



MEXICO

Shadow Report to the Committee on the Elimination of Racial Discrimination
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Submitted by

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Executive Summary

It is an honor to inform the Committee on the Elimination of Racial Discrimination (“Committee”) that **Educación contra el racismo, A.C. (also known as “RacismoMX”)** is a civil society organization that seeks to make visible, denounce, and open the conversation on the impact of racism on the historically discriminated population in Mexico and Latin America, such as indigenous, Afro-descendant, racialized migrants, and brown/dark skinned people. We work on communication strategies, education, research, and legal counseling, along with private and public institutions, from an anti-racist, human rights, and intersectional perspective.

Our main interest is to contribute with this shadow report to the Committee, so as to build the final observations to the Mexico Periodic Reports 22nd to 24th periods combined. The Report provides selected research and analysis focusing on Mexican laws, regulations, policies, and practices that subject indigenous, Afro-descendant, racialized migrants, and brown/dark skinned people to racially discriminatory treatment in violation of the International Convention on the Elimination of All Forms of Racial Discrimination (“Convention”), especially on the following topics (a) the impact of racism on racialized people, regardless of their ethnic backgrounds; (b) the importance of the Constitutional recognition of the category “race”; (c) racial profiling as a generalized discriminatory practice; and (d) the negative impact of the crime typification of racial discrimination; (e) environmental racism due to climate change; and (f) racist hate speech. We thank the Committee for the opportunity to share this information and its consideration of the actions we recommend to address these serious violations

Context on Mexican Racism

1. We consider the historical context very important so the Committee can understand how Mexican racism works and which elements are characteristic of it, so as to correctly assess the current situation of its impact in Mexico.
2. Historically, Mexican society has denied the existence of racism because we have been taught that Mexico is a “mestizo” country, and consequently, all Mexicans are equal. Also, we have ended up believing that racism is exclusive to the United States of America or that it affects only the Afro-descendant people.

The mestizo ideology: the core of Mexican racism

3. Mexican racism is supported by the official racial project known as the “mestizaje” (exclusively the miscegenation of indigenous and Spanish), which has been established by the Mexican State since the 19th century and promoted by its educational system until today, causing that indigenous, native, African, and other identities to be erased or ignored.
4. Historians like Fe Navarrete¹ have analyzed the Mexican mestizo identity, first as a caste in the Colonial ages and then as a whitening project, and have concluded that this narrative –far from being inclusive or equalizer– allows to hide the social inequalities caused by “racialization”

processes, as well as exclude all the groups that are not indigenous nor Spanish from the idea of “Mexicanity” (such as the numerous African people present in the country since the Colonial ages). Therefore, mestizaje is a tricky dynamic that pushes people to leave their Indigenous/Afro identity behind and look to constantly “whiten” oneself. That is why the most common motto in Mexican families, especially said to women, daughters and grand-daughters, is to “marry someone whiter in order to ‘improve the race’”.

5. The mestizo ideology hid the oppression that the whiter population (commonly from European descendant) executes over the indigenous and Afro-descendant ones and generated the illusion of “whitening”, not only biological but also social and cultural, leaving with no option to people but to adopt only one idea of country, which is essentially European; and penalizing them –through marginalization, discrimination, and exclusion– if they decide to stick to their Indigenous identities, traditions, beliefs, and political organization systems, or even if they decide to leave their indigenous past but still cannot be white or mestizo enough.

The racialized person

6. We want to inform the Committee that we are aware that, historically, many groups worldwide –regardless of their phenotype– have been discriminated against and racialized like the Rom, the Jewish, or the Arabic populations. However, given the Mexican history and oppression of specific groups, throughout this report we are going to refer to “racialized” people in Mexico specifically to indigenous, Afro-descendant, and brown/dark skinned people. This last group does not identify with any ethnicity or probably adopts the “mestizo” category, but certainly it shares phenotype and experiences with the first two groups, and it constitutes the huge majority of the Mexican population (more than 80% of Mexican population are brown skinned people according to the Mexican National Institute of Geography and Statistics [INEGI]²).

Impact of racism on brown-dark skinned people without any ethnic identity

7. According to the efforts that the Mexican State has done to recognize the existence and magnitude of racism in Mexico, we point out that those actions have been limited because they only include groups of population such as indigenous and Afro-descendant. In Mexico, only 19.4% of the population identifies as indigenous, 6% speak an indigenous language, and 2% identify as Afro-descendant³.

8. However, the National Discrimination Surveys, in 2017 and 2022^{4,5}, besides considering the self-identification of Indigenous and Afro-descendancy, it also contemplates skin tone as a variable related to discrimination. Both surveys showed that 89.8% of the total population has brown or dark skin tones⁶ and that the darker the skin tone is, the worse people perform in education, labor market, and wages. We point out to the Committee that this is a fact that it must consider when talking about racism in Mexico.

9. These results found by the INEGI were confirmed by other studies issued by private think tanks. For instance, the Project of Ethnic-Racial Discrimination in Mexico (PRODER) published by The

College of Mexico showed that there is a close relation between a person's skin tone and their socioeconomic origins, i.e. the people with darker skin tones come from the 20% poorest families in Mexico, whilst the people with the whiter skin tones dominate amongst the 20% richest families⁷.

10. Moreover, according to the research titled *Por mi raza hablará la desigualdad* (By my race, the inequality shall speak)⁸, Oxfam concluded that skin tone and ethnic origin altogether are factors related with people's social destiny, such as economic and educational level. The report showed that 35% of the people with brown/dark skin have experienced racism and discrimination, while whiter skinned people belong to the wealthier families. Also, the report found that upward social mobility of brown and dark skinned people is smaller than that of white people.

11. Therefore, this big majority of the country's population is prone to experience racism and racial discrimination as well, due to its phenotypic appearance even when they do not identify as indigenous or Afro-descendant. The fact that they do not identify with any ethnicity does not imply that they do not experience racism. In fact, they lack an ethnic identity due to the mestizo ideology and the erasure of their indigenous past.

12. In summary, it has been proven that brown/dark skin tone also is an statistically significant indicator, being one of the reasons rights, services, and opportunities are denied to racialized people. We invite the Committee to consider that in Mexico, racism also has an impact on people without any ethnic identity but that have brown/dark skin tone.

Racism in the public agenda 2019-2023

13. In 2015, the book "Pigmentocracies, Ethnicity, Race, and Color in Latin America"⁹, from the Project of Ethnicity and Race in Latin America (PERLA), was published and it raised the interest of many other think tanks and research centers on how the racialized phenotype –regardless of people's ethnic identity– is related to other variables such as education level, job access, economic mobility, etc. Many studies followed such as the 2017 Intergenerational Social Mobility Module (ISMM) by the INEGI¹⁰, *Por mi raza hablará la desigualdad* (By my race, inequality shall speak) by Oxfam in 2019¹¹ and the 2019 PRODER survey¹². All of them concluded the same thing: indigenous, Afro-descendant and brown/dark skinned people occupy the lowest positions in society, earn less income, and access less rights due to racism. These results generated a lot of public conversations and controversies, opening the debate about race in Mexican society, especially in the urban middle-upper classes. Generally, white Mexicans from right-wing ideology questioned and denied their results.

14. In 2020, in the midst of the pandemic, the murder of George Floyd reopened the conversation about Mexican racism. At that time, the National Council for the Prevention of Discrimination (CONAPRED) organized an online debate titled "¿Racism in Mexico?" (between question marks) and it invited several public figures such as Tenoch Huerta –a renowned actor that raised his voice against racism in the movie industry– and Chumel Torres, a white comedian that became famous for his racist, classist, and homophobic jokes. He is also known for his constant mockery against the President of Mexico's youngest son (who is racialized). Immediately, through social media, civil

society claimed CONAPRED why it had invited one of the most racist comedians to talk about whether or not there is racism in Mexico. Also, the President's wife tweeted her disappointment of this invitation by CONAPRED. The pressure was so big that CONAPRED had to cancel the event and its Director had to resign. This caused the President of Mexico not to appoint a Director for almost two years and that CONAPRED lost his efficiency and impact.

15. It is important that CERD knows that Tenoch Huerta (Wakanda Forever, 2022) and Maya Zapata (Bordertown, 2006), two of the actors invited to CONAPRED's event, after its cancellation, contacted our organization and asked us to organize a similar event with the same invited people. We agreed to carry out the event but with a different approach (not questioning the existence of racism in Mexico, of course). We invited expert voices like the Historian Fe Navarrete, the Afro-Mexican activist Jumko Ogata, and our organization's director, José A. Aguilar Contreras. It was the most attended online event during the pandemic, with 25,000 people connected simultaneously and almost one million people watched it, increasing the conversation of racism in Mexico¹³.

16. In 2021, Tenoch Huerta and Maya Zapata gathered a group of actors who created the movement "Poder Prieto" (Brown Power) with the objective of talking about racism in the advertisement and entertainment industry in Mexico, where most of the leading roles, models, and positions are occupied by white Mexicans¹⁴. "Prieto" is a Spanish word that is used in Mexico that refers to "brown skinned" or "black" and historically it has been used to degrade racialized people. Since celebrities were part of the movement, Poder Prieto became very well-known in the public scene, and thanks to it, people started claiming their "prieto". identity. The movement was involved in many controversies that led to its ending; however, its legacy is a society that got involved in the conversation about racism, inequalities, and an acceptance of Mexico's racialized identity.

17. Finally, we would like to communicate to the Committee that in the period of 2019-2024 many organizations that fight against racism and discrimination were born. Some of them from the indigenous perspective, others from the Afro-descendant, Afro-Mexican, and black perspective, and others from the brown and dark skinned people that try to vindicate the "prieto" identity as well as the anti-racist narrative. This group of organizations have done an interesting job to increase racial literacy in the Mexican population, creating stronger reactions when a public figure, celebrity, or journalist replicate racist narratives.

Statistics

What we have and what we lack

18. As stated earlier, the INEGI has incorporated some variables related to the ethnic and racial composition of the Mexican population into the Census. For instance, in 2020, the Census showed us that today in Mexico there are 23.2 million people that identify as themselves as indigenous (19.4% of the population), and that there are 7.1 million people that speak some indigenous languages (6%), 2.5 million people that identify as Afro-descendant (2%)¹⁵.

19. Also, we know that several economic and employment surveys include these variables: Indigenous, Afro-descendant, and Indigenous languages speakers¹⁶.

20. Also, since the National Discrimination Survey in 2017 and then in 2022, we know that more than 80% of the Mexican population has brown and dark skin tones¹⁷, and that they –regardless of their ethnic identity– are the people that occupy the lower positions in society, i.e, the less qualified job positions, the lowest wages, and bigger probability to live racial discrimination and racism¹⁸.

21. However, we point out to the Committee that we need more information on the racial and ethnic composition on different other surveys and data bases. For example, we need to know how many indigenous, Afro-descendant, and brown-dark skinned people are being prosecuted for a crime in the judicial systems, as well as knowing how many people of these racialized populations are imprisoned. This would be very helpful to prove or disprove the hypothesis that the judicial system criminalizes racialized people more than it does on white people.

22. We inform the Committee that the Observatory of Racism in Mexico and Central America¹⁹, coordinated by our organization, showed that several administration of justice institutions refuse to gather data related to the ethnic and racial composition of accused or prosecuted people, arguing that that action is “an act of racism”.

23. In this regard, we consider necessary that such institutions, as well as the INEGI, adopt an ethnic and racial approach on the following censuses and surveys: (a) National Public Security Census, (b) the National State Public Security Census, (c) the National Census of Federal Justice Prosecution, (d) National Census of State Government, Public Security and Penitentiary System, (f) National Census of the Federal Penitentiary System, and (g) National Survey of Victimization and Perception of Public Safety.

24. Although these censuses and surveys include data related to groups in situations of vulnerability, they lack an approach that allows us to glimpse the consequences of racism on the victims of the crime. For instance, gathering such ethnic and racial information on disappeared/unlocated people would demonstrate the greatest impact on racialized people of the security crisis in Mexico.

25. Also, we inform the Committee that the National Registry of Disappeared and Unlocated Persons, coordinated by the National Search Commission, fails to gather data related to ethnic and racial composition of disappeared/unlocated people. At the same time, the Protection Mechanism for Human Rights Defenders and Journalists disregards in its monthly reports the ethnic and racial approach, in spite of the fact that the article 23, *f* II, of the Law for the Protection of Human Rights Defenders and Journalists, demand for the gathering and systematization of disaggregated information on attacks.

26. Regarding environmental racism, we raise the attention of the Committee that the INEGI does not develop censuses that include informal settlements, and therefore, they are not included neither in the public policies nor in the public services like water, sewage, or street lighting. Thanks to several studies, we are aware that such informal settlements are inhabited mainly by racialized

communities, indigenous people, migrants, and displaced persons from the countryside to the cities. The Supreme Court of Justice, through the *amparo* (direct protection) 365/2019²⁰, determined that failing to gather information from these populations generate multiple vulnerabilities and it ordered the INEGI to create a census that includes those informal settlements. Later, the district judge considered the sentence fulfilled, however the people litigating the case consider that the compliance is incomplete and not enough data has been generated in relation to informal settlements.

27. Finally, regarding public security and justice administration, the police agents in the three levels of government have the mandate of filling the document known as the *Informe Policial Homologado* (Approved Police Report) in which they register the actions in the place of intervention, and it must describe the facts, the conducted interviews, general data, and the detailed information of the detentions. However, the document does not gather other information beyond sex or gender of the persons involved, a fact that limits the knowledge of how racialized people take part in the facts, and in cases where police do gather this information, data is neither gathered nor systematized for the purpose of generating public policy. We respectfully ask the Committee to speak out regarding the lack of data that makes racism invisible in the crime prevention and attention policy.

Article 4

Acknowledgement of the suspect classification of “race”

28. Considering the CERD’s request to the Mexican State, related to ensure the incorporation of all the elements of the Article 1 of the ICERD in its laws, RacismoMX notes that in the paragraph 12 of the State report, Mexico affirms that “The Federal Act on the Prevention and Elimination of Discrimination is currently undergoing a major reform process to strengthen the regulatory and institutional framework in compliance with the obligations arising from the ratification of international and regional human rights treaties”.

29. However, we point out that this reform on the Federal Act on the Prevention and Elimination of Discrimination has a limited impact on the rest of the Mexican Legal System (it is just a reform on a specific Act) and, therefore, keeps Mexico without complying with the incorporation and harmonization with Article 1 of the ICERD.

30. During the 2001 constitutional reforms, the Congress introduced the prohibition of discrimination in the Mexican Constitution. At that moment, the only suspect classifications acknowledged, related to racism, were the “ethnic or national origins”. Later, in 2006, the Congress also introduced the classification of “social condition”.

31. Not even with the 2011 constitutional reform related to Human Rights, the Mexican State included clearly and explicitly the classifications that are commonly used to discriminate against racialized people in Mexico, such as the “skin tone”, “phenotype”, or even less, “race”.

32. We point out that the suspect classifications of discrimination of “ethnic or national origins” and “social condition”, acknowledged in the Mexican Constitution, are insufficient to prevent or eradicate racial discrimination in Mexico, because as we mentioned earlier, due to the mestizo ideology, most of the population in Mexico has racialized phenotype, but does not identify with any of the recognized ethnic identities (indigenous or Afro-descendant).

33. We emphasize that the omission of including “race” in the Constitution as a suspect classification of discrimination makes racism more difficult to combat, especially in the legal arena, because people who do not identify with the recognized ethnic identities do not have a “suspect classification” on which to rely in case of a judicial case.

34. RacismoMX²¹ emphasizes the need to demand the Mexican State the constitutional recognition of the category of “race” as a suspect classification, taking into account that 15 out of 32 States already consider “race” in their constitutions, as explained in paragraph 247 of the Mexico’s report. We cannot fight against racism just by simply avoiding mentioning the word “race”.

Article 5

Negative Impact of Criminalizing Racial Discrimination: other forms of justice

35. We know that the CERD, through different statements, has requested from the international community, including Mexico, to classify the crime of racial discrimination. In fact, in the Final Observations, the CERD requested Mexico to make a law reform to its Penal Code to include the crime of racial discrimination.

36. With all due respect to the Committee, we point out that racism must be recognized in other legal areas, and preferably not in the penal area. It must be faced from different spheres, including the administrative one.

37. According to the National Survey on Victimization and Perception of Public Safety 2022²², municipal and state police inspire only 31% to 58% of trust in the Mexican population. Considering this, we manifest our concern for the increasingly “punitive populism”; i.e., a political and legislative tendency to grow the criminalization from the State, in order to generate a false safety climate without attending the structural impunity nationwide.

38. It must be considered that the Mexican penal system is racialized, i.e. there is a bigger proportion of darker skinned people (most probably indigenous or Afro-descendant) incarcerated than that of whiter skin. In other words, while trying to protect racialized people, the indirect effects of this punitive perspective will end up criminalizing them.

39. Mexico practices the increasing of punishments, but does not explore other administrative options that could establish the base of public policy that really change the structure and eradicate racism.

40. According to the minimum criminal law theory²³, RacismoMX supports the idea that the least intervention from punitive powers of the State to ensure Human Rights, the better. We rather bet on restorative justice and social pedagogies as better solutions for eradicating racism, creating historical reparation, and promoting social justice. For this reason, we believe that institutions like CONAPRED, that treat cases through a quasi judicial perspective, are better to solve racial discrimination.

41. However, regarding paragraph 247 of the Mexican Report, although there are anti-discriminatory laws by city, state or municipality, not all Mexican States have Councils to prevent or eradicate discrimination. This situation leaves most of the Mexican population without a local institution that understands the local contexts and that feels close to the people. Mexicans that live in a State without a Council need to look for the National Council CONAPRED that is not necessarily fast and accurate in its attention.

42. As mentioned in paragraph 13 of this report, CONAPRED organized an online event related to racism that was canceled. At that moment, the Mexican President disqualified the work of CONAPRED and said that its existence was not positive for the population²⁴. This situation caused the Council's president to resign. Since this incident, the Mexican government failed to appoint a president for two years, resulting in an extreme weakening of this important institution.

43. In fact, since July 24th, 2018, the CONAPRED has completely abolished its procedure for the treatment of complaints, leaving Mexican people in helplessness and without legal certainty, in the face of racial discrimination acts.

44. Regarding paragraph 23 of the List of Topics, we add that CONAPRED informed our organization (**Annex 1**) that it only had 5 complaints of racial discrimination from 2018 to January 2024 (3 of them against individuals and 2 against public officers). Also, the council recognized that it did not issue any ruling or resolution for racial discrimination in the last six years. From our point of view, and knowing the situation of racism in the country, this is an indicator that people that experience racial discrimination may not trust institutions like CONAPRED.

45. During the period between 2023 and 2024, RacismoMX has presented three complaints for racial discrimination before CONAPRED. Two of them related to racial profiling practices, in which the Council did not recognize those racist actions despite the evidence offered that proved the opposite. In one of the cases, the Mexico City's Council to Eradicate and Prevent Discrimination, COPRED, took the case and admitted that there was a racial profiling act and resolved it on the conciliation stage of the case.

46. The other complaint we presented was against Samuel García, current governor of the State of Nuevo León in Northern Mexico, who stated that: "I am going to buy Mariel (her daughter) boots and hats, no huipiles (indigenous dresses from Southern Mexico) Long live the North!"²⁵ referring to the idea that clothing from indigenous peoples are inferior to those of the more westernized and whitened north. The National Council did not consider our complaint without any arguments.

Indigenous peoples and communities

Environmental racism and forced displacement

47. In relation to the internal displacement of racialized communities, we note that one of the factors influencing forced mobility is the environmental racism present in the measures taken in the face of events related to climate change or environmental degradation. “Environmental racism” refers to the disproportionate burden of ecological degradation and climate change experienced by indigenous, Afro-descendant, black and brown communities, while white communities may suffer less from the impacts of climate change and the deterioration of their immediate environment.

48. Under this premise, environmental racism is related to cultural racism, when traditional ways of relating to the environment are considered inferior or outdated, and above all, because they are practiced by racialized communities; and it is also related to institutional racism when the State fails to consider that these populations are not a priority because they are marginalized and poor. Also, environmental racism is materialized when actions are taken against climate change, but from a Western, Euro-centered logic and without taking into consideration the particular ways in which communities face climate events or the specificities of their geographies. In this vein, many neoliberal development projects proposed as "climate solutions" deny indigenous peoples' solutions while proposing technocratic extractivist projects that only exacerbate rights violations and climate migration.

49. As a result, and in addition to structural inequalities, racialized sacrifice zones are created, located in the front line of climate impacts. Thus, the options for the people who live there are reduced to the decision to remain and survive the effects of climate change or to be forcibly displaced, either within or across borders. The latter, in a context of human mobility in the Latin American region also marked by violence and racial discrimination.

50. One example is the case of the community of El Bosque, Tabasco, Mexico, a fishing community located between the Grijalva River and the Gulf of Mexico. By 2023, sea level rise has caused the collapse of 26 houses, schools and churches, leaving 56 people and 26 children homeless²⁶. Marine intrusion is a slow onset effect of climate change and is embedded in a climate policy that does not provide specific adaptation measures for racialized communities. Responses tend to be responsive to these events and are not displacement-preventive.

51. In addition, Decree 226 issued by the executive branch of the State of Tabasco in February 2024, implemented relocation measures for the El Bosque community and recognized the abandonment of their territory due to climate change. However, it is important to note that the State did not recognize their status as climate displaced persons.

52. It is possible to observe in other contexts of marine intrusion as in the case of the coast of the Yucatan Peninsula, where inhabitants with economic power or foreigners from the Global North implement technologies as adaptation measures to prevent their properties from collapsing due to

sea level rise. These measures are not implemented by governments and depend on the privileges that the communities hold²⁷.

53. We urge the Committee to demand the Mexican State to include a differentiated approach in the adoption of mitigation measures and in the climate change adaptation, guaranteeing consultation to racialized affected communities in the sacrifice or environmental vulnerability zones. Moreover, it is important to include preventing measures to avoid displacement on the climate change policies and include the participation of the communities in the relocation measures.

Non-citizens: refugees, displaced persons, migrants, asylum-seekers and stateless persons

Racial profiling

54. The CERD requested information about the adopted measures by Mexico to ensure the compliance of the non-discrimination principle of migrant people, as well as measures to prevent all kinds of abuse and excessive use of force against migrants, especially related with racial profiling.

55. The Federal Public Administration (FPA) answered in the paragraphs 27, 67, 68, 69 and 260 of its reports that the migratory duties of the National Institute of Migration (NIM) and the participation of the National Guard (NG) do not infringe the right of free movement and non-discrimination. Also, the Mexican State considered sufficient the publication of the “Guide to Prevent Racial Profiling Practices” and the implementation of a micro-workshop about racial discrimination that only 13 people took nationwide.

56. We point out to the Committee that racial profiling continues to be a generalized practice done by the NIM and the NG, as the CERD noted on the Final Observations of the Period Informs 18th to 21th of Mexico in paragraph 35. The continuity and worsening of the racial profiling, affecting migrants and Mexicans equally, are proved by the Observatory of Racism in Mexico and Central America, coordinated by our organization RacismoMX, in its report *Como me ven, me tratan: perfilamiento racial en la migración* (As they see me, they treat me: racial profiling in migration)²⁸.

57. Also, we inform the Committee that the Mexican Migration Law –reformed on April 29th 2022– although it included the prohibition of discrimination in its articles 2, 6, 7, 67 and 109, does not consider the explicit prohibition of the racial profiling. The only official definition of racial profiling comes from the CONAPRED in its “Practical Guide for the prevention of racial profiling practices”²⁹. Although this document represents good input, it is insufficient to tackle the problem from the State judicial bases, because racial profiling is not acknowledged by the Congress. In other words –following the General Recommendation 35 of CERD– Mexico has to legally acknowledge the existence of racial profiling so as to prevent and eradicate it.

58. At the moment, the Federal Judicial Power has known several cases of racial profiling executed against racialized people, both nationals and foreigners. We point out that –for these reasons– the Supreme Court of Justice considered the Articles 97 and 98 of the Migration Law to be

unconstitutional for their disproportionate impact upon the non-discrimination and free movement rights³⁰.

59. However, at the time we present this shadow report, the Federal Legislative Power has been reluctant to derogate such articles, in spite of the fact that they constitute indirect racial discrimination, in terms of the 32nd General Recommendation of the CERD, as well as in terms of the Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance (CIRDI).

60. Also, from the articles analyzed, the Committee has to take into account the Article 17 of the Migration Law³¹ that states:

«Only the migration authorities could retain the identity or migratory documentation of the migrant persons when there exist elements to assume they are apocryphal, in which case, they must notify the corresponding authorities so that they can resolve what is necessary.»

The laxity of Article 17 allows the authorities to overreach in their duties. Such an article results in a form of indirect discrimination because it allows the stigmatization of some populations based on their skin tone, appearance, language, accent, phenotype, and other racial or ethnic markers.

61. We raise to the Committee's attention that Mexico, in its 36th General Recommendation, breaches its obligation to review its policies, laws, and regulations in order to avoid racial profiling. It also has not actively adopted measures to eliminate discrimination through laws, policies, and institutions, that lead to the elaboration of racial profiles and ensure that public institutions do not practice racial profiling, as stated in Article 5 of the ICERD.

62. Finally, in relation to paragraph 19 of the List of Topics, we inform the Committee that the Haitian migrant community experiences a worrying increase of their human rights violations around the country, especially in the southern Mexican border³².

Article 7

Combat racist hate speech

63. Regarding paragraph 28 of the List of Topics, we inform the Committee that in Mexico there exists a concerning spread of stigmatizing and racial hatred narratives on public and social media, sometimes issued by the Mexican State itself, and others by private companies backed by the government.

64. It is constant the homage that the Mexican State gives to several symbols and characters related to the process of colonization, and even when they are related with genocidal events. Such is the case with the Montejo's Monument in Mérida, Yucatán, Mexico, who founded the city. Also, in Mexico City with the statue of Christopher Columbus, or in other places around the nation.

65. As we pointed out in our report “Símbolo de odio racista: Monumento a Los Montejo” (Racist hatred symbol: The Montejo’s Memorial) by RacismoMX and Kanan DDHH³³, monuments are related with political, economic, and religious powers that use collective memory to hold inequality and power imbalances.

66. In April 2023, a law reform to the local Penal Code was proposed in Mexico City that aims at consider racist hate speech the exhibition, distribution, and promotion of symbols or actions that constitute –or have constituted– genocide, such as the nazi swastika³⁴. In that case, we consider that a similar reform could be done for symbols related to the Conquest of Mexico and the indigenous genocide that the Mexican territory went through from the 16th century.

67. There are numerous legal foundations, national and international, that support this possible law reform. For example, the Mexican Supreme Court of Justice considers that there are symbols and other racist narratives –besides the written ones– that can be considered “hate speech”. In its “amparo” (protection) 4865/2018, the Supreme Court considers that a tattoo of a nazi swastika is a symbol of hate speech, and therefore, promotes hate towards the Jewish community³⁵.

68. Additionally, at an international level, the International Covenant on Civil and Political Rights, with the adhesion of Mexico on March 24th, 1981, states in its Article 20 that all apology to national, racial or religious hate that constitutes invitation to discrimination, hostility, or violence is forbidden by law³⁶.

69. Our asseverations are supported by paragraph 7 of the 35th General Recommendation of the CERD, which states that racist hate speech can adopt multiple shapes and it is not limited to exclusively racial slurs. As in the case of discrimination referred to by Article 1st of the CERD, the speech used to attack ethnic or racial groups could utilize an indirect language to cover its real goals.

70. In conclusion, we respectfully recommend the Committee to consider the legal regulation of the colonizers’ monuments and symbols that are celebrated today, but hide a genocidal past which keeps on communicating an indirect hate speech towards indigenous, Afro-Mexican, or racialized groups affected historically. Especially because one of the Committee’s objectives is to promote the eradication of racist hate speeches, including the indirect ones.

Recommendations

CERD Article 2(2) requires that State Parties, “when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms.” This shadow report demonstrates that the circumstances “so warrant” Mexico to take the following measures regarding indigenous, Afro-descendant, migrants, and brown/dark skinned people:

1. Include the racial and ethnic composition (indigenous, Afro-descendant, and skin tone) on other surveys and databases like the the (a) National Public Security Census, (b) the National State Public Security Census, (c) the National Census of Federal Justice Prosecution, (d) National Census of State Government, Public Security and Penitentiary System, (f) National Census of the Federal Penitentiary System, and (g) National Survey of Victimization and Perception of Public Safety, and also (h) National Registry of Disappeared and Unlocated Persons; (i) the Protection Mechanism for Human Rights Defenders and Journalists; (j) Information about informal settlements where most racialized people live; and finally (k) Systematize information about public security and justice administration, like in the *Informe Policial Homologado* (Approved Police Report).
2. Recognize in the Mexican Constitution the category of “race” as another suspect classification for discrimination. This, in order to support public policies or actions to combat racism and racial discrimination, beyond indigenous or Afro-descendant, and protect other racialized populations that do not have a defined ethnic identity, which are the majority of the Mexican population.
3. Consider combating racial discrimination outside the penal area, because it will end up criminalizing other racialized people, because it ignores the inefficiency of the Mexican Justice System, the internalized racism within the Mexican population, and the backlash of this “punitive populism”. It would be better to face it from other spheres, like the quasi jurisdictional, with CONAPRED or COPRED in Mexico City.
4. To derogate Articles 97 and 98 of the Migration Law which allow authorities to practice racial profiling affecting migrants and nationals. These articles have been considered unconstitutional by the Supreme Court of Justice and therefore the Congress has the obligation to overrule them.
5. Consider the legal regulation of the colonizers’ monuments and symbols that celebrate colonization and indirectly communicate racist hate speech towards indigenous, Afro-Mexican, or racialized groups affected historically.

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Annex 1



GOBERNACIÓN
SECRETARÍA DE GOBERNACIÓN



CONAPRED
CONSEJO NACIONAL PARA PREVENIR
LA DISCRIMINACIÓN

Dirección de Asuntos Jurídicos
Unidad de Transparencia

Oficio No. CONAPRED/UETAI/069/2024

Asunto: Atención a solicitud de Información Ciudadana No. 330011324000032

Ciudad de México 27 de febrero de 2024

C. OTTO CUAUHTÉMOC CASTILLO GONZÁLEZ
PRESENTE

Me permito hacer referencia a la solicitud de información con folio número 330011324000032; que al respecto señala lo siguiente:

“...Favor de información sobre (1) el número de expedientes de queja por discriminación racial abiertas de 2018 a enero de 2024; y (2) el número de Resoluciones por disposición por discriminación racial emitidas de 2018 a enero de 2024...” [sic]

Al respecto, me permito informar lo siguiente:

En relación con la precitada solicitud de información, se informa que, con fundamento en los artículos 6 párrafo segundo y tercero, apartado A fracción I, II, III, IV, V, y VI de la **Constitución Política de los Estados Unidos Mexicanos**; 133, 134, 135, y 136 de la **Ley Federal de Transparencia y de Acceso a la Información Pública**; y el artículo 5 del **Estatuto Orgánico del Consejo Nacional para Prevenir la Discriminación** se hace de su conocimiento que esta Unidad de Transparencia de este Consejo Nacional para Prevenir la Discriminación, turnó su solicitud a la Unidad Administrativa competente de este Consejo, por lo que se anexa la respuesta siguiente:

Por parte de la Dirección General Adjunta de Quejas, remite el oficio número **CONAPRED/DGAQ/DAOI/SCS/003/2024** de fecha 27 de febrero del presente año; el cual da atención a su solicitud.



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LA DIVERSIDAD

Londres 247, Colonia Juárez, Alcaldía Cuauhtémoc C.P. 06600, CDMX.
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Cabe señalar que LFTAIP establece en su artículo 147 que la persona solicitante podrá interponer, dentro de los 15 días hábiles posteriores a la fecha de la notificación de la respuesta, por sí mismo o a través de la representante, Recurso de Revisión ante el Instituto Nacional de Transparencia, Acceso a la Información y Protección de Datos Personales, en caso de inconformidad con la información proporcionada.

Sin otro particular, hago propicia la oportunidad para enviarle un atento y cordial saludo.

ATENTAMENTE



LIC. TONATIUH FLORES CAMARILLO
DIRECTOR DE ASUNTOS JURÍDICOS Y
TITULAR DE LA UNIDAD DE TRANSPARENCIA



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27 FEB 2024

RECIBIDO
UNIDAD DE TRANSPARENCIA

Para Tjed HORA 11:0

Dirección General Adjunta de Quejas
Dirección de Admisibilidad, Orientación e Información
Oficio No. CONAPRED/DGAQ/DAOI/SCS/003/2024
Asunto: Respuesta a solicitud de información 330011324000032

Ciudad de México a 27 de febrero de 2024

LIC. TONATIUH FLORES CAMARILLO
DIRECTOR DE ASUNTOS JURÍDICOS
Y TITULAR DE LA UNIDAD DE TRANSPARENCIA
DEL CONSEJO NACIONAL PARA PREVENIR LA DISCRIMINACIÓN
PRESENTE.

En atención a su correo electrónico de fecha 22 de febrero de 2024, por medio del cual turnó a la Dirección General Adjunta de Quejas la solicitud de información pública número 330011323000032, en la cual se indicó lo siguiente:

"...Favor de información sobre (1) el número de expedientes de queja por discriminación racial abiertas de 2018 a enero de 2024; y (2) el número de Resoluciones por disposición por discriminación racial emitidas de 2018 a enero de 2024..." [sic]

Al respecto, hago de su conocimiento que del año 2018 al mes de enero de 2024 se tiene registro de 5 quejas calificadas como presuntos actos de discriminación racial, 3 de ellos por actos atribuidos a personas particulares y 2 por actos atribuidos a personas servidoras públicas federales. Asimismo le informo que, en el periodo señalado, no se emitieron Resoluciones por Disposición por discriminación racial.

Sin otro asunto en particular, hago propicia la ocasión para enviar un cordial saludo.

ATENTAMENTE



LIC. LUIS RAÚL ALEJANDRE TORRES
SUBDIRECTOR DE CONTROL Y SEGUIMIENTO

Elaboró: ABCC



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