**Mexicanas con Discapacidad and Women Enabled International**

**Submission to the CRPD Committee, 26th session, for the Review of Mexico**

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**Mexicanas con Discapacidad** (hereinafter, Mexican Women with Disabilities) works to advance the rights of women with disabilities in Mexico, focusing on gender and disability from an intersectional perspective. Mexican Women with Disabilities is a movement founded on collective collaboration, whose goal is to advocate for both the representation and the rights of women with disabilities in Mexico.

**Women Enabled International** (WEI) advances human rights at the intersection of gender and disability to respond to the lived experiences of women and marginalized genders with disabilities; promote inclusion and participation; and achieve transformative equality.

1. **Introduction**

Mexican Women with Disabilities and Women Enabled International appreciate the opportunity to contribute to the CRPD Committee’s review of Mexico during its 26th session. This submission provides a brief overview of some of the human rights violations women and girls with disabilities face in Mexico and recommendations on how to address those issues.

Women with disabilities represent 53.3% of the total population of persons with disabilities in Mexico. According to the 2020 census from the National Institute of Statistics and Geography (INEGI), about 11 million women in Mexico live with some form of disability.[[1]](#footnote-1) In spite of that, women and girls with disabilities in Mexico are often overlooked in a country where discrimination and inequality are present every day. Women with disabilities are exposed to multiple layers of discrimination, which becomes intersectional based on the different identities they may have, such as their racial or ethnic origin, age, gender and sexuality, socioeconomic status, and migrant status.[[2]](#footnote-2) The intersectional discrimination that women with disabilities face has multiple consequences for their exercise of rights at the intersection of disability and gender.[[3]](#footnote-3)

This submission addresses some of the most concerning human rights violations women and girls with disabilities experience in Mexico, including restrictions on their sexual and reproductive rights, heightened risk of gender-based violence, lack of access to justice, and deprivation of legal capacity, as well as the impact of the COVID-19 pandemic on their exercise of rights. This submission also provides suggested recommendations for the CRPD Committee to consider directing towards Mexico to ensure rights at the intersection of gender and disability are respected, protected, and fulfilled..

1. **Violations of the Rights of Women and Girls with Disabilities in Mexico**

Women with disabilities in Mexico face many forms of intersectional discrimination, based on both gender and disability. The Mexican State has made some progress in addressing these issues, but the current government has regrettably adopted a largely hands-off, charity-based approach towards persons with disabilities. For instance, three years after taking office, the Mexican government has still not appointed anyone to lead the CONADIS (National Council for Persons with Disabilities). The former U.N. Special Rapporteur on the Rights of Persons with Disabilities, Ms. Catalina Devandas Aguilar, while in office, sent a letter urging the government to rectify this, and to not remove this organization or absorb it into the functions of a Ministry, given the risk of the lack of prioritization of persons with disabilities that this would imply.[[4]](#footnote-4)

The State’s failure to prioritize persons with disabilities has led to increased barriers to the full realization of human rights for women and girls with disabilities in Mexico. Those most related to rights at the intersection of disability and gender are described below.

1. **Violations of Sexual and Reproductive Rights (arts. 23 & 25)**

Women with disabilities in Mexico experience significant barriers to exercising their sexual and reproductive health and rights (SRHR), including in accessing sexual and reproductive health (SRH) information, goods, and services and making autonomous decisions about their SRH. For instance, a 2015 report from Disability Rights International and *Colectivo* *Chuhcan* of women with psychosocial disabilities in Mexico (hereinafter 2015 DRI report) documented a wide range of rights violations, including denials of access to maternal health care and essential obstetrical care; lack of accessible information on SRH; sexual, physical and psychological abuse during gynecological visits; forced sterilizations; and forced contraception.[[5]](#footnote-5) Women with disabilities also face financial and physical barriers to accessing SRH services.

In spite of that, the Mexican government has failed to address the needs of women and girls with disabilities in reproductive health policy and interventions. One example of this is the Inter-Institutional Group on Reproductive Health (GISR),[[6]](#footnote-6) which was created to promote the exercise of sexual and reproductive rights in the general population, including persons with disabilities, and includes representatives from institutions of the National Health System.[[7]](#footnote-7) There is, however, no evidence that this group has taken any actions to address the specific needs of persons with disabilities.

* 1. **Violations in the context of Article 23 – Respect for Home and Family**

*Violations of the Right to Marry and Found a Family (art. 23(1)(a))*

Article 23(1)(a) of the CRPD requires that States ensure the right of persons with disabilities to marry and found a family on an equal basis with others.[[8]](#footnote-8) However, women with disabilities in Mexico face many barriers to exercising their rights in this context. They are perceived as being asexual and unable to take on the role of motherhood or be good parents.[[9]](#footnote-9) For instance, according to the 2015 DRI report, “[d]octors in the social security system scolded [a 36-year-old teacher who was Deaf] for getting pregnant, calling her irresponsible for not considering the risk of passing her disability on to her daughter.”[[10]](#footnote-10)

Another important issue at the regulatory level is that civil legislation—especially in several of the federal entities of the Republic—continues to restrict access to marriage for persons with disabilities. On a positive note, recently, the Supreme Court of Mexico found that Article 153 of the Civil Code of the State of Guanajuato—which describes intellectual disability as an impediment to marriage—

is unconstitutional.[[11]](#footnote-11) However, there is still much to be done to ensure that people with disabilities across the country can exercise their full legal capacity and to marry and form a family.

*Violations of the Right to SRH Information, including Comprehensive Sexuality Education (art. 23(1)(b))*

Article 23(1)(b) of the CRPD outlines that persons with disabilities have the right to decide freely on the number and spacing of their children, “and to have access to age-appropriate information, reproductive and family planning education…”[[12]](#footnote-12) In its General Comment No. 4 on the right to inclusive education, the CRPD Committee has specifically found that “[p]ersons with disabilities, on an equal basis with others, must be provided with age-appropriate, comprehensive and inclusive sexuality education, based on scientific evidence and human rights standards, and in accessible formats.”[[13]](#footnote-13)

Children and young persons with disabilities in Mexico, however, are frequently excluded from sex education programs, due to the presumption that they do not need this information. This presumption stems from stigma and the negative stereotype that women with disabilities are “asexual.” In addition, information on SRH often is not provided in accessible formats, even though this information is essential to avoiding sexual abuse, unwanted pregnancies and sexually transmitted infections.[[14]](#footnote-14)

In the face of these challenges, in March 2020, the Mexican government, through its National Institute for Women (INMUJERES), published a primer on the SRHR of persons with disabilities with the objective to “foster the full enjoyment of human rights of women and men with disabilities, promoting equality from a gender-inclusive perspective.”[[15]](#footnote-15) While initiatives like this one are much needed, they should be incorporated into a strategic and comprehensive sexuality education plan and be launched in a variety of formats, including Easy Read, to ensure accessibility for women and girls with disabilities.

*Violations of the Right to Retain Fertility (art. 23(1)(c))*

Under Article 23(1)(c) of the CRPD, persons with disabilities, including children, have the right to “retain their fertility on an equal basis with others.”[[16]](#footnote-16) In this context, the CRPD Committee has repeatedly and consistently recommended that States abolish or amend laws and directives that allow for forced reproductive health interventions, including forced sterilization, without the informed consent of persons with disabilities, including laws that allow a third party to provide consent for these procedures.[[17]](#footnote-17)

Concerning Mexico in particular, the CEDAW Committee, the Committee on the Rights of the Child, and the CRPD Committee have all expressed concern that women and girls with disabilities are subject to forced and coerced sterilization in Mexico.[[18]](#footnote-18) In its 2014 review of Mexico, the CRPD Committee specifically recommended that Mexico: “launch administrative and criminal investigations into the judicial and health authorities and institutions that recommend, authorize or perform forced sterilizations on girls, adolescents and women with disabilities and to guarantee access to justice and reparation for victims.”[[19]](#footnote-19)

Despite these recommendations, forced sterilization against women and girls with disabilities persists, with limited legal redress. There is no statistical data that offers a complete understanding of the prevalence of cases of forced sterilization of women with disabilities in Mexico. The General Directorate of Health Information (DGIS) —a unit of the Ministry of Health— has a database of the number of injuries and causes of violence, but it does not containcases of forced sterilization, as this type of violence is not included in the Mexican law regarding violence, even though forced sterilization is considered a crime according to Mexican legislation. .[[20]](#footnote-20)

Having this statistical information is critical to understanding the extent of this rights violation and devising appropriate legal and policy responses and, in spite of the lack of data on forced sterilization,, the 2015 DRI report on women with psychosocial disabilities gives some idea of the prevalence of this practice. This report revealed that 50% of surveyed women with psychosocial disabilities reported receiving a recommendation for sterilization, 42% had been sterilized, and 6% had a surgery—likely sterilization—without knowing what it was. Others (55%) reported facing strong pressure not to have children.[[21]](#footnote-21)

We have not been able to identify any investigations into or reparations for victims of forced sterilization in Mexico since 2014. On the contrary, the Transparency Portal—which documents trials and lawsuits on cases brought before different judicial and other entities in the country[[22]](#footnote-22)—contains no registered cases related to forced sterilization.[[23]](#footnote-23) The lack of confirmed cases on this issue may also be illustrative of the significant barriers that women with disabilities face in accessing justice, which will be explored in more detail below.

In February 2018, a group of deputies brought an initiative before the Chamber of Deputies with the goal of reforming the General Law for the Inclusion of Persons with Disabilities, the General Health Law, and the Federal Criminal Code to address the issue of forced sterilization. This law reform sought to: (1) include the concept of “forced sterilization” in the General Law for the Inclusion of Persons with Disabilities; (2) amend the General Health Law “to authorize the Ministry of Health to design, implement, supervise, and evaluate programs that provide medical care and information to this sector of the population, specifically on the matter of forced sterilization, to create a campaign not only of punishment but of prevention”; and (3) “categorize the forced sterilization of girls, adolescents and women with some type of disability as a crime” in the Federal Criminal Code. However, no evidence was found in the Federal Official Gazette that this initiative achieved its goal of reforming the abovementioned laws. .

* 1. **Violations in the Context of Article 25 – The Right to Health**

The CRPD requires that States “provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of SRH and population-based public health programmes.”[[24]](#footnote-24) Likewise, it sets out that State parties “require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care.”[[25]](#footnote-25) The CRPD Committee has recommended that States ensure the accessibility of health facilities, equipment, information (provided in accessible formats), and communications regarding sexual and reproductive healthcare, including by ensuring a gender perspective and by collaborating with organizations of women with disabilities.[[26]](#footnote-26) It has classified the denial of these accommodations as a form of discrimination.[[27]](#footnote-27) The Committee has further specifically recommended that States provide training to health personnel on the rights of persons with disabilities in the context of SRH.[[28]](#footnote-28)

In 2014, the CRPD Committee expressed concern to Mexico over “the restrictions on the rights of women with disabilities to safely accessing SRH services and the pressure on them to undergo an abortion when they become pregnant.”[[29]](#footnote-29) Four years later, in 2018, the CEDAW Committee similarly noted with concern the “limited access to reproductive health services, in particular for women and girls with mental and other disabilities” in Mexico.[[30]](#footnote-30)

Mexico continues to fall short on its obligations to ensure that women with disabilities receive quality SRH care. The population census of 2010 indicated 85.2% of women with disabilities in Mexico were affiliated with a healthcare institution and therefore in theory have access to healthcare.[[31]](#footnote-31) However, Deputy General Directorate of Gender Equality has acknowledged that (1) there is a lack of information on the SRH of women with disabilities; (2) women with disabilities face limitations on their right to freely exercise their sexuality; and (3) that families and others have controlled the reproduction of women with disabilities with the aim of preventing pregnancy,[[32]](#footnote-32) including through forced sterilization as noted above.

For instance, women with disabilities in Mexico have insufficient access to information about contraception, and some receive contraception without their full, free and informed consent. According to the 2015 DRI report on women with psychosocial disabilities in Mexico, “For every one in two women that had been prescribed contraceptives, their family, a doctor, or a psychiatric institution made the decision.”[[33]](#footnote-33) In addition, the report found that “[w]omen with disabilities who are institutionalized are more likely to be prescribed long-acting, injectable contraceptives and are usually excluded from the decision-making process.DRI has documented this practice in institutions in Mexico, where there are high rates of sexual abuse, especially against women.”[[34]](#footnote-34)

Furthermore, prejudices and lack of training mean that health service providers do not offer women with disabilities adequate information on contraceptive methods or prevention of sexually transmitted infections.[[35]](#footnote-35) Likewise, in the 2015 DRI report on women with psychosocial disabilities, 29% reported having received a medication without knowledge of its purpose, and 68% of women with psychosocial disabilities who had been prescribed contraceptives “were not informed about alternatives or side effects.”[[36]](#footnote-36)

*Recommendations to Mexico on Violations of Sexual and Reproductive Rights of Women with Disabilities:*

* **Collect official yearly data disaggregated** by gender, age, type of disability, type of SRHR violation, among other factors, **about the violations committed against the SRHR of women with disabilities**.
* **Develop accessible mechanisms and procedures to ensure that women with disabilities whose sexual and reproductive rights have been violated can file a complaint with the competent authorities**, in a safe environment.
* **Implement official training programs for professionals in the public and private health sectors, on the reproductive and sexual rights of women with disabilities,** including on respecting their preferences and on debunking myths and stereotypes that have a negative impact on women with disabilities.
* **Design, implement and assess an official sex education program that is inclusive of and accessible to women and girls with disabilities**, so that they receive quality information about their reproductive and sexual rights, and related information.
* **Ensure that perpetrators of forced sterilization of women with disabilities, whether a health professional, caregiver or family member**, are sanctioned through the judicial system.

1. **Gender based Violence against Women and Girls with Disabilities**

Gender-based violence is an issue of significant national concern in Mexico. A report published by INEGI on the International Day for the Elimination of Violence against Women in 2017 indicated that approximately 66% of women over the age of 15 in Mexico have faced violence of some kind, at least once in their lives.[[37]](#footnote-37)

In this context, it is particularly worrying that the State has collected so little data on the specific situation of violence against women with disabilities. Women with disabilities often face unique forms of gender-based violence and abuse due to stigma and discrimination around disability, such as violence perpetrated by caregivers, withholding of medication or assistive devices, deliberate neglect of care, denial of basic needs such as food, access to the toilet, toiletries or hygiene supplies, control of sensory devices, financial control, restriction of the use of communication devices, among others.[[38]](#footnote-38) Despite recommendations to Mexico to periodically compile data on gender-based violence disaggregated by disability,[[39]](#footnote-39) to this day, there is little statistical information that clearly shows the situation of violence against women with disabilities in the country. According to Human Rights Watch in 2020, Mexico's government data collection on family violence against women does not disaggregate data based on disabilities.[[40]](#footnote-40)

One source of government-provided data on gender-based violence provides insufficient information on the prevalence of the issue. DGIS database includes data from 2014 to 2017, as well as preliminary figures for the period from 2018 until February 2019.[[41]](#footnote-41) Figures for 2018 show 1,680 cases of injury to women with disabilities, of which: 2.1% are associated with violence by abandonment or neglect, 3.0% with economic violence, 15.4% with physical violence, 26.0% with psychological violence and 10.4% with sexual violence. The information made available by the DGIS to the general public does not include details on the type of disability in relevant cases and only provides a limited picture of the situation of violence against women with disabilities, as it includes only those instances of violence that resulted in injuries that were treated in public health facilities.[[42]](#footnote-42)

Nonetheless, it is clear from other sources that violence against women with disabilities is prevalent in Mexico. A 2020 survey conducted by the Interdisciplinary Center of Childhood and Parenthood Rights (CIDIP) in Mexico City found that 72% of women with disabilities had experienced gender-based violence. Of the respondents, only 39% claimed that they knew about the institutions that protect them from violence in Mexico City, and only 11% reported asking for help or protection on a gender-based violence government institution.[[43]](#footnote-43) Furthermore, in an informal survey carried out byMexican Women with Disabilities, out of 22 civil society organizations in Mexico that provide services to persons with disabilities, 61.9% of the respondents reported at least one case of violence against women with disabilities. Regarding the types of violence, the most common was economic violence with 40.9%, followed by psychological violence with 36.3%, domestic violence with 31.8%, sexual violence with 27.2%, and violence from doctors with 4.54%.[[44]](#footnote-44)

In addition, available data on sexual violence indicates that, in recent years, the country has seen a worrying increase in sexual violence as a proportion of the total number of injuries to women with disabilities (6.4%, 7.6%, and 10.4% in 2016, 2017 and 2018, respectively).[[45]](#footnote-45) To this we must add the prejudices and stigma that exist in Mexican society about reporting all types of violence, which leads to significant underreporting, as will be discussed in further detail on the section regarding access to justice.

In spite of this concerning situation, the government has insufficient policies in place to address issues of violence against women with disabilities. In 2018, Mexican Women with Disabilitiessubmitted an information request to National Institute for Access to Information to learn about the government’s policies regarding violence against women with disabilities. The Mexican Ministry of Health replied that there were two primary national policies in this regard. The first policy cited was the Official Mexican Standards NOM-046-SSA2-2005, “Domestic and sexual violence, and violence against women. Criteria for prevention and care,”[[46]](#footnote-46) for health care professionals. However, its application is of a general nature and does not address the specific needs of women with disabilities. The second policy referenced by the Ministry of Health was NOM-015-SSA3-2012, “a regulation for the comprehensive care of persons with disabilities,”[[47]](#footnote-47) which seeks to establish the criteria that regulate the way in which comprehensive medical services are provided to persons with disabilities as patients. Nonetheless, this regulation makes no reference to how to respond to situations of violence against persons with disabilities in healthcare settings.

*Recommendations to Mexico on Gender based Violence against Women and Girls with Disabilities:*

* Within the framework of the General Law on Women's Right to a Life Free of Violence and following the recommendations issued to the Senate’s Gender Equality Commission, **develop an official, accessible mechanism with inbuilt procedures to ensure women with disabilities who have experienced violence can file a lawsuit** with the competent authorities, in a safe environment.
* **Develop an official instrument for collecting data on gender-based violence and disaggregate it by gender, age, type of disability, type of violence, among other factors,** going beyond the injuries reported through the National Health System.
* **Develop a focused strategy for the prevention of violence against women with disabilities**, as well as for the creation of accessible mechanisms to care for women with disabilities who have experienced violence.
* **Develop key indicators to use in the country’s next census to understand the situation of women and girls with disabilities** and better assess intersectional discrimination, violence, exploitation and abuse, and femicide.

1. **Limited Access to Justice for Violence against Women with Disabilities in Mexico**

Women with disabilities face significant barriers to accessing justice in Mexico. A demonstration of that is reflected in the CEDAW Committee's 2018 review of Mexico, in which the Committee expressed concern about the "[f]inancial, linguistic and geographic barriers to gaining access to justice faced by low-income, rural and indigenous women and women with disabilities."[[48]](#footnote-48) Besides the financial, linguistic, and geographic barriers when accessing justice, women with disabilities also experience accessibility barriers and a lack of reasonable and procedural accommodation throughout judicial proceedings, which hinders their legal protection.[[49]](#footnote-49)

Many women with disabilities in Mexico do not even have a chance to file a complaint or report a crime. According to a 2020 Human Rights Watch report, persons with disabilities who are victims of family violence can face serious barriers when accessing justice in Mexico. In many cases, they are isolated, confined, and forced to depend on their families economically and for support in basic needs, as well as for transportation and other services. That leaves them with little opportunity to contact individuals outside of the home, let alone report violence.[[50]](#footnote-50)

In addition, many gender-based violence cases are not reported because there is a generalized perception that they will not be addressed appropriately and that the judicial agencies are unreliable. For instance, the World Justice Project's 2018 survey found that women in Mexico sought help from the police less frequently than men, which reflected the low level of confidence in the authorities.[[51]](#footnote-51) Similarly, the 2021 INEGI National Survey on Victimization and Perceptions about Public Safety highlighted that in 2020 , only 10.1 % of crimes were reported to a judicial body, and in 60 .7 % of the cases, the reason behind not reporting a crime was attributable to distrust in authority.[[52]](#footnote-52)

Furthermore, interviews with prosecutors and experts involved in the training of law enforcement officials on disability rights in Mexico revealed that many prosecutors have limited understanding of the scope and nature of procedural accommodations for people with disabilities during proceedings, as guaranteed under the criminal procedure code. Some officials emphasized that sign language interpreters were used as a reasonable accommodation in their work with those who experienced violence, but they were not familiar with other types of accommodations, such as pictograms and Easy Read, and had difficulty describing accommodations available for them to implement.[[53]](#footnote-53) This discrimination is deepened for women with disabilities, who can be revictimized and stigmatized when reporting gender-based violence or during a trial.[[54]](#footnote-54)

Moreover, gender and disability biases can affect the weight given to women's testimony and the impartiality of justice system actors, influencing how the police, the judiciary, and the public perceive women with disabilities, particularly women with intellectual or psychosocial disabilities, as being less credible witnesses.[[55]](#footnote-55) According to one expert providing training to prosecutors in multiple states in Mexico, prosecutors regularly question the person with disabilities' ability to participate in proceedings.[[56]](#footnote-56)

In view of the above, the CEDAW Committee recommended that Mexico "[e]nsure[s] that information on legal remedies is available to women who are victims of gender-based violence and all forms of discrimination, including in indigenous languages and in formats accessible to women with disabilities, and introduce a system of mobile courts and free legal aid aimed at facilitating access to justice for women living in rural and remote areas."[[57]](#footnote-57)

It is important to highlight that, in December 2020, the Chamber of Deputies approved a series of reforms to the General Law on Women's Right to a Life Free of Violence. However, these reforms failed to incorporate the necessary measures to extend the protections provided for in the law to women with disabilities. In this context, in February 2021, a group of human rights organizations[[58]](#footnote-58) presented the Commission for Gender Equality of the Senate with a set of recommendations to ensure that provisions on accommodations for women with disabilities were included in the bill so that all women, including those with disabilities, can lead a life free of violence. Some of these recommendations were included in the bill that was sent to the Senate, but after review, it was returned to the Chamber of Deputies, where it remains at the time of this submission.

*Recommendations to Mexico on Access to Justice*

The bill presented to the Senate included seven key points relating to the right to access to justice for women and girls with disabilities, especially related to gender-based violence, which we suggest being considered as recommendations to Mexico on access to justice:

* Ensure that models to prevent, address and punish violence against women are inclusive of women with disabilities, with a special focus on justice centers for women and gender-based violence shelters.
* Ensure reasonable and procedural accommodations to guarantee the inclusion of women with disabilities in the access to justice.
* Ensure that centers for justice and shelters for women are accessible to those with disabilities. Such accessibility must include communication in Mexican Sign Language.
* Establish the obligation to conduct visits to care homes, public or private institutions where there are women with disabilities when there is credible information that they might be experiencing violence.
* Ensure the active participation of organizations of women with disabilities in the implementation and assessment of policies to address violence against women.
* Uphold the principle of intersectionality and incorporating a disability perspective in all laws.

1. **Deprivation of Legal Capacity and Its Impact on the Rights of Women and Girls with Disabilities**

Legal capacity is necessary for ensuring that all persons are able to participate equally in society. However, women with disabilities are often deprived of their right to legal capacity under substituted decision-making regimes.[[59]](#footnote-59) This impacts the exercise of a range of rights for women and girls with disabilities as distinct from men with disabilities, including their right to bodily autonomy in the context of SRH, as well as their right to access justice in the context of gender-based violence.[[60]](#footnote-60)

In Mexico, at the time of this submission, the legal capacity of women with disabilities—and of persons with disabilities at large—is at risk. The government has put forward an initiative to create a National Code for Family and Civil Procedures. Article 480 of this bill allows the person with a disability to request supported decision-making, but it also allows others to do so for them without the consent of the person in question.[[61]](#footnote-61) Furthermore, Article 483 establishes that a person requesting supportive decision making be subject to a medical evaluation, the results of which condition this person’s ability to appoint a supporter of their own choosing. If, following the examination, the person is deemed unfit to choose a supporter of their own, then a judge will be authorized to make a selection for them without their consent.[[62]](#footnote-62)

This melds the notions of supported decision-making—mechanisms with various support options to facilitate an individual’s ability to make their own decisions about life—with substitute decision-making—systems that designate someone other than person with a disability to make decisions about their life.

As rightly pointed out in an open letter to the chair of the Justice Commission of the Mexican Senate by Human Rights Watch with other organizations and human rights defenders,[[63]](#footnote-63) the National Code for Civil and Family procedures fails to provide support to persons with disabilities, instead depriving people of their right to exercise legal capacity. In other words, as currently drafted, this bill violates Mexico’s human rights obligations, in particular Article 12(2) of the CRPD, which establishes that “States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life,”[[64]](#footnote-64) as well as the country’s court rulings, which declare substitute decision-making as unconstitutional.[[65]](#footnote-65)

*Recommendations to Mexico on Legal Capacity and Its Impact on the Rights of Women and Girls with Disabilities:*

* **Abolish systems of guardianship and ensure supported decision-making** for persons with disabilities, including in the context of SRH and in the justice system.
* **Consult women with disabilities** to inform the drafting of a civil procedure code that ensures the adequate provision of supported decision-making mechanisms so they can exercise their full legal capacity and participate equally in society.
* **Design and implement programs and trainings focused on the rights and the legal capacity of women with disabilities**, directed both to the women themselves and also their families and support systems.

**E. Discrimination and Stereotypes Concerning Women with Disabilities**

In Mexico, there is a situation of general discrimination towards women with disabilities, accompanied by a lack of specific measures implemented by the Mexican government to address the needs of women with disabilities. According to data from the National Survey on Discrimination (ENADIS), 58.3% of persons

with disabilities have, at some point, been discriminated against due to their disability, but only less than 35% of the population in Mexico believe that the rights of persons with disabilities are not respected.[[66]](#footnote-66)

Further data on discrimination against women with disabilities is reported in a study by the National Council for the Prevention of Discrimination (CONAPRED), which focused on discrimination against persons with intellectual disabilities. This study carried out a survey on stigmatizing situations; for instance, treating persons with intellectual disabilities as if they were children. The study indicates that there are more women with intellectual disabilities who have experienced stigmatizing situations as compared to men with disabilities, finding that “while 30.7% of women with disabilities interviewed reported having experienced 4 or more acts of stigmatization, 24% of men [with disabilities] reported the same.”[[67]](#footnote-67)

With regard to the legal framework, some progress has been made but specific measures are lacking. On a positive note, discrimination on grounds of “gender” and “disability” is prohibited under Article 1 of the Political Constitution of the United Mexican States (hereinafter, CPEUM).[[68]](#footnote-68) Similarly, the Federal Act on the Prevention and Elimination of Discrimination protects persons with disabilities—with specific mention of women with disabilities—against discrimination. Article 4, paragraph 4, of the Act states that: “it will be a priority for the Public Administration to adopt measures of affirmative action towards those persons with disabilities who suffer a greater degree of discrimination, such as women.”[[69]](#footnote-69)

However, in practice, such measures of affirmative action towards women with disabilities do not exist or are yet to be adopted. This points to Mexico’s failure to take action towards addressing this Committee’s 2014 Concluding Observations to Mexico, about “the lack of specific assistance measures implemented by the State Party to prevent and combat intersectional discrimination against women and girls with disabilities, and the lack of information in this regard.”[[70]](#footnote-70)

Even where measures do exist, information about these initiatives is not publicly available. For instance, throughout Mexico, women with disabilities in some indigenous communities are subjected to discrimination and negative stereotypes that do not allow their full inclusion and development, frequently resulting in their exclusion and marginalization from the community, work, family and school. Accordingly, the National Council for the Development and Inclusion of Persons with Disabilities, through its National Program 2014-2018, developed strategies, such as Strategy 1.6, on the inclusion of persons with disabilities, including in rural and indigenous areas. Nonetheless, data on how these strategies are being implemented is not available.[[71]](#footnote-71)

*Recommendations to Mexico on discrimination against women and girls with disabilities:*

* **Repeal all laws that directly or indirectly discriminate against persons with disabilities**, including women and girls with disabilities.
* **Collect disaggregated data** related to the effective participation of persons with disabilities in society (work and employment, education, access to health, access to justice, etc.) by gender, age, type of disability and other factors, and analyze the data accordingly.

1. **Discrimination in Education against Women and girls with Disabilities**

Although data on the right to education based on both gender and disability is scarce, persons with disabilities in Mexico face violations of their right to education, which has a direct impact on their quality of life. There is currently no national-level inclusive education plan for students with disabilities in Mexico, and inclusion of persons with disabilities in mainstream education has been limited. According to the Secretariat of Social Development’s (SEDESOL’s) 2018 Report on the Results of Poverty Measurement, between 2014 and 2016 there was a reduction of educational inclusion for persons with disabilities from 51% to 48.7%; at the same time, the population of persons with disabilities who experienced educational lag increased by 4% (from 3.9 to 4.3 million).[[72]](#footnote-72) This data is not disaggregated by sex and does not indicate how many of these people are girls and women with disabilities.

For girls and young women with disabilities in Mexico, however, the situation seems to be even worse. Despite having the same rights to education as others, female students with disabilities are the most excluded educational settings in both early and higher education in Mexico. According to a 2014 census on disability in the country, 25,5% of women with disabilities have no access to education, in comparison to 20,9% of men with disabilities and 4% of women without disabilities. A similar pattern is observed in higher education, in which 5,7% of women with disabilities have completed higher education, whereas 8% of men with disabilities and 20,4% of women without disabilities have finished it.[[73]](#footnote-73)

In CEDAW’s concluding observations to Mexico in 2018, the Committee welcomed the General Act on the Rights of Girls, Boys and Adolescents (2014), which includes provisions on equal rights to education.[[74]](#footnote-74) The Act includes references to universal design, reasonable accommodation, inclusion and establishes the obligation of collecting and analyzing data on education disaggregated by sex, age, years of educations and disability.[[75]](#footnote-75)

The CEDAW Committee also called attention to the “persistence of structural barriers to access for women and girls to high-quality education […] due to limited budgetary allocations in some states, poor school infrastructure, a shortage of teaching materials and a lack of qualified teachers”.[[76]](#footnote-76) For women and girls with disabilities, such barriers can be deepened, due to intersectional discrimination on the grounds of disability and gender, lack of accessibility and reasonable accommodations, lack of knowledge of inclusive education and the needs of students with disabilities, among other factors.[[77]](#footnote-77) Likewise, the same Committee expressed its concern about the inadequate and inconsistent application of curricula on SRHR across Mexico,[[78]](#footnote-78) which can have serious consequences to women with disabilities’ exercise of their SRHR, as described in the section on SRHR above.

In March 2019, the National Institute for the Evaluation of Education published a document entitled “Reference framework for the evaluation of educational attention to diversity: students with disabilities,” which is focused on how to evaluate educational programs to ensure they are inclusive of persons with disabilities. However, due to political adjustments within the federal government, there is no strategy in place to assist persons with disabilities in Mexico and, therefore, there is no educational strategy or plan where this reference framework can be implemented, leading to uncertainty over whether this Institute will continue its work.

*Recommendations to Mexico on inclusive education:*

* **Ensure the laws regarding education include a disability and gender perspective**, ensuring accessibility, reasonable accommodations, and that girls and women with disabilities have access to quality education in the same condition as others.
* **Collect disaggregated data** related to education by gender, age, type of disability and other factors, and analyze the data accordingly.
* Implement mechanisms to **evaluate the educational system** to ensure it is inclusive of disability.
* **Ensure the educational system abides by the CRPD**, ensuring inclusive education instead of being based on a segregated model.

1. **The Impact of the COVID-19 Pandemic on the Rights of Women and Girls with Disabilities**

The COVID-19 crisis has had a significant impact on persons with disabilities in Mexico, and in some cases, a disproportionate impact on women and girls with disabilities. Despite the fact that data about the pandemic is disaggregated by gender, there is no reliable data on how many persons with disabilities have become ill or died from COVID-19, making it hard to know the real impact of the pandemic itself on this group.

The government’s response to the pandemic also has had a significant impact on persons with disabilities, including women and girls with disabilities. In the early days of the COVID-19 crisis, Women Enabled International conducted a global survey on the impact of COVID-19 and government responses to the pandemic on women and gender non-conforming persons with disabilities, to which 18 people from Mexico responded.[[79]](#footnote-79) Survey respondents from Mexico expressed particular concern about the state of the healthcare system in Mexico, which had been overloaded even before the COVID-19 pandemic.[[80]](#footnote-80) Some respondents indicated that they were worried about stories and rumors about persons with disabilities being deprioritized for treatment in healthcare settings.[[81]](#footnote-81) Others reported that their usual medical appointments to address issues related to their impairments had been canceled or pushed back, or that they were unable to access to their usual medications due to rationing.[[82]](#footnote-82) These concerns had an impact on both the physical and mental health of women with disabilities in the early days of the COVID-19 crisis.

As the crisis has continued, the human rights issues encountered by persons with disabilities in Mexico have continued to mount. A 2020 survey “Disability in times of COVID-19” from the organization Yo también (Me Too), which included more than 2,200 participants,[[83]](#footnote-83) revealed additional and significant human rights issues:

* Women with disabilities (45% of the surveyed population) reported more situations of discrimination in terms of accessibility (29%), health services (27%), education (17%) and work (15%).
* Of the survey participants who reported that they had experienced violence, most said they had experienced psychological violence (63%).
* 61% reported that the pandemic had generated extra costs for them.
* 38% reported having to interrupt a medical treatment relevant to their health.

Many women with disabilities in Mexico are institutionalized, which means that they live in psychiatric and social institutions, shelters, foundations, orphanages, among other places. According to data from the Gender Observatory and COVID-19 in Mexico, these living arrangements face a greater risk of contagion, due to the lack of hygiene, sanitation and separation between people.[[84]](#footnote-84) Furthermore, even before the pandemic, women and girls with disabilities in institutions faced increased risks of sexual abuse and violations of their sexual and reproductive rights, as well as deprivation of legal capacity. The COVID-19 crisis may have deepened these issues, as fewer people could visit and monitor these institutions, and the programs targeted at ensuring rights for incarcerated persons during the pandemic have not had a gender and disability perspective.

The government's main strategy has only been a program for the provision of pensions to persons with disabilities, which already existed before the pandemic. The allocation of pensions has certain requirements and does not include institutionalized persons with disabilities, nor does it consider empowerment or equalization measures for women with disabilities.

As a good practice, the organization CIDIP published the mobile application Morada (Housing), with accessible information on violence and disability, in order to facilitate reporting and access to services in case of violence.

*Recommendations to Mexico on the response to the COVID-19 pandemic:*

* **Implement support programs for the population with disabilities to address the aggravated consequences of the pandemic, considering specific measures for women with disabilities** regarding economic empowerment, access to health services, SRHR and information in accessible formats, as well as measures for those living in institutions.
* **Record and disaggregate pandemic statistics**, indicating the population with disabilities who have become ill or died from COVID-19, indicating variables such as type of disability and gender, among others.
* **Include women and girls with disabilities, as well as their representative organizations, in the response to COVID-19** and the process of building back from the pandemic, and further include this group in the preparation for and response to future crises.

**Conclusions**

Women and girls with disabilities in Mexico face unique forms of discrimination, violence and abuse, as well as significant barriers to access information, education, justice and SRH services. Mexico does not have a strategic plan in place to ensure the rights of women with disabilities and to overcome the intersectional discrimination they face.

In order to change this reality, the rights of persons with disabilities should be included in the human rights agenda promoted by the Mexican government and should not be approached solely as a matter of social welfare policy, which results in the absence of a strategic development plan for persons with disabilities and the failure to respect basic human rights. In particular, the government must prioritize the inclusion of women with disabilities in the human rights agenda, adopt an intersectional perspective inclusive of gender and disability to ensure the rights of girls and women with disabilities—including their right to be free from violence.

Without this strategic, intersectional vision, Mexico is leaving—and will continue to leave—women and girls with disabilities behind. To move forward as a country, the State must protect, respect and fulfil the rights of all women, including those with disabilities. In particular, Mexico must include women with disabilities in the General Law for the Inclusion of Persons with Disabilities and budget accordingly.

We hope these issues will be addressed by the CRPD Committee during its review of Mexico. Thank you again for the opportunity to contribute to the CRPD Committee’s efforts in this regard.

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4. Billie Parker Noticias, *Preocupa a relatora de la ONU desaparición de CONADIS* (2019), https://billieparkernoticias.com/preocupa-a-relatora-de-la-onu-desaparicion-de-conadis/. [↑](#footnote-ref-4)
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6. GISR, *Grupo Interinstitucional de Salud Reproductiva* (2017), https://www.gob.mx/salud/cnegsr/acciones-y-programas/grupo-interinstitucional-de-salud-reproductiva-girs#:~:text=Su%20objetivo%20es%20coordinar%2C%20concertar,a%20los%20derechos%20sexuales%20y. [↑](#footnote-ref-6)
7. These institutions include, among others, the Department of Health (SSA), the Mexican Institute of Social Security (IMSS), the Institute of Security and Social Services for State Workers (ISSSTE), the National System for Comprehensive Family Development (DIF), and health services of the Department of National Defence (SEDENA), the Ministry of the Navy (SEMAR), and of Petroleos Mexicanos (PEMEX), governmental agencies, and civil society organizations. [↑](#footnote-ref-7)
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12. CRPD, *supra* note 7, art. 23(1)(b). [↑](#footnote-ref-12)
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17. *See, e.g.*, CRPD Committee, Concluding Observations: United Arab Emirates, ¶ 33, U.N. Doc. CRPD/C/ARE/CO/1 (2016); Italy, ¶ 64, U.N. Doc. CRPD/C/ITA/CO/1 (2016); Colombia, ¶ 47, U.N. Doc. CRPD/C/COL/CO/1 (2016); Turkmenistan, ¶ 32, U.N. Doc. CRPD/C/TKM/CO/1 (2015); Concluding Observations; Mongolia, ¶ 28, U.N. Doc. CRPD/C/MNG/CO/1 (2015); Germany, ¶ 38, U.N. Doc. CRPD/C/DEU/CO/1 (2015); Czech Republic, ¶ 36, U.N. Doc. CRPD/C/CZE/CO/1 (2015); Croatia, ¶ 27, U.N. Doc. CRPD/C/HRV/CO/1 (2015); Cook Islands, ¶ 36, U.N. Doc. CRPD/C/COK/CO/1 (2015); Kenya, ¶ 34, U.N. Doc. CRPD/C/KEN/CO/1 (2015); New Zealand, ¶ 38, U.N. Doc. CRPD/C/NZL/CO/1 (2014); Ecuador, ¶ 41, U.N. Doc. CRPD/C/ECU/CO/1 (2014); Australia, ¶ 40, U.N. Doc. CRPD/C/AUS/CO/1 (2012); Peru, ¶ 34, U.N. Doc. CRPD/C/PER/CO/1 (2012); Spain, ¶ 38, U.N. Doc. CRPD/C/ESP/CO/1 (2011). [↑](#footnote-ref-17)
18. CRPD Committee, *Concluding Observations: Mexico*, ¶ 37, U.N. Doc. CRPD/C/MEX/CO/1 (2014); CEDAW Committee, *Concluding Observations: Mexico*, ¶ 41.f; CRC Committee, *Concluding Observations: Mexico*, ¶ 45, U.N. Doc. CRC/C/MEX/CO/4-5 (2015) [hereinafter CRC Committee, *Concluding Observations: Mexic*o]. [↑](#footnote-ref-18)
19. CRPD Committee, *Concluding Observations: Mexico*, ¶ 37, U.N. Doc. CRPD/C/MEX/CO/1 (2014). [↑](#footnote-ref-19)
20. The current categories of violence measured in the DGIS are: economic violence, violence through abandonment/neglect, physical violence, psychological violence, one-off instances of violence, and sexual violence. [↑](#footnote-ref-20)
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22. Such entities include the Council of the Federal Judiciary, the Attorney General’s Office, the National Council for the Prevention of Discrimination, and the National Human Rights Commission. [↑](#footnote-ref-22)
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    [↑](#footnote-ref-28)
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