

# **Crimes Against Humanity**

## **Decades of Violence and Abuse in Mexican Institutions for Children and Adults with Disabilities**

A report by

### **Disability Rights International**

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## Disability Rights International

[www.DRIadvocacy.org](http://www.DRIadvocacy.org)

Disability Rights International (DRI) is an international human rights organization dedicated to the rights and full participation in society of people with disabilities. DRI documents abuses and promotes international awareness and oversight of the rights of people with disabilities. DRI trains and supports disability rights and human rights activists worldwide to promote rights enforcement and service-system reform.

DRI is based in Washington, DC with regional offices in Mexico and Serbia. DRI has investigated human rights conditions and collaborated with activists in more than two dozen countries of the Americas, Asia, Europe, and the Middle East. DRI has published six reports on the human rights of people with disabilities in Mexico, in 2019, 2015, 2010, and 2000. DRI has also published reports on the Republic of Georgia, United States, Vietnam (published by UNICEF), Serbia, Argentina, Romania, Turkey, Uruguay, Peru, US Foreign Policy (published by the US National Council on Disability), Kosovo, Russia (published by UNICEF), and Hungary. These reports have brought unprecedented international attention to the human rights of people with disabilities.

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## ABBREVIATIONS

<b>CAIMEDE</b>	Centro de Atención al Menor en Desamparo
<b>CAIS</b>	Social Assistance and Integration Center
<b>CDHBC</b>	Baja California State Human Rights Commission
<b>CDHCM</b>	Mexico City Human Rights Commission
<b>CEDHJ</b>	Jalisco Human Rights Commission
<b>CNDH</b>	National Human Rights Commission
<b>CODHEY</b>	Yucatán State Human Rights Commission
<b>CONSAME</b>	National Mental Health Council
<b>CRPD Committee</b>	UN Committee on the Rights of Persons with Disabilities
<b>CRPD</b>	Convention on the Rights of Persons with Disabilities
<b>CRREAD</b>	Recovery and Rehabilitation Center for Patients with Alcoholism and Drug Addiction
<b>DIF</b>	System for Integral Development of the Family
<b>DRI</b>	Disability Rights International
<b>ECT</b>	Electro-convulsive therapy
<b>IACHR</b>	Inter-American Commission on Human Rights
<b>IAP</b>	Private Assistance Institution
<b>INAI</b>	National Institute for Transparency, Access to Information and Personal Data Protection
<b>INEGI</b>	National Institute of Statistics and Geography
<b>IMSS</b>	Mexican Institute of Social Security
<b>ISSSTE</b>	Institute of Security and Social Services for State Workers
<b>IUD</b>	Intrauterine device
<b>LGDNNA</b>	General Law on the Rights of Girls, Boys and Adolescents
<b>LGS</b>	General Health Law
<b>MNPT</b>	National Mechanism for the Prevention of Torture
<b>NOM 005</b>	National Standard Regulation NOM-005-SSA2-1993 on "Family planning services"
<b>NOM 025</b>	Mexican Official Standard NOM-025-SSA2-2014 for the provision of health services in psychiatric hospitals
<b>PDNNA</b>	Federal Attorney for the Protection of Children
<b>PGR</b>	Attorney General's Office
<b>PRODEMEFA</b>	Attorney General Child Protection Division
<b>REDIM</b>	Children Rights Network in Mexico
<b>SAP</b>	Psychiatric Care Services, Ministry of Health
<b>SC</b>	Civil Society
<b>SCJN</b>	National Supreme Court of Justice
<b>SIPINNA</b>	National System for the Integral Protection of Children and Adolescent
<b>WHO</b>	World Health Organization

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**PREFACE****By Juan E. Mendez, former UN Special Rapporteur on Torture**

In this report, Disability Rights International (DRI) has thoroughly documented and detailed human rights violations against people with disabilities - a culmination of the 20 years of work that DRI has carried out in Mexico. DRI's investigations cover a wide range of institutions including orphanages, psychiatric hospitals, institutions for people with disabilities and for homeless people, among others. The documentation of such a large number of institutions provides an overview of a scale of violations of the rights of persons with disabilities in Mexico that is truly tragic.

The report documents practices that are completely incompatible with basic human rights and human dignity. The use of physical and chemical restraints, the isolation and deprivation of liberty of people with disabilities, and the use of lobotomies and electroconvulsive therapies without anesthesia are violations of international human rights law as they have no scientific justification or medical necessity. Additionally, the conditions in which they are applied violate the free, informed and voluntary consent of people with disabilities.

The UN Convention on the Rights of Persons with Disabilities (CRPD or Convention) firmly establishes the right of everyone, including people with disabilities, to live in the community and to receive health care, treatment and support in a community setting. The Convention also recognizes the right to life and the right to personal, physical and mental integrity of persons with disabilities. These rights create a series of affirmative obligations, which are widely violated by Mexico, as this report illustrates.

When I visited Mexico as the UN Special Rapporteur for Torture in 2014, I visited one of the institutions documented by DRI in its report. There was an almost complete lack of care for people with disabilities and the hygiene conditions at the facility were unspeakable. It was one of the worst experiences during my visit to Mexico. Seeing people with disabilities detained there in horrendous conditions is one of the images that, after all these years, has remained vividly in my mind.

The most appalling finding of this report is the extremely high degree of impunity for the violations documented in it. The knowledge of a long-standing pattern and the lack of institutional action by Mexico to correct these tremendous abuses, goes far beyond a criminally negligent conduct. *As the report argues, they may well rise to the level of crimes against humanity.*

***Crimes against humanity are intentional crimes, they are not crimes that can be committed by negligence.*** There is definitely here a pattern of neglect and lack of interest by all levels of State and federal authorities in Mexico. However, when it comes to a passivity such as this one, where Mexico is aware of the consequences of its lack of action to stop the abuses, and tolerates their repetition, neglect eventually becomes an intentional crime.

Even if Mexico does not intend to inflict this type of pain or suffering, its authorities know that a consequence of their lack of action is extreme pain or suffering - or even death. This knowledge and toleration of the consequences is known in criminal law as *dolus eventualis*, a form of intent. And when the knowledge and toleration take place over years and affects

countless numbers of persons with disabilities, *dolus eventualis* may indeed satisfy the requirement of intent for a *crime against humanity*.

It is my hope that the publication of this report will allow Mexican civil society to have an important tool to engage all branches of political power and jointly to develop the public policies that are absolutely urgent and necessary to end these grave violations and crimes perpetrated against children and adults with disabilities.

## Crimes Against Humanity: Decades of Violence and Abuse in Mexican Institutions for Children and Adults with Disabilities

### EXECUTIVE SUMMARY

**States Parties to the present Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others.** – UN Convention on the Rights of Persons with Disabilities (CRPD), Article 19

***They arrive here. They die here. The government provides no alternatives.*** – Director of *Pastoral de Amor*, Yucatan

This report documents severe and pervasive human rights violations against children and adults with disabilities in Mexico. Within the country's orphanages, psychiatric facilities, social care homes, and shelters for people with disabilities, inhumane and degrading treatment is common, and many practices amount to torture.

**Violence, sexual abuse, forced sterilization, forced abortion, and trafficking for labor or sex is common.**

Children and adults with disabilities throughout Mexico are confined to institutions, segregated from society, and exposed to these dangers – because of the country's failure to create social supports that would allow people to lead a full life in the community. Mexico's law strips people with disabilities of the right to make decisions about their own lives – leaving them unable to file complaints or demand accountability when they are abused.

DRI investigators recorded extensive accounts of physical and sexual abuse. At the *Casa Esperanza*, the Director of the facility explained that women and girls are sterilized to cover up sexual abuse:

***I cannot protect women from being raped by workers who come into the facility.... so, we sterilize all of them.*** – Director of Casa Esperanza

Authorities at six institutions informed DRI that they routinely sterilize women. According to the directors of the public psychiatric hospitals *El Batán* and *Villa Ocaranza*, **all women of 'fertile' age have been 'taken care of'** – surgically sterilized or given a contraceptive patch. In the private institution *El Recobro* in Mexico City, staff report women who arrive pregnant are sterilized after they give birth.

The problem of sterilization is not limited to women detained in institutions. DRI conducted a survey of over fifty women seeking outpatient mental health treatment in Mexico City, and a majority reported that they had been **sterilized without their knowledge or consent**. In the

same survey, an even larger majority reported that they **had been sexually abused** at the hands of health care providers. DRI similarly received extensive reports of sexual abuse within institutions:

***At least eight women told me they were victims of sexual abuse by male staff.***

– volunteer in *CAIS Cascada*

***It makes us feel disgusted.*** – woman at *CAIS Cascada*, a facility where women are forced to have sex and compensated with cigarettes or money.

In the absence of meaningful treatment in institutions, people with disabilities are often controlled through the use of physical and chemical restraints.

***I handcuff them and we tie their feet and leave them face down for hours.*** –

Director of the *Centro de Rehabilitación Fortalécete en Cristo*, Baja California

***Throughout the DRI investigation, I encountered a lack of awareness of professional standards and commonly accepted practices, such as positive behavioral supports. Such practices could be used to prevent and respond to challenging behavior and to make restraint unnecessary. Restraint is traumatizing, inhumane and counterproductive.*** – Dr. Diane Jacobstein, *Georgetown University Center for Child and Human Development*

At one facility, *Casa Hogar de Nuestra Señora de la Consolación de los Niños Incurables* in Mexico City, run by a Catholic order, investigators observed dozens of children and adults held in cages and tied down to beds. At the *Asociación Hogar Infantil San Luis Gonzaga* in the State of Mexico, nearly all children and adults were restrained with layers of bandages from head to toe for at least an hour a day. We observed young people with disabilities whose hands were tied to bars above their heads as they were forced to walk on treadmills for extended periods of time, purportedly as a form of “physical therapy.” International law prohibits the use of restraints as “treatment,” as this practice can be dangerous and traumatizing. When one minor finished his time on the treadmill at this facility, he lay face down on the mat in pain, requiring a heating pad for his shoulders.

Unproven and dangerous treatments, such as the use of **psychosurgery** for aggressive behavior among people with intellectual disabilities or autism, have been reported in a Spanish medical journal. The article described how adults may consent to allow psychosurgery on their children if they exhibit aggressive behavior – whether or not other treatment has been tried.

**Yucatan's mental health law specifically allows psychosurgery on children.** The Mexican Institute for Social Security reported the use of **lobotomies on women** with anorexia. Electro-convulsive therapy (ECT) is used without anesthesia or muscle relaxants – a dangerous practice that causes severe pain. The use of ECT without anesthesia has been condemned by the World Health Organization and described as torture by the UN Special Rapporteur on Torture. One recipient said he received 11 sessions as punishment, after a dispute with the Director of the Tabasco Psychiatric facility. The Deputy Director ordered a suspension of the procedure after the man's condition deteriorated so much that the Director “**thought he would die**.”

In several facilities, dangerous conditions and inappropriate care has led to high death rates. At the *El Batán* psychiatric facility, for example, authorities report that at least 98 of the approximately 300 people at the facility have died in the last two years. The Director of the facility said that that the high death rate was due to the “misuse of psychotropic medications” – an admission of gross medical neglect at the facility. This death rate of 27% from preventable causes is at least ten times the risk of sudden premature death in similar institutions of other countries.<sup>1</sup>

In the Psychiatric Institution *Villa Ocaranza* in Hidalgo, the director told DRI that the most common cause of death among persons with disabilities was “food aspiration” (choking) but, despite this, the institution had not hired a specialist to assist with feeding and choking prevention practices or come up with an individualized diet to reduce the risk of aspiration.

***They are here for social reasons. They have been abandoned by families and they have nowhere to go.*** – Ministry of Health Official, Yucatan

***They stay here until they die.*** – Director, *Casa Hogar San Pablo*, Querétaro

Throughout Mexico’s social service system, the primary reason given for confinement in an institution – according to both staff and person with disabilities interviewed by DRI – is the lack of community-based and family-based supports. Authorities at psychiatric facilities, social care homes, and homeless shelters agree that the vast majority of detainees are not dangerous and have no medical or psychiatric reason to be there, but they simply cannot obtain the support or treatment they need while living at home or with their family. Similarly, **the vast majority of children in Mexico’s orphanages have living relatives**, and they are placed in these facilities because of poverty or lack of supports to allow them to live with their family.

Children and adults with disabilities confined to institutions are usually condemned to a lifetime of segregation from society. The dangerous conditions at the facilities and lack of care and treatment often results in a decline in mental health. Children in orphanages often cannot attend mainstream schools, and adults lose out on employment opportunities, making it more and more difficult over time to reintegrate into society.

**This report documents a culture of impunity** in which abusers are not held accountable and government authorities fail to respond to known human rights violations in institutions. DRI has documented and exposed abuse and improper segregation in closed institutions in detailed reports in 2000, 2010, 2015 and 2019. In 2014, the United Nations Committee on the Rights of

<sup>1</sup> See (1) Manu, P., Kane, J. M. y Correll, C. U. (2011). *Sudden deaths in psychiatric patients*. Journal of Clinical Psychiatry, Vol. 72 No. 7, pp. 936–941. Available at <https://doi.org/10.4088/JCP.10m06244gry> (Last visit, Oct. 12, 2020); (2) Adelugba OO, Mela M, Haq IU (2018) *Trends and causes of psychiatric inpatient deaths: A ten-year retrospective study at a secure forensic psychiatric centre in Canada*. Forensic Sci Criminol, DOI: 10.15761 / FSC.1000122. Available at <https://www.oatext.com/trends-and-causes-of-psychiatric-inpatient-deaths-a-ten-year-retrospective-study-at-a-secure-forensic-psychiatric-centre-in-canada.php#gsc.tab=0>, (Last visit, Oct. 12, 2020); (3) Nordentoft M, Wahlbeck K, Hällgren J, y otros. (2013) *Excess Mortality, Causes of Death and Life Expectancy in 270,770 Patients with Recent Onset of Mental Disorders in Denmark, Finland and Sweden*. PLoS ONE 8 (1): e55176. Available at <https://doi.org/10.1371/journal.pone.0055176>. (Last visit, Oct. 12, 2020).

Persons with Disabilities condemned Mexico for its failure to enforce CRPD Article 19's obligation to avoid segregation by creating community-based services and support for people with disabilities. The Committee called on Mexico to adopt laws to stop labor exploitation of people with disabilities and forced sterilization. In the decade since the UN issued these recommendations, **Mexico has failed to change its discriminatory laws and flouted UN recommendations to end segregation** by providing community alternatives to institutions. At both national and state levels, the government has knowingly and intentionally allowed abusive and dangerous practices to continue by failing to change policies and continuing to direct the vast amount of funding for services into abusive institutions rather than community care.

***Plans to remodel and create new facilities show the government's intention to preserve the current institutional model instead of transitioning to a new, community model.*** – DRI Expert Dr. Javier Aceves, after interviewing authorities from the System for Family (DIF)

Despite well documented abuses, Mexico has not created the human rights oversight and enforcement systems necessary to protect its institutional populations. Indeed, creating policies and programs to respond to abuses has been impossible because the main authorities responsible for operating these services – the national Ministry of Health, the System for Integral Family Development (DIF), the Ministry for Social Development, and the National System for the Integral Protection of Children and Adolescent (SIPINNA) – do not even track the number of people placed within these systems.

### **Overview of findings: adult institutions**

DRI visited 35 institutions where adults with disabilities are detained – sometimes mixed with other populations such as children, drug addicts and migrants. **In 85% of the institutions DRI investigated for people with disabilities, we observed, or authorities reported the use of seclusion, physical restraint, or chemical restraint.** In some facilities, DRI observed all three of these abusive practices.

There were only five facilities where DRI investigators observed no inhumane and degrading treatment in progress. Of these, two of them were expensive private facilities, out of reach for most Mexicans. In the other three, there was a nearly complete lack of treatment and little active care and the people detained there were left to fend for themselves.

DRI observed the use of physical and/or chemical restraints in 83% of the institutions for people with disabilities we visited – much of it for prolonged periods of time. In Mexico, there are no laws limiting the use of restraint and no requirement to document each use, so it is impossible to know how long these practices continue.

DRI observed the use of seclusion rooms in a third of the institutions we visited. At the *Instituto de Psiquiatría* in Mexicali, Baja California, for example, **DRI found a man with an intellectual disability who had been held in a seclusion room for more than 4 months.** At the same

facility, DRI found a pregnant woman in a seclusion room. She told DRI, "I am afraid to stay here."

Most institutions visited by DRI detained adults with disabilities against their will or without their informed consent. In most such facilities, **people with disabilities are detained indefinitely, often until they die**. Two exceptions were psychiatric hospitals (Fray Bernardino in Mexico City and Instituto de Salud Mental in Tijuana, Baja California) that do not permit long term institutionalization and only accept patients whose families sign documents declaring that they will return and pick them up.<sup>2</sup>

***New patients are often targeted by other patients and are raped. Staff knows about this and they do nothing to stop it.*** – staff at CAIS Cuemanco, a public homeless shelter for men with disabilities in Mexico City

In at least a third of the facilities (11 institutions) DRI found forced labor or trafficking – adults with disabilities forced to work without compensation. Most of the forced laborers are women used as cleaning staff at the facility, but in some cases, the same women are forced to work at the homes of staff and are made to have sex with staff.

***I have to wash the dishes and do whatever the staff tells me to do, I do not like being here, and sometimes I cut myself.*** – woman at *Casa Esperanza*

At *Casa Esperanza*, women were routinely raped by staff and outside workmen coming into the facility. Effectively, rape was being used as part of the remuneration for men working at the facility. The same women were also forced to clean the homes of their abusers. Despite DRI's exposure of these abuses, there were no criminal convictions as a result of our investigation. All but one of the survivors were again detained in locked facilities, and at least one of them reported she was sexually abused again in the new facility. Authorities have refused to allow DRI to visit the survivors and have tried to prevent DRI's Mexico staff from access to information about their cases.

At *Casa Hogar la Divina Providencia* in the State of Mexico, DRI found that 32 of the 152 persons with disabilities serve as staff without salary. At another facility, *Centro el Recobro*, there are only three staff to provide 'care' to almost 200 women. More 'functional' women detainees are paired with women who are in need of more support and are given the job of providing that care, without remuneration. Men and women at various facilities reported to DRI that they had no choice in doing work for the facility. Even if some formality of consent were sought, however, the total power of authorities over detainees is such that this labor should not be considered voluntary.

In 83% of institutions for people with disabilities in Mexico, DRI found inadequate, inhumane, and degrading conditions including unhygienic facilities, lack of privacy, beds and mattresses in poor shape, and poor nutrition, among others. The *CAIS Villa Mujeres*, a homeless shelter in

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<sup>2</sup> They also refuse to take patients sent by the government –unless the authorities sign that they will pick them up – as they will more likely than not remain indefinitely in the institution.

Mexico City, houses approximately 400 women with disabilities in conditions of extreme neglect. In 2016, DRI found feces and urine on the floor and on the clothing of women – with an overpowering stench throughout the facility. Staff stated that cleaning supplies were regularly stolen and acknowledged that the facility is dangerously unhygienic. DRI visited the facility in 2016 and 2018 and found conditions unchanged.

***There are bedbugs and no water to clean. Everything is filthy.*** – Woman living at *CAIS Villa Mujeres*

Few institutions provide habilitation or rehabilitation to preserve and support independent living skills or assist people with disabilities reintegrate into the community. There is a widespread lack of care that is based on individualized assessments and delivered by qualified, trained staff.

### **Overview of findings: children's institutions**

Children are especially vulnerable to the dangers of institutional placement. Extensive scientific research has shown that the placement of *any* child in an institution is likely to cause irreversible psychological damage and cognitive delays. Children need to form emotional attachments at an early age, or they may permanently lose the ability to do so. For this reason, the CRPD creates especially strong protections for children.<sup>3</sup> In General Comment No. 5, the UN Committee on the Rights of Persons with Disabilities (CRPD Committee) unequivocally states that “[f]or children, the core of the right to be included in the community entails a right to grow up in a family.”<sup>4</sup> The CRPD Committee goes on to explain that:

Large or small group homes are especially dangerous for children, for whom there is no substitute for the need to grow up with a family. ‘Family-like’ institutions are still institutions and are no substitute for care by a family.<sup>5</sup>

In Mexico, there is a broad lack of supports for families of children with disabilities, forcing parents to give up their children and place them in institutions. In almost all of the institutions DRI visited, children with disabilities are detained indefinitely and remain segregated from society after they have turned 18 and become legal adults. None of the institutions had individualized plans to reintegrate the children to a family setting. In 65% of institutions DRI visited, children were not receiving *any* type of formal habilitation or rehabilitation programming and were not attending a mainstream school.

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<sup>3</sup> See Rosenthal Eric, ‘The Right of All Children to Grow Up with a Family under International Law: Implications for Placement in Orphanages, Residential Care, and Group Homes’, 25 Buffalo Human Rights Law Review, p. 101 (2019) (describing the development of the right to family under international law and summarizing research findings on the need and ability of all children to grow up in a family). Available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3409395](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3409395) (Last visit, Oct. 12, 2020).

<sup>4</sup> U.N. Secretary-General, *General Comment No. 5 (2017) on living independently and being included in the community*, U.N. Doc. CRPD/C/GC/5 (Oct. 27, 2017), para. 37. [hereinafter General Comment No. 5].

<sup>5</sup> *Ibid.* at para. 16(c).

DRI visited twenty-one institutions where children with disabilities are detained. In 86% of these institutions DRI found the use of physical restraints, chemical restraints, and seclusion. In 25% of the institutions visited, DRI found that all three of these restrictive and abusive practices were used on children.

**In the institution *Hogares de la Caridad* in the state of Jalisco, for example, DRI found a 17-year-old boy with autism wrapped in a sheet, confined with duct tape and held in a cage.** According to staff, restraints are needed because of the boy's behavioral problems. At this facility and many other documented in this report, physical restraints are used instead of mental health or rehabilitation programs that might address the underlying cause of difficult behavior. Throughout Mexico, DRI investigators found staff at institutions were unaware of mental health and behavioral programs for people with disabilities- resulting in widespread use of physical restraints.

Within Mexican institutions, children with disabilities in institutions are commonly placed in danger due to a range of inappropriate treatment practices and lack of oversight. For example, DRI observed dangerous treatment practices and a high death rate at the private institution *Casa Gabriel*, near Ensenada, in the state of Baja California. Most of the children there had cerebral palsy and some rarely had the opportunity to get out of bed. These children appeared to have muscle atrophy from a lack of movement and exercise. Many of the children were fed with feeding tubes, seemingly for the convenience of staff, as there was no documentation of medical necessity. According to the coordinator of *Casa Gabriel*, in 2017 there were 32 children living there. When DRI visited the institution in February 2019, only 19 of those children remained. Four children – between 12 and 22 years old- died within days of each other in February 2018.

***We interviewed Gloria, a single woman who had five children. After her husband left her, she had to leave the home for 12 hours at a time to earn the money to feed her children. She left her children in the care of the eldest. When child protection authorities discovered this situation, they took all the children away from her. Instead of providing support to allow Gloria to keep the children she loved, the children were placed in an orphanage. They ended up in the very abusive Ciudad de los Niños.*** – DRI investigator

DRI received allegations of sexual and physical abuse in at least one quarter of the institutions visited. In the case of *Ciudad de los Niños* in Salamanca, Guanajuato, a judge found that the children detained at the institution had been victims of grave human rights violations, including physical, psychological, emotional, and sexual abuse. **Girls as young as 11 were raped at the facility.** The judge found that many children were born in the facility to other girls, who had likely been trafficked for sex. **At least 137 children were registered in the name of the priest who runs the facility, likely to allow for illegal adoptions abroad.** Despite these allegations, the priest has been allowed to continue to operate at least six other institutions in Guanajuato and Michoacán.

The case of *La Gran Familia*, a 500-bed private institution in Michoacán, has received extensive press attention. The facility is commonly known as *Mama Rosa* after its founder, Rosa Verduzco.

Children at the facility were subject to physical and sexual abuse, placement in isolation rooms, deprivation of food, and filthy living conditions with rats and bedbugs. While the facility was closed in 2014, many its survivors with disabilities were never compensated for the abuses they experienced. For children with disabilities, liberation from *Mama Rosa* resulted in placement in other institutions because of a lack of supported for families, kinship care, and foster care for children with disabilities throughout the country.

DRI investigators interviewed a survivor, who was 18 years old when he was saved from *Mama Rosa*. He was never given any compensation. He has experienced depression and anxiety as a result of the trauma he experienced at the facility. Instead of being offered any form of care for this trauma in his home or at a community setting, the survivor has since been re-institutionalized as an adult.

***Imagine the fear, the anxiety. I leave the institution in August 2014 and from November to December I was locked in the psychiatric hospital, confined there. My future was uncertain. I didn't know if I was going to leave or where I would go.*** – survivor, *Mama Rosa* survivor

There are very few examples of new community support programs throughout Mexico. The experience of the survivor is similar to the dozens of survivors of the Casa Esperanza facility exposed by DRI. In the absence of any form of community care, 36 of the 37 survivors were placed in new institutions. Two Casa Esperanza survivors died within a year of their placement in new institutions.

For children with disabilities separated from their families, options are similarly limited. For many years, government authorities in Mexico City have promised that they are creating pilot programs to help children with disabilities receive the supports they would need to be placed in foster families. But to date, DRI has not been able to identify any such programs in the areas we have investigated.

***Supported foster care programs that would allow children with significant support needs to leave institutions and grow up with a family are practically unknown anywhere in Mexico.*** – Juan Martin Perez, Executive Director from the Child Rights Network in Mexico (REDIM)

Many of Mexico's institutions for children are supported by foreign donors, corporations, and volunteers. The United States Department of State has warned in its Trafficking in Persons Report about the dangers of engaging volunteers in orphanages:

Volunteering in these facilities for short periods of time without appropriate training can cause further emotional stress and even a sense of abandonment for already vulnerable children with attachment issues affected by temporary and irregular experiences of safe relationships.<sup>6</sup>

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<sup>6</sup> U.S. Department of State, "Trafficking in Persons Report 2018," p. 22. Available at <https://www.state.gov/j/tip/rls/tiprpt/2018/> (Last visit, Oct. 18, 2020).

Despite these dangers, volunteers play an important role in perpetuating Mexico's orphanage system. At *Pan de Vida* in Queretaro, for example, individual volunteers pay hundreds of dollars to stay at the facility for up to 14 days. And the lack of oversight and control exposes children to dangers of abuse.

## CONCLUSION: CRIMES AGAINST HUMANITY

This report documents an overwhelming pattern of severe and pervasive human rights violations directed at people with disabilities. The primary reason for institutionalization in Mexico is the State's failure to provide community-based services and supports necessary for people with disabilities to live in the community. Effectively, institutions are the only option for children and adults with disabilities in need of support. People with disabilities without families willing or able to support them are relegated to languish in institutions without hope of returning to the community. Children with disabilities may have loving families but without support, thousands of parents of children with disabilities have no choice but to give up their children. Many families are forced by child protection services to place their children in institutions.

**Placement in institutions contributes to increased disability, health risks and trauma. Segregated from society, children and adults with disabilities are exposed to the near certainty of violence, torture, and heightened risk of early death.**

**The government of Mexico must be held internationally accountable.** Almost certainly, no country in the world has been better informed about the implications of its laws and policies toward people with disabilities than Mexico. Over the last 20 years, DRI has conducted extensive documentation and brought international attention to this pattern of abuse by publishing four reports prior to the present report: "Mental Health and Human Rights in Mexico" (2000); "Abandoned and Disappeared" (2010); "No Justice" (2015); "At the Mexico-US border and segregated from society" (2019). In investigating these reports, DRI has visited over sixty institutions in more than a dozen states across Mexico where thousands of children and adults with disabilities are detained in dangerous conditions and subjected to atrocious abuses that amount to torture.

Both the Committee on the Rights of Persons with Disabilities (CRPD Committee)<sup>7</sup> and the Inter-American Commission on Human Rights<sup>8</sup> have issued findings that support those of DRI – putting Mexico on notice that its **treatment of people with disabilities violates a broad range of fundamental rights under the CRPD and the American Convention.**

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<sup>7</sup> United Nations, Committee on the Rights of Persons with Disabilities, *Concluding observation on the initial report of Mexico*, CRPD/C/MEX/CO/1, para. 44, (Oct. 27, 2014) [hereinafter Concluding observation to Mexico].

<sup>8</sup> Inter-American Commission on Human Rights, "Human Rights Situation in Mexico" (2015). Available at <http://www.oas.org/en/iachr/reports/pdfs/mexico2016-en.pdf> p. 350 (Last visit, Oct. 18, 2020).

The fact that so little has changed in Mexico demonstrates not just a culture of impunity for human rights violators, but something more: the intentional and knowing perpetuation of practices with such severity and on such a scale **that amounts to crimes against humanity**.

Crimes against humanity are legally defined under the Rome Statute. A “crime against humanity” takes place when one of the acts recognized under the Statute is widespread and systemic and “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”<sup>9</sup> DRI has conducted an in-depth legal analysis, posted at [www.DRIadvocacy.org](http://www.DRIadvocacy.org), demonstrating that the practices in this report meet the strict legal definition of crimes against humanity.

**The abuses documented in Mexico are grave** – The system of institutionalization in Mexico profoundly affects every aspect of the lives of tens of thousands of children and adults with disabilities detained in institutions. People with disabilities in institutions are stripped of their rights, unable to exercise them as they are indefinitely locked away and abused. They are under the *de facto* guardianship of the institution’s director and unable to challenge their detention and access legal recourse to stop the abuse they are subjected to. Several studies show how institutionalization in itself is traumatizing for persons with disabilities and particularly for children, leading to intense suffering and trauma.<sup>10</sup> The suffering, abuse, and helplessness they are abandoned to amounts to “substantial harm” and leads to “further segregation, isolation and impoverishment.” Particularly in the case of children with disabilities, the system of institutionalization “perpetuates children’s marginalization and vulnerability by negatively affecting their lives, security, best interests, family life, integrity, education, human development, well-being.”<sup>11</sup>

**Human rights violations are systemic** – These violations are a product of segregating people with disabilities in institutions throughout Mexico. The Mexican government continues to invest in institutions and, by doing so, to perpetuate institutionalization. The Ministry of Health allocates approximately 1.6% of its budget to mental health; 80% of this goes to the operation of psychiatric hospitals.<sup>12</sup> Psychiatric institutions across the country continue to receive federal

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<sup>9</sup> Rome Statute of the International Criminal Court, Done at Rome on 17 July 1998, in force on 1 July 2002, United Nations, Treaty Series, vol. 2187, No. 38544, Depositary: Secretary-General of the United Nations, Article 7, [hereinafter Rome Statute].

<sup>10</sup> J. Williamson and A. Greenberg, *Families Not Orphanages: A Better Care Network Working Paper* (2010) p. 6. Available at <https://bettercarenetwork.org/library/particular-threats-to-childrens-care-and-protection/effects-of-institutional-care/families-not-orphanages> (Last visit, Oct. 12, 2020); Mary Dozier, Joan Kaufman, Roger Kobak, Thomas G. O’Connor, Abraham Sagi-Schwartz, Stephen Scott, Carole Shauffer, Judith Smetana, Marinus H. van IJzendoorn, and Carles H. Zeanah, *Consensus Statement on Group Care for Children and Adolescents: A Statement of Policy of the American Orthopsychiatric Association*, American Journal of Orthopsychiatry (2014). Available at <https://www.apa.org/pubs/journals/features/ort-0000005.pdf> (Last visit, Oct. 12, 2020).

<sup>11</sup> United Nations, Convention on the Rights of Persons with Disabilities, *Inquiry concerning Hungary under article 6 of the Optional Protocol to the Convention*, CRPD/C/HUN/IR/1, (Sept. 17, 2020), paras. 106-109.

<sup>12</sup> DRI Interview with a civil servant from “Psychiatric Care Services” from the Ministry of Health, September 2019.

and state funding.<sup>13</sup> **The near-exclusive reliance on in-patient care – as reflected in part by where the government invests public resources – demonstrates that the government relies on a segregated, institutional model of care.**

Mexico has maintained this system and failed to change laws despite twenty years of DRI's effective public exposure and the very strong findings and recommendations of the CRPD Committee<sup>14</sup> (see next section). The segregated, abusive, and dangerous system of institutionalization in Mexico is not an isolated or random event; rather, it's the result of legislative and policy violations and omissions on the part of the State to fully guarantee the right of tens of thousands of children and adults with disabilities to live in the community, in accordance with Article 19 of the CRPD and thus, it is a systemic issue.

**Mexico's actions are intentional and causing great suffering** – One of the 'acts' enumerated by the Rome Statute are "inhumane acts [...] intentionally causing great suffering, or serious injury to body or to mental or physical health."<sup>15</sup> Under the definition of the Rome Statute, the intent requirement for liability is "knowledge of the attack."<sup>16</sup> In the case of institutionalization in Mexico, Mexico has been repeatedly on notice regarding the grave violations committed in institutions and how its system of institutionalization is contrary to international law and causing great harm and suffering to thousands of people with disabilities.<sup>17</sup> Despite this, Mexico has not only not taken any meaningful action to end this system, it has continued to institutionalize people with disabilities and to allocate resources to the very institutions where their rights are being egregiously violated. By fostering a system of institutionalization with the knowledge that it is in violation of international standards and of the great suffering of the people with disabilities subjected to it, Mexico is demonstrating the level of intentionality required by the Rome Statute.

<sup>13</sup> According to the Sixth Government Report of former President Enrique Peña Nieto "from January 2013 to June 2018, 122.7 million pesos (USD 6 million) were allocated for the care of patients in psychiatric hospitals." Ministry of Interior, "Sexto Informe de Gobierno del Presidente Enrique Peña Nieto, 2018-2019", p. 93. Available at [http://sil.gobernacion.gob.mx/Archivos/Documentos/2018/09/asun\\_3730635\\_20180901\\_1535843813.pdf](http://sil.gobernacion.gob.mx/Archivos/Documentos/2018/09/asun_3730635_20180901_1535843813.pdf) (Last visit, Oct. 19, 2020). Psychiatric institutions at the state level continue to receive government funding. For example, in Mexico City in 2018, 10 CAIS facilities received around 126 million pesos (USD 6 million) to operate. Through a request for information, DRI was able to verify that the "Adolfo M. Nieto" hospital in the State of Mexico received almost two million pesos (half a million USD) in 2018. The State of Nuevo León expects an investment of \$160 million pesos (8 million USD) for the creation of a new psychiatric hospital. Flores Lourdes, *Nuevo León invierte 160 millones de pesos en Hospital Psiquiátrico* at El Economista. Available at [https://www.eleconomista.com.mx/estados/Nuevo-Leon-invierte-160-millones-de-pesos-en-hospital-psiquiatrico-20190211-0077.html%20%20\(última%20visita%202011](https://www.eleconomista.com.mx/estados/Nuevo-Leon-invierte-160-millones-de-pesos-en-hospital-psiquiatrico-20190211-0077.html%20%20(última%20visita%202011) (Las visit, Oct. 19, 2020).

<sup>14</sup> Concluding observation to Mexico, *supra* note 7.

<sup>15</sup> Rome Statute, *supra* note 9, Article 7.

<sup>16</sup> Cornell Law School, "Crime Against Humanity". Available at [https://www.law.cornell.edu/wex/crime\\_against\\_humanity](https://www.law.cornell.edu/wex/crime_against_humanity) (Last visit, Oct. 21, 2020). This provision however is not entirely clear and could benefit from further elaboration through the elements of crime. See also Theodor Meron, "War Crimes Law Comes of Age: Essays" Available at [https://books.google.com/books?id=qLKF0LCPlsIC&pg=PA306&lpg=PA306&dq=acquiescence+means+threshold+of+intentionality&source=bl&ots=GC5WwbkcOL&sig=AcfU3U14\\_bLQgUqDFTWFalyUkUVOTOHeCA&hl=en&sa=X&ved=2ahUKEwjChqOh\\_L7qAhVzYjUKHUpAAvsQ6AEwC3oECA0QAAQ#v=onepage&q=acquiescence%20means%20threshold%20of%20intentionality&f=false](https://books.google.com/books?id=qLKF0LCPlsIC&pg=PA306&lpg=PA306&dq=acquiescence+means+threshold+of+intentionality&source=bl&ots=GC5WwbkcOL&sig=AcfU3U14_bLQgUqDFTWFalyUkUVOTOHeCA&hl=en&sa=X&ved=2ahUKEwjChqOh_L7qAhVzYjUKHUpAAvsQ6AEwC3oECA0QAAQ#v=onepage&q=acquiescence%20means%20threshold%20of%20intentionality&f=false) (Last visit, Oct. 21, 2020).

<sup>17</sup> United Nations, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, Juan E. Méndez, A/HRC/28/68/Add.3, (Dec. 24, 2014.) [hereinafter A/HRC/28/68/Add.3.], Concluding observation to Mexico, *supra* note 7 and "Human Rights Situation in Mexico Report," *supra* note 8.

It is not enough for Mexico to argue that it is institutionalizing persons with disabilities for “therapeutic” or “protection” purposes. Former UN Special Rapporteur on Torture Manfred Nowak has made clear that the stated intent of a health care professional to provide ‘treatment’ is no defense of a practice that meets the other elements of torture. “This is particularly relevant in the context of medical treatment of persons with disabilities,” says Nowak, “where serious violations and discrimination against persons with disabilities may be masked as good intentions on the part of health professionals.”<sup>18</sup>

When there is a long-standing pattern of practices and a failure to correct them, the former UN Special Rapporteur Against Torture Juan E. Mendez says that it is reasonable to infer that authorities engaging in such practices intend the natural harmful consequences of their actions and are motivated by discriminatory animus, rather than by a legitimate therapeutic purpose.

The Rome Statute establishes that an “attack directed against any civilian population”<sup>19</sup> means a course of conduct involving the **multiple commission of acts** referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack.” As established by international war tribunals, an attack does not need to happen in the context of war or conflict; instead, “an “attack” is an “unlawful act of the kind enumerated in Article 7(a) to (i) of the Statute . [...] An attack may also be non-violent in nature, like imposing a system of apartheid [...] or exerting pressure on the population to act in a particular manner.”<sup>20</sup> Thus, no physical violence is necessary for an attack, “but merely multiple instances of any conduct on the list, pursuant to a state policy.”<sup>21</sup>

**Human rights protections must be strengthened.** Existing international law on crimes against humanity does contain some limitations that should be addressed by the international community. No one individual is responsible for the laws and policies that have left people with disabilities in dangerous conditions for decades. A legal framework must be established to allow for State authorities to be held collectively responsible for such crimes on a large scale. The international body with greatest experience in disability rights, the CRPD Committee, should be given legal authorization to take action to investigate these crimes and determine how criminal responsibility should be assigned. DRI calls on the UN Special Rapporteur on

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<sup>18</sup> Nowak & McArthur (2008), citing Herman Burgers & Hans Danelius, *The United Nations Convention against Torture: Handbook on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment*, (2008).

<sup>19</sup> Rome Statute, *supra* note 9, Article 7.

<sup>20</sup> The Prosecutor Versus Jean-Paul Akayesu, Case No. ICTR-96-4-T, Trial Chamber, (Sept. 2, 1998), para. 581. Available at <https://unictr.irmct.org/sites/unictr.org/files/case-documents/ictr-96-4/trial-judgements/en/980902.pdf> (Last visit, Nov. 10, 2020); *See also* The Prosecutor Versus Georges Anderson Nderubumwe Rutaganda, , Case No. ICTR-96-3-T, Trial Chamber, (Dic. 6, 1999), para. 70. Available at <https://unictr.irmct.org/sites/unictr.org/files/case-documents/ictr-96-3/trial-judgements/en/991206.pdf> (Last visit, Nov. 10, 2020); The Prosecutor V. Alfred Musema, Case No. ICTR-96-13-A, Trial Chamber, (January 27, 2000), para. 205. Available at <https://unictr.irmct.org/sites/unictr.org/files/case-documents/ictr-96-13/trial-judgements/en/000127.pdf> (Last visit, Nov. 10, 2020); The Prosecutor V. Laurent Semanza, Case No. ICTR-97-20-T, Trial Chamber, (May 15, 2003), para. 327. Available at <http://www.ictrcaselaw.org/docs/doc37512.pdf> (Last visit, Nov. 10, 2020).

<sup>21</sup> Gerald L. Neuman, *What Counts as a Crime Against Humanity?* (2020), Harvard International Law Journal. Available at <https://harvardilj.org/2019/01/what-counts-as-a-crime-against-humanity/> (Last visit, Oct. 14, 2020).

Disability, as well as the UN High Commissioner on Human Rights, to study and recommend steps to improve international law to respond to the kind of knowing, intentional, severe, and widespread abuses documented in this report.

It has been twenty years since DRI first brought the abuses in Mexican institutions to world attention<sup>22</sup> – and more than ten years since the CRPD entered into force. Mexico was a leader in calling for the United Nations to draft the CRPD, yet it has not applied the most fundamental protections of this convention to its own citizens with disabilities who are confined to institutions. A higher degree of accountability is needed than Mexico has already received from the CRPD Committee and the Inter-American Commission on Human Rights. The lives of thousands of children and adults with disabilities depend on it.



Samuel Ramirez facility, State of Mexico, 2019

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<sup>22</sup> See Michael Winerip, "The Global Willowbrook," in *The New York Times Magazine*, (January 21, 2000). Available at <https://www.nytimes.com/2000/01/16/magazine/the-global-willowbrook.html> (Last visit, Oct. 19, 2020), and Randal C. Archibald, "Abuses Found at Mexican Institutions for Disabled," in *The New York Times*, (November 30, 2010). Available at <https://www.nytimes.com/2010/12/01/world/americas/01mexico.html> (Last visit, Oct. 19, 2020).



Hogares de la Caridad, Jalisco, 2018



"El Batán," Puebla, 2019



Casa Hogar San Pablo, Querétaro, 2018



Casa Esperanza, Mexico City, 2015



CAIS Villa Mujeres, Mexico City, 2016

## METHODOLOGY

This report is the result of a five-year investigation on the conditions and abuses that adults with disabilities and children with and without disabilities face in institutions in Mexico, conducted by Disability Rights International (DRI) from 2015 to 2020. The main objective of this report is to document progress on the recommendations made to Mexico by the Committee on the Rights of Persons with Disabilities in its Final Observations on the Initial Report in 2014.

For the preparation of this report, DRI carried out investigations and monitoring visits to 55 public and private institutions in 11 states across Mexico: Baja California, Mexico City, State of Mexico, Guanajuato, Hidalgo, Jalisco, Morelos, Oaxaca, Puebla, Querétaro and Yucatán. In the investigations carried out in the states of Baja California and Yucatán, DRI collaborated with the Baja California State Human Rights Commission (CDHBC by its acronym in Spanish) and the Yucatán State Human Rights Commission (CODHEY by its acronym in Spanish), respectively.

Over 4,000 children and adults are detained in the institutions visited by DRI in the course of this investigation. The institutions visited include public and private orphanages, residential schools for children, psychiatric facilities, social care homes, residential drug treatment centers, and shelters where people with disabilities are placed or detained. For more detailed information on the types of institutions visited see Annexes III-IX. Thirty-five of the institutions visited detain adults with disabilities. Over half of the institutions visited (twenty-three) also include adolescents or children. The other twenty-one institutions visited by DRI detain children with disabilities. In some of the institutions visited, DRI also found adults with drug and substance abuse problems, migrants, indigenous children, and population with HIV. Sometimes adult populations were mixed together with children with and without disabilities.

**It is impossible to estimate the total number of children and adults segregated from society in institutions in Mexico because no official estimates are available.** Indeed, given the myriad of government authorities responsible for different institutions, no single government authority is responsible for compiling information of this kind. In some cases, DRI has observed private institutions where people are detained without any government regulation or oversight.

All institutions where children are confined receive children sent by the state children's authority (DIF), which means that the government is responsible and often complicit in their detention and abuse. While children's institutions are commonly referred to as "orphanages," a great majority of children placed in these facilities have at least one living parent or close family member in the community.

This report is based on interviews with staff and people with disabilities detained at institutions. DRI also interviewed authorities from the Ministry of Health, the National DIF and state-level DIF authorities, and the Ministry of Social Welfare, among others. This report also includes responses to 'requests for access to information' filed by DRI.

The DRI team that conducted the investigations consisted of disability rights lawyers, special education specialists, and international experts in mental health, disability, childhood and trauma. The international experts that accompanied DRI in one or several of investigations were: Dr. Matt Mason, Ph.D.; Diane Jacobstein, Ph.D. and Marisa Brown, RN, all three formerly

from the Center for Children and Human Development at Georgetown University; Dr. Javier Aceves, MD, a pediatrician, and John Heffernan, human rights defender and chairman of the DRI Board of Directors.

To protect the identity and privacy of the people interviewed, DRI uses pseudonyms throughout this report.

## EMBLEMATIC CASES

The following cases documented in detail by DRI provide an example of the violence and abuse against children with and without disabilities that we observed in institutions throughout Mexico. These cases, which DRI has exposed to government and public attention, show that Mexico has long known about the dangers and abuses in residential institutions but it has failed to take the necessary actions to change the model of care or address the underlying cause of abuse: segregation from society and lack of accountability. In every case documented here, Mexico has also failed to take effective actions to protect victims of abuse and provide reparations.

### Casa Esperanza, Mexico City

DRI's *Casa Esperanza para Deficientes Mentales* (hereinafter "Casa Esperanza") case, now pending before the Inter-American Commission on Human Rights (IACHR), demonstrates the extent of abuse faced by people with disabilities in institutions. DRI first visited Casa Esperanza, a 37-bed private facility in Mexico City, because it was one of dozens of institutions on a "blacklist" prepared by Mexico's authority for children and families (DIF) of known, abusive facilities.<sup>23</sup> DIF's "blacklist" did not stop States throughout Mexico from sending children to this facility at the government's expense. When DRI first visited Casa Esperanza, we observed children and adults at the facility locked in cages and with their arms tied with duct tape behind their back, left permanently in contorted positions.

During this visit, the director admitted to DRI in an on-camera interview that all women admitted to the facility were sterilized because the facility could not protect them from being sexually abused by staff and outside workers. DRI and the Mexico City Human Rights Commission (CDHCM by its acronym in Spanish) conducted follow-up investigations which confirmed that women and girls were in fact being sexually abused and raped and that sterilization was used to cover up the abuse. Further investigations by CDHCM uncovered that at least seven women with disabilities had scars consistent with a permanent surgical sterilization method (bilateral tubal ligation) which was performed without their consent.<sup>24</sup> The sterilization was ordered or carried out by DIF, the children's protection authority. For those women who were not surgically sterilized, other contraception methods were used to

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<sup>23</sup> Lewis Oliver, *Stanev v. Bulgaria: On the Pathway to Freedom*, Human Rights Brief, (2012), Vol. 19, No. 1, pp. 2-7. Available at <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1815&context=hrbrief> (Last visit, Nov. 11, 2020).

<sup>24</sup> According to AGREEMENT A/085/15 by which the institutional Guidelines are established to be followed by agents of the Public Ministry of the Federation, experts in medicine and psychology and other members of the Attorney General's Office, for the cases in which the commission of the crime of torture is presumed.

prevent pregnancies. In the case of one young woman, a medical checkup revealed that an intra-uterine device had been inserted in her uterus.<sup>25</sup>

Forced sterilization of women with disabilities is banned by the Mexican Federal Criminal Code, and the criminal codes of 18 states. **Despite this, federal regulations not only permit but encourage sterilization of women with disabilities.** The National Standard Regulation NOM-005-SSA2-1993 on "Family planning services" (NOM 005) establishes that "mental retardation" in women is an "indication" for sterilization by "Bilateral Tubal Occlusion," encouraging the sterilization of this group.

DRI first alerted Mexican authorities to the abuses, torture, and forced sterilization taking place at Casa Esperanza in 2014 and again in 2015. After DRI presented documentary evidence of these abuses to the local authorities, they failed to respond for more than a year.<sup>26</sup> During that time, DRI reported on Casa Esperanza to the UN Committee on the Rights of Persons with Disabilities (CRPD Committee), which specifically referenced the facility in its report on Mexico's compliance with the CRPD. For more than six months after the United Nations issued this report, Mexico failed to stop abuses at Casa Esperanza.<sup>27</sup> Finally, in May 2015, DRI gained the assistance of the Mexico City Human Rights Commission to visit the facility with local human rights authorities. DRI obtained testimonies from all the women who were able to verbally express themselves, revealing that they had been systematically sexually abused by staff and outside workers, and that they were forced to work in the institution and in the homes of the institution's staff.<sup>28</sup>

DRI suggested to the Mexico City authorities that the residents of Casa Esperanza should remain in the institution (once the abusers had been removed) until community placements could be found for them. DRI filed a petition for precautionary measures with the Mexico City Human Rights Commission to ensure that detainees at Casa Esperanza would not be moved to other, similarly abusive institutions. DRI raised concerns that transferring the survivors to other institutions would put them at risk of suffering new abuses and that they would face a lack of access to adequate care that is inevitable in Mexico's current institutionalization system.

Mexico authorities ignored this petition and moved the Casa Esperanza residents to other abusive institutions throughout Mexico. In a city of 8.5 million people, the local authorities reported that "no community placements were available." Within six months, two of the 37 people formerly detained at Casa Esperanza had died. DRI learned that one woman was repeatedly raped inside the institution to which she had been transferred after her release from Casa Esperanza – the testimony of the sexual abuse and rape she endured in the new institution was even more horrific than her abuse at Casa Esperanza.

The Casa Esperanza case demonstrates the total lack of safe and appropriate community placements for children and adults with disabilities in Mexico. Even with extensive international pressure and attention brought by DRI, the United Nations and regional human rights bodies, international and national press, and local human rights commissions, Mexico has been unable and unwilling to create community placements for people with disabilities

<sup>25</sup> System for Integral Family Development, DIF-DF, Oficio DIF-DF/DEAJ/DJC/1072/2015 "Asunto: Estado Actual de Averiguaciones Previas," (Oct. 15, 2016).

<sup>26</sup> Committee on the Rights of Persons with Disabilities, concluding observation to Mexico, *supra* note 7.

<sup>27</sup> *Ibid.*, para. 37.

<sup>28</sup> Disability Rights International, *No Justice. Torture, Trafficking and Segregation in Mexico*, (2015). Available at [https://www.driadvocacy.org/wp-content/uploads/Sin-Justicia-MexRep\\_21\\_Abr\\_english-1.pdf](https://www.driadvocacy.org/wp-content/uploads/Sin-Justicia-MexRep_21_Abr_english-1.pdf) [hereinafter No Justice].

detained in abusive institutions. People subject to torture, forced labor, and trafficking for sex at this facility have received no reparations for the abuse they suffered and the underlying practices that allowed these abuses to continue.

Instead of providing care in the community, the authorities simply dumped the Casa Esperanza victims into other locked facilities. DRI helped set up an emergency shelter for trauma survivors, but the Mexican government threatened DRI and the non-profit that would run the shelter with prosecution – saying they would hold us liable if the survivors “escaped.” According to the laws of Mexico, these individuals should have been able to leave if they wanted to, and not be detained against their will. In practice, this threat demonstrates how supposedly “open door” facilities are effectively turned into closed institutions. These threats from the government also reveal how disincentives are created for any non-profit or individual that wants to create alternatives in the community that respect the consent of the people they are serving. The government removed the victims from the shelter and put them in institutions, where they have continued to face abuse, torture, and even death.

This case also demonstrates the impunity that permeates grave and well-documented violations against persons with disabilities in institutions. As of today, no state authority has been prosecuted for the rape and torture committed against persons with disabilities at the institution. In fact, the State’s position has been to remove DRI’s access to the victims and their case files. DRI has been unable to monitor the situation of the survivors because the State has refused to let us know where they are and give us access to them. DRI also engaged in a legal battle with the Mexico City Human Rights Commission in order to regain access to the case files. DRI filed a complaint to the National Transparency Institute which, in January 2020, ruled that the violations committed in the Casa Esperanza case are grave and as such, must be made available to the public and to DRI.

#### Ciudad de los Niños, Salamanca, Guanajuato

In 2017, DRI began monitoring the case of the Ciudad de los Niños in Salamanca, Guanajuato, a private institution which held 130 children with and without disabilities and adults with disabilities. The organization was founded and run for over 40 years<sup>29</sup> by Pedro Gutiérrez Farías (Padre Gutiérrez), a Catholic priest. On June 9, 2017, the Ninth District Judge in the State of Guanajuato, Karla María Macías Lovera, issued an amparo judgment in which she found that the children in Ciudad de los Niños had been victims of grave violations, including neglect, inhumane conditions, and physical, psychological, emotional, and sexual abuse and rape – in some cases of girls as young as 11 years old.<sup>30</sup> There were also allegations of pregnancies inside the facility, of babies who were born and disappeared or were placed for adoption, and of children who were sent abroad as passports were issued for them. According to the judgment, at least 134 children in the facility were registered with Padre Gutiérrez’s last name.<sup>31</sup> Padre

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<sup>29</sup> Zona Franca, “Pedro Gutiérrez Farías, fundador de Ciudad de los Niños, ocultó tráfico de influencias y enriquecimiento” in *Animal Político* (Dec. 17, 2017), Available at <https://www.animalpolitico.com/2017/12/fundador-de-ciudad-de-los-ninos-oculto-enriquecimiento/> (Last visit, Oct. 21, 2020).

<sup>30</sup> An Amparo is a legal recourse available in Mexico to seek redress for violations to constitutional rights. Amparo judgment 475/2016-VIII. (June 9, 2017). Ninth District Judge in the State of Guanajuato. Judge: Karla María Macías Lovera. Secretariat: Víctor Castillo Gómez, p. 138. [hereinafter Amparo judgment 475/2016-VIII].

<sup>31</sup> *Ibidem*.

Gutiérrez also runs at least six other institutions in the states of Guanajuato and Michoacán where children are still held.<sup>32</sup>

According to the findings of the Amparo judgment, for years the state authorities of Guanajuato failed to investigate allegations of abuse in the institution. The Guanajuato DIF was informed about these abuses and did not act to protect the children. On July 13, 2017, DIF took control of the institution – only after the media got access to the Amparo ruling issued by the judge a month earlier and pointed to the inaction of the authorities in the case. For approximately one year, the children remained in Ciudad de los Niños under DIF's custody.

Instead of creating alternatives to institutionalization and working to safely reintegrate the children with their families or foster families, the state of Guanajuato invested MXN 57,000,000 (around 3 million USD) in the construction of a new institution to which a large number of children from Ciudad de los Niños were transferred. Children and adults with disabilities who had been detained at Ciudad de los Niños were transferred to a different institution.

Padre Gutiérrez appealed the Amparo judgment. The Appeals Court sided with him and overturned the judgment on technical grounds – never challenging the factual findings of the original Amparo, which acknowledged the abuse at the facility.<sup>33</sup> The decision of the Appeals Court leaves the victims unprotected. Control of Ciudad de los Niños was returned to Padre Gutiérrez in 2019, and he publicly stated his intention to reopen this institution. In this case, as in the case of Casa Esperanza, DRI has been denied access to the files and victims, so we do not know their current situation.

In May 2020, the National Human Rights Commission (CNDH by its acronym in Spanish) issued its recommendation 32VG/2020, which exposed the systematic abuse suffered by children with and without disabilities and adults with disabilities within the Ciudad de los Niños. The CNDH found serious human rights violations such as acts of torture, sexual violence, and cruel, inhumane, and degrading treatment committed against children with and without disabilities and adults with disabilities. It also pointed out that the responsible authorities violated the victims' rights to identity, health, education, free development of personality, dignified care, and child's best interests. The CNDH exposed the failure by different state authorities to supervise the conditions in which Ciudad de los Niños operated, the existence of a complicit network to protect Padre Gutiérrez, and the obstruction of justice by state and federal authorities.

Despite all the existing evidence, the CNDH did not issue in its recommendations the need to investigate Pedro Gutiérrez Farias as responsible for all the abuses committed in the institution under his charge. The case of Ciudad de los Niños highlights the culture of impunity in Mexico

<sup>32</sup> National Commission on Human Rights, "Recomendación por Violaciones Graves 32 VG/2020. Sobre las violaciones graves a los derechos humanos cometidas en agravio de diversas personas que se encontraban albergadas en las casas hogar administradas por la "Ciudad de los Niños Salamanca A.C.", con la tolerancia y/o aquiescencia de personal de los Sistemas para el Desarrollo Integral de la Familia de los Estados de Guanajuato, Michoacán, Querétaro y de los municipios de San Francisco del rincón y San Luis de la paz, Guanajuato, así como de las Fiscalías Generales de Justicia de los Estados de Aguascalientes y Guanajuato" (May 19, 2020). Available at [https://www.cndh.org.mx/sites/default/files/documentos/2020-05/RecVG\\_032\\_.pdf](https://www.cndh.org.mx/sites/default/files/documentos/2020-05/RecVG_032_.pdf) (Last visit, Oct. 17, 2020).

<sup>33</sup> The amparo was modified because the judge included all the victims in the "Ciudad de los Niños" in her judgment, but the complaint had been filed on behalf of only one of them. The appeals court did not call the essential facts into question when dismissing the amparo. Federal authorities explained that they were unable to provide remedies for the children because they were not given access to them by State authorities.

which allows abuses of children and adults with disabilities to continue despite public scrutiny and judicial rulings.

### La Gran Familia, Michoacán

La Gran Familia was a private institution in Michoacán that housed around 500 children and adults with and without disabilities. This institution was founded in 1954 by Rosa Verduzco, known as “Mama Rosa.” It is estimated that, in its 60 years of operation, the institution housed around 4,000 people.<sup>34</sup> According to the testimony of the survivor, who was detained in La Gran Familia for six years children in the institution experienced extensive neglect and abuse. Conditions in the institution were unhygienic – there was no hot running water, and the food they were served was rotten. Children slept on the floor, and problems with rats and bedbugs were common. Use of isolation rooms was a common punishment. The children were physically and sexually abused, there was trafficking and girls who became pregnant were forced to have abortions.<sup>35</sup>

After years of complaints of abuse, on July 15, 2014, the General Attorney’s Office (PGR by its acronym in Spanish) “with support from various authorities, including elements of SEDENA, PF, and the State Police,”<sup>36</sup> released the children who were detained there. Some children were able to be reintegrated with their families, but others were sent to different institutions.<sup>37</sup>

In 2019, DRI met with a survivor, who had lived in La Gran Familia from the ages of 12 to 18. This survivor disclosed that at the institution, he was repeatedly raped by four different perpetrators. He was also held in an isolation period for a period of at least two months. When la Gran Familia was closed, the survivor was 18 years old and did not receive any support to re integrate into the community because he was legally considered an adult. Since the closure of the institution, he has suffered constant depression and anxiety attacks because of the trauma he endured at la Gran Familia. He has not received any support from the government to assist in his reintegration to the community, education, or employment. On the contrary, he was forced into an institution in order to receive the care and support he needed. Within months of the closure of la Gran Familia, the survivor was admitted to the Fray Bernardino Álvarez Psychiatric Hospital where he was physically restrained. He told DRI investigators: **“imagine the fear, the anxiety. I leave the institution in August 2014 and from November to December I was locked in the psychiatric hospital, confined there. My future was uncertain, I didn't know if I was going to be able to leave and where would I go.”**

The survivor told DRI that more than ten of his friends from La Gran Familia have died by suicide “because they have not been able to deal with the aftermath.” He adds that he has also tried to kill himself: **“I locked myself in my room, got three grams of coke and tons of alcohol and I hung myself. I was already beginning to have suicidal episodes.”**

<sup>34</sup> EFE, “La escalofriante historia del albergue de ‘Mama Rosa’” in *20 Minutos* (July 17, 2014). Available at <https://www.20minutos.es/noticia/2195392/0/albergue-menores-abusos/mama-rosa/michoacan-mexico/> (Last visit, Oct. 17, 2020).

<sup>35</sup> DRI Interview with a survivor, December 2019. For a better description of the violations that took place in La Gran Familia see also: National Commission of Human Rights, “Recomendación No. 14VG/2018 sobre violaciones graves a los derechos humanos en agravio de 536 personas víctimas de delito, entre ellas niñas, niños y adolescentes, en situación de extrema vulnerabilidad, que fueron localizados en una casa hogar en Zamora, Michoacán”, (Oct. 31, 2018). Available at [https://www.cndh.org.mx/sites/default/files/doc/Recomendaciones/ViolacionesGraves/RecVG\\_014.pdf](https://www.cndh.org.mx/sites/default/files/doc/Recomendaciones/ViolacionesGraves/RecVG_014.pdf) (Last visit, Oct. 13, 2020).

<sup>36</sup> *Ibid*, at p. 11.

<sup>37</sup> *Ibid*, at p. 40.

The survivor has also faced drug addiction and he has been hospitalized for several months in a rehabilitation clinic. This survivor told DRI that “I cannot deal with this any longer. I need to go to rehabilitate. It became worse after Pedro [a friend from “La Gran Familia”] hung himself. I had to pull his body down.”

In 2018, the CNDH issued recommendation 14VG/2018, which found serious violations such as physical and sexual abuse, forced labor, corporal punishment, medical negligence, and corruption of minors, among others, against the 536 children and adults who were detained in la Gran Familia. The CNDH found that the right to free development of the personality, health, education, personal integrity, identity, legal security, the right not to be trafficked, and access to justice were violated. The CNDH also highlighted the omissions by various authorities to duly protect the entire population –as there were signs of abuse for years. The case of La Gran Familia, and the survivor’s painful testimony, demonstrates the human cost of institutionalization and lack of support and services in the community, including trauma-sensitive care.

## **VIOLATIONS OF THE RIGHTS OF CHILDREN AND ADULTS DETAINED IN INSTITUTIONS**

### **Article 10: Threats to the right to life**

In the institutions we visited, DRI found that children and adults with disabilities are at a high risk of dying as a result of negligence, abuse, mishandling of restraints, degrading and unsanitary conditions (see Section on Article 15 on degrading conditions), and lack of adequate medical care.

The Mexican government does not report publicly on deaths in institutions. No independent investigations are conducted to determine why people die in institutions, and there is no official record-keeping on the death rate in these facilities. In four institutions DRI found a very high death rate: Casa Esperanza, Casa Gabriel, El Batán and Villa Ocaranza.

At Casa Gabriel, a private institution in Baja California that held 19 children and young adults with disabilities at the time of our visit, DRI found that five children and one young adult woman with disabilities (six people in total) had died in a period of four months, from November 2018 to February 2019. All those who died had been fed with feeding tubes. Staff confided to us that “complications” with feeding tubes were the cause of their deaths.<sup>38</sup> Several children were also unaccounted for at Casa Gabriel. According to the coordinator of the institution, in 2017 there were 32 children with disabilities in the institution. When DRI visited the facility in February 2019, there were only 19 people with disabilities detained there. According to the staff of Casa Gabriel, two children were transferred and six had died – it is unclear what happened to the other children.<sup>39</sup>

The former President of the Developmental Disabilities Nurse Association –who has worked with children with disabilities in institutions for decades – observed that people in institutions

<sup>38</sup> Disability Rights International, *At the Mexico-US Border and segregated from Society*, (2019). Available at <https://www.driadvocacy.org/wp-content/uploads/MEX-Report-May-2019.pdf> [hereinafter At the Mexico-US Border].

<sup>39</sup> *Ibidem*.

are often maintained on feeding tubes unnecessarily for convenience of staff.<sup>40</sup> Feeding tubes carry a risk for children and adults with disabilities, especially if managed improperly. Major complications include aspiration, intestinal perforation -that causes internal bleeding-, peritonitis, site infections, bloodstream infection, gastrointestinal bleeding, pneumonia and death.<sup>41</sup> Other complications include tube dislodgement, tube leakage, intestinal blockages, pain, vomiting, constipation, and diarrhea.<sup>42</sup>

According to DRI expert Marisa Brown, a registered nurse, enteral feedings should only be used after a careful review, ideally by a multidisciplinary team, that includes observation, metabolic analysis, and anthropometric measurement.<sup>43</sup> Enteral feeding involves risks, particularly if the staff is not trained and carefully following protocols to ensure the tube is properly placed before each feeding. Problems include aspiration that can lead to death from pneumonia. In addition, DRI has observed children with feeding tubes left immobile in their beds, which is a serious cause of concern as forced immobility can increase the risk of severe constipation and intestinal blockages.

Medical recordkeeping is very poor in most of the psychiatric facilities DRI visited, and so it would be nearly impossible to know the types of psychotropic medications that are commonly administered to persons with disabilities at the facilities. In many facilities there are no records of why patients are prescribed particular medications, or of side effects that patients may experience – much less individualized plans that would justify their use. Misuse of psychiatric medication can be fatal, especially in institutions where the standard of healthcare is low.

In the psychiatric institution El Batán in Puebla, the director told DRI investigators that 91 people with disabilities, almost one third of its total population, died over a period of two years. According to the director, “there were about 300 patients, right now there are 209, they have been dying.” The director told DRI investigators that the deaths were caused by the misuse of psychiatric medication combined with “other diseases” such as diabetes, hypertension, and other heart problems. Even taking into account possible health complications, a death rate of 30% in two years is approximately 10 times the mortality rate attributed to the use of psychotropic medications in other countries. Furthermore, the availability of appropriate psychotropic medications appears to be limited at El Batán; patients in the facility tend to be prescribed what is on hand, rather than what might be most effective.

In Villa Ocaranza, a public psychiatric institution in Hidalgo, the director of the institution told DRI that one of the main causes of death is choking, or as the director called it, “broncho – aspiration combined with antipsychotics.” There is extensive evidence that the use of high dosages of psychotropic medication can cause difficulty with swallowing. Instead of taking responsibility for the overuse of psychotropic medication and the failure to monitor their side effects, the director ascribed the large number of choking incidents to the fact that the detainees had disabilities. The director stated that “due to intellectual disability, patients struggle to

<sup>40</sup> Observation by Karen Green McGowan, DRI Expert and clinical nurse consultant who has been working in the field of developmental disabilities nursing since 1965.

<sup>41</sup> Soscia Joanna and Friedman Jeremy N, *A guide to the management of common gastrostomy and gastrojejunostomy tube problems*. Paediatr Child Health, (2011), Vol. 16 No. 5, pp. 281-287. Available at <https://pubmed.ncbi.nlm.nih.gov/22547947/> (Last visit, Nov. 10, 2020). See also Blumenstein, I., Shastri, Y. M., & Stein, J., *Gastroenteric tube feeding: techniques, problems and solutions*. World Journal of Gastroenterology (WJG), (2014), Vol. 20 No. 26. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4093701/> (Last visit, Nov. 10, 2020).

<sup>42</sup> *Ibidem*.

<sup>43</sup> Observation by Marisa Brown NR, DRI expert and health care specialist for people with developmental disabilities.

swallow food and antipsychotic medication makes these symptoms worse.” Despite deaths due to choking at the institution, there were no swallowing specialists on staff, and no steps were being taken to mitigate the side effects of psychotropic medication.

According to DRI Marisa Brown, RN, it is possible to prevent further deaths:

An immediate consideration given that so many of the residents are experiencing dysphagia (most likely due to the use of antipsychotic medications) is for each person to receive a review of their mealtime patterns of behavior. Attention needs to be paid to the texture of the foods they are receiving, the availability of sips of water (including the viscosity of that water) during mealtime, their positioning, and the rate at which they are eating or being fed. Care must also be taken to ensure that for at a minimum of 30 minutes after each meal they are being positioned in an upright position to avoid gastroesophageal reflux. This set of procedures need to occur while each person is being evaluated for the possible **careful titration** of their psychotropic medications. This cannot be done too quickly in order to avoid the risk of tardive dyskinesia.”<sup>44</sup>

In the case of Casa Esperanza in Mexico City, one of the victims told DRI investigators that four children and adults with disabilities had died while on restraints at the institution. As described previously in this report, after DRI exposed the abuse and torture at the institution, the detainees were transferred to other facilities. DRI is aware that at least two of the thirty-seven survivors died within six months of being transferred to other institutions (see Section on “Emblematic cases”).

The Convention on the Rights of Persons with Disabilities (CRPD) establishes that “every human being has the inherent right to life and [States] shall take all necessary measures to ensure its effective enjoyment.”<sup>45</sup> Failure on the part of the Mexican State to guarantee that people with disabilities detained in institutions can effectively enjoy their right to life is in violation of Article 10 of the Convention.

## Article 12. Denial of the right to legal capacity

Mexico’s legal framework does not recognize the right to legal capacity for persons with disabilities, failing to comply with Article 12 of the CRPD.<sup>46</sup> Mexico’s Federal Civil Code establishes that people with disabilities have “natural and legal incapacity”<sup>47</sup> and lays out a guardianship system that prevents them from directly exercising their rights on their own –

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<sup>44</sup> Observation by Marisa Brown NR, DRI expert and health care specialist for people with developmental disabilities.

<sup>45</sup> Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, UN GAOR, 61st Sess. Supp. No. 49, U.N. Doc. A/RES/61/106, Annex II, (13 December 2006) [entered into force May 3, 2008], Art. 10 [hereinafter CRPD].

<sup>46</sup> DRI analyzed the civil codes of the 32 states and found that all of them use a guardianship regime in which, through a guardian, people with disabilities exercise their rights.

<sup>47</sup> Federal Civil Code published in the Official Gazette of the Federation in four parts on May 26; July 14; August 3 and 31, 1928 [hereinafter Federal Civil Code], Article 450 and the Federal District Civil Code, Published in the Official Gazette of the Federal District on May 26, 1928 [hereinafter Civil Code of the Federal District], Article 450.

instead, they have to do so through a guardian.<sup>48</sup> By systematically stripping away the right and the ability of people with disabilities to make choices about their lives, Mexican law leaves people with disabilities at risk of improper detention, forced medication and treatment, and a myriad of basic decisions about their lives taken out of their control. Children and adults with disabilities in institutions are *de facto* and *de jure* stripped of their legal capacity. Mexico's Civil Code automatically gives the guardianship of children to the institution that is housing them.<sup>49</sup> In the case of adults with disabilities in institutions, a judge must appoint the institution as the guardian through a guardianship hearing.<sup>50</sup> However, in practice, as DRI's 2010 "Abandoned and Disappeared" report documented, people with disabilities detained in institutions are under the *de facto* guardianship of the institution and "automatically lose the right to make even the most fundamental daily decisions of life – with no legal process whatsoever."<sup>51</sup>



CAIS Cascada, México City, 2016

Even more worryingly, state authorities often exercise a *de facto* guardianship over people in institutions, without bothering to go through the required legal processes to act as their guardian. In the case of Casa Esperanza, for instance, DRI found that child protection authorities (DIF) exercised a *de facto* guardianship over some of the adult victims without having been appointed as their guardian through a guardianship hearing.

The National Supreme Court of Justice (SCJN for its acronym in Spanish), in its "Protocol of action for those who provide justice to persons with disabilities," states that judges must take into account the CRPD provisions and recommends that judges:

"refrain from continuing to approve new cases of guardianship of persons with disabilities, and adopt the decision-making support model, in order to stop the denial of their legal capacity and their freedom to make their own decisions."<sup>52</sup>

<sup>48</sup> *Ibid*, Federal Civil Code at Article 464.

<sup>49</sup> *Ibid*, Federal Civil Code at Article 493.

<sup>50</sup> Civil Code of the Federal District, *supra* note 47, Article 456 Bis.

<sup>51</sup> Disability Rights International, *Abandoned and Disappeared Mexico's Segregation and Abuse of Children and Adults with Disabilities*, (2010), p. xiv. Available at <https://www.driadvocacy.org/wp-content/uploads/Abandoned-Disappeared-web.pdf> [hereinafter Abandoned and Disappeared].

<sup>52</sup> National Supreme Court of Justice, "Protocolo de actuación para quienes imparten justicia a personas con discapacidad", p. 77.

On March 13, 2019, through Amparo 1368/2015, the SCJN established that the guardianship of people with disabilities is unconstitutional. This is an important step towards recognizing the right to legal capacity for people with disabilities in Mexico. However, the guardianship model will prevail until the Mexican legal framework, including its Federal and States' Civil Codes, are harmonized with the CRPD and with the resolution of Amparo 1368/2015.

The CRPD Committee has made it clear that decision-making systems under national laws in which the will of a person with a disability is replaced by the will of a family member or guardian, known as guardianship systems, are contrary to the CRPD.<sup>53</sup> In its evaluation of Mexico in 2014, the CRPD Committee expressed its concern “at the lack of measures to repeal the declaration of legal incompetence and the limitations on the legal capacity of a person on the grounds of disability.”<sup>54</sup> The Committee urged the Mexican State to “take steps to adopt laws and policies that replace the substitute decision-making system with a supported decision-making model that upholds the autonomy and wishes of the persons concerned, regardless of the degree of disability.”<sup>55</sup> Mexico’s continued failure to do so is in violation of Article 12 of the CRPD.

Mexico has also failed to create supported decision-making systems that replace guardianship regimes. Article 12 of the CRPD is one of the most innovative and important rights in that it recognizes the right of people with disabilities to make fundamental choices and exercise their “legal capacity” no matter what the level of disability or support needs of the individual.<sup>56</sup> To the extent that an individual with a disability may have difficulty exercising his or her ability to make choices, CRPD Article 12(3) provides a right to the “support they may require in exercising their legal capacity.”

### **Article 13. Impunity and lack of access to justice**

People who are living in institutions are arbitrarily detained (see Section on Article 14), segregated and physically unable to access legal remedies to challenge their detention and seek justice. They are also unable to personally and directly file for legal recourse because they are under the *de facto* guardianship of the director at the institution (see Section on Article 12). If a person suffers abuse in an institution, they would need to access judicial mechanisms through their guardian. Given that the director is the guardian, but also the person ultimately responsible for the abuses that take place at the institution, there is an inherent conflict of interest. Due to the fact that people detained in institutions are unable to directly and personally access justice, most abuses happening inside these facilities are not reported and remain in impunity.

The case of Casa Esperanza is a clear example of the impunity that prevails in cases where grave abuses were committed against persons with disabilities, even when they are reported. Over more than five years of complaints through official channels by DRI, public reporting,<sup>57</sup> press coverage, and condemnation by the UN Committee on the Rights of People with Disabilities, the Mexican State has been made fully aware of the abuses and torture that occurred in the institution. They nonetheless knowingly and intentionally left the residents there, exposed to

<sup>53</sup> United Nations, Secretary-General, *General Comment No.1 (2014) on Equal recognition before the law*, UN Doc. CRPD/C/GC/1 (March. 11, 2014) [hereinafter General Comment No.1].

<sup>54</sup> Concluding observation to Mexico, *supra* note 7 at para. 23.

<sup>55</sup> *Ibid.* at para 24.

<sup>56</sup> General Comment No.1, *supra* note 53at para. 29.a.

<sup>57</sup> No Justice, *supra* note 28.

such abuse and mistreatment. The UN CRPD Committee specifically cited the case of Casa Esperanza and the problem of forced sterilization,<sup>58</sup> yet Mexico has not changed its laws to prohibit the forced sterilization of other women with disabilities in its institutions.

The CRPD Committee also noted Mexico's broad failure to create community-based services for people with disabilities. Despite the enormous publicity brought to these cases, the survivors of Casa Esperanza have not been provided community services because, according to government authorities, those services do not exist. People subject to torture, forced labor, and trafficking for sex at this facility have received no compensation for the abuse they suffered, and the underlying practices that allowed these abuses to exist still continue.

Moreover, no state authority has been prosecuted for the rape and torture committed against persons with disabilities at the facility. State authorities are responsible for the violations that took place in Casa Esperanza given that: 1) the institution was subcontracted to carry out activities on behalf of the State; 2) authorities have the obligation to monitor and supervise the conditions in institutions that provide services to persons with disabilities to prevent, stop, and investigate abuses; and 3) state authorities knew about the abuses and they have the duty to stop, investigate and prosecute violations that they know exist.

The DIF of Mexico City is representing the victims – acting as their *de facto* guardian (see Section on Article 12) – on criminal investigations that were opened against two staff members from Casa Esperanza. These criminal investigations have resulted in no convictions to date, more than five years after DRI complained to the authorities about the ongoing abuses at the institution. More importantly, the fact that no state authorities, and in particular no DIF officials, are being investigated for the grave omissions in this case exemplifies the conflict of interest between the rights of the victims and the DIF authorities acting as their representatives in the criminal proceedings. The lack of personal and direct access to justice by the victims results in a violation of their right to access justice under the CRPD.

DRI has been unable to monitor the situation of the survivors because the State has refused to let us know where they are and give us access to them, but what we do know is that at least two of the survivors have died and others are still being abused. The Mexico City Human Rights Commission has also denied DRI access to the case files, which we originally had access to as petitioners in the case brought by DRI. In order to regain access to the case file, DRI had to engage in a legal battle with the Commission and filed a complaint to the National Institute for Transparency (INAI by its acronym in Spanish.) In January 2020, the INAI ruled that the violations committed in the Casa Esperanza case are grave and as such, must be made available to the public, including DRI.

The case of Ciudad de los Niños, as we also mention in the Emblematic Cases section, has been fraught with impunity. In June 2017, a judge in an Amparo judgment found that there had been cases of serious sexual and physical abuse against the children detained in that institution by the priest running the facility, staff, and outsiders; there were also clear indications of pregnancies and possible trafficking of babies born at the facility and of children who had been sent there by government authorities. In spite of the gravity of the abuses, the Amparo judgment was overturned by an Appeals Court,<sup>59</sup> the priest was never criminally prosecuted,

<sup>58</sup> Concluding observation to Mexico, *supra* note 7 at para 37.

<sup>59</sup> The Appeals Court determined that the case had been presented only by one of the victims and that the judge had exceeded her powers and that she "unduly" included in her sentence all the victims of the institution.

and has now been allowed to resume control of the facility. He has publicly stated that he plans to reopen it and has continued to run other institutions in Guanajuato and in Michoacán, a neighboring state. These cases show that grave abuses in institutions against children and adults with disabilities are not prosecuted and remain in impunity, violating their right to access justice.

#### Article 14. Liberty and security of the person

The total lack of any form of protection against arbitrary detention not only presents a threat to individual autonomy and freedom – it puts many peoples' lives at risk. DRI encountered entirely unlicensed and unregulated facilities, described further below, that lock up dozens of men for substance abuse and psychiatric treatment. Government authorities are aware of these facilities and send person with disabilities for treatment there despite the total lack of any regulation or protection. One such facility, Fortalécete en Cristo in Baja California, relies on prayer and physical restraints rather than any form of medical treatment. It is located in a large house that was under construction when DRI visited, where open staircases with no bannisters and a lack of plumbing in some areas created health risks for detainees.

Detention of people with disabilities without their free and informed consent is allowed by Mexico's laws and is a common practice in Mexico. Regardless of what the law says, DRI received numerous allegations that people were detained with no legal process based entirely on staff who deferred to the decisions of family members. These placements are widely considered voluntary because of family members' consent – without any effort to determine the will and preferences of the individual whose rights -and life, are at stake. In addition, DRI observed many cases where the decision to detain a person was made by staff based on presumption medical or psychiatric necessity when family were not available to decide.

According to an official from the Ministry of Health's Psychiatric Services (SAP by its acronym in Spanish), "80% of hospitalizations are involuntary."<sup>60</sup> Similarly, staff from the Yucatan Psychiatric Hospital told DRI that "most of the time, hospitalization is involuntary." Given the lack of alternatives in the community (see Section on Article 19, right to community integration), hospitalizations in psychiatric facilities lead to indefinite institutionalization if the person has no supports or family in the community.



Samuel Ramirez facility, State of Mexico, 2019

To the extent that detention is legally regulated at all, there are a patchwork of different protections in different states. In Mexico there are 14 states that have passed mental health

<sup>60</sup> Interview with a public official from the "Psychiatric Care Services" of the Ministry of Health, September 2019.

laws after Mexico signed and ratified the CRPD.<sup>61</sup> These mental health laws all, with the exception of the Baja California Mental Health Law, allow for the involuntary hospitalization and detention of people with disabilities.<sup>62</sup> The General Health Law (hereinafter “LGS” by its Spanish acronym) and the Mexican Official Standard NOM-025-SSA2-2014 for the provision of health services in psychiatric hospitals (hereinafter NOM-025) establish that the person or their representative has the right to informed consent, except in cases of “involuntary admission.”<sup>63</sup> Limiting the right to informed consent to cases of “voluntary” admission effectively invalidates this right.

NOM-025 further establishes that, in urgent’ cases, the user “can be admitted with the written indication of specialists [...], and the signature of the responsible relative that agrees to the admission.”<sup>64</sup> In theory , within 15 days of the admission, the person will be evaluated and the psychiatrist will assess the necessity of continuing with the detention.<sup>65</sup> NOM-025 also states that “as soon as the conditions of the user allow it, they will be informed of their situation of involuntary internment so that, where appropriate, they can grant their free and informed consent and their condition can change to that of voluntary detention.”<sup>66</sup>

Staff at the 11 public psychiatric hospitals that DRI monitored told us that they involuntarily detain persons with disabilities, and, subsequently, they seek to change the status of their detention to “voluntary.”<sup>67</sup> In practice, if a patient is admitted involuntarily and decides not to change their admission to voluntary, the patient remains institutionalized against their will. DRI visited the Federal Psychiatric Hospital Fray Bernardino Álvarez in Mexico City (hereinafter Fray Bernardino), where the director and psychiatric staff stated that they follow the NOM-025 guidelines. According to the Director, a person's consent is sought but if it is not obtained, they can be admitted against their will. After a few days, their consent is sought again, and in most of the cases, the director said that they “give it.” However, those who still do not give their consent remain detained.

The CRPD has established that the deprivation of liberty due to disability is discriminatory and incompatible with recognized international human rights standards. Article 14 of the CRPD establishes that “the existence of a disability shall in no case justify a deprivation of liberty.”<sup>68</sup> The interpretation of the CRPD Committee is unequivocal: any involuntary and / or prolonged

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<sup>61</sup> The first Mental health Law was approved by México City in 2011, in Sonora in 2013, Jalisco and Michoacán in 2014, Querétaro y Sinaloa in 2017 y Baja California, Campeche, Chihuahua, Morelos, Nuevo León, San Luis Potosí, Yucatán y Zacatecas in 2018.

<sup>62</sup> See: General Health Law, published in the Official Gazette of the Federation on May 14, 2003, Article 75, *See also:* the Mexican Official Standard NOM-025-SSA2-2014 for the provision of health services in psychiatric hospitals published in the Official Gazette of the Federation on Nov. 16, 1995. Article 5.6.2 (hereinafter NOM-025), and Mental Health Laws from the States.

<sup>63</sup> *Ibid*, Mental health Law at art.74 bis, section III.

<sup>64</sup> *Ibid*, NOM 025.

<sup>65</sup> *Ibidem*.

<sup>66</sup> *Ibidem*.

<sup>67</sup> Tijuana Mental Health Hospital in Baja California, Baja California Psychiatric Institute in Mexicali, Juan N. Navarro Children's Psychiatric Hospital in Mexico City, Fray Bernardino Álvarez Psychiatric Hospital in Mexico City, Adolfo M. Nieto hospital in the State of Mexico, Samuel Ramírez Moreno psychiatric institution in the State of Mexico, La Salud Psychiatric Hospital in the State of Mexico, Psychiatric Institution Villa Ocaranza in Hidalgo, Oaxaca Psychiatric Hospital, Psychiatric Hospital El Batán in Puebla, and the Yucatan Psychiatric Hospital.

<sup>68</sup> CRPD *supra* note 45 at Article 14.b.

detention due to disability is contrary to the CRPD and should be considered unjustified and, therefore, arbitrary.<sup>69</sup>

**Enrique's case\***

Enrique told DRI that he has been detained at the Fray Bernardino Álvarez psychiatric hospital for 6 months, against his will and for no apparent medical reason. His testimony was corroborated by hospital staff, who pointed out that "there is no medical reason for [him] to be here."

Although he should not be hospitalized, Enrique cannot leave the hospital because he needs his sister's authorization. However, she has refused to sign for his release and get him out of there. Mr. Enrique expressed that his desire is to leave the psychiatric hospital. However, if his sister does not authorize his release, his only option is for his case to be brought by the hospital before a family court, who can then order the sister to authorize his release.

The fact that Enrique's sister is given control over his case is in violation of his right to legal capacity (see Section on Article 12). Enrique is stripped from his right to make decisions over his life, including leaving the psychiatric hospital, and that decision-making power is given to someone else, in this case, his sister. This case is an example of how the denial of the right to legal capacity for persons with disabilities leads to their improper detention.

\*Fictitious name to protect the identity of the person.

In its Concluding Observations to Mexico, the CRPD Committee expressed its concern regarding Mexican legislation authorizing the "deprivation of liberty in the case of persons with intellectual and psychological disabilities, on the ground of their disability; in particular, that provision is made for their confinement in psychiatric institutions in the context of medical or psychiatric treatment."<sup>70</sup> The Committee urged the Mexican government to:

- "(a) Eliminate security measures that mandate medical and psychiatric inpatient treatment and promote alternatives that comply with articles 14 and 19 of the Convention;
- (b) Repeal legislation permitting detention on grounds of disability and ensure that all mental health services are provided based on the free and informed consent of the person concerned."<sup>71</sup>

<sup>69</sup> Committee on the Rights of Persons with Disabilities, *Concluding observations on the initial periodic report of Hungary*, adopted by the Committee at its eighth session (17-28 September 2012), CRPD/C/HUN/CO/1, (Oct. 22, 2012), paras. 27 And 28; CRPD Committee, *Consideration of reports submitted by States parties under article 35 of the Convention Concluding observations of the Committee on the Rights of Persons with Disabilities Peru*, CRPD/C/PER/CO/1, (July 1, 2010), paras. 28 and 29; CRPD Committee, *Concluding observations on the initial report of China, adopted by the Committee at its eighth session (17-28 September 2012)*, CRPD/C/CHN/CO/1, (Oct. 15, 2012), paras. 25 and 26; and CRPD Committee, *Concluding observations on the initial report of Argentina as approved by the Committee at its eighth session (17-28 September 2012)*, CRPD/C/ARG/CO/1, (Oct. 8, 2012), para. 23.

<sup>70</sup> Concluding observation to Mexico, *supra* note 7 at para. 29.

<sup>71</sup> *Ibid.* at para. 30.

Despite the Committee's recommendation, Mexico has not amended its laws and continues to detain people with disabilities on disability grounds, without their free and informed consent.

a. Involuntary admissions carried out by the police in private, unregulated facilities

According to the National Council to Prevent Addictions, there are at least 3,000 'rehabilitation centers' that are not regulated and are operating without a license; these 'centers' detain people that have drug addiction problems and persons with disabilities. In the state of Baja California, DRI found two institutions that operate without a license and arbitrarily detain children and adults with disabilities, some of whom were sent there by the police or by the government.<sup>72</sup> One of them is Pequeño Mundo Especial, a private institution in Tijuana, Baja California that operated in a house where children and adults with disabilities were detained and mixed together regardless of age. The government sent children to this institution for months, even though it did not have a license to operate. When DRI visited the institution in November 2018, the government was removing the children because they were mixed with adults, not because the institution had no legal registration. In fact, according to the director, the children were going to leave the institution, but the adults with disabilities were going to stay.

In order to detain an adult with a disability in a private institution, Mexican laws require a judge to review the detention and, through a guardianship hearing, appoint the institution or state authorities (DIF) as the guardians.<sup>73</sup> In practice, however, police take people with disabilities to institutions and detain them there without any legal process. At Villa Ocaranza in Hidalgo, the hospital director told DRI that police officers take people with disabilities and homeless people to be admitted there. If the person has no relatives, the police officers have to sign for the person to be admitted.

In an interview with staff from CAIS Cuemanco, a public institution in Mexico City where over 300 people with disabilities are detained, staff told DRI that police pick up homeless people from the streets and, when they show signs of 'mental disorders' – such as talking to themselves, experiencing visual and auditory hallucinations and paranoia, or erratic or aggressive behavior – police take them to CAIS Cuemanco, where they are detained. Mexico City's government has 10 Centers for Social Assistance and Integration (CAIS) that in theory function as public shelters for vulnerable populations. However, three of these shelters are for people with psychosocial disabilities and effectively function as institutions (CAIS Cuemanco, CAIS Villa Mujeres and CAIS Cascada). People who are detained in these two CAIS facilities are not allowed to leave and remain detained indefinitely.

DRI found people with disabilities arbitrarily taken by police and detained in "rehabilitation centers," many of them unregulated, on the border with the United States. These rehabilitation centers are ostensibly for people with addiction problems, but, in practice, they detain minors, people with disabilities, and people who have been deported.

According to the former president of the Baja California Human Rights Commission and to the Mexico Director of the nonprofit Al Otro Lado in Tijuana, Baja California, police pick up individuals with disabilities from the street. In practice, there is no need for a judicial order to

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<sup>72</sup> "Pequeño Mundo Especial" and "Fortalécete en Cristo A.C."

<sup>73</sup> Civil Code of the Federal District, *supra* note 47 at Article 456 Bis.

forcibly place people in these facilities.<sup>74</sup> According to a supervisor at the Recovery and Rehabilitation Center for Patients with Alcoholism and Drug Addiction (CRREAD) “Cañón Rosarito”, a private institution in Baja California, “it’s mostly the police that brings people here. They get tired of the people hanging around in the streets. They want to have the streets clean for tourists, so they pick them up, gather them and bring them to us.”<sup>75</sup>

### **Article 15. Abuses and violations in institutions that constitute torture and other cruel, inhuman and degrading treatment or punishment**

The indefinite detention of people, for no apparent reason, with no redress, and with no contact with the outside world, has been described by the former UN Special Rapporteur on Torture Juan E. Mendez as a form of torture.<sup>76</sup> This is especially true of children who are at an increased risk of torture, according to Mendez, whenever they are placed in institutions.<sup>77</sup>

DRI observed conditions that amount to torture or ill-treatment in every institution we visited. People are subjected to prolonged restraints, put in isolation and are forcefully administered medication that has powerful side effects, leaving them sedated and lying on the floors of institutions. Forced sterilization and practices such as dangerous experimental psychosurgeries are practices that have been ruled by international authorities to be nothing less than torture. Physical and sexual abuse, including rape, are common in institutions where children and adults are detained. Filthy conditions, lack of running water, and inescapable, overwhelming smells of urine and feces commonly found in institutions amount to both inhumane and degrading conditions causing danger to health and great human suffering for almost anyone detained in Mexico’s institutions. Lack of privacy or ability to go to the bathroom without being seen by others is degrading. Lack of personal possessions or ability to control one’s own living space is also degrading.

The CRPD establishes that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”<sup>78</sup> In 2014, the CRPD Committee urged Mexico to “initiate administrative and criminal investigation processes, with a view to punishing the perpetrators of practices that violate the rights of persons with disabilities living in institutions.”<sup>79</sup> However, persons with disabilities continue to suffer multiple violations within residential institutions that amount to nothing less than torture, as documented below.

<sup>74</sup> DRI Interview with the President of the Baja California Human Rights Commission and the Director for Mexico of “Al Otro Lado,” November 2018.

<sup>75</sup> DRI Interview with a supervisor of CRREAD “Cañón Rosarito,” February 2019. According to the Director for Mexico of “Al Otro Lado,” “in practice, there is not a need for a judicial order to take people living on the streets and put them in a rehabilitation center. Everything began in 2015 when the first “canal” cleaning took place and the people living on the streets, some of them migrants, were taken to rehabilitation centers. Since then, there are routine street cleanings of people living on the streets. Especially people lying on the streets in the north zone where the police is notoriously corrupt.”

<sup>76</sup> United Nations, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, Juan E. Méndez\*, Doc. A/HRC/28/68 (March 5, 2015) [hereinafter A/HRC/28/68].

<sup>77</sup> Rosenthal Eric, “A Mandate to End Placement of Children in Institutions and Orphanages: The Duty of Governments and Donors to Prevent Segregation and Torture,” Human Rights Institute (2017), Vol. 1 No. 3. (Describing the impact of institutionalization on children and the heightened protections to protect children against torture and ill-treatment). Available at <https://www.driadvocacy.org/wp-content/uploads/Perspectives-on-Human-Rights-DRI.pdf> (Last visit, Nov. 10, 2020).

<sup>78</sup> CRPD, *supra* note 45 at Article 15.

<sup>79</sup> Concluding observation to Mexico, *supra* note 7 at para. 32.

a. Forced sterilization and contraception of women with disabilities

In 2015, DRI and the group of women from the Colectivo Chuhcán – the first organization run by people with disabilities in Mexico – published the report *Twice violated: Abuse and Denial of Sexual and Reproductive Rights to Women with Psychosocial Disabilities in Mexico*, the result of a year-long investigation. This research included the application of a survey to 50 women with disabilities. Forty-two percent of the women interviewed responded that they had been sterilized without their free and informed consent.<sup>80</sup> One in two stated that “a family member or medical staff recommended that they should be sterilized.”<sup>81</sup>

Women with disabilities in institutions are particularly at risk of being sterilized without their informed consent. Six of the institutions documented by DRI stated that they sterilized women detained under their custody and also used other contraceptive methods such as the contraceptive patch and the intrauterine device (IUD). These private institutions are Casa Hogar Centro Itari, Casa Esperanza, Centro el Recobro, and Asociación Hogar Infantil San Luis Gonzaga (private). And the public institutions are Psychiatric Hospital Villa Ocaranza and Psychiatric Hospital El Batán.

In 2014 and 2015 DRI documented the case of women with disabilities in Casa Esperanza who were sexually abused and raped, and then sterilized to cover up the abuse (see Section on Emblematic Cases). DRI took this case to the UN CRPD Committee which, in its evaluation of Mexico, made a specific reference to this case and expressed its concern about the fact that:

“persons with disabilities are being sterilized without their free and informed consent in institutions such as Casa Hogar Esperanza, where, according to reports received by the Committee, forced or coerced sterilization is recommended to, authorized or performed on girls, adolescents and women with disabilities.”<sup>82</sup>

In its report “Situation of Human Rights in Mexico,” published in December 2015, the Inter-American Commission on Human Rights (IACHR), referring to the Casa Esperanza case in Mexico City, indicated that sterilizing a woman with a disability without her consent constitutes a violation of the right to personal integrity and the right to not be subjected to inhuman and degrading treatment and torture.<sup>83</sup> Despite these statements from the Inter-American Commission and the UN CRPD Committee, the forced sterilization of these women has not been duly investigated and prosecuted (see Section on Article 14, Lack of Access to Justice) and there are other women with disabilities in institutions that are still being sterilized, as DRI’s findings below show.

At the psychiatric hospital El Batán in Puebla, the director mentioned that the women at the institution are administered a “family planning method,” and there are “some that have a

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<sup>80</sup> Disability Rights International and Colectivo Chuhcán, *Twice violated: Abuse and Denial of Sexual and Reproductive Rights to Women with Psychosocial Disabilities in Mexico* (2015), p.20. Available at <https://www.driadvocacy.org/wp-content/uploads/Mexico-report-English-web.pdf> [hereinafter Twice violated].

<sup>81</sup> *Ibidem*.

<sup>82</sup> Concluding observation to Mexico, *supra* note 7 at para. 37

<sup>83</sup> “Situation of Human Rights in Mexico,” *supra* note 8 at para. 351.

definitive method”<sup>84</sup> – referring to permanent sterilization. The director also told DRI that “we have no women without protection [a contraceptive method].”<sup>85</sup>

In 2017, DRI visited the Centro el Recobro in Mexico City, a private institution that had 176 women with disabilities institutionalized. The person in charge of the institution told the DRI team that: **“if they arrive pregnant and they are out of control, they have the baby and then a decision is made to [sterilize] them.”**<sup>86</sup> This decision is also made when they have been abused because “they are at risk of being sexually abused again.”<sup>87</sup> She also mentioned that some women have run away from the institution. Women with disabilities are sterilized “in case they escape” because they are at risk of “being sexually abused outside of the institution.” According to the person in charge, some of the women that are sent by DIF have been sterilized by the time they arrive at the institution.

Mexican law explicitly discriminates against women with disabilities by allowing and promoting sterilization of women with disabilities. Forced sterilization of women with disabilities is banned by the Mexican Federal Criminal Code, and the criminal codes of 18 states.<sup>88</sup> **Despite this, federal regulations and guidelines not only permit but encourage sterilization of women with disabilities.** The National Standard Regulation NOM-005-SSA2-1993 on “Family planning services” (NOM 005) establishes that “mental retardation” in women is an “indication” for sterilization by “Bilateral Tubal Occlusion.” Stating that intellectual disability is an “indicator” for sterilization promotes the sterilization of this group and the stereotype that women with disabilities should not reproduce, contrary to the CRPD.

According to information provided by the National Center for Gender Equality and Reproductive Health from the Ministry of Health, sterilizations of women with disabilities can be carried out without their informed consent – and only with the consent of the guardian, if it is determined that they do not have the “capacity for decision-making.”<sup>89</sup> Through a public request for access to information, DRI asked the Ministry of Health for data regarding the forced sterilization of women with disabilities, to which the authority replied that:

“in the case of surgical interventions, an informed consent form must always be signed by the person on whom the procedure will be performed. **Only if the woman has been evaluated by qualified staff and it has been determined that she has no capacity for decision-making, the guardian should sign the authorization to carry out the procedure.”**<sup>90</sup>

According to the CRPD Committee, *all* persons with disabilities have the right to legal capacity, and to whatever support they need in order to be able to exercise this right. A medical determination that a person has “no capacity for decision-making” is in violation of CRPD Article 12 (see Section on Article 12).<sup>91</sup> It is also in violation of the right of women with disabilities to free and informed consent and Article 23 on respect for home and the family.

<sup>84</sup> DRI Interview with the Director of “El Batán,” September 2019.

<sup>85</sup> DRI Interview with the Director of “El Batán,” September 2019.

<sup>86</sup> DRI visit to “El Recobro,” September 2017.

<sup>87</sup> DRI visit to “El Recobro,” September 2017.

<sup>88</sup> Aguascalientes, Baja California Sur, Chiapas, Coahuila, Ciudad de México, Durango, Estado de México, Guerrero, Hidalgo, Michoacán, Puebla, Quintana Roo, San Luis Potosí, Tabasco, Tamaulipas, Tlaxcala, Veracruz and Yucatán.

<sup>89</sup> Ministry of Health, Request for Information number: 0001200322418.

<sup>90</sup> Ministry of Health, Request for Information number: 0001200322418.

<sup>91</sup> General Comment No.1, *supra* note 53.

b. Use of isolation rooms and prolonged restraints

DRI visited a total of 21 institutions where children with disabilities are detained. In 18 of these institutions, DRI documented the use of physical or chemical restraints and/or the use of some form of seclusion or isolation.<sup>92</sup> In five of these institutions, DRI found all three practices of these were used on children.<sup>93</sup> In some of the institutions where children with disabilities are detained, DRI observed children wrapped around in bandages and duct tape, essentially mummified, and other children in cages and caged beds.



Casa Hogar San Pablo, Querétaro, 2018

DRI visited a total of 35 institutions where adults with disabilities are detained. Similarly, in 30 of these institutions, DRI found that prolonged restraints that ranged from handcuffs and bandages to isolation rooms were commonly used on people with disabilities. It is worth noting that two of the five institutions<sup>94</sup> where we did not see the use of these inhumane and degrading practices were very expensive private

institutions beyond the financial reach of the majority of people.<sup>95</sup>

In its concluding observations to Mexico, the CRPD Committee considered alarming “the fact that human rights violations, such as physical restraint and placement in seclusion/isolation, are committed against persons with disabilities interned in psychiatric hospitals and may even amount to acts of torture or cruel, inhuman or degrading treatment.”<sup>96</sup> The Committee recommended Mexico to “abolish the use of physical restraint and isolation in institutions for persons with disabilities.”<sup>97</sup> Despite this, children and adults with disabilities continue to be subjected to prolonged restraints and isolation in institutions across Mexico, as documented by DRI below, in violation of their right to be free from torture, and cruel, inhumane and degrading treatment.

<sup>92</sup> See Annex V. Institutions documented for children.

<sup>93</sup> *Ibidem*. The institutions are: “Casa Hogar Consolación para Niños Incurables,” “Casa Esperanza,” “Fundación Estancia Sagrado Corazón de Jesús,” “Juan N. Navarro” and “Internado Binet”.

<sup>94</sup> See Annex VI. Institutions documented for children with disabilities.

<sup>95</sup> In the other three, there is a total lack of treatment and attention and interaction with the users, who are also in complete abandonment which, ironically, protects them from being tied up or isolated as forms of treatment and control. Although they are not subjected to this type of abuse, they find themselves living in completely inhuman and degrading conditions.

<sup>96</sup> Concluding observation to Mexico, *supra* note 7 at para. 31.

<sup>97</sup> *Ibid*, at para. 32.

### *Isolation and use of restraints on children*

DRI observed the use of isolation techniques on children in one out of two institutions that were visited. Regarding the use of seclusion/isolation rooms specifically in minors, Juan E. Méndez, former rapporteur on Torture has indicated that “the imposition of solitary confinement, of any duration, on children constitutes cruel, inhuman or degrading treatment or punishment or even torture.”<sup>98</sup> Although the use of seclusion/isolation rooms is not allowed on children, several of the institutions visited and/or documented by DRI had such rooms where children were detained.

In “Ciudad de los Niños,” in Salamanca, Guanajuato, according to testimonies of children, the institution had an isolation room. A boy interviewed by DRI said that on one occasion one of his friends was locked there for three days.<sup>99</sup> In the Amparo judgment, one of the minors stated: “that besides being hit, we were locked up for days in [a] little room that was a meter high and is in the men's dormitories, and there were times that they put several young people there [at the same time] [...].”<sup>100</sup> A person who worked at the institution told DRI that the use of isolation rooms was a common practice in the “Ciudad de los Niños,” “sometimes they left them there for days, beat them up and locked them there.”<sup>101</sup> This practice continued when DIF-Guanajuato took control of the institution. One of the victims talked about the isolation room and how staff from DIF “locked her up” there.<sup>102</sup> She also said that one of her friends “was locked in the dark room” and that is why “she does not like the staff from DIF.”<sup>103</sup>

At the “Juan N. Navarro” Children's Psychiatric Hospital (hereinafter “Juan N. Navarro”) in Mexico City, DRI observed isolation rooms for children. At the “Centro de Atención al Menor en Desamparo” (CAIMEDE), in Yucatan, DRI found two children isolated from the rest of the population due to their “medical situation.” These children are fed through feeding tubes. The staff mentioned that these children are at “serious risk,” so they should be isolated from the rest. However, according to DRI investigator, pediatrician Dr. Aceves, “there were no apparent medical conditions to justify their strict isolation.”



Luis Gonzaga, State of México,  
2015

<sup>98</sup> A/HRC/28/68, *supra* note 76 at para. 44.

<sup>99</sup> DRI interview to a victim from “Ciudad de los Niños,” March 2018.

<sup>100</sup> Amparo Judgment 475/2016-VIII, *supra* note 30 at p. 23.

<sup>101</sup> DRI Interview with a staff member from “Ciudad de los Niños,” March 2018.

<sup>102</sup> DRI interview with a victim from “Ciudad de los Niños,” March 2018.

<sup>103</sup> DRI interview with a victim from “Ciudad de los Niños,” March 2018.

Beds with bars are also used as a type of insolation in institutions visited by DRI. According to the staff of “Casa Gabriel,” in Baja California, a year-old boy “spends all his time in a bedroom,”<sup>104</sup> lying in a crib with bars. In “Casa Hogar and Centro para Discapacitados Amecameca,” in the State of Mexico, DRI was able to observe at least two beds with bars, which at the time of the visit were occupied by two children with disabilities.

DRI observed the use of restraints, bandages and duct tape on children in 15 institutions out of 21 that were visited for children with disabilities. During the visit to “Hogares de la Caridad” in Jalisco, **DRI found a 17-year-old minor wrapped in a blanket and tied with tape.** The director's explanation was that the young man has autism and cerebral palsy and that he hurts himself. The young man spends long periods of time restrained like this in a bed with high wooden bars.



Hogares de la Caridad, Jalisco, 2018

In “Casa Gabriel” in Baja California, a three-year-old boy who DRI saw walking around at the beginning of the visit was later restrained in a wheelchair because, according to staff, he is “hyperactive.” According to disability experts, there is no excuse for tying a child down because he is hyperactive without having alternatives in place to redirect the child -such as other activities that would focus them and engage them. Tying a child for hyperactivity constitutes undue restraint and a form of abuse.<sup>105</sup> Unless the life of the child is at risk, the use of restraints to treat hyperactive children is prohibited and damaging to the child.

As documented extensively in the DRI report, *“No Justice: Torture, Trafficking and Segregation in Mexico,”* DRI found that at the “Asociación Hogar Infantil San Luis Gonzaga”, in the State of Mexico, nearly all children and adults with disabilities, many of whom have cerebral palsy, are restrained for at least an hour a day and probably more. Children are wrapped up like mummies from head to toe so that they cannot move arms or legs. Some are strapped to metal devices so they must stand for long periods of time. DRI observed some children and young people with disabilities whose hands were tied to bars above their heads in such a way that their body hung from their arms. Likewise, there were children and young people tied to treadmills and they were forced to walk on them for long periods of time, supposedly as a form of physical therapy. One staff member remarked that the treatment “must be painful.” She stated that “when one minor finished his time on the treadmill, he lay face down on the mat and pain, requiring a heating pad for his shoulders”<sup>106</sup>. In addition to the use of restraint as a supposed form of

<sup>104</sup> DRI interview with staff from “Casa Gabriel,” February 2019.

<sup>105</sup> Assessment conducted by Melanie Reeves, who has 25 years of experience as a disability expert, human services professional, case manager, and direct support provider, as well as experience in developing supports for vulnerable people, and measuring quality of services and compliance.

<sup>106</sup> *No Justice*, *supra* note 28 at p. 11.

“therapy,” DRI investigators observed one boy left on the floor tied to a bed with no staff around to observe him.

In the Juan N. Navarro Psychiatric Hospital in Mexico City, the director told DRI that when children are agitated, they have an action protocol where they first train to contain the crisis by talking to the child. According to the director, “[physical] restraint is used if necessary,” and children are also medicated if staff deem it necessary.<sup>107</sup>

Dr. Diane Jacobstein of Georgetown University Center for Child and Human Development says that “throughout the DRI investigation, I encountered a lack of awareness of professional standards and commonly accepted practices, such as positive behavioral supports. Such practices could be used to prevent and respond to challenging behavior and to make restraint unnecessary. Restraint is traumatizing, inhumane and counterproductive.”

#### *Use of isolation rooms and prolonged restraints on adults*

DRI observed the use of seclusion or isolation rooms in one in three of the institutions visited; it is likely that these rooms were used in more institutions, but we were not informed about them or were not allowed to see them. The former Special Rapporteur on Torture, Juan E. Méndez, has established that “there can be no therapeutic justification for the use of solitary confinement”<sup>108</sup> for persons with disabilities.

At the Baja California Psychiatric Institute, DRI found a 68-year-old man with an intellectual disability who had been in an isolation room for more than four months because he “ate dirt and paper.”<sup>109</sup> At the same institution, DRI found a pregnant woman in an isolation room; she told DRI, “I am afraid of staying here.” This institution had 10 isolation rooms, five for men and five for women. The reason and duration for placement in isolation varied from person to person. A nurse told DRI that people could be isolated “from three to five days, but if they are in very bad conditions, it could be weeks.”<sup>110</sup> The director claimed that people in isolation can come and go freely; however, DRI observed that they were locked and the persons who were in them had to ask for permission to go out.

At the “Centro de Rehabilitación Fortalécete en Cristo” in Baja California, DRI found two people with disabilities locked in a “detox” room – a room with empty walls and a strong smell of urine and feces. According to the director of this institution, people are placed in this room for several



CRREAD Cañón Rosarito, Baja California,

<sup>107</sup> DRI visit to the “Juan N. Navarro” Psychiatric Hospital, September 2019.

<sup>108</sup> United Nations, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez*, A/HRC/22/53 (Feb. 1, 2013), para. 63 [hereinafter A/HRC/22/53].

<sup>109</sup> DRI Interview with a nurse of the “Baja California Psychiatric Institute,” May 2019.

<sup>110</sup> DRI Interview with a nurse of the “Baja California Psychiatric Institute,” May 2019.

days while they “detox.” However, the people with disabilities were not “detoxing,” they were simply locked there for no apparent reason.

In the CRREAD Cañón Rosarito in Baja California – an institution where people with disabilities are detained together with people with drug addiction problems –DRI saw several cells that were used to “detox” people and as a form of punishment. In one of the cells, there was a woman who had been locked up for a “couple of days.” A young man in CRREAD Cañón Rosarito told DRI that “there are rooms for detox. I was there for three days. My friend was there for seven days. The days you spend in the ‘detox room’ depend on the state in which you arrive at the institution. If someone becomes aggressive, they lock them up there. They tie them up and lock them up.”<sup>111</sup>

DRI visited the Tijuana Mental Health Hospital<sup>112</sup> in Baja California and noted that it has isolation rooms for both children and adults. The director of the institution claimed that the “observation” rooms are used for “half an hour, which is the time that the medication takes to take effect”<sup>113</sup> and are used “when it is needed.”<sup>114</sup>

The National Mental Health Council (CONSAME by its acronym in Spanish), in its monitoring report on 14 psychiatric hospitals in the country carried out from 2013 to 2016, reported that 11 of them use some type of isolation including isolation rooms, isolation yards, or people being locked up in their own wards for long periods of time.<sup>115</sup>

In 2014 and 2015, CONSAME reported that the Yucatan Psychiatric Hospital used isolation rooms for people at the institution.<sup>116</sup> According to the reports, in 2014 “an isolation patio was found with a door closed with bandages; in this patio there were two detainees that were being isolated.”<sup>117</sup> The CONSAME also found “17 isolated persons in their wards.”<sup>118</sup> In 2015, it reported that people who were in the institution were kept isolated and in permanent confinement because they shared facilities with forensic patients.<sup>119</sup>

DRI observed the use of physical or chemical restraints in 24 of the 35 institutions for adults we visited. From 2013 to 2016, the National Mental Health Council evaluated 14 psychiatric hospitals; nine of them reported the use of physical restraints.<sup>120</sup> Juan E. Mendez, the former

<sup>111</sup> DRI Interview with a detained teenager at CREEAD “Cañón Rosarito,” February 2019.

<sup>112</sup> DRI visit to the “Tijuana Mental Health Hospital,” November 2018.

<sup>113</sup> DRI Interview with the director of the “Tijuana Mental Health Hospital,” November 2018.

<sup>114</sup> DRI Interview with the director of the “Tijuana Mental Health Hospital,” November 2018.

<sup>115</sup> National Mental Health Council, Monitoring Report to the following institutions: “Psychiatric Hospital Samuel Ramírez Moreno,” State of Mexico (2014); “Casa Hogar para Enfermos Mentales San Agustín,” Chiapas (2014); “Psychiatric Hospital Civil Libertad” and “de Chihuahua Mental Health Center” both institutions from Chihuahua (2014), “Mental Health Hospital Dr. Manuel Valle Bueno,” Durango (2014); “Centro de Atencion Integral de Salud Mental Estancia Prolongada,” Jalisco (2014); “Psychiatric Hospital Cruz del Sur,” Oaxaca (2013); “Psychiatric Hospital Dr. Rafael Serrano” [known as “El Batán”] Puebla (2014); “Hospital Regional de Alta Especialidad de Salud Mental,” Tabasco (2014); “Psychiatric Hospital Dr. Victor M. Concha, Veracruz (2014); and “Psychiatric Hospital of Yucatán,” Yucatán (2014, 2015, 2016).

<sup>116</sup> National Mental Health Council, Monitoring Report to the “Yucatan Psychiatric Hospital” (2014-2015).

<sup>117</sup> National Mental Health Council, Monitoring Report to the “Yucatan Psychiatric Hospital” (2014), p. 16.

<sup>118</sup> *Ibid*, at p. 4.

<sup>119</sup> National Mental Health Council, Monitoring Report to the “Yucatan Psychiatric Hospital” (2015), p. 14.

<sup>120</sup> Monitoring Report to the following institutions: “Psychiatric Hospital Samuel Ramírez Moreno,” State of Mexico (2014); “Mental Health Hospital Dr. Manuel Valle Bueno,” Durango (2014); “Villa Ocaranza,” Hidalgo (2014, 2016); “Centro de Atencion Integral de Salud Mental Estancia Prolongada,” Jalisco (2014); “Psychiatric Hospital Cruz del Sur,” Oaxaca (2013); “Psychiatric Hospital Dr. Rafael Serrano” [known as “El Batán”] Puebla (2014); “Hospital Regional de Alta Especialidad de

Special Rapporteur on Torture, has stated that “any restraint on people with mental disabilities for even a short period of time may constitute torture and ill-treatment.”<sup>121</sup>

In psychiatric hospitals Villa Ocaranza in Hidalgo, Juan N. Navarro in Mexico City, and El Batán in Puebla, DRI observed persons with disabilities tied to wheelchairs, particularly older adults. In Villa Ocaranza DRI found an older adult who was tied to a wheelchair around his torso. According to the hospital, this man stayed that way most of the time. In the Juan N. Navarro in Mexico City, DRI observed adult women tied to wheelchairs.

DRI interviewed a person who was detained in El Batán in Puebla. This person stated that physical restraints are part of the hospital’s admission policy. Regardless of the state in which they arrive, **“patients are tied up a whole day.”**<sup>122</sup> This person said that nurses ask for help from patients who are more stable to tie up new patients.<sup>123</sup> Similarly, restraints are used as a form of punishment. If staff considers that a person is “misbehaving” or not eating “well,” they tie them up. This person told DRI that on **“one occasion they tied me up for reading a magazine out loud because the doctors thought I was hallucinating.”**<sup>124</sup>

DRI also found restraints in several private institutions. During the visit that DRI made to the Centro de Rehabilitación Fortalécete en Cristo in Baja California, the director of the institution said that to contain persons in crisis, “I handcuff them, and we tie their feet and leave them face down for hours.”<sup>125</sup>

In Casa Esperanza in Mexico City, DRI found individuals’ hands and legs restrained in painful positions, tied with tight duct tape and bandages, for prolonged periods of time.<sup>126</sup> Adela\* was one of the eight people that, according to the director himself, remained permanently tied to a bed.<sup>127</sup> During our 2015 visit, DRI found her with her hands and hips tied to a bed. According to a doctor from the CDHCM, due to the permanent restraints and the complete lack of movement and rehabilitation, “her upper and lower extremities had hypotrophy [subnormal growth].”<sup>128</sup> According to testimonies from one of the victims, from 2011 to 2014, at least four people died while in restraints.<sup>129</sup> We are aware that at least one person died while tied up and locked in one of the bathrooms, which was used as an isolation room.<sup>130</sup>

Regarding the use of chemical restraints (overmedication to keep patients sedated), in El Batán in Puebla, one of the doctors mentioned to DRI that when patients are in a state of ‘mania,’ they

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Salud Mental,” Tabasco (2014); “Psychiatric Hospital Dr. Victor M. Concha, Veracruz (2014); and “Psychiatric Hospital of Yucatán,” Yucatán (2014, 2015, 2016).

<sup>121</sup> A/HRC/22/53, *supra* note 108 at para. 63.

<sup>122</sup> DRI interview with a person who was detained at the “Rafael Serrano Psychiatric Hospital,” May 2018.

<sup>123</sup> DRI interview with a person who was detained at the “Rafael Serrano Psychiatric Hospital,” May 2018.

<sup>124</sup> DRI interview with a person who was detained at the “Rafael Serrano Psychiatric Hospital,” May 2018.

<sup>125</sup> DRI visit to “Centro de rehabilitación Fortalécete en Cristo,” November 2018.

<sup>126</sup> No Justice *supra* note 28 at p. 11; Mexico City Human Rights Commission, Área de Orientación y Quejas, Acta circunstanciada de la revisión de la averiguación previa \*\*\*/\*\*\*-\*/\*\*/\*\*\*\*\*/\*\*-\*\*, octubre 19, 2015; PGJDF, Subprocuraduría de Averiguaciones Previas Centrales. Fiscalía Central de Investigación para Delitos Sexuales. H. Primer Turno Av. Previa: \*\*\*/\*\*\*-\*/\*\*/\*\*\*\*\*/\*\*-\*\*. Testimony of \*\*\* (May 25, 2015).

<sup>127</sup> DRI interview with the director of “Casa Esperanza,” June 2014.

<sup>128</sup> Mexico City Human Rights Comission, Nohemí Bautista Juárez, Médica Cirujana Legalista, Dirección de Servicios Médicos y Psicológicos, “Sugerencias médicas sobre los casos de pacientes de la Casa Hogar Esperanza” (May 28, 2015).

<sup>129</sup> DRI interview with a survivor of “Casa Esperanza,” May 2015.

<sup>130</sup> Mexico City General Attorney’s Office, Fiscalía Desconcentrada en Miguel Hidalgo, Agencia Investigadora del MP: MH-1, Unidad de investigación No. 1, Con detenido Primer Turno, Indagatoria No. \*\*\*/\*\*\*-\*/\*\*/\*\*\*\*\*/\*\*-\*\*, (May 13, 2016).

"obviously have to chemically restrain them." He said that they use a combination of two medications to put persons with disabilities to sleep: "we inject them and in 15 to 20 minutes, they will calm down and become sleepy." In this institution DRI found an extremely high death rate –a third of the institution's population, about 100 people, had died in a period of two years. The high death rate was linked to the use of medication, according to the director (see Section on Article 10, Threats to the Right to Life). At the Yucatán Psychiatric Hospital, Dr. Javier Aceves, an international expert who accompanied DRI's visit to this institution, mentioned that "the patients showed signs of sedation."

c. Invasive, painful and irreversible interventions

i. *Involuntary and dangerous use of Electroconvulsive therapy (ECT)*

In Mexico, DRI documented the use of electroconvulsive therapy (ECT) without anesthesia, an extremely painful practice that has been described by UN authorities as a form of torture.<sup>131</sup> Furthermore, ECT is commonly used without informed consent and without any form of effective regulation in a manner that renders it emotionally traumatizing and dangerous. Without effective oversight, ECT is also administered as a form of punishment and control. The use of ECT is in itself controversial, as it commonly causes short-term amnesia.<sup>132</sup>

Juan\* is a man with a psychosocial disability detained at the Tabasco Psychiatric hospital. Juan wrote down his testimony and shared it with a staff member who requested his consent to share it with DRI. In his testimony, Juan mentioned that he had a dispute with the director of the hospital and, as a punishment, the director ordered that he undergo 16 sessions of electroshock without anesthesia. The staff member who shared Juan's testimony with DRI knew of the punishment and recalled that, after the eleventh session, the assistant director of the hospital saw that Juan's condition had deteriorated considerably and, thinking that he could die, she ordered the suspension of the procedure. Juan said he was left "like a rag" after the electroshocks. He barely remembers anything – a side effect of ECT –and still has serious sequelae, including temporary memory loss. Juan also mentions that, given the state he was left in after the electroshocks, he spent two months locked up in his ward and his friends were the ones who bathed and cared for him.

The National Council on Mental Health (CONSAME), in its 2014 supervisory report to the Regional High Specialty Mental Health Hospital in Tabasco, found that "when electroconvulsive therapy is carried out [...] it seems to be an indiscriminate practice. On average 6 electroconvulsive therapies are carried out daily."<sup>133</sup> In a 2015 report CONSAME found that at

<sup>131</sup> United Nations, *Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment*, Manfred Nowak, Torture and other cruel, inhuman or degrading treatment or punishment, A/63/175, (July 28, 2008,) para. 61. [hereinafter A/63/175].

<sup>132</sup> Meeter Martinjn, et al., "Retrograde amnesia after electroconvulsive therapy: A temporary effect?", *Journal of Affective Disorders* (2011), Vol. 132, Núm. 1–2, pp. 216-222. Available at <https://www.sciencedirect.com/science/article/pii/S0165032711000802> (Last visit, Nov. 10, 2020).

<sup>133</sup> National Council on Mental Health, *supra* note 116 at p. 4.

the same hospital “the ECT logbook recorded an average of 10 sessions of electroconvulsive therapy a day; a total of 38 electro-shock sessions were applied to one single patient.”<sup>134</sup>

In 2018, the National Mechanism for the Prevention of Torture (MNPT) reported that in the Regional High Specialty Mental Health Hospital, in Tabasco, “[...] the application of electroconvulsive therapy is **performed without anesthesia** when the anesthesiologist is absent or on holiday.”<sup>135</sup> Manfred Nowak, former Rapporteur against Torture, has indicated that “[u]nmodified therapy can cause severe pain and suffering and often have consequences [...]. It cannot be considered an acceptable medical practice and can constitute torture and ill-treatment.”<sup>136</sup>

### *ii. Psychosurgery*

DRI has found that psychosurgeries have been performed on children with disabilities to try unproven procedures whose effectiveness has been “difficult to establish.”<sup>137</sup> DRI also found that adults with disabilities underwent psychosurgeries as part of ‘medical studies’ without their full free and informed consent, which may amount to torture.

According to former UN Special Rapporteur on Torture Manfred Nowak, given the intrusive and irreversible nature of psychosurgery, they may constitute torture, or cruel, inhuman or degrading treatment if they are performed without the free and informed consent of the person.<sup>138</sup> The former Rapporteur also expressed his concern that, in the medical context, “persons with disabilities often experience serious abuse and violations of their right to physical and mental integrity, notably in relation to experimentation or treatments directed to correct and alleviate particular impairments.”<sup>139</sup>

### *Children*

In Mexico, psychosurgery continues to be performed on children and, in fact, there are laws that allow it. For example, the current Yucatan Mental Health Law allows surgical intervention on children. The World Health Organization (WHO) has established that legislation should ban “irreversible treatment procedures on children, especially psychosurgery.”<sup>140</sup> These types of practices “contradict the principle of respect for the evolving capacities of children with disabilities and their right to preserve their identities.”<sup>141</sup>

During the visit to the Juan N. Navarro, in Mexico City, the director stated that, although the hospital has not referred any children for psychosurgery, they have “received patients who

<sup>134</sup> National Council on Mental Health, *supra* note 119 at p. 3.

<sup>135</sup> National Mechanism for the Prevention of Torture, “2018 Report,” p. 57.

<sup>136</sup> A/63/175, *supra* note 131 at para. 61.

<sup>137</sup> Manuel Hernández Salazar et al., “Ablative stereotactic neurosurgery for irreducible neuroaggressive disorder in pediatric patients,” *Neurocirugía* (2018), Vol. 29, No. 6, pp 296-303. Available at <https://www.sciencedirect.com/science/article/pii/S2529849618300315> (Last visit, Nov. 10, 2020).

<sup>138</sup> A/63/175, *supra* note 131 at para. 59.

<sup>139</sup> *Ibid*, at para. 57

<sup>140</sup> WHO, “Resource Book on Mental Health, Human Rights and Legislation,” (2005), p. 84. Available at [https://ec.europa.eu/health/sites/health/files/mental\\_health/docs/who\\_resource\\_book\\_en.pdf](https://ec.europa.eu/health/sites/health/files/mental_health/docs/who_resource_book_en.pdf) (Last visit, Nov. 11, 2020).

<sup>141</sup> United Nations, Rights of persons with disabilities Note by the Secretary-General, A/73/161, Catalina Devandas, (July 16, 2018), para. 41 [hereinafter A/73/161].

have had psychosurgery.”<sup>142</sup> DRI asked the director if the psychosurgeries had been effective, to which he responded that “in many cases yes, and in others not so much.”<sup>143</sup>

An article in a medical review journal detailed how in Mexico eight children, between the ages of 8 and 17, had undergone surgery due to a diagnosis of “irreducible neuroaggressive disorder.”<sup>144</sup> Of these eight, seven have intellectual disabilities.<sup>145</sup> According to the study, a group of “neurologists, neurosurgeons, neurophysiologists, pediatricians, psychiatrists and neuropsychologists”<sup>146</sup> monitored the selection and treatment of the children. Parents were required to consent on behalf of their children, who must have a history of taking medications and of exhibiting aggressive behavior.<sup>147</sup> There was no requirement to show that children had been exposed to other types of treatments and models of care within the community that have proven to be successful, specifically for children with intellectual disabilities.

The children had two surgeries in a period of approximately 12 weeks.<sup>148</sup> According to the study, two children died a few months after the interventions – one from pneumonia and the other from “trauma.”<sup>149</sup> The article argues that “[t]he definitive effectiveness of these surgical procedures is difficult to establish”<sup>150</sup> for many reasons, including that “previous studies contain technical and methodological deficiencies that do not allow for their interpretation or analysis.”<sup>151</sup>

#### *Adults*

According to a medical article recently published<sup>152</sup> in Mexico, 11 men and one woman between the ages of 20 and 59 underwent psychosurgeries<sup>153</sup> for displaying “refractory aggressiveness.”<sup>154</sup> Eight out of the twelve had intellectual disabilities; additionally, two of the patients had autism and Asperger’s syndrome. Other mental health diagnoses among the people who were operated on included obsessive-compulsive disorder, schizophrenia, head trauma, and post-traumatic stress disorder, among others.<sup>155</sup> Nine people received ECT prior to surgery.<sup>156</sup>

According to the study, five of the twelve patients underwent a second surgery three months later due to the reappearance of the aggressive behavior.<sup>157</sup> According to the authors, consent

<sup>142</sup> DRI visit to the “Juan N. Navarro” Psychiatric Hospital, September 2019.

<sup>143</sup> DRI visit to the “Juan N. Navarro” Psychiatric Hospital, September 2019.

<sup>144</sup> Manuel Hernández Salazar, et al., *supra* note 137 at p. 296.

<sup>145</sup> *Ibid.* at p. 296.

<sup>146</sup> *Ibid.* at p. 297.

<sup>147</sup> *Ibidem.*

<sup>148</sup> *Ibid.* at p. 300.

<sup>149</sup> *Ibid.* at p. 302.

<sup>150</sup> *Ibidem.*

<sup>151</sup> *Ibidem.*

<sup>152</sup> García Muñoz Luis, et al., “Efecto de la amigdalotomía e hipotalamotomía unilateral en pacientes con agresividad refractaria” in *Gaceta Médica de México*. Available at <https://www.medicgraphic.com/pdfs/gaceta/gm-2019/gms191k.pdf> (Last visit, Oct. 21, 2020).

<sup>153</sup> *Ibid.* at p. S63. They underwent procedures such as tonsillectomy and unilateral hypothalamotomy; procedures used to treat refractory aggressiveness.

<sup>154</sup> *Ibid.* at p. S64.

<sup>155</sup> *Ibid.* at pp. S65 and S66.

<sup>156</sup> *Ibid.* at p. S65.

<sup>157</sup> *Ibidem.*

was only obtained “when patients had autonomy and ability to decide or through parents or guardians,”<sup>158</sup> which does not constitute informed consent.

According to information from state authorities, lobotomies are still practiced in Mexico:

“The IMSS [Mexican Institute of Social Security] provided information regarding lobotomy procedures performed by its hospitals [...] from 2010 to 2016. Of a total of 51 cases, 28 were women and 22 men –aged between 1 and 85 years old, with an increasing trend in 2015 and 2016, mainly in the State of Sonora.”<sup>159</sup>

In Hospitals of the Institute of Security and Social Services of State Workers (ISSSTE),<sup>160</sup> “from 2004 to 2016, a total of 29 lobotomies were performed [...]. It is striking that, on two occasions, 2 women underwent 2 lobotomies each.”<sup>161</sup> Although the authorities are unaware of the diagnoses behind the lobotomies,<sup>162</sup> they stated that:

“At least 9 of these procedures were performed on women, under a diagnosis of anorexia, and 4 cases (2 women and 2 men) were performed to treat schizophrenia and aggressiveness; [...]at least one of those cases had an unfavorable outcome.”<sup>163</sup>

Catalina Devandas, former Special Rapporteur on the rights of persons with disabilities, has established that “[t]here are a growing number of treatments and interventions whose effectiveness is uncertain or deemed controversial [...]. Many of these interventions are invasive, painful and irreversible, and therefore may amount to torture or ill-treatment.”<sup>164</sup> The WHO has established that “psychosurgery and other irreversible mental health treatments generally should not be permitted to be performed on people unable to give informed consent.”<sup>165</sup>

#### d. Inadequate, unhygienic and dangerous conditions

Almost all institutions for children visited by DRI had inadequate, inhumane, and degrading conditions including: dirty facilities, pests, lack of privacy, clothes and shoes in poor condition, lack of space to store personal belongings and poor nutrition.<sup>166</sup> Several facilities had no running water leading to unbearable smells, filth, and health dangers. The lack of sanitation constitutes yet another threat to the health of children with and without disabilities there detained.

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<sup>158</sup> *Ibid*, at p. S64.

<sup>159</sup> Nuñez Alejandra, “Acercamiento inicial a la atención de la salud mental a nivel Federal en México: procedimientos irreversibles,” Revista Latinoamericana en Discapacidad, Sociedad y Derechos Humanos, (2018) Vol. 2, No. 2, p. 125. Available at <http://redcdpd.net/revista/index.php/revista/article/view/114> (Last visit, Oct. 21, 2020).

<sup>160</sup> *Ibidem*.

<sup>161</sup> *Ibidem*.

<sup>162</sup> *Ibid*, at p. 126.

<sup>163</sup> *Ibidem*.

<sup>164</sup> A/73/161, *supra* note 141 at para. 41.

<sup>165</sup> WHO, *supra* note 140 at p. 63.

<sup>166</sup> DRI found these conditions in 9 out of ten of the institutions that were visited, *see* Section on Article 15 on degrading conditions.

*Children*

DRI documented inhuman and degrading conditions in several private facilities across Mexico where children are detained. According to the staff who worked at Ciudad de los Niños, "the bathrooms were extremely dirty."<sup>167</sup> There were cleaning staff at the facility, but staff said: "it's a never-ending story, terrible [...] the children do not shower every day,"<sup>168</sup> partly because there's no hot water. According to DIF staff, "when it was very cold, by November, we boiled water to bathe the little girls [...]; nobody washes their clothes; [...] they wear the clothes for 5 days, the sixth day they throw them away; [...] they are super dirty."<sup>169</sup> DIF also told DRI: "they have their hands full of dirt, when they go to eat you ask them to wash them, but the dirt is under the nails, it can no longer be removed."<sup>170</sup> Staff from another institution told DRI that when one of the victims from Ciudad de los Niños arrived at the new institution), she did not know how to dress or bathe herself, among other basic habits, so they had to help her develop hygiene habits.

In the private institution Casa Hogar la Divina Providencia in the State of Mexico, the conditions are unsanitary. There were people walking barefoot on the cold ground. There was one large room with many beds which smelled strongly of urine. Flies buzzed around people with disabilities who spend hours bedridden, and people wearing diapers were not changing for hours, left to sit in their own waste. Hogares de la Caridad, a private institution in Jalisco with 36 children, has been 'remodeling' its facilities for the past three years. The living and common areas are packed with construction material, dust, and accumulated dirt and rubbish.<sup>171</sup>

At Niños Vegetarianos de la Nueva Era, in Morelos, a private institution with 40 children with and without disabilities, DRI found that the population detained there is forced to be vegetarian. During the visit, DRI observed the population fasting all morning until after a cult-like religious ceremony. A five-year-old girl was crying because she was hungry and was not allowed to eat. The meal was served after 1pm and consisted of leftovers from the previous day and a small snack. DRI stayed for the ceremony, where the founder and director of the institution, who was leading the ceremony, was revered and worshiped. DRI was concerned at his constant display of physical affection toward young girls, as these displays involved touching and close body contact.

*Adults*

<sup>167</sup> DRI interview with a staff member of DIF Guanajuato, September 2018.

<sup>168</sup> DRI interview with a staff member of DIF Guanajuato, September 2018. DIF took control of the institution at the end of 2017, after the press reported the abuses that were taking place in the institution.

<sup>169</sup> DRI interview with a staff member of DIF Guanajuato, September 2018.

<sup>170</sup> DRI interview with a staff member of DIF Guanajuato, September 2018.

<sup>171</sup> DRI visit to "Hogares de la Caridad", March 2018.

Conditions in public institutions and psychiatric facilities visited by DRI were particularly inhumane. The Social Assistance and Integration Center Villa Mujeres (hereinafter CAIS Villa Mujeres for its acronym in Spanish) is a public institution in Mexico City where 400 women with and without disabilities are locked up. In 2016, DRI found feces and urine on the floor, stacks of dirty clothes in the corners, beds without sheets, and women walking barefoot with dirty clothes. In 2018,

DRI visited the institution again and found that the conditions had not changed. One of the women with disabilities who was detained there told DRI that three times a month the buildings are sprayed to kill bed bugs, but the infestation had not gone away. She also described the lack of clean water in the institution, which made everything dirty, particularly the bathrooms.<sup>172</sup> She also told DRI that the only water available for the detainees was tap water which was not safe to drink.<sup>173</sup>

A volunteer from CAIS Cascada, a public institution in Mexico City, said that, “**the floors are full of [menstrual] blood and feces**”<sup>174</sup> and the women walk around barefoot; when the area is cleaned, they simply pour water on the floor and all of this goes on their feet, causing skin infections.<sup>175</sup> These findings echo the findings of international experts and authorities. At CAIS Cuemanco, another public institution in Mexico City, former Special Rapporteur on torture Juan E. Mendez found that:

“[T]here are persons with serious disabilities and chronic unmet medical needs who have been living there, some of them for over 20 years, in insanitary conditions and a state of abandonment, with little likelihood of rehabilitation. These persons receive social assistance and little else; they have no health care and there are no safeguards for the prevention of torture and ill-treatment.”<sup>176</sup>

A person interviewed by DRI who was detained in El Batán, a public psychiatric institution in Puebla, said that the hospital does not have cleaning staff and the facilities are always dirty. He mentioned the case of a patient who urinated on his mattress during the night and, the next morning, a nurse forced another patient to lie on the same mattress, asking him only to flip it over.<sup>177</sup> During our last visit to El Batán in Puebla, DRI observed detainees walking barefoot.

<sup>172</sup> DRI Interview with a woman from “CAIS Villa Mujeres,” September 2018.

<sup>173</sup> DRI Interview with a woman from “CAIS Villa Mujeres,” September 2018.

<sup>174</sup> DRI Interview with a volunteer from “CAIS Cascada,” October 2018.

<sup>175</sup> DRI Interview with a volunteer from “CAIS Cascada,” October 2018.

<sup>176</sup> A/HRC/28/68/Add.3, *supra* note 17 at para.75.

<sup>177</sup> DRI interview with a person who was detained at the “Rafael Serrano Psychiatric Hospital,” May 2018.



CAIS Cascada, Mexico City, 2016

The mattresses on which they slept were in poor condition and there was a lack of privacy in the wards.

At Samuel Ramírez Moreno, a public psychiatric institution in the State of Mexico, DRI observed deplorable conditions. There were a large number of detainees walking barefoot in puddles of water, filth, and urine. Some were partially naked, and many were not wearing adequate clothing for the cold weather. Persons with disabilities did not have any blankets, and the mattresses for all detainees were in poor condition. The bathrooms were dirty and there was no privacy. DRI also observed detainees urinating in the garden and inside the wards. The inadequate conditions in this institution have allowed for the spread of the virus COVID-19. According to Documenta, a Mexican non-profit, in May 2020, there were at least 19 positive cases and 4 people had died due to the virus.<sup>178</sup>

At Villa Ocaranza, a public psychiatric institution in Hidalgo where 83 adults with disabilities are detained, the director of the institution recognized that person with disabilities live in “painful conditions.” The climate of the area is cold, particularly at night, and there is not enough heating or blankets. Hospital staff said that “there has never been heating in the villas,”<sup>179</sup> and “in winter the villas are like freezers.”<sup>180</sup> The hospital director told DRI that it is not a problem because “patients with mental illness adapt to everything, they are very resilient.” However, an older woman told DRI: “I’m always cold.”<sup>181</sup> In DRI’s 2000 report “Mental Health and Human Rights in Mexico,” DRI found that the lack of heating at this particular institution led to several people freezing to death.<sup>182</sup> The fact that they still have not installed heat demonstrates that things have not gotten better and detainees are still at risk.

The Yucatan Psychiatric Hospital has a population of 121 person with disabilities, several of them have an intellectual disability.<sup>183</sup> The neighboring states send persons with disabilities to this institution. The hospital building was originally designed as a school, and 40 years ago it became a psychiatric institution. According to DRI expert Dr. Aceves,<sup>184</sup> “the conditions in the psychiatric hospital are extremely poor, there is overcrowding, and the facilities are inadequate to provide adequate mental health care.” There is no privacy in the bedrooms and bathrooms, people do not have private space for their belongings, and we noted that there was no toilet paper. The lack of services in the community in Yucatan and on the peninsula makes the Yucatan Psychiatric Hospital the only option available.

At Fortalécete en Cristo in Baja California, an unregulated private institution which detains eight adults with and without disabilities, conditions are dangerous and do not meet any minimum safety standards. DRI noted that there were no running toilets or showers. The facility is located in a residential area, next to a sewage channel. All doors inside the institution have padlocks. There are no railings on an exterior staircase that leads to a room on the top floor where a man with a physical disability lives. Other people detained at the institution carry

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<sup>178</sup> Butrón Jorge, “Urgen ONG’s a CNDH atender situación de hospital contagiado por COVID-19” in *La Razón*, (Oct. 17, 2020). Available at <https://www.azon.com.mx/mexico/urgen-ong-s-cndh-atender-situacion-hospital-contagiado-covid-19-409188?fbclid=IwAR2OJhC7Zh0ggEmI6FDhEvCC8Vinp5Lr57BEeV62L2ewESKrbyTXCKr8UJ0> (Last visit, Nov. 09, 2020).

<sup>179</sup> DRI visit to “Villa Ocaranza,” September 2019.

<sup>180</sup> DRI visit to “Villa Ocaranza,” September 2019.

<sup>181</sup> DRI interview with a woman detained at “Villa Ocaranza,” September 2019.

<sup>182</sup> Mental Disability Rights International, *Human Rights and Mental Health in Mexico*, (2000). Available at <https://www.driadvocacy.org/wp-content/uploads/Human-Rights-Mental-Health-English.pdf>.

<sup>183</sup> DRI visit to the “Yucatan Psychiatric Hospital,” July 2019.

<sup>184</sup> DRI expert and retired professor from the Department of Pediatrics at the University of New Mexico.

him up and down the stairs in his wheelchair, putting him and the people carrying him at risk of falling and suffering serious injuries.

During the DRI visits in 2016 and 2018 to CAIS Villa Mujeres in Mexico City, several of the women who live there were interviewed and mentioned that the food quality was poor and they weren't given enough to eat, so they were hungry all the time.<sup>185</sup> At Casa Hogar la Divina Providencia in the State of Mexico, the institution manager told DRI that people eat "whatever there is."<sup>186</sup> A volunteer from CAIS Cascada in Mexico City said the detainees complain about food being spoiled.<sup>187</sup> A person who was detained in El Batán in Puebla told that the food was very bad and insufficient. On one occasion they gave him mincemeat and it was spoiled. The only thing he eats are tortillas.<sup>188</sup>

The National Mechanism for the Prevention of Torture (MNPT) similarly found that, of the 39 hospitals visited, 66.66% showed deficiencies in terms of maintenance and hygiene of the facilities.<sup>189</sup>

#### e. Physical and sexual abuse

##### *Children*

Children in Mexican institutions face high rates of sexual and physical abuse. DRI received reports of sexual or physical abuse in at least one out of four of the institutions visited.<sup>190</sup> These abuses ranged from physical violence, such as being kicked or hit with sticks, to sexual abuse and rape. The former Special Rapporteur against Torture Juan E. Méndez has established that "[c]hildren deprived of their liberty are at a heightened risk of violence, abuse and acts of torture or cruel, inhuman or degrading treatment or punishment"<sup>191</sup> and mentioned that "[i]n children ill-treatment may cause even greater or irreversible damage [and] activation of stress response systems in the body, with damaging long-term effects on learning, behavior and health."<sup>192</sup>

In the case of Ciudad de los Niños in Salamanca, Guanajuato, a judge found that many of the children detained in the institution had been victims of rape. DRI corroborated the rape and sexual abuse at the facility through interviews with survivors who managed to escape the institution. In 2017 DRI met with a young man who had managed to escape the institution when he was a child. He told DRI how he was sexually abused by the priest who ran the facility, and how he and other boys had to dance naked in front of the priest.<sup>193</sup> DRI also heard from former staff and detainees that girls were raped and got pregnant as a result of the abuse. During their pregnancy they were taken away from the facility and would come back after they had given birth, without their babies.<sup>194</sup>

<sup>185</sup> DRI visit to "CAIS Villa Mujeres," June 2016 and September 2018.

<sup>186</sup> DRI interview with the institution manager from "Casa Hogar la Divina Providencia," September 2018.

<sup>187</sup> DRI Interview with a volunteer from "CAIS Cascada," October 2018.

<sup>188</sup> DRI interview with a person who was detained at the "Rafael Serrano Psychiatric Hospital," May 2018.

<sup>189</sup> National Mechanism for the Prevention of Torture, *supra* note 135 at p. 33.

<sup>190</sup> See Annex IV. Institutions documented 2014-2019 (2) and Annex III. Institutions documented for children.

<sup>191</sup> A/HRC/28/68, *supra* note 76 at p. 16.

<sup>192</sup> *Ibidem*.

<sup>193</sup> DRI interview with a victim from "Ciudad de los Niños," November 2017.

<sup>194</sup> DRI interview with a victim from "Ciudad de los Niños," November 2017.

The judge in the Ciudad de los Niños case cited in her judgement the case of a 10-year-old girl who “suffered touching of a sexual nature by an adult named \* and that they played ‘daddy and mommy’.”<sup>195</sup> The girl explained how she played this, “with her arms flexed, brings them closer to her body at the height of her hips, back and forth.”<sup>196</sup> The girl said “I do not like to play that, because when we play that he \*\* grabs me here and here. At this moment it is established that the child points with her hands at her breasts and her vagina.”<sup>197</sup>

The judgment also refers to victims who were subjected to serious physical abuse: “children are beaten by an adult male who is called the punisher (...) he is the one who hits the children by slapping, spanking them, etc.”<sup>198</sup> “A little girl mentioned that her hand was burned by Ciudad de los Niños staff because she had stolen a play dough.”<sup>199</sup> One of the victims of Ciudad de los Niños said that “(...) since I can remember I was beaten with sticks; they made us kneel on a stick and hit us, on several occasions.”<sup>200</sup> Children with disabilities were subjected to particularly degrading abuse. One of the victims said there was a child with a disability who staff used to, “without any reason, hit him on the head, undress him and force him to be naked in the house (...).”<sup>201</sup>

DRI visited a private institution to which some children from Ciudad de los Niños were transferred. In that institution DRI interviewed a child who was sexually abused when he was transferred temporarily to a shelter under the custody of DIF-Guanajuato. The psychologist at the private institution learned about this abuse when the child was returned to the institution. She informed DIF about what had happened, but the authorities did not investigate the matter further.

A person who worked at Fundación Ser Humano, a private institution in Mexico City, said that once there was a baby of approximately six months crying because she was hungry. After 10 minutes of hearing the baby cry, the staff member went to check on the baby, but she had disappeared.<sup>202</sup> She looked for the baby throughout the institution and another child reported that Pedro,\* a teenager from the same institution, had her.<sup>203</sup> The staff member said that when they were both found, “Pedro had the baby practicing oral sex on him.”<sup>204</sup> This staff person also told DRI that “the same caregivers are the ones who mistreat the children. One of them put a rag in the mouth of a girl, threw her on the floor and locked her in a room.”<sup>205</sup> The staff person added that even though this institution has complaints filed against it for abuse, it is supervised by DIF-Mexico City and is still operating.

Staff from CAIMEDE, a public institution in the State of Yucatán with 130 children and young adults with disabilities, is now under investigation for cases of sexual abuse and rape of minors. The Attorney General Child Protection Division (PRODEMEFA) found four cases of abuse and signs of violence. “These were committed by staff of the institution, including 2 guards who

<sup>195</sup> Amparo Judgment 475/2016-VIII, *supra* note 30 at p.17.

<sup>196</sup> *Ibid*, at p. 42.

<sup>197</sup> *Ibidem*.

<sup>198</sup> *Ibid*, at pp. 15 and 16.

<sup>199</sup> *Ibid*, at p. 16.

<sup>200</sup> *Ibidem*.

<sup>201</sup> *Ibid*, at p. 52.

<sup>202</sup> DRI interview with a person who worked at “Fundación Ser Humano I.A.P.,” September 2017.

<sup>203</sup> Fictitious name to protect the identity of the person.

<sup>204</sup> DRI interview with a person who worked at “Fundación Ser Humano I.A.P.,” September 2017.

<sup>205</sup> DRI interview with a person who worked at “Fundación Ser Humano I.A.P.,” September 2017.

worked there more than six years ago,”<sup>206</sup> who physically and sexually abused the minors. A caregiver and two guards have been sent to prison.<sup>207</sup>

An unaccompanied migrant teenager that DRI interviewed at the YMCA House for Migrant Children in Baja California told us: “once DIF sent me to Tesoros Escondidos in Mexicali. This shelter only receives children that have been rejected from other shelters. Once I saw the director kick a child in the head. The child had a mental disability.”<sup>208</sup>

In its Concluding Observations on Mexico’s initial report to the CRPD Committee, the Committee expressed concern for the “lack of protection against violence and abuse for children with disabilities”<sup>209</sup> and urged the State to:

- “(a) Take steps to prevent and eliminate all forms of domestic or institutional violence against children with disabilities;
- (b) Duly investigate cases of violence and abuse against children with disabilities in order to avoid the impunity of perpetrators.”<sup>210</sup>

Mexico has failed to protect children in institutions from violence and has even been complicit in the abuse by failing to act on reports on abuse (see Section on Article 13, Lack of Access to Justice).

### *Women*

Our 2015 report, *“Twice Violated: Abuse and Denial of Sexual and Reproductive Rights to Women with Psychosocial Disabilities in Mexico,”* found that “43 percent of the women that were interviewed [women with disabilities who receive services in outpatient clinics] stated that they had been mistreated or suffered abuse while visiting a gynecologist,” including sexual abuse and rape. According to Catalina Devandas, former Special Rapporteur for the rights of persons with disabilities, “[g]irls and young women with disabilities are disproportionately affected by different forms of gender-based violence, including physical, sexual [...] abuse.”<sup>211</sup>

DRI also heard reports of sexual abuse in at least six of the institutions we visited for this report. Though men with disabilities in institutions are also victims of sexual abuse, DRI received more complaints from women. It is very likely that both men and women in institutions underreport the abuse they experience. There is likely to be underreporting of the abuse that both men and women are experiencing in institutions.

At Casa Esperanza in Mexico City, of the 37 people detained only five women could express themselves verbally. These five women told DRI that they had been subjected to sexual abuse within the institution. The State’s response was to transfer victims to other institutions, where

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<sup>206</sup> Diario de Yucatán, “Denuncian en la Fiscalía a dos custodios del Caimede” in *Diario de Yucatán*. (March 16, 2019) Available at <https://www.yucatan.com.mx/merida/denuncian-en-la-fiscalia-a-dos-custodios-del-caimed> (Last visit, Oct. 21, 2020).

<sup>207</sup> *Ibidem*.

<sup>208</sup> DRI interview with a 15-years-old Mexican teenager at “YMCA House for Migrant Children,” November 2018.

<sup>209</sup> Concluding observation to Mexico, *supra* note 7 at para. 35.

<sup>210</sup> *Ibid*, at para. 36.

<sup>211</sup> United Nations, *Sexual and reproductive health and rights of girls and young women with disabilities*, Catalina Devandas Aguilar, A/72/133, (July 14, 2017), para. 34.

they have continued to suffer abuse. One of the victims of sexual abuse at Casa Esperanza reported having been raped for more than eight months by one of the staff members at the new institution to which she was transferred.<sup>212</sup>

A woman with a visual disability at CAIS Villa Mujeres in Mexico City said she had been raped multiple times by a staff member.<sup>213</sup> A volunteer at the CAIS Cascada in Mexico City told DRI that, according to the testimonies of the women who live there, at least eight said that staff had sexually abused and raped them. In return, staff give them cigarettes or money. The women said, "it made them feel disgusted."<sup>214</sup> At CAIS Cascada, the sexual abuse of these women generally occurred in the cleaning and laundry area. The person DRI interviewed said that the director and psychologists at the institution are aware of the abuses.<sup>215</sup> Some of the psychologists have openly talked about this with women who have been sexually abused, and the only recommendation they have given them is "to avoid the staff."<sup>216</sup>

## Article 16. Freedom from exploitation, violence and abuse

In Mexico, there are no effective supervision and monitoring mechanisms to document the situation of persons with disabilities detained in institutions. On repeated occasions, the Mexican State has in fact hindered the monitoring of institutions by civil society. DRI has been denied access to public psychiatric institutions and private institutions. The government has also denied access to and withheld information regarding people with disabilities who have suffered grave abuses inside institutions in cases that have been investigated and documented by DRI. This is in violation of the CRPD which establishes in Article 16 that "[i]n order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities."<sup>217</sup>

### a. Lack of effective supervision

Most of institutions for children with and without disabilities in Mexico receive children sent by DIF.<sup>218</sup> Despite the fact that DIF sends children to private institutions, DRI received documentation from this authority stating that it does not have supervision records for most institutions. Early in the Covid-19 outbreak, for example, DRI reached out to the national DIF for information about steps being taken to protect children in institutions from exposure and protections to ensure access to appropriate care. DIF wrote back to say it is not their area of expertise.<sup>219</sup> However, according to the Social Assistance Law and National DIF's Statute, DIF is responsible for "supervising and evaluating the activity of social assistance services provided by public and private social assistance centers, following to what is established by the General

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<sup>212</sup> Mexico City General Attorney's Office, Fiscalía Central de Investigación en Delitos Sexuales, Agencia Investigadora del MP: FDS-6, Primer Turno, Indagatoria: No. \*\*\*/\*\*\*-\*/\*\*/\*\*\*\*\*/\*\*-\*\*, (May 25, 2015).

<sup>213</sup> DRI visit to CAIS "Villa Mujeres," June 2016.

<sup>214</sup> DRI Interview with a volunteer from "CAIS Cascada," October 2018.

<sup>215</sup> DRI Interview with a volunteer from "CAIS Cascada," October 2018.

<sup>216</sup> DRI Interview with a volunteer from "CAIS Cascada," October 2018.

<sup>217</sup> CRPD, *supra* note 45.

<sup>218</sup> Of the 22 institutions visited by DRI for children, 77% mentioned that they received population sent by the DIF, and from the 20 that housed children with disabilities, 90% received children sent by DIF.

<sup>219</sup> National System for Integral Family Development, response to the questionnaire "COVID-19 Monitoring of the Rights of Persons with Disabilities."

Health Law and the present law.”<sup>220</sup> Lack of oversight or adequate supervision allows for neglect and demonstrates a lack of planning to confront dangers to children. As a result, irregularities and abuses go unpunished.

In addition to the lack of oversight, DRI found a number of private facilities that detain individuals with disabilities with absolutely no regulation by any government entity. They are not required to report publicly on who is detained, for what reasons, and for how long, or on what kind of treatment is or is not provided.

At Casa Gabriel, a private institution with 19 children in Baja California, DRI found a high number of deaths in the institution. The National DIF stated that they investigated this institution in 2018 and found several irregularities. Despite the irregularities and the deaths reported by DRI, the facility is still operating. The irregularities found by DIF during its 2018 investigation of Casa Gabriel include:

“Missing documentation in the files of the staff, outdated database, bad grooming of children, lack of physical therapy [...]. Need to increase the weight of the children, carry out a cognitive assessment of the children. Need to fill out adequately the voluntary admission paperwork in order to have as much information as possible on the relatives who place the children here.”<sup>221</sup>



Casa Gabriel, Baja California, 2019

Autonomous human rights bodies, which are established in each state by the Mexican Constitution and tasked with supervision of private and public institutions, and institutions are also failing in doing so. At Hogares de la Caridad, a private institution with 36 children in Jalisco, a young man of approximately 17 years was found in a caged bed, wrapped in a blanket and tied with tape. According to Juan E. Méndez, former Special Rapporteur on Torture, the

use of “physical restraints [...] [and bed] cages, [are] practices that have been linked to muscular atrophy and skeletal deformity”<sup>222</sup> and may constitute torture and cruel, inhumane, and degrading treatment.

<sup>220</sup> Social Assistance Law, published in the national gazette on April 24, 2018, Article 28, section j and k.

<sup>221</sup> National System for Integral Family Development, Request for information number: 1236000037318. Appeal number 1017/19.

<sup>222</sup> A/HRC/28/68, *supra* note 76 at para. 56.

In 2018, DRI sent a letter to the Jalisco Human Rights Commission (CEDHJ for its acronym in Spanish) informing them of this situation. The Commission refused to follow up on the case, arguing that Hogares de la Caridad was a private institution and the CEDHJ “cannot supervise these [type of institutions].”<sup>223</sup> However, the Commission’s Rules of Procedure Article 7 states that its within its mandate to carry out regular monitoring visits to:

“The institutions for the treatment and support of persons with mental disabilities, persons with other disabilities and elderly people, health centers and other social assistance establishments, in which any state or municipal authority intervenes, to guarantee the absolute respect for the human rights of the people who are receiving treatment in those institutions.”<sup>224</sup>

Given that Hogares de la Caridad is an institution to which the DIF sent children with disabilities, it was the obligation of the CEDHJ to investigate the case under its own Rules of Procedure.

Several facilities DRI visited operate unregulated. In the case of Pequeño Mundo Especial, an unregistered private institution with twelve children in Baja California, the director told DRI that several of the children had been sent to the institution by DIF Baja California, even though DIF was aware that the institution was not formally registered. Recently, DIF had decided to remove the children because they were mixed with adults, not because of the lack of registration. After removing the children, DIF did not close the institution, and adults with disabilities remain there.

Centro de Rehabilitación Fortalécete en Cristo in Baja California operates in an unregistered, unlicensed house. According to the Director, as soon as he acquired the property, he immediately started receiving people – before formally registering with the government. Despite the lack of government permits, the director said that “the government knows about us and sometimes they send people here.”<sup>225</sup> He added that “we will register eventually.” However, his motivation to register is to be able to fundraise, not to operate. He is already operating and even though he has no permits “the government does not interfere.”<sup>226</sup>

The lack of regulation and supervision of these institutions leaves children and adults at risk. According to the president of the Yucatan Human Rights Commission (CODHEY), “there must be a law and a regulatory framework to supervise private institutions.” According to the president, following up on complaints is sometimes impossible due to “irregularities with these types of facilities that can easily close one location and open elsewhere.” CODHEY used to supervise these private institutions and often found “irregularities such as children, adults, and people with disabilities mixed all together.”

#### b. Denial of access to institutions

The CRPD states that “civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring

<sup>223</sup> Jalisco Human Rights Commission, “Oficio No: DQ/546/2018, Guadalajara Jalisco,” (June 21, 2018).

<sup>224</sup> Jalisco Human Rights Commission Rules of Procedure, Article 7, section XXIIIC.

<sup>225</sup> DRI Interview with the director of “Centro de Rehabilitación Fortalécete en Cristo A.C.,” November 2018.

<sup>226</sup> DRI Interview with the director of “Centro de Rehabilitación Fortalécete en Cristo A.C.,” November 2018.

process.”<sup>227</sup> Mexico’s General Health Law states the importance of “the participation of external observers to monitor the full respect of the human rights of persons with mental and behavioral disabilities, who are treated in the establishments of the National Health System network.”<sup>228</sup>

DRI has requested access to different psychiatric institutions and centers for social assistance (CAIS) in Mexico City and other states. However, authorities at the federal and state level, particularly from DIF, have denied us access.<sup>229</sup>

In September 2017, DRI met with CNDH regarding the case of Ciudad de los Niños in Guanajuato. The main purpose of this meeting was to express DRI’s concerns regarding the victims of Ciudad de los Niños. DRI requested access to the institution which had been taken over by DIF, in order to assess the human rights situation of the victims and to provide strategies regarding family reintegration. This request for access was denied. DRI also requested access to the survivors to the director of DIF Guanajuato and Guanajuato’s Secretary of State. DRI offered to bring in an expert that was accompanying us to evaluate the emotional and physical trauma in the children who were in Ciudad de los Niños. However, both authorities denied us access to the children and to their records. On November 10, 2017, the DRI research team formally requested access to the institution, but access was again denied.

DRI also asked DIF Yucatán for access to a psychiatric hospital where they had sent minors with disabilities. However, DIF denied DRI access this vulnerable population. On August 9, 2019, DRI sent a letter to the Yucatan DIF Director asking him to detail in writing the reasons for denying DRI access to the children. However, as of the date of the publication of this report, we have not received a response.

#### c. Denial of access to information and victims of abuse

DRI has documented the case of Casa Esperanza in Mexico City since 2014 and has submitted information to the CRPD Committee. In 2015, DRI published the report “No Justice: Torture, Trafficking and Segregation in Mexico”<sup>230</sup> on the abuses in Casa Esperanza. Angered by our exposure of the case, the Mexico City Human Rights Commission (CDHCM) restricted our access to the case file and DIF restricted our access to the victims.

In 2018 DRI formally requested access to the Casa Esperanza file, which was denied. DRI filed a complaint before Mexico City’s Institute of Transparency, Access to Public Information, Protection of Personal Data and Accountability (INFOCDMX for its acronym in Spanish) and argued that the information on the victim-survivors of Casa Esperanza must be made public to ensure that the authorities are accountable for their inaction in the case and given the fact that the alleged abuses were serious and grave human rights violations.

Our appeal was sent to the National Institute for Transparency, Access to Information and Personal Data Protection (INAI by its acronym in Spanish). In January 2020, the INAI issued a

<sup>227</sup> CRPD, *supra* note 45, Article 33 (3).

<sup>228</sup> General Health Law, *supra* note 62, Article 73. 7.

<sup>229</sup> DRI has sent formal letters to the psychiatric hospital “Granja la Salud Tlazolteotl” (in 2017 and 2019) and to the “José Sayago” psychiatric hospital (in 2019) requesting access and they have argued that the visit cannot be carried out due to the “ethical principle of confidentiality.” The “Centro de Atención Integral de Salud Mental de Estancia Prolongada” in Jalisco (in 2018) did not answer our request.

<sup>230</sup> No Justice, *supra* note 28.

final resolution where it stated that the violations in the case were grave and, in order to ensure accountability, the CDHCM needed to give DRI access to the case file in its public version.<sup>231</sup>

### Article 19. Living independently and being included in the community

Mexico continues to institutionalize persons with disabilities indefinitely, in defiance of the CRPD Committee's call to urgently adopt a deinstitutionalization policy and in violation of Article 19 of the CRPD. Authorities throughout Mexico reported that the main reason for placing people in institutions is the lack of community-based alternatives to support independent living, including for children (see Section on Article 23).



Samuel Ramirez Psychiatric facility, State of Mexico, 2019

In this section we provide an overview of the lifelong institutionalization of children and adults, the continued investment in institutions instead of community services, and the total failure of the government to create alternatives and provide supports in the community. These failures constitute a grave violation of the right to grow up in a family for children with disabilities and the right to live in the community for people with disabilities in Mexico.

The CRPD recognizes in Article 19 the right of persons with disabilities to live independently and to be included in the community.<sup>232</sup> In 2014, the CRPD Committee, in its Concluding Observations on the Initial Report to Mexico, expressed its concern regarding "the absence of a specific and effective strategy for the deinstitutionalization of persons with disabilities,"<sup>233</sup> as well as the lack of a "[s]tate strategy for the inclusion of persons with disabilities in society and their ability to live independently"<sup>234</sup> and urged Mexico to "[a]dopt legislative, financial and other measures to ensure that persons with disabilities may live autonomously in the community."<sup>235</sup>

#### a. Lifelong institutionalization

<sup>231</sup> INAI, Case RAA 0633/18 TER, derived from the Case R.R.I.P 0531/2018 before the Mexico City's Institute of Transparency, Access to Public Information, Protection of Personal Data and Accountability (INFOCDMX).

<sup>232</sup> CRPD, *supra* note 45 at Article 19.

<sup>233</sup> Concluding observation to Mexico, *supra* note 7 at para. 43.

<sup>234</sup> *Ibidem*.

<sup>235</sup> *Ibid*, at para. 44.a.

In all but two institutions visited by DRI persons with disabilities are detained indefinitely, most likely until they die. The exceptions are two psychiatric hospitals (Fray Bernardino in Mexico City and the Mental Health Hospital of Tijuana in Baja California) that have facilities for acute persons with disabilities and only admit persons whose families sign that they will pick them up.

In some of the institutions we visited, DRI found persons with disabilities that have been detained for more than 50 years. Four of the public psychiatric hospitals visited by DRI<sup>236</sup> have people who were transferred to these facilities when the infamous psychiatric asylum La Castañeda,<sup>237</sup> was closed in 1968.<sup>238</sup> The Juan N. Navarro Psychiatric Hospital in Mexico City, an institution for children with disabilities, has a ward where ten women with disabilities live. According to the director, they have lived in the institution for 30 to 40 years.<sup>239</sup> The director of the El Batán Psychiatric Hospital in Puebla told DRI that they have persons with disabilities that have lived there since the hospital opened in 1966.

At the Baja California Psychiatric Institute in Mexicali, DRI found that, despite the fact that the hospital was intended for short-term care, there were at least three men and four women who had been detained in the institution for years. One of the men had been there for 30 years, and two of the women had been there for 25 years.<sup>240</sup>

Officials from the Psychiatric Care Services (SAP) division of the Ministry of Health told DRI that, “more than 80% [of people with disabilities who live in psychiatric hospitals] have been there for more than 30 years. Many of them do not know any other way of life.”<sup>241</sup> Authorities at the Yucatan Ministry of Health told DRI that chronic patients in the psychiatric hospital “had been there for years; [...] they are there for social reasons, they have been abandoned by their families and they have nowhere to go.”<sup>242</sup> According to the person in charge of a private institution in Yucatan, Pastoral de Amor, **“they arrive here, they die here. The government gives no more alternatives.”**

At Casa Hogar San Pablo in Querétaro, the person in charge told DRI that people with disabilities would remain there indefinitely: “this will become a nursing home and they’ll stay here until they die, unfortunately.”<sup>243</sup> At Casa Hogar la Divina Providencia in the State of Mexico, the person in charge told DRI that people “have been living here all their lives.”<sup>244</sup>

DRI visited two private rehabilitation centers in the State of Baja California: Centro de Rehabilitación y Recuperación para Enfermos de Alcoholismo y Drogadicción (CRREAD) Cañón Rosarito and Centro de Rehabilitación Fortalécete en Cristo A.C. In both we found persons with disabilities that had been at the institutions for years. CRREAD Cañón Rosarito detained 60

<sup>236</sup> “Samuel Ramírez Psychiatric Hospital” in the State of Mexico; “Villa Ocaranza” in Hidalgo, and “el Batán” in Puebla.

<sup>237</sup> González Aketzalli, “La Castañeda, cuna de la psiquiatría mexicana,” in ciencia mx, (May 9, 2018). Available at <http://www.cienciamx.com/index.php/ciencia/salud/21468-hospital-psiquiatrico-la-castaneda> (Last visit, Oct. 21, 2020).

<sup>238</sup> Vicencio Daniel, “Operación Castañeda’. Una historia de los actores que participaron en el cierre del Manicomio General, 1940-1968” in Históricas Digitales, (Dec. 2017). Available at [http://www.historicas.unam.mx/publicaciones/publicadigital/libros/psiquiatria/688\\_04\\_01\\_Operacion.pdf](http://www.historicas.unam.mx/publicaciones/publicadigital/libros/psiquiatria/688_04_01_Operacion.pdf) (Last visit Oct. 21, 2020).

<sup>239</sup> DRI interview with the director of the “Juan N. Navarro” Psychiatric Hospital, September 2019.

<sup>240</sup> DRI interview with the director of the “Baja California Psychiatric Institute,” May 2019.

<sup>241</sup> DRI interview via Zoom with staff from the “Psychiatric Care Services” of the Ministry of Health, September 2020.

<sup>242</sup> DRI visit to the “Yucatan Psychiatric Hospital,” July 2019.

<sup>243</sup> DRI visit to “Casa Hogar San Pablo,” September 2018.

<sup>244</sup> DRI visit to “Casa Hogar la Divina Providencia,” September 2018.

people, six of which are persons with intellectual disabilities. According to one of the supervisors, “they have been here for years, they brought them one day and they have never left, they have nowhere else to go.”<sup>245</sup>

Fortalécate en Cristo in Baja California is a private house that operates as a ‘rehabilitation center.’ When DRI visited, there were eight people locked up there. Two were persons with intellectual disabilities, and one was an adult with a psychosocial disability. The director said that he often receives persons with psychosocial disabilities.<sup>246</sup> The two persons with intellectual disabilities had been there for three years and, since they had ‘nowhere else to go,’ they were going to stay there indefinitely.<sup>247</sup> In Casa Gabriel in Baja California, DRI found two young adults, who, according to staff, had been there for years, since they were children, and were staying on because they had nowhere else to go.

In CAIMEDE, an institution in Mérida, Yucatán for children, there are young adults with disabilities who have been there for years. A 24-year-old man who has been there since he was a child is working in a supermarket during the day and, according to the staff, he wants to “buy a house and start a family.” A woman with a disability, also in CAIMEDE, told us that she wanted to leave and have her own home and family. She is 28 years old and has been in the institution since she was 14 years old.

#### b. The failure of the Miguel Hidalgo Model of Mental Health Care

In 2000, the Miguel Hidalgo Model for Mental Health Care was created.<sup>248</sup> One of the pillars of this model was the creation of “transition villas.” These villas are group homes with a population of 12 to 15 people that are located inside the walled grounds of psychiatric hospitals. Many of these are in remote areas, and most of them remain locked facilities where permission by authorities is required to come and go. The first transition villas were built on the grounds of the Fernando Ocaranza Psychiatric Hospital in Hidalgo as a “temporary measure,” given that the psychiatric facilities were in very bad conditions.<sup>249</sup> However, the villas became permanent and people never transitioned out of them. This ineffective model has now been replicated nationwide. Currently, in Mexico there are 59 villas in the states of Durango, Hidalgo, Mexico, Jalisco, Oaxaca, Puebla, Tamaulipas, and Zacatecas.<sup>250</sup>

DRI visited three psychiatric hospitals that have transitional villas: The Adolfo M. Nieto Psychiatric Hospital in the State of Mexico, the El Batán Psychiatric Hospital in Puebla and Villa Ocaranza in Hidalgo. The directors of these institutions talked about the failure of this model. According to the director of Villa Ocaranza **no patient has left these so-called “transition villas” to be reintegrated into the community.** DRI observed that the “villas” in El Batán in Puebla look exactly the same as the other wards; they are only given another name.

DRI interviewed the director of the Adolfo M. Nieto psychiatric hospital in the State of Mexico. The director admitted that the hospital is still functioning as an asylum, despite having adopted the Hidalgo Model decades ago. According to him, 90 percent of the population has been living

<sup>245</sup> Interview with the supervisor of CRREAD “Cañón Rosarito,” February 2019.

<sup>246</sup> Interview with the supervisor of CRREAD “Cañón Rosarito,” February 2019.

<sup>247</sup> Interview with the supervisor of CRREAD “Cañón Rosarito,” February 2019.

<sup>248</sup> Gómez Benumea, “La Salud Mental como una Prioridad en la Agenda de la Salud Pública,” Universidad Autónoma del Estado de Hidalgo (2016). Available at <https://www.uaeh.edu.mx/scige/boletin/icsa/n8/e5.html> (Last visit, Oct. 14, 2020).

<sup>249</sup> Abandoned and Disappeared, *supra* note 51 at p. 40.

<sup>250</sup> Ministry of Health, Request for information number: 0001200029519.

there for more than 20 years.<sup>251</sup> He also argued that: “the cost of healthcare triples because we are not providing the service they need.”<sup>252</sup> A public officer told DRI that in mental health services, “the reality is that we are 20 years behind.”<sup>253</sup> DRI found that the villas function as small institutions within the larger institution, and the people who live there are not free to leave, choose with whom and how to live, or the activities they want to carry out daily. In this matter, the CRPD Committee has stated that:

“[N]either large-scale institutions with more than a hundred residents nor smaller group homes with five to eight individuals, nor even individual homes can be called independent living arrangements if they have other defining elements of institutions or institutionalization.”<sup>254</sup>

The Committee has also declared that “[i]t is not “just” about living in a particular building or setting; it is, first and foremost, about not losing personal choice and autonomy as a result of the imposition of certain life and living arrangements.”<sup>255</sup> The ‘transition villas’ of the Hidalgo model imply an extension of the institutional model since people do not have the freedom to make decisions about the most basic decisions about their lives.

#### c. Negative effects of the Hidalgo Model

Four of the psychiatric hospitals visited by DRI<sup>256</sup> have implemented one of the components of the Hidalgo Model which consists of having a store inside the hospital. This ‘store’ operates as follows: detainees received 20 pesos (around \$1 dollar) a day from working in sheltered workshops inside the hospital and can buy products at the store.<sup>257</sup> The main products sold are junk food and sodas.

The director of Villa Ocaranza in Hidalgo told DRI that daily access to junk food and sugary drinks “did not benefit” the detainees; in fact, it had negative consequences. According to the director:

“the store is still operating, but it is no longer selling junk food. Unfortunately, those 20 years that it did had consequences because many of the patients developed diabetes, hypertension, kidney stones, chronic Obstructive Pulmonary Disease, and other medical conditions that were worsened by their sedentary lifestyle.”<sup>258</sup>

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<sup>251</sup> DRI interview with the director of the “Adolfo M. Nieto” Psychiatric Hospital, October 2018.

<sup>252</sup> DRI interview with the director of the “Adolfo M. Nieto” Psychiatric Hospital, October 2018.

<sup>253</sup> DRI interview with staff member of the “Psychiatric Care Services” from the Ministry of Health, September 2019.

<sup>254</sup> General Comment No. 5, *supra* note 4 at para. 16 c. According to the General Comment No. 5, “Although institutionalized settings can differ in size, name and set-up, there are certain defining elements, such as obligatory sharing of assistants with others and no or limited influence over whom one has to accept assistance from; isolation and segregation from independent life within the community; lack of control over day-to-day decisions; lack of choice over whom to live with; rigidity of routine irrespective of personal will and preferences; identical activities in the same place for a group of persons under a certain authority; a paternalistic approach in service provision; supervision of living arrangements; and usually also a disproportion in the number of persons with disabilities living in the same environment.”

<sup>255</sup> *Ibidem*.

<sup>256</sup> “Yucatan Psychiatric Hospital,” “Adolfo M. Nieto,” “El Batán,” and “Villa Ocaranza”.

<sup>257</sup> Ministry of Health, “Programa de Acción Específico Salud Mental 2013-2018”. Available at [https://www.gob.mx/cms/uploads/attachment/file/11918/Salud\\_Mental.pdf](https://www.gob.mx/cms/uploads/attachment/file/11918/Salud_Mental.pdf) (Last visit, Oct. 21, 2020).

<sup>258</sup> DRI interview with the director of “Villa Ocaranza,” September 2017.

Two of the hospitals decided to close the stores due to high health costs for the people living inside the institutions.<sup>259</sup> The director of the Adolfo M. Nieto hospital in the State of Mexico told DRI that access to junk food led to an obesity problem in the institution, causing knee problems for persons with disabilities. They have now closed the store and implemented nutrition plans to counteract the damage caused by having the stores sell junk food and sugary drinks. With treatment, exercise, medication, and good nutrition they have managed to counter obesity in the patients and the problems associated with it.<sup>260</sup>

d. Lack of community services and supports

In Mexico, people with disabilities remain institutionalized because the Mexican State has failed to create community services and supports. People with disabilities without families who can financially support them have nowhere else to go as there are no alternatives to institutions such as assisted housing, accessible forms of employment, and access to social security.

The CRPD Committee expressed its concern regarding “the absence of a specific and effective strategy for the deinstitutionalization of persons with disabilities,”<sup>261</sup> and recommended Mexico “urgently define a strategy”<sup>262</sup> to achieve this goal. However, six years after the Committee asked Mexico to create this strategy, Mexico has taken no significant steps to deinstitutionalize people with disabilities living in institutions. Despite the recommendations made by the Committee, Mexico has also not created community-based services and supports for persons with disabilities.<sup>263</sup> This failure on the part of the Mexican government has prevented the deinstitutionalization of persons with disabilities, who are unable to leave institutions given the complete absence of supports and services outside psychiatric facilities.

Fortalécate en Cristo in Baja California is a private rehabilitation center treating drug addiction. In this institution, DRI found eight people with intellectual disabilities who had been there for three years because, according to the director, they had ‘nowhere else to go’ and thus, were going to stay there indefinitely<sup>264</sup> -people being ‘treated’ for addiction would leave after a couple of months. They were sent to these institutions because there were no options in the community.

The director of El Batán in Puebla told DRI that people “have not been relocated in the community because there is nowhere else to go.” He added: “our patients could be in their families with adequate supports.” The director of Villa Ocaranza in Hidalgo told DRI that “every psychiatric patient can be rehabilitated” and “could live in the community.” The problem is that “there are no supports” in the community so they cannot be reintegrated.<sup>265</sup>

All eleven psychiatric hospitals visited by DRI told us that there is an absence of psychiatric services in the country and that institutions are the only option.<sup>266</sup> The director of Villa

<sup>259</sup> The “Adolfo M. Nieto” and the “Yucatan Psychiatric Hospital”.

<sup>260</sup> DRI interview with the director of the “Adolfo M. Nieto” Psychiatric Hospital, October 2018.

<sup>261</sup> Concluding observation to Mexico, *supra* note 7 at para. 43.

<sup>262</sup> *Ibid.* at para. 44 b.

<sup>263</sup> Concluding observation to Mexico, *supra* note 7.

<sup>264</sup> DRI Interview with the supervisor of CRREAD “Cañón Rosarito,” February 2019.

<sup>265</sup> DRI interview with the director of “Villa Ocaranza,” September 2019.

<sup>266</sup> “Tijuana Mental Health Hospital” in Baja California, “Baja California Psychiatric Institute” in Mexicali, “Juan N. Navarro” Children’s Psychiatric Hospital in Mexico City, “Fray Bernardino Álvarez Psychiatric Hospital” in Mexico City, “Adolfo M.

Ocaranza told DRI that there are no psychiatrists in any of the other municipalities in the state so families have to travel long distances to get to the psychiatric hospital. For the vast majority of families, the hospital is very far, which makes access difficult, particularly “for economic reasons.” The director of Fray Bernardino in Mexico City also said that “there are no services outside the hospital.”

In Yucatan, DRI expert Dr. Aceves interviewed mental health staff and observed that “there is no program or plan to transfer institutionalized persons with disabilities back to the communities.” The Yucatan State Human Rights Commission (CODHEY by its acronym in Spanish) told DRI that they have documented the case of a homeless woman who has filed six complaints before this Commission. She has “aggression” episodes and is often detained and sent to the psychiatric hospital. She has filed complaints regarding these forced detentions. CODHEY determined that she does not need to be institutionalized and the hospital has discharged her, but she has “no other place to go, she does not have a family or a support network; the only option is an institution, but she does not want to be detained.”

Similarly, in the visit made by DRI to the Casa Hogar y Centro de Discapacitados Amecameca in the State of Mexico, the head of the institution mentioned to the DRI team that they had six cases of people who had a family, but their “social situation” (referring to the lack of resources and supports) meant that they could not remain with their families.<sup>267</sup>

#### Laura's case\*

Laura, a 25-year-old young woman, has diabetes and a physical disability. She lives in the CAIS Villa Mujeres in Mexico City. Her family took her there because they did not have the resources to care for her and there were no alternatives available. Laura does not have a home, a job, or access to medication and treatment that would allow her to live outside the CAIS. Due to the lack of alternatives in the community and the necessary support, Laura could be institutionalized indefinitely.

*Interview with Laura, CAIS Villa Mujeres, September, 2018.*

#### e. Investment in institutions

The Mexican government continues to invest in institutions and, by doing so, knowingly and intentionally perpetuates the system of institutionalization in violation of its obligations under international law. These investments have led to the institutionalization of thousands of children and adults with disabilities in facilities where they face grave risks to their life, health, and well-being.

DRI's investigation over five years shows that the greatest barrier for persons with disabilities to exercise the right to live independently and to be included in the community is the lack of

Nieto” hospital in the State of Mexico, “Samuel Ramírez Moreno,” psychiatric institution in the State of Mexico, “La Salud” Psychiatric Hospital in the State of Mexico, Psychiatric Institution “Villa Ocaranza” in Hidalgo, Oaxaca Psychiatric Hospital, Psychiatric Hospital “El Batán” in Puebla and the “Yucatan Psychiatric Hospital.”

<sup>267</sup> DRI visit to “Casa Hogar y Centro de Discapacitados Amecameca,” September 2018.

community-based supports. This leaves individuals with no choice but to give up their freedom and independence to obtain help in the only place that it is available: closed, inpatient facilities. Mexico's government has not redirected the investment its allocated to institutions to create instead community services and supports.

Mexico's policy of perpetuating segregation can be seen in the allocation of resources in its national mental health budget. The Ministry of Health allocates about 1.6% of its budget to mental health; 80% of this goes to the operation of psychiatric hospitals.<sup>268</sup> According to the Sixth Government Report of former President Enrique Peña Nieto, "from January 2013 to June 2018, 122.7 million pesos (USD 6 million) were allocated for the care of patients in psychiatric hospitals."<sup>269</sup>

Psychiatric institutions at the state level also continue to receive government funding. For example, in 2018 ten closed residential facilities for homeless people with disabilities in Mexico City, operated by CAIS, received around 126 million pesos (USD 6 million).<sup>270</sup> Through a request for information, DRI was able to verify that the Adolfo M. Nieto hospital in the State of Mexico received almost two million pesos (500,000 USD) in 2018.<sup>271</sup> The State of Nuevo León expects an investment of \$160 million pesos (8 million USD) in 2019 for the creation of a new psychiatric hospital.<sup>272</sup>

The director of the Yucatán Psychiatric Hospital said that the Ministry of Health is investing millions in a new building for the psychiatric hospital. According to a request for information, 113.5 million pesos (6 million USD) have been invested in construction of the new facility.<sup>273</sup> The Ministry of Health of Yucatan is also investing in renovations for the current in-patient facilities. In the same state, DRI's investigation found a shortage of community-based supports and a lack of funding for supported housing that would allow people with disabilities to live independently in the community.

According to the director of CAIMEDE, a public institution for children run by DIF in Yucatán, DIF is building a new facility where it will transfer the youngest children, from 0 to 6 years of age. A total of 45 children will be transferred.<sup>274</sup> The institution will have a capacity for 70 children, which will allow for an increase in the number of children who are detained in the institution overall. The DIF of Yucatan also told DRI that they want to remodel the current facilities in CAIMEDE. According to DRI expert Dr. Aceves:

"Plans to remodel and create new facilities show the government's intention to preserve the current institutional model instead of

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<sup>268</sup> DRI interview with a staff member of the "Psychiatric Care Services" from the Ministry of Health, September 2019.

<sup>269</sup> Ministry of Interior, *supra* note 13 at p. 93.

<sup>270</sup> Ministry of Social Welfare, Request for information numbers: 0104000137918, 0104000137718, 0104000137418, 0104000137318, 0104000137518, 0104000138018, 0104000137618, 0104000138118, 0104000137818 and 0104000138218.

<sup>271</sup> Ministry of Health, Request for information number: 01574019.

<sup>272</sup> Flores Lourdes, "Nuevo León invierte 160 millones de pesos en Hospital Psiquiátrico" in *El Economista*. Available at [https://www.eleconomista.com.mx/estados/Nuevo-Leon-invierte-160-millones-de-pesos-en-hospital-psiquiatrico-20190211-0077.html%20%20\(última%20visita%202011](https://www.eleconomista.com.mx/estados/Nuevo-Leon-invierte-160-millones-de-pesos-en-hospital-psiquiatrico-20190211-0077.html%20%20(última%20visita%202011) (Last visit, Oct. 21, 2020).

<sup>273</sup> Ministry of Health, Request for Information number: 01574019.

<sup>274</sup> The High Commissioner for Human Rights in his Mental health and human rights report has said that "institutional care in early childhood has such harmful effects that it should be considered a form of violence against young children". (Report of the United Nations High Commissioner for Human Rights, Mental health and human rights, A/HRC/34/32, (Jan. 31, 2017) para. 58. [hereinafter A/HRC/34/32.].

transitioning to a new community model; [...] In addition, there is no plan to convert CAIMEDE into a community program."

The CRPD recognizes the right of persons with disabilities to live in the community on an equal basis with others<sup>275</sup> and the right of children to grow up in a family.<sup>276</sup> Article 19 is widely viewed as a hybrid right that carries with it both immediate and long-term obligations.<sup>277</sup> Article 19 is a protection against discrimination which is binding on States, whose actions must be dedicated to its immediate advancement and enforcement. At the same time, it carries with it an obligation of "progressive enforcement" as governments must plan, finance, and develop services over time. One of the immediate obligations on governments is that governments must use existing funds to advance community inclusion rather than further segregation. Thus, the CRPD Committee has stated that it is the responsibility of governments to ensure that "public or private funds are not spent on maintaining, renovating, establishing building or creating any form of institution or institutionalization."<sup>278</sup> Mexico's continued investment in institutions is in breach of its obligations under Article 19 of the CRPD.

### **Articles 19 and 23: Right of children to live and grow up in a family, in the community**

The placement of children in any form of institution violates their rights under CRPD Articles 19 and 23. These rights are violated when children are placed in large or small institutions – whether they are called orphanages, residential care, or even small group homes.<sup>279</sup> There is powerful evidence from extensive research on child development that any placement in congregate care outside the family is likely to cause irreversible psychological damage to the child and will contribute to cognitive delays. The UN Special Rapporteur on Torture, Juan E. Mendez, has also stated that such placement inherently increases the risk of torture for children.<sup>280</sup>

Mexico's policy has been to place vulnerable children, particularly children with disabilities, in institutions for years. The main drivers of institutionalization are poverty and lack of alternatives and supports in the community for the children and their families. Children with disabilities are particularly at risk of remaining institutionalized even after they become adults. Nine out of ten institutions visited by DRI that have children with disabilities detain this population indefinitely, even after they turn 18 and become adults.<sup>281</sup> DRI also found that in institutions, children with disabilities were not receiving any kind of rehabilitation and did not attend school.

According to the Inter-American Commission on Human Rights (IACHR) and UNICEF, once children are admitted to a residential institution, they "usually spend long periods of time institutionalized."<sup>282</sup> This prolonged stay in institutions generally is "attributable to the absence

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<sup>275</sup> CRPD, *supra* note 45 at Article 19.

<sup>276</sup> *Ibid*, at Article 23.

<sup>277</sup> Rosenthal Eric, *supra* note 77 at p. 347.

<sup>278</sup> General Comment No. 5, *supra* note 4 at para. 51.

<sup>279</sup> Rosenthal Eric, *supra* note 3.

<sup>280</sup> A/HRC/28/68, *supra* note 76 at para. 16.

<sup>281</sup> Two exceptions were psychiatric hospitals (Fray Bernardino in Mexico City and Instituto de Salud Mental in Tijuana, Baja California) that do not permit long term institutionalization and only accept patients whose families sign documents declaring that they will return and pick them up.

<sup>282</sup> UNICEF, IACHR, OAS, "The right of girls and boys to a family. Alternative care. ending institutionalization in the Americas", OEA/Ser.L/V/II. Doc 54/1 (2013). para. 13.

of an individualized care plan that promotes family and community reintegration of the child.”<sup>283</sup> None of the institutions visited by DRI had individualized reintegration plans for children with disabilities to a family environment in the community.

a. Right to live and grow up in a family in the community (Articles 19 and 23)

The CRPD protects the right of children to grow up in the community with a family.<sup>284</sup> In its General Comment No. 5, the CRPD Committee determined that **for children the "core" of the right to live in the community (Article 19) is the right to live and grow up with a family.**<sup>285</sup> The CRPD Committee has recently interpreted that right to call for an end to the institutional placement of children. As viewed within the framework of the CRPD, children have a right to full community integration under Article 19, which must be implemented by means of the provision of a full range of community services.<sup>286</sup> When countries fail to meet their obligations under Article 19 and other provisions of the CRPD, however, this does not mean children should forgo their right to grow up with a family under CRPD Article 23.

Based on the right to live and grow up with a family, protected by CRPD Article 19 and described in detail in General Comment No 5, the UN Special Rapporteur on Disability has observed that “[a]ny placement of children in a residential setting outside a family must be considered placement in an institution...”

Article 23 of the CRPD establishes that: “States Parties shall ensure that children with disabilities have equal rights with respect to family life [...] shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.”<sup>287</sup> Likewise, its Article 7 states that “States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children,”<sup>288</sup> including the right of children with disabilities to live in a family (Article 23).<sup>289</sup>

The United Nations High Commissioner for Human Rights in its “Mental health and human rights report” called on States Parties, including Mexico, to “end the institutionalization of all children, with and without disabilities.”<sup>290</sup> The Commissioner also found that institutional care should be considered a form of violence because all children with and without disabilities have the right to live and grow in a family,<sup>291</sup> and in the community. In order to achieve this, he urged States to “ensure that deinstitutionalization in the case of children is focused on reintegrating them into a family rather than into a smaller institution.”<sup>292</sup>

The CRPD Committee in its Concluding Observations on the initial report to Mexico stated that “children with disabilities living in poverty are at greater risk of abandonment and placement

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<sup>283</sup> *Ibidem.*

<sup>284</sup> Rosenthal Eric, *supra* note 77 at p. 307.

<sup>285</sup> General Comment No. 5, *supra* note 4.

<sup>286</sup> Many other provisions of the CRPD, such as accessibility to housing, education, medical care, and cultural life, are also essential to creating a fully inclusive society. See Rosenthal Eric, *supra* note 77.

<sup>287</sup> CRPD, *supra* note 45 at Article 23.3.

<sup>288</sup> *Ibid.*, at Article 7.1.

<sup>289</sup> *Ibid.*, at Article 23.3

<sup>290</sup> A/HRC/34/32, *supra* note 274 at para. 58 a).

<sup>291</sup> *Ibidem.*

<sup>292</sup> *Ibid.*, at para. 58 f).

in institutions”<sup>293</sup> and urges the State to “[o]pt for the placement of all abandoned children with disabilities in foster care instead of in institutions and ensure that foster families receive the requisite support for their care”<sup>294</sup> Likewise, the IACtHR “poverty remains the great backdrop of the situations in which a child is separated from his or her family and is placed in residential alternative care.”<sup>295</sup>

The United Nations Committee on the Rights of the Child (CRC Committee) has also expressed its concern to Mexico regarding “insufficient policies to support families in fulfilling their parental responsibilities.”<sup>296</sup> For its part, the CRPD Committee has urged the Mexican State to “[e]stablish family support mechanisms.”<sup>297</sup>

The General Law on the Rights of Girls, Boys, and Adolescents (LGDNNA by its acronym in Spanish) establishes in article 22 that children have the right to live with a family and that “[all authorities] are obliged to establish family strengthening policies to prevent the separation of children from those exercising parental rights, guardianship or custody.” In addition, article 116, section VIII stipulates that the authorities must establish family strengthening policies to prevent the separation of children from their families. The CRC Committee has established that:

“all necessary measures should be taken to prevent the separation of the child from her/his family of origin. In that regard the Committee refers to the previous paragraphs on the importance of the family environment and the need to provide the parents with the support they need in the performance of their parental responsibilities.”<sup>298</sup>

Family supports are essential to prevent family separation and institutionalization of children with disabilities, particularly those living in poverty. The CRPD Committee found that in Mexico “children with disabilities living in poverty are at greater risk of abandonment and placement in institutions.”<sup>299</sup> The LGDNNA contemplates the responsibility and obligation of the Mexican State to protect the family and prevent family separation<sup>300</sup>. Under Article 23 of the CRPD (Respect for the Home and Family), these supports are not an option, they are an obligation. Despite the international standards, officials from the Federal Attorney for the Protection of Children (PDNNA) told DRI that “**at the moment, [...] deinstitutionalization would be something far off.**”<sup>301</sup> Mexico must ensure that children with and without disabilities and their families have the necessary support so that children can grow up in their families and communities, not in an institution.

#### b. Institutionalization of children with and without disabilities due to poverty

<sup>293</sup> Concluding observation to Mexico, *supra* note 7 at para. 45.

<sup>294</sup> *Ibid.* at para 46 d).

<sup>295</sup> UNICEF, IACtHR, OAS, *supra* note 282 at para 6.

<sup>296</sup> United Nations, Committee on the Rights of the Child, *Concluding observations on the combined fourth and fifth periodic reports of Mexico\**, CRC/C/MEX/CO/4-5, (July 3, 2015), para 39 a [hereinafter Concluding observations on the combined fourth and fifth periodic reports of Mexico].

<sup>297</sup> Concluding observation to Mexico, *supra* note 7 at para. 46 c).

<sup>298</sup> United Nations, Committee on the Rights of the Child, *Report on the Fortieth session*, CRC/C/153, (March 17, 2006), para. 649.

<sup>299</sup> Concluding observation to Mexico, *supra* note 7, at para. 45.

<sup>300</sup> General Law on the Rights of Girls, Boys and Adolescents published on the Federal gazette on December 4, 2014, Article 22.

<sup>301</sup> DRI Interview via Zoom with the “Federal Attorney for the Protection of Children,” September 2020.

In every single institution visited by DRI, investigators observed children who had been detained there due to poverty-related factors. In the case of Casa Esperanza in Mexico City, most of the people detained there were separated from their families when they were children, mainly due to disability or poverty.<sup>302</sup> María's (not her real name) case exemplifies this situation. The DIF Aguascalientes separated María from her mother when she was 14 years old,<sup>303</sup> because her mother was considered too poor to care for her.<sup>304</sup> María grew up in Aguascalientes, but DIF took her to an institution named Casa Hogar San Pablo, in another state. María became depressed, attempted suicide, and was subsequently transferred to a psychiatric institution.<sup>305</sup> Shortly afterwards, she was sent to Casa Esperanza,<sup>306</sup> where she suffered physical and sexual abuse. Because of the abuse she suffered, she has had several crises which have not been properly treated. Instead, she has been transferred from institution to institution, re-traumatizing and re-victimizing her.



Casa Hogar and Centro de Discapacitados Amecameca, State of Mexico, 2018

In Esperanza Viva in Puebla, the person in charge of the institution told the DRI investigation team that around "60 percent of the population was there because of poverty"<sup>307</sup> while acknowledging that "being poor should not be a reason to be placed in an orphanage."<sup>308</sup> The institution Nuestros Pequeños Hermanos in Morelos also admitted that most of its population is in the

institution "for reasons of poverty."<sup>309</sup> In Pan de Vida in Querétaro, DRI found a girl who was crying. The director mentioned that it was because her mother had visited her, and she missed

<sup>302</sup> This is the case of at least the 27 people who were referred to "Casa Esperanza" by state DIFs.

<sup>303</sup> Mexico City General Attorney's Office. Subprocuraduría de Averiguaciones Previas Centrales. Fiscalía Central de Investigación para Delitos Sexuales. H. Primer Turno Av. Previa: \*\*\*/\*\*\*-\*/\*\*\*\*\*/\*\*-\*\*. Delito: Denuncia de Hechos Denunciante: \*\*\* (May 25, 2015).

<sup>304</sup> Mexico City General Attorney's Office. Coordinación General de Servicios Periciales. Fiscalía Central de Investigación y Atención de Delitos Sexuales FDS-6. Área de Psicología. Averiguación Previa: \*\*\*/\*\*\*-\*/\*\*\*\*\*/\*\*-\*\*. Dictamen psicológico \*\*\*/\*\*\*/\*\*\*\*\*/\*\*-\*/\*\*\*/\*\*\*\* realizado a \*\*\*.

<sup>305</sup> Mexico City General Attorney's Office. Coordinación General de Servicios Periciales. Departamento de Medicina y Psiquiatría. Fiscalía Desconcertada en Cuahtémoc. Dictamen CUH\*\*\*\*\* realizado a \*\*\* (May 25, 2015).

<sup>306</sup> Mexico City General Attorney's Office. Coordinación General de Servicios Periciales. Fiscalía Central de Investigación y Atención de Delitos Sexuales FDS-6. Área de Psicología. Averiguación Previa: \*\*\*/\*\*\*-\*/\*\*\*\*\*/\*\*-\*\*. Dictamen psicológico \*\*\*/\*\*\*/\*\*\*\*\*/\*\*-\*/\*\*\*/\*\*\*\* realizado a \*\*\*.

<sup>307</sup> DRI interview with the director of "Esperanza Viva," May 2017.

<sup>308</sup> DRI interview with the director of "Esperanza Viva," May 2017.

<sup>309</sup> DRI interview with the director of "Esperanza Viva," May 2017.

her. According to the director, the mother is a single mother and has four children. She is too poor and cannot take care of them, so all four children are in the institution.<sup>310</sup>

In EUNIME, an institution in Baja California for children with HIV, the DRI investigation team discovered the case of a girl who had been separated from her grandmother and placed in the institution because the grandmother did not give her the HIV medication regularly because she couldn't remember to. The response from DIF was to remove the girl from her home, without thinking of other alternatives that would have allowed the girl to continue living in her house while receiving treatment. The director of EUNIME said that the girl would be much better with her grandmother and that DIF could have arranged for the girl to be given the medication at school.<sup>311</sup> According to the director, the cost for each child to live in the institution is approximately MXN \$14,000 per month (around 750 USD). With appropriate support, it would be less expensive for the girl to continue living in her community and with her grandmother.

In the case of Ciudad de los Niños in Guanajuato, DIF sent children to this institution due to poverty-related factors. The case of Gloria and her five children is an example of this.

#### The case of Gloria and her five children

Gloria, her four boys and her daughter are from Uruapan, Michoacán. Gloria separated from the father of her children due to the economic, psychological, and physical violence that he exerted on them. After the separation she struggled to make ends meet and she was left with a MXN \$20,000 debt (USD \$1,000) from her former partner. The precarious situation she was in and the debt she contracted did not allow her to have the necessary resources to cover food, housing, clothing, or education expenses for her children, even though she worked more than 12 hours a day. When she went out to work, she left her children at home, and the oldest one took care of the rest.

Instead of providing support to Gloria and her children, DIF took her children to the institution Ciudad de los Niños. From there they were transferred to other institutions. After more than a year of advocacy, the National Network for the Rights of the Child (REDIM) and DRI managed to reunite Gloria with her children. However, Gloria has not received enough support such as trauma-appropriate mental healthcare or help to find a job that allows her to take care of her children, and financial support to send her children to school. This puts the children at risk of being institutionalized again by DIF.

Four of the private institutions visited by DRI<sup>312</sup> in 2019 reported that they receive children with and without disabilities, especially those who come from single mothers, who have a precarious job and do not have any support to keep their children with them at home. According to the staff of Hogar Infantil María de Jesús Romero Rodríguez I.A.P., "20% of the children come from families that live in poverty and women are the main providers."<sup>313</sup> The staff of Escuela

<sup>310</sup> DRI interview with the director of "Pan de Vida," September 2017.

<sup>311</sup> DRI interview with the director of "EUNIME," November 2018.

<sup>312</sup> DRI visits in November 2019 to "Escuela hogar del Perpetuo Socorro," "Hogar infantil María de Jesús Romero Rodríguez I.A.P.," "Asilo Primavera I.A.P." and "Ser Humano I.A.P.".

<sup>313</sup> DRI interview with staff from "Hogar Infantil María de Jesús Romero Rodríguez I.A.P.," November 2019.

Hogar del Perpetuo Socorro I.A.P. pointed out that most children “have single mothers. They are vulnerable families with low incomes. The mothers work as domestic workers. This situation makes it difficult for them to be with their children because their houses are not very appropriate places for their children.”<sup>314</sup> The staff of Asilo Primavera said that children who are at the shelter “come from families with limited economic resources,” and “the majority come from single mothers.”<sup>315</sup> Finally, a staff person of Fundación Ser Humano mentioned to DRI that children in the institution have families that “cannot take care of them due to lack of economic resources.”<sup>316</sup>

c. Lifelong institutionalization of children with disabilities

In a visit made by DRI to Casa Hogar and Centro de Discapacitados Amecameca in the State of Mexico, the person in charge shared the case of Anita, \* a girl with hydrocephalus who arrived at the institution when she was two years old. In 2018 Anita 13 years old,<sup>317</sup> and, according to the interview with the person in charge of the institution, there are no plans to reintegrate her into a family. In Niños Vegetarianos de la Nueva Era in Morelos, DRI found 11 persons with disabilities. Most of them were teenagers and young adults who had lived in the institution since they were children.

According to CAIMEDE staff in Yucatan, children with disabilities in this institution, and the Annex for minors located in the psychiatric hospital, are at risk of being detained indefinitely. Two teenagers who had become adults in CAIMEDE were transferred directly to the psychiatric hospital. At CAIMEDE, the staff mentioned that there are teenagers and young adults with disabilities who have been there “all their lives,” until they die.

Mexico must ensure that children with and without disabilities and their families have the necessary support so they can grow up in their families and communities, and not in an institution.

Same boy living in the same institution for years



Casa de la Consolación de los Niños Incurables, Mexico City, 2000



Casa de la Consolación de los Niños Incurables, Mexico City, 2015

<sup>314</sup> DRI interview with staff from “Hogar Infantil María de Jesús Romero Rodríguez I.A.P.,” November 2019.

<sup>315</sup> DRI interview with staff from “Asilo Primavera,” November 2019.

<sup>316</sup> DRI interview with staff from “Ser Humano I.A.P.,” November 2019.

<sup>317</sup> DRI visit to “Casa Hogar y Centro de Discapacitados Amecameca,” September 2018.

## Article 25. Lack of access to mental health care, habilitation and rehabilitation

In the institutions that DRI visited, we found a total disregard for mental health care, habilitation, and rehabilitation. The glaring lack of access to mental health care was particularly worrying in the case of children, for whom the psychological deprivation and lack of emotional attachments to a consistent caregiver inherent to institutions are particularly damaging. In the case of adults with disabilities, there is also no access to habilitation and rehabilitation with the purpose of reintegrating them to the community – a byproduct of the fact that these people will remain institutionalization indefinitely and thus, staff see no reason to invest in their rehabilitation.

### a. Lack of mental health care in institutions where children are detained

Institutionalization is inherently dangerous<sup>318</sup> for children with and without disabilities. The former UN Special Rapporteur on the Right to Health, Paul Hunt, identified institutional placement as a threat to the right to health.<sup>319</sup> The negative effects are the result of the natural functioning of an institution: prolonged periods of inactivity,<sup>320</sup> unfavorable relationships between caregivers and children, highly regimented routines, and impoverished sensory, cognitive and linguistic stimulation.<sup>321</sup> It has been shown that the psychosocial deprivation inherent in institutions “can lead to lifelong problems in learning, behavior, and health.”<sup>322</sup> According to Juan E. Méndez, former Special Rapporteur on Torture: “numerous studies have documented that a child’s healthy development depends on the child’s ability to form emotional attachments to a consistent care-giver. Children need more than physical sustenance; they also require emotional companionship and attention to flourish,”<sup>323</sup> none of which are present in institutions.

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<sup>318</sup> UNICEF, IACHR, OAS, *supra* note 282 at para. 11.

<sup>319</sup> United Nations, Special Rapporteur of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt. Economic, Social and Cultural Rights. *“The right of everyone to the enjoyment of the highest attainable standard of physical and mental health,”* doc E/CN.4/2003/58, paras. 90-93 (Feb 13, 2003).

<sup>320</sup> Mental Disability Rights International, *Behind Closed Doors. Human Rights Abuses in the Psychiatric Facilities, Orphanages and Rehabilitation Centers of Turkey*, (2005) p.14. Available at <https://www.driadvocacy.org/wp-content/uploads/turkey-final-9-26-05.pdf> (Last visit, Oct. 21, 2020).

<sup>321</sup> “Psychosocial deprivation caused by institutional care negatively affects general cognitive functioning. In some cases, these deficits are as severe as those seen in children with borderline mental retardation.” Kroupina et al. “Associations between physical growth and general cognitive functioning in international adoptees from Eastern Europe at 30 months post-arrival” (2015) in *Journal of Neurodevelopmental Disorders*, p.2. Available at

[http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4644626/pdf/11689\\_2015\\_Article\\_9132.pdf](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4644626/pdf/11689_2015_Article_9132.pdf) (Last visit, Oct 21, 2020).

See also National Scientific Council on the Developing Child, *The Science of Neglect: The Persistent Absence of Responsive Care Disrupts the Developing Brain.* (2012), p.7. Available at <http://developingchild.harvard.edu/wp-content/uploads/2012/05/The-Science-of-Neglect-The-Persistent-Absence-of-Responsive-Care-Disrupts-the-Developing-Brain.pdf> (Last visit, Oct. 21, 2020).

<sup>322</sup> Ibid, National Scientific Council on the Developing Child, p. 4. See also World Health Organization Regional office for Europe. *Better health, better lives: children and young people with intellectual disabilities and their families. Transfer Care from institutions to the Community.* EUR/51298/17/PP/3, (November 2010). p. 5. Available at [http://www.euro.who.int/\\_data/assets/pdf\\_file/0008/126566/e94426.pdf](http://www.euro.who.int/_data/assets/pdf_file/0008/126566/e94426.pdf) (Last visit, Oct. 21, 2020).

<sup>323</sup> A/HRC/28/68, *supra* note 76 at para. 56.

Scientific research has consistently shown that attachment disorders, cognitive deficiencies, and developmental delays in children are linked to longer stays in institutions.<sup>324</sup> The invisible psychological toll on children who grow up in orphanages can be seen in the high rates of suicide among children and young adults who “graduate” from these facilities. The European Office of the UN High Commissioner on Human Rights drew from research in Russia showing that “one in three children who leave residential care becomes homeless; one in five ends up with a criminal record; and in some cases as many as one in ten commits suicide.”<sup>325</sup> Another study found that girls who grow up in institutions are ten times more likely than girls who grow up with a family to be victims of sexual exploitation and trafficking.<sup>326</sup> As detailed in the Casa Esperanza case (see Section on Emblemmatic cases), DRI has also found that women and girls are sterilized as a way for institutions to cover up sexual abuse within institutions. The most striking finding from studies of children raised in congregate care is that, even when the worst institutions are compared to the cleanest and most well-staffed facilities, these dangers persist.<sup>327</sup>

Despite the psychological damage caused by institutionalization and abuse, none of the institutions visited by DRI have mental health programs to address the trauma and psychological impact of institutionalization on children. At Esperanza Viva in Puebla, staff mentioned to DRI that 80% of the children who live there “have emotional difficulties.”<sup>328</sup> “80% of the children are aggressive, wet their beds and a few of them hurt themselves.”<sup>329</sup> Despite this, they do not receive psychological support. At Alto Refugio in Puebla, the person in charge told DRI that the children “often cut themselves,” but they do not have mental health care programs.<sup>330</sup>

DRI visited Nuestros Pequeños Hermanos in Morelos, a residential institution that houses around 500 children. The volunteer coordinator told DRI that they “have had some complex psychiatric cases,”<sup>331</sup> which they send to other institutions such as El Recobro in Mexico City. Currently the institution has “about 10 to 15 girls and boys [with] a psychiatric diagnosis.”<sup>332</sup> The psychologist of the institution said that “the most vulnerable population are children with disabilities and mental problems”<sup>333</sup> – “there are no alternatives for children with mental disabilities,”<sup>334</sup> he added.

In Pan de Vida in Querétaro, the director informed DRI: “we cannot care for children with psychiatric problems.”<sup>335</sup> In Alto Refugio in Puebla, staff mentioned that they had previously

<sup>324</sup> Williamson John and Greenberg Aaron, *Families not Orphanages: A better care network working paper* (2010). Available at <https://bettercarenetwork.org/library/particular-threats-to-childrens-care-and-protection/effects-of-institutional-care/families-not-orphanages> (Last visit, Nov. 10, 2020); Mary Dozier, Joan Kaufman, et al., *Consensus Statement on Group Care for Children and Adolescents: A Statement of Policy of the American Orthopsychiatric Association*, American Journal of Orthopsychiatry (2014), Vol. 84 No. 1. Available at <https://www.apa.org/pubs/journals/features/ort-0000005.pdf> (Last visit, Nov. 10, 2020).

<sup>325</sup> United Nations Office of the High Commissioner on Human Rights, Regional Office for Europe, *The Rights of Vulnerable Children Under the Age of Three: Ending their Placement in Institutional Care* (2011), p. 19.

<sup>326</sup> *Ibidem*.

<sup>327</sup> Rosenthal Eric, *supra* note 77 at p. 317.

<sup>328</sup> DRI interview with the person in charge of “Esperanza Viva,” May 2017.

<sup>329</sup> DRI interview with the person in charge of “Esperanza Viva,” May 2017.

<sup>330</sup> DRI interview with the person in charge of “Alto Refugio,” May 2017.

<sup>331</sup> DRI interview with the volunteer coordinator of “Nuestros Pequeños Hermanos,” May 2017.

<sup>332</sup> DRI interview with the psychologist of “Nuestros Pequeños Hermanos,” May 2017.

<sup>333</sup> DRI interview with the psychologist of “Nuestros Pequeños Hermanos,” May 2017.

<sup>334</sup> DRI interview with the director of “Pan de Vida,” September 2017.

<sup>335</sup> DRI interview with the Director of “Pan de Vida,” September 2017.

detained a girl who was diagnosed with schizophrenia; however, “they do not specialize in psychosocial disabilities,”<sup>336</sup> so they sent the girl back to her family.

b. Lack of access to habilitation and rehabilitation



“El Batán,” Puebla, 2019

The 35 institutions visited that detain persons with disabilities did not have habilitation and rehabilitation services with the purpose of reintegrating people to the community. While many facilities have programs to keep people busy, these tasks are not carefully designed to preserve or enhance to the individual’s personal care, social, or independent living skills. There is almost no individualized planning,

no active treatment, and no planning to develop skills necessary for returning to the community. Many programs that exist on paper proved not to exist in actual practice when investigators asked for details. In fact, the most pervasive condition we observed is one of total inactivity. For instance, during DRI’s visit to Yucatán’s Psychiatric Hospital, DRI found most of the persons with disabilities lying in bed, particularly in the acute wards. According to Dr. Aceves, “the patients looked sedated; several of them were in bed or without any activity.”

## Article 27. Work and employment

DRI observed forced labor and what amounted to labor trafficking in many institutions. In contrast, programs to support or develop skills with employment in integrated settings are totally lacking in most locations. In Mexico, forced labor constitutes a crime,<sup>337</sup> and if the victim is a person with a disability, disability is an aggravating factor.<sup>338</sup> Despite this, of the 35 institutions DRI visited which detained persons with disabilities, 11 of them force persons with disabilities to work by making them care of other detainees, clean the facilities, and participate in ‘sheltered workshops’ that sell products without remunerating people adequately.

<sup>336</sup> DRI Interview with the fundraising coordinator of “Alto Refugio,” May 2017.

<sup>337</sup> General Law to Prevent, Punish and Eradicate Crimes in the Field of Trafficking and for the Protection and Assistance to the Victims of These Crimes published in the Federal gazette on June 14, 2012, Article 22.

<sup>338</sup> *Ibid*, at Article 42, section VII. This fraction indicates that the penalty will increase in the case of minors under eighteen years of age. This section indicates that the penalty will increase in the case of minors under eighteen years of age. In this regard, the INEGI’s 2015 census of social assistance centers refer to forced labor performed by adolescent women and male adolescents within residential institutions. The tasks they perform are: preparation of products for sale; cleaning and maintenance of facilities; caring for others within the institution; preparation, food service or dishwashing; shoe cleaning or washing of clothes of other people within the institution; support in administrative and office activities.

In the case of people who were detained in Casa Esperanza in Mexico City, multiple testimonies show that the victims were forced to work during their stay at the institution. One woman reported: “in the institution I have to wash the dishes and whatever they ask me. The staff yells at me. I don’t like being here and sometimes I cut myself.”<sup>339</sup> Another woman said she had to wash the dishes and sometimes the staff forced her to bathe other people who are detained in the institution, including men.<sup>340</sup> According to her, “**I was like an employee, but they didn’t pay me.**”<sup>341</sup> If they did not want to work, they were punished.<sup>342</sup> One victim said, “**the director was pulling my hair because I didn’t want to do anything.**”<sup>343</sup>

Centro el Recobro, a private institution in Mexico City, only has three staff members for a population of 178 women with disabilities.<sup>344</sup> The cleaning and care work of other persons with disabilities is done by the women who live there. The institution allocates four women per room; two who are mobile and two who are in wheelchairs or bed ridden. The two women who are mobile have to take care of the other two throughout the day. The women do not receive a salary for performing these jobs. Additionally, at Casa Hogar la Divina Providencia in the State of Mexico, 32 out of 152 persons with disabilities serve as staff without receiving a salary.

According to the supervisor at CRREAD Cañón Rosarito in Baja California, “some of the patients go outside to do cleaning work for grocery stores in exchange for food and groceries for the center.”<sup>345</sup> Two people detained at CRREAD told DRI: “we are the cooks. There are some who are guards. Going out to work in the community or working here in the kitchen is a reward, because if we do not, we have to sit in meetings all day.”<sup>346</sup> At Fortalécete en Cristo, two ‘patients’ are in charge of bathing and feeding two people with intellectual disabilities.

A volunteer at CAIS Cascada, a public institution in Mexico City where over 100 women with disabilities are detained, told DRI that the women work either in the laundry room or as cleaners. The staff who are paid to clean the institution give the women with disabilities cigarettes or \$ 5 or \$ 10 pesos (fifty cents USD) to do their work for them. In the CAIS Villa Mujeres in Mexico City, Claudia,\*<sup>347</sup> one of the people who lives there, told DRI that she has to “do the cleaning on my knees.”<sup>348</sup> Claudia does not receive a salary for her work.

As described previously, the Hidalgo Model creates sheltered workshops within the hospital as a form of “psychosocial rehabilitation.”<sup>349</sup> According to the National Mental Health Council (CONSAM), 10 out of 14 psychiatric hospitals that were evaluated stated that they received funding from the federal government to create sheltered workshops within their facilities

<sup>339</sup> Testimony of one of the survivors provided to DRI during the visit to “Casa Esperanza,” May 2015.

<sup>340</sup> Mexico City Human Rights Commission, Departamento de Quejas, Acta circunstanciada de la revisión de la averiguación previa \*\*\*/\*\*\*-\*/\*\*/\*\*\*\*\*/\*\*-\*\*, (Oct. 19, 2015).

<sup>341</sup> Mexico City General Attorney’s Office. Subprocuraduría de Averiguaciones Previas Centrales. Fiscalía Central de Investigación para Delitos Sexuales. H. Primer Turno Av. Previa: \*\*\*/\*\*\*-\*/\*\*/\*\*\*\*\*/\*\*-\*\*. Declaración de \*\*\* (May 25, 2015).

<sup>342</sup> Mexico City General Attorney’s Office, Averiguación previa \*\*\*/\*\*\*-\*/\*\*/\*\*\*\*\*/\*\*-\*\*. H. Primer Turno Av. Previa: \*\*\*/\*\*\*/\*\*\*\*/\*\*\*-\*/\*\*\*/\*\*\*\*. Declaración de \*\*\* (June 15, 2015).

<sup>343</sup> Mexico City General Attorney’s Office, Averiguación previa \*\*\*/\*\*\*-\*/\*\*/\*\*\*\*\*/\*\*-\*\*. H. Primer Turno Av. Previa: \*\*\*/\*\*\*/\*\*\*\*/\*\*\*-\*/\*\*\*/\*\*\*\*. Declaración de \*\*\* (May 25, 2015).

<sup>344</sup> DRI visit to “el Recobro,” May 2017.

<sup>345</sup> Interview with the supervisor of CRREAD “Cañón Rosarito,” February 2019.

<sup>346</sup> Interview with the supervisor of CRREAD “Cañón Rosarito,” February 2019.

<sup>347</sup> Fictitious name to protect the identity of the person.

<sup>348</sup> DRI interview with a woman detained at CAIS “Villa Mujeres,” September 2018.

<sup>349</sup> Ministry of Health, *supra* note 257 at p. 18.

between 2013 and 2016.<sup>350</sup> The psychiatric hospitals pay detainees \$20 pesos (less than 1 USD) per day to work in the workshops. The fact that the people who are living in the institution cannot have a job in the community of their choice and have to work in the sheltered workshops inside the hospital, constitutes in itself a form of forced labor.

Article 27 of the CRPD establishes that States shall ensure that “persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.”<sup>351</sup> In this regard, the Committee recommended that Mexico “**set up mechanisms to protect persons with disabilities from all forms of forced labour, exploitation and harassment in the workplace.**”<sup>352</sup> Despite this call on Mexico, persons with disabilities are more at risk of being victims of forced labor and trafficking in institutions, as the previous examples demonstrate.

### Article 31. Statistics and data collection

The CRPD states that States parties should “collect appropriate information, including statistical and research data, to enable them to formulate and implement policies”<sup>353</sup> that comply with the Convention. In the case of Mexico, the CRPD Committee expressed concern about the lack of updated statistical data that refer to the situation of persons with disabilities<sup>354</sup> and urged the State to “urgently establish a system for the compilation, analysis and publication of statistical data on persons with disabilities.”<sup>355</sup> In relation to the number of persons with disabilities detained in Mexican institutions, however, Mexico still does not have accurate figures.<sup>356</sup>

The 2015 Census of Social Assistance Accommodations from the National Institute of Statistics and Geography (INEGI by its acronym in Spanish) reported that there were 4,701<sup>357</sup> public and private institutions with a registered population of 118,904.<sup>358</sup> The registered institutions were of different types: they included addiction rehabilitation centers, homes for the elderly, homes for children, women's shelters, shelters for women victims of violence, shelters for migrants, shelters for homeless people, psychiatric hospitals, hospitals for incurable diseases, shelters for indigenous people, and others.

This census does not cover the number of unregistered institutions, which DRI found to be numerous. It also does not cover the entire universe of residential-type institutions in Mexico that may be registered under different legal figures such as: Civil Association (AC, by its acronym in Spanish), Private Assistance Institution (IAP, by its acronym in Spanish), and Civil

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<sup>350</sup> The Hospitals that report having received funding from 2013 to 2016 were: “Civil Libertad,” Chihuahua; Mental Health Center of Chihuahua, Chihuahua; Mental Health Hospital “Dr. Manuel Valle Bueno,” Durango; Centro de Atención, Integral de Salud Mental Estancia Prolongada, Jalisco; Psychiatric Hospital “Cruz del Sur,” Oaxaca; Psychiatric Hospital “Rafael Serrano,” Puebla; Regional Hospital of High Specialty of Mental Health, Tabasco; Psychiatric Hospital Dr. Víctor M. Concha, Veracruz, Yucatan Psychiatric Hospital.

<sup>351</sup> CRPD, *supra* note 45.

<sup>352</sup> Concluding observation to Mexico, *supra* note 7 at para. 52.b.

<sup>353</sup> CRPD, *supra* note 45 at Article 31.

<sup>354</sup> Concluding observation to Mexico, *supra* note 7 at para. 59.

<sup>355</sup> *Ibid.* at para 60.

<sup>356</sup> *Ibidem.*

<sup>357</sup> National Institute of Statistics and Geography, *Censo de Alojamientos de Asistencia Social* (2015). Available at [https://www.inegi.org.mx/contenidos/programas/caas/2015/doc/caas\\_resultados.pdf](https://www.inegi.org.mx/contenidos/programas/caas/2015/doc/caas_resultados.pdf) (Last visit, Oct. 22, 2020).

<sup>358</sup> *Ibidem.*

Society (SC, by its acronym in Spanish), among others. The census also does not include the number of persons with disabilities who live in each of the institutions mentioned above.

In relation to children, official statistics from the 2015 Social Assistance Housing Census of the National Institute of Statistics and Geography (INEGI by its acronym in Spanish) point out that there are more than 26,000 children institutionalized. However, unofficial estimates on the number of children in institutions are much higher. In an interview with DRI, Ricardo Bucio, Executive Secretary of the National System for the Integral Protection of Children and Adolescents (SIPINNA, by its acronym in Spanish), estimated that the number of institutionalized children could be up to 140,000. Data on children in institutions is not disaggregated by disability, so Mexico also has no record of how many children with disabilities are institutionalized.

DRI interviewed the National Attorney for the Protection of Children, who mentioned that they are creating a database that includes the universe of social assistance centers (CAS). However, currently, they only have information from 12 States of Mexico, and the project is still in the testing stage. Officials also informed DRI that they only have information on approximately 120 CAS facilities, which "does not reflect the population or the number of the centers."<sup>359</sup> When the database is available, it will not be an entirely reliable source. It will not include all the residential institutions that provide care and protection for children with and without disabilities deprived of parental care. The database will not include non-regulated institutions, which, according to the Attorney for the Protection of Children, "are a great challenge."<sup>360</sup> Additionally, the database will only include the social assistance centers registered after the LGDNNA was approved, that is, from the year 2015. <sup>361</sup>

In an interview with the Health Ministry's Psychiatric Unit, an official stated that "we have information from several years ago that has not been updated [...] we do not know why people are in institutions and their diagnosis."<sup>362</sup> Despite the lack of official data on the exact number of persons with disabilities in institutions, it is safe to say that there are thousands of them. Between 2010 and 2019, DRI monitored over 11 public psychiatric facilities and over 45 private institutions, located across 12 states in Mexico,<sup>363</sup> and found that over 4,000 children and adults were detained in them.<sup>364</sup>

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<sup>359</sup> DRI interview via Zoom with staff from the "National Attorney for the Protection of Children," September 2020.

<sup>360</sup> DRI interview via Zoom with staff from the "National Attorney for the Protection of Children," September 2020.

<sup>361</sup> This is of great concern to DRI because there are more than 26,000 children with and without disabilities living in institutions that will not be considered as social assistance centers (CAS) and, consequently, will not be part of the database because according to information from the Attorney General's Office, the database will only include social assistance centers registered as CAS after the LGDNNA was approved, that is, in 2015.

<sup>362</sup> DRI interview via Zoom with staff from the "Psychiatric Care Services" of the Ministry of Health, September 2020.

<sup>363</sup> These states are: Baja California, Mexico City, State of Mexico, Guanajuato, Hidalgo, Jalisco, Morelos, Oaxaca, Puebla, Querétaro, Veracruz, and Yucatán.

<sup>364</sup> In 2010, DRI visited twenty long-term institutions, in which more than 1,890 children and adults are segregated from society. See *Abandoned and Disappeared*, *supra* note 51. From 2015 to 2019, DRI visited fifty-six institutions -11 of which are public psychiatric hospitals. Over 4,000 children and adults are detained in the institutions visited by DRI alone.

## Article 32. International cooperation

DRI has documented the use of international funding – primarily from private and faith-based donors – supporting the operation of orphanages and other residential facilities for children.<sup>365</sup> Most of the private international funding being used to build and maintain institutions that DRI has been able to identify is coming from private sources, such as foreigners paying fees to “volunteer” at an institution. These are often short volunteering stints – one day to one week – in developing countries like Mexico. More worryingly, foreign volunteers are usually unqualified to work with children and are not vetted for criminal backgrounds, putting the children at risk of abuse.

***Locked away and without the protection of family and community, children are at a much greater risk of exploitation – sexual and physical abuse and trafficking for labor and sex have all been documented by DRI in orphanages around the world.***<sup>366</sup>

Few of these volunteers are aware that up to 95% of children living in orphanages are not orphans at all and have at least one living parent and extended family.<sup>367</sup> Children are frequently sent to these institutions due to lack of support for families in poverty or for disability reasons, as already mentioned in this report. Poor and desperate families who want their children to have a better life agree to put their children in residential homes, rarely aware of the dangers of institutionalization.

The volunteers themselves also represent a risk to the emotional wellbeing of the children. Volunteers that come and go constantly create and break emotional bonds with the children, which leads to attachment disorders in the children.<sup>368</sup> The Trafficking in Persons report from the US State Department found that:

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<sup>365</sup> “Living Hope International,” for example, is an international organization based in the United States that funds “Esperanza Viva” in Puebla. This institution receives funding from Christian churches in the United States, especially from the “Whitestone” church in Wisconsin. In “Alto Refugio” in Puebla, the staff told the DRI team that they receive funding from a Canadian church that helps cover administrative expenses.

<sup>366</sup> See DRI reports: *No Way Home, The Exploitation and Abuse of Children in Ukraine’s Orphanages* (2015), *Left Behind, The Exclusion of Children and Adults from Reform and Rights Protection in the Republic of Georgia* (2013), *Abandoned and Disappeared Mexico’s Segregation and Abuse of Children and Adults with Disabilities* (2010), *No Justice: Torture, Trafficking and Segregation in Mexico* (2015). See also Human Rights Commission of the Federal District, Recommendation on “Casitas del Sur”, Doc- 04/009. Available at [http://cdhdf.org.mx/wp-content/uploads/2014/03/reco\\_0904.pdf](http://cdhdf.org.mx/wp-content/uploads/2014/03/reco_0904.pdf) (Last visit, Oct. 22, 2020). See also, Sin Embargo, “Hambre, abuso sexual, golpes: un juez destapa el caso de albergue católico de niños en Salamanca” in *Sin Embargo*, (July 11, 2017). Available at <http://www.sinembargo.mx/11-07-2017/3259825> (Last visit, Oct. 22, 2020).

<sup>367</sup> Save the Children, *The Risk of Harm to Young Children in Institutional Care*, (2009), p. 6. Available at [http://learn.viva.org/wp-content/uploads/2017/08/The\\_Risk\\_of\\_Harm.pdf](http://learn.viva.org/wp-content/uploads/2017/08/The_Risk_of_Harm.pdf) (Last visit, Nov. 10, 2020). Estimates of the number of children in orphanages vary by country from 80 to 98%. See, e.g. Lumos, *In our Lifetime: How Donors Can End the Institutionalization of Children*, (Sept, 2015). Available at <https://www.wearelumos.org/resources/our-lifetime/> (Last visit, Nov. 10, 2020) (Estimating the number of children with parents at least 80%); see also Save the Children, *Family Matters: A Study of Institutional Childcare in Central and Eastern Europe and the former Soviet Union*, (2005). Available at <https://resourcecentre.savethechildren.net/library/family-matters-study-institutional-childcare-central-and-european-and-former-soviet> (Last visit, Nov. 10, 2020) (Estimating the number of children with parents as high as 99%). In Europe, UNICEF has estimated that 95 – 98% of children in institutions have families. UNICEF, TransMonEE Database (2012). Available at <http://www.transmonee.org/> (Last visit, Oct. 22, 2020).

<sup>368</sup> Weber, Mark R., *There’s no such thing as a good orphanage.* Available at <https://www.povertyinc.org/news/orphanages> (Last visit, Oct. 22, 2020).

“volunteering in these facilities for short periods of time without appropriate training can cause further emotional stress and even a sense of abandonment for already vulnerable children with attachment issues affected by temporary and irregular experiences of safe relationships.”<sup>369</sup>

Likewise, it also mentions that:

“it is rare that background checks are performed on these volunteers, which can also increase the risk of children being exposed to individuals with criminal intent. Voluntourism not only has unintended consequences for the children, but also the profits made through volunteer-paid program fees or donations to orphanages from tourists incentivize nefarious orphanage owners to increase revenue by expanding child recruitment operations in order to open more facilities. These orphanages facilitate child trafficking rings by using false promises to recruit children and exploit them to profit from donations. This practice has been well-documented in several countries, including Nepal, Cambodia, and Haiti.”<sup>370</sup>

The CRPD Committee has expressed its concern regarding the funding of institutions through voluntourism,<sup>371</sup> the term used to describe travelers and tourists who want to “give back” or “do something good” while they are on vacation.<sup>372</sup>

In 2017, DRI began monitoring the situation of children with and without disabilities in residential institutions in Mexico that receive international volunteers. Seven of the institutions documented by DRI receive international volunteers. During our investigative visits, DRI found that international donations through sponsorship and volunteer programs are an important source of income for these places.

At Esperanza Viva, a private institution in Puebla with 92 children, they can receive 10 to 12 volunteers per week, especially during the summer. The volunteers pay 650 USD per week for their stay at the institution,<sup>373</sup> which means that the institution receives an income from volunteers that ranges between \$52,000 USD and \$62,400 USD per year. Some volunteers spend time with the children, and sleep in their rooms.<sup>374</sup> Many of the volunteers come from the United States and from churches like Whitestone Church in Wisconsin, or through agencies in the United States.<sup>375</sup>

In Esperanza Viva, DRI had the opportunity to meet Mary,\*<sup>376</sup> a volunteer from a church in Wisconsin. Mary became a volunteer in this institution for the first time two years ago and

<sup>369</sup> U.S. Department of State, *supra* note 6.

<sup>370</sup> *Ibid*, at p. 22.

<sup>371</sup> United Nations, Committee on the Rights of Persons with Disabilities. *Concluding observations on the initial report of Guatemala*, CRPD/C/GTM/CO/1, (Sept. 30, 2016), para. 74. [hereinafter Concluding observations to Guatemala].

<sup>372</sup> Ahern Laurie, “Orphanages are no place for children” in *The Washington Post* (Aug. 9, 2013). Available at [https://www.washingtonpost.com/opinions/orphanages-are-no-place-for-children/2013/08/09/6d502fb0-fadd-11e2-a369-d1954abcb7e3\\_story.html](https://www.washingtonpost.com/opinions/orphanages-are-no-place-for-children/2013/08/09/6d502fb0-fadd-11e2-a369-d1954abcb7e3_story.html) (Last visit, Nov. 10, 2020).

<sup>373</sup> DRI interview with the person in charge of “Esperanza Viva,” May 2017.

<sup>374</sup> DRI interview with the person in charge of “Esperanza Viva,” May 2017.

<sup>375</sup> DRI interview with the person in charge of “Esperanza Viva,” May 2017.

<sup>376</sup> Fictitious name to protect the identity of the person.

decided to stay. She has essentially become the foster mother of two children who are around four years old. The social worker in the institution told DRI that the biological mothers of both children are single mothers and could not take care of them. The institution, however, is not anticipating the harm the children will experience when Mary leaves, since the bonds they have created are strong.<sup>377</sup>

In Alto Refugio, DRI had the opportunity to talk with John,\*<sup>378</sup> a man from Calgary, Canada, who is a construction worker in his country and has volunteered for the institution for about a year. Due to the lack of staff in the institution, he is in charge of the boys and he sleeps in their room at night.<sup>379</sup> The institution also receives volunteers from North Carolina and Pennsylvania, who are part of a gospel church. International volunteers stay at the institution for six to eight weeks and sleep in the same dormitory with the children. According to the fundraising director at the institution, their criminal records are not reviewed.<sup>380</sup>

Pan de Vida in Queretaro receives international volunteers, usually in groups who stay for 10 to 14 days. Volunteers pay USD \$15 per day, including food and services. DRI asked the director of the institution about the attachments that children may have with the volunteers and what happens when they leave. The director said: "it is very difficult; it is hard the first time."<sup>381</sup> The director had also lived at the institution as a child and told DRI about her firsthand experience with an international volunteer:

**"The first time I interacted with international volunteers was with a group from Canada. I was so excited to meet them, and I could not believe that these white people I had never met or spoken to, came to spend time with us, eat with us and play with us. Then, when they left, I cried a lot, I wanted them to come back. They did not come back but then, the next group arrived."**<sup>382</sup>

Casa Gabriel is an institution that has contact with churches in other countries, which send groups of volunteers to the facility. The staff said that "sometimes volunteers come and go. There are some young people who come every year and stay for 10 to 15 days and are given accommodation at the institution." When DRI visited this institution there was a group of approximately 11 volunteers, nine of which were from the United States. The volunteers remained in the institution for about an hour. They sang with the children and read them passages from the Bible. During the song, the volunteers gave balloons to the children; some children were putting the balloons in their mouths, which could have caused asphyxiation.

When DRI met with the director of Casa Hogar Kim, he said that per year they receive around 12 groups of people to volunteer with the children. He said that they stay for two to three days and mostly come from the United States.

<sup>377</sup> Kang, Nyamutinga, University of Fort Hare, Department of Social Work and Social Development, "The Panacea and Perfidy Associated with Orphaned and Vulnerable Children (OVCs) Living in Institutionalized Care in Some Countries of the Developing World," (2014), p. 123. Available at <http://www.krepublishers.com/02-Journals/JSS/JSS-41-0-000-14-Web/JSS-41-2-14-Abst-PDF/JSS-41-2-117-14-1753-Kangethe-S-M/JSS-41-2-117-14-1753-Kangethe-S-M-Tx%5B2%5D.pdf> (Last visit, Oct. 22, 2020).

<sup>378</sup> Fictitious name to protect the identity of the person.

<sup>379</sup> DRI interview with a volunteer for "Alto Refugio," May 2017.

<sup>380</sup> DRI Interview with the fundraising director of "Alto Refugio," May 2017.

<sup>381</sup> DRI interview with the Director of "Pan de Vida," September 2017.

<sup>382</sup> DRI interview with the Director of "Pan de Vida," September 2017.

When DRI visited Nuestros Pequeños Hermanos in Morelos, there were seven international volunteers, six of them from the United States and one from Costa Rica.<sup>383</sup> The volunteer coordinator mentioned in an interview with DRI that “it is important to create a connection with the children, which is why we do not accept short-term volunteers.”<sup>384</sup> The volunteers are allowed to stay at the institution with the children. This institution was also receiving food donations from large US corporations, including Walmart. Given that most of the children in institutions are there because of poverty-related issues (see Section on Article 23), support from corporations, including in the form of food supplies, must be given to families so that they can feed their children and keep them, instead of to institutions.

Article 32 of the CRPD requires that foreign assistance be used in a manner consistent with the goals and purposes of the Convention.<sup>385</sup> The CRPD Committee has provided guidance to governments to clarify that, by allowing funding to support institutions rather than community-based services for children, States are failing to meet their obligations under Articles 19 and 32 of the CRPD. In the case of Guatemala, for example, the CRPD Committee has expressed concern due to “limited funding sourced from international cooperation is frequently used to finance institutions where children and adults with disabilities are permanently segregated”<sup>386</sup> and has called for funding sourced from international cooperation to be used in accordance with the Convention.<sup>387</sup>

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<sup>383</sup> DRI interview with the volunteer coordinator of “Nuestros Pequeños Hermanos,” May 2017.

<sup>384</sup> DRI interview with the volunteer coordinator of “Nuestros Pequeños Hermanos,” May 2017.

<sup>385</sup> CRPD, *supra* note 45 at Article 32.

<sup>386</sup> Concluding observations to Guatemala, *supra* note 371 at para. 74.

<sup>387</sup> *Ibid.* at para. 75.

**ANNEX I. Testimony by Eduardo Verduzco, survivor of “La Gran Familia”**

I was born in Necaxa, Puebla, Mexico. I am the youngest of six siblings. Unfortunately, at home, I suffered a lot of physical abuse from my mom and dad I decided to run away and arrived in Mexico City when I was ten years old.

Being in the city alone and without protection, I met a guy who had a restaurant in Tepito (known as the most dangerous neighborhood), and I went to live with him. He sexually abused me for a year. He detained me against my will. He would not let me go out until I managed to escape. I ran, I ran, and I ran until I felt safe and started living on the street.

I started as a child with dreams, illusions, with a very awake, intelligent mind. However, when I began living on the street, I realized that everything has an owner, including the street, so one street leader put me to work cleaning windshields. On the street, I consumed inhalants to escape from a very tough reality, the social rejection on the street. After that, I managed to escape, and I arrived in the municipality of Netzahualcoyotl in the State of Mexico. I was already 12 years old. So, a lady told me, “the DIF is going to help you.” I wanted to change my life. I wanted to study, to have a good life like the other children. I wanted to have a dad and a mom. This has been my fight since I was a child.

I went with the DIF authorities and told them: My name is Eduardo Yahir González Cruz. DIF said to me that they did not have space in the Mexico City DIFs. I gave them all my information, and they told me: “we are going to find your family.” Meanwhile, they sent me to a correctional facility for two weeks. They put me in a room with several adults and accused me of committing some crimes. They told me, “you murdered someone, you stole something, you are hiding here.” I denied everything with tears in my eyes. Later, DIF took me to “la Gran Familia” in the State of Michoacán.

When I arrived at “la Gran Familia,” I thought, “well, I’m not going to be with my family, but I’m going to be fine. I’m going to have a good time. I’m going to learn music.” DIF and “Mamá Rosa,” who was the facility owner, signed a contract. DIF gave an amount of money to “Mamá Rosa” and, automatically, my identity changed. From that moment, I became Eduardo Verduzco Verduzco. Since then, I have struggled to get my identity documents back. After that, I entered the facility, and it was like a prison. It was a big, ugly place, with many people living there. When I entered one of the patios, about 200/300 children began to gather around me, and they “welcomed me” by beating me up.

The institution was horrible. The bedrooms were tiny, and about 20 children slept in one. Each night, the caregivers locked the bedrooms with a padlock. When I arrived, as I was new in the institution, I had to sleep on the floor. I had to tie my blanket around me so that it would not be stolen. I felt rats and cockroaches passing by. I got covered in lice and scabies. There was a bucket in the room that served as a bathroom for everyone, and there was no toilet paper.

At lunchtime, one of the caregivers would bring us down to the dining room with a stick, like dogs. The food was spoiled and had worms. Once, they took a rat out of a pot. There were no dishes, it was horrible. When the grown-ups finished eating, the little children licked the tables. I have a lot of trauma with some foods, and people don’t understand it.

With regards to our 'education,' we had 'teachers' who were 'graduates' from "Mama Rosa," and they lived there. Others were sent by the Ministry of Public Education and knew what was happening there. However, they did not say anything, so "Mama Rosa" would not take away their jobs. The learning method was based on punishment. If you didn't learn, they would leave you without food. The teachers beat me with the broomstick, and if you complained, the teachers asked the caregivers to hit you more.

There was a lot of sexual abuse inside the facility. **In my first three years, the managers raped me regularly because they had the power to do so.** On one occasion, I saw that the small children were very hungry, and I asked the cook to give them more food. She sexually abused me in exchange of providing more food to the little ones. The little ones at the institution were often raped, it was an open secret. **After my first three years with "Mama Rosa," I began to realize that important politicians were sexually abusing the girls. When they got pregnant, the caregivers grabbed them, dragged them around the yard, and beat them until they miscarried. They didn't get any form of medical care.**

Those were very tough years. I was sexually abused, humiliated. They beat me every day. One day, my face was beaten so badly that I was unable to see. On one occasion, I had holes in my foot, blood and pus drained out of it, and nobody took care of me. When I went to have lunch, I was crawling. The pain was unbearable. I wanted to kill myself. I talked to God and told him, "I can't stand it anymore." Many of my friends believed that life was just that. They normalized violence. Others, unfortunately, ended up in the psychiatric hospital.

Conditions at the institution were very bad, so I tried to escape several times. The first time, when they found me, as a punishment, **they locked me up for two months in a little room that only had a small slit and a hole. They didn't feed me until I told the person who locked me up: I want to apologize to "Mama Rosa." They took me to her, and I had to kneel and ask for her forgiveness. It was humiliating.**

More than 500 people lived in the institution, including persons with disabilities. There was a woman known as "mommy Bertha" who had lived for 50 years in the facility. She came out for the first time the day that they closed the institution. There was a person who was very thin, in the bones, full of lice. He ate feces. One day, some staff members bathed him with cold water, and he died. He was completely stiff. There was no funeral. They only got rid of his body. The police did not arrive. **In "la Gran Familia," people died, and nobody noticed.**

Authorities at all levels of the government were complicit in the cover up. Former presidents Fox and Calderón knew what was happening there and did not do anything. I already mentioned that there were politicians who abused girls, but politicians also benefit from the facility in other ways. One of them was electoral fraud. "Mama Rosa" ordered the issuance of the electoral cards for all those who were legally adults and kept them. During election time, "Mama Rosa" gave those who could vote their cards. Staff took the persons to vote and told them, "you are going to vote for the National Action Party (PAN)" (the party of former presidents Vicente Fox and Felipe Calderon). They were told that if you vote for PAN, as a reward, you will eat bread today, and that was a good day at the facility. It was like a feast for us. That is why they also did not let anyone leave the institution, even if they had already turned 18 years old.

Another kind of complicity that existed was with organized crime. "La Gran Familia" had a choir and musical orchestra. On one occasion, we went to play with the "Caballeros Templarios," an

organized crime group in Michoacán, the state where “La Gran Familia” was located. “Mama Rosa” was very protected, also by this group.

After all these horrors, the former Attorney General’s Office (PGR) rescued us. According to what the former prosecutor Adriana Lizarraga told me; it took the PGR about a year to plan the operative. Still, I think the PGR was not prepared for everything that it involved. There were no psychologists; there was no care; they did not even introduce themselves, so the operation created a lot of anxiety among us. We saw all these hooded men throughout the facility, and we didn’t know what was going on. From the stress of thinking that the shelter would be closed, some people began to cut their arms, and others began to have a crisis. During the operative, some of them managed to escape because.

My story does not end with the facility’s closure. Afterwards, there have been a series of acts and omissions by the authorities that have negatively impacted me. When they closed “la Gran Familia”, I was 18 years old. The government did not offer me any support to be reintegrated into the community because I was legally considered an adult.

I have suffered trauma and developed anxiety and depression due to everything I went through in “la Gran Familia.” I have not received any assistance to be reintegrated to society, no education or employment. On the contrary, on one occasion, I was admitted to the Fray Bernardino Álvarez Psychiatric Hospital, where I was physically restrained. **Imagine the fear, the anxiety. I left the institution in August 2014, and from November to December, I was locked in the psychiatric hospital, detained there. My future was uncertain. I didn't know if I was going to be able to leave, and where I would go.**

This situation has been difficult for my friends. More than ten who lived with me in “la Gran Familia” have committed suicide because they have not been able to deal with the trauma. In my case, on one occasion, **I locked myself in my room, got three grams of coke and tons of alcohol, and hanged myself. I was already beginning to have suicidal episodes.** I have also faced drug addiction and have been in a rehab clinic for several months. Once, I thought, “I can’t deal with this any longer.” It got worse after one of my best friends, who was with me in “la Gran Familia,” hanged himself. I had to pull his body down.”

From the moment I left “la Gran Familia,” I have fought with the Executive Commission for Victims (CEAV) to receive reparations. They have revictimized me on several occasions because they cannot find my file, so I have to tell them my story over and over again. They get angry when I demand my rights or demand that my other friends who were with me in “la Gran Familia” get reparations. If the CEAV denies me a service, I demand to have the denial in writing, and that angers CEAV officials. On one occasion, when I argued with one of the officials, out of desperation and helplessness, I broke a chair and a window, and they called the police. The person in charge of the CEAV at that time told me, “you will no longer be able to get anything from us.” Imagine all this pain as a result of demanding your rights from an institution which is supposed to serve victims. When the police arrived, they took me to a prison. They threatened to rape me and to disappear me. I was beaten by the police and inside the prison. I was there for a few days, and I had to pay a fine to be released.

I would like end by highlighting the impunity surrounding the case of “la Gran Familia.” What do you do when you find out that four of your rapists are free? How do you sleep? In the case of “Mama Rosa,” she remained free. When “Mama Rosa” was still alive, I received calls from her people saying, “we are going to kill you.” No authority was blamed for the lack of action to stop the abuses, even though there were complaints from more than 20 years ago of what was happening in the facility. I want to conclude by asking for justice and for a change to the current institutional system. I don’t want other children to suffer what I suffered.

**Annex II. Testimony of Dr. Felipe Orozco Salazar**

*I raise my voice, and I would like for all of this to change.  
I hope my testimony helps all the people who are just starting, who are halfway,  
And those who are already on the other side.*

I am Dr. Felipe Orozco Salazar. **I am a self-advocate;** I am part of the group “Sin Colectivo.” I am a self-advocate, and I work with a group of families and a network of peers to end the stigma and discrimination against us. I am also a member of Mexico City’s Council for Vulnerable Groups. I studied medicine. On May 3, 2003, I was diagnosed with schizophrenia and in 2017 I was diagnosed with schizoaffective disorder. I am a person with a psychosocial disability. I have auditory and visual hallucinations. My hallucinations ask me for biochemical formulas, and they relentlessly ask me to find an enzyme that goes into the Krebs Cycle.

I have been detained five times in Mexico’s psychiatric hospitals. The worst part is being restrained by staff (they tie me up). I was tied up for 24 hours. **I had never been restrained in my life before. It is very tough; it is tough to be restrained.** My upper extremities and lower extremities were tied up to a bed. I wanted to urinate and defecate, and the staff did not help me. They told me: if you need to, do it on the mattress. That was very shocking to me.

I was released and doctors asked for a magnetic resonance. I had auditory and visual hallucinations in the middle of it, and they put me back in the psychiatric hospital. Again, I was restrained. It was not as hard as the first time, but I was terrified, I did not want to be tied up. I don’t like being tied up; believe me, no one would. I heard other patients screaming. They asked staff to let them go and untie them. We have to abolish the restraints. I was released and I look for a job. I started working in a company where they make surgical prostheses but in the middle of a surgery, I had a psychotic episode. The next day the company fired me and told me: *you are not suitable for the company.* That hit me like a bomb. I had an even worse psychotic episode and ended up in the **Rafael Serrano Psychiatric Hospital, “el Batán,”** in Puebla, Mexico. **In that institution I was restrained for 24 hours with padlocks. They throw my food on the floor,** and I ate with the birds. Occupational therapy was folding and washing sheets. The first to finish was given two animal crackers.

In “El Batán” **they bathed you by having you stand against the wall and hose you with ice cold water that hurt and burned.** The morning shift doctors would arrive and go directly to the office. They never spoke to us. We waited for them outside to ask them how we were doing, but they didn’t take care of any of us. This institution has a lot of physical space, it has hectares of gardens, but they kept us **isolated in a ward.** In the fourth and fifth hospitalization, I was also restrained. I ask the National Commission for Human Rights to do something in that hospital and do something about the restraints.

## ANNEX III. Institutions documented 2014-2019 (1)

No.	State	Institution	Type of institution		Year of visit					Total population at the time of the visit	Population			
			Pub	Priv	2014-2015	2016	2017	2018	2019		Children	Children with disabilities	Adults with disabilities	Other populations: persons with problematic substance use, migrants, indigenous children, persons with HIV.
1	Baja California	Casa Gabriel		1					1	19		1	1	
2		Casa Horizonte		1					1	12		1		1
3		Centro de Recuperación y Rehabilitación para Enfermos de Alcoholismo y Drogadicción (CRREAD) "Cañón Rosarito"		1					1	67			1	1
4		EUNIME		1					1	23	1			1
5		Centro de Rehabilitación Fortalécete en Cristo		1				1		8			1	1
6		Hospital de Salud Mental de Tijuana		1				1		38		1	1	
7		Instituto de Psiquiatría de Mexicali	1					1		50		1	1	
8		Proyecto Paz y Dignidad		1				1		158	1	1		1
9		Pequeño Mundo Especial		1				1		8	1		1	
10	Ciudad de México	Casa Hogar Centro Itari		1				1		26			1	
11		Casa Hogar Consolación para Niños Incurables		1	1					49		1	1	
12		Casa Hogar Esperanza para Deficientes Mentales		1	1					37		1	1	
13		Centro de Asistencia e Integración Social (CAIS) Villa Mujeres	1		1	1		1		360			1	1
14		Centro de Asistencia e Integración Social (CAIS) Cascada	1			1				0			1	1
15		Centro el Recobro			1		1			178			1	
16		Fundación Estancia Sagrada Corazón de Jesús			1	1				77		1	1	
17		Fundación de Ayuda al Débil Mental (FADEM)			1	1				55		1	1	
18		Fundación Fraternidad sin Fronteras			1	1				78		1	1	
19		Hospital Psiquiátrico Infantil Juan N. Navarro	1					1		95		1	1	1
20		Hospital Psiquiátrico Fray Bernardino Álvarez	1		1				1	0			1	
21		Internado Binet			1	1				52		1	1	
22		Ministerios de Amor *entrevista			1					0	1			
23		Casa Hogar Monte Halac			1		1			30	1			
24		Fundación Quita Carmelita *entrevista			1					0	1			
25		Fundación Ser Humano *entrevista y visita			1					38	1			
26		Escuela Hogar del Perpetuo Socorro			1				1	46	1			
27		Hogar Infantil María de Jesús Romero Rodríguez			1				1	17	1			
28		Asilo Primavera			1				1	100	1			

## ANNEX IV. Institutions documented 2014-2019 (2)

No.	State	Institution	Type of institution		Year of visit					Total population at the time of the visit	Population			Other populations: persons with problematic substance use, migrants, indigenous children, persons with HIV.
			Pub	Priv	2014-2015	2016	2017	2018	2019		Children	Children with disabilities	Adults with disabilities	
29	Estado de México	Casa Hogar y Centro de Discapacitados Amecameca		1				1		35		1	1	
30		Casa Hogar la Divina Providencia		1			1	1		145		1	1	
31		Centro de Capacitación y Desarrollo Integral		1	1					86				1
32		Asociación Hogar Infantil San Luis Gonzaga		1	1	1				30		1	1	
33		Hospital Psiquiátrico Adolfo M. Nieto	1					1		88				1
34		Hospital Psiquiátrico Samuel Ramírez Moreno	1		1				1	105				1
35		Hospital Psiquiátrico La Salud	1		1					150				1
36	Guanajuato	Ciudad de los Niños *entrevista			1		1	1		69	1	1		
37	Hidalgo	Hospital Psiquiátrico Villa Ocaranza	1						1	83				1
38	Jalisco	Casa Hogar la Ola de Jalisco			1			1		23	1			
39		Hogar Cabañas			1			1		390	1			1
40		Hogares de la Caridad			1			1		36		1	1	
41	Morelos	Niños Vegetarianos de la Nueva Era		1			1			40	1	1	1	
42		Nuestros Pequeños Hermanos		1			1			500	1			
43	Oaxaca	Casa Hogar 1	1		1					69	1			
44		Ciudad de los Niños, Oaxaca		1	1					130	1			
45		Hospital Psiquiátrico de Oaxaca	1		1					27				1
46		Orfanato Benito Juárez		1	1					4	1			
47	Puebla	Alto Refugio		1			1			43	1			
48		Esperanza Viva		1			1			92	1			
49		Hospital Psiquiátrico Rafael Serrano "el Batán"	1					1		209				1
50	Querétaro	Casa Hogar San Pablo		1				1		73		1	1	
51		Pan de Vida		1			1			65	1			
52	Yucatán	Centro de Atención Integral al menor en Desamparo (CAIMEDE)	1						1	130	1	1	1	
53		Casa Kim		1					1	23	1			
54		Hospital Psiquiátrico de Yucatán	1						1	44				1
55		Pastoral de Amor		1					1	16		1	1	
Total			4	41	16	4	8	15	16	4326	23	21	35	8

## ANNEX V. Institutions documented for children

No.	State	Institution	Isolation rooms and restraints	Inadequate, unsanitary and dangerous conditions	Physical abuse	Sexual abuse	Sent by DIF
1	Baja California	EUNIME	0	1	0	0	1
2		Proyecto Paz y Dignidad	0	1	0	0	1
3		Pequeño Mundo Especial	0	1	0	0	1
4	Ciudad de Mexico	Ministerios de Amor *entrevista	0	1	0	0	
5		Casa Hogar Monte Halac	0	0	0	0	1
6		Fundación Quinta Carmelita *entrevista	0		1	0	
7		Fundación Ser Humano *entrevista y visita	0	1	1	1	1
8		Escuela Hogar del Perpetuo Socorro	0	0	0	0	
9		Hogar Infantil María de Jesús Romero Rodríguez	0	0	0	0	1
10		Asilo Primavera	0	0	0	0	
11	Guanajuato	Ciudad de los Niños *entrevista	1	1	1	1	1
12	Jalisco	Casa Hogar la Ola de Jalisco	0	0	0	0	1
13		Hogar Cabañas	0	1	0	0	1
14	Morelos	Niños Vegetarianos de la Nueva Era	0	1	0	0	1
15		Nuestros Pequeños Hermanos	0	0	0	0	1
16	Oaxaca	Casa Hogar 1	0	1	0	0	1
17		Ciudad de los Niños	0	1	0	0	1
19	Puebla	Alto Refugio	0	1	0	0	1
20		Esperanza Viva	0	0	0	0	1
21	Querétaro	Pan de Vida	0	0	0	0	1
22	Yucatán	Centro de Atención Integral al menor en Desamparo (CAIMEDE)	0	1	0	1	1
23		Casa Kim	0	1	0	0	1
Total			1	13	3	3	18

## ANNEX VI. Institutions documented for children with disabilities

No.	State	Institution	Deaths in institutions	Cruel, inhuman and degrading treatment: isolation rooms, physical restraints, chemicals and use of cages	Psychosurgeries	Inadequate, unsanitary and dangerous conditions	Physical abuse	Sexual abuse	Lifetime Institutionalization	Lack of adequate habilitation and rehabilitation	Forced labor	TOTAL
1	Baja California	Casa Gabriel	1	1	0	1	0	0	1	1	0	6
2		Casa Horizonte	0	0	0	0	0	0	1	0	0	2
3		Hospital de Salud Mental de Tijuana	0	2	0	1	0	0	0	1	0	4
4		Hospital Psiquiátrico de Mexicali	0	2	0	1	1	0	1	1	0	7
5		Proyecto Paz y Dignidad	0	0	0	1	0	0	0	0	0	2
6	Ciudad de Mexico	Casa Hogar Consolación de los Niños Incurables	0	3	0	1	0	0	1	1	0	7
7		Casa Hogar Esperanza para Deficientes Mentales	1	3	0	1	1	1	1	1	1	11
8		Fundación Estancia Sagrado Corazón de Jesús	0	3	0	0	0	0	1	0	0	5
9		Fundación de Ayuda al Débil Mental (FADEM)	0	2	0	0	0	0	1	0	0	4
10		Fundación Fraternidad sin Fronteras	0	2	0	1	0	0	1	1	0	5
11		Hospital Psiquiátrico Juan N. Navarro	0	3	1	1	0	0	1	1	0	8
12		Internado Binet	0	3	0	1	0	1	1	0	0	7
13	Estado de Mexico	Casa Hogar y Centro de Discapacitados Amecameca	0	1	0	-	0	0	1	1	1	5
14		Casa Hogar la Divina Providencia	0	2	0	1	0	0	1	1	1	7
15		Asociación Hogar Infantil San Luis Gonzaga	0	1	0	1	0	0	1	1	0	5
16	Guanajuato	Ciudad de los Niños *entrevista	0	1	0	1	1	1	1	1	1	8
17	Jalisco	Hogares de la Caridad	0	1	0	1	0	0	1	1	0	5
18	Morelos	Niños Vegetarianos de la Nueva Era	0	1	0	1	0	0	1	1	1	6
19	Querétaro	Casa Hogar San Pablo	0	2	0	1	0	0	1	0	0	5
20	Yucatán	Centro de Atención Integral al menor en Desamparo (CAIMED)	0	1	0	1	0	1	1	0	0	5
21		Pastoral de Amor	0	2	0	1	0	0	1	0	0	5
Total			2		1	17	3	4	19	13	5	

## ANNEX VII. Institutions documented for adults with disabilities (1)

No.	State	Institution	Deaths in institutions	Involuntary detention	Cruel, inhuman and degrading treatment: isolation rooms, physical restraints, chemicals and use of cages	Inadequate, unsanitary and dangerous conditions	Physical abuse	Sexual abuse	Forced Sterilizations	Lifetime institutionalization	Lack of adequate Habilitation and rehabilitation (community living)	Forced labor	TOTAL	
1	Baja California	Casa Gabriel	1	1	1	1	0	0	0	1	1	0	0	6
2		Centro de Recuperación y Rehabilitación para Enfermos de Alcoholismo y Drogadicción (CRREAD)	0	1	1	1	0	0	0	1	1	1	1	6
3		Centro de Rehabilitación Fortalécete en Cristo	0	1	2	1	1	0	0	1	1	1	1	8
4		Hospital de Salud Mental de Tijuana	0	1	2	1	0	0	0	0	1	1	0	5
5		Hospital Psiquiátrico de Mexicali	0	1	2	1	1	0	0	1	1	0	0	7
6		Pequeño Mundo Especial	0	1	0	1	0	0	0	0	1	1	0	3
7	Ciudad de Mexico	Casa Hogar Centro Itari	0	1	0	0	0	0	1	1	1	1	0	4
8		Casa Hogar Consolación de los Niños Incurables	0	1	2	1	0	0	0	1	1	1	0	6
9		Casa Hogar Esperanza para Deficientes Mentales	1	1	3	1	1	1	1	1	1	1	1	12
10		Centro de Asistencia e Integración Social (CAIS) Villa	0	1	0	1	1	1	0	1	1	1	1	7
11		Centro de Asistencia e Integración Social (CAIS)	0	1	1	1	0	1	0	1	1	1	1	7
12		Centro el Recobro	0	1	1	1	0	0	1	1	1	1	1	7
13		Fundación Estancia Sagrada Corazón de Jesús	0	1	3	0	0	0	0	1	1	1	0	6
14		Fundación de Ayuda al Débil Mental (FADEM)	0	1	2	0	0	0	0	1	1	1	0	5
15		Fundación Fraternidad sin Fronteras	0	1	1	1	0	0	0	1	1	1	0	5
16		Hospital Psiquiátrico Juan N. Navarro	0	1	3	1	0	0	0	1	1	1	0	7
17		Hospital Psiquiátrico Fray Bernardino Álvarez	0	1	2	0	0	0	0	0	0	1	0	4
18		Internado Binet	0	1	3	1	0	0	0	1	1	1	0	7

## ANNEX VIII. Institutions documented for adults with disabilities (2)

No.	State	Institution	Deaths in institutions	Involuntary detention	Cruel, inhuman and degrading treatment: isolation rooms, physical restraints, chemicals and use of cages	Inadequate, unsanitary and dangerous conditions	Physical abuse	Sexual abuse	Forced Sterilizations	Lifetime institutionalization	Lack of adequate Habilitation and rehabilitation (community living)	Forced labor	TOTAL
19	Estado de Mexico	Casa Hogar y Centro de Discapacitados Amecameca	0	1	1	0	0	0	0	1	1	0	4
20		Casa Hogar la Divina Providencia	0	1	2	1	0	0	0	1	1	1	7
21		Centro de Capacitación y Desarrollo Integral	0	1	0	0	0	1	0	1	0	1	4
22		Centro de Rehabilitación Luis Gonzaga	0	1	1	1	0	0	1	1	1	0	6
23		Hospital Psiquiátrico Adolfo M. Nieto	0	1	1	1	0	0	0	1	1	0	5
24		Hospital Psiquiátrico Samuel Ramírez Moreno	0	1	2	1	0	0	0	1	1	0	6
25		Hospital Psiquiátrico La Salud	0	1	2	1	1	1	0	1	1	1	9
26	Hidalgo	Hospital Psiquiátrico Villa Ocaranza	1	1	1	1	0	0	1	1	1	0	7
27	Jalisco	Hogar Cabañas	0	1	1	1	0	0	0	1	1	0	5
28		Hogares de la Caridad	0	1	1	1	0	0	0	1	1	0	5
29	Morelos	Nifios Vegetarianos de la Nueva Era	0	1	0	1	0	0	0	1	1	1	5
30	Oaxaca	Hospital Psiquiátrico de Oaxaca	0	1	3	1	0	0	0	1	1	0	7
31	Puebla	Hospital Psiquiátrico Rafael Serrano "El Batán"	1	1	2	1	0	0	1	1	1	0	8
32	Querétaro	Casa Hogar San Pablo	0	1	1	1	0	0	0	1	1	1	6
33	Yucatán	Centro de Atención Integral al menor en Desamparo (CAIMEDE)	0	1	1	1	0	1	0	1	1	0	6
34		Hospital Psiquiátrico de Yucatán	0	1	2	1	0	0	0	1	1	0	6
35		Pastoral de Amor	0	1	2	1	0	0	0	1	1	0	6
		<b>Total</b>	<b>4</b>	<b>35</b>		<b>29</b>	<b>5</b>	<b>6</b>	<b>6</b>	<b>32</b>	<b>34</b>	<b>11</b>	

## ANNEX IX. Psychiatric institutions documented

No.	State	Institution	Deaths in institutions	Involuntary detention	Cruel, inhuman and degrading treatment: isolation rooms, physical restraints, chemicals and use of cages	Inadequate, unsanitary and dangerous conditions	Physical abuse	Sexual abuse	Forced Sterilizations	Lifetime institutionalization	Lack of adequate Habilitation and rehabilitation (community living)	Forced labor	TOTAL
1	Baja California	Hospital de Salud Mental de Tijuana	0	1	2	1	0	0	0	0	1	0	5
2	California	Hospital Psiquiátrico de Mexicali	0	1	2	1	1	0	0	1	1	0	7
3	Ciudad de México	Hospital Psiquiátrico Juan N. Navarro	0	1	3	1	0	0	0	1	1	0	7
4	México	Hospital Psiquiátrico Fray Bernardino	0	1	2	0	0	0	0	0	1	0	4
5	Estado de México	Hospital Psiquiátrico Adolfo M. Nieto	0	1	1	1	0	0	0	1	1	0	5
6		Hospital Psiquiátrico Samuel Ramírez	0	1	1	1	0	0	0	1	1	0	5
7		Hospital Psiquiátrico La Salud	0	1	2	1	1	1	0	1	1	1	9
8	Hidalgo	Hospital Psiquiátrico Villa Ocaranza	1	1	1	1	0	0	1	1	1	0	7
9	Oaxaca	Hospital Psiquiátrico de Oaxaca	0	1	3	0	0	0	0	1	1	0	6
10	Puebla	Hospital Psiquiátrico Rafael Serrano "El Batán"	1	1	2	1	0	0	1	1	1	0	8
11	Yucatán	Hospital Psiquiátrico de Yucatán	0	1	1	1	0	0	0	1	1	0	5
Total			2	11		9	2	1	2	9	11	1	