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PROGRESSIVENESS OF SOCIAL RIGHTS AGAINST THE COVID-19 PANDEMIC

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ABSTRACT

This paper sets out the progressiveness of social rights as fundamental norms within the Mexican regulatory system, and the impact on the exercise of these have had the containment measures taken by the Mexican authorities to deal with the COVID-19 pandemic. The methodology used is based on a descriptive-informative analysis, since the reader is presented with general theoretical aspects of human rights, but in particular social rights, and their relationship to the principle of progressiveness, in order to reflect on the impact of these to health contingency.

KEY WORDS

Social rights, Progressiveness, COVID-19 pandemic.

Summary: I. Introduction. II. Brief reflection on human rights: conceptualization and progressivity. III. Progressivity of social rights: jurisprudential interpretation. IV. Impact of the COVID-19 pandemic on some fundamental social rights: work, housing and health. V. Conclusions. Bibliography.

I. INTRODUCTION

At the time of writing, the world faces one of the greatest challenges of the twenty-first century. The World Health Organization (WHO)¹ has declared the coronavirus disease (caused by the SARS-CoV-2 virus, better known today as COVID-19), as a pandemic. Faced with this health emergency, various actions have been implemented to combat this public health threat. On the one hand, the

¹ “WHO is a specialized agency of the United Nations (UN), created by a constitutive treaty – the WHO Constitution – and currently has 194 member states. According to article 2 (g) of the WHO Constitution, this international institution has received as its mission: “to stimulate and advance work aimed at suppressing epidemic, endemic and other diseases”. In addition, under Article 21(a) of the treaty, WHO is competent to adopt regulations on “sanitary and quarantine requirements and other procedures aimed at preventing the international spread of disease”. Pursuant to this provision, the International Health Regulations (IHR) were adopted in 1969, the general objective of which is to “prevent, protect against, control and respond to the international spread of infectious diseases”. The last modification of such an instrument dates from 2005”, see Virdzhiniya Petrova, Georgieva, (2020), “The challenges of the World Health Organization (WHO). Lessons from the COVID-19 outbreak”, in González Martín Nuria, *Emergencia Sanitaria por COVID-19: Reflexiones desde el Derecho I*, (p. 33). Mexico: Instituto de Investigaciones Jurídicas.

governmental and health authorities of the world implement measures to contain its spread such as the restriction of mobility either by isolation, quarantine or social distancing, as well as public health measures, such as hospital conversion for the exclusive care of patients by COVID-19, economic aid to the vulnerable population, tax incentive programs, among others. On the other hand, the WHO in coordination with international pharmaceutical groups make titanic efforts to develop vaccines or drugs to prevent and treat this disease in the shortest possible time.

Today, Johns Hopkins University indicates that there are 12,977,429 cases in the world, and 570,259 deaths from this disease.² In this context, there is a time for reflection; an opportunity to analyze the decisions taken by the Mexican federal authorities to combat this pandemic, since the opinions that are poured from academia, from universities, are necessary to strengthen the discussion of issues of national and international importance and impact.

This paper hypothesizes that the measures taken by government authorities to address the advance of the COVID-19 pandemic in Mexico have impacted some fundamental social rights, because they limit the exercise of them. In such a way that to carry out this analysis, we divide the body of this work into three sections. First, a brief reference is made to the conceptualization of human rights from the neo-constitutionalist paradigm, as well as its evolution in the Mexican legal system, to identify fundamental social rights. In a second stage, national and international criteria related to the progressivity of fundamental social rights are presented. Finally, a reflection on the decisions that Mexican government authorities have taken to combat the COVID-19 pandemic and the impact they have on those rights.

II. BRIEF REFLECTION ON HUMAN RIGHTS: CONCEPTUALIZATION AND PROGRESSIVITY

At present, human rights must be understood as the protection that the person has to enjoy freedom and full autonomy from the power of the State and that guarantees him a dignified life. Thus, “human rights emerge as a tool to guarantee individuals against state authoritarianism. The overcoming, at least ideologically

² Johns Hopkins University, 2020.

and discursively, of State totalitarianisms in the twentieth century, gives rise in the twenty-first century to a rethinking of the human rights agenda. In this sense, the current social and environmental problems offer a prolific environment for future development.”³

From the theoretical perspective, human rights have been understood as “attributes inherent in human dignity superior to the power of the State”.⁴ It is the case that “although all rights are products of man, not all can be qualified as human, but only those that are indispensable for the human being to achieve his full development, both personal and social”.⁵ From the doctrine, human rights have been defined as “those faculties and prerogatives inherent to the human person, indispensable to ensure his full development within an organized society, which must be recognized and respected by the public power or authority, and must be guaranteed by the positive legal order”.⁶

For their part, the Mexican courts point out that these are identified as the “set of faculties, freedoms and claims of a civil, political, economic, social and cultural nature, including the remedies and mechanisms of guarantee of all of them, which are recognized to the human being, considered individually and collectively”.⁷

In this order of ideas, from the neo-constitutionalist paradigm, they are defined as prerogatives that all people must enjoy individually and collectively, that guarantee their full development within society, regardless of their particular conditions, and that are recognized, respected and protected by the state legal order in force at the national and international level, through the mechanisms that are designed for this purpose.

Understood as human rights, any State can guarantee their promotion, respect and protection at the national and international level to which they are subject as a result of globalization, which allow the individual, individually or collectively, to achieve a dignified life, without the State transgressing the limits imposed in order to achieve harmonious social development.

³ *Bonet de Viola, 2018, p. 4.*

⁴ Ferrer Mac Gregor, 2013, p. 5.

⁵ Supreme Court, 2014a, p. 1.

⁶ *Ibid.*

⁷ Thesis I.15o.A.41 A, 2005, p. 2341.

Once the definition and scope of human rights have been established, it is necessary to briefly describe their evolution and recognition in the world order, which brought with it the incorporation and recognition of them in the Mexican legal system.

In this sense, “in a historical perspective the following link can be identified in the process of constitutionalization of rights: political revolutions and vindication of rights against monarchical power in Europe; the emergence of the first modern declarations of rights in North America and France in the eighteenth century; proclamation of the first two political constitutions of the modern world, namely: that of the United States of America (*sic*) and that of France, based fundamentally on the rights of the individual; the influence of the different strands of constitutionalism in different parts of the world, especially Europe and America. Likewise, the formulation of the different generations of rights, as well as a decisive influence of declarations and international law after the Second World War, complement this process, in its most general aspects”.⁸

However, the doctrine identifies the generational evolution of human rights which historically have been classified as follows:

1. First Generation: They translate into respect by the State for the sphere of freedom and autonomy of the human person.⁹ These rights include the right to life, physical integrity, personal liberty, equality and non-discrimination, legal certainty, freedom of movement and residence, freedom of thought and religion, freedom of opinion and expression, freedom of assembly and association, to form a family, to personality, to the inviolability of private life, of the family, of the home and of correspondence, and the active and passive right to vote.¹⁰
2. Second Generation: These are rights that seek to satisfy the most elementary material needs of the human person, and whose effective enjoyment must be ensured by the State, which must adopt an active conduct. These rights are also referred to as economic, social and cultural rights. Among these we can list the

⁸ Lara Ponte, 2014, p. 562.

⁹ Supreme Court, 2014a, p. 59.

¹⁰ Supreme Court, 2014b, p. 59.

- right to housing, health, food, social security, work, to form unions, to education, and access to culture.¹¹
3. Third Generation: They are also called rights of peoples or rights of solidarity, because they arise in response to the need for collaboration between nations.¹² Within this generation, the right to peace, freedom of self-determination of peoples, development, national and cultural identity, respect for and preservation of cultural diversity, international and regional cooperation, a healthy environment, and the common heritage of mankind are considered.¹³
 4. Fourth Generation: It is integrated by human rights of recent emergence, and whose origin is in the development of new information and telecommunications technologies, among which we can mention the right of access to information and communication technologies, to be freely and universally connected to telematic networks, to promote the flow and exchange of information and to computer freedom.¹⁴

However, with regard to the evolution of human rights in the Mexican legal system, Rodolfo Lara Ponte recounts their constitutional recognition. In a first period highlights the Constitution of Apatzingán of 1814 that included for the first time in the country a catalog of rights, consistent with the liberal sign of the time, and the Constitution of 1857, which allowed to propose a constitutional model that decanted the ideas of equality, freedom, security and property, among the most outstanding aspects, incorporating a more complete model of the amparo trial, and which represents the legal resource par excellence to make the recognized rights effective. In a second stage, it emphasizes that the Constitution of 1917 incorporated social rights by direct influence of the demands articulated before and during the armed movement initiated in 1910, giving greater scope to the concept of human rights and giving rise to the birth of social constitutionalism. The third stage takes place especially during the last five decades in which constitutional reforms were carried out to expand the universe of rights and freedoms by strengthening protective mechanisms, either through the jurisdictional channel or through the national *ombudsman* system. Highlights the reforms in favour of the legal equality

¹¹ Supreme Court, 2014a, p. 54.

¹² Supreme Court, 2014b, p. 55.

¹³ Supreme Court, 2014a, p. 63.

¹⁴ Supreme Court, 2014b, p. 56.

of men and women (1974); children's rights (1980, 1992, 2000 and 2011); the right to health protection and housing (1983); the rights of indigenous peoples (1992 and 2001); the right to a healthy environment (1999); culture (2009), and food (2012).¹⁵

In accordance with the foregoing, the human rights contained in the Mexican constitutional framework are civil, political, social, economic, environmental, cultural, individual or collective, public and private, without there being any differential treatment between them. That is, the rights of the first, second, third and fourth generations are recognized in the constitutional context.

Now, from the paradigm of neo-constitutionalism “social rights: 1) constitute subjective rights from an evolved vision of the concept, within the framework of the social State of law, 2) they are positive rights, if they are understood as rights of different levels of obligation determinable in each specific case, 3) they are rights that demand costs, like all fundamental rights, which does not prevent the State economy from adapting to the minimum requirements of these rights, 4) limit the “discretion of the legislator”, which is conditioned to demonstrate that it has acted in conformity with the constitutional requirements of social rights, such as respect for the minimum essential content and the obligation of progressivity of social rights, 5) are capable of being judicially enforceable, since comparative constitutional justice has shown that these rights can be guaranteed jurisdictionally even in the absence of specific guarantees.”¹⁶

For Gabriela Mendizábal Bermúdez, social rights “are those constitutional guarantees that are included in most modern constitutions and that the legislator enshrines in contrast to individual guarantees, granting through them (social guarantees) the additional protection that is required for the full development of the person.”¹⁷

Therefore, the fundamental social rights protected by the Mexican legal system are contained in the following constitutional articles: article 3 (right to education); article 4 (right to gender equality, right to food, right to health protection, right to

¹⁵ Lara Ponte, 2014, pp. 562-563.

¹⁶ Espino Tapia, 2017, p. 105.

¹⁷ Mendizábal, 2005, p. 164.

a healthy environment, right to water, right to housing, Right to identity, rights of the child, right to culture, right to sport, rights of persons with disabilities, rights of the elderly), article 27 (right of property over the ejido plot), article 28 (right to protection of the economically weak classes against the class of commercial entrepreneurs), article¹⁸ 123 (right to work and social security).

III. PROGRESSIVITY OF SOCIAL RIGHTS: INTERPRETATION OF CASE-LAW

In accordance with article 1, third paragraph, of the Political Constitution of the United Mexican States, all authorities within the scope of their competences have the obligation to promote, respect, protect and guarantee human rights in accordance with the principles of universality, interdependence, indivisibility and progressivity. Consequently, the State must prevent, investigate, punish, and repair human rights violations, in the terms established by law.

The recognition of the principles of universality, indivisibility, interdependence and progressivity of human rights in the Mexican constitutional context fosters a new scenario in the traditional conception of social rights. The constitutional recognition of these principles, particularly that of interdependence and indivisibility, strengthens the idea that social rights should not be considered only as programmatic norms that do not bind other rights or authorities, but that the inclusion of these principles guides the effective protection of all human rights, including those of a social nature. That is, the Mexican constitutional framework departs from traditional positivist ideas and embraces the vision of the neo-constitutionalist paradigm.

The principle of progressivity implies the obligation of recognition and protection of these rights in constant progress, improvement and continuous promotion. Thus, “the principle of progressivity refers to the fact that in all matters relating to human rights, such as their recognition and protection, constant progress or improvement must be sought; and, in contradiction, it points to non-regressivity, that is, that once a certain standard has been reached, regressive measures are not admitted.”¹⁹ In addition, “the principle of progressivity of human rights is related not only to

¹⁸ Ibid., p. 168.

¹⁹ Supreme Court, 2014a, p. 44.

the prohibition of regressivity in the enjoyment of fundamental rights, but also to the positive obligation to promote them progressively and gradually, since the Mexican State has the constitutional mandate to carry out all the necessary changes and transformations in the economic structure. social, political and cultural of the country, so as to ensure that all people can enjoy their human rights.”²⁰

The Supreme Court of Justice of the Nation upholds various criteria regarding the relationship between the principle of progressivity and social rights. The First Chamber establishes that social rights generate three duties for the Mexican State: the protection of the essential core of the right, the progressive realization of the scope of the right and not the unjustified adoption of regressive measures.²¹ The first duty implies the protection of the dignity of the person, so that the State has the immediate and inescapable obligation of its protection in case of violation; the second duty implies that the Executive and Legislative Branches design public policies that guarantee the full enjoyment of these rights, and the third entails the duty to prove that the right was suppressed. limited or restricted in accordance with the content of a normative provision.²² In this sense, the duty of non-regressivity assumes that once a certain level of satisfaction has been reached, it constitutes the new minimum standard from which progress must continue towards its full satisfaction.²³

In this way, the new dimension of social rights is recognized, not only from their generational categorization, but from the recognition of their relevance and social purpose, in such a way that “in a special way, the constitutional value of social rights and their matrix, the social State of law, has been reconsidered”.²⁴

However, in relation to the progressivity of social rights, the Inter-American Court of Human Rights recently recognized that “the effectiveness of ESCERs cannot be achieved in a short period of time and that, to that extent, it requires a flexibility mechanism that reflects the realities of the world and the difficulties

²⁰ Thesis 2a./J. 35, 2019, p. 980.

²¹ Thesis 1a. CXXII/2017, 2017b, p. 218.

²² Thesis 1a. CXXV/2017, 2017a, p. 217.

²³ Thesis 1a. CXXVI/2017, 2017c, p. 219.

²⁴ Espino Tapia, op. cit., p. 82.

involved for each country in ensuring such effectiveness. [...] within the framework of this flexibility, in terms of the term and modalities of compliance, the State has an obligation to do, that is, to adopt measures and adopt the necessary means to respond to the requirements of effectiveness of the rights involved, always to the extent of the economic and financial resources for the fulfillment of its international commitments [...] as a correlate of progressivity there is a duty – albeit conditional – of non-regressivity, which should not always be understood as prohibiting measures restricting the exercise of a right.”²⁵

IV. IMPACT OF THE COVID-19 PANDEMIC ON SOME FUNDAMENTAL SOCIAL RIGHTS: WORK, HOUSING AND HEALTH

As is generally known, humanity is currently facing a public health emergency. Today, the spread of a virus has put global health systems in check. The COVID-19 coronavirus disease outbreak was first reported in Wuhan, China on 31 December 2019. However, until 11 March 2020, WHO officially declares COVID-19 disease a pandemic.²⁶

Throughout these months, both the health authorities, the media and the general public identify this pandemic in a general way as “COVID-19”. In this regard, Nuria González Marín clarifies that the use of the “acronym COVID-19 is used in the masculine gender despite the fact that its composition corresponds to the English expression “coronavirus disease” (coronavirus disease). In the academies of the language it is discussed whether it corresponds to the female gender, but the linguist and philologist Concepción Company has explained that in Latin America the trend in terms of the application of gender corresponds to the agent that produces a disease, in this case a virus, the coronavirus, so the dominant use of the male gender is justified. As for writing, [...], it is possible that due to its rapid lexicalization in the near future covid-19 will be written, in lowercase, because it is a common name.”²⁷ Therefore, for the purposes of this reflection we use the term in

²⁵ Ferrer Mac Gregor, op. cit., p. 428.

²⁶ WHO, 2020.

²⁷ González Marín, 2020, p. 7.

masculine and capital letters, following the criterion previously invoked and used in the various legal analyzed laws.

Regarding the official recognition of the arrival of this pandemic in our country, “it was until March 23, 2020, that the Health Council (CSG) recognizes the epidemic of disease by the SARS-CoV-2 virus “(COVID 19) as a serious disease of priority attention”.²⁸ In mid-July 2020, official data provided by Mexican authorities indicate that there are 335,922 estimated positive cases, 36,872 estimated positive deaths, and 48,822 estimated positive active cases.²⁹

Under this scenario, the disease has spread rapidly. In just over four months of the official recognition of its global spread, Mexico is among the countries with the highest mortality from this disease. Therefore, the Mexican State implemented a series of containment measures that brought multiple consequences of social, labor, governmental, etc., since some of the decisions that the health authorities took to try to contain the progression of the pandemic were: “a) limit the transit of people and suspend social activities, b) isolation measures, for example, physical distancing and quarantine...; (c) exclusion of sick persons from various sites; (d) temporary closure of meeting premises or venues; e) the entry by the health authority to any premises or house to take necessary measures to combat the pandemic, without judicial authorization, or the owner and f) immigration control”,³⁰ among others.

WHO warns of differences between isolation, quarantine and distancing; “Quarantine means restricting activities or separating people who are not sick but may have been exposed to COVID-19. The goal is to prevent the spread of the disease at the time people start showing symptoms; isolation means separating people who are sick with COVID-19 symptoms and may be contagious to prevent the spread of the disease, and physical distancing means being physically separated. The WHO recommends keeping a distance of at least one meter from others. It’s a general measure that everyone should take even if they are well and haven’t had known exposure to COVID-19.”³¹

²⁸ Medina Arellano, 2020, p. 29.

²⁹ Government of Mexico, 2020.

³⁰ Medina Arellano, op. cit, p. 23.

³¹ WHO, 2020.

Although these isolation measures were replicated in multiple countries, the truth is that in the Mexican reality the measures implemented to control the disease in the country impacted the free exercise of various fundamental social rights, such as work, housing, and health, which causes restriction actions, discrimination and even physical aggression among the population. Although the Mexican government warns that “in the framework of the health emergency, a series of measures were taken to take care of the income of families, protect production and employment and guarantee supply,” the³² truth is that the current daily life is not only a public health crisis but also a deep economic crisis.

In particular, social isolation measures mean that people remain “voluntarily” inside their home to prevent the spread of the disease. This provision directly affects the right to work of people (formal and informal) and housing, since they force them to modify their daily work activities, and with it, an enormous financial wear, and confine them to family accommodation spaces without considering the particulars and infrastructure of each of them. In this regard, it is stated that in Mexico “the ravages in economic activity due to the coronavirus pandemic and confinement measures caused the loss of 12.5 million jobs in Mexico during April, according to data from the National Institute of Statistics and Geography (Inegi). According to the results of the first Telephone Survey of Occupation and Employment (ETOE), the employed population in the country fell from 55.7 million in March of this year, to 45.4 million in April.”³³

With regard to the housing sector, it is stated that “the efforts announced by both Infonavit and Fovissste, will not have an immediate benefit for housing builders, since, as the decline in commercial economic activity, the demand for housing will also be affected ..., since it no longer counts, as in other administrations, with the granting of subsidies, which in addition to the fall in the placement of bank mortgages, would cause a growth in the inventories of the developers.”³⁴

Another perceived effect is related to government public policies, particularly those that impact the national health system. In this regard, the Center for Public Policy

³² Government of Mexico, 2020.

³³ Téllez Cristian, 2020.

³⁴ Gutierrez Fernando, 2020.

Research points out that “the health budget decreased more than 20% during this sexennium. Public finances and the health sector are limited to treat all affected patients. This is reflected in: a) Insufficient coverage. More than 16 million Mexicans lack some type of financial health protection. (b) Shortage of medicines. Only 61% of people with diabetes, hypertension and dyslipidemia who went to the state health services (SESA) came out with all the medications. (c) Long waiting times. In the Mexican Institute of Social Security (IMSS) and in the SESA, waiting times are 2.3 and 3 times higher than in the private sector, respectively.³⁵

In the presence of the pandemic “Mexico was the first country in Latin America to implement a series of preventive actions confirming the virus, such as screening guidelines for detection at ports of entry, particularly of passengers coming from risk areas, as well as for collection, handling and transport of samples, and medical boarding, Courses on technology transfer for diagnosis to the entire network of public health laboratories in the country, as well as some laboratories of large hospitals. It also uses all previous experience in public health emergency preparedness and response plans and in particular lessons learned from the influenza pandemic AH1N1pdm09 the impact of COVID-19.”³⁶ In addition, throughout these months various guidelines have been implemented for medical personnel such as guidelines for prehospital systems, for the installation of mobile hospitals, for hospital counterclaim, for the use and handling of personal protective equipment, among others.³⁷ Other measures that were implemented were massive campaigns regarding the importance of hand washing, sneezing etiquette, the use of constant face coverings for medical personnel and the general population.

Therefore, under the approaches described above, we must reflect on how the strategies implemented by the Mexican government to face the COVID-19 pandemic impact the exercise of the fundamental social rights of work, housing and health, but above all how their due protection is guaranteed under the principle of progressivity. From this “new normality”,³⁸ and the way in which we must face this

³⁵ Center for Public Policy Research, 2020.

³⁶ Alpuche-Aranda, op. cit., p. 124.

³⁷ Government of Mexico, 2020.

³⁸ This is what the Government of the Republic has called the new stage of social life that we will face once collective activities resume. In this regard, the President of the Republic, Andrés Manuel López Obrador, said

different daily life is that it is necessary to improve public policies that guarantee the progress of social rights, based on a different vision of the State. Therefore, “the current experience will lead to social and political pacts that will result in a new rationality of power in its national and international spheres.”³⁹ In this sense, Jaime Cárdenas García affirms that “the return of the State after the coronavirus is linked to the construction of a new welfare⁴⁰ State that is based on precise legal variables and categories: 1) recognition and effective guarantee of economic, social and cultural and environmental rights and of other generations of rights, where the State is the preponderant of those rights; 2) growth of public administration, bureaucracy and public expenditure of the State to satisfy the recognized rights; 3) State intervention in the economy to enable, among others, the principles of economic stewardship, democratic planning for development, and preservation of strategic areas; 4) pluralistic democratic system; 5) capacity of transformation of the Constitution on the economic-social system, 6) the achievement of the welfare state through social rights but also through fiscal and budgetary legislation”.⁴¹

If the public policies of the Mexican State are viewed from this perspective, progressivity and effective enjoyment of social rights for all persons are achieved, in accordance with the provisions of article 2 of the International Covenant on Economic, Social and Cultural Rights, which states that “each State undertakes to adopt measures [...] to achieve progressively by all appropriate means, including

that “we have already had enough time to familiarize ourselves with the medical recommendations and sanitary provisions and now it is time to put them into practice following our own criteria. In this stage towards the new normal, we must fully recover the sense of freedom and decide ourselves, based on what we have learned, how to protect ourselves from contagion and disease”, see Decalogue to get out of the coronavirus and face the new reality, <https://presidente.gob.mx/wp-content/uploads/2020/06/Deca%CC%81logo-para-salir-del-coronavirus-y-enfrentar-la-nueva-realidad.pdf>, recovered on July 13, 2020.

³⁹ Valadez 2020, p. 21.

⁴⁰ The term is coined by William Temple in 1941 in his description of the differences between the Welfare State of German National Socialism and the British Welfare State society. The English version is committed to achieving full employment and guaranteeing everyone and in all circumstances, without time limit, a subsidy that ensures a dignified life by eradicating poverty. To achieve this, there is a clear and widespread scheme of transfers and mechanisms for redistributing national wealth seeking to reduce inequality. economic and social of the population”, see Santiago Juárez Mario, (2019), “Proposal to build a Mexican Social State”, *Latin American Journal of Social Law*, no. 28, National Autonomous University of Mexico, Mexico, available at: <http://www.redalyc.org/articulo.oa?id=429662294008>, DOI: <https://doi.org/10.22201/ij.24487899e.2019.28.13149>, accessed July 9, 2020.

⁴¹ Cárdenas García, 2020, p. 23.

in particular the adoption of legislative measures, the full realization of the rights recognized herein.”

In this way, the positivist arguments that consider social rights as pragmatic or aspirational norms, are overcome before the new vision of Law, and the recognition of a legal system that guarantees social rights at the national and international level. Thus, “the social and constitutional State of law is identified with the purposes of its social content in a way that conditions its own action”.⁴²

V CONCLUSIONS

Human rights are the prerogatives of all persons who are exercised individually or collectively, and guarantee their full development within society, regardless of their particular conditions, since they are recognized, respected and protected by the State legal order in force at the national and international level, therefore, they allow the person to achieve a dignified life without the State transgressing the limits imposed, in order to achieve harmonious social development.

Under the principle of interdependence and progressivity, the Mexican State recognizes as fundamental social rights protected by the legal system the right to education, the right to gender equality, the right to food, the right to health protection, the right to a healthy environment, the right to water, the right to housing, the right to identity, the rights of children, the right to culture, the right to sports, the rights of persons with disabilities, the rights of the elderly, the right to property over the ejido plot, the right to protection of the economically weak classes against the class of commercial entrepreneurs, the right to work and social security.

In such a way that through the welfare state its protection and progressivity can be achieved, because by having public policies designed from this perspective, the full effectiveness of fundamental social rights is achieved, whose purpose is to ensure a dignified life. We are not oblivious or exempt from an emergency situation, in such a way that when any circumstance that endangers them arises again, the Mexican State guarantees at least the minimum standard reached as a result of this pandemic.

⁴² Espino Tapia, op. cit, p. 83.

The duty of non-regressivity assumes that once a certain level of satisfaction has been reached, it constitutes the new minimum standard from which progress must be made towards full satisfaction. Thus, in the case of the fundamental social right to health, the progress made in hospital infrastructure for COVID-19 care must be maintained, and the public budget must be redesigned to improve the various official health services. With regard to the fundamental social right to decent and decent housing, it is necessary that people's homes comply with the minimum standards of accessibility and infrastructure recognized nationally and internationally in order to be considered adequate housing, since housing is the point of social cohesion of the family. Finally, in view of the right to work, that the public policies that are designed subsequently guarantee the minimum subsistence in the income of workers, and do not further exacerbate their precariousness.

Finally, as a final reflection on these circumstances, it is considered that social isolation measures must continue, but also the social commitment and empathy of people to help mitigate the advance of this pandemic, while waiting for the long-awaited vaccine or medicines necessary to face it.

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