



## Shadow Report for the 112 Session of the Committee on the Elimination of Racial Discrimination (CERD)

**EQUIS: Justicia para las Mujeres** is a feminist organization based in Mexico City, Mexico, which has been working for access to justice for diverse women since 2011, promoting the transformation of structures that generate oppression and exclusion. Our work is organized around three thematic axes: i) prevention and protection against gender-based violence, ii) the criminalization of women and punitive policies, and iii) justice with equality and without discrimination.

The information we present for your consideration concerns the implementation in Mexico of Articles Two and Five of the International Convention on the Elimination of All Forms of Racial Discrimination. We refer to the obligation of the State to review public policies of any level of government that create or perpetuate racial discrimination, to repeal them, modify them, or harmonize them according to human rights standards, as well as the elimination of racial discrimination concerning treatment in courts or other organs of justice administration. We refer particularly to General Recommendation No. 25 of this Committee, which recognizes that some forms of racial discrimination affect women distinctly or at different levels.

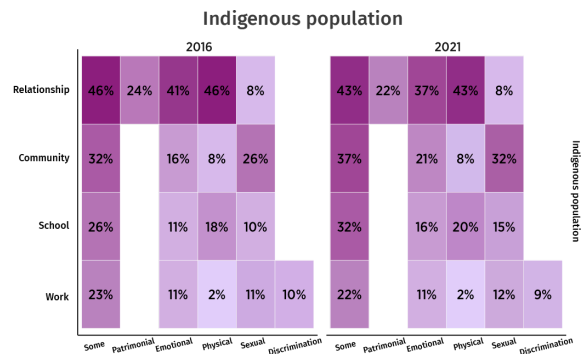
### **1. Prevention and attention to gender-based violence with an intercultural perspective.**

#### **a. Manifestations of gender-based violence against indigenous women.**

According to the latest National Survey on the Dynamics of Relationships in Homes (ENDIREH by its Spanish acronym) from INEGI, manifestations of intimate partner violence are the most frequent for women who identify themselves as indigenous people. This is a significant difference compared to the general population and the non-indigenous population, who more frequently report violence at the community level. Between 2016 and 2021, the manifestations of sexual violence reported by indigenous women increased by seven percentage points.

For over a decade (since 2012), the CERD Committee has expressed its concern about the increased vulnerability and violence affecting indigenous peoples in the context of the fight against drug trafficking<sup>1</sup> in the Mexican state. According to the ENDIREH (INEGI), more than 238,000 women in Mexico who have experienced community violence in their lifetime identified a soldier or marine as their aggressor.

### Percentage of women who have suffered violence in their lives (by type of violence)



Produced by: EQUIS Justicia para las Mujeres  
Source: ENDIREH, INEGI 2016,2021

According to a representative of indigenous women's groups:

Militarization has served to dismantle and affect the movements inherent to indigenous peoples. It is a permanent strategy, a systemic violence that has always been there. It also breaks the community fabric and dynamics" (testimony<sup>2</sup>).

EQUIS has documented how the militarization<sup>3</sup> of public security brings about specific consequences for indigenous peoples and communities, including inhibiting their freedom of association and social protest, intruding on their community life, and restricting movement in their territory, especially for women and girls. For example, collectives providing support to women in Guerrero commented on the following:

[...] has implications, especially for the lives of women and girls, mainly concerning freedom of movement. "I will not let my daughters go out because the military is there." Before, it was normal for girls: "Let us go to the river, let us go for a walk, let us go out here." And after this: no more. There are soldiers, but we do not know who they are. They are not from here; we do not know how they are acting and the consequences if they do something. So, you cannot go out anymore<sup>4</sup>.

<sup>1</sup> Final observations of the Committee on the Elimination of Racial Discrimination. Mexico, CERD/C/MEX/CO/16-17, March 9, 2012, para. 13.

<sup>2</sup> EQUIS: Justicia para las Mujeres. (2022). *Vulnerability to Militarization*. Available at: <https://equis.org.mx/vulnerabilidad-frente-a-la-militarizacion/>

<sup>3</sup> At EQUIS, we understand militarization as the "progressive increase in the presence, power, and authority of the Armed Forces in functions of civilian authority," which can encompass; i) the Army's support in policing tasks or assuming such tasks itself; ii) the appointment of military officers to key positions in public security institutions; and iii) the incorporation of military characteristics into the structure, organization, and culture of public security institutions (Cano, 2019 as cited in Benítez et al., 2021, pp. 41-42). For example, in the Mexican case, by 2024, it is estimated that the Ministry of National Defense will manage the third-largest federal budget in the public administration, amounting to 400 billion pesos.

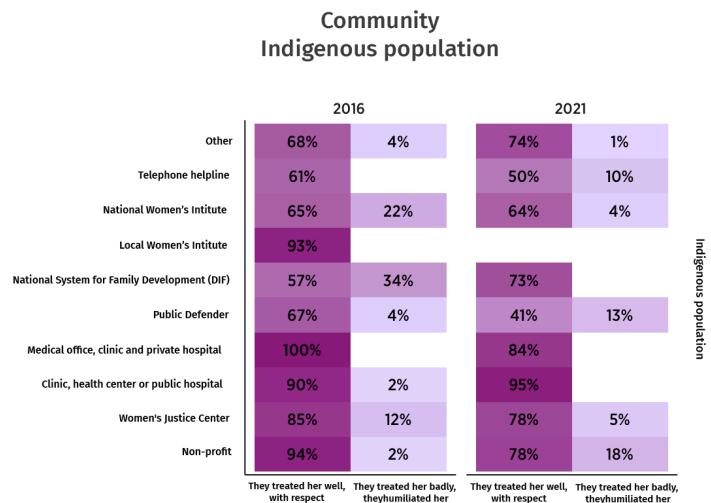
<sup>4</sup> EQUIS: Justicia para las Mujeres. (2022). "Vulnerability before militarization." Available at: <https://equis.org.mx/vulnerabilidad-frente-a-la-militarizacion/>

In this context, we have observed that only a small percentage, less than 3%, of indigenous women who have suffered intimate partner violence seek help or information from institutions. This percentage has not changed over the last five years, which could indicate the lack of trust in these institutions. Many indigenous women who sought help from different institutions reported positive experiences, except for the Helpline, where 47% of users reported being treated poorly or humiliated.

The National System for the Comprehensive Development of the Family (DIF by its Spanish acronym), the most frequently used institution by women, declined its positive rating from 97% in 2016 to 71% in 2021. Similarly, the Public Defender's Office experienced a significant decrease, as reflected in the graph below.

One of the main reasons people do not press criminal charges or seek help from public services is the lack of knowledge on how and where to report. This highlights the urgent need for specific campaigns that can help make people aware of the services available in the country.

### Percentage of women who suffered different treatment in aid institutions



Produced by: EQUIS Justicia para las Mujeres  
Source: ENDIREH, INEGI 2016,2021

#### **Recommendations:**

- Expand the coverage in indigenous communities of the institutions in charge of providing services for victims of gender violence. These services must be available in the languages of indigenous communities and incorporate a culturally pertinent perspective in their services.
- Document and make military information public so that it allows for records, documents, or data that aid in the defense of the human rights of indigenous peoples and communities, as well as the protection of civilians against the actions of the armed forces.
- Restore the civilian character of public security policy in the country, prioritizing the professionalization of police forces over-reactive and punitive responses.
- Incorporate the notion of well-being in the public security policy, considering the satisfaction of basic needs related to exercising rights and protecting life and integrity.



## **b. Centers of Justice for Women.**

68 Centers of Justice for Women (CJM by its Spanish acronym) exist in Mexico. According to the General Law on Women's Access to a Life Free of Violence (LGAMVLV by its Spanish acronym), these are multidisciplinary and interinstitutional spaces that provide free assistance to women victims of gender-based violence, as well as their daughters and sons under 18 years of age (article 5) in the same location. This law also recognizes the obligation of these institutions to have indigenous language interpreters among their services (article 59, ter) and the right of indigenous women victims of violence to be assisted by interpreters and individuals who are knowledgeable about their language and culture (article 52<sup>5</sup>).

In EQUIS' publication titled "Centers of Justice for Women: National Report 2018-2021"<sup>6</sup> we highlight the structural obstacles to accessing services from these institutions. Out of 27 federal entities from which we requested information, 12 reported that they had not assisted any indigenous women, even in those states with the highest indigenous population, such as Oaxaca and Yucatan. According to ENDIREH, only 5% of indigenous women who seek care from public services go to the CJM, against 6% of the general population. Among the difficulties in accessing the CJMs, it stands out that they are located far from their communities of origin, requiring long travel distances or imposing transportation costs on the women; the dissemination of the services they provide is primarily done through social networks and with messages that are not suitable for their context.

Furthermore, discriminatory practices persist in these institutions, such as judging women by their appearance or criticizing them because their Spanish is not understandable. An organization providing support to women victims of violence shared with us the following:

"If a woman from an indigenous community goes to the Center, she is judged by her physical appearance, and there is even discriminatory treatment because the language used is different from Spanish, assuming that they are not understandable because, when speaking Spanish, they do so very slowly. Users do not want to ask again or indicate they are Maya speakers. It is difficult for users to reach the Centers of Justice for Women, as it is located on the freeway surrounding the entire Merida municipality. Moreover, those who travel from the other side of the city have to take two buses, which takes them approximately an hour or an hour and a half. All this adds to the emotional and psychological wear and tear because most do not have a vehicle to transport themselves, but it also affects their economy (testimony<sup>7</sup>)."

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<sup>5</sup> Ministry of the Interior (Segob). (May 8, 2023). Decree reforming and adding various provisions to the General Law on Access of Women to a Life Free of Violence, regarding Centers of Justice for Women. Official Gazette of the Federation. Retrieved from <https://cutt.ly/iwgiX4xs>

<sup>6</sup> EQUIS. Justicia para las Mujeres. (2023). Centers of Justice for Women "National Report 2018-2021".

<sup>7</sup> EQUIS: Justicia para las Mujeres. (2023). Centers of Justice for Women "National Report 2018-2021". Page 85.

Regarding the information we gathered about the availability of interpreters and translators of indigenous languages in the CJMs, five out of the 27 states from which we requested information stated that they have their staff. At the same time, 16 rely on other institutions and call them in when necessary<sup>8</sup>. This makes it difficult to assist indigenous women satisfactorily and promptly.

***Recommendations:***

- Standardize the criteria used by the CJMs to identify, capture, and report data on the identity characteristics of their users based on their ethnic origin.
- Ensure that services provided by CJMs are delivered with a differentiated approach. To achieve this, the availability of interpreters and translators of indigenous languages should be at least guaranteed.
- Consider the availability of transportation routes facilitating mobility to and from the users' places of origin as a priority parameter for establishing the new CJMs.
- Implement itinerant service days in coordination with relevant government agencies to expedite referrals and follow-up on the care provided.
- Improve the dissemination of updated, timely, and functional information about the process and procedures of care and the services provided by the CJMs, considering the local context for message design and communication through various media.

**c. Protection Orders.**

According to Article 2, Section A, Fraction VIII of the Mexican Constitution and Article 5, Clause b) of the Convention, the State is obligated to guarantee the security and protection against any act of violence that puts the integrity of women at risk, always ensuring the right to access the jurisdiction of the State, which must take their customs and cultural specificities into account.

Furthermore, General Recommendation 35 of the Committee on the Elimination of Discrimination against Women<sup>9</sup> has been emphatic in stating that discrimination against women includes gender-based violence. Therefore, States have the obligation of due diligence to address this violence through the adoption and implementation of various legal mechanisms for prevention and protection against gender-based violence.

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<sup>8</sup> EQUIS: Justicia para las Mujeres. (2023). Centers of Justice for Women "National Report 2018-2021". Page 103. Available at: [\[https://equis.org.mx/wp-content/uploads/2023/10/CEJUM-Informe-Nacional.pdf\]](https://equis.org.mx/wp-content/uploads/2023/10/CEJUM-Informe-Nacional.pdf) (<https://equis.org.mx/wp-content/uploads/2023/10/CEJUM-Informe-Nacional.pdf>)

<sup>9</sup> CEDAW/C/GC/35, Committee on the Elimination of Discrimination against Women General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, 2017.

As of the date of this report, the State, through the General Law on Access of Women to a Life Free of Violence, recognizes protection orders as the mechanism for protection and prevention of violence against women and forces administrative and jurisdictional authorities to issue them without conditioning their granting to a procedure or complaint. However, we are still far from ensuring that protection orders guarantee prevention and protection for indigenous women against violence.

According to interviews conducted by EQUIS and CADIN with over 90 Maya women from Yucatan, 70% of them were not aware of protection orders, nor did they know that they could request the immediate removal of the aggressor from their home regardless of who the owner is: "when we go to civil courts they tell us that *ejidal* property is not governed by the same laws, it is not included in the division of assets"<sup>10</sup> This demonstrates not only the lack of dissemination about protection orders and their scope but also the insufficient analysis of the victim's context and how it generates conditions of vulnerability.

In addition, it was identified that only in 5% of cases, it is the authority who, acting within its official capacities, determines its issuance<sup>11</sup>; in most cases, it is the women themselves directly or through their legal representative who request the protection order. This is concerning because Maya women themselves acknowledge that they cannot intervene when a woman from their community is being attacked; moreover, seeking help can be dangerous because the aggressors, the aggressor's relatives, or friends may harm them at that moment or later on<sup>12</sup>.

***Recommendations:***

- Disseminate information about protection orders (their operation, authorities authorized to issue and follow up on them) so that indigenous women can know and understand the judicial protection services they can access in case of possible situations of violence.
- Implement protection orders considering the social exclusion conditions faced by Maya women (this was mentioned in the observations to Mexico in 2019; the Committee on the Elimination of Racial Discrimination emphasized the importance of indigenous women having "effective and culturally appropriate protection mechanisms").
- Reform the General Law on Access of Women to a Life Free of Violence to allow municipal and peace judges and the authorities of indigenous towns or communities to issue protection orders, as they are the authorities closest to women.

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<sup>10</sup> Centro Alternativo para el Desarrollo Integral Indígena A.C (CADIN) and EQUIS Justicia para las Mujeres, *Agenda for access to justice for Maya women in Yucatan*, p.32

<sup>11</sup> These data stem from the review of 45 protection orders by EQUIS and 14 civil society organizations. These protection orders were provided by the Judicial Powers of the states of Yucatán, Puebla, Oaxaca, and Quintana Roo.

<sup>12</sup> Op cit 2. CADIN and EQUIS. *Agenda for access to justice for Maya women in Yucatan*.

- Implement interinstitutional coordination protocols that consider community authorities, for example, by monitoring the protection needs of indigenous women and ensuring compliance with the orders issued in their favor, without implying that they are the sole authorities responsible for these tasks.
- Indicate in all protection orders which authority will monitor their compliance, what actions must be taken, and how they will be held accountable for this task.

## **2. Criminalization of Indigenous women.**

### **a. Incarcerated indigenous women.**

According to the National Survey of Incarcerated People (Enpol by its Spanish acronym), the number of women who identify as indigenous and are in the prison system has increased drastically. In 2016, the number of indigenous women surveyed in prison was 426, but in 2021, the number has risen to 1,734. This represents an increase of over 300%, the majority (58%) in preventive detention, unlike 46% of indigenous men. The CERD Committee had already drawn the attention of the Mexican State to the number of indigenous people in prisons<sup>13</sup> in 2012; it recommended eradicating the discrimination that occurs there<sup>14</sup>.

Regarding the characteristics of incarcerated indigenous women in Mexico, the Enpol also reveals that more than half are between 30 and 50 years old. They are young adult women, mostly with a completed middle school education (48%). 80% said they had worked before entering prison, and despite working seven days a week, they could not cover their needs. They also reported that their homes did not always have access to food. Additionally, on average, incarcerated indigenous women have between one and two economic dependents, either their parents or their underage daughters and sons, who, at the time of their imprisonment, were cared for by other relatives, such as their grandparents.

The imprisonment of indigenous women puts them in a vulnerable situation and exposes them to violence. According to the survey mentioned above, 56% of them were threatened with false charges, and during their legal process, they suffered physical violence such as beatings (43%) and suffocation (20%).

### ***Recommendations:***

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<sup>13</sup> Final observations of the Committee on the Elimination of Racial Discrimination. Mexico, CERD/C/MEX/CO/16-17, March 9, 2012, pag. 14.

<sup>14</sup> Final observations on Mexico's combined 18th to 21st periodic reports, CERD/C/MEX/CO/18-21, September 19, 2019, paragraph 27 subparagraph a.



- Prevent inhuman treatment and torture during the detention of indigenous women.
- Ensure the availability of interpreters/translators of the indigenous women's language and defenders who understand the culture.

#### **b. Obstacles to accessing release mechanisms: the case of the Amnesty Law.**

Mexican regulations such as the National Code of Criminal Procedures, the National Criminal Execution Law, and the Amnesty Law provide alternative measures to imprisonment and mechanisms for release, that is, procedures designed for people to either not enter or leave prison early. However, due to various obstacles, indigenous women cannot access these mechanisms in practice.

The federal Amnesty Law, approved in April 2020, recognizes that certain populations in vulnerable situations do not have access to a fair process and are imprisoned due to i) lack of interpreters during the judicial process and ii) for being indigenous people, for being in poverty, or extreme vulnerability. However, as of February 2024, more than three years after its implementation, the Commission coordinating its implementation had only received 2,352 requests, of which only 28 were filed by women who self-identified as indigenous, and only 10 cases were declared admissible, meaning they effectively obtained their freedom<sup>15</sup>.

In the report "Alternative measures to imprisonment in the new criminal justice system. Possibilities and barriers to implementation in cases of women" (EQUIS, 2022), we find evidence that indigenous women cannot access these types of procedures because the requirements do not consider their contexts.

Firstly, amnesty applications can be filed by the person seeking the benefit, their family, or their defense before the enforcement court, the amnesty commission, or other authorities, but the translation of information about these mechanisms was not timely; for example, the forms to request amnesty took more than a year to be available in some indigenous languages; due to lack of adequate defense<sup>16</sup>, and due to the lack of trained personnel to conduct interpretations<sup>17</sup>.

Secondly, the type of crime for which the person is being prosecuted or sentenced, as in most cases, crimes considered "serious" and listed in the catalog of mandatory preventive detention are

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<sup>15</sup> Data from the Support Unit for the Justice System, updated as of February 26, 2024, available at: ([https://justicia.segob.gob.mx/es/UASJ/Ley\\_de\\_Amnistia](https://justicia.segob.gob.mx/es/UASJ/Ley_de_Amnistia))

<sup>16</sup> According to the ENPOL, over 50% of indigenous women who pleaded guilty stated that it was because authorities such as the public prosecutor or their defense attorneys convinced them, pressured them, or physically assaulted them.

<sup>17</sup> For example, in states with a larger indigenous population like Yucatan, the State Attorney General's Office reported having only four certified interpreters in Maya.



excluded, for example, kidnapping, homicide, drug-related offenses, which are the main crimes for incarcerated indigenous women.

Thirdly, indigenous women must prove they belong to a community through a "document accrediting their indigenous status<sup>18</sup>" to be eligible for amnesty. However, the problem is that the applicant, being in prison, must rely on family members, friends, or close acquaintances to obtain these documents, and factors such as the loss of networks and the distance from their communities often lead them to abandon the process.

***Recommendations:***

- Avoid establishing excessive procedural burdens or those contrary to human rights, particularly for indigenous women.
- Activate all release mechanisms available per the national regulations for people deprived of their liberty. Such mechanisms may include pre-liberation benefits or pre-release according to prison policy criteria outlined in the National Criminal Execution Law.
- Application of non-custodial measures, through the use of opportunity criteria, alternative solutions, and forms of early termination —reparatory agreements and conditional suspension of the process— for the cases of simple robbery or simple possession of drugs, provided for in the Amnesty Law, as well as in the cases already considered in the criminal law.
- Review criminal types that have been amnestied, as the Amnesty Law outlines. Failure to do so will result in continued punishment for individuals in these cases, making this law an exception rather than an act of justice and restitution of rights.
- Promote the approval of local amnesty laws based on the crimes and failures to due process that affect indigenous women the most in each state.

**c. Challenges to accessing social reintegration services.**

The National Criminal Execution Law establishes guidelines for addressing cases of indigenous people deprived of their freedom within Penitentiary Centers, such as having certified interpreters, preserving their customs and traditions, and accessing bilingual education. However, through interviews and workshops, EQUIS collected testimonies from formerly incarcerated indigenous women, which point to significant challenges in accessing social reintegration services.

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<sup>18</sup> Technical Secretariat of the Amnesty Commission. (2024) "Guidelines for the procedure for handling amnesty requests and their modification." Available at: [https://justicia.segob.gob.mx/es/UASJ/Ley\\_de\\_Amnestia](https://justicia.segob.gob.mx/es/UASJ/Ley_de_Amnestia)

For example, there were no interpreters for indigenous languages during their time in prison, so other inmates took on this role. Additionally, the prison authorities did not inform them about reintegration services or provided them with occupational workshops. So, they were provided by other inmates, civil associations, and third parties who took advantage of their needs by requesting money or exposing their data for profit.

On the other hand, upon leaving the penitentiary, they were not given prior notice to prepare themselves, nor considered whether they had support networks or a means of transportation to return to their place of origin, and they were "taken out in the middle of the night." Once released, they could not access official documents such as identification, so they could not find a place to live, gain paid employment, resume their studies, or obtain bank loans to start a business. They also missed the opportunity to enroll themselves or their children in government social programs. They shared the following with us:

"I was informed that there is support for people with disabilities in the municipality, and I went to inquire once, but because I do not have an ID, I cannot request that support. So, because I do not have that right, my children are also affected. So, when support comes for school supplies or a scholarship, I cannot receive it because I do not have an ID. Not only am I being affected, but my children are also suffering because they are losing that right." (Testimony<sup>19</sup>)

### ***Recommendations:***

- Adapt the protocols for leaving the penitentiary to consider the needs of indigenous women, such as receiving clear information about the services they can access, communicating with their support networks, providing transportation to return to their community, and avoiding their release at night or without prior notice.
- Expedite the processes for issuing official documentation needed by indigenous women upon release from a penitentiary to not hinder their access to paid employment, educational services, bank loans, or government programs.

### **3. Access to state justice for indigenous women.**

#### **a. Access to information.**

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<sup>19</sup> EQUIS: Justicia para las Mujeres A.C. (2021), *Poverty, Gender, and COVID-19*. [Online] Available at: <https://equis.org.mx/wp-content/uploads/2022/02/Pobreza-ge%CC%81nero-y-COVID-19-efectos-sobre-mujeres-indi%CC%81genas-de-Oaxaca.pdf>

If we consider the right to access information as cross-cutting with access to justice<sup>20</sup>, it is identified that the Mexican state has not fully guaranteed this right. Based on a review of the primary sources of information available to the public (websites of the Judiciary, statistical records, and access to information requests), EQUIS identified significant challenges regarding accessibility, usefulness, and the existence of information.

Regarding accessibility, there are differences between states; in some, statistical yearbooks and corresponding reports may be prominent on the page, while in others, they are nested in various sections. Some have microsites dedicated to judicial statistics, while others present this information in transparency sections. Furthermore, once accessed, the search terms or criteria are only understandable to people with legal knowledge.

Regarding their usefulness, the publication of data in different formats makes their processing systematization and analysis difficult. Some states publish data tables<sup>21</sup>; others publish scanned reports<sup>22</sup>; others offer downloadable reports<sup>23</sup>, or interactive online reports<sup>24</sup>. Sometimes, the information provided is incomplete or disaggregated using different criteria. This lack of information prevents us from knowing, measuring, or evaluating the gaps in access to justice for indigenous women.

***Recommendations:***

- Incorporate direct access to search engines for judgments or resolutions on the main screens of the official websites of the judicial branches.
- Publish accessible and useful information. The generated information must be processed and shared with the public in accessible and understandable formats. For example, formats for indigenous languages that are only communicated orally.
- Present information in open data formats that can be easily reused rather than formats that hinder their systematization and analysis.

**b. Generation of disaggregated statistics.**

According to Article 70, section XXX of the General Law of Transparency and Access to Public Information and Article 8 of the Belém do Pará Convention; the State is obligated to keep its statistics updated with the greatest possible disaggregation and to guarantee the investigation,

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<sup>20</sup> EQUIS: Justicia para las Mujeres, *Principles of Feminist Open Justice, Feminist Open Justice Model*, p.15, México 2023.

<sup>21</sup> Baja California Sur, Chihuahua, Michoacán.

<sup>22</sup> Baja California.

<sup>23</sup> Chiapas, Durango, Hidalgo, Nayarit, Nuevo León, San Luis Potosí, Sinaloa, Sonora, Tlaxcala.

<sup>24</sup> Guanajuato, Yucatán, Estado de México.

compilation of statistics, and other relevant information on the causes, consequences, and frequency of violence against women.

The same Committee for the Elimination of Racial Discrimination, in its Concluding observations on the 18th to 21st periodic reports of Mexico<sup>25</sup>, recommended:

*“...strengthening the systematic collection of data and conducting a review of the categories and methodologies used for self-identification in the matter, in order to be able to generate reliable, updated, disaggregated, and complete information on the ethnic composition of the population of the State in question, as well as on its socio-economic situation and, among other things, ...provide accountability on the access to justice”.*

To date, it can be identified that the State has not fully met these obligations. Based on a review of the main statistical registration instruments, EQUIS identified omissions and disparities in the criteria used to register information by institutions responsible for guaranteeing this right, such as the INEGI and the state judicial branches<sup>26</sup>.

## **Criminal Law**

### Judicial Branches

- Only 13<sup>27</sup> Judicial Branches publish information on their websites.
- Only 7 of these provide separate information per offense<sup>28</sup>.
- None of these Judicial Branches classify the information distinguishing between victims and defendants; it is also impossible to determine if indigenous individuals were involved in these cases.

### National Census of State Justice Administration

- Information is only collected on whether individuals belong to an indigenous community or speak an indigenous language during the "control stage"<sup>29</sup> of a criminal procedure, but not during the trial stage. This prevents monitoring from taking place at different stages of the criminal process.

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<sup>25</sup> (CERD/C/MEX/18-21), Committee on the Elimination of Racial Discrimination, Concluding observations on the combined 18th to 21st periodic reports of Mexico, August 2019, paragraph 7. Available at:

([https://hchr.org.mx/wp/wp-content/themes/hchr/images/doc\\_pub/CERD\\_C\\_MEX\\_CO\\_18-21\\_36936\\_S.pdf](https://hchr.org.mx/wp/wp-content/themes/hchr/images/doc_pub/CERD_C_MEX_CO_18-21_36936_S.pdf))

<sup>26</sup> This review included: the 32 websites of state judicial branches, the website of the Agrarian Courts; the National Census of State Justice Administration 2022; the National Census of Federal Justice Administration 2022; the National Census of Federal Justice Administration 2023. Additionally, requests for information were made for each of the 32 state judicial branches and 1 for the Agrarian Superior Court, requesting specific data on access to justice in criminal, family, and agrarian matters from 2021 to 2023.

<sup>27</sup> Aguascalientes, Baja California, Ciudad de México, Chiapas, Hidalgo, Estado de México, Nayarit, Quintana Roo, Sinaloa, Sonora, Tlaxcala, Veracruz, Yucatán.

<sup>28</sup> Aguascalientes, Chiapas, Hidalgo, Nayarit, Quintana Roo, Sinaloa, and Sonora

<sup>29</sup> In Mexico, the criminal process is divided into three stages: a) investigation, which begins with the accusation made against a person for a crime, in some cases, the person is detained and a judge must review or determine if the accusation and detention are legal (the "control judge"), also information about the crime is collected; b) intermediate stage or preparation for trial; and c) oral trial stage, before a judge in criminal matters (different from the "control judge").

## **Family Law**

### Judicial Branches

- In 21<sup>30</sup> Judicial Branches, there is no information available to identify the individuals involved, not even by their gender.
- The remaining 11 Judicial Branches provide general information, but there are differences in the disaggregation by gender of the individuals involved in cases of this matter.

### *National Census of State Justice Administration*

- It does not publish information about the belonging of the individuals involved in a family process to an indigenous group, nor does it indicate other identity characteristics or conditions of their context.

## **Agrarian Law**

- Neither the Agrarian Courts nor the National Census of Federal Justice Administration<sup>31</sup> compile statistical information on the gender, ethnicity, or other characteristics of the parties involved. This is relevant given the context of inequality that indigenous women themselves have identified regarding land tenure and ownership within ejidos<sup>32</sup>.

The lack of disaggregated information on indigenous women in cases involving them does not allow for comparative analysis to understand their specific scenarios of access to justice and to what extent they are affected. It also does not allow for the development of a diagnosis of their access to justice and, thus, the generation of specific proposals for their care, prevention, and protection.

### ***Recommendations:***

- Provide training to judicial authorities to understand the duties and limits imposed by the data protection regulatory framework. This training should include:
  - Handling and protecting data and specific rules for its use and safeguarding.
  - Sensitization to ensure the right to non-discrimination when collecting this information.
- Implement this Committee's recommendations<sup>33</sup>, as well as those from the Committee on the Elimination of Discrimination against Women and the Follow-up Mechanism to the

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<sup>30</sup> Chiapas, México City, Hidalgo, Jalisco, Morelos, Puebla, San Luis Potosí, Tamaulipas, Veracruz de Ignacio de la Llave, Campeche, Coahuila de Zaragoza, Chihuahua, Durango, Guanajuato, Guerrero, Oaxaca, Quintana Roo, Sinaloa, Sonora, Yucatan, Zacatecas.

<sup>31</sup> This Census compiles statistical information from the Agrarian Courts, both from the Superior Agrarian Tribunal and the Unitary Agrarian Courts.

<sup>32</sup> This issue was mentioned by participants in the citizen audit exercise conducted with indigenous women in 2023. This collaborative exercise was convened by Equis Justice for Women to identify and assess, through the analysis of judicial rulings or sentences, the progress made and challenges that are still pending to ensure truly comprehensive and egalitarian justice. The group comprised indigenous women from Ciudad de México, Yucatán, Puebla, and Oaxaca.

<sup>33</sup> (CERD/C/MEX/18-21), Committee on the Elimination of Racial Discrimination, Concluding observations on the combined 18th to 21st periodic reports of Mexico, 2019.

Belém do Pará Convention<sup>34</sup> on the generation of disaggregated and contextualized statistics with special emphasis on indigenous women to understand the forms of discrimination and gender-based violence they suffer, as well as the access to justice mechanisms implemented to assess their impact on women's lives.

- Standardize criteria for data collection in conjunction with the National Institute for Access to Information (INAI), local transparency bodies, INEGI, and institutions that make up the justice system.

### c. Publication of court rulings.

In 2020, the collective #LoJustoEsQueSepas<sup>35</sup> succeeded in persuading the Supreme Court of the Nation to recognize that all rulings are of public interest and, therefore, merit being made available in public versions through the internet portals of the Judicial Branches<sup>36</sup>. Consequently, the General Law of Transparency and Access to Public Information was amended to establish, as an obligation, the implementation of judgment search engines and the publication of rulings with a gender perspective (Article 64, second paragraph, Article 70, Section XXXVI, and Article 73, section II).

While this reform is recognized as progress in citizens' struggle to demand their rights to access information from justice institutions, in contrast with the last report presented to this Committee in 2019<sup>37</sup>, challenges persist for adequately fulfilling this obligation.

To date, all state and federal Judicial Branches have implemented some sections on their websites to publish rulings; however none of the platforms allow filtering information based on general data of the individuals involved (age, sex, cultural identity).

Additionally, when directly requesting judgments from the Judicial Branches that involved indigenous women<sup>38</sup>, **only 9 out of 32 state Judicial Branches shared rulings where women,**

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<sup>34</sup> OAS, Follow-up Mechanism for the Belém do Pará Convention (MESECVI) Mexico. Report on the Implementation of the Recommendations of the Committee of Experts of the Follow-up Mechanism of the Belém do Pará Convention (CEVI). Third round, 2020.

<sup>35</sup> This collective was formed by civil society organizations: EQUIS: Justicia para las Mujeres, México Evalúa, Borde Político, Article 19, Mexicanos contra la Corrupción y la Impunidad, Controla tu Gobierno, and Fundar. Available at: (<https://equis.org.mx/ya-es-ley-todas-las-sentencias-judiciales-seran-publicas/>)

<sup>36</sup> See, Amparo in Review 271/2020, Supreme Court of Justice of the Nation, Mexico. Available at: ([https://www.scjn.gob.mx/sites/default/files/listas/documento\\_dos/2020-12/AR-271-2020-201208.pdf](https://www.scjn.gob.mx/sites/default/files/listas/documento_dos/2020-12/AR-271-2020-201208.pdf))

<sup>37</sup> See, Recommendations, Judicial opacity, Access to Justice for Indigenous Women. Report to the UN Committee on the Elimination of Racial Discrimination, EQUIS: Justicia para las Mujeres, Red Nacional de Abogadas Indígenas, Intersecta, Red Nacional de Refugios, and Centro Profesional Indígena de Asesoría, Defensa y Traducción Asociación Civil, A.C, 99th session, August 2019. Available at: (<https://equis.org.mx/informe-sombra-para-el-comite-de-la-onu-para-la-eliminacion-de-la-discriminacion-racial/>)

<sup>38</sup> EQUIS, through requests for access to information, requested from the 32 state judicial branches: 10 judgments in criminal matters, 10 in civil-family matters, and from the federal agrarian courts, 10 judgments in that area; all of them involving indigenous girls, women, and/or adolescents. These were to be final rulings issued between the years 2017 and 2022.



girls, or adolescents were involved, and only in some of those cases was it possible to identify them as indigenous<sup>39</sup>.

The remaining Judicial Branches stated that:

- They did not have judgments involving indigenous women<sup>40</sup>,
- Their computer systems did not have that type of information or
- They were prevented from collecting<sup>41</sup> it because it involved personal and/or sensitive personal data.

These findings were revealing, as they confirm that, in general, statistical data is not only not collected but also not substantively used. The application of a gender perspective and a human rights approach in justice administration requires the review and analysis of the identity and contextual characteristics of the individuals involved in a conflict.

***Recommendations:***

- Generate standardized criteria for the publication of rulings. Special attention should be paid to criteria for anonymizing sensitive data so that its suppression is not generalized, as it prevents the assessment of rulings to verify if the State complies with national and international human rights standards and norms for historically discriminated populations.
- Judicial Branches should implement accessibility measures to ensure that indigenous peoples and communities, especially women, access the information produced by the judiciary power, including rulings, thereby reducing asymmetries in the knowledge of the rights contained within.

**d. Justice Administration with a Gender and Intercultural Perspective.**

According to Article 2, section A, fraction VIII of the Mexican Constitution and Article 5 of the Convention, the State must ensure that its courts administer justice with a gender and intercultural perspective. This implies that judicial authorities ensure protection, effective resources, and fair redress against racial discrimination for the people under their jurisdiction.

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<sup>39</sup> Chihuahua, Guerrero, Hidalgo, Michoacán, and Morelos.

<sup>40</sup> Baja California, Coahuila, Colima, and Guanajuato.

<sup>41</sup> Estado de México, Nayarit, Queretaro, Puebla, Tlaxcala, Tamaulipas, and Veracruz.





Currently, this right is still not fully guaranteed. The Maya Justice Promoters Network<sup>42</sup> recognizes that state justice institutions do not consider their language or life outside the cities; the courts are far from their communities and do not have translators, interpreters, or Mayan-speaking staff when they attend. They also identify that judicial processes take a long time to resolve the conflicts they face, and when a ruling is issued, it does not consider their context<sup>43</sup>.

This was confirmed through a citizen audit exercise conducted by indigenous women and EQUIS, in which the analysis of 75 rulings showed the absence of contextual analysis and the failure of judges to identify situations of discrimination and violence hindering the access to justice of indigenous women. Among the most revealing findings were:

- In 36% of the rulings, the facts allowed for identifying situations of discrimination and violence, but the judges did not recognize them.
- In 38.7% of cases, the limited information provided by the facts did not allow for recognizing such situations because the parties did not mention them, and the authorities did not inquire about them.
- In 20% of cases, the evidence could have demonstrated gender-based inequalities, and 13.3% based on cultural identity, but the judges did not use this information in their analysis.
- In 65% of rulings, the legal framework regarding women's rights and/or indigenous peoples<sup>44</sup> rights was not mentioned, even though it was necessary to do so. Treaties such as CEDAW and the Belém do Pará Convention were only used in 9% of rulings.
- In 29.3% of rulings, damages caused by discrimination and/or violence based on the cultural identity of the people involved were not identified, and only 5.3% of cases addressed this obligation.
- Only 25.3% of judgments included some form of reparation measures.
- Measures to monitor compliance with the content of the rulings were not included in 78.7% of rulings.

### ***Recommendations:***

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<sup>42</sup> The Promoters Network consists of 40 Maya women from eight municipalities in Yucatan (Chikindzonot, Chemax, Tekom, Tixcacalcupul, Kinchil, Halacho, Mayapan, and Yaxcaba) since 2016. With the support of various civil society organizations (EQUIS: Justicia para las Mujeres, A.C.; Centro Alternativo de Desarrollo Integral Indígena A.C (CADIN); APIS Sureste: Fundación para la Equidad, A.C., and Kookay: Ciencia Social Alternativa), they have gained knowledge about human rights and access to justice, which they share with other women in their communities.

<sup>43</sup> Centro Alternativo de Desarrollo Integral Indígena A.C (CADIN) and EQUIS: Justicia para las Mujeres, *State Justice, Agenda for Access to Justice for Maya Women in Yucatan*, p. 61. Available at: <https://equis.org.mx/wp-content/uploads/2023/01/Agenda-para-la-justicia-de-las-mujeres-mayas-EQUIS.pdf>

<sup>44</sup> An example of this legal framework includes the following international treaties: the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará Convention); the Convention on the Rights of the Child; and the International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples. The Mexican government has signed all of these.

- Proactively collect identity and context data of the individuals involved in the case to allow the authority to analyze if these factors fully or partially caused inequality, discrimination, and violence, and thus apply a human rights approach, gender perspective, and intercultural perspective in their rulings.
- Have more interpreters and translators and ensure they have the knowledge, skills, and experience to enable indigenous women to communicate accurately in legal processes. Authorities identify their doubts, needs, demands, etc.
- Ensure that indigenous women obtain comprehensive reparations measures that consider their context and vulnerability conditions and follow-up measures for effective compliance.
- Design dissemination and socialization strategies to promote and/or reinforce the protective human rights legal framework in the judicial function, emphasizing its substantive use and not merely its enunciation in rulings.

## **2. Access to community justice for indigenous women.**

Pursuant Article 2, section A, subsection II of the Mexican Constitution and Article 5, subsection a) of the Convention, the State is obligated to guarantee indigenous women's access to justice on equal terms and ensure the recognition and strengthening of their community justice.

Today, community justice enjoys a higher level of trust than state justice. According to interviews conducted by EQUIS and the Centro Alternativo de Desarrollo Integral Indígena (CADIN), Maya women find an opportunity in peace courts and municipal commissioner's offices to resolve conflicts and escape violence. They consider their justice system as a type of "listening justice," as they speak with their authorities in Maya and know that the community recognizes their customs, traditions, and culture. Additionally, these institutions are close to their homes and do not make them wait<sup>45</sup>.

Despite this recognition, Maya women identify obstacles that hinder their full functioning. The main one is the lack of knowledge among their authorities about which cases they should handle and which should be referred to other institutions. Commissioners are unaware of women's rights or the various institutions that provide services to help them escape violence.

Also, the absence of registration of cases of violence against women in their community makes it difficult to have evidence for future legal actions or even to share this information to build better programs and services to address this problem. Finally, they have identified cases in which

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<sup>45</sup> Op. cit. 27. Centro Alternativo de Desarrollo Integral Indígena A.C. (CADIN) and EQUIS: Justicia para las Mujeres, *Community Justice, Agenda for Access to Justice for Maya Women in Yucatan*, p. 55.

authorities blame them for the violence they face and/or have little privacy regarding the information about their complaints. This inhibits them from reporting, as it could generate repercussions against them at the family and community levels.

### ***Recommendations***

- Strengthen community justice institutions through training on women's rights, addressing these cases, and properly recording them while guaranteeing their privacy.
- Promote collaboration and coordination between community and state justice to improve access to justice for indigenous women.
- Disseminate materials in peace courts and municipal commissariats that present the obligations that community authorities must fulfill, briefly and simply, so that women know how to act and their responsibilities.

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