Reform Bill Proposal to Article 8 of The Federal Law of Cinematography in Mexico

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A proposal was published in the Gazette of the Chamber of Senators on February 9, 2022, to reform Article 8 of the Federal Law of Cinematography, signed by María del Carmen Escudero Fabre together with other members of the PAN Parliamentary Group.

The intention of the proposed bill is to reform Article 8 of the Federal Law of
Cinematography, which may guarantee access to audiovisual material exhibited in movie theaters for people who suffer from some degree of visual disability.

The explanatory memorandum of the proposal states that the General Law for the Inclusion of Persons with Disabilities establishes that the denial of reasonable adjustments constitutes a discriminatory act on the grounds of disability, a provision expressly prohibited in the first article of the Constitution.

It further details that it is necessary to recognize that people who suffer from disability may face difficulties when exercising their rights, such as access to health, work, education, transportation, communications, to culture, tourism, among others, being the responsibility of the State to design a normative framework that allows its access in equitable conditions.

The bill’s author comments that this would be an advancement for Mexicans with some degree of visual impairment, with the understanding that auditory stimuli can be used to compensate for visual ones and build the ideas of the spectators based on them, and that access to educational and recreational material for this group continues to be a challenge under the current legislation.

She continues that for this reason and being aware of the difficulties faced by a person with any type of disability, efforts like this can help reduce barriers found in society, highlighting the importance of adapting places, services, and information, so they are accessible to this sector of the population, ensuring their full inclusion and participation.

The bill proposes that films should be shown to the public in their original version, dubbed and subtitled in Spanish, under the terms established by the Regulations. Those classified for children and educational documentaries must be shown dubbed and always subtitled in Spanish.

This proposal may be unfeasible, since the Federal Law of Cinematography cannot govern by itself in the field corresponding to the Federal Law of Copyright. Forcing audiovisual works in certain categories to be exhibited dubbed, eliminating the possibility of being exhibited in their original language, would constitute a limitations of copyrights, which should be regulated, where appropriate, by the law of the matter, in accordance at all times, to what is established in international treaties that Mexico is a part of.

The protection of copyright and related rights comes from various international treaties considered by the court as human rights treaties, so the proposal would not only constitute a direct violation of the LFDA but of various treaties as well.

The control of conventionality is understood as the tool that allows countries to specify the obligation to guarantee human rights in the internal sphere through the verification of the conformity of national norms and practices with the American Convention on Human Rights and its Jurisprudence. Therefore, the reform to our fundamental law of June 10, 2011 on human rights, orders that the interpretation of the norms related to this subject be carried out in accordance with the Constitution of Mexico and the international treaties that the nation has signed in this matter, observing at all times the pro homine principle.
There are specific treaties that deal with limitations to Author’s Right, such as the Marrakesh Treaty, but what the Legislator intends to reform is not a specific case.

To conclude, this reform would create a direct impediment to access to culture and education, since forcing people to appreciate certain genres of audiovisual productions only in Spanish and not in their original languages, would also create direct harm to those who seek to expand their knowledge and learning of new languages and cultures.

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