

**INTERSECTA**

SHADOW REPORT FROM  
**MEXICO**

CERD COMMITTEE | MARCH 2024



# INTERSECTING VIOLENCES **AND** **INEQUALITIES**

SHADOW REPORT FROM MEXICO  
FOR THE CERD COMMITTEE

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## Introduction

Intersecta Organización para la Igualdad, A.C. (Intersecta) submits this Shadow Report for the periodic review of Mexico by the Committee on the Elimination of Racial Discrimination (CERD Committee). The Report provides selected research and analysis focusing on different forms of violences and inequalities in Mexico. Specifically, the Report provides evidence about the prison system; militarization; violence and discrimination in universities and workplaces; fiscal justice; and the overall problem of a lack of adequate data. We thank the Committee for the opportunity to share this information and its consideration of the actions we recommend to address these serious violations.

### 1. The prison system

According to Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, State Parties commit to prohibiting and eradicating racial discrimination in all its manifestations, including discrimination in the prison system. Both national and international voices have called out the fact that the incarcerated population in Mexico has been historically discriminated against. This section is dedicated to pointing out some of the most flagrant forms of discrimination we identify within the prison system in Mexico.

#### 1.1 PRETRIAL DETENTION

The indigenous and afro-descendant / afro-mexican population make up about 3.3% (7,764)<sup>1</sup> and 2.2% (4,780)<sup>2</sup> of the total incarcerated population (232,807) in Mexico —respectively—.<sup>3</sup>

If we take a look at the historical data, we can observe similar patterns between the general and indigenous populations in prisons. The most significant decline for these populations in the last decade took place between 2015 and 2019, when the general incarcerated population decreased by 22%, and the indigenous population by 20%. However, from 2019 to 2023, this trend was reversed. The general incarcerated population increased by 16% in those four years, and the indigenous incarcerated population rose by 12%.

These changes go hand in hand with the proportion of people in pretrial detention. From this perspective, 2014 was the year with the highest proportion of individuals in pretrial detention—in general terms—at 43.2%. In this regard, from 2017 to 2019, the percentage of people in pretrial detention decreased to less than 40% of the prison population. In the case of the indigenous population, although historically there has been a lesser proportion of people in pretrial detention in comparison to the general population, during the last four years this gap has reduced. Data for 2023 shows that there is a difference of less than 2% between these two populations, suggesting an increase in pretrial detentions of indigenous people.

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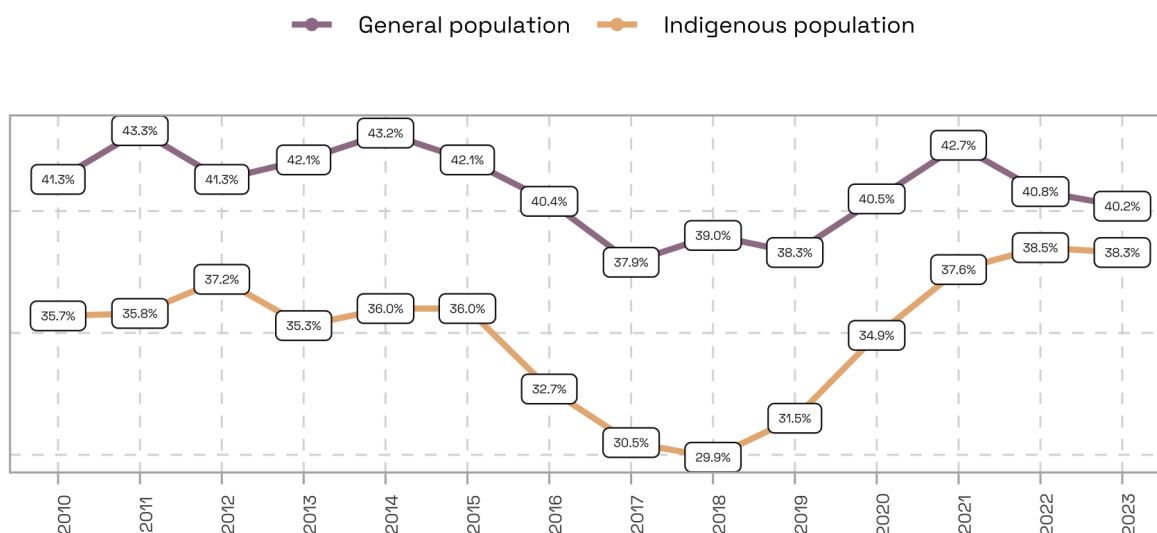
<sup>1</sup> [Monthly National Prison Statistical Information Logbook](#), at June 2023.

<sup>2</sup> [National Survey of Imprisoned Population \(Enpol\) 2021](#), sociodemographic data. Due to Enpol being a survey and not a census of the imprisoned population, we cannot access yearly information and changes of the total afro-descendant/afro-mexican people deprived of liberty.

<sup>3</sup> According to census data, proportions of indigenous as well as afro-descendant people in prison do not show an overrepresentation in comparison to general population distribution.

### Proportion of people deprived of liberty in pretrial detention

From 2010 to 2023



Source: Monthly National Prison Statistical Information Logbook.  
\*The population is considered at mid-year (June).  
Data processed by Intersecta.org

Disaggregating these data by gender,<sup>4</sup> we can see that the historical trend of the disproportionate impact of pretrial detention on women is also true for indigenous people deprived of their liberty.<sup>5</sup> It is worth noting that this gap has widened since 2019: while 37.9% of indigenous men were without sentence in 2023, the proportion for indigenous women rose to 49.1%.<sup>6</sup>

<sup>4</sup> To review the data depicted in the graph, please refer to Appendix 1.

<sup>5</sup> Intersecta, *Amicus curiae para la Acción de Inconstitucionalidad 130/2019 y para el Amparo en Revisión 355/2023*, August, 2022.

<sup>6</sup> Based on the *Advisory Opinion OC-29/22 "Differentiated approaches with respect to certain groups of persons deprived of liberty"* requested by the Inter-American Commission on Human Rights, paragraph 282 states that pretrial detention represents "an obstacle to the full exercise of the right to the cultural identity of indigenous peoples, the effects of which extend to the whole community." Similarly, it echoes the opinion of the United Nations Special Rapporteur on Indigenous Peoples regarding "long-term impacts on a family's livelihood, as the detained person may be the primary breadwinner or may miss planting or harvesting seasons."

**Proportion of people deprived of liberty in pretrial detention**

By gender and population group, from 2010 to 2023



Source: Monthly National Prison Statistical Information Logbook.  
\*The population is considered at mid-year (June).  
Data processed by Intersecta.org

**The general population in pretrial detention, by sex (M = Men, W = Women)**

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
% W	47.6%	51%	50.5%	52.4%	53%	53.1%	52%	40.9%	46.3%	45.7%	49.6%	51.8%	50.9%	48.6%
% M	41%	43%	40.8%	41.6%	42.7%	41.4%	39.8%	37.7%	38.6%	37.9%	40%	42.2%	40.2%	39.7%

**Indigenous population in pretrial detention, by sex (M = Men, W = Women)**

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
% W	38.3%	38%	40.4%	39.3%	40.6%	40.6%	38.6%	31.2%	32.8%	38%	45.1%	49.6%	51.7%	49.1%
% M	35.6%	35.7%	37.1%	35.2%	35.9%	35.9%	32.5%	30.5%	29.8%	31.3%	34.6%	37.2%	38.1%	37.9%

In regard to afro-descendant / afro-mexican people in prison, the National Survey of Imprisoned Population (Enpol) 2021, shows that 25.9% of this population was in pretrial detention. Disaggregated data, however, reveals that 22% of men were in pretrial detention; for women, this proportion rises to 45%. This pattern is consistent for all women deprived of liberty. Pretrial detention disproportionately impacts women.

As we can see: there has been an increase of people in pretrial detention and it has disproportionately impacted women, including indigenous and afro-descendant / afro-mexican women. This data must be considered in light of the 2019 Constitutional reform in which the list of offenses warranting mandatory pretrial detention was expanded. This measure allows authorities to incarcerate first and investigate later; it judges people based on the type of crime from which they are being investigated rather than the specific characteristics of their case.<sup>7</sup> According to research by Intersecta,<sup>8</sup> this reform contributed to the increase in the number of people in pretrial detention.

In 2022 and 2023, the Inter-American Court of Human Rights (IACHR), in two landmark cases—*Tzompaxtle Tecpile and Others & García and Other vs. Mexico*—, condemned the Mexican State for violating different rights.<sup>9</sup> In these rulings, especially in *García and Others vs. Mexico*, the IACHR emphasizes that mandatory pretrial detention unduly violates personal liberty, as it does not meet the standards issued by the IACHR to restrict it.<sup>10</sup>

The risks of the mandatory pretrial detention measure were also addressed in the preliminary observations by the Working Group on Arbitrary Detention during their 2023 visit to Mexico,<sup>11</sup> and in the 2019 Recommendations issued by the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Mexican State.<sup>12</sup> Concern is expressed at the measure's potential to violate the right to personal liberty and undermine the right to presumption of innocence, personal integrity and judicial independence. Mexican authorities are therefore urged to repeal mandatory pretrial detention in accordance with human rights standards.

Despite the clear evidence of the terrible impact of the 2019 constitutional reform and the international recommendations, current president Andrés Manuel López Obrador has proposed a constitutional amendment—against all regional and international recommendations in this regard— aimed at further expanding the catalog of offenses warranting mandatory pretrial detention. This initiative focuses on the introduction of four crimes—or groups of crimes—: 1) extortion, 2) drug dealing, 3) offenses related to the production, preparation, transportation and distribution of synthetic drugs such as fentanyl and 4) tax related crimes. This is particularly concerning because of its likely impact in the increase of the prison population—especially of people without a sentence—and because it implies the application of pretrial detention to non-violent offenses, such as drug possession.<sup>13</sup>

## 1.2 CONTEXT AND CHARACTERISTICS OF THE DETENTIONS

According to Article 5, paragraph b) of the CERD, individuals are entitled to personal security and State protection against any violence or attack on personal integrity perpetrated by public officials or any individual, group, or institution. In this regard, Mexico experiences systemic authority abuses. According to data from Enpol 2021, 66.2% of indigenous people—66.3% and 64.2% of indigenous men and women, respectively— report at least one instance of violence from the moment they are arrested until their

<sup>7</sup> Intersecta, *Con juicio o prejuicio: La prisión preventiva oficiosa en México*, September, 2022.

<sup>8</sup> Intersecta, *Los problemas con la prisión preventiva oficiosa*, November, 2022.

<sup>9</sup> Inter-American Court of Human Rights, *CASO GARCÍA RODRÍGUEZ Y OTRO VS. MÉXICO*, January 2023.

Inter-American Court of Human Rights, *CASO TZOMPAXTLE TECPILE Y OTROS VS. MÉXICO*, November 2022.

<sup>10</sup> Intersecta, *Amicus curiae para el caso García Rodríguez y otro vs. México*, September, 2022.

<sup>11</sup> *Working Group on Arbitrary Detention: Preliminary Findings from its visit to Mexico*, September, 2023.

<sup>12</sup> United Nations Committee against Torture, *Concluding observations on the seventh periodic report of Mexico*, July, 2019.

<sup>13</sup> Executive initiative, *Draft decree amending Article 19 of the Political Constitution of the United Mexican States in criminal matters*, February, 2024.

placement in custody. These incidents range from threats against their families and beatings, to electric shocks and sexual assault.

Regarding afro-descendant / afro-mexican people, this proportion increases to seven out of every 10 individuals; 69.1% of men and 71.2% of women. It is worth mentioning that afro-descendant / afro-mexican women experienced the highest proportion of sexual violence—one in three— compared to indigenous people and those not belonging to either of these two groups.

Another urgent issue to address is the fabrication of guilt within the criminal process. As highlighted by the Committee against Torture in its latest observations to the Mexican State, there was concern around the acquisition of confessions under torture.<sup>14</sup> In this regard, when asking indigenous and afro-descendant / afro-mexican individuals the reason why they are in prison, almost half of them responded that they were falsely accused or incriminated. A gender-based examination of the data shows that indigenous women are disproportionately affected by this: nearly six out of ten indicate being imprisoned for this motive.

In addition to the widespread situation of torture and incrimination, it is important to mention the type of offenses people are being detained for. Enpol 2021 estimates show that six out of ten indigenous and afro-descendant / afro-mexican individuals were detained for offenses considered “grave”.<sup>15</sup> One of the consequences of this classification is that pre-release and early release benefits are limited.<sup>16</sup> Specifically, when it comes to indigenous people, the most common offense for which they are detained is intentional homicide (21%).

The concerning proportion of indigenous women detained for kidnapping deserves special mention. Disaggregating this data by gender shows there is a higher concentration of indigenous women detained for kidnapping (28%). In fact, this percentage almost doubles that of indigenous men detained for this offense (16.5%).<sup>17</sup> Regarding afro-descendant / afro-mexican people, it is noteworthy, above all, the disproportion of women who are detained for “grave” offenses: while 55% of non-indigenous and non afro-descendant / afro-mexican women are detained for such offenses, the proportion among afro-descendant / afro-mexican women rises to 62.1%. The problem is that, given that they are imprisoned for “grave” offenses, they cannot access certain benefits, such as pre-release and early release benefits.

### **1.3 ACCESS TO TRANSLATION AND QUALITY OF LEGAL DEFENSE**

As stipulated by Article 5, paragraph a) of the Convention, individuals—without distinction of race, color or national or ethnic origin—are entitled to equal treatment in the courts and all other organs administering justice. In this regard, it is concerning that in Mexico accessibility is not achieved equally for all people in contact with the criminal system. Enpol 2021 shows that 62.1% of indigenous individuals who

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<sup>14</sup> Ibid, [Concluding observations on the seventh periodic report of Mexico](#).

<sup>15</sup> For this estimate, a variable was constructed that includes the following offenses: of home burglary, illegal drug trafficking, intentional homicide, illegal arms possession, kidnapping, deprivation of liberty and rape. It is worth mentioning that this calculation may be underestimated, for Enpol only considers the most common types of crimes.

<sup>16</sup> [Ley Nacional de Ejecución Penal](#), Articles 141 and 146.

<sup>17</sup> A [case](#) that illustrates this figure is that of Jacinta Francisco Marcial, Alberta Alcántara Juan, and Teresa González Cornelio, indigenous Otomi women from the state of Querétaro. They were accused of kidnapping six agents of the Federal Investigation Agency of Mexico after stating that they were taken hostage during an operation against vendors of “pirated” merchandise. After four years in prison, they were [released](#) due to lack of sufficient evidence to support the crime.



needed translation in their judicial process did not have access to this service when being presented to the Public Ministry.

The magnitude of this problem can be explained, in part, by the lack of interpreters available nationwide. According to the National Institute of Indigenous Languages, there are 2,340 registered interpreters, of which only 1,015 specialize in justice related matters.<sup>18</sup>

In terms of the quality and accessibility of legal representation, Enpol 2021 data highlights that 50% of indigenous and afro-descendant / afro-mexican people who have been deprived of their liberty did not have access to legal counsel prior to appearing before a judge at the initial hearing. Among those who did have legal representation, 70% stated that their lawyers were provided by the State.

Both indigenous and afro-descendant / afro-mexican women reported feeling disproportionately pressured by their own defense lawyers, compared to men. In the case of afro-descendant / afro-mexican women, this proportion rises to 75.6%. On the other hand, only a third of indigenous and afro-descendant / afro-mexican individuals stated that their defense lawyer asked if they had experienced any abuse or violence to obtain their statement. Once again this proportion drops to almost a quarter in the case of afro-descendant / afro-mexican people.

As expressed in Mexico's fourth Universal Periodic Review regarding Impunity and the Criminal Justice System,<sup>19</sup> the lack of public budget allocated to this service within the three levels of government is concerning. Concurrently, this deficiency causes delays in the cases of indigenous individuals, leading to a "voluntary waiver" of the right to interpretation, commonly encouraged by the defense itself.

## 1.4 RECOMMENDATIONS

In this regard, we respectfully suggest that the Committee urges Mexico to:

- a. Comply with regional and international recommendations regarding the repeal of mandatory pretrial detention.
- b. Incorporate, within the judiciary process, the observations of the IACHR's Advisory Opinion OC-29/22 to evaluate each case individually and prioritize measures that do not involve imprisonment and that affect indigenous communities to the minimum extent.
- c. Activate safeguards for the protection of detained individuals and ensure that detentions adhere to due process.
- d. Ensure access to interpreters and defense attorneys who can assist indigenous people through their legal processes. In this sense, they should be sensitive to the culture and language of each individual who requires this service.<sup>20</sup> These services should be appropriately funded.

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<sup>18</sup> National Institute of Indigenous Languages, [Number of registered interpreters per standard](#).

<sup>19</sup> Colectivo EPU, [México habla sobre Derechos Humanos: Informe temático sobre impunidad y sistema de justicia penal para el 4o examen periódico universal de México, 2024](#).

<sup>20</sup> This issue relates to documented experiences in research such as "[Translated Justice? The Ixil Maya and the 2013 Trial of José Efraín Ríos Montt for the Genocide in Guatemala](#)", which expose the need for translators who are culturally sensitive to indigenous people in contact with the criminal justice system. Specifically, in the case of genocide in Guatemala, it is noted that there were "communication errors" resulting from divergent ways of speaking that are connected to different identities and ways of experiencing and understanding history, resulting in direct obstacles to access to justice and reparation.

- i. Generate and adequately manage disaggregated data on both indigenous and afro-descendant / afro-mexican people that allows a detailed analysis of their experiences within the criminal system.<sup>21</sup>

## 2. Militarization

This section is dedicated to the problem of militarization in Mexico and some of the ways in which it intersects with racial discrimination.

### 2.1. MILITARIZATION AND MIGRANTS' RIGHTS

In its 2019 Recommendation to Mexico, the Committee expressed concern about the impact that the National Guard would have on migrants' rights. Five years later, we can sadly report that the Committee's concerns were not unfounded.<sup>22</sup>

What has happened with the National Guard during these five years? The National Guard, per the Mexican Constitution, is a civilian institution. In practice, however, it has been militarized. According to the latest estimates by Inegi, 82% of its personnel are actually soldiers (68%) and marines (14%) from the Defense and Marine Ministries "commissioned" to be in the National Guard.<sup>23</sup> These soldiers and marines remain on the Defense and Marine Ministries' payroll and continue to be covered by military jurisdiction.<sup>24</sup> All "new" National Guard recruits have been recruited and trained by the Defense Ministry.<sup>25</sup> In this sense, **the National Guard is the army in different clothes.**

Which has been the involvement of the National Guard in immigration control? Several human rights organizations, in alliance with journalists, created the website *Bajo la Bota* (Under the Boot), in which they document and analyze the impact that militarization in the immigration context has effected on human rights.<sup>26</sup> Militarizing the immigration policy, they mention, favors "the criminalization of groups of migrants, thereby accentuating their situation of vulnerability."<sup>27</sup> For example, on March 27, 2023, 40 migrants died

<sup>21</sup> Some examples of missing official data, include: afro-descendant/afro-mexican people in the Monthly National Prison Statistical Information Logbook; indigenous and afro-descendant/afro-mexican individuals benefiting from amnesty policies; proportion of imprisoned indigenous and afro-descendant/afro-mexican people by the application of MPD, specifically, in the National Prison Statistical Information Logbook.

<sup>22</sup> On March 14, 2024, the Ibero University published its report on the militarization of the National Institute of Migration. It exposes the militarization of migration policy beyond the National Guard and should be considered to understand all the relevant pieces with regards to migration and militarization in Mexico. Programa de Seguridad Ciudadana, Programa de Asuntos Migratorios & Dirección de Incidencia de la Universidad Iberoamericana, *La militarización del Instituto Nacional de Migración y sus implicaciones en las violaciones a los derechos humanos de las personas migrantes*, 2024.

<sup>23</sup> Instituto Nacional de Estadística y Geografía, Censo Nacional de Seguridad Pública Federal 2023.

<sup>24</sup> Intersecta, *Informe sombra para la CIDH sobre la situación de derechos humanos en México*, 2023, pp. 4-6.

<sup>25</sup> The Defense Ministry has actually been the one to receive the most increases both in budget and in personnel in these past five years. For example, according to the Finance Ministry's database, the National Guard lost personnel in these five years, comparing the number of people it could hire in 2019 to the number of people it could hire in 2023—they went from 49,454 to 38,692. The Defense Ministry acquired almost 59 thousand more people in these years: it went from being able to hire 215,243 people in 2019 to 274,023 in 2023. There hasn't been a strengthening of the National Guard, but of the army. *Ibidem*. See also, Intersecta, *There Is Money to Reduce Violence, So What Does the State Invest It In? An analysis of military resources from a feminist perspective*, 2022.

<sup>26</sup> Fundación para la Justicia, IMUMI, Sin Fronteras, Periodistas de a Pie, Derechosocopia, Derechos Humanos Integrales en Acción (DHIA) y Uno de Siete Migrando, *Bajo la bota*, 2023.

<sup>27</sup> *ibidem*.

in an immigrant station due to a fire that broke after a protest. The migrants were left locked up on purpose.<sup>28</sup> The immigrant station was run by a military delegate<sup>29</sup>. *Bajo la Bota* also documents differential impacts on women, particularly afro-descendant women.

One of the testimonies of a Haitian black migrant woman recounts that afro-descendant migrant women throughout Mexico are exposed at all times. She says they cannot hide, as their skin color is visible and it bothers racist people. The National Guards, she says, “treat us like prostitutes, make rude gestures to us, chase us when we are walking, chase us inside stores. In stores, when there is a National Guard, we have to walk with our hands up to show them that we are not stealing.” She mentions these situations are worse for them, as women, than for their men partners.<sup>30</sup>

As we mentioned, the National Guard is civilian per the Constitution, but military in practice. The current government has made several attempts to change its legal nature. In October 2022, for instance, Congress approved a legal reform that would allow the Defense Ministry to have the “administrative and operative control” of the National Guard.<sup>31</sup> In April of 2023, the Supreme Court struck this reform down.<sup>32</sup> The President, however, has responded by proposing a constitutional amendment to formally turn the National Guard into one of four military institutions, together with the Army, the Air Force, and the Navy.<sup>33</sup> Mexico will undergo federal elections in June. The Presidential Candidate that belongs to the current Presidents’ party, and most likely winner, has recurrently expressed support for this strategy.

Given this context, we respectfully request that the Committee recommends that the government retire the National Guard from migratory control.

## 2.2. MILITARIZATION AND THE MAYAN TRAIN

In its previous recommendation to the Mexican State, the Committee expressed concern around the “Mayan Train”, one of the most important infrastructure projects for the current government. The concerns were focused on the government’s respect for indigenous peoples’ right to be consulted on all major legislative and policy decisions that affect them. The Mayan Train has been criticized on several

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<sup>28</sup> “Incendio en centro de migrantes: al menos 39 muertos en un fuego en un edificio del INM en Ciudad Juárez”, BBC News Mundo, March 2023.

<sup>29</sup> Rubén Villalpando & Jesús Estrada, “Procesan a militar del INM por el incendio en Juárez”, *La Jornada*, April 2023.

<sup>30</sup> Fundación para la Justicia, IMUMI, Sin Fronteras, Periodistas de a Pie, Derechosopio, Derechos Humanos Integrales en Acción (DHIA) y Uno de Siete Migrando, *Bajo la Bota: Militarización de la política migratoria en México*, 2023, pp. 70-71.

<sup>31</sup> Estefanía Vela Barba & Nuria Valenzuela, “Ahora sí: Guardia Nacional”, *Animal Político: Blog de Intersecta*, September 8, 2022.

<sup>32</sup> Karen Luna, “Recordando la reforma constitucional de la Guardia Nacional”, *Nexos: El Juego de la Corte*, April 2023; Estefanía Vela Barba, “Los (malditos) artículos transitorios de la reforma constitucional de la Guardia Nacional”, *Nexos: El Juego de la Corte*, April 2023; Adriana E. Ortega & Fernanda Torres, “El fraude del carácter civil de la Guardia Nacional”, *Nexos: El Juego de la Corte*, April 2023.

<sup>33</sup> MUCD, *Reforma de AMLO sobre Guardia Nacional: militarización permanente de la seguridad y más poder para el Presidente*, 2024.

fronts.<sup>34</sup> For the purposes of this Shadow Report, we want to express our concern with regards to the armed forces' participation in its construction and management.

One of the stark differences between the current and previous governments is how many functions, beyond the security realm, have been delegated to the armed forces.<sup>35</sup> It is our view that we are not only witnessing a militarization of public security, but of the public administration at large. One of the most stark examples of this phenomenon is, precisely, the Mayan Train project. Its construction is spearheaded by the army, which is also going to reap its financial benefits.

How does the militarization of the Mayan Train intersect with racial discrimination? To give but one example that we have found: although the army heads the construction, it has hired some civilian workers to work on the train, many of whom come from indigenous communities from the surrounding areas. Testimonies have pointed out abuses, robberies, and mistreatment by soldiers towards civilian workers.<sup>36</sup> These workers generally have no contract, receive menial pay, lack social security, and work long hours under the sun. On top of that, they are constantly watched by armed soldiers who patrol the site, and engage in different forms of harassment and mistreatment. Given these conditions, some brave workers have already begun to protest.<sup>37</sup> But, since the abuses are perpetrated by the army, protest is an uphill battle.

Given this context, we respectfully request that the Committee recommends that the government exclude the armed forces from participating in civilian tasks, particularly when indigenous and afro-descendant / afro-mexican communities are involved.

### 2.3. MILITARIZATION AND CIVILIAN CONTROLS

Since the Committee last evaluated the Mexican State, the armed forces' powers, functions, and resources have greatly expanded.<sup>38</sup> The armed forces' "exceptional regime", however, has barely changed: they continue to have their own justice, their own labor regulation, and their own "national security" regime which includes exceptions to basic democratic safeguards and rights, such as the right to access public information. Civilian controls of the armed forces have not expanded either, with two exceptions. We want to delve into these exceptions to show how difficult it is to ensure military accountability to civilian institutions.

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<sup>34</sup> It is a megaproject that has displaced, even illegally, entire indigenous communities in the south of the country (states of Chiapas, Tabasco, Campeche, Yucatán and Quintana Roo). Its construction has violated all types of human rights, including environmental rights. Indigenous women, mainly Mayan, have spoken with journalists about how their identity is rooted to the place where they live, and from which the government is seeking to displace them. They also say that they have seen the increase in physical, psychological and sexual violence, mainly towards women, in the context of extractivism in which their communities find themselves. They also comment on the increase in military personnel in the areas, and how that does not make them feel safe. Mariana Beltrán, "[Tren ¿Maya?: las voces de las mujeres que defienden la vida](#)", *Volcánicas*, February 2023.

<sup>35</sup> PPD & MUCD, [Inventario Nacional de lo Militarizado](#), 2021.

<sup>36</sup> Silke Grasreiner, "[Tren Maya: Lejos de un trabajo digno y bien pagado, humillación, hostigamiento, abusos...](#)", *Proceso*, December 2023.

<sup>37</sup> Pedro Hernandez, "[Paran labores volqueteros en obras del Tramo 7 del Tren Maya](#)", *Quadratín Quintana Roo*, July 2023.

<sup>38</sup> [Intersecta, There Is Money to Reduce Violence, So What Does the State Invest It In? An analysis of military resources from a feminist perspective](#), 2022.

First example: given their ongoing participation in public security, the National Law for the Use of Force, which was published in 2019, bound the armed forces to its regulation. One of the obligations the armed forces acquired is to publish yearly reports of their use of force. Per the Law, these reports must include information on their use of force, whether people have been killed by their use of force, and whether and how people were detained. One shortcoming of the Law is that it only requires institutions to disaggregate data by sex, but not by any other factor—including, for instance, ethnic origin, skin color, and/or self-identification as indigenous or afro-descendant / afro-mexican. However: the Law established an important baseline.

During the past four years, Intersecta has submitted petitions of access to public information, requesting these yearly reports to both the Defense and Marine Ministries. Without exception, they have failed to produce these reports,<sup>39</sup> in spite of the fact that the National Institute of Transparency has indicated they are required to do so.<sup>40</sup> Their recurring argument is that, since they are armed forces, they are not bound by the same laws and obligations as public security institutions.<sup>41</sup>

Second example: in 2022, the Bicameral Commission for the Evaluation and Monitoring of the Armed Forces in Public Security Tasks was created through a constitutional amendment.<sup>42</sup> It is a joint commission between the Chamber of Deputies and the Senate to evaluate the role of the armed forces in public security. Every six months, according to the reform, the Federal Executive has to submit a report to the Bicameral Commission with “quantifiable and verifiable indicators” that allow an evaluation of the results of the strategy and that allow “corroborating the respect for human rights and for indigenous and afromexican people and communities.” The Federal Executive, in other words, is obligated to evaluate the impact that the use of the armed forces has *especially* on these communities.

The Federal Executive has already issued its first report, which was discussed and approved by the Commission. The report contains but two direct mentions of “indigenous and afromexican” people’s rights. The first is on page 12, in which the report stresses the importance of training troops on matters of human rights. These training, the report states, aim to ensure that the armed forces respect “human rights, indigenous and afromexican peoples and communities.” That’s it: that’s the entirety of the mention. What are these courses? How are they ensuring that these courses actually have those effects? No words on the matter. On page 48, on the other hand, the report mentions that higher ranking officers in the armed forces constantly “supervise and inspect” the tasks carried out by the troops. With these verifications, officers “ensure that the tasks are carried out with a respect for human rights and for indigenous and afromexican people and communities.” How do these verifications happen? How, exactly, are they making sure that they are actually respecting these rights? What type of “quantifiable and verifiable indicators” do they have to prove this is so? There are no details on the matter.

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<sup>39</sup> We recount each of the requests to access public information in Data Cívica & Intersecta, “[A\(r\)madadas y letales](#)”, Con Copia Oculta: Asunto 2, 2024, pp. 23-24; Intersecta, [Amicus curiae presentado ante la Suprema Corte de Justicia de la Nación para la Acción de Inconstitucionalidad 63/2019](#), 2023, pp. 23-24.

<sup>40</sup> The latest refusal to provide us with this information can be seen in the Ministry of the Defense’s response to the petition to access public information number 330026424000532 and in the Ministry of the Marine’s response to the petition to access public information number 330026624000284.

<sup>41</sup> The Ministry of the Marine’s response to the petition to access public information number 0001300030821; the Ministry of the Defense’s response to the petition to access public information number 330026423000137.

<sup>42</sup> [DECRETO por el que se reforma el Artículo Quinto Transitorio del Decreto por el que se reforman, adicionan y derogan diversas disposiciones de la Constitución Política de los Estados Unidos Mexicanos, en materia de Guardia Nacional](#), published in the *Diario Oficial de la Federación* on April 2019.

It is important to mention to the Committee that, in 2010, the Inter-American Court of Human Rights mandated that the armed forces receive a “permanent and mandatory program or course [...] on human rights”, which includes information on “gender and indigenous rights.” It did so in the rulings for the cases of Valentina Rosendo Cantú and Inés Fernández Ortega. In 2002, Inés Fernández Ortega, a woman from the Me'phaa indigenous community, was raped in her home by military elements.<sup>43</sup> Likewise, in 2002, Valentina Rosendo Cantú, a 17-year-old indigenous teenager who also belonged to the Me'phaa indigenous community, was intercepted by soldiers while washing clothes in a stream, and was beaten and raped by them.<sup>44</sup> As a reparation measure, the Inter-American Court ordered training programs for the armed forces.

In 2020, in the context of the ten year anniversary of these rulings, Intersecta, EQUIS Justicia para las Mujeres, and Data Cívica published a report on military trainings based on requests of access to public information.<sup>45</sup> The report sought to answer the question about the actions the armed forces had been doing to comply with the training mandated by the Court. However, these institutions provided very little information. And that information was insufficient to conclude whether or not they had actually complied with the Court’s mandate. From what little information they gave, it seemed that the “permanent program” was basically a string of, mostly, one or two hour online conferences. Furthermore, higher ranking officials were rarely included in these training sessions.

In spite of the evidence regarding the shortcomings of the military’s training on gender and indigenous people’s rights, the Bicameral Commission simply reiterated the importance of continuing with these training sessions.<sup>46</sup> With regards to other “indicators” on indigenous and afro-mexican people’s rights, the Commission simply requested that, in the next report, there be more information on the matter.<sup>47</sup>

Given this context, we respectfully request that the Committee recommends the following:

- a. All security authorities, including the armed forces, must publish yearly reports on their use of force that include information that allows an intersectional analysis of the use of force.
- b. Relevant authorities, including the Bicameral Commission, must develop clear “quantifiable and verifiable indicators” that allow corroborating evidence that the armed forces respect, among others, “indigenous and afro-mexican people and communities.”

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<sup>43</sup> Inter-American Court of Human Rights, Fernández Ortega, et al. v. Mexico (Preliminary Objections, Merits, Reparations, and Costs), 30/08/10.

<sup>44</sup> Inter-American Court of Human Rights, Rosendo Cantú, et al. v. Mexico (Preliminary Objections, Merits, Reparations and Costs), 31/08/10.

<sup>45</sup> Data Cívica, EQUIS Justicia para las Mujeres, Intersecta, Falsas salvaguardas. Las capacitaciones de las fuerzas armadas en derechos humanos y género (2010-2019), 2020; Amicus presented to the Inter-American Court of Human Rights by Data Cívica, EQUIS & Intersecta in 2020 for the rulings of Fernández Ortega & Rosendo Cantú.

<sup>46</sup> Dictamen de la Comisión Bicameral para la evaluación y seguimiento de la Fuerza Armada Permanente en tareas de Seguridad Pública, respecto del primer Informe Semestral remitido por el Titular del Poder Ejecutivo Federal, sobre el uso de la facultad conferida en el decreto por el que se reforma el artículo Quinto Transitorio del "Decreto por el que se reforman, adicionan y derogan diversas disposiciones de la Constitución Política de los Estados Unidos Mexicanos, en materia de Guardia Nacional, publicado en el Diario Oficial de la Federación el 26 de marzo de 2019: reformado el 18 de noviembre de 2022, respecto el uso de la Fuerza Armada Permanente en tareas de Seguridad Pública, p. 205.

<sup>47</sup> *Ibid.*, p. 208.

### **3. Violence and discrimination in universities**

Considering the Committees' observations to Mexico<sup>48</sup> regarding the situation of indigenous peoples and communities, specifically those raised in paragraph 18, in which it expresses concern about racial discrimination that materializes in obstacles to the right of education —among others— this section lists some of the affectations and concrete recommendations concerning the access to higher education.

#### **3.1 ACCESS AND PERMANENCE IN HIGHER EDUCATION**

Regarding the indigenous population, data from 2018 to 2022 indicates that less than 1.5% of the total population that was studying a bachelor's degree belonged to this segment; for the last year registered, there were 60,564 indigenous people nationwide enrolled in higher education institutions. When contrasting this proportion with data from the latest population census, we can see that, out of all people of university age —from 18 to 24 years of age—, approximately 5.6% were classified as indigenous. This percentage indicates that there is an underrepresentation of indigenous people studying a bachelor's degree.

Structural effects, such as illiteracy, affect different groups unequally. For example, 19.8% of the indigenous language speaking population over 12 years of age does not know how to read or write, while 5% of the afro-descendant / afro-mexican population are in the same situation. Both of these percentages are above the national rate (4.7%).<sup>49</sup>

Furthermore, 65.2% of the indigenous population lives in poverty,<sup>50</sup> facing a context characterized by problems in the access to basic housing services, food, health, social security, and education, all of which restrict their possibilities of accessing higher education.

Something that cannot be known based on official data is the abandonment rate of university studies by self-adscription or indigenous language, as well as by afro self-adscription. This is a relevant indicator that could shed light on the magnitude of the problem, especially when taking into consideration the underrepresentation of the indigenous population in higher education.

#### **3.2 DISCRIMINATION AND VIOLENCE**

Regarding the violence experienced during the previous 12 months by women studying higher education, the latest edition of the National Survey on the Dynamics of Household Relationships (Endireh) shows that 20.3% of women who did not identify themselves as indigenous experienced some situation of violence in their university environment, while the percentage for women who did identify as indigenous drops to 14.4%. When disaggregating by type of violence, the trend persists: a greater proportion of women who did not identify as indigenous reported having experienced violence, compared to those who did identify themselves as such. For instance, 15.6% of non-indigenous women reported having suffered psychological violence, while only 11% of indigenous women did so. The same can be said for physical violence and sexual violence, the first one being 2.7% against 1.4% and the second one being 10.4% against 8.9%.

Does this mean that indigenous women experience less violence in higher education than non-indigenous women? In our view, the Endireh is a survey constructed to identify gender-based violence. In that sense,

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<sup>48</sup> Ibid.

<sup>49</sup> Census of Population and Housing, 2020.

<sup>50</sup> Coneval, 2022.

it does not capture ethnic and racial discrimination or violence, nor does it capture the specific discrimination and violence that occur to women who identify as indigenous or afro-descendant / afro-mexican, because of the intersection between gender, ethnicity and/or race. For this reason, we believe the Endireh must be reformed so as to truly allow an intersectional analysis of violence.

Contrastingly, data from the National Discrimination Survey (Enadis) 2022 shows that the proportion of university students who experienced bullying is higher among those who identified themselves as indigenous: 28% against 17.1% for non-indigenous. Likewise, according to this survey, indigenous people who experienced discrimination report that the place where discrimination occurred in the last twelve months was at school or work (28.4%), in the case of afro-descendant / afro-mexican people, the place of greatest incidence is the same, school or work (30%). In both cases, data suggests these spaces are where discrimination incidents occur the most. However, there is no further breakdown regarding the specific dynamics.

### 3.3 LACK OF AN ADEQUATE LEGAL FRAMEWORK

In 2021, the General Law of Higher Education was published. One of its greatest accomplishments is that it lays the foundation of an array of obligations that institutions of higher education must carry out to prevent and treat all types of discrimination and violence. However, although the law forbids all forms of violence and discrimination—which includes, in our view, racist violence and discrimination—, it only explicitly *emphasizes* the importance of addressing gender-based violence, gender equality and the protection of women’s rights, but not racist violence and discrimination.<sup>51</sup>

This law does not foresee specific measures to create policies sensible to ethnic and racial issues and the racist obstacles people face when entering—or trying to enter— spaces of higher education. Our concern is that this has sent the message that the focus should only be on gender-based violence and discrimination, so much that the efforts that institutions of higher education have made in the last couple of years to end discrimination and violence, have solely pivoted around gender.

### 3.4 RECOMMENDATIONS

We respectfully recommend that the Committee request Mexico:

- a. Implement public policies aimed at the inclusion of indigenous and afro-descendant / afro-mexican students in higher education.
- b. Explicitly include racial discrimination and violence within the obligations higher education institutions have to address violence and discrimination.
- c. Improve the quality and availability of data about the university population with indigenous and afro self-identification, as well as their experiences within this field. Above all, produce indicators regarding school dropout rates, specific incidents of discrimination and violence, as well as the proportion of these population segments by field of study and degree (bachelor's, master's or doctorate).<sup>52</sup>

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<sup>51</sup> See Articles 5 section VI, 10 sections XVII, XVIII and XIX, 42 and 43.

<sup>52</sup> Concrete actions include:

- 1) Conducting a national survey that collects the experiences of the university population.
- 2) Quality data on the composition of the university population: we currently have three major sources of public information: 1) data from the National Association of Universities and Higher Education Institutions (ANUIES), 2) the Integrated Information System of Higher Education [SIIES] and 3) the National Educational Statistical Information System. Each of these sources contributes in a different way to nourishing what we know about the composition of this population, however, they also have limitations. Taking into account that the creation of SIIES is part of the General Law on Higher Education [LGES] itself, it seems pertinent to us that this platform draws on and offers



## 4. Violence and discrimination in the workplace

Regarding the same observations<sup>53</sup> made by this Committee in paragraph 18 about violence and discrimination in the workplace, some of the most important problems that the indigenous and afro-descendant / afro-mexican people face in the labor sphere are listed below:

### 4.1 BARRIERS TO EMPLOYMENT ACCESS

One of the main challenges faced by people who identify themselves as indigenous and/or afro-descendant / afro-mexican is access to employment. According to Enadis 2022, 61.2% of people who identified themselves as indigenous people, afro-descendants / afro-mexicans and/or who speak an indigenous language and are over 12 years of age, declared having worked the week before the survey was taken —this percentage is higher than the percentage for the national population. The data from this survey indicates that the conditions of activity for the indigenous population are distributed differently between men and women: while 78.6% of indigenous men report having a job, only 46.2% of indigenous women reported so —a difference of thirty percentage points. This information highlights the importance of understanding how the problems faced by these groups intersect with other factors, such as gender.

This data also highlights the lack of employment among the main problems faced by these groups: 18.5% of people with indigenous identification mentioned this situation as the main problem they face, while 15.9% of afro-descendants / afro-mexicans reported the same. However, although for indigenous people the lack of employment is the problem that obtained the highest percentage among the response options, for afro-descendant / afro-mexican people it is discrimination due to their appearance (29.7%). This reiterates the need to address the specific issues affecting each group.

Discrimination is also an important barrier for accessing jobs. The data shows that 58.4% of afro-descendant / afro-mexican people mentioned that they perceive a lot or some discrimination when looking for a job, while the percentage for indigenous people is 54.7%.

Care-giving tasks are another relevant factor that operates as a barrier for accessing the labor market. According to data from the Enadis 2022, there is a greater proportion of indigenous or afro women who stated that they dedicate themselves to household chores or caring for people in their family (48% of indigenous or afro women affirmed this, contrasted with 20.2% of their male counterparts). This number is also ten percentage points higher than the proportion of women who are not indigenous or afro who are dedicated to care work (38.7%) and thirty percentage points higher than the percentage of men who are not indigenous or afro who reported to be engaged in care work (18.2%).

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greater disaggregation of its data or makes an effort to consolidate the information offered in the aforementioned instances.

3) Diagnoses within universities that take into account the experiences of the population: the LGES in its Article 42, mentions the generation of "diagnoses and studies of academic, school and administrative activities to achieve timely detection and attention to the factors of risk, violence and discrimination (...)" in order to prevent and address all types of violence. This responsibility falls on each higher education institution with the support of the competent authorities. Likewise, this action is recommended by international institutions as a measure to understand the magnitude and particularities of the violence experienced in each university.

<sup>53</sup> *Ibid.*

## 4.2 LABOR CONDITIONS

Now, regarding working conditions, afro and indigenous people report having employment benefits in a lower proportion, contrasting with the population who are not indigenous or afro-descendant / afro-mexican. The majority of indigenous and afro-descendant / afro-mexican people who work report not having a contract (79.1%). This proportion is also higher than that reported by people who are not indigenous or afro-descendant / afro-mexican (59.7%). Likewise, the Enadis inquires if workers receive a bonus or have paid vacations, among other work benefits. For these circumstances, the proportion of indigenous and afro-descendant / afro-mexican people who reported that they do have the right to each one is at least 50% lower than that reported by the general population. That is to say, the conditions in which people with indigenous and afro-descendant / afro-mexican people work are particularly vulnerable and outside the minimum standards established in the legislation.

Moreover, both Endireh 2021 and Enadis 2022 show that indigenous and afro-descendant / afro-mexican people experience violence and discrimination in their workplace. Regarding women who identified themselves as indigenous, Endireh 2021 shows that 8% experienced at least one situation of violence in the workplace between October 2020 and October 2021. Although this proportion is lower than that of women who do not consider themselves indigenous (10.7%), it is important to note, as said above, that this data reflects the survey's focus on sexist violence.

On the other hand, according to the information collected by Enadis, of the indigenous people who reported experiencing discrimination, the three main reasons were because of their way of speaking (28.5%), way of dressing (31.4%) and because they were indigenous (29%). For afro-descendant / afro-mexican people, the main reasons for discrimination were height (32.9%) and way of dressing (30.2%). It is important to emphasize that available data on discrimination and violence against ethnically diverse groups—described in this section—is insufficient.<sup>54</sup>

Finally, we would like to highlight the working conditions faced by paid domestic workers, an important employment sector for indigenous women in Mexico. The National Survey of Occupation and Employment (Enoe) indicates that, in 2022, nine out of ten domestic workers were women; almost a quarter of all women who are dedicated to this activity classify themselves as indigenous, which means they are overrepresented in this group. More than a third of female paid domestic workers reported having been discriminated against in the last twelve months. Of these women, 7.8% stated that the reason was because they were indigenous or afro-descendant / afro-mexican people. Paid domestic workers also face nonpayment of their wages—14.3% mentioned that they have been denied payment at least once in the last five years—and having to sleep in the place where they work—approximately 10%—as problems.<sup>55</sup> In addition, the main problem reported by domestic workers in Enadis 2022 is the lack of labor benefits; however, this problem is indicated to a lesser extent as the main one by indigenous and/or afro-descendant / afro-mexican women (39.6% vs 50.4%). Almost six out of ten women who are indigenous or afro-descendant / afro-mexican people indicated that they consider mistreatment or abuse by

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<sup>54</sup> Although, for instance, Enadis distinguishes between the indigenous and afro-descendant / afro-mexican populations, it is necessary to carry out this type of disaggregation in more surveys to capture the specific dynamics of discrimination within the workplace. Second, instruments such as this one and Endireh, do not capture the specific instances that these groups face in the workplace, such as discrimination based on appearance or social prejudices that do not allow them to integrate.

<sup>55</sup> There are publications such as *Yo trabajo en casa: trabajo del hogar de planta, género y etnicidad en Monterrey* by Séverine Durin, where, among the main findings, practices of discrimination and segregation are documented, such as the allocation of service rooms in precarious conditions, the limitation of access to certain spaces in the home and the imposition of standards of dress and behavior.

employers or poor working conditions to be the main problem. This information indicates that domestic workers, in general, face poor working conditions, violence and discrimination, but this situation becomes more challenging for indigenous and/or afro-descendant / afro-mexican women who work in this sector.

### **4.3 LACK OF AN ADEQUATE LEGAL FRAMEWORK**

The Federal Labor Law defines a dignified or decent job as one where the worker's human dignity is respected, and where there is no discrimination because of ethnic or national origin, gender, disability, social condition, health conditions, religion, migratory status, opinions, sexual preferences or civil status.<sup>56</sup> However, it does not define a dignified job as one where there is no "racial discrimination."

In 2019 the Federal Labor Law was amended to prohibit discrimination in terms of the first article of the Constitution and the first article, subsection III of the Federal Law to Prevent and Eliminate Discrimination. With this reform, discrimination on the basis of color, racial segregation and racial discrimination was implicitly introduced into the Law.<sup>57</sup> However, it was only included in regards to domestic workers. This leaves all other workers defenseless against labor rights violations based on racial prejudices and discriminatory practices.

For this reason, we believe that the Federal Labor Law does not comply with the Convention, given that it does not properly address racial discrimination and violence in the workplace in the terms established by the Convention and the CERD Committee.

In fact, the only tangible obligations that the Federal Labor Law includes to prevent and treat cases of violence and discrimination, are made in relation to sexual violence, gender-based discrimination and child labor, by establishing the employer's obligation to implement a protocol to prevent and treat these situations in the workplace.<sup>58</sup> There is no obligation to actively prevent and treat any other type of discrimination and violence that happens in the workplace and labor relationships. In this way, the efforts made by employers around the country to prevent and treat violence and discrimination have focused exclusively on dealing with sexual violence and gender-based discrimination, without taking measures to treat other types of violence and discrimination, or even having an intersectional perspective that takes into consideration the diversity of women's identities, contexts, and difficulties.

In this sense, the Mexican labor law does not have the framework to correctly protect people from violence or from direct and/or indirect discrimination of all types, including racial violence and discrimination. Furthermore, it is specially lacking in measures to recognize, prevent, treat and eradicate racial discrimination and violence. To correctly abide by the Convention, the State must do a reform of its labor laws and regulations, recognizing all the ways in which direct and indirect discrimination and violence materialize in the workplace and affect all people, particularly indigenous and afro-descendant / afro-mexican individuals.

### **4.4 RECOMMENDATIONS**

We respectfully recommend that the Committee request Mexico:

- a. Amend the Federal Labor Law to recognize and prohibit direct and indirect discrimination and violence against all workers in the workplace, regardless of their situation.

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<sup>56</sup> See Article 2nd of the Federal Labor Law.

<sup>57</sup> See Article 331 Bis of the Federal Labor Law.

<sup>58</sup> See Article 132, section XXXI of the Federal Labor Law.

- b. Recognize racism and ethnic-racial discrimination in the Federal Labor Law and establish the obligation to implement protocols that can prevent and address cases of ethnic-racial discrimination and violence.
- c. Create mechanisms to address violence and discrimination in the search for employment, during employment, and until the termination of labor relations.
- d. Improve the available data on the experience of indigenous and afro-descendant / afro-mexican people in the workplace, including their integration into employment, the working conditions of their jobs, and the reasons for leaving the labor market.

## 5. Fiscal Justice

Article 2, paragraph 1 of the Convention mandates that States “pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms.” The CERD Committee has understood “discrimination” in broad terms, encompassing both direct and indirect forms of discrimination. This understanding of discrimination allows any and all State action to be scrutinized. For us, this includes analyzing the State’s fiscal policies.

By fiscal policies we understand the series of policies that include the State’s decisions regarding how it acquires and spends its resources. These include income policies, which encompass tax policies, debt policies, and spending policies. In 2023, Intersecta published a report called *Redistribution, fiscal justice, and gender in Mexico*.<sup>59</sup> The report stresses the importance of analyzing the State’s fiscal policies from a gender and intersectional perspective. Why? Because of the role these policies have on perpetuating inequalities, particularly economic ones, as well as the role they *could play* in dismantling said inequalities.

The first problem we encountered is a lack of information that impedes an intersectional analysis of fiscal policies. For example: information on who pays what taxes is limited and it is not disaggregated in a way that allows an intersectional analysis, including an analysis on racial discrimination. Although there is more information on the government’s budget and spending when compared to information on taxes, the former is also limited from an intersectional perspective. In this sense, it has been hard assessing whether and how fiscal policies might be particularly perpetuating indirect racial discrimination.

We did find, however, some concerning examples of fiscal policies that risk exacerbating already existing inequalities.

For instance: Mexico’s income relies heavily on indirect taxes, such as the value added tax (VAT). This tax has an implicit anti-poverty bias. In Mexico, 76 out of every 100 women live in some degree of poverty or vulnerability, according to the most recent figures from Coneval.<sup>60</sup> This figure rises to 83 out of every 100 in the case of indigenous women, who make up the largest group of women in extreme poverty. Women bear a greater tax burden as they are overrepresented in the poorest households and allocate a high fraction of their income to consumption.

Another example: currently, any earnings from the selling of stocks and capital gains has a taxing rate of 10%; half as much as the 20.2% that workers have to pay in taxes over their wages.<sup>61</sup> Stocks and capital

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<sup>59</sup> Intersecta, *Redistribución, justicia fiscal y género en México*, 2023.

<sup>60</sup> *Ibid.*, p. 36.

<sup>61</sup> Intersecta, *Redistribución, justicia fiscal y género en México*, 2023, p. 33.

gains are disproportionately in the hands of non-indigenous and white men. In this sense, the current tax system disproportionately rewards those who already have historically accumulated wealth.

A third example: in 2021, the federal government decided to renounce to a billion pesos in taxes. That's the equivalent to 83% of the government's social spending, which includes education and health.<sup>62</sup> Those "fiscal renunciations" disproportionately benefit corporations and wealthy people. They constitute another example of the State disproportionately benefiting those that already have power, at the cost of being able to provide support for those that lack access to education and health, among other rights.

Given this context, we respectfully request that the Committee recommends the following:

- a. An improvement of the State's efforts for collecting and publishing data that would allow an intersectional analysis of its fiscal policies, including tax and spending policies.
- b. An analysis and change of any fiscal policy that indirectly discriminates, with a specific focus on indigenous and afro-descendant / afro-mexican people.

## **6. Data generation and collection**

The General Recommendation No. 31 issued by this Committee in 2018,<sup>63</sup> as well as the sixth and seventh paragraphs of the Concluding Observations on the combined eighteenth to twenty-first periodic reports of Mexico,<sup>64</sup> express concern over the lack of official data about the differentiated experiences of indigenous or afro-descendant / afro-mexican people. Although there has been progress in the addition of variables such as indigenous and afro-descendant self-classification to instruments like the 2020 Population and Housing Census, in addition to the inclusion of these elements in the Enpol in its last edition, there are still gaps in other statistical practices.<sup>65</sup>

### **6.1 NON-EXHAUSTIVE METHODOLOGIES**

Another important point regarding data is the way in which it is collected. For example, something that has already been noted before this Committee<sup>66</sup> the fact that instruments such as the Endireh<sup>67</sup> end the interview for data-collection if the person is monolingual. This is problematic since we cannot know to what extent this group is a victim of diverse types of violence. According to the 2020 Population and Housing Census, this methodological decision directly impacts 391,439 monolingual women over the age of 15.

### **6.2 DEFICIENCIES IN THE REGISTRATION PROCESS**

The obstacles in the registration process of variables that record the proportion of indigenous and afro-descendant / afro-mexican people are another pending issue. This mainly has to do with the lack of capacities within institutions, such as prosecutor's offices, courts, and even civil registries to adequately register what happens with these groups. An example that has already been presented before this

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<sup>62</sup> *Ibid.*, p. 29.

<sup>63</sup> Committee on the Elimination of Racial Discrimination, [General recommendation No. 31 on the Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System](#), 2005.

<sup>64</sup> Committee on the Elimination of Racial Discrimination, [Concluding Observations on the combined eighteenth to twenty-first periodic reports of Mexico](#), 2019.

<sup>65</sup> View appendix 1.

<sup>66</sup> Intersecta et. al., [Acceso a la justicia para las mujeres indígenas: Informe sombra para el Comité de la ONU para la Eliminación de la Discriminación Racial](#), 2019.

<sup>67</sup> INEGI, [Informe Operativo Endireh](#), 2021.

Committee<sup>68</sup> is the proportion of indigenous and afro-mexican<sup>69</sup> people who are murdered year after year. In the case of indigenous people, on average, since registration began in 2012, for 32.3% of homicides it is not possible to know if the person belonged to this group. For afro-mexican people, the self-classification status could not be determined in 53.4% of the cases in the latest records.

### 6.3 RECOMMENDATIONS

Taking these considerations into account, we ask the Committee to recommend the following:

- a. Strengthen institutional technical capacities to fully collect self-classification data. This also relates to resource access.
- b. Reconsider the methodologies of statistical practices where the responses of monolingual people who do not speak Spanish are not collected. Allocate sufficient public funding for qualified interpreters who could collect this information.
- c. Integrate the variables of self-classification and indigenous language speaking status to crime incidence surveys such as the National Survey of Victimization and Perception of Public Safety (Envipe) and the National Survey of Urban Public Safety (Ensu), in order to fulfill this Committee's General Recommendation No. 31. Likewise, it is important to include the variable of afro-descendant / afro-mexican self-classification.

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<sup>68</sup> Intersecta et. al., *Acceso a la justicia para las mujeres indígenas: Informe sombra para el Comité de la ONU para la Eliminación de la Discriminación Racial*, 2019.

<sup>69</sup> The afro-mexican self-classification variable was added in the last edition of the register of deaths due to homicide—with data from 2022. This classification differs from other statistical resources from Inegi, since it doesn't consider afro-descendant classification.

## 7. Appendix 1

Database	What does it measure?	Indigenous Language		Indigenous Self-classification		Afro Self-classification <sup>70</sup>		Skin color	
		Is it included?	Is it registered?	Is it included?	Is it registered?	Is it included?	Is it registered?	Is it included?	Is it registered?
Statistics of registered deaths by homicide, Inegi	Homicides	Yes	Sometimes	Yes	Sometimes	Yes	Sometimes	No	-
National Survey of Victimization and Perception of Public Safety (Envipe)	Criminality and victimization of adult people	No	-	No	-	No	-	No	-
National Survey of Urban Public Safety (Ensu)	Criminality and victimization of adult people in selected cities	No	-	No	-	No	-	No	-
National Survey on the Dynamics of Household Relationships (Endireh)	Violence against women over 15 years old	Yes	Yes	Yes	Yes	No	-	No	-
National Census of State and Federal Public Security	Management and performance of the institution in charge of public security of each federal entity and at the federal level	No	-	Yes	Sometimes	No	-	No	-
National Census of State Justice Prosecution	Management and performance of the Attorney General's Office of each federal entity and at the federal level	Yes	Sometimes	Yes	Sometimes	No	-	No	-
National Census of State and Federal Law Enforcement	Management and performance of the Judiciary of each federal entity and at the federal level	Yes	Sometimes	Yes	Sometimes	No	-	No	-
National Census of State Penitentiary System	Management and performance of the Penitentiary System of each federal entity and at the federal level	Yes	Sometimes	Yes	Sometimes	No	-	No	-
Monthly National Prison Statistical	Population deprived of liberty	Yes	Yes	No	No	No	No	No	No

<sup>70</sup> As mentioned, all statistical resources with the exception of registered deaths by homicide, consider both Afro-descendant and Afro-mexican identities.

Information Logbook									
National Survey of Imprisoned Population (Enpol)	Survey about population deprived of liberty	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
National Survey of Occupation and Employment (ENOE)	Survey about occupancy and employment	No	-	No	-	No	-	No	-
National Survey on Discrimination (Enadis)	Survey about discrimination	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
National Survey on Sexual and Gender Diversity (Endiseg)	Population of 15 years and above who recognizes themselves with a non-normative or non-conventional sexual orientation or gender identity	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes



## **Credits**

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**INTERSECTA**