

**CEDAW Committee**  
**70th Session**  
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**Mexico's 9th Periodic Report**

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Distinguished Members of the Committee:

Mexico's General Law on the Rights of Children and Adolescents (LGNNA), which entered into effect in 2014, stipulates the legal minimum age for marriage at 18 years. Shortly after the law was passed, the majority of state legislatures standardized their civil codes with the federal law. Many state legislatures went even further and eliminated exceptions<sup>1</sup> to this age limit that were previously allowed. Currently, of the 32 Mexican states, only five permit exceptions on justified grounds. Among these states, the majority do not allow exceptions to be granted to individuals under the age of 16 and establish that judicial authorities are responsible for granting these exceptions.<sup>2</sup> The National System for the Comprehensive Protection of Girls, Boys and Adolescents (SIPINNA) and United Nations agencies have praised the absolute prohibition of adolescent marriage in Mexico as an advance in the protection of human rights in the country. GIRE believes that absolute prohibition of marriage is not an effective mechanism for protecting the rights of adolescents, particularly young women.

The elimination of these exceptions has been framed as a response to international and national campaigns seeking to increase the legal minimum age for marriage, and in some cases, prohibit any exception whatsoever to this rule. The most common arguments for the application of prohibitive legislation are the following:

- 1) Young women marry much older men, which constitutes a form of violence that must be avoided;
- 2) these marriages cause significant increases in school dropout rates, and
- 3) there is a relationship between marriage and growing rates of adolescent pregnancy.

However, the reality in Mexico differs significantly from that of other regions commonly used as examples to support these types of initiatives. National data indicate that the situation in Mexico is notably different from other regions of the world where underage marriage is common and these dynamics must be taken into account when it comes to arguing for prohibitive legislative measures that could have unexpected and unintended outcomes.

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<sup>1</sup> Translation of the legal term *dispensa* in Spanish: A *dispensa* is an "exception" to a law granted by a judge or other authority under the Mexican legal system. In this case, an exception allows a marriage to occur when it normally would be prohibited.

<sup>2</sup> For a comprehensive account of Mexico's legal framework regarding underage marriage, national statistics and GIRE's perspective on the issue, see the report *Prohibition without Protection: Adolescent Marriage in Mexico* at: [matrimonio-adolescente.gire.org.mx](http://matrimonio-adolescente.gire.org.mx).

Firstly, formal marriage among minors in Mexico is an uncommon phenomenon that diminishes each year, and age differences between spouses when one of them is a minor are not that large. From 1993 to present, the average age difference between partners has been only three years. In 2015, for example, the most common age combination for married minors was 17 years old for the female partner and 20 for the male partner. In general, age differences within couples are not very significant in Mexico and have tended to diminish over time.

Secondly, the commonly ascribed relationship between adolescent pregnancy, school dropout rates and marriage does not reflect the situation in Mexico, nor the potential comprehensive solutions that can be implemented to address these phenomena. On the one hand, evidence shows that the primary cause for young people dropping out of school is not marriage, but rather a lack of resources. On the other hand, data show that the majority of pregnant adolescent girls are not married, which raises the question of whether the absolute prohibition of adolescent marriage would have a significant effect on the plan to reduce pregnancies within this population group. To address both issues, other multifaceted measures should be adopted, such as preventing violence, promoting access to contraceptives and safe and legal abortion, and addressing youth poverty in general.

Thirdly, restricting adolescents' ability to marry not only ignores their progressive autonomy, but it hinders their access to marriage-related rights that could grant them increased protection in certain circumstances. In Mexico, the legal concept of marriage permits access to important benefits, including, social security, immigration and tax related issues, among others. Totally banning access to marriage without considering exceptional cases in which permitting a formal union is reasonable and justified disregards the cognitive development, evolving capacities and maturity of young people exercising their rights to autonomously decide to formally unite and live with their partners.

Unfortunately, the research employed by both governmental institutions and international organizations to justify this prohibition has been conflated, by combining data on informal unions with numbers on actual civil marriages. The lack of separation between populations makes it impossible to establish causal relationships between marriage and phenomena such as poverty, teenage pregnancy, and school desertion. Understanding both populations' behavior is essential to developing policies that are effective for guaranteeing young people's rights, especially girls, and to avoiding the absolute prohibition of adolescent marriage as a solution to address problems identified among young people who are not actually married.

The Mexican State has the obligation to find the ideal manner in which to protect young people, without undermining their autonomy. Ultimately, the absolute ban on adolescent marriage does not address the concerns that in theory it seeks to resolve and can create potential conflicts, placing young women in a worse situation than they would be if exceptions were permitted. While it is positive that state civil codes have been harmonized to establish the minimum age for marriage at 18 years, the possibility of exceptions should be recognized and maintained (where they are already considered), with the purpose of guaranteeing adolescents' rights. Furthermore, we hope that, when discussing Unconstitutionality Claim 22/2016 regarding the absolute prohibition of marriage for minors in the state of Aguascalientes, the Mexican Supreme Court can contribute to establishing clear criteria that guides judicial authorities on circumstances that would merit the



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granting of an exception, protecting adolescents from abusive scenarios and asymmetrical power relations. This entails, among other things, guaranteeing that the exceptions system be granted by a judicial authority, who is better equipped to analyze these types of cases in accordance with human rights criteria.

Sincerely,

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