

ALTERNATIVE REPORT FROM NON-GOVERNMENTAL ORGANIZATIONS

For the Committee on the Rights of the Child in the framework of the adoption of the List of Issues prior to the Report on Peru in its 90th Pre-session Working Group

Examined conventions:

Children's Rights Convention
Convention on the Rights of Persons with Disabilities

Non-confidential report of the organizations that comprise:

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ANDARES

ASOCIACIÓN PERUANA DE ABOGADOS CON DISCAPACIDAD VISUAL

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ASOCIACIÓN CAPAZ PERÚ

CENTRO DE EMPODERAMIENTO DE PERSONAS CON DISCAPACIDAD – CEMPDIS

CLÍNICA JURÍDICA DE DISCAPACIDAD Y DERECHOS HUMANOS DE LA PUCP

COLEGIO DE PERIODISTAS DEL PERÚ

COMISIÓN DE DAMAS INVIDENTES DEL PERÚ – CODIP

COLECTIVO DOWN PERÚ

FEDERACIÓN NACIONAL DE MUJERES CON DISCAPACIDAD DEL PERÚ – FENAMUDIP

FRATERNIDAD CRISTIANA DE PERSONAS ENFERMAS Y CON DISCAPACIDAD

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APDA

PERSEVERA INCLUSIÓN

COALICIÓN DE SALUD MENTAL Y DD.HH.

COLECTIVO 21 PERÚ

GIN

ASOCIACIÓN KUSQA

WUARMAKUMA HOPE

IMPULSO A LAS ALTAS CAPACIDADES TALENTO Y SUPERDOTACIÓN EN EL PERÚ - IMPACTS

LIST OF ACRONYMS AND ABBREVIATIONS

INEI	National Institute of Statistics and Informatics
MINEDU	Ministry of Education
Siagie	Information system to support the management of the educational institution
EBR	Basic School Education
EBE	Special School Education
PRITES	Early Intervention Program
SAANEE	Support and Counseling Services For The Attention Of The Special Educational Needs
CAR	Residential Shelter Center
UGEL	Local Educational Management Unit

Presentation

The “Mesa de Discapacidad y Derechos” gathers 23 organizations at the national and local level, including organizations of persons with disabilities, families and civil society organizations belonging to the “Coordinadora Nacional de Derechos Humanos” (National Coordinator of Human Rights) advocating for the rights of persons with disabilities.

The Coalition for the Right to Inclusive Education gathers 17 organizations, institutions and networks as well as organizations of and for people with disabilities, committed to the right to education, of all children, including those with disabilities.

Under the simplified reporting procedure, the organizations mentioned above submit the following observations regarding the fulfillment of inclusive education and the right to live in a family for children with disabilities.

1. Inclusive education

Inclusive education remains a compelling issue for school-age population with disabilities despite the General Education Law 28044 (2003)¹ which promotes an inclusive approach and seeks to guarantee quality education. However, a large percentage of students with disabilities do not have access to the education system. Those enrolled in schools experience barriers in order to receive quality service. In this sense, an educational system is maintained, and it segregates people with "severe" disabilities or "multi-disabled", sending them to a special education institution instead of meeting their educational demands in the regular school system.

Inclusive education is a mandatory obligation as a result of the ratification of multiple human rights treaties, especially the Convention on the Rights of Persons with Disabilities on its article 24. CRPD establishes an obligation to ensure inclusive and accessible education² for all children as it is oriented to develop their human personality and sense of dignity. Likewise, the right to education on equal basis is recognized by the Convention on the Rights of the Child³, as well as General Law of Persons with Disabilities (Law No. 29973,) recognizes the right of people with disabilities to receive a quality education, with an inclusive approach that responds to their needs and potential. Although these regulations provide for education to be inclusive and equitable, this is not consistent with reality.

According to the data obtained from the report carried out by the Ombudsman's Office on the right to education in 2019⁴, we found that the National Institute of Statistics and Informatics

¹ Law 28044, General Law of Education of Peru (2003).

²Office of the United Nations High Commissioner for Human Rights, Thematic study on the right of persons with disabilities to education, A / HRC / 25/29, 2013, para. 3.

³ Article 28 of the Convention on the Rights of the Child.

⁴ Ombudsman Report N ° 183-2019 / DP “The right to inclusive education: Barriers in the implementation of public and private educational services for students with disabilities and other educational needs”.

(INEI, by its spanish acronym) and the Ministry of Education (MINEDU, by its spanish acronym) between 2017 and 2018 registered only approximately 12% (90,490) of the population with disabilities under 29 years of age (756,499) enrolled in the educational system. Another study by the Information System to Support the Management of the Educational Institution (Siagie, by its spanish acronym) by June 15, 2018, the number of people with disabilities enrolled in the education system amounts to approximately 18% (73,400) of the total of 407,509 students. This is if the total number of children and adolescents with disabilities between the ages of 3 and 16 who are enrolled in the educational system either through regular basic education (EBR, by its spanish acronym) or special basic education (EBE by its spanish acronym)⁵.

As a consequence of the pandemic caused by Covid-19, an insufficient State strategy has been launched to implement inclusive and quality online education for 9.9 million Peruvian students from preschool to high school. 67,227 students with some type of “special educational need”⁶ -associated or not to disability (Censo Escolar, 2019)-, in the regular basic education system, have been left without the support or educational materials adapted for their needs from the schools.

Since the start of the pandemic generated by Covid-19, we have not yet found official information on the number of children not attending school or the actions necessary to ensure their return to schools as well as alternatives to combat the school interruption of children and adolescents with disabilities.

Regarding attendance at educational institutions and the illiteracy rate of people with disabilities, the data found by the INEI on people with disabilities in 2017 emphasizes the alarming figures regarding attendance and learning achievements of this population. It is indicated that only 586,482 people with disabilities (18.4%) attend some school, institute or university and that 71,550 (12.2%) students of this group with disabilities between 6 and 16 years old cannot read or write. However, there is insufficient information on educational progress in children with disabilities.

Peru has established the obligation in basic education to reserve a minimum quota of 2 places for students with disabilities per classroom.⁷ This measure, however, turns out to be a barrier while being used as a justification not to accept more students with disabilities in school classrooms. It is naturalized that people with disabilities do not attend school, interrupt their

⁵National Institute of Statistics and Informatics (2017). Sociodemographic profile of the population with disabilities.

⁶ We collect this terminology within the framework of the regulations of the General Education Law published in 2021, special educational needs (SEN) should be understood as the educational demands that arise as a result of the existence of educational barriers that prevent or hinder the exercise of the right to education from a broad understanding of human diversity.

⁷ Detailed measure in the technical standard "Guidelines for the Development of the 2019 School Year in Educational Institutions and Educational Programs of Basic Education" approved by the Minedu.

studies or see themselves forced to receive a low quality service and do not obtain the necessary skills to continue learning.

As suggested in the General Report on the right to inclusive education of the United Nations High Commissioner⁸, regulatory changes have been incorporated in order to improve the educational service to make it more inclusive. In 2018 the Law No. 30797 was enacted. It promotes inclusive education by modifying the article 52, section e) and incorporating articles 19, section. a) and 62nd inc. a) in Law 28044, the General Law of Education, guaranteeing the inclusive approach in education and incorporating the professional in psychology as a member of the educational community for this end. Additionally, plans were proposed for intervention for children with ADHD (Law No. 30956) and Autism⁹ in education and other areas, but these regulations do not have an implementation plan so far, thus exceeding the established deadline.

These regulations have not been sufficient to ensure inclusive education. In 2021 a new advance was developed with the modification of the Regulations of the General Education Law of Peru through Supreme Decree No. 007-2021-MINEDU.¹⁰ It incorporates new articles to promote an inclusive educational system. The article 75 of this regulation establishes a requirement to identify in a timely manner people with disabilities who are outside the educational system or at risk of exclusion. In addition, Universal Design for learning is incorporated, a formative evaluation, and the transformation of support teams is proposed for students who have greater demands for their learning. However, the Ministry of Education has not yet presented the implementation plan for this regulation.

Another recently approved regulation is the Multisectoral Disability Policy for 2030, which incorporates measures and goals in favor of inclusive education. It does not include the coverage of the Early Intervention Programs (PRITES, by its spanish acronym) and their articulation with basic education services nor the provision of rehabilitation and early stimulation services. Also omitted are monitoring and reporting mechanisms for families to warn of non-compliance with the State's obligations related to inclusive education.

⁸Report of the Office of the United Nations High Commissioner for Human Rights: Thematic study on the right of persons with disabilities to education (2013). United Nations. This indicates that it is necessary "a systemic change that is carried out progressively and that includes a transformation plan to combat exclusion and segregation."

⁹ Supreme Decree No. 001-2019-MIMP that approves the "National Plan for People with Autism Spectrum Disorder (ASD) 2019 - 2021

¹⁰ Retrieved from

<https://www.gob.pe/institucion/minedu/noticias/492288-modificar-regdamientos-de-la-ley-general-de-educacion>

A main cause of this situation is that there is structural discrimination¹¹ towards people with disabilities due to the unequal way they receive the educational service.

The barriers that persist in the Peruvian educational system and hinder the right to an inclusive quality education according to the voices of children with disabilities who attend to peruvian schools and their families are¹²:

- ***The lack of the human factor*** that involves multiple facets: from prejudice, misinformation and misconceptions about the capabilities of people with disabilities, to a wrong academic training of education professionals who support students progress. This barrier is found in the community and even in the families of students with disabilities themselves.
- ***Low development, scope and effectiveness of support and counseling services for inclusion*** of people with disabilities in school institutions.
- ***Poor situation of most public educational institutions*** in terms of infrastructure, furniture, support staff and differentiated educational materials.
- ***Parents' opposition to changes in the educational system*** limiting the access or permanence of their sons and daughters in inclusive educational institutions.
- ***Loss or decrease of self-perception about the rights of people with disabilities*** to access inclusive educational services.

Faced with this scenario, the "I learn at home" strategy that was developed in response to the pandemic to continue with the learning of Peruvian students since 2020 was updated in 2021 with adjustments through radio, television, and internet did not exceed the barriers mentioned above. On the contrary, its implementation has maintained and made visible a series of barriers:

i) Lack of accessibility in the design of the educational strategy, it did not contemplate comprehensive accessibility measures for all since its construction.

ii) Internet and device access gaps; the National Institute of Statistics and Informatics (INEI, by its spanish acronym), in 2019¹³, mentions that only 39.5% of Peruvian households have internet access, and this percentage decreases by 4.8% in rural areas.

¹¹National Multisectoral Policy on Disability for Development by 2030 approved by Supreme Decree No. 007-2021-MIMP. Recovered from:<https://tinyurl.com/yjyegwaw>. This policy is based on a public problem of national scope that affects the Peruvian population and with regard to the population with disabilities, it indicates that "comprehensive intervention by the State is required" due to "Structural discrimination against people with disabilities. disability".

¹²Report "Our opinion counts. The perspective of children and adolescents on discrimination and barriers to Inclusive Education "(2021) published by UNICEF, Inclusion International, Catalyst for Inclusive Education. With the collaboration of AsDown Colombia, the Peruvian Down Syndrome Society and the Saraki Foundation.

¹³ Recovered from:

<https://www.comexperu.org.pe/articulo/230000-estudiantes-dejaron-de-ir-al-colegio-en-2020>

iii) Absence in provision of supports and reasonable accommodation for inclusion; the Ministry of Education failed to guarantee educational support for the diversity of students with disabilities in regular basic education, before the pandemic around 73% of schools indicated that they received support from the teams of *Support and Advice Service for Attention to Special Educational Needs* (SAANEE by its Spanish acronym), 23% of teachers from schools (public and private) stated that they were trained in inclusive education and 2% of schools assigned teachers without a classroom in charge in 8 of 25 regions of the country to attend special educational needs associated with disability¹⁴. The problem surrounding educational supports is due to their difficulty in access: quality and sufficiency of educational support personnel is limited¹⁵. This situation evidences the urgency of articulating an alternative care strategy for the SAANEE teams.¹⁶,

iv) Lack of teacher training and preparation to attend to diversity, segregating paradigms are maintained in teacher training curricula that associate inclusive education only with the care of students with disabilities.

In 2020, the data published by the Ministry of Education indicated that dropout in primary school increased from 1.3% to 3.5% (128,000 students) and, in secondary school, it increased from 3.5% to 4% (102,000 students), which means that 230,000 students of Regular Basic Education (EBR, by its Spanish acronym) are currently outside the educational system. This desertion was renamed by the Minister of Education, Ricardo Cuenca, as a school interruption because the educational responsibility lies with the State and not only with the student.

In this regard, this interruption affected all students unequally since those with disabilities presented barriers in their learning that were deepened more. Although no reports have been found of the school interruption of these students in the pandemic or the number of students who are awaiting the assignment of a vacancy, the Ombudsman's Office (2021)¹⁷ published a report on the scope and limitations of the non-face-to-face educational service for students with

¹⁴ Ombudsman Report N° 183-2019 / DP "The right to inclusive education: Barriers in the implementation of public and private educational services for students with disabilities and other educational needs."

¹⁵ Available in: bit.ly/3yHFgC3

¹⁶ SAANEE is transformed into SAE. According to supreme decree No. 011-2012-ED, which indicates that "External Educational Support Services (SAE) are created and implemented by decentralized educational management bodies (UGEL, DRE or the one that takes its place), progressively by a period of four (04) years beginning in 2022, taking into account the gaps and prioritization criteria for attention to diversity that have been identified, at the local and regional level; in accordance with its educational management instruments and multi-year budget framework. The SAE absorbs the Support and Advice Service for the Attention of Special Educational Needs (SAANEE) from the scope of its jurisdiction, progressively, without affecting its operation".

¹⁷ Ombudsman's Office (2021). THE RIGHT TO INCLUSIVE EDUCATION IN THE CONTEXT OF THE HEALTH EMERGENCY DUE TO COVID-19. Scope and limitations in the non-face-to-face educational service for students with disabilities and other special educational needs in Basic Education. Series of Special Reports No. 36-2020-DP-prepared by the Program for the Defense and Promotion of the Rights of Persons with Disabilities. Available at: bit.ly/3jUrwzI

disabilities and other special educational needs in Basic Education. This report shows that more than 82% of families of children with disabilities surveyed mentioned that they experienced barriers to their children's learning in public and private institutions. Barriers were identified in relation to the lack of teaching staff specialized in inclusive education, adaptation of educational materials and at the "I learn at home" platform, lack of support from teachers, the will of managers, connectivity, and a person to support the student from home.

Ana's case¹⁸

In June 2019 a complaint was filed¹⁹ for discriminatory treatment, lack of suitability in the service, and violation of the duty of relevant information. Ana, a young woman with Down syndrome, whose right to inclusive and quality education was not provided by a private school, thus violating their obligation to guarantee educational supports, curricular adaptations, and relevant information to relatives about educational barriers. This situation led to Ana's exclusion from the educational system for reasons of disability.

The aforementioned case has been submitted for 2 years and still does not have a resolution²⁰ that responds and punishes the violations indicated. The excessive delay in resolving cases in inclusive education is one of the main reasons why families give up reporting their cases. As a consequence, the absence of legal precedents is reinforced, making it difficult to ensure a transformation in the educational service provided in schools in accordance with international standards on the matter.

Case of children in Manchay²¹

In the Manchay area located in Lima (Capital of Peru) there are no "special educational centers" or support teams that advise regular schools, so it is the responsibility of the Local Educational Management Unit (UGEL, by its Spanish acronym) to establish an Itinerant Operational Unit (UOI, by its Spanish acronym) to accompany the process of inclusion of students with disabilities, as stated in the regulations of the General Education Law in its article 84:

"In the absence of a Special Basic Education Center, the Regional Education Directorate, in coordination with the Local Educational Management Unit or the one that takes its place, promotes its creation and constitutes an itinerant operating unit to meet the demand with

¹⁸The name is a pseudonym. The case is in litigation after being sued by the association Society and Disability before INDECOPI.

¹⁹ File No. 0284-2019 / CC2, submitted to the Technical Secretariat of the Consumer Protection Commission No. 2, National Institute for the Defense of Competition and Intellectual Property - INDECOPI

²⁰File No. 0284-2019 / CC2 was suspended after its admission in June 2019, with a notification document dated October 4 of the same year -waiting for the defense of the defendant institution-, through Resolution No. 7, issued by the Secretariat INDECOPI CC2 technique. Despite having submitted three briefs requesting the lifting of the file, for exceeding the reasonable procedural period to resolve, it continues to be suspended for approximately 2 years.

²¹ Case in dispute sued by the Warmakuna Hope association.

greater scope."

Since 2019, formal letters were sent due to the lack of response from local authorities and the urgent need to guarantee the right to education of these citizens and the intervention of the Ministry of Education or the corresponding instances was requested to resolve this situation. This request has not been resolved so far and the children who do not attend school identified by the Warmakuna Hope association have still not received a response from the Government.

Questions to the State on inclusive education

Please indicate:

- What measures are being designed or implemented to identify, disaggregated by type of disability and educational level, the current number of children with disabilities attending school in each region and at the national level?
- How many children with disabilities are outside the education system? ¿What are the measures the government is planning to adopt to provide support for school vacancies?

Regarding the provision of support in the educational system:

- What mechanisms and strategies will be aimed to reduce school interruptions for children with disabilities, and implement the regulatory framework and educational policies to respond to the needs of students with disabilities?

Please indicate

- How will it be ensured that professionals provide support services and that school authorities provide reasonable accommodations in favor of inclusion and learning achievements of children with disabilities?
- What budgetary resources will be assigned for the implementation of the new Regulation of the General Law of Education and the National Disability Policy in the field of inclusive education.

2. Institutionalization of children with disabilities

Children with disabilities are exposed to being institutionalized from an early age²² for multiple reasons, including: lack of early childhood services²³, prejudices about disability²⁴, abandonment and family vulnerability²⁵, and even for conditions associated with mental health. Institutionalization affects people with disabilities extensively and permanently in most situations. Children with disabilities can remain in institutions long after they have reached the age of majority, with no alternatives for their effective inclusion in society.

Given a situation of risk due to lack of family protection direct most of the cases to the family reintegration, either with the family of origin or foster family in cases of adoption. However, as will be seen, in the case of children with disabilities, the main response is to promote residential care compared to their peers without disabilities.

The Children's Code establishes that children with disabilities judicially declared in a state of family vulnerability have the right to "assisted and permanent" care provided by the Ministry of Women and Vulnerable Populations (MIMP);²⁶ while Legislative Decree 1297 establishes that in the case of young people who reach the legal age leave the residential shelter so that they

²² Article 84, Regulation of the General Law of Education No 28004; Through this article, Peruvian regulations allow the segregation between students with mild or moderate disabilities and those with severe and / or multi-disabled disabilities; the latter are only accepted in CEBES - Special Basic Education Centers that separate the NNA from learning and sharing in community with their peers.

²³ The required availability of services is not met PRITE:

"It is the non-school space of the Ministry of Education that carries out prevention, detection and timely care actions for children with disabilities, the family and the community, for their inclusion in the services of Initial Education of Regular Basic Education or in Special Basic Education Centers, as the case may be). In this regard, the study "Knowledge, attitudes and practices of families of children under three years of age and operators of early childhood development services (ECD)" mentions that "Where they cannot access these services [PRITE], the present and the future of girls and boys is hopeless, mothers maintain their fears, their unanswered questions, and the indifference of health service providers is added."

²⁴ Legislative Decree No. 1297, establishes that in the case of young women with severe disabilities, as they are not capable of assuming their independent life; -instead of regulating their discharge when they reach the age of majority- support and assistance measures are predisposed, the impossibility is assumed is that people with severe disabilities are segregated and institutionalized in Residential Shelter Centers.

²⁵ The principle of family integration is prioritized in Directive 005-MIMP, Intervention Methodology in Residential Shelter Centers for Girls, Boys and Adolescents, noting:

"The actions of the State and of society must promote, as a priority, the integration of the girl, boy or adolescent in their family of origin, taking the necessary actions for this purpose."

²⁶ Article 36.- Programs for children and adolescents with disabilities.-

Children and adolescents with disabilities, temporarily or permanently, have the right to receive assisted and permanent care, under the responsibility of the Health Sector. They have the right to an education with an inclusive approach and reasonable accommodation, as well as occupational and job training, under the responsibility of the Education and Labor Sectors.

Children and adolescents with disabilities judicially declared in a state of family vulnerability have the right to permanent assisted care under the responsibility of the Ministry of Women and Vulnerable Populations.

achieve autonomy; while in the case of young people with “severe disabilities”, they can remain in the residences as they are unable to lead an independent life.²⁷

The aforementioned is in evident opposition to what is determined by the Convention on the Rights of Persons with Disabilities (CRPD):

“States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.” (Art. 23, num. 3) [...] “States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting. ” (art. 23, num. 5)

With this, as is known to the Committee, the Convention establishes a prevention parameter in the family sphere, without admitting, much less promoting, the possibility of generating a life in a residential environment separated from society.

According to the Report of the Ombudsman's Office on the Situation of children deprived of liberty, on 2019 the Ministry of Women and Vulnerable Populations (MIMP) had a total of 242 Residential Shelter Centers (CAR, by its spanish acronym) nationwide, of which 51 are in charge of the administration of the National Comprehensive Program for Family Welfare (INABIF, by its spanish acronym); 27 from regional governments; 17 from a public charity society; 05 from local governments; 24, from congregations and religious institutions; and 118 private.

Focusing only on those of the INABIF Residential Shelter Centers, we find, in light of the aforementioned report, that as of June 2019 there were 319 children with disabilities (in the total of the shelters of their Protection Services of Boys, Girls and Adolescents - “USPNNA” and the Protection Services Unit for Persons with Disabilities - “USPPD”).²⁸

²⁷ Article 122.- Conclusion of the protection measure and accompanying actions. Once the age of majority is reached, the young person is discharged, through previously planned actions, from the foster family or the reception center. Exceptionally, the young person who has reached the age of majority, can remain in foster care or residential, to optimize the transition to achieve their autonomous and independent life, according to the evaluation of the individual work plan. In the case of people with severe disabilities who reach the age of majority and cannot assume their independent or autonomous life, support is provided through specialized services.

²⁸Ombudsman's Office. Conditions of children deprived of liberty. Special Reports Series No. 03-2019-DP-DMNPT. Directorate of the national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment. p. 124. Available at: <https://www.defensoria.gob.pe/wp-content/uploads/2020/01/Informe-Especial-N3-NNA.pdf>

Cuadro 18: NNA entre 0 a 18 años con discapacidad atendidos en CARs del INABIF			
Año	CAR USPNN	CAR USPPD	Totales
2016	196	344	540
2017	179	123	302
2018	185	123	308
2019*	196	123	319

Fuente: Dirección de Políticas de Niñas, Niños y Adolescentes del MIMP.
Elaboración: Mecanismo Nacional de Prevención de la Tortura
(* Información al mes de junio de 2019.

(* "Table 18: Children NNA between 0 to 18 years old with disabilities attended in the Residential Shelter Centers of INABIF

Source: Directorate of Policies for Girls, Boys and Adolescents of the Ministry of Women and Vulnerable Populations.

Preparation: National Mechanism for the Prevention of Torture

(* Information as of June 2019"

Based on a request for information from the NGO Society and Disability- SODIS, Inabif reported that as of February 2021, 115 children with disabilities have been found in 5²⁹ Residential Shelter Centers of the Protection Services Unit Centers for Persons with Disabilities (CAR-USPPD) and 292 adults with disabilities in 6³⁰ of those centers. Among the minors mentioned, only 74 are enrolled in an educational center. It was also reported that from 2015 to February 2021 only one minor with a disability from these centers was adopted.³¹

²⁹ CAR Casa Isabel, CAR Esperanza, CAR Matilde Pérez, CAR San Francisco de Asís, and CAR Temporary Refuge.

³⁰ CAR Matilde Pérez Palacio, CAR Niño Jesús of Prague, CAR Renacer, CAR Sagrada Familia, CAR San Francisco de Asís and CAR Temporary Refuge.

³¹ Information updated to February 28, 2021, obtained through requests for access to information from the NGO Society and Disability - SODIS to Inabif, responded to through Memorandum No. 000253-2021-INABIF / UDIF.

P.13: Niños, niñas y adolescentes con discapacidad que han sido adoptados, 2015-2020, por año y sexo.

Nombre del CAR	Sexo		Total
	H	M	
Total 2015	0	1	1
ESPERANZA	0	0	0
MATILDE PÉREZ PALACIO	0	1	1
SAN FRANCISCO DE ASÍS	0	0	0
Total 2016	0	0	0
ESPERANZA	0	0	0
MATILDE PÉREZ PALACIO	0	0	0
SAN FRANCISCO DE ASÍS	0	0	0
Total 2017	0	0	0
ESPERANZA	0	0	0
MATILDE PÉREZ PALACIO	0	0	0
SAN FRANCISCO DE ASÍS	0	0	0
Total 2018	0	0	0
ESPERANZA	0	0	0
MATILDE PÉREZ PALACIO	0	0	0
SAN FRANCISCO DE ASÍS	0	0	0
Total 2019	0	0	0
ESPERANZA	0	0	0
MATILDE PÉREZ PALACIO	0	0	0
CASA ISABEL	0	0	0
SAN FRANCISCO DE ASÍS	0	0	0
Total 2020	0	0	0
ESPERANZA	0	0	0
MATILDE PÉREZ PALACIO	0	0	0
CASA ISABEL	0	0	0
SAN FRANCISCO DE ASÍS	0	0	0

(*) Children and teenagers with disabilities who have been adopted, 2015-2020, by year and sex.

Despite their name, the Residential Shelter Centers are, in reality, closed institutions in which children are deprived of their liberty in places with great deficiencies. Many girls and boys with disabilities do not receive an education and have no hope of leaving these facilities. In some of the centers there is overpopulation of up to 46%³² according to the aforementioned Ombudsman's Office Report.

³² Source: Supervision of Residential Shelter Centers of Lima and Regions, based on the elaboration of the National Mechanism for the Prevention of Torture. Found on p. 131 of the report CONDITIONS OF GIRLS, BOYS AND ADOLESCENTS DEPRIVED OF FREEDOM, available at: <https://www.defensoria.gob.pe/wp-content/uploads/2020/01/Informe-Especial-N3-NNA.pdf>

The pandemic has shown that institutionalization was a factor that boosted the high rates of infections and deaths, so it is urgent to implement other alternatives that do not increase the risk of populations in vulnerable situations. An investigation carried out by the newspaper La República indicates that adequate measures were not taken to contain the infections. “[...] *the number of people infected in the Residential Shelter Centers dates from mid-May. At that time, the former director explained that there were 69 children and adolescents; 19 people with disabilities and 17 elderly sheltered diagnosed with COVID-19 and added that no resident had been hospitalized.*”³³ On the other hand, the Ombudsman's Office has publicly requested information on the health status of children in these centers, as well as the protection measures employed,³⁴ thus evidencing the concern about health measures because in these, where dozens of Coronavirus infections have been reported among staff and residents according to newspaper reports, although there are no official figures.³⁵

These figures allow us to elucidate that the INABIF Program, in charge of the Ministry of Women and Vulnerable Populations - MIMP, has assumed an institutionalizing role against people with disabilities in childhood, adolescence and even past adulthood on the basis of being in a situation of family vulnerability and not having the capacity to assume an independent life. Based on this, no measures of another nature and less burdensome have been taken at its disposal.³⁶

³³News from the newspaper "La República" [Inabif: COVID-19 infections reported in residential reception center for people with disabilities](https://larepublica.pe/sociedad/2020/09/24/inabif-denuncian-contagios-por-covid-19-en-centro-de-acogida-residencial-para-personas-con-discapacidad-atmp/) (2020)
<https://larepublica.pe/sociedad/2020/09/24/inabif-denuncian-contagios-por-covid-19-en-centro-de-acogida-residencial-para-personas-con-discapacidad-atmp/>

³⁴News of the [Ombudsman Peru](https://www.defensoria.gob.pe/defensoria-del-pueblo-solicita-informacion-del-estado-de-salud-de-ninas-y-ninos-en-centros-de-acogida-residencial/) (2020)
<https://www.defensoria.gob.pe/defensoria-del-pueblo-solicita-informacion-del-estado-de-salud-de-ninas-y-ninos-en-centros-de-acogida-residencial/>

³⁵News from the newspaper "La República" [Coronavirus in Peru: 105 people were diagnosed with COVID-19 in the Inabif centers](https://larepublica.pe/sociedad/2020/05/18/coronavirus-en-peru-105-personas-fueron-diagnosticadas-con-covid-19-en-los-centros-del-inabif/) (2020)
<https://larepublica.pe/sociedad/2020/05/18/coronavirus-en-peru-105-personas-fueron-diagnosticadas-con-covid-19-en-los-centros-del-inabif/>

[More than 10 Inabif shelter children tested positive for COVID-19](https://larepublica.pe/sociedad/2020/05/18/coronavirus-en-peru-105-personas-fueron-diagnosticadas-con-covid-19-en-los-centros-del-inabif/)
[Three minors and 24 older adults from Inabif temporary shelters tested positive for COVID-19](https://larepublica.pe/sociedad/2020/05/18/coronavirus-en-peru-105-personas-fueron-diagnosticadas-con-covid-19-en-los-centros-del-inabif/)

³⁶ In addition to the process of family reintegration and return to the family, the Regulation of Legislative Decree 1297 mentions the following alternative care measures: Article 75.- Family foster care as urgent

It is applied in response to an emergency situation when a girl, boy or adolescent must be immediately separated from their family of origin or lacks parental care, and requires protection in a family environment of security and affection to avoid their institutionalization.

The application of this measure is carried out with an extended family or with a family from the Receiving Families Bank.

Article 78.- Foster care in extended family

It is applied as a priority with the ideal extended family according to the needs of institutionalized children and adolescents.

97.- Permanent foster care

Permanent foster care is promoted when, in the absence of a provision for adequate reintegration of the girl, boy or adolescent in their family of origin, the characteristics and personal wishes of the minor himself or the

The figures show the abysmal difference between girls, boys and adolescents with disabilities; and their non-disabled peers at the time of adoption or community reintegration. From 2015 to February 2020, 09 children and adolescents were placed in their extended or extended family (4 in 2015, 3 in 2016, 1 in 2018, and 1 in 2019) and only 01 adoption was made in 2015.³⁷ While their peers without disabilities who graduated from the Residential Reception Centers for foster care reasons between the years 2015 - 2019 were 469.³⁸ In conclusion, only 1 out of every 47 children who leave a Residential Reception Center is disabled.

P.8: Número de niñas, niños y adolescentes con discapacidad que fueron ubicados en su familia extensa o ampliada por no haber sido viable colocarlos con su familia de origen, por año y sexo.

Nombre del CAR	Sexo		Total
	H	M	
Total 2015	4	0	4
ESPERANZA	0	0	0
MATILDE PÉREZ PALACIO	0	0	0
SAN FRANCISCO DE ASÍS	4	0	4
Total 2016	3	0	3
ESPERANZA	0	0	0
MATILDE PÉREZ PALACIO	0	0	0
SAN FRANCISCO DE ASÍS	3	0	3
Total 2017	0	0	0
ESPERANZA	0	0	0
MATILDE PÉREZ PALACIO	0	0	0
SAN FRANCISCO DE ASÍS	0	0	0
Total 2018	1	0	1
ESPERANZA	0	0	0
MATILDE PÉREZ PALACIO	0	0	0
SAN FRANCISCO DE ASÍS	1	0	1
Total 2019	1	0	1
ESPERANZA	1	0	1
MATILDE PÉREZ PALACIO	0	0	0
CASA ISABEL	0	0	0
SAN FRANCISCO DE ASÍS	0	0	0
Total 2020	0	0	0
ESPERANZA	0	0	0
MATILDE PÉREZ PALACIO	0	0	0
CASA ISABEL	0	0	0
SAN FRANCISCO DE ASÍS	0	0	0

: assumed

Article 1

separated

: ten (10)

business days.

The Emergency Residential Reception Center has a maximum capacity of care for ten (10) girls, boys and adolescents and they have the obligation to receive them twenty-four (24) hours a day, from Monday to Sunday, including holidays. (...).

³⁷ Information updated to February 28, 2021, obtained through requests for access to information from the NGO Society and Disability - SODIS to Inabif, responded to through Memorandum No. 000253-2021-INABIF / UDIF.

³⁸ Information updated as of December 2019. Received from a request for information from the NGO SODIS to Inabif, answered by MEMORANDUM No. 000959-2021INABIF / UPP. Inabif cites SISCO / EDNE USPNA as a source.

(*) P.8. Number of girls, boys and adolescents with disabilities who were placed in their extended or extended family because it was not feasible to place them in their family of origin, by year and sex.

AÑOS				
2015	2016	2017	2018	2019*
S/D	97	104	84	184

Fuente: SISCO / *EDNE USPNNNA DICIEMBRE 2019

The high exit rate of children and adolescents without disabilities from the Residential Shelter Centers, compared to their peers with disabilities - among whom since 2015 there was only one adopted girl³⁹- makes it presumable that although the legally established measures would address both groups, efforts would not have been intensified to ensure that those with disabilities have alternative measures that seek their integration into the community.

In INABIF there is no deinstitutionalization policy, but on the contrary, the Ministry in charge of the Sector has announced the construction of new Residential Reception Centers for children and the elderly where people with disabilities will as always be overrepresented. A deinstitutionalization policy with a rights approach that promotes the insertion of these people with the community is urgently needed. This would make it possible to overcome this form of discrimination linked to children with disabilities, which in turn affects the right to the family, to live independently, to be included in the community, to education and to health.

Specifically, regarding the right to live independently and to be included in the community, as established in the preamble of the CRC, it is considered that every child must be fully prepared for an independent life in society, which is consistent with the Right enshrined in article 19 of the CRPD to live independently and to be included in the community, without being forced to live according to a specific way of life. It is imperative, therefore, to tend reintegration into the community as a child, since; keeping children in institutional and segregated settings only reinforces the possibility that, when they come of age, the person will not have any alternative

³⁹ Idem

for independent living at their disposal, without even their own social skills to have friends and support.

Meanwhile, health and education, according to the above, are diminished for children with disabilities admitted in Residential Shelter Centers, as they are not effectively cared for while a lifestyle in confinement persists. The dozens of Covid-19 infections reported, such as the incomplete schooling figures, highlight the lack of guarantees that children with disabilities have regarding these rights.

In conclusion we can affirm that a deinstitutionalization policy with a rights approach that promotes the insertion of these people in community life is urgently needed. Children with disabilities have the right to live in a family environment and in a community. Their segregation and isolation in Residential Shelter Centers, where they can spend years of their adult life stigmatizes, marginalizes and encourages the increase in this type of cases.

Questions to the State regarding deinstitutionalization

Please provide information on alternative care measures⁴⁰ adopted by the Ministry of Women and Vulnerable Populations to restore and guarantee the right of children with disabilities who are in Residential Shelter Centers to live in a family in accordance with the obligations contained in the Legislative Decree No. 1297.⁴¹

⁴⁰ The Regulation of Legislative Decree 1297 has as ways:

Article 75.- Foster care with urgent quality

It is applied in response to an emergency situation when a girl, boy or adolescent must be immediately separated from their family of origin or lacks parental care, and requires protection in a family environment of security and affection to avoid their institutionalization.

The application of this measure is carried out with an extended family or with a family from the Banco de Familias Cogedoras.

Article 101.1.- Emergency Residential Reception Center

It provides immediate and transitory attention to girls, boys or adolescents who must be immediately separated from their family of origin and while it is decided which is the most suitable protection measure. It is administered by INABIF or by public and private institutions with which it enters into an agreement.

Admission is made by express request or email from the UPE and the maximum period of stay is ten (10) business days.

The Emergency Residential Reception Center has a maximum capacity of care for ten (10) girls, boys and adolescents and they have the obligation to receive them twenty-four (24) hours a day, from Monday to Sunday, including holidays. They are obliged to provide: care, emotional support, security and guarantees for the physical and emotional integrity of each girl, boy and adolescent during their stay.

⁴¹ eleven. They are functions of the (...) 2 Ministry of Women and Vulnerable Populations (...)

c) Design and implement the foster care service, through which it evaluates, trains, selects foster families and monitors the protection measure for foster care.ar.

f) Coordinate with the Regional Governments, the formulation and implementation of policies and actions in favor of girls, boys and adolescents at risk or without family protection. g) Coordinate with the Ministries of Health, Education, Development and Social Inclusion, Labor and Employment Promotion, the Ministry of Justice and Human Rights, among others, the Public Ministry and the Judiciary to guarantee the rights of girls, boys and adolescents in a situation of family vulnerability, through the implementation or adaptation of services and programs i) Promote positive parenting styles and implement services or actions to strengthen parenting skills.

Please provide information on the measures through which autonomy and the right to independent and community life of children and adults with disabilities are promoted in the Residential Shelter Centers of the Ministry of Women and Vulnerable Populations.

Please inform if the Ministry of Women and Vulnerable Populations has undertaken any action of inspection and supervision of private residential establishments and if these are subject to frequent and permanent inspection to verify the correct provision of educational and health care services.