019). These limitations create situations of legal exclusion that prejudice their right to effective judicial protection.

In Latin America, access to justice for people with intellectual disabilities is further complicated by deep social, economic, and structural inequalities in the region. Although many countries have integrated the principle of equality and the prohibition of discrimination based on disability into their constitutions and regulations, the implementation of these standards remains insufficient. In nations such as Mexico and Panama, several studies have shown that the lack of accessible infrastructure, insufficient training of judicial system personnel, and the limited application of inclusive public policies still hinder the full exercise of human rights by this population (Victoria, 2013; Sousa, 2020).

From the perspective of international law, the coverage of access to justice has been largely elaborated by doctrine and jurisprudence in the inter-American region, considering it an essential right that is crucial for the safeguarding of other fundamental rights. The American Convention on Human Rights and the decisions of the Inter-American Court have strengthened this right based on Articles 8 and 25, connecting it with the general obligation to guarantee and extending its application beyond the criminal sphere. This advance in jurisprudence has facilitated the identification of access to justice as an essential right that must be effectively ensured, especially for groups in vulnerable conditions (Bernales, 2019).

Similarly, the United Nations Convention on the Rights of Persons with Disabilities has been a significant step forward in recognizing the rights of people with disabilities. This international agreement understands disability as a term that changes and adapts, because of the relationship between people and the barriers in their environment that limit their full and effective participation in society. With this approach, a change of perspective towards the social model of

## **Fundamental Rights And Access To Justice For People With Intellectual Disabilities: A View From Latin America**

disability is encouraged, based on the principles of dignity, autonomy, equality, accessibility and non-discrimination.

In the national context of Latin America, people with disabilities are those who have permanent physical, mental, intellectual or sensory limitations, who, when interacting with their environment, encounter various barriers that hinder their social integration. However, the lack of accessibility remains one of the main obstacles to their participation in educational, work, cultural and, particularly worryingly, in the judicial system. These structural barriers perpetuate exclusion and complicate the effective exercise of fundamental rights (Huerta Peralta, 2019).

Within this context, the purpose of this article is to examine the fundamental rights and access to justice of people with intellectual disabilities from a Latin American perspective, underlining the urgency of strengthening the social model of disability. In addition, it aims to reflect on the relevance of promoting normative, institutional and public policy reforms that ensure a justice system that is inclusive, accessible and respects human dignity, in line with international human rights standards.

### **II. Theoretical framework**

The study of the basic rights of people with intellectual disabilities must begin with a comprehensive understanding of the term disability, seen not only as an individual characteristic, but also as a social construct shaped by cultural, normative, and structural elements. Historically, disability was approached with a medical and rehabilitative perspective, which viewed the person as someone presenting with a fault that needs correction or compensation. This view, predominant throughout much of the twentieth century, favored welfare practices and excluded people with disabilities from decision-making spheres, limiting their recognition as full holders of rights (Oliver, 1996).

On the other hand, the social model of disability emerges as a critique of the restrictions of the medical approach, promoting a perspective focused on human rights, dignity and equity. With this model, it is understood that disability does not originate only in the functional limitations of the individual, but in the interaction with an environment that does not adapt to the diversity of humanity. Thus, physical, communicative, attitudinal and normative barriers are recognized as the key factors that hinder the full participation of

people with disabilities in society (Shakespeare, 2014). This transformation in perspective has had a significant influence on the creation of public policies and on the reinterpretation of fundamental rights.

Fundamental rights form the basis of the legal system in democratic countries and are based on the recognition of the inherent dignity of everyone. From the point of view of constitutional law and international human rights law, these rights are universal, cannot be divided and are interdependent, their guarantee being essential to achieve real equality. In the case of people with intellectual disabilities, the effective exercise of these rights depends on the State's ability to implement positive actions that mitigate structural inequalities and guarantee effective conditions of access to social goods and services, including judicial systems (Ferrajoli, 2011).

Access to justice is recognized as an essential fundamental right, as it is how other rights are protected and claimed. This right not only implies the formal possibility of going to court, but also the existence of material conditions that facilitate effective, informed and discrimination-free participation in judicial proceedings. Several authors have stressed that access to justice should be interpreted as a comprehensive concept that includes the availability of legal remedies, the accessibility of procedures, the impartiality of judges, and the implementation of reasonable accommodations for those in vulnerable situations (Cappelletti and Garth, 1988).

In the particular case of people with intellectual disabilities, access to justice presents specific challenges related to understanding legal processes, communicating with justice actors, and recognizing their legal capacity. Throughout history, these people have been stripped of the full exercise of their legal capacity through mechanisms such as interdiction or substitution in decision-making, which has led to situations of exclusion and the denial of rights. In response to this, current doctrine has promoted the recognition of legal capacity on equal terms, in addition to implementing support systems and safeguards that respect the autonomy and will of the person (Quinn & Arstein-Kerslake, 2012).

The United Nations Convention on the Rights of Persons with Disabilities has reaffirmed this approach by establishing a binding legal framework that obliges States to ensure equal access to justice, including the provision of

## **Fundamental Rights And Access To Justice For People With Intellectual Disabilities: A View From Latin America**

appropriate procedural adjustments and support. This document has been understood as a fundamental change in the legal approach to disability, by definitively rejecting paternalistic perspectives and promoting a model focused on inclusion, participation and respect for human dignity (Palacios, 2008). In the context of Latin America, the implementation of the Convention has brought significant normative advances, although there are still significant gaps between the formal recognition of rights and their effective implementation.

From a regional perspective, multiple studies have shown that justice systems in Latin America still face structural limitations to ensure real access for people with intellectual disabilities. These limitations include the lack of specialized training for judges and prosecutors, the lack of accessible protocols, the insufficiency of interpreters or facilitators, and the persistence of stigmas that affect the credibility and participation of these people in judicial processes (Szmukler, Daw, & Callard, 2014). These barriers highlight the need to strengthen institutional frameworks and adopt an intersectional approach that recognizes the diversity of experiences within the group of people with disabilities.

In this context, the theoretical framework that underpins this article is aligned with the social model of disability and with the human rights approach, recognizing access to justice as an essential fundamental right for social inclusion. This approach allows for a critical analysis of the normative and institutional structures that perpetuate exclusion, as well as proposing lines of reflection aimed at the creation of more accessible, equitable and respectful justice systems for the dignity of people with intellectual disabilities in Latin America.

In order to carry out this research, the objective is to analyze access to justice for persons with intellectual disabilities from a fundamental rights perspective in the Latin American context, based on the approach of the social model of disability and international human rights standards, in order to identify the main structural and regulatory barriers that limit its effective exercise.

### **III. Methodology**

The current research was carried out with a qualitative approach, as it seeks to understand and interpret legal and social phenomena linked to fundamental rights and access to justice for people

with intellectual disabilities in Latin America. This approach facilitates a critical analysis of norms, principles, doctrinal discourses and advances in jurisprudence, considering the complexity of the phenomenon examined and the specific characteristics of vulnerable groups. The design of the research was descriptive and analytical, since it attempted to identify, study and organize the main contributions in theory, regulations and doctrine related to intellectual disability and its connection with the effective exercise of fundamental rights, without the intention of establishing causes or quantifying them.

The method used was the analysis of documents and bibliography, which made it possible to gather significant information from various secondary sources, such as scientific articles in recognized journals, specialized books, normative documents at the national and international level, reports from institutions and jurisprudential opinions related to access to justice and the rights of people with disabilities. The search for information was carried out in highly prestigious academic databases, such as Scopus, Web of Science and SciELO, prioritizing studies focused on Latin America, as well as those that dealt with the issue from the perspective of human rights and the social model of disability.

The process of selecting the sources was carried out following inclusion and exclusion criteria that had been previously established, considering the relevance of the topic, the topicality of the documents and their academic importance. Studies that clearly deal with intellectual disability, fundamental rights and access to justice were incorporated, as well as those that analyze regulatory frameworks and institutional experiences in Latin American countries. Likewise, documents that presented only clinical or care-based approaches were discarded, since they did not provide significant elements for the legal and social analysis proposed in this research.

The analysis of the information was carried out through a critical and comparative reading of the selected sources, which made it possible to detect common conceptual categories, predominant theoretical approaches and the main structural barriers that hinder access to justice for people with intellectual disabilities. This process included the systematization of contents related to the recognition of legal capacity, accessibility, reasonable accommodations, and the actions of justice operators, with the purpose of building a

## **Fundamental Rights And Access To Justice For People With Intellectual Disabilities: A View From Latin America**

holistic perspective of the phenomenon examined. The triangulation of doctrinal, normative and jurisprudential sources helped to reinforce the validity of the analysis and to ensure a broader and more contextualized interpretation.

Finally, the strategy used facilitated the creation of an in-depth and critical analysis that not only exposes the current reality of access to justice for people with intellectual disabilities in Latin America but also contributes with important theoretical concepts for academic debate and for the development of proposals that seek to improve public policies and institutional reforms. Thus, the methodological approach that has been used is aligned with the objectives of the study and with the need to promote justice that is inclusive, accessible and respects human rights.

### **IV. Results**

From the review of documents and literature, the findings show that there is a persistent and widespread concern in Latin American academic works about the violation of the fundamental rights of people with intellectual disabilities regarding access to justice. The documents analyzed coincide in pointing out that, despite the advances in the norms and the progressive recognition of the rights of this group in different national and international instruments, there is still a considerable difference between what is established legally and what is established in practice. This difference is evident in the limited effectiveness of the initiatives taken by States to ensure conditions of real equality, which place persons with intellectual disabilities at a structural disadvantage in relation to the justice systems in the region.

One of the most significant findings of the research is related to the existence of physical and architectural obstacles in access to judicial buildings. Although many Latin American countries have implemented technical standards aimed at ensuring universal accessibility in public spaces, their application is inadequate and, in many cases, is only a formality. The documents reviewed indicate that many courts and prosecutors' offices still have problems with their infrastructure, such as inappropriate ramps, lack of accessible signage and restrictions on movement within buildings. These circumstances not only complicate the independent movement of people with disabilities, but also send a symbolic message of exclusion, reinforcing the idea that the judicial system has not been developed to address the diversity of the population.

In the area of legal proceedings, the results indicate that judicial processes continue to be organized according to standardized criteria that do not consider the particular needs of people with intellectual disabilities. The literature reviewed emphasizes that the use of complicated technical language, the lack of accessible formats, and the lack of adequate support mechanisms considerably limit the understanding of legal processes. This situation prevents people with intellectual disabilities from participating in an informed and effective manner in judicial proceedings, affecting their right to be heard and to defend themselves in conditions of equality, which leads to situations of legal defenselessness and the violation of fundamental rights.

Another important finding is related to the actions of those who operate in the judicial system, who play a fundamental role in ensuring real access to justice. The studies reviewed show that there is a general lack of specialized training on intellectual disability and human rights among judges, prosecutors, public defenders and support personnel. This lack of training contributes to the perpetuation of stereotypes, prejudices and discriminatory practices that impact the perception of the capacity, credibility and autonomy of people with intellectual disabilities. In many cases, these attitudes result in judicial decisions that exclude the person from the proceedings or that prioritize the opinion of third parties, thus violating the principle of equality before the law.

The results also show the constant difficulties in the recognition of the legal capacity of people with intellectual disabilities. Despite the advances in legislation promoted by the Convention on the Rights of Persons with Disabilities, in several countries of the region there are still institutional norms and practices that limit the exercise of legal capacity through mechanisms that replace decision-making. The literature reviewed indicates that these practices perpetuate legal exclusion and restrict personal autonomy, especially in the judicial sphere, where people with intellectual disabilities are often considered incapable of participating in processes that concern them.

From an institutional and normative perspective, the analysis of the sources studied reveals that some Latin American States have established specific protocols and guidelines to improve access to justice for persons with disabilities. However, the results indicate that the application of these tools faces various challenges,

## **Fundamental Rights And Access To Justice For People With Intellectual Disabilities: A View From Latin America**

such as lack of resources, limited dissemination of protocols, and lack of mechanisms for monitoring and evaluation. This results in many of these initiatives remaining on a theoretical level and do not generate significant changes in daily judicial practice.

In a comparative analysis, the findings suggest that, although there are successful experiences and good practices in some countries or jurisdictions, these have not been consistently organized and replicated at the regional level. The literature indicates that access to justice for people with intellectual disabilities depends largely on the will of institutions and the sensitivity of certain actors in the judicial system, which causes territorial inequalities and different responses to similar circumstances. This lack of uniformity undermines the principle of equality and highlights the need for comprehensive and coordinated public policies at the national and regional levels.

Finally, the results obtained highlight the urgency of promoting a structural change in the way justice systems in Latin America handle intellectual disability. The evidence analyzed supports the need to move beyond welfare-based and paternalistic approaches, and to fully adopt the social model of disability as a basis for judicial reforms. This change requires integrating the principles of accessibility, reasonable accommodation, active participation and respect for human dignity in a cross-cutting manner, with the aim of ensuring genuinely inclusive access to justice aligned with international human rights standards.

### **V. Discussion**

The findings of this study demonstrate that access to justice for people with intellectual disabilities in Latin America remains a structural challenge, despite regulatory advances in recent years. This situation reflects what experts in the field have pointed out, who indicate that the official recognition of fundamental rights does not in itself ensure their effective practice, unless it is accompanied by profound changes in institutions, culture and procedure (Ferrajoli, 2011). In this context, the results of the study show a continuing discrepancy between international human rights standards and the reality faced by judicial systems in Latin America.

From the perspective of the social model of disability, the results support the notion that the main difficulties faced by people with intellectual disabilities do not come only from their own

limitations, but from the existence of judicial systems that are not adapted to address human diversity. As Oliver (1996) and Shakespeare (2014) argue, disability is socially formed when institutions create physical, communicative, and attitudinal obstacles that limit full participation. In the judicial context, these obstacles translate into inaccessible buildings, complicated procedures, and institutional practices that do not recognize the specific needs of this group.

The continuity of architectural barriers in judicial buildings, as reflected in the results, reveals the discrepancy between the regulations on universal accessibility and their actual application. This reality confirms what different regional studies have indicated, warning that accessibility continues to be seen as a secondary or additional requirement, rather than a fundamental element of the right to access to justice. From a fundamental rights perspective, this offense represents a form of structural discrimination, by preventing the autonomous exercise of rights and encouraging the exclusion of people with intellectual disabilities from the judicial system.

Likewise, the difficulties in procedures and communication identified in the study are directly related to the ideas of Cappelletti and Garth (1988), who argue that access to justice should be interpreted in a broader way, which not only considers the formal possibility of going to court, but also includes the material conditions necessary for effective participation. The lack of clear language, communication support and reasonable accommodation in judicial processes severely limits the right to be heard and to be able to defend oneself, disproportionately affecting people with intellectual disabilities.

Regarding the role of justice operators, the findings of the analysis are consistent with what has been mentioned in the literature, which highlights that the lack of specific training on disability and human rights is one of the main difficulties for inclusion in the judicial sphere. The perpetuation of stereotypes and prejudices related to the alleged lack of capacity of people with intellectual disabilities to participate in legal proceedings encourages paternalistic and exclusionary practices, which go against the principles of equity and human dignity. As Szmukler, Daw, and Callard (2014) point out, these institutional positions not only negatively influence the quality of judicial decisions but also compromise the right to

## **Fundamental Rights And Access To Justice For People With Intellectual Disabilities: A View From Latin America**

recognition of legal personality under conditions of equality.

One of the most important points that emerge from the results is the continuous presence of models where people are replaced in decision-making, despite the regulations established by the Convention on the Rights of Persons with Disabilities. Although this international treaty has promoted the recognition of the legal capacity of persons with intellectual disabilities, the judicial system in several Latin American countries continues to favor restrictive approaches that limit their autonomy. This incongruity reveals an institutional resistance to change and ratifies the urgency of moving towards support systems and safeguards that respect individual will and preferences, as suggested by Quinn and Arstein-Kerslake (2012).

From a normative point of view, the existence of protocols and guidelines aimed at improving access to justice represents significant progress; however, the results show that its real impact is limited if it is not complemented by effective implementation, monitoring and evaluation mechanisms. This situation reinforces the notion that legal reforms, on their own, are insufficient unless they are part of a coherent and continuous public policy, involving all actors in the judicial system and fostering an inclusion-oriented cultural transformation.

To conclude, the analysis of the results suggests that access to justice for people with intellectual disabilities in Latin America needs a comprehensive approach that connects the social model of disability with the human rights approach. The evidence reviewed supports the urgency of implementing structural reforms that integrate the principles of accessibility, reasonable accommodation, effective participation, and respect for human dignity in a cross-cutting manner. In this sense, the current study contributes to the academic discussion by demonstrating that guaranteeing access to justice is not only a legal imperative, but also an ethical and social challenge that challenges States and judicial institutions in the region.

### **VI. Conclusions**

The study carried out in this article leads to the conclusion that, in Latin America, the right to access justice by people with intellectual disabilities continues to be an essential right that is not well guaranteed, despite the regulations established in

both national laws and international human rights treaties. This situation reveals a persistent disparity between the recognition of rights and their actual practice, which places people with intellectual disabilities at a disadvantage compared to the judicial systems in that region.

From the perspective of basic rights, it is observed that formal equality is not sufficient to ensure genuine access to justice for people with intellectual disabilities. The research reveals that the lack of effective support measures, reasonable accommodations and adequate assistance mechanisms limits the full exercise of the right to a fair trial, compromising fundamental principles such as human dignity, real equality and non-discrimination. In this context, access to justice should be perceived as a key right that influences the realization of other essential rights.

The study also argues that the most significant barriers faced by people with intellectual disabilities do not come only from their personal limitations, but also from a design of judicial environments that does not adapt to the diversity of people. The presence of physical, procedural, communicative, and attitudinal obstacles in Latin America's justice systems reinforces exclusion and perpetuates structural inequalities, which is not compatible with the social approach to disability or international human rights standards.

In addition, it is concluded that the actions of judicial operators are a crucial factor in ensuring effective access to justice. The lack of specialized training in intellectual disability and human rights contributes to maintaining stereotypes and prejudices that affect the recognition of legal capacity and the effective participation of persons with intellectual disabilities in the courts. This highlights the need to strengthen training and awareness-raising programs for judicial staff, incorporating inclusive and person-centered approaches.

Another important point highlighted in the analysis is the permanence of substitution models in decision-making, despite the normative progress promoted by the Convention on the Rights of Persons with Disabilities. Research shows that the application of the recognition of legal capacity on equal terms remains limited in judicial practice in the region, which restricts the autonomy and self-determination of people with intellectual disabilities. Therefore, it is essential to move towards support systems and guarantees that respect

## Fundamental Rights And Access To Justice For People With Intellectual Disabilities: A View From Latin America

the will and preferences of each person, aligning with the human rights approach.

From an institutional approach, it is established that although there are regulations and protocols that seek to facilitate access to justice for people with disabilities, these are insufficient if they are not implemented together with comprehensive public policies, sufficient resources, and effective methods of supervision and evaluation. The lack of coordination between institutions and the lack of an inclusive perspective on disability reduce the real impact of these initiatives, which continues to promote the legal exclusion of this group.

Finally, this article argues that ensuring access to justice for people with intellectual disabilities in Latin America requires a systematic and sustainable change that goes beyond independent regulatory reforms. This change must fully integrate the social model of disability, as well as the principles of universal accessibility, reasonable accommodation, active participation and respect for human dignity, as well as foster a cultural transformation in justice systems. In this context, the study offers significant theoretical concepts that are useful for academic analysis and for the development of public policies aimed at forging a justice that is truly inclusive, fair, and respects the fundamental rights of all people.

### References

- Aristizábal, D. (2022). Acceso a la justicia y discapacidad intelectual: barreras estructurales y desafíos jurídicos. *Revista de Derecho Público*, 45(1), 67–89.
- Bernales, E. (2019). El acceso a la justicia como derecho fundamental en la jurisprudencia interamericana. *Revista Chilena de Derecho*, 46(3), 743–770.
- Cabello, M. (2007). Discapacidad y participación social: una aproximación conceptual. *Revista Venezolana de Salud Pública*, 31(2), 145–158.
- Cappelletti, M., & Garth, B. (1988). *El acceso a la justicia: La tendencia en el movimiento mundial para hacer efectivos los derechos*. México: Fondo de Cultura Económica.
- CONADIS. (2018). *Protocolo de Atención Judicial para Personas con Discapacidad*. Consejo Nacional para la Integración de la Persona con Discapacidad.
- CONADIS. (2022). *Registro Nacional de la Persona con Discapacidad*. Observatorio Nacional de la Discapacidad.
- Corte Suprema de Justicia de la República. (2018). *Casación N.º 247-2018-Áncash: Requisitos de la acusación*. Lima, Perú.
- Del Pilar, M., & Melo, J. (2021). Modelo social de la discapacidad y derechos humanos: aportes desde la salud pública. *Revista de Salud Pública*, 23(1), 55–69.
- Díaz, M. (2008). Autoría y participación. *Revista de Estudios de la Justicia*, (10), 263–272.
- Ferrajoli, L. (2011). *Principia iuris. Teoría del derecho y de la democracia*. Madrid: Trotta.
- Gesser, M., Zirbel, I., & Garcia, K. (2020). Atención en la dependencia compleja de las personas con discapacidad: una cuestión de justicia. *Revista Estudios Feministas*, 30(2), 1–15.
- Huerta Peralta, J. (2019). *Discapacidad y accesibilidad: la dimensión desconocida*. Lima: Editorial Jurídica.
- Informe sobre Expediente N.º 2009-01890-0-1001-JR-CI-3. (2021). *Acceso a la justicia y personas con discapacidad*. Pontificia Universidad Católica del Perú.
- Lathrop, F. (2019). Acceso a la justicia y personas con discapacidad: estándares y desafíos. *Revista de Derecho (Valdivia)*, 32(1), 119–140.
- Navas, P., Gómez, L., Verdugo, M. A., & Schallock, R. (2008). Calidad de vida y discapacidad intelectual: avances conceptuales y metodológicos. *Siglo Cero*, 39(2), 5–19.
- Oliver, M. (1996). *Understanding disability: From theory to practice*. Londres: Macmillan.
- Ortiz Sánchez, J. I. (2014). *El derecho fundamental de acceso a la justicia y las barreras de acceso en poblaciones urbanas pobres en el Perú* (Tesis de maestría). Pontificia Universidad Católica del Perú.
- Palacios, A. (2008). *El modelo social de discapacidad: orígenes, caracterización y plasmación en la Convención Internacional sobre los Derechos de las Personas con Discapacidad*. Madrid: CERMI.
- Peredo, M. (2016). Discapacidad intelectual y educación inclusiva: una revisión conceptual. *Revista Boliviana de Educación*, 10(1), 33–48.
- Quinn, G., & Arstein-Kerslake, A. (2012). Restoring the “human” in human rights: personhood and doctrinal innovation in the

## Fundamental Rights And Access To Justice For People With Intellectual Disabilities: A View From Latin America

- UN disability convention. *Harvard Human Rights Journal*, 25, 1–39.
- Rivadeneira Guijarro, J. G. (2021). *El acceso a la justicia de las personas con discapacidad en la República del Ecuador*. Salamanca: Universidad de Salamanca.
- Salazar Lara, A. (2019). *El acceso a la justicia de las personas con discapacidad intelectual: hacia la consolidación del modelo social en México* (Tesis de licenciatura). Universidad Nacional Autónoma de México.
- Shakespeare, T. (2014). *Disability rights and wrongs revisited*. Londres: Routledge.
- Sousa, V. (2020). El acceso a la administración de justicia para las personas con discapacidad visual en Panamá. *Revista Cubana de Derecho*, 6(76), 112–130.
- Szmukler, G., Daw, R., & Callard, F. (2014). Mental health law and the UN Convention on the Rights of Persons with Disabilities. *International Journal of Law and Psychiatry*, 37(3), 245–252.
- Victoria, M. (2013). Derechos humanos y personas con discapacidad en México: avances y desafíos. *Revista Mexicana de Derecho Constitucional*, (28), 89–112.