

# No Justice

Torture, Trafficking and Segregation in Mexico



DISABILITY RIGHTS INTERNATIONAL

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## ***Torture, Trafficking and Segregation in Mexico***

**A report by Disability Rights International**

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The Executive Summary in Spanish is available at the end of this report.

## **Disability Rights International**

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

Disability Rights International (DRI - formerly Mental Disability Rights International) 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 three reports on the human rights of people with disabilities in Mexico, in 2012, 2010, and 2000. DRI has also published reports on the Republic of Georgia (2013), United States (2010), Vietnam (2009, published by UNICEF), Serbia (2007), Argentina (2007), Romania (2006), Turkey (2005), Uruguay (2005), Peru (2004), US Foreign Policy (2003, published by the US National Council on Disability), Kosovo (2002), Russia (1999, published by UNICEF), and Hungary (1997) These reports have brought unprecedented international attention to the human rights of people with disabilities.

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## EXECUTIVE SUMMARY AND OVERVIEW

Disability Rights International (DRI) has conducted a two-year investigation into the treatment of children and adults with mental disabilities in Mexico City and finds a pattern of egregious and widespread human rights violations. Contrary to Mexico's obligations under international human rights law – which recognize the right of people with disabilities to be free of torture and improper detention – Mexico does not provide support to families or adults with disabilities that would allow them to live as part of the community. Despite the fact that they have committed no crime, children and adults with disabilities are locked up and segregated from society. In Mexico City, having a disability can mean a life of detention. Even worse, DRI's investigation has uncovered the existence of a "blacklist" of particularly abusive institutions that the Mexico City authorities are aware of – yet they permit these facilities to operate.

*One boy was held in a small cage in the courtyard. Others were left in permanent restraints. People in this institution remained there for life. The director reported that women and girls were sterilized as a matter of policy. – DRI observation at Casa Esperanza, a blacklisted facility, June 2014*

***Behind the closed doors of Mexico City's institutions for people with disabilities, atrocious abuses are taking place that amount to nothing less than torture.*** Children and adults are denied treatment and are left to languish covered in their own urine and feces in filthy dehumanizing conditions. Some people with disabilities are held permanently in cages or cribs. Without physical activities, these children's arms and legs atrophy and their bodily organs fail. Children may lose hope for living, stop eating, and become emaciated. DRI investigators found children tied down from head to toe, looking "mummified" and totally unable to move. Adults are restrained with duct tape and bandages. Children are tied to wheelchairs in a manner that leaves them at risk of choking. Any practice of prolonged restraint is excruciatingly painful, causes increased mental and physical disabilities, and is life-threatening. Many deaths are unexplained, undocumented, and unaccounted for. DRI has found boys, girls, men, and women repeatedly raped and sexually abused over months or years. Some of these individuals are detained and exploited for forced sex and labor.

*I was raped and you will never ever understand what that was like, you will never understand how much pain I am going through. I do not want to live, I want to die. – Woman rescued from Casa Esperanza*

Social service authorities have acted in concert with private institutions to sterilize women and girls with disabilities without their knowledge or consent. This investigation shows that sterilization is used as a way to conceal ongoing sexual violence. According to the UN Special Rapporteur on Torture:

*Forced sterilization is an act of violence, a form of social control, and a violation of the right to be free from torture and other cruel, inhuman, or degrading treatment or punishment... forced abortions or sterilizations carried out by State officials in accordance with coercive family planning laws or policies may amount to torture.<sup>1</sup>*

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<sup>1</sup>*Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/22/53, (February 1, 2013), Juan E. Méndez, para 48.*

National and city authorities have been aware of these practices for years, yet they have not taken the action necessary to end the abuse of persons with disabilities. There is a lack of systematic human rights monitoring for any institution for people with disabilities in Mexico, and some institutions are permitted to act in an essentially lawless manner off the public record. In May 2014, DRI learned about the existence of an official “blacklist” compiled by Mexico City authorities (the Institution for Assistance and Social Integration – commonly known as IASIS). Of the 76 facilities reviewed by IASIS, 25 were found to present a “grave risk” to service recipients. Despite this finding, neither IASIS nor Mexico City’s Department of Family Development (DIF), which oversees services for children and adults with disabilities, has taken action to end abuses or close down these facilities.

As part of this investigation, DRI has visited five of 25 facilities on the blacklist. One of the first facilities we visited, *Casa Esperanza*, was so abusive that DRI filed a formal complaint to DIF and sought immediate action by DIF to protect detainees. We observed children and adults locked in cages, tied down or left permanently in cribs, and living in squalor. The director of the facility reported that women and girls in the facility were sterilized because he could not protect them from sexual abuse. When DRI returned nearly a year later in 2015 with the assistance of the Mexico City Human Rights Commission, we found that DIF had taken no action and abuses had not been remedied. In addition, we learned that some detainees were placed in the facility with no legal identity papers, and some of the women were being repeatedly sexually abused in the facility by staff and others.

*When I was in Casa Esperanza, D. a repairman, took me to a shed, pulled down my pants and raped me. It hurt.* – Rescued woman from *Casa Esperanza*

DRI takes the position that the detention of persons who are then sexually exploited or forced into work constitutes a form of sex trafficking under international law.

The residents of *Casa Esperanza* deserve justice – and immediate protection from continued abuse within Mexico City’s service system. Unfortunately, this case demonstrates the total lack of *any* humane community-based alternatives to Mexico’s abusive institutions. Unable to reintegrate these people into society, the authorities have simply dumped the survivors of *Casa Esperanza* into other locked facilities. As this report demonstrates, even the institutions that are *not* on the local authorities’ blacklist are very abusive. For example, one boy who survived *Casa Esperanza* was transferred to *Casa Hogar de Nuestra Señora de Consolación para Niños Incurables*, a facility where some residents are kept permanently in cages. This is one of the cleaner facilities we visited, with well-meaning staff. Yet, without meaningful forms of habilitation, treatment, or professionals on staff – and without any human rights protections – people detained in this facility who present any form of difficulty to staff are simply locked in cages. According to staff at this facility, “we keep people in cages because they can hurt themselves or others if they go out.”

Under international law, people who have been subject to torture have a right to reparations from the State. The government of Mexico clearly knew about the torture taking place at *Casa Esperanza* and did nothing. Yet rightful compensation is secondary to the immediate threat that these individuals face: detention in other institutions. Even if relatively clean and well-run facilities could be identified, these individuals would be separated from society and would lack the opportunity to make their own friends, have a family, or make basic choices about their lives. Such segregation of persons with disabilities has now been banned by international law. And the UN Special Rapporteur on Torture has stated that the emotional devastation of being separated from families may also violate the Convention Against Torture.

*The Special Rapporteur draws the Government's urgent attention to the deplorable conditions at the Social Assistance and Integration Centre that he visited in the Federal District. Despite the admirable work being done by the Centre's staff with very limited resources, there 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. – UN Special Rapporteur on Torture<sup>2</sup>*

Survivors of *Casa Esperanza* face the prospect of even more egregious forms of the mistreatment, torture, and abuse that run rampant in institutions in Mexico City. They may be tied down, caged, sexually abused, trafficked, and denied the opportunity to have children – just as all other detainees. ***The dangers faced by Casa Esperanza survivors are the very same dangers to which all children and adults with disabilities are subject when they are detained by the City of Mexico.***

The story of *Casa Esperanza* is not unique. In 2014, there was tremendous international press attention focused on a massive case of abuse at *La Gran Familia* (commonly known as *Mamá Rosa*) facility in Michoacán. Some 596 children and adults were rescued from this highly abusive institution. Despite all the public attention they received, community placement for survivors with disabilities is unavailable in Mexico. DRI has found that many of the survivors of *Mamá Rosa* remain institutionalized in other facilities. Survivors of *Mamá Rosa* also deserve justice. Without the creation of safe, humane, community-based housing and support for people with disabilities, survivors of *Casa Esperanza* and *Mama Rosa* face the prospect of continued abuse. ***Without reform, there can be no justice.***

The lack of publicly available community care for people with disabilities in Mexico City or anywhere in the country is inexcusable given the tremendous international attention this issue has received – including condemnation by United Nations human rights authorities. DRI first documented these problems in 2000, with the publication of our report *Human Rights and Mental Health: Mexico* (DRI reports are available at [www.DRIadvocacy.org](http://www.DRIadvocacy.org)). Following the release of that report, the government of Mexico brought the concerns of people with disabilities to the United Nations and sponsored the resolution to draft a new UN Convention on the Rights of Persons with Disabilities (CRPD).

By sponsoring the CRPD, Mexico made an important contribution to international law and the rights of persons with disabilities. But Mexico has not implemented these rights for its own citizens who are detained in institutions. In 2010, Disability Rights International (DRI) released the report *Abandoned and Disappeared: Mexico's Segregation and Abuse of Children and Adults with Disabilities*. This report detailed the continued abuse and segregation of people with disabilities in Mexico, even after the country ratified the CRPD. In 2014, the Committee of the United Nations Convention of the Rights of Persons with Disabilities (UN CRPD Committee) urged Mexico to realize its international obligation to end this segregation. In 2015, DRI released *Twice Violated: Abuse and Denial of Sexual and Reproductive Rights of Women with Psychosocial Disabilities in Mexico*.

DRI's most recent investigation in Mexico City reveals that, despite heavy international pressure, there is still a lack of oversight and accountability of custodial institutions for children in Mexico City. Mexico

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<sup>2</sup> *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/28/68/Add.3, (29 December 2014), Juan E. Méndez, para 75.*

has failed and continues to fail to fulfill its most basic obligations under international law toward a vulnerable population.

DRI and our partners for change in Mexico, such as the *Colectivo Chuhcan*, the country's first organization run by people with psychosocial disabilities, now demand immediate steps to enforce the basic human rights of people with disabilities.<sup>3</sup> Justice requires a fundamental shift away from the institutional model. Change *is* possible – people with disabilities have demonstrated around the world that they can live good and meaningful lives as part of the community. Change begins with the government's creation of housing and community-based supports for people with disabilities, as well as an end to torture. Justice depends on such reforms – including compensation to victims and prosecution of individuals involved in trafficking and abuse of people with disabilities. This report outlines how Mexico can take steps toward reform and justice.

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<sup>3</sup> This report documents the detention of people with all types of disabilities in institutions, including children and adults with mental, physical, or sensory disabilities. People with mental disabilities include those who have a psychiatric diagnosis (also referred to as a psychosocial disability) or an intellectual disability. We have documented abuses against any person detained in these institutions based on a perception that they have a disability – whether or not they are actually disabled. Since all children detained in institutions are at higher risk of becoming disabled, we have broadly included institutionalized children in this report.

## NO JUSTICE: TORTURE, TRAFFICKING AND SEGREGATION IN MEXICO

### I. Introduction

#### A. The “Blacklist:” No Oversight or Accountability

DRI’s recent investigation into the Mexico City “blacklist” is based on a confidential government document dated November 2013 and from information obtained through on-site visits to “blacklisted” institutions. Between 2009-2013, government authorities of the Institute of Assistance and Social Integration (IASIS), under the authority of the Social Development Ministry, reviewed 76 institutions, shelters, and group homes that offer services and care to children in Mexico City. They identified eighteen facilities posing grave risk to children and five others in which authorities have already begun investigating abuses. There are a total of 25 institutions on the “blacklist” in which there are serious risks to children. Out of these, DRI has visited five. The confidential document recommended that authorities review the status of these institutions and prohibit them from accepting minors into their care.

DRI investigators visited *Internado Binet; Fundación Renacimiento de Apoyo a la Infancia que Labora Estudia y Supera; Asociación Mexicana Pro Niñez y Juventud; Rios de Misericordia* and *Casa Esperanza*.<sup>4</sup> At four of these five facilities, we found serious human rights violations. A brief summary of findings are attached as appendix 2, and *Casa Esperanza* is described in detail below. *Rios de Misericordia* is the only facility we visited that had been shut down. There is no evidence as to where its former residents have been placed. This raises serious concerns about possible trafficking or further abuse.

It is clear that all major government departments responsible for supervising and regulating child services have knowledge of the “blacklist.” They are all copied on the November 2013 document and are working in partnership to identify and “supervise” these institutions. These departments include: the Mexico City Attorney General (PGJDF), the Mexico City department of family development (DIF-DF), the board of Private Assistance (JAP), the Secretariat of Social Development (SEDESOL), and the Institute of Assistance and Social Integration (IASIS). DRI site visits found the “blacklisted” institutions continue to be unsupervised and unmonitored. This is particularly concerning given the gravity of the abuses found by authorities at these institutions, corroborated by DRI visits. These abuses include inhuman and degrading treatment and torture, forced sterilization, complete lack of treatment or rehabilitation, and high death rates. There is no doubt that these institutions pose severe risks to children and adults – yet they are allowed to remain in operation. *Authorities continue to allow the state DIFs to send children into some these dangerous facilities.*

### II. Abuse and Exploitation at Casa Esperanza

#### A. Exposing a “Blacklisted” Facility: Findings at Casa Esperanza

DRI visited *Casa Esperanza*, a “blacklisted” institution in Mexico City, in June 2014 and again in May 2015. DRI documented grave human rights abuses against the 37 people detained in this facility. *Casa Esperanza* is a privately operated institution located in a residential section of Mexico City. The Director

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<sup>4</sup>At Internado Binet, 52 people are detained with a psychiatric diagnosis and we found eight people permanently restrained in wheelchairs. At Fundación de Renacimiento, 60 people, including 10 adults and 50 minors, live in close quarters. Asociación Mexicana Pro Niñez houses 40 people, half of which are minors.

of *Casa Esperanza* reported to DRI that the majority of residents are sent to the facility by Mexican states outside of Mexico City who pay for their care.<sup>5</sup>

During both visits DRI observed that these 37 individuals, both adults and minors, lived in filthy and dehumanizing conditions. Most detainees languish in inactivity around a central courtyard. One boy was held in a small cage in the courtyard. Others were left in permanent restraints. The director informed us that some of the detainees were permanently bedridden (on our first visit we were not allowed to visit these individuals – because of the danger that would be presented to us by ongoing repairs in the facility; no mention was made as to how people permanently in bed would be kept safe). People in this institution remain there for life. The director reported that all women and girls were sterilized as a matter of policy. When asked why, the Director explained that he could not protect detainees from sexual abuse. He stated:

*What if someone from outside, say a repairman, comes in and abuses them. – Director, Casa Esperanza*

Concerned that abuses at *Casa Esperanza* had to be brought to an immediate end, DRI staff in Mexico filed a complaint in June 2014 with the Disability Unit at Mexico City's Department for the Development and Integration of the Family (DIF-DF). DRI brought in a disability services expert from the United States, Elizabeth Jones, who met with the Director of the Disability Unit and his staff to discuss steps that could be taken to protect detainees. Jones suggested the creation of an emergency host home program with supports to allow people with disabilities to be moved into a safe community-based environment. Such a program could be used not only to assist residents of *Casa Esperanza* in transitioning to the community, but could assist any person with a disability found in an abusive institution or community program. DIF-DF invited Jones to conduct a workshop on the creation of community-based services for a group of approximately 100 DIF-DF staff and other experts.

In September 2014, DRI reported the situation at *Casa Esperanza* to the UN Committee on the Rights of Persons with Disabilities as they reviewed Mexico's record of protecting people with disabilities. Despite the fact that the UN was reviewing human rights practices on a national scale, the UN CRPD Committee specifically urged the Mexican government to investigate the forced sterilization practices occurring at *Casa Esperanza*. This was included in the Committee's Concluding Observations to Mexico issued in October 2014.<sup>6</sup>

DRI returned to Mexico in May 2015 to examine progress toward the elimination of abuses at *Casa Esperanza*. With the assistance of the DF Human Right Commission (DF-HRC), DRI was able to gain access to the facility on May 24.

## **B. Continued abuses despite government notice**

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<sup>5</sup> Although *Casa Esperanza* is a private institution, it operates through public funds. In 2014, *Casa Esperanza* told DRI that 29 of the 37 individuals were referred to the institution by state DIF offices from other parts of Mexico. DIF offices pay institutions a certain amount of money per person, and *Casa Esperanza* uses the money from DIF to fund the majority of the institution's operations.

<sup>6</sup> UN CRPD Committee, Concluding Observations on the Initial Report of Mexico, CRPD/C/MEX/CO/1, (27 Oct. 2014), para 43.

The return investigation demonstrated that, after nearly a year, the government and institutional administration had done nothing to protect these people from torture, neglect, and abuse. DRI and a medical team from the DF Human Rights Commission met with 37 people who had been detained in Casa Esperanza. Women in the facility reported that they had been physically beaten by the Director, repeatedly sexually abused by the Director's brother, and raped by a workman at the facility.

*"The brother of the director, takes me to his office and touches my breast and vagina. I need to get out of here, please get me out of here."* – Rescued woman from Casa Esperanza, the day she was rescued

Detainees were also forced to work in the homes of the staff. Such detention of people for the purpose of exploitation constitutes a form of trafficking. The Human Rights Commission also found that some people had no identity papers.

The medical team of the DF Human Rights Commission evaluated 33 of 37 detainees (19 men and 14 women). They determined that 26 individuals had intellectual disabilities, five had psychiatric disabilities as well as intellectual disabilities, and two individuals had no disability at all. It is not yet clear as to why the non-disabled individuals were detained.

DRI staff has spent considerable time with five women, four of which are reported to have psychiatric disabilities, since their liberation. Some of these women have minimal disabilities, and it is entirely possible that their psychiatric symptoms were caused by the trauma of extensive sexual abuse at *Casa Esperanza*.

*I was raped and you will never ever understand what that was like, you will never understand how much pain I am going through. I do not want to live, I want to die.* – Rescued woman from Casa Esperanza

Many of the people with intellectual disabilities had been detained since childhood. It is likely that their intellectual disabilities were also made worse by the lack of emotional support, stimulation, and activities, as well as abuse at the facility.

It is likely that, in addition to the five women who reported physical and sexual abuse to DRI, other residents were also abused. However, many of these individuals have limited verbal abilities due to their disability, so documentation is difficult. Staff at two different institutions that accepted former detainees from Casa Esperanza said that they believe the transferred individual showed signs of abuse. One boy transferred from Casa Esperanza was reported to have a problem with "rectal digging." DRI expert Karen Green McGowan observed that this is commonly symptomatic of sexual abuse.

### **C. Sexual abuse and sterilization**

The pervasive sexual abuse at *Casa Esperanza* reinforces DRI's conclusions that the sterilizations were intended to prevent pregnancies as a result of rape. When asked about the reason for the sterilization, the Director of the facility stated that he could not protect women from being sexually abused by "workmen" in the institution. When women were liberated from Casa Esperanza, they reported that they were raped by a workman, as well as others.

*When I was in Casa Esperanza, D., a repairman, took me to a shed, pulled down my pants and raped me. It hurt. -- Rescued Woman, from Casa Esperanza*

The 2015 investigation also uncovered government complicity in the use of sterilization. The state authorities responsible for family services (DIFs) signed an agreement with *Casa Esperanza* that detailed the conditions on which individuals would be referred there. Included in this agreement was a clause stipulating that DIF sterilize all women before they were admitted to the institution. For those women who had not been sterilized previous to admission to *Casa Esperanza*, the director sought DIF's assistance in sterilization. DRI investigators found that 15 of the 37 people at *Casa Esperanza* were forcibly sterilized as a result of this policy.<sup>7</sup> This raises serious questions as to why the state DIF would facilitate this sterilization – and the broader human rights violations that are implicated. DRI recommends that the General Attorney's Office examine the possibility that DIF was explicitly helping to cover up trafficking.

#### **D. Sexual violence as torture**

According to the General Law on Women's Access to a Life Free of Violence, rape and forced sterilization are serious forms of sexual violence. Both generate severe and permanent damage to the physical and psychological integrity and dignity of women. They restrict their sexual and reproductive liberty, deeply impacting their life plan. Because of this, the Inter-American Court of Human Rights<sup>8</sup> and the International Criminal Tribunals<sup>9</sup> have clearly established that rape or other forms of sexual violence can be considered acts of torture. In the case of the five women rescued from Casa Esperanza, sexual exploitation and forced sterilization in a context of detention, coercion and domination (including physical abuse, physical restraints and overmedication, threats and verbal humiliation) could constitute sexual torture.

The authorities had detailed knowledge of these violations as of June 2014,<sup>10</sup> and were aware, through the blacklist, of the irregularities and abuses at Casa Esperanza as of 2013. The delay in the initiation of investigations and the fact that the authorities deliberately ignored existing information on the possible commission of rape, forced sterilization and other forms of violence. This clearly indicates the tolerance and even acquiescence of these serious violations by the government.

#### **E. Prolonged Use of Restraints**

People living in Casa Esperanza were tied down with permanent physical restraints. Individuals' hands and legs were tied in painful positions with tight duct tape bandages. This treatment not only denies people of their liberty, but also "can cause muscle atrophy, deformities and even failure of vital organs, and aggravates the psychological damage."<sup>11</sup> For this reason, the UN Special Rapporteur on Torture

<sup>7</sup> Review of the cases by the Mexico City Human Rights Commission, July 2015

<sup>8</sup> Corte IDH, *Inés Fernández y Otros vs México*, 30 de agosto de 2010, Párr. 92.

<sup>9</sup> ICTY, *Prosecutor v. Kvočka*, Case No. IT-98-30/1, Judgment at para. 145 (Nov. 2, 2001)

<sup>10</sup> In June 2014 DRI informed local authorities of this situation; in October 2014 the UN CRPD Committee urged the Mexican government to investigate forced sterilization at Casa Esperanza. And finally in January 2015 Mexico City authorities (DIF-DF, IASIS and PGJDF) carried out an inspection visit at Casa Esperanza, without taking any action to investigate the abuses they documented.

<sup>11</sup> *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, A/HRC/22/53 (Feb. 1, 2013), Juan E. Méndez, para 63; *Informe provisional del Relator Especial del Consejo de*

considers such practice torture, especially when used on minors. The director of Casa Esperanza admitted that people remained in these positions all day, because they “can hurt themselves.”



*Use of prolonged restraints at Casa Esperanza*

It is widely documented that people in institutions can become self-abusive when they do not build human emotional connections, and that people who are denied the opportunity to build relationships

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*Derechos Humanos sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, A/66/268 (August, 2011) para. 67, 68 and 78.*

and seek stimulation may hurt themselves in order to feel something.<sup>12</sup> Unfortunately, instead of addressing the root cause of such self-harm, it is common for institutions across Mexico to further repress and restrain the people they are supposed to protect.<sup>13</sup> In Casa Esperanza, the staff was authorized to use these restraints on the people with disabilities, and they faced no oversight by any higher medical or professional authority. Staff said that they considered the restraints “the only option,” and freely tied their limbs and restrained them from feeling, furthering the cycle of abuse.

During the 2015 visit, staff and authorities of Casa Esperanza referred to DRI investigators that one minor in custodial care remained restrained at all times, and that eight other people with disabilities were confined to their beds “all the time.” DRI was also told that four people had died while in restraints over the last four years.

#### **F. Aftermath of Exposure: lack of appropriate placements**

Following the 2015 exposure of continued abuses at Casa Esperanza, DRI formally recommended to the Mexican authorities that abusive administrators and staff be immediately removed from the facility to protect residents. DRI recommended that control of this private facility be taken away from the private owners who had perpetrated abuses – and that these individuals be criminally prosecuted. Until such time as safe and appropriate community-based services could be created, however, DRI recommended that all residents be temporarily allowed to remain at the facility (unless they choose to leave) with the expectation that a qualified supervisor, preferably an independent monitor, would remain with them.

Following exposure of abuses at Casa Esperanza, authorities did the opposite. Starting on June 9, 2015, authorities moved to immediately transfer most residents out of Casa Esperanza into other institutions. When DRI visited in mid-June, four detainees remained in the facility. We were told that these were the most disabled and dangerous individuals in the facility and they could not be easily accepted by other institutions in Mexico City. Karen Green McGowan met with and evaluated the four remaining residents (DRI has video taped copies of these evaluations). When one man met Ms. Green McGowan he expressed concern for her safety as a woman in the facility. He commented that he missed his friends among the other detainees who had been taken away.

Ms. Green McGowan interviewed direct care staff who reported that these remaining individuals were not violent – though one is self-abusive and eats things that could be dangerous. She found that they were communicative, ambulatory, and could benefit from counseling, rehabilitation, and therapy. One individual is deaf, but there had been no apparent effort to teach him sign language. Ms. Green McGowan said that individuals she had met with similar disabilities could easily be integrated into society with appropriate housing and support.

With no stimulation or activities, these individuals reverted to behaviors they had learned in the institution, such as curling up on the floor or rocking back and forth on a bench. One woman with Down’s syndrome sat alone in the courtyard in total inactivity during our visit.

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<sup>12</sup> Karen Green McGowan, Clinical Nurse Consultant specializing in developmental disabilities, (Interview May 2015 on file with DRI).

<sup>13</sup> *Report of the Special Rapporteur on Torture and Cruel, Inhuman or Degrading Treatment or Punishment*, A/HRC/28/68 (March 5, 2015), Juan Méndez, para. 56.

While detainees were moved out, staff and directors were allowed to remain. The brother of the director, who was accused of sexually abusing women at the facility, was still there with remaining detainees. It is very concerning that this individual, accused of sexually abusing persons under his care, continues to have free access to the facility and the individuals therein. Moreover, as of June 2015, this facility remained in control of the Director who had overseen abuses at the facility.

Five women survivors of human trafficking, prolonged sexual assault, and in several cases, forced sterilization, were removed from Casa Esperanza due to the extremely dangerous abuse they disclosed. However, there was no place equipped to care for sexual assault survivors and individuals with psychosocial disabilities. *El Pozo de Vida*, a comprehensive service-providing organization for survivors of human trafficking, accepted the women temporarily. However, due to a lack of adequate support services, it requested that they be moved to another facility after less than two weeks. Although the shelter provides holistic support to trafficking survivors, it did not have the specialized care to deal with the unique needs of traumatized women with psychosocial disabilities. After arriving, three of the women went through psychiatric crises that were beyond the shelter's ability to support and care for them. Three of the women from *Casa Esperanza* attempted suicide.

The five women have no homes or families. They have not been accepted into other forms of temporary shelter (battered women's shelters, homeless shelters) because of their psychiatric diagnosis.

There is currently no adequate government-supported community-based living option for the survivors of *Casa Esperanza*. The 37 people transferred from *Casa Esperanza* to new institutions will continue to be segregated from society in violation of their right to live in the community according to article 19 of the CRPD. Twenty-eight survivors of *Casa Esperanza* have already been transferred to other institutions. As of July 17, four remain in *Casa Esperanza* awaiting transfer into psychiatric hospitals. The Mexican government should take immediate action to create community based living alternatives so that these vulnerable individuals are not re-institutionalized.

### **G. Pilot Programs for Reform**

*Juventud Con Una Misión* (JUCUM) is an organization that provides street outreach to vulnerable population. JUCUM has begun a pilot project to provide community-based support two women survivors of *Casa Esperanza* with financial support from DIF-DF. As already stated, in June 2014 DRI requested that the Mexico City government conduct individualized assessments and develop personally tailored services before closing down the institution and transferring people out. Given that these supports were not created before the women got out and the adequate services were not in place to provide comprehensive and necessary support, three of the five survivors attempted suicide and were transferred out of JUCUM to more restrictive facilities. At this point, two of the five remain in JUCUM, who is tailoring services to integrate them to the community. JUCUM has expressed interest in creating a community-based model of support for these women but it needs adequate and sufficient funding as well as technical assistance.

### **III. Continued Segregation of Mama Rosa Survivors**

Lack of safe and appropriate community placement is not just an issue for survivors of *Casa Esperanza*. The widely publicized case of *Mama Rosa* demonstrates that this is a national problem for all people with mental disabilities who are segregated in abusive institutions and need some form of support for independent living to be integrated back to the community.

In July of 2014, 596 individuals were rescued from *La Gran Familia* (Mama Rosa's), an infamously abusive institution in the state of Michoacán. At the facility individuals were detained against their will and trafficked; beatings were a common form of punishment used by administrators; children as young as ten years old were forced to provide oral sex to the director of the institution in exchange for food and clothing;<sup>14</sup> and individuals who managed to escape were tracked down and forcibly returned to the institution where they suffered further punishment.<sup>15</sup> Mexico City has been unable to integrate many of the survivors of that abusive facility. The large-scale human rights violations discovered at Mama Rosa's, complete lack of oversight and accountability, and continued segregation of its survivors illustrates the extent to which institutionalization is an issue of national concern.

### A. History of Abuse

For decades *Mama Rosa's* perpetrated the physical and sexual abuse of thousands of children that came into its care.<sup>16</sup> By 2014, an enormous population of children were held captive at the institution. 278 of these children were boys, 174 of were girls, and six were infants.<sup>17</sup> Six former staff members of the institution were sent to prison for charges including trafficking, detaining individuals against their will, and physical and sexual abuse. Yet the director, Rosa del Carmen Verduzco, operated with complete impunity. Despite the testimony of many survivors of the institution, the Attorney General never charged Verduzco with any crime. In fact, within months of closing the institution, Verduzco reportedly began operating another shelter for minors.<sup>18</sup> Verduzco's impunity and the scale of abuses revealed at *Mama Rosa's* are indicative of the utter lack of oversight and accountability of Mexican custodial institutions.

Despite the immense population detained at Mama Rosa's and clear evidence of inhumane conditions and abuse at the facility, government authorities shirked responsibility for overseeing and regulating the institution for decades. Authorities only took action once family members of the detainees starting speaking out about the rampant abuse and the rights of their family members to return to the community.<sup>19</sup> Had private individuals not demanded redress, hundreds of people would likely still be locked within *Mama Rosa's*.

#### a. An Invisible Population

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<sup>14</sup> SDP Noticias. (July 14, 2014). Testimonio sobre los abusos de "Mamá Rosa" a niños. Retrieved from <http://www.sdpnoticias.com/estados/2014/07/31/el-sexo-oral-era-fanatica-en-eso-testimonio-sobre-los-abusos-de-mama-rosa-a-ninos>.

<sup>15</sup> Animal Politico. (July 22, 2014). PGR declara inimputable a Mamá Rosa por su condición física y mental. Retrieved from <http://www.animalpolitico.com/2014/07/liberan-mama-rosa/>.

<sup>16</sup> *Ibid.*

<sup>17</sup> Jiménez, Eugenia. (July 17, 2014). Investiga CNDH caso de niños en albergue La Gran Framilia. Milenio.com. Retrieved from [http://www.milenio.com/estados/Mama\\_Rosa-Gran\\_Familia\\_Mama\\_Rosa-albergue\\_Mama\\_Rosa-La\\_Gran\\_Familia\\_0\\_337166508.html](http://www.milenio.com/estados/Mama_Rosa-Gran_Familia_Mama_Rosa-albergue_Mama_Rosa-La_Gran_Familia_0_337166508.html)

<sup>18</sup> Jiménez, Horacio. (January 17, 2015). Pide PRD informe sobre menores de la Gran Familia. El Universal. Retrieved from <http://www.eluniversal.com.mx/nacion-mexico/2015/prd-gran-familia-menores-rescatados--1069550.html>

<sup>19</sup> Animal Politico. (July 22, 2014). PGR declara inimputable a Mamá Rosa por su condición física y mental. Retrieved from <http://www.animalpolitico.com/2014/07/liberan-mama-rosa/>.

Unfortunately, the case of *Mama Rosa's* is not exceptional and is perpetuated by the lack of government regulation of custodial institutions. This absence of effective oversight and accountability is reflected in the lack of statistics regarding the exact number of minors living in shelters across the country.<sup>20</sup> Without a basic record of the number of institutions and the identity of individuals in their custody, there is an increased risk of trafficking and abuse of children. Estimates of this invisible population vary tremendously; the National Institute of Statistics and Geography reported 25,000 people living in institutions throughout the country, meanwhile UNICEF reports that there are at least 1.6 million orphans in the country.<sup>21</sup> The absence of a public record of the total population of people living in custodial institutions and shelters across the country creates an environment in which abusers enjoy impunity and people with disabilities are subject to abuse.

#### **b. Lack of Appropriate Placements**

In the aftermath of the dismantling of *Mama Rosa's*, DRI investigators discovered dozens of survivors re-institutionalized at facilities where they face a high risk of re-victimization. In June 2015, DRI discovered that DIF government authorities had recently transferred V., 23-year-old man and survivor of *Mama Rosa's*, to a "blacklisted" street shelter in Mexico City.<sup>22</sup> Despite being identified as someone with an intellectual and/or psychiatric disability and desperately in need of rehabilitation, the only care he received was prescribed medication. This was administered by a young woman without any medical training who was also living at the street shelter. The director of the shelter explained that this young man had been transferred between many institutions since leaving *Mama Rosa's*, but his violent behavior and need for therapy made it hard for him to stay anywhere for very long. V. had only spent two weeks at the street shelter when DRI investigators visited, but had already had several violent outbursts and one attempt at suicide. The director of the street shelter explained that his facility was completely unequipped to deal with V.'s needs, and he hoped to have the young man transferred to another institution as soon as possible.<sup>23</sup>

V.'s story is emblematic of the neglect these survivors face. Survivors of *Mama Rosa's*, traumatized by years of detention and abuse, *should* have been supported and re-integrated into community life. Instead, the majority of these vulnerable individuals were shuffled across the country, transferred between authorities of various states and newly detained in abusive custodial institutions.<sup>24</sup> For instance, 53 survivors of *Mama Rosa's* were re-institutionalized at *Albergue Temporal de Rehabilitación Infantil*, in Toluca. This is a facility with a population of 450 minors.<sup>25</sup> Moving these survivors of institutional abuse into another large-scale facility not only denies their right to live in the community but also diminishes any chance of healing and rehabilitation. Further, careless institutional transfers can have catastrophic consequences.

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<sup>20</sup> Nájjar, Alberto. (July 17, 2014). La tragedia detrás del horror de la Gran Familia: ser huérfano en México. BBC News. Retrieved from [http://www.bbc.com/mundo/noticias/2014/07/140717\\_mexico\\_crisis\\_ninos\\_huerfanos\\_an](http://www.bbc.com/mundo/noticias/2014/07/140717_mexico_crisis_ninos_huerfanos_an).

<sup>21</sup> *Ibid.*

<sup>22</sup> Fundación Renacimiento de Apoyo a la Infancia que Labora Estudia y Supera, Mexico City (DRI Visit June 20, 2015).

<sup>23</sup> *Ibid.*

<sup>24</sup> Jiménez, Horacio. (January 17, 2015). Pide PRD informe sobre menores de la Gran Familia. El Universal. Retrieved from <http://www.eluniversal.com.mx/nacion-mexico/2015/prd-gran-familia-menores-rescatados--1069550.html>

<sup>25</sup> Albergue Temporal de Rehabilitación Infantil, Toluca, (DRI Visit June 18, 2015).

Institutional transfer is a critical period in the life of a survivor of abuse, during which they are at a high risk of transfer trauma.<sup>26</sup> Shortly after their transfer out of *Mama Rosa's*, four minors between the ages of 12 and 17 took their own lives. Some of these survivors had been survivors of sexual abuse.<sup>27</sup> These tragedies underscore how critical it is to provide counseling, therapy, and treatment for individuals exiting abusive custodial institutions. The experience of *Mama Rosa's* should not be repeated. Instead, it is vital that alternatives be established so that vulnerable individuals and survivors of institutional abuse receive support and finally reclaim their right to lead dignified lives in the community.

#### IV. Findings

DRI conducted investigations into 22 institutions over 18 months from January 2014 to June 2015, with a particular focus on Mexico City. DRI found widespread abuses that mirror abuses already exposed in the cases of *Casa Esperanza* and *Mama Rosa*. This section documents the findings of abusive conditions primarily at Mexico City institutions, and provides specific recommendations for the Mexico City government to redress these abuses and protect the rights of people with disabilities. Nevertheless, it should be noted that the abuses found in Mexico City have also been documented at the national level by DRI, within institutions it visited in other states as well as facilities run by the Federal Government.

##### A. Torture and Ill-Treatment

DRI documented widespread Torture and Ill-Treatment at institutions across Mexico City. The most egregious abuses documented include the use of physical restraints, cages and isolation rooms, chemical restraints and overmedication, lifetime segregation of people with disabilities, atrocious conditions of confinement, forced sterilization, and human trafficking from institutions, including sex trafficking, forced labor, illegal adoption, and indications of wider human trafficking patterns.

##### B. Use of Physical Restraints, Cages and Isolation Rooms

In eight of the institutions visited by DRI, we found prolonged use of restraints, which amounts to torture. This indicates that the prolonged use of physical restraints remains a common practice in Mexican custodial institutions, including those within Mexico City.<sup>28</sup> DRI observed people with disabilities tied to wheelchairs in painful positions.<sup>29</sup> Over time, restraints fastened to improperly sized wheelchairs can cause hip dislocations, deformities and a risk of strangulation.<sup>30</sup> At the "blacklisted" *Casa*

<sup>26</sup> Karen Green McGowan, Clinical Nurse Consultant specializing in developmental disabilities, (Interview May 22, 2015 on file with DRI).

<sup>27</sup> Torres, Mauricio. (August 15, 2015). 4 menores del albergue 'La Gran Familia' se han suicidado, afirma ONG. CNN México. Retrieved from <http://mexico.cnn.com/nacional/2014/08/15/4-menores-del-albergue-la-gran-familia-se-han-suicidado-afirma-ong>.

<sup>28</sup> DRI observed the use of prolonged restraints in the following institutions: Estancia Sagrada de Corazón de Jesús on May 20, 2015; Hogar de Nuestra Señora de la Consolación para Niños Incurables, Limatitla, on May 22, 2015 and again on June 20, 2015; Casa Esperanza on May 24, 2015; Samuel Ramírez Moreno on July 11, 2014; Fray Bernardino Hospital on July 14, 2014; Internado Binet on June 11, 2014; Psychiatric Hospital of Oaxaca in January 2015; and Centro de Rehabilitación San Luis Gonzaga on May 22, 2015.

<sup>29</sup> Estancia Sagrada de Corazón de Jesús (DRI Visit May 20, 2015).

<sup>30</sup> At Estancia Sagrada de Corazón de Jesús (DRI Visit May 20, 2015), expert nurse practitioner Karen Green identified several young women with dislocated hips and spinal deformities due to being permanently restrained in ill-fitted wheelchairs..

*Esperanza*, four people died while in restraints in the last four years<sup>31</sup> and there was evidence that at least eleven people with disabilities were permanently restrained with duct tape and bandages.<sup>32</sup> At the Centro de Rehabilitación San Luis Gonzaga in Mexico City, nearly all people detained, many of whom have cerebral palsy, are restrained with layers of bandages. 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. When one minor finished his time on the treadmill, he lay facedown on the mat and pain, requiring a heating pad for his shoulders. The prolonged use of restraints is an issue of national concern and even facilities operated by the federal government are perpetrators of this form of abuse.<sup>33</sup>

The World Health Organization has determined that the use of prolonged restraints is cruel treatment that may cause muscle atrophy and skeletal deformity.<sup>34</sup> The Rapporteur determined that there is no therapeutic justification for such practices and any restraint of people with mental disabilities, “even for a short period of time, may constitute torture and ill-treatment.”<sup>35</sup>

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<sup>31</sup>DRI Visit May 24, 2015.

<sup>32</sup>Casa Esperanza (DRI visit June 12, 2014).

<sup>33</sup>According to staff at Samuel Ramirez Moreno Psychiatric Hospital, “when a patient is aggressive we use medication and restraints, we do not do anything else” (DRI visit July 11 2014). In Fray Bernardino, another hospital administered by the government, DRI observed a woman restrained to a bed by her four extremities (DRI visit July 14, 2014). She had been admitted without her consent and when she tried to escape she fell down and was restrained. Other women detained at Fray Bernardino reported being restrained for up to eight hours at a time and witnessed women that were left tied to their beds even though they had to go to the toilet. These women were forced to urinate or defecate in their own beds.

<sup>34</sup>Organización Mundial de la Salud, *Treatment of Mental Disorders: A Review of Effectiveness*, (Norman Sartorius et al., editores), 1993, p. 345.

<sup>35</sup>*Report of the Special Rapporteur on Torture and Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly, A/HRC/22/53* (Feb 1, 2013), Juan E. Méndez, para. 63.



*Use of prolonged restraints at  
Hogar de Nuestra Señora de la Consolación  
Para Niños Incurables*

The use of cages and isolation cells was also widespread. DRI observed institutions in which some people with disabilities were detained in metal cages.<sup>36</sup> At Hogar de Nuestra Señora de la Consolación Para Niños Incurables, DRI observed a fifty-year old male with disabilities who had been held in a metal cage for most of his life.<sup>37</sup> This man hit his head on the bars of his cage so intensely that he developed calluses and deformities on his skull. He also developed a deformed ankle due to sitting on his feet in the cage for an extended period of time.<sup>38</sup> At the same institution, all of the teeth of one of the caged men with disabilities were removed, apparently to prevent him from biting people.<sup>39</sup> In addition to prolonged restraints and cages, DRI also observed a minor who was confined to a windowless padded

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<sup>36</sup> DRI observed people in metal cages at Hogar de Nuestra Señora de la Consolación para Niños Incurables on 22, 2015 and again June 20, 2015; and observed metal cages in the institution but did not see people in those cages at the time of our visit at Internado Binet on June 11, 2014 and Centro de Rehabilitación San Luis Gonzaga on May 22, 2015.

<sup>37</sup> DRI visit May 22, 2015.

<sup>38</sup> Observed by Karen Green at Hogar de Nuestra Señora de la Consolación para Niños Incurables on May 22, 2015 and again June 20, 2015.

<sup>39</sup> Hogar de Nuestra Señora de la Consolación para niños incurables, (DRI Visit May 22, 2015 and again June 20, 2015).

isolation cell at a large facility in Toluca.<sup>40</sup> Staff explained that the young man leaves the isolation room for a few hours at a time, but must return there due to his self-abusive behavior.<sup>41</sup>

The prolonged use of restraints, cages and isolation cells in Mexican institutions constitute torture and are violations of the CRPD. In its Concluding Observations on Mexico the CRPD Committee found “alarming the fact that human rights violations, such as physical restraint and placement in 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>42</sup> The CRPD Committee urged Mexico to investigate these grave human rights violations and abolish the use of physical restraints and isolation in institutions for people with disabilities.<sup>43</sup> However, there is no indication that the government has acted to eliminate these atrocious conditions. DRI urges the Mexico City government to abolish these practices immediately and ensure supervision to eradicate prolonged restraints, cages, and isolation rooms.

### C. Chemical Restraints and Overmedication

DRI documented widespread indications of overmedication of people with disabilities at ten of the institutions we visited.<sup>44</sup> In addition to physical restraints, institutions chemically restrain the people in their care by overmedicating. They heavily sedate the people in their care in order to control their behavior, rather than providing therapy or rehabilitation. The director of one institution explained, “[t]hey take a lot of medication so that we can keep them calm.”<sup>45</sup> Medicine is administered indiscriminately, and even people without psychiatric disorders are given anti-psychotic medications and sedation.<sup>46</sup> Medications are prescribed and administered without adequate supervision. In some cases, they are prescribed without the consultation of a psychiatrist.<sup>47</sup> In institutions that do have psychiatrists, the psychiatrists do not provide adequate supervision over the administration of medication.<sup>48</sup>

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<sup>40</sup> Albergue Temporal de Rehabilitación Infantil, Toluca, (DRI visit June 18, 2015).

<sup>41</sup> Overmedication is an abuse occurring at the national level. At an institution in Oaxaca DRI observed four heavily sedated men who were detained in an isolation room together. At that facility, peoples confined to the isolation room must remain there for two or three days. Observed during DRI visit to Psychiatric Hospital of Oaxaca, January 2015.

<sup>42</sup> UN CRPD Committee, Concluding Observations on the Initial Report of Mexico, CRPD/C/MEX/CO/1, (27 Oct. 2014), para 31.

<sup>43</sup> UN CRPD Committee, Concluding Observations on the Initial Report of Mexico, CRPD/C/MEX/CO/1, (27 Oct. 2014), para 32.

<sup>44</sup> DRI observed the use of chemical restraints at the following institutions in Mexico City: Estancia Sagrado Corazón de Jesús on May 20, 2015, Hogar de Nuestra Señora de la Consolación para Niños Incurables on May 22, and June 19, 2015, Casa Esperanza Para Deficientes Mentales on June 12, 2014, Samuel Ramirez Moreno on July 11, 2014.

<sup>45</sup> Director, Internado Binet, (Spoke to DRI June 11, 2014).

<sup>46</sup> At Estancia Sagrada Corazón de Jesús on May 20, 2015, the staff said that none of the people detained there had psychiatric disabilities, and yet 80% were on antipsychotic medication. At Psychiatric Hospital of Oaxaca on January 2015, even people without psychiatric diagnoses were heavily sedated.

<sup>47</sup> Internado Binet, (DRI visit June 11, 2014): Director prescribes the medication, and he is not a psychiatrist as is the case at Casa Esperanza (DRI visit June 12, 2014).

<sup>48</sup> The use of chemical restrains is a problem at the national level. At Samuel Ramirez Moreno Hospital DRI documented the case of a person who shook badly with parkinsonian symptoms which were very severe side effects of overmedication. A psychiatrist stated that the hospital did not administer more than two antipsychotics at a time and that giving three antipsychotics to one patient would be a case of severe overmedication. However, it was later verified that the individual was indeed given three types of medication, in addition to a drug used to

This overmedication constitutes torture and its administration creates other human rights violations. As stated in 2008 by the UN Rapporteur on Torture, administration of drugs in psychiatric institutions “including neuroleptics that cause trembling, shivering and contractions and make the subject apathetic and dull his or her intelligence, has been recognized as a form of torture.”<sup>49</sup> Administration of medications violated the rights and physical integrity of people given that there was no informed consent, which constitutes a violation of article 25(d) of the CRPD.<sup>50</sup> The CRPD Committee has specifically called on Mexico to ensure that medical treatment for people with disabilities be based on informed consent.<sup>51</sup> DRI urgently request that the Mexico City government provide supervision to ensure that all administration of medication to patients at psychiatric hospitals and institutions is conducted in accordance with the informed consent of the patients, and only upon individual case review by psychiatrists.

#### D. Lifetime Segregation

Once institutionalized, children and adults in Mexican institutions remain segregated from society for their entire lives.<sup>52</sup> In many institutions, people remain until death.<sup>53</sup> At others, children are institutionalized until they come of age. They are then transferred to another institution for adults, where they may remain until death. Segregation from society is absolute: many people spend their lives confined to an institution, and in some cases to a single bed. In an institution that DRI visited in Mexico City, one woman has been institutionalized for 33 years. Because she is blind, she is condemned to spend her life in a bed.<sup>54</sup> A. arrived at the institution when she was two years old. Staff explained that she never leaves her bed, and that if she attempts to, she falls down. Expert Karen Green McGowan noted she has full range of motion and because she can sit up, she could be very mobile with additional support. However, the staff did not appear to assist her in leaving the bed, which demonstrates their lack of commitment to rehabilitation and reintegration.

In some cases, people are segregated for life based on a faulty diagnosis. E., a blind seven-year-old girl, has spent her life in an institution for children with cerebral palsy, following a mistaken diagnosis.<sup>55</sup> Staff at the institution stated that she had cerebral palsy when she arrived, but that she “overcame” the condition by attending a school for the blind. E. thrived at the school, but was eventually returned to the institution. Green urged the institution to consider seeking an adoptive family for E., saying, “why she is even in this institution is offensive to me!” Until such a community placement can be made, E. faces a life sentence in an institution that treats her as if she has a disability that she does not, while providing no

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control side effects. The side effects of these drugs are often unmonitored, or alternatively, cause the staff to administer additional medications to treat the side effects of the initial medications (DRI visit July 11, 2014).

<sup>49</sup>*Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/63/173* (28 July 2008), para. 63.

<sup>50</sup>CRPD, art.25(d).

<sup>51</sup>UN CRPD Committee, Concluding Observations on the Initial Report of Mexico, CRPD/C/MEX/CO/1, (27 Oct. 2014), para 50.

<sup>52</sup> DRI documented life-long segregation at the following institutions: Estancia Sagrado Corazón de Jesús on May 20, 2015, Hogar de Nuestra Señora de la Consolación para Niños Incurables on May 22, and June 19, 2015, Centro de Rehabilitación San Luis Gonzaga on May 22, 2015, Casa Esperanza Para Deficientes Mentales on June 12, 2014, Fundación Amor y Gozo en Acción on June 11, 2015.

<sup>53</sup>Hogar de Nuestra Señora de la Consolación para Niños Incurables (DRI visit May 22, 2015).

<sup>54</sup>Estancia Sagrada Corazón de Jesús on (DRI visit May 20, 2015).

<sup>55</sup>Centro de Rehabilitación San Luis Gonzaga (DRI visit May 22, 2015).

support for her blindness nor an education and the tools to have a chance to a normal life in the community.

Life-long segregation is a pervasive problem across Mexico. Many people are separated from their families in other states and institutionalized in Mexico City, far from their communities.<sup>56</sup> At *Fundación Amor y Gozo en Acción*, in Cuernavaca, DRI documented complete segregation for 19 women, including elderly women. They were never allowed to leave the facility and would likely live on the property until death.<sup>57</sup> In a Oaxacan institution, DRI met an elderly woman who was admitted to the hospital in 1967, meaning that she has spent the last 48 years in the institution. According to staff, she has an intellectual disability and there is no reason for her to remain in the hospital, or to have been put there in the first place.<sup>58</sup> Yet, because there are no community-based services to support her transition, it is likely that she will continue to remain segregated for life.

This life-long segregation is a clear violation of Mexico's commitments under CRPD Article 19, the right to live independently and be included in the community, and article 14, which states that "the existence of a disability shall in no case justify a deprivation of liberty."<sup>59</sup> The CRPD Committee has expressed its concern regarding "the lack of a State strategy for the inclusion of persons with disabilities in society and their ability to live independently" and recommended that the government of Mexico "urgently define a strategy for the deinstitutionalization of persons with disabilities."<sup>60</sup> However, in the nearly a year since the Committee issued its Concluding Observations, the Mexican government has done nothing to address the pressing problem of lifelong segregation or to build adequate community-based services. Further, permanent detention of children is a violation of Article 37 (b) of the Convention on the Rights of the Child. The UN Special Rapporteur on Torture has particularly noted that the deprivation of liberty of a child should be a last resort measure used only for the shortest possible period of time.<sup>61</sup>

DRI urges the Mexico City government to end the lifetime segregation of people with disabilities by creating community-based services. It is imperative that people with disabilities enjoy the full right to live in the community. DRI further urges the review of cases of individuals institutionalized in short-term facilities such as psychiatric hospitals. This is intended to guarantee that short-term institutional or hospital placements are undertaken only as a last resort, and implemented with the objective of returning the individuals to community-based care settings as quickly as possible.

### E. Atrocious Conditions of Confinement

"The mere fact of being here severely deteriorates the patients. This is not a good place for them."<sup>62</sup>

The conditions in Mexican custodial institutions are often degrading, unhygienic, and unequipped for dignified living. In some cases, the lack of basic cleanliness and hygiene is shocking.<sup>63</sup> At *Hogar de*

<sup>56</sup> Individuals at Casa Esperanza came from Guanajuato, San Luís Potosí, Aguascalientes, and Chetumal, Quintana Roo.

<sup>57</sup> DRI visit June 11, 2015.

<sup>58</sup> Psychiatric Hospital of Oaxaca (DRI visit January 2015).

<sup>59</sup> CRPD, art.19, 14.

<sup>60</sup> UN CRPD Committee, Concluding Observations on the Initial Report of Mexico, CRPD/C/MEX/CO/1, (27 Oct. 2014), para 43-44.

<sup>61</sup> *Report of the Special Rapporteur on Torture and Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly, A/HRC/28/68* ( March 5, 2015), Juan Méndez, para. 72.

<sup>62</sup> Quote from a psychiatrist at Samuel Ramirez Moreno (July 11 2014).

*Nuestra Señora de la Consolación para Niños Incurables* in Mexico City, DRI observed young men being fed while lying down, a position that inhibits digestion and heightens the risk of aspiration.<sup>64</sup> One of the men was in a state of extreme dehydration and malnutrition.<sup>65</sup> Extremely inhumane and degrading conditions have also been found at *Internado Binet*, a “blacklisted” Mexico City institution.

Inhumane and degrading conditions have also been observed at psychiatric facilities run by the Mexican government.<sup>66</sup> The CAIS institutions in Mexico City are a notorious example of inhumane and filthy conditions. In recent years, the horrific conditions in CAIS facilities in Mexico City have been documented by the UN Special Rapporteur on Torture and the Federal District Human Rights Commission, as well as by local and international press. An array of sources attest to the fact that a CAIS institution in Mexico City is no place for dignified living and poses an imminent risk particularly for individuals already traumatized by years of abuse, torture, and neglect.<sup>67</sup>

These atrocious conditions are violations of Mexico’s obligations under the CRPD. Detainment of individuals in filthy institutions is a violation of the right to freedom from degrading treatment.<sup>68</sup> People with disabilities have a right to health and non-discrimination in provision of health services under the CRPD.<sup>69</sup> This right is being violated by institutions neglecting to provide dental care and employing incompetent staff who cannot appropriately feed the people in their care. Further, the rights of people who are bedridden are also violated. Staff demonstrates no attempt at rehabilitation, in contravention of their right to habilitation and rehabilitation.<sup>70</sup>

DRI urges the Mexican government to provide a comprehensive review of all institutions to guarantee dignified living conditions, access to medical care, and meaningful rehabilitative services. Supervision of

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<sup>63</sup> At *Internado Binet*, June 11, 2014 DRI observed conditions that were inhumane and degrading, the entire facility was dirty; At the psychiatric Hospital of Oaxaca, a patient ate something from the floor without staff noticing or responding (DRI Visit January 2015).

<sup>64</sup> Observation of expert Karen Green during DRI Visit May 22, 2015 and again June 20, 2015).

<sup>65</sup> *Ibid.*

<sup>66</sup> At Samuel Ramirez Moreno DRI observed a person with disabilities urinating on himself without any care or attention from staff and another person deliberately eating dirt without a single staff member noticing. At that institution people with disabilities receive no dental treatment and most do not have teeth. Further, the use of psychosurgeries and electrotherapy persists at some facilities. DRI found three documented cases of psychosurgeries to control behavior of people with disabilities that were auto-abusive at the Samuel Ramirez Hospital and the Fray Bernardino Hospital continues to give electroshock therapy. Despite widespread medical consensus that such surgeries are abusive, the staff of the institutions continue to encourage them. According to one of the psychiatrists, “it is a treatment that can save lives.” For many people with disabilities, the institution simply gives up on any kind of rehabilitation and people remain bedridden for years at a time. Staff often lack training to feed individuals with disabilities who need special care, heightening the risk of aspiration pneumonia and malnutrition.

<sup>67</sup> See *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, A/HRC/28/68/Add.3, (29 December 2014), Juan E. Méndez, para 75; *Federal District Human Rights Commission Recommendation 2/2012*, CDHDF/IV/122/COY/09/D7280, “Relatoria de Hechos,” para 4; and *Mexico: The Abandoned*, Channel 4 “Unreported World,” (2013), available here: <http://www.channel4.com/programmes/unreported-world/on-demand/56011-012>

<sup>68</sup> CRPD art. 15.

<sup>69</sup> CRPD art. 25.

<sup>70</sup> CRPD, art. 26, “Habilitation and rehabilitation”. Mexican is obligated to take measures to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability and inclusion and participation in all aspects of life.

institutions must be conducted on a regular schedule, and should include unscheduled visits to ensure the monitoring of actual conditions. Institutions may “clean up” their facilities for supervisory visits, so monitoring must include interviews and investigation into the treatment of people detained in addition to the physical conditions of the institutions.

#### F. Forced Sterilization

DRI has documented a specific policy of forced sterilization at *Casa Esperanza*, but our observations suggest that the practice of sterilizing girls, adolescents, and women with disabilities in Mexico is a much broader problem. For example, at “blacklist”-affiliated institution *Fundación Amor y Gozo* in Cuernavaca, the director told DRI investigators that she had sought to sterilize the women detained there as a necessary precaution against sexual assault by men, such as volunteers and maintenance workers, that have access to the completely segregated facility.<sup>71</sup>

Forced sterilization is a violation of article 17 of the CRPD. DRI urgently requests that the Mexican government put an end to it. In 2014, the CRPD Committee urged the Mexican government to investigate judicial and health authorities and institutions that participate in forced sterilization of girls and women with disabilities.<sup>72</sup> The Mexican government must take immediate action to ensure that the practice of forced sterilization is abolished.

#### G. Sex Trafficking and Sexual Abuse

Sex trafficking occurs at institutions across Mexico, and steps must be taken to prevent the sexual exploitation of people with disabilities. In addition to the trafficking documented at *Casa Esperanza*, DRI’s report *Abandoned and Disappeared* (2010) documented the trafficking of children and people with disabilities within the child protection system of Mexico City, noting especially egregious abuses that occurred at *Casita del Sur*, *Casa Adulam*, and *Los Elegidos de Dios*.<sup>73</sup>

Sexual abuse of people who are detained in institutions has not been traditionally understood as a form of trafficking. DRI takes the position that recognition of this widespread practice as a form of trafficking is long overdue. Under international and Mexican law, sexual exploitation of people detained against their will constitutes human trafficking.<sup>74</sup> According to Mexican law, any sexual act enabled by violence, abuse of power, the use of a position of vulnerability, or threat constitutes human trafficking and is punishable by 15 to 30 years in prison.<sup>75</sup>

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<sup>71</sup> Fundación Amor y Gozo, (DRI visit June 2015). Fundación Amor y Gozo is affiliated with the now-defunct “blacklisted” facility in Mexico City, Rios de Misericordia.

<sup>72</sup> UN CRPD Committee, Concluding Observations on the Initial Report of Mexico, CRPD/C/MEX/CO/1, (27 Oct. 2014), para 38.

<sup>73</sup> See *Abandoned and Disappeared*, p 23-28.

<sup>74</sup> United Nations Protocol to Prevent, Suppress, and Punish Trafficking In Persons, art. 3(a). Ley General Para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y Para la Protección y Asistencia a las Víctimas de Estos Delitos, Nueva Ley publicada en el Diario Oficial de la Federación de México, 14 June 2012, Article 10. (Retaining, delivering, receiving, or hosting people for the purpose of exploitation constitutes human trafficking. It is not necessary for individuals to have been transported from one location to another, or for the abuse to have been monetized for this crime to rise to the level of human trafficking under domestic or international law.)

<sup>75</sup> Mexican Trafficking in Persons (TIP) law, Article 13.

Nevertheless, sexual abuse and trafficking occurs with impunity across Mexico. One staff member at Psychiatric Hospital “*La Salud*” in Puebla<sup>76</sup> alleged that administrators perpetrated sexual and physical assault of people with disabilities detained in their care. This staff member explained that the authorities are only at the hospital during the week, in the mornings. They have no idea of what happens at the hospital at night and during the weekends, including these abuses. According to the staff member, “The director does not care... Some of the staff members are vicious.” Unfortunately, there is no way to corroborate the abuse that has occurred and thus it is very difficult to file a complaint. “We do not see the abuse when it occurs. But we do notice the day after that they were tied down forcefully, or they have wounds that other patients could not have inflicted. Patients have complained that they have been sexually abused, but it is their word against the staff’s word.” Without adequate means to document, report, and take legal measures to prevent this exploitation, staff at institutions may sexually assault people with disabilities without fear of legal consequences. The problems inhibiting documentation and reporting of sex trafficking are endemic, and further exacerbated by disability and institutionalization. Thus, it is likely that sex trafficking occurs much more broadly than DRI has been able to document, in violation of international and domestic law.

In addition to the abuse perpetrated by staff members, abuse against individuals with disabilities by other people detained in the institutional system is rampant. Measures must be taken to protect the safety of all people in custodial care. Due to lack of supervision, rape and sexual abuse by stronger patients against weaker patients or new arrivals is tragically common at psychiatric hospitals across Mexico City, including the CAIS. At Psychiatric Hospital “*La Salud*,” staff explained that when faced with a case of sexual assault among the population, they respond by encouraging abusers to seek consensual sex, but take no further measures to protect the victims.<sup>77</sup>

#### H. Forced Labor

Exploitation of individuals in institutions for labor is a human rights abuse constituting trafficking. In lieu of therapeutic rehabilitative care, many institutions force children and adults with disabilities to work for the benefit of the institution.<sup>78</sup> As one woman with disabilities institutionalized at *Casa Esperanza* reported, “in the house I have to wash dishes and do whatever there is to do. The teachers yell at me. I don’t like to be here and sometimes I cut myself.”<sup>79</sup> The Mexican government has taken initial steps to respond to reports of labor exploitation at institutions, but has not gone far enough to eradicate it at the national level. Despite the National Human Rights Commission’s pronouncement that forcing people with disabilities to work in the kitchen of an institution is a form of forced labor, staff continues to treat it as a form of therapy.<sup>80</sup> Forced labor, even under the guise of therapy, constitutes human trafficking and is a violation of both Mexican law and Mexico’s international human rights commitments.<sup>81</sup>

#### I. Illegal Placements and Profit-Seeking

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<sup>76</sup> DRI Visit July 12, 2014.

<sup>77</sup> DRI Visit July 12, 2014.

<sup>78</sup> See *Abandoned and Disappeared*, p 27.

<sup>79</sup> Casa Esperanza, (DRI Visit May 24, 2015).

<sup>80</sup> Hospital “*La Salud*”, (DRI visit July 12 2014).

<sup>81</sup> Mexican TIP law Article 10(II), 12; Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention Against Transnational Organized Crime art. 3 (a).

The lack of proper documentation for many people with disabilities, coupled with the financial profit gained by the administration of institutions, suggests that human trafficking may be occurring more broadly. Many individuals in institutions have been referred without documentation, and in some cases the institutions do not have records of individuals' names, ages, places of birth, prior history, or medical records.<sup>82</sup> Such deprivation of the liberty of these individuals with no lawful basis is a violation of the Mexico City Penal Code.<sup>83</sup> The definition of human trafficking requires that the transfer or harboring of people be for the purpose of exploitation.<sup>84</sup> In the Mexican context, the financial gain of institutions who detain undocumented people may rise to the level of trafficking, even where there is no evidence of sexual abuse, forced labor, or illegal adoption. Many institutions appear to be lucrative for staff, as either the government or families pay for the costs of institutionalization. DRI has received estimates that DIF pays anywhere from 6,000 to 12,000 pesos per person to institutions in Mexico City.<sup>85</sup> Some institutions have inadequate basic services and infrastructure, indicating that much of the funding may not go to the institution itself, but to the administration.<sup>86</sup> On a national level, nepotism also seems to play a role, as indicated by the appointment of director of *Casa Hogar 1* in Oaxaca. The director had no previous experience running institutions for children, but rather admitted to being a friend of the governor's wife, the director of DIF in Oaxaca.<sup>87</sup> The director's comments indicated high levels of government financial support, stating, "[w]e have enough resources and staff. Everything I asked for, the State gives to me." The levels of financing from government and families are not transparent, and thus it is impossible for DRI to estimate the level of profit that administrations gain or whether that profit is driving institutionalization. If individuals are being illegally placed in institutions without documentation for the financial gain of administration, this would constitute human trafficking.

DRI urges the Mexican government to eradicate all forms of trafficking of persons in institutions across Mexico. Concrete steps must be taken to ensure that staff cannot sexually abuse the individuals in their care, and that those individuals are protected from sexual abuse by others detained in institutions. Supervision must ensure that in institutions that offer work opportunities, no one is compelled to engage in labor against their will. The government must create a robust program for evaluating adoptive placements and ongoing supervision to ensure the safety and well-being of children placed in the community. Further, DRI urges the government to review all documentation procedures to prevent the illegal placement of people with disabilities in institutions, and to closely supervise the allocation of private and public funds. It is imperative that action be taken to prosecute the perpetrators of trafficking and abuse in institutions, to protect the survivors of this heinous crime, and to prevent further exploitation. Mexico's anti-trafficking legislation is robust, but it must be implemented in accordance with expanded community-based services for survivors of trafficking in institutions.

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<sup>82</sup> At Estancia Sagrada Corazón de Jesús, administrators reported that several individuals were institutionalized without this documentation (DRI visit May 20, 2015). At Casa Esperanza de Deficientes Mentales, staff reported that the most recently admitted individual was found on the streets of Guanajuato, but staff stated, "We don't know anything about the patient." (DRI visit June 12, 2014).

<sup>83</sup> Código Penal, Deprivación ilegal de la libertad, artículos 160-62

<sup>84</sup> Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention Against Transnational Organized Crime art. 3 (a).

<sup>85</sup> The \$6,000 figure comes from information provided from DIF based on its standard agreements. The \$12,000 figure was the estimate of administration at Casa Hogar Para Niños Incurables in February, 2014

<sup>86</sup> At Internado Binet, DRI investigators reported that the institution sought families to leave their family members with disabilities in the institution, charged admission, but that the conditions did not reflect the funding (DRI visit June 11, 2014)

<sup>87</sup> Director Ericel Ramos, Casa Hogar 1, (DRI visit January 2015).

## V. Recommendations

DRI urges the government of Mexico City to take immediate action and overhaul its institutional system in order to eradicate abusive practices and to ensure the human rights of people in institutions. DRI's recommendations are based on human rights principles enshrined in the CRPD, as promulgated and adopted by the Mexican government. DRI's recommendations are centered on three themes: 1) **Provide access to justice and accountability**, including prosecution of criminal activity, provision of reparations to survivors of abuse, and systematic monitoring of institutions 2) **Plan for a New System of Community-Based Services and Supports** to reintegrate people with disabilities into sustainable long-term care, and 3) **Protect the legal capacity and provide supported decision-making of people with disabilities** to freely exercise their human rights.

### **Recommendation 1: Provide Access to Justice and Accountability: Prosecution, Reparations, and Monitoring**

It is imperative that efforts to redress these abuses focus on access to justice and accountability. Access to justice must include the criminal prosecution of perpetrators of abuse in institutions, as well as reparations to survivors of abuse. To guarantee the integrity of any strategy for reform, DRI urges the Mexican government to further commit to systematic monitoring of all institutions.

#### ***Prosecution of Abusers***

The CRPD recognizes the right to access justice for human rights violations, and the Mexican government should provide justice for survivors by prosecuting abusers under its robust domestic legal framework. According to principles of international law, there must be accountability and reparation for human rights violations. The legal basis for the right of access to justice can be found in the CRPD and the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of Humanitarian Law (heretofore Principles on the Right to a Remedy),<sup>88</sup> which states that the obligation to respect, ensure and implement international human rights law includes the duty to:

- “3. (a) Take appropriate legislative and administrative and other appropriate measures to prevent violations;
- (b) Investigate violations effectively, promptly, thoroughly and impartially and, where appropriate, take action against those allegedly responsible in accordance with domestic and international law;
- (c) Provide those who claim to be victims of a human rights or humanitarian law violation with equal and effective access to justice, as described below, irrespective of who may ultimately be the bearer of responsibility for the violation; and
- (d) Provide effective remedies to victims, including reparation.”

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<sup>88</sup> Basic Principles and Guidelines on the Right to a remedy and Reparation for Victims of gross violations of international human rights law and serious violations of humanitarian law; adopted by the Commission on Human Rights, Resolution 2005/35, 19 April 2005; adopted by the General Assembly, Resolution 60/147 of 16 December 2005.

Access to justice is fundamental to other human rights and has been described as “of critical importance to the enjoyment of all other human rights.”<sup>89</sup> When the CRPD was promulgated, the right to ‘access justice’ was included for the first time as a freestanding substantial right in an international human rights treaty.<sup>90</sup> This right of access to justice is now enshrined in Article 13 of the CRPD and includes the States’ obligation to provide reasonable accommodations in order to facilitate the person(s) effective participation in all stages of legal proceedings.<sup>91</sup> Moreover, governments have an international legal obligation to provide proper assistance to survivors of grave human rights violations; treat them with humanity and respect for their dignity and human rights; take appropriate measures to ensure their safety, physical and psychological well-being and privacy; and avoid their re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation.<sup>92</sup>

The right of access to justice guarantees the right to an effective judicial remedy, as provided for under international law,<sup>93</sup> including prosecution and punishment of the perpetrators of the human rights violations. According to the jurisprudence of the Inter-American Court of Human Rights, the duty to investigate and punish is considered a measure to secure judicial guarantees and protection to survivors of human rights violations.<sup>94</sup> On the other hand, the failure to investigate and punish is considered a violation of the survivor’s right to life, liberty and humane treatment.<sup>95</sup> The survivors of *Casa Esperanza* and *Mama Rosa* have suffered serious violations that amount to torture and other cruel, inhuman and degrading treatments. Mexico must ensure their right to justice through an effective judicial remedy, and fulfill its obligation under international law to prosecute and punish those responsible.

DRI urges the Mexican government to recognize the right to access justice, as enshrined in international law, and to prosecute human rights violations under its robust domestic legal framework. Mexican domestic law complies with international human rights standards in terms of criminalizing human trafficking, torture, abuse, and neglect. The government may leverage the wealth of domestic law to hold abusers accountable. Prosecution efforts should target the directors of institutions that are complicit in or perpetrating abuse. It is necessary to prosecute in order to hold the abusers accountable directly, as well as to send a signal that impunity will no longer be tolerated. Special attention should be paid to the aggravating circumstances where the survivors are minors or lacking mental capacity, for which the Mexican law provides for increased penalties.<sup>96</sup> DRI urges the Mexican federal government to pursue prosecution, given the complicity of the local Mexico City authorities in enabling abuses to occur.<sup>97</sup> Special effort must be made to ensure that the prosecution process does not re-victimize the survivors.

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<sup>89</sup> Kanter, Arlene, *The Development of Disability Rights under International Law: from Charity to Human Rights*, (Routledge: 2014) at page 222.

<sup>90</sup> *Ibid.* Prior to the CRPD, human rights treaties referred to the ‘right to equal protection before the law’ or the right to an ‘effective remedy’.

<sup>91</sup> CRPD art. 13 (1).

<sup>92</sup> Principle 12 (c) and 10.

<sup>93</sup> Principle 12.

<sup>94</sup> Enshrined in Articles 8 and 25 of the ACHR. Prosecuting Serious Human Rights Violations, by Anja Seibert-Fohr, p. 105.

<sup>95</sup> *Velásquez Rodríguez Case*, Inter-Am.Ct.H.R. (Ser. C) No. 4 (1988), Inter-American Court of Human Rights (IACrTHR), 29 July 1988.

<sup>96</sup> *Ley General para prevenir, sancionary erradicar los delitos en material de trata de personas y para la proteccion y asistencia a las victimas de estos delitos*, article 4, section 17.

<sup>97</sup> There is federal jurisdiction for these crimes given several factors: the institutions themselves function as organized crime; several government agencies, including DIF and the local Attorney General’s offices, are

### ***Reparation to Survivors***

Mexico has the obligation to provide reparations to the survivors of the abuses outlined in this report. The survivors' rights to access justice and accountability mandate the development of a thorough program of reparations. According to the Principles on the Right to a Remedy,

“Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law.”<sup>98</sup>

Based on the UN principles, DRI urges that the Mexican government provide reparations for the survivors of *Casa Esperanza* and *Mama Rosa*, including the following:

1. Restitution. Whenever possible, the State should restore the survivor to the original situation before the gross violations took place.<sup>99</sup> The survivors of *Casa Esperanza* have been deprived of their liberty on the basis of their disability and in violation of their rights. Restitution must include ending the segregation in which they have lived and ‘restore’ their right to liberty and to live in the community (article 19 of the CRPD).
2. Compensation. The State should provide compensation for any economically assessable damage, including the mental, physical and emotional harm done to the survivors. This compensation should be appropriate and proportional to the gravity of the violations and the circumstances, and should be assessed on a case by case basis.<sup>100</sup>
3. Rehabilitation. The State should provide medical and psychological care as well as legal and social services to the survivors of *Casa Esperanza* and *Mama Rosa*.<sup>101</sup>
4. Satisfaction includes, inter alia, effective measures aimed at the cessation of continuing violations.<sup>102</sup> Mexico must effectively monitor institutions that house children and adults with disabilities (see next section) and take urgent measures to close down abusive institutions, some of which have been documented in this report and in the report *Abandoned and Disappeared*, and integrate them to the community.
5. Guarantees of non-repetition including measures that contribute to preventing the violations from occurring again.<sup>103</sup> In this case, Mexico must immediately stop its policy of segregation of children and adults with disabilities in institutions and create community services for them, in accordance with Article 19 of the CRPD.

### ***Systematic Monitoring of All Institutions***

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implicated in the crime given that they knew of these abuses; many of the cases involve three or more people at a given institution; and several cases include the transfer of individuals into institutions across state lines. State Department TIP report <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226777.htm>

<sup>98</sup> Principle 15.

<sup>99</sup> Principle 19.

<sup>100</sup> Principle 20.

<sup>101</sup> Principle 21.

<sup>102</sup> Principle 22.

<sup>103</sup> Principle 23.

DRI urges the Mexican authorities to develop systems to consistent monitoring and oversight of all institutions where children and adults with disabilities are detained. There is currently an extreme lack of supervision and oversight of Mexican custodial institutions.<sup>104</sup> Safeguards and oversight mechanisms should be established immediately to protect the rights of children and adults detained in institutions or receiving support from community programs.<sup>105</sup> These oversight mechanisms are critical protections for children and adults in institutions and in community-based services and foster care. In order to ensure effective oversight, DRI urges the Mexican government to establish:<sup>106</sup>

1. A registry of children and adults in institutions and a system for tracking admissions, discharges, and transfers of individuals between institutions or into other placements.
2. Monitoring and oversight systems which operate at arm's length from social service authorities.
3. A system of registration and certification to ensure that no one is placed in any institution or community program that does not meet minimum standards of care and comply with monitoring.
4. Grievance and complaint procedures for people receiving services or personal representatives that may be appointed by such individuals.
5. A process for independent, professional and thorough investigations of reports of physical and sexual abuse and for monitoring and follow-up on serious injuries, including injuries of unknown origin, illness, and all deaths.

Human rights abuses thrive in the absence of supervision, and thus it is critical that robust monitoring and evaluation accompany any efforts for institutional reform.

### **Recommendation 2: Plan for a New System of Community-Based Services and Supports**

Article 19 of the CRPD recognizes the right of *every* person with a disability to live integrated in the community.<sup>107</sup> In January 2013 Mexico reformed its General Health Law to recognize the right to community services and community integration for people with disabilities. Article 72.3 specifically establishes that mental health care should be "provided with a focus on community and psychosocial rehabilitation as well as strict respect for human rights."<sup>108</sup> The Law states that mental health care treatment includes "the reintegration of the person [...] through the creation of social and welfare programs such as protected homes and workshops [...] for the proper care of these patients."<sup>109</sup> In its evaluation of Mexico in October 2014, the CRPD recommended that the State "**urgently define a strategy for the deinstitutionalization of persons with disabilities, including specific time frames and assessment measures.**"<sup>110</sup> Despite the reform to its own legislation and the recommendations issued by

<sup>104</sup>In the CRPD Committee's Concluding Observations, October 2014, at para 36(c) the Committee recommended that Mexico establish an independent oversight mechanism to register and oversee conditions in institutions for children with disabilities

<sup>105</sup> As detailed in our 2010 Report *Abandoned and Disappeared* Article 16 of the CRPD requires governments to create independent oversight mechanisms to protect against exploitation, violence and abuses.

<sup>106</sup> These recommendations and others are fully elaborated in DRI's 2010 Report *Abandoned and Disappeared* at page 60

<sup>107</sup> For a more in depth analysis of Article 19, see *Abandoned and Disappeared* pp. XX

<sup>108</sup> Article 72.3 of the text currently in force of the General Health Law, effective from January 16, 2013.

<sup>109</sup> *Ibid.*

<sup>110</sup> UN CRPD Committee, Concluding Observations on the Initial Report of Mexico, CRPD/C/MEX/CO/1, (27 Oct. 2014), para 44(b).

the CRPD Committee, in practice, thousands of individuals with disabilities continue to be segregated from society in abusive facilities because of the lack of community based services and supports. Until community services are established, there are no meaningful “choices” available to people with disabilities.

Further, the protection of survivors of human trafficking and prevention of further sexual abuse can be most effectively implemented through the de-institutionalization of people with disabilities and the development of community-based services in accordance with Article 19 of the CRPD.<sup>111</sup> Existing trafficking survivor protection services are inadequate to support the needs of people who have lived for years in institutions and who need extended transitional support to live and thrive in a community-based setting. Given the trauma of years of institutionalization, DRI firmly advocates for services that support trafficking survivors as they transition out of institutionalization and into community care. DRI has previously documented the requirement that in any social service system designed to protect survivors of abuse and violence, specialized services are needed to help children and adults cope with the dangerous emotional impact of trauma.<sup>112</sup> Further, current shelters for trafficking survivors do not have the capacity to attend to the unique needs of people with disabilities who have faced compound trauma as well as psychosocial and developmental disabilities. DRI urges the government to create specialized services to protect survivors of trafficking who have been institutionalized for disabilities, and to prevent their re-victimization by providing sustainable community-based care.

Thus, we reiterate our call to the Mexican government, made in our 2010 report, to urgently:

1. **Draw up comprehensive plans to integrate all people with disabilities into the community.** Mexico’s reform plans must be accompanied by action-steps, time-tables, and financing. Abstract rights or plans for reform are meaningless unless they are accompanied by clear action-steps that can be monitored over time (see CRPD art. 33). This plan must identify which authorities are responsible for taking action to create community-based programs. These plans must come with time-tables for action. The cost of each step should be set forth and the government should identify sources of funds to pay for services at each step. Community-based support should include:
  - a. Support for families of children with disabilities and adults who choose to remain living with families;
  - b. Appropriate education in an integrated environment for children with disabilities;
  - c. Supported independent living for adults, including housing for people with disabilities;
  - d. Income support at a level that permits humane and decent independent living;
  - e. Mental health services in the community – individuals should not have to travel far to receive mental health services or check into institutions for care they can receive in the community;
  - f. Community-based medical and social services;
  - g. Peer support;

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<sup>111</sup>CRPD, art. 19.

<sup>112</sup>See *Abandoned and Disappeared*, p 28; See also Maxine Harris and Roger D. Fallot, *Envisioning a Trauma-Informed Service System: A Vital Paradigm Shift*, *New Directions for Mental Health Services* (Maxine Harris and Roger Fallot, eds., 2001), Maxine Harris, *Modifications in Services and Clinical Treatment for Women Diagnosed With Severe Mental Illness Who Are Also Survivors of Sexual Abuse Trauma*, in *Women’s Mental Health Services* (Bruce Levin, Andrea Blanch & Ann Jennings, eds., 1998).

- h. Rights protection and advocacy in the community.
2. **Bring new placements to an end of children in institutions** – As a strategy for bringing about the full realization of the right to protect all people with disabilities from improper segregation from society, we recommend prioritizing children with disabilities. Mexico should adopt legislation that will end any new placements of children with disabilities by a specific, publicly declared target date, by which time safe and humane, family-based support should be available for all children with disabilities. If biological or extended families are not available for children, supported foster care (substitute family) programs should be established. Children are extremely vulnerable to abuse and increased disability from placements in institutions. Once family bonds are broken, future reintegration of children with families will be difficult. To avoid these dangers, Mexico should place the highest priority on the creation of family-based alternatives to institutions.
  3. **Avoid dumping people into the community with no services**– In many parts of the world, governments have used the mandate for reform as an excuse to close institutions and save money without creating community-based alternatives. Abrupt closures of institutions or “patient dumping” can create life-threatening dangers that should be avoided. During the transition to a community-based service system, the government will have to maintain institutions until alternatives are created. While savings may be possible when institutions are closed, governments should not expect such savings during the early years of reform.
  4. **Develop an individualized plan of support** for each individual, based on appropriate assessments and consideration of their social history.
  5. **Create family-based alternatives for children** that cannot legitimately remain with their natural families.
  6. **Allocate resources for crisis intervention and crisis stabilization**, including respite care with trained respite providers.

### **Recommendation 3: Protect Legal Capacity and Provide Supported Decision-Making**

According to the CRPD Committee, the right to legal capacity recognized in Article 12 of the CRPD consists of two parts: 1) the legal standing to hold rights and to be recognized as a legal person before the law; and 2) the legal agency to act on those rights and to have those actions recognized by the law. As such, Article 12 is regarded as one of the Convention’s pillars and core values. The ability to make decisions that have a legal effect is instrumental to exercising all the other rights recognized in the treaty. In its first General Comment, the UN CRPD Committee is very emphatic when stating “there are no permissible circumstances under international human rights law in which a person may be deprived of the right to recognition as a person before the law, or in which this right may be limited.” Regrettably, according to the Committee, the right to make decisions that have legal effect “is frequently denied or diminished for persons with disabilities.”<sup>113</sup> According to the CRPD Committee, “there has been a

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<sup>113</sup> CRPD Committee General Comment.

general failure to understand that the human rights-based model of disability implies a shift from the substitute decision-making paradigm to one that is based on supported decision making.”<sup>114</sup>

This is the case in Mexico, where a person’s rights can be overruled by the legal system if he/she is declared mentally incompetent and appointed a guardian. Article 450 of Mexico City’s Civil Code (from here onwards Civil Code) states that minors and people with disabilities have ‘natural’ and ‘legal’ incapacity, and refers to them as ‘incapacitated’. People with disabilities under the guardianship regime are unable to make decisions and instead, the guardian will make them for them, substituting their will. In its Concluding Observations to Mexico, the CRPD 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. At the same time, it urges the State party to review all federal and state legislation in order to eliminate any restriction of rights stemming from a declaration of legal incompetence or on the grounds of a person’s disability.”<sup>115</sup>

Violations of the rights of people with disabilities in institutions are more severe. A person who is placed in an institution loses the right to make even the most fundamental daily decisions of life – with no legal process whatsoever. People in institutions are not free to leave when they want to, cannot make decisions over their medical and psychiatric treatment, nor more basic choices such as when to get up and out of bed, when to eat, or what to do with their day. People are not given choices with regard to medical or psychiatric treatment. In many cases, the act of being placed in an institution can result in irreversible losses. Two women detained in institutions reported to investigators that they had lost contact with their children as a result of detention in an institution.<sup>116</sup>

In 2010, in its Report *Abandoned and Disappeared*, DRI called, and we continue to call on the Mexican government to make legal reforms and broad changes in attitude and practice to protect the right of people with disabilities to exercise legal capacity, provide supported-decision making, and protect against arbitrary detention. The right of all people with disabilities to enjoy legal capacity should be protected by Mexican law, consistent with CRPD article 12. To maximize the potential for individuals with disabilities to make meaningful choices, programs to provide support for supported decision-making should be established. This should include training for mental health and social care service workers at all levels – from policy makers to staff in institutions and community programs. Mexico’s mental health law and psychiatric commitment procedures should be revised to bring them into compliance with CRPD articles 12 and 14 to ensure that people are not arbitrarily detained in institutions.<sup>117</sup>

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<sup>114</sup> CRPD Committee General Comment.

<sup>115</sup> UN CRPD Committee, Concluding Observations on the Initial Report of Mexico, CRPD/C/MEX/CO/1, (27 Oct. 2014), para 24.

<sup>116</sup> *Abandoned and Disappeared*, p. 51.

<sup>117</sup> All DRI reports and publications are available here: <http://www.driadvocacy.org/media-gallery/our-reports-publications/>.

## Appendix I: Background & History

### A. DRI's documentation of abuse and segregation

The Mexican government failed to take meaningful steps toward reform after DRI documented widespread torture and abuse in the institutional system. In 2010 DRI and the Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH) released the findings of a year-long investigation into psychiatric institutions, orphanages, shelters, and other public facilities that house children and adults with disabilities. The report documented wide-spread violations of the rights of people with disabilities under the CRPD and other human rights treaties ratified by Mexico. *Abandoned and Disappeared* documented horrific and pervasive abuse and generalized segregation of people with disabilities in institutions across the country. Investigators discovered that children with disabilities disappear and are trafficked; within institutions, people are left in permanent restraints which constitute torture; the use of lobotomies and psychosurgeries persist; abandoned people languish in institutions for their lifetimes; there is discrimination against children with disabilities in outplacement and adoption; there is an extreme lack of treatment and rehabilitation; living conditions in institutions are often inhumane and degrading; people are denied legal capacity and access to justice. It also finds that in Mexico there are no alternatives to institutions so, once children and adults are detained in one, they will stay there for life. Mexico is not only failing to invest in alternatives to institutions through community services, instead the new investments that do occur are directed towards more of the same – segregated institutions.

### B. Twice Violated: Sterilization and Sexual Violence

DRI has documented widespread use of forced sterilization and the denial of reproductive rights to people with disabilities, yet the Mexican government has taken no action. In February 2015, DRI released the report *Twice Violated*. The report was the first of its kind in Mexico and one of the few at the international level, because it systematically collected data on the rate of abuse that women with disabilities experience against their sexual and reproductive rights. The report is based on the results of a year-long study carried out by DRI together with the Women's Group of the Colectivo Chuhcan – the first organization in Mexico directed by people with psychosocial disabilities. This research included the application of a questionnaire to fifty-one women with psychosocial disabilities who were either members of the Colectivo Chuhcan or received outpatient services at four different health clinics and psychiatric institutions in Mexico City. The main finding of this report is that the Mexican government has failed to implement policies that ensure that women with psychosocial disabilities have safe access to sexual and reproductive health services, on an equal basis with others. Particularly disturbing is the fact that in Mexico City, more than forty percent of the women interviewed have suffered abuse while visiting a gynecologist, including sexual abuse and rape. Equally worrying is the high rate of sterilization that we documented. More than forty percent of the women had been sterilized either forcefully or had been coerced by family members to undergo the surgical procedure. The findings of this survey must be understood in the context of DRI's broader work in Mexico, in which we have found even more widespread abuses and violations of reproductive rights among women and girls detained in institutions, including forced and coerced sterilization to cover up generalized sexual abuse, as in the case of "blacklisted" Mexico City Institution *Casa Esperanza*. Since the publication of this report, the Mexican government has failed to take action to ensure the safety and equal access of people with disabilities to sexual and reproductive health care, failed to permit DRI entrance to expand the research into institutions. Rather, the Mexican government has continued to perpetuate a system of

institutionalization that endangers women's access to sexual and reproductive rights, and supported an outpatient health system that discriminates against women with disabilities.

### C. CRPD Committee: Mexico's Obligation to End Segregation

The UN CRPD Committee has publically called upon the Mexican government to reform its institutional system, and yet the Mexican government has taken no steps to do so. In September 2014 DRI participated in the UN CRPD Committee's evaluation of Mexico's efforts to implement the CRPD and submitted information contained in our 2010 *Abandoned and Disappeared* report as well as the preliminary findings of our 2015 *Twice Violated* report. In October 2014 the UN CRPD Committee, based on the information submitted by DRI and other disability organizations, expressed concern about the total lack of strategy or plan to de-institutionalize people with disabilities in Mexico, contrary to article 19 of the CRPD.<sup>118</sup> The CRPD Committee recommended that the Mexican government *urgently* define a strategy for deinstitutionalizing people with disabilities with specific time frames and assessment measures.<sup>119</sup>

Further, the Committee recommended that Mexico commit financial resources to de-institutionalization and enact laws to ensure that people with disabilities may finally exit abusive institutions and return to life in the community. Specifically, the Committee called for personal assistance services that are culturally appropriate and enable people with disabilities to chose where and how they want to live according to their age, gender and choices for their own lifestyle.<sup>120</sup> Lastly, the Committee called on the government to urgently investigate the forced sterilization documented by DRI at *Casa Esperanza*, a "blacklisted" institution visited by DRI in June 2014. This is particularly relevant and signals the Committee's concern because, in its Concluding Observations, the Committee usually refers only to general issues and not individual cases. However, since the initial review period began in 2014 and despite international attention, the Mexican government has failed to develop a strategy for deinstitutionalization.

### D. UN Special Rapporteur on Torture: Atrocious Abuses at the CAIS

In recent years, the appalling conditions in CAIS facilities in Mexico City have been documented by the UN Special Rapporteur on Torture and the Federal District Human Rights Commission. In 2014 the UN Rapporteur on Torture urged the Government of Mexico to focus immediate attention on the "deplorable conditions" at the CAIS institution he visited in Mexico City. The Rapporteur highlighted that individuals at the CAIS live in unsanitary conditions, in a state of abandonment, and lack medical attention and any hope of rehabilitation.<sup>121</sup> Similarly, the Federal District Human Rights Commission found that individuals detained at CAIS institutions have no access to basic health services or medical attention, live in unsanitary conditions, and have almost no chance of ever returning to life in the community. The lack of any program for rehabilitation or attempt to facilitate re-integration of individuals into the community means that once a person is detained at CAIS, there they remain until

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<sup>118</sup> UN CRPD Committee, Concluding Observations on the Initial Report of Mexico, CRPD/C/MEX/CO/1, (27 Oct. 2014), para 43.

<sup>119</sup> *Ibid*, para 44.

<sup>120</sup> *Ibid*.

<sup>121</sup> *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, A/HRC/28/68/Add.3, (29 December 2014), Juan E. Méndez, para 75.

death. Despite these international calls for attention, CAIS is still receiving government funding and accepting people with disabilities referred into their care.

## **Appendix II: Institutional Visits**

### **MEXICO CITY**

#### Blacklisted institutions

##### **Asociación Mexicana Pro Niñez y Juventud, Mexico City**

- Size: 40 people
- Gender: women and men
- Ages: 20 adults, 20 minors (including new bornbabies)
- Funding: private
- Date visited: June 20, 2015

##### **Casa Hogar Esperanza para Deficientes Mentales, Mexico City**

- Size: 37 people
- Gender: women and men
- Ages: children and adults
- Funding: private and public
- Date visited: June 12, 2014 and June 2015

##### **Internado Binet, Mexico City**

- Size: 52 people
- Gender: women and men
- Ages: children and adults (as young as 11 years old)
- Funding: private
- Date visited: June 11, 2014

##### **Fundación Renacimiento de Apoyo a la Infancia que Labora Estudia y Supera I.A.P.,**

- Size: 60 people
- Gender: women and men
- Ages: 10 adults, 50 minors
- Funding: private and public
- Date visited: June 20, 2015

##### **Rios de Misericordia, Mexico City**

- Size: currently no population.
- Gender: n/a
- Ages: n/a
- Funding: private
- Date visited: June 11, 2015

#### Privately-run institutions

##### **Centro de Rehabilitación Luis Gonzaga IAP**

- Size: 23people
- Gender: women and men

- Ages: children and adults
- Funding: private
- Date visited: May 22, 2015

**Casa Hogar Consolación para Niños Incurables IAP, Mexico City**

- Size: 49 people
- Gender: men
- Ages: 8 -57 years old
- Funding: public and private
- Date visited: February 2014, May 2015, June 2015

**Casa Alianza, Mexico City**

- Size: serves 90 children
- Gender: girls and boys
- Ages: 12- 18 year sold
- Funding: private
- Date visited: July 11, 2014

**Casa Hogar Quinta San Isidro, Mexico City**

- Size: 115 girls and women
- Gender:women
- Ages:children and adults
- Funding: public and private
- Date visited:June 11, 2014

**Casa Esperanza de Nueva Vida, Mexico City**

- Size: 17 people
- Gender: women and men
- Ages: 26-60+ yearsold
- Funding: private
- Date visited: June 20, 2015

**Estancia Sagrada Corazón de Jesús**

- Size: 77 girls and women
- Gender: women
- Ages: 6 – 50+ yearsold
- Funding: private and public
- Date visited: May 20, 2015

**Fraternidad sin Fronteras, Mexico City**

- Size: 78 people
- Gender: women and men
- Ages: children and adults
- Funding: private
- Date visited: February 2014

**Fundación de Ayuda al Debil Mental, FADEM**

- Size: 55 people
- Gender: women and men
- Ages: 5 – 65 yearsold
- Funding: public and private
- Date visited: June 19, 2015

Federally-run psychiatric facilities**Hospital Fray Bernardino, Mexico City**

- Size: 200 beds for acute care
- Gender: women and men
- Ages: adultos
- Funding: public
- Date visited: July 14, 2014

**Samuel Ramirez Moreno, Mexico City**

- Size: 30 beds for acute care, 135 chronic patients
- Gender: women and men
- Ages: adults
- Funding: public
- Date visited: July 11, 2014

STATE OF MEXICO**Albergue Temporal de Rehabilitación Infantil, Toluca, Estado de México**

- Size: 450 people
- Gender: women and men
- Ages: children and adults
- Funding: public
- Date visited: visited June 18, 2015

**Centro CADI (Capacitación y Desarrollo Integral), Estado de México**

- Size: 86 people
- Gender: women and men
- Ages: mainly adults, some adolescents as young as 14
- Funding: private and public
- Date visited: June 18, 2015

**Psychiatric Hospital “La Salud”, Estado de México**

- Size: 150 chronic patients, 10 beds for acute care
- Gender: women and men
- Ages: adults
- Funding: public
- Date visited: July 12, 2014

MORELOS**Fundación Amor y Gozo en Acción, Cuernavaca, Morelos**

- Size: 20 people
- Gender: 19 women, one man
- Ages: 18-70 year old
- Funding: private (families, church donations)
- Date visited: June 11, 2015

### **OAXACA**

#### **Benito Juarez Orphanage, Oaxaca, Oaxaca**

- Size: 4 people
- Gender: women and men
- Ages: children and adults
- Funding: private
- Date visited: January 2015

#### **Casa Hogar 1, Oaxaca**

- Size: 69 children
- Gender: girls and boys
- Ages: 0-9 years old and some adolescents
- Funding: public
- Date visited: January 2015

#### **Josefino Orphanage, Oaxaca, Oaxaca**

- Size: 50 children
- Gender: boys and girls
- Ages: children and adults
- Funding: private
- Date visited: January 2015

#### **La Ciudad de los Niños, Oaxaca, Oaxaca**

- Size: 130 children
- Gender: boys and girls
- Ages: children, range of ages
- Funding: private
- Date visited: January 2015

#### **Psychiatric Hospital of Oaxaca, Oaxaca**

- Size: 27 chronic patients, 50 acute care
- Gender: women and men
- Ages: adults
- Funding: public
- Date visited: January 2015

***Sin Justicia: tortura, trata y segregación en México*****Resumen Ejecutivo**

Disability Rights International (DRI) llevó a cabo una investigación de dos años con el fin de documentar la situación en la que se encuentran niños y adultos con discapacidad mental en la ciudad de México. Como resultado de esta investigación, DRI encontró un patrón de violaciones graves y generalizadas a los derechos humanos. En contravención a las obligaciones de México bajo derecho internacional de los derechos humanos -que reconocen el derecho de las personas con discapacidad a no ser sujetos a tortura y detención arbitraria-, México no proporciona ningún tipo de apoyo a familias y a adultos con discapacidad para que puedan vivir como parte de la comunidad. A pesar de que no han cometido ningún delito, niños y adultos con discapacidad se encuentran encerrados y segregados de la sociedad. En la Ciudad de México, el tener una discapacidad puede significar una sentencia de cadena perpetua en condiciones de detención abusivas. Peor aún, la investigación de DRI ha revelado la existencia de una "lista negra" de instituciones especialmente abusivas. Las autoridades de Ciudad de México conocen este documento, sin embargo permiten que estas instituciones sigan operando.

*Uno de los niños estaba encerrado en una jaula en el patio. Otros permanecían amarrados. La gente en esta institución se queda allí de por vida. El director informó que todas las mujeres y niñas tenían que ser esterilizadas como política de la institución. - Observación DRI en Casa Esperanza, un centro de la lista negra, junio 2014*

**Detrás de las puertas cerradas de las instituciones para personas con discapacidad en la Ciudad de México, ocurren abusos atroces que constituyen nada menos que tortura.** A los niños y adultos se les niega cualquier tipo de tratamiento médico, éstos languidecen cubiertos en su propia orina y heces, en condiciones deshumanizantes e inmundas. Algunas personas con discapacidad permanecen en jaulas o cunas. Sin actividades físicas, los brazos y las piernas de estos niños se atrofian y sus órganos corporales fallan. Los niños pueden perder cualquier esperanza de vivir, dejan de comer, y se encuentran desnutridos y demacrados. Los investigadores de DRI encontraron niños atados de la cabeza a los pies, "momificados" y totalmente incapaces de moverse. Los adultos son amarrados con cinta adhesiva y vendas. Los niños están atados a sillas de ruedas en posiciones que incrementan el riesgo de que se ahoguen. Cualquier práctica de sujeción prolongada es muy dolorosa, agrava la discapacidad mental y física, y es potencialmente mortal. Muchas muertes quedan sin registro ni explicación. DRI ha encontrado niños, niñas, hombres, y mujeres que son violados y abusados sexualmente, de manera repetida, durante meses o años. Algunos de estos individuos son detenidos y explotados con fines sexuales y de trabajo forzado.

*Fui violada y nunca van a entender lo que viví y el dolor que siento. No quiero vivir, quiero morir.*  
-Mujer Rescatada de Casa Esperanza

Las autoridades que provén servicios sociales actúan conjuntamente con instituciones privadas para esterilizar a las mujeres y niñas con discapacidad, sin su conocimiento o consentimiento. Esta investigación muestra que la esterilización se utiliza como una manera de ocultar la violencia sexual que ocurre en dichas instituciones. Según el Relator Especial de la ONU sobre la Tortura:

*La esterilización forzada es un acto de violencia, una forma de control social y una violación del derecho a no ser sometido a torturas y otros tratos o penas crueles, inhumanos o degradantes...*

*los abortos y las esterilizaciones forzadas practicadas por funcionarios del Estado siguiendo leyes o políticas coercitivas de planificación de la familia pueden constituir tortura.*<sup>122</sup>

Las autoridades nacionales y locales han tenido conocimiento de estas prácticas desde hace años y aun así no han adoptado ninguna medida necesaria para poner un alto al abuso de las personas con discapacidad. No existe un monitoreo sistemático de instituciones para personas con discapacidad en México que supervise y evalúe la situación de los derechos humanos y, a algunas instituciones, se les permite actuar al margen de la ley y de manera extraoficial. En mayo de 2014, DRI se enteró de la existencia de una "lista negra", un documento oficial compilado por el Instituto de Asistencia e Integración Social del Distrito Federal (IASIS). De 76 instituciones que fueron evaluadas por el IASIS, se encontró que 25 representaban un "grave riesgo" para las personas que ahí vivían. A pesar de este hallazgo, ni el IASIS ni el Sistema de Desarrollo e Integración de la Familia del Distrito Federal (DIF-DF), que supervisa los servicios que se otorgan a niños y adultos con discapacidad, han actuado para poner fin a los abusos o cerrar estas instituciones.

Como parte de esta investigación, DRI ha visitado 5 de las 25 instituciones en la lista negra. Una de las primeras instituciones que visitamos en 2014, Casa Esperanza, era tan abusiva que DRI presentó la información recopilada ante el DIF-DF, buscando una acción inmediata por parte de dicha autoridad para proteger a las personas ahí detenidas. DRI observó a niños y adultos encerrados en jaulas, amarrados o postrados en camas de manera permanente, y viviendo en condiciones miserables. El director del centro informó de que las mujeres y las niñas en la institución eran esterilizadas porque no podía protegerlas contra el abuso sexual. Cuando DRI regresó en 2015, casi un año más tarde, con la asistencia de la Comisión de Derechos Humanos de la Ciudad de México, encontró que el DIF no había tomado ninguna medida y los abusos persistían. Además, encontramos que de las personas ahí detenidas fueron ingresadas sin documentos de identidad, y algunas de las mujeres eran abusadas sexualmente de manera repetida dentro de la institución, por parte del personal y otros.

*Cuando estaba en Casa Esperanza, D. el reparador, me llevó a un cobertizo, me bajó los pantalones y me violó. Me dolió mucho.*

*- Mujer Rescatada de Casa Esperanza*

DRI adopta la posición en la que la detención de personas para ser explotadas con fines sexuales o laborales constituye una forma de trata en el derecho internacional.

Los residentes de Casa Esperanza merecen justicia así como protección inmediata contra los abusos que persisten en el sistema de servicios de la Ciudad de México. Por desgracia, este caso demuestra la completa ausencia de alternativas humanas basadas en la comunidad que sustituyan las instituciones abusivas de México. No se ha podido reintegrar a estas personas en la sociedad, las autoridades simplemente han trasladado a los sobrevivientes de Casa Esperanza a otras instituciones. Como demuestra este informe, incluso las instituciones que no están en la lista negra de las autoridades locales, pueden ser abusivas. Un niño que sobrevivió Casa Esperanza, por ejemplo, fue trasladado a la Casa Hogar de Nuestra Señora de la Consolación para Niños Incurables, una institución en la que algunos residentes se encuentran permanentemente en jaulas. De las instituciones que hemos visitado, esta es una de las más limpias con personal muy bien intencionado. Sin embargo, sin una rehabilitación y

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<sup>122</sup>Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/22/53, (29 February 1, 2013), Juan E. Méndez, para 48. Disponible en [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53\\_sp.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53_sp.pdf)

tratamiento significativo y personal especializado -y sin ningún tipo de protección de los derechos humanos- las personas detenidas en esta institución que presentan algún tipo de dificultad para el personal simplemente son encerradas en jaulas. De acuerdo con personal de este centro, "mantenemos a la gente en jaulas, ya que si salen pueden lastimarse a sí mismos o a otras personas."

Según nuestra Constitución y el derecho internacional, las personas que han sido objeto de tortura tienen derecho a la reparación del daño por parte del Estado. El gobierno de México claramente tenía conocimiento sobre la tortura que se perpetraba en Casa Esperanza y no hizo nada. Sin embargo, dicha reparación es secundaria a la amenaza inmediata que enfrentan estas personas: detención en otras instituciones. Aun cuando se hayan identificado instalaciones limpias y bien administradas, estos individuos seguirán segregados de la sociedad sin la oportunidad de hacer sus propios amigos, tener una familia, o tomar decisiones básicas acerca de sus vidas. Tal segregación de las personas con discapacidad ha sido prohibida por el derecho internacional y el Relator Especial de la ONU sobre la Tortura también ha establecido que la devastación emocional que ocasiona el ser separado de la familia, también puede violar la Convención contra la Tortura.

*El Relator Especial llama enérgicamente la atención del Gobierno a las deplorables condiciones del Centro de Asistencia e Integración Social que visitó en el D.F., donde, pese al admirable trabajo que realiza su personal aun con escasos recursos, hay personas con serias discapacidades y necesidades médicas crónicas sin atender que han permanecido allí, algunas por más de 20 años, en condiciones insalubres, de abandono y con escasas probabilidades de rehabilitación. Estas personas reciben casi exclusivamente asistencia social y carecen de atención alguna en salud y prevención de tortura y maltrato.*

– Relator Especial sobre la tortura de la ONU<sup>123</sup>

La realidad es que los sobrevivientes de Casa Esperanza se enfrentan a la posibilidad de seguir sufriendo malos tratos, tortura y abuso, los cuales han sido documentados en las instituciones de la Ciudad de México. Pueden ser atados, enjaulados, abusados sexualmente, ser víctimas de trata, y no tener la oportunidad de tener hijos. **Los peligros que enfrentan los sobrevivientes de Casa Esperanza son los mismos peligros a los que todos los niños y adultos con discapacidad están sujetos cuando son detenidos en instituciones en la Ciudad de México.**

El caso de Casa Esperanza no es único. En 2014, hubo un caso de abuso masivo que tuvo gran atención mediática por parte de la prensa nacional e internacional. Este es el caso de La Gran Familia (comúnmente conocida como Mamá Rosa), institución ubicada en Michoacán. Alrededor de 590 niños y adultos fueron rescatados de esta institución extremadamente abusiva. A pesar de toda la atención pública que recibió el caso, no existen en México alternativas en la comunidad para sobrevivientes con discapacidad. En mayo de este año, DRI encontró que los sobrevivientes de Mamá Rosa siguen detenidos en otras instituciones. Los sobrevivientes de Mamá Rosa también merecen justicia. Sin la creación de un hogar seguro, humano, basado en la comunidad y el apoyo a las personas con discapacidad, los sobrevivientes de Casa Esperanza y Mama Rosa se enfrentan a una vida de segregación en la que los abusos persisten. **Sin reformas, no puede haber justicia.**

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<sup>123</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/28/68/Add.3, (29 December 2014), Juan E. Méndez, para 75. Disponible en <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/252/91/PDF/G1425291.pdf?OpenElement>

La falta de servicios públicos en la Ciudad de México, o en cualquier parte del país, para atender en la comunidad a las personas con discapacidad, no tiene justificación debido a la enorme atención internacional que el tema ha recibido -incluyendo la denuncia por parte de autoridades de los derechos humanos de la Organización de las Naciones Unidas. DRI documentó estos problemas en 2000, con la publicación de nuestro informe *Derechos Humanos y Salud Mental: México* (los informes de están disponibles en [www.DRIadvocacy.org](http://www.DRIadvocacy.org)). Tras la publicación de ese informe, el gobierno de México llevó las preocupaciones de las personas con discapacidad a las Naciones Unidas y patrocinó una resolución para redactar una nueva Convención de la ONU sobre los Derechos de las Personas con Discapacidad (CDPD).

Al patrocinar la CDPD, México hizo una importante contribución al derecho internacional y a los derechos de las personas con discapacidad. Pero México no ha implementado estos derechos para sus propios ciudadanos, los cuales siguen detenidos en instituciones. En 2010, Disability Rights International (DRI) dio a conocer el informe *Abandonados y Desaparecidos: Segregación y abuso de Niños y Adultos con Discapacidad en México*, que detalla el abuso y la segregación continua de las personas con discapacidad en México, incluso después de que el país ratificó la CDPD. Cinco años más tarde, DRI publicó el informe *Abuso y Negación de Derechos Sexuales y Reproductivos a Mujeres con Discapacidad Psicosocial en México*. En 2014, el Comité de la Convención de las Naciones Unidas de los Derechos de las Personas con Discapacidad (Comité CDPD de la ONU) instó a México a cumplir sus obligaciones a nivel internacional y poner fin a la segregación

La investigación más reciente de DRI en la Ciudad de México revela que, a pesar de toda la presión internacional, todavía hay una falta de supervisión y rendición de cuentas de las instituciones de custodia para niños. México ha no ha cumplido y sigue sin cumplir sus obligaciones más básicas bajo el derecho internacional hacia una de sus poblaciones más vulneradas.

DRI y nuestros aliados por un cambio en México, como el Colectivo Chuhcan, la primera organización del país dirigida por personas con discapacidad psicosocial, exigen medidas inmediatas para garantizar los derechos humanos básicos de las personas con discapacidad.<sup>124</sup> La justicia requiere un cambio fundamental en el modelo institucional. El cambio es posible - las personas con discapacidad han demostrado en todo el mundo que pueden vivir vidas buenas y significativas al ser parte de la comunidad. El cambio comienza con el gobierno creando hogares y apoyos basados en la comunidad para las personas con discapacidad y poniendo fin a la tortura. La justicia depende de estas reformas -así como la reparación del daño a las víctimas y el enjuiciamiento de los perpetradores del abuso, la trata y la tortura de las personas con discapacidad. Este informe resume cómo México puede tomar pasos hacia la reforma y la justicia.

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<sup>124</sup> Este informe documenta la detención de las personas con todo tipo de discapacidad en instituciones, incluyendo niños y adultos con discapacidades mentales, físicas o sensoriales. Las personas con discapacidad mental incluyen aquellos que tienen un diagnóstico psiquiátrico (también conocido como una discapacidad psicosocial) o una discapacidad intelectual. Hemos documentado los abusos en contra de cualquier persona detenida en estas instituciones bajo la hipótesis de que tienen una discapacidad -la tengan o no. Debido a que todos los niños detenidos en las instituciones están en mayor riesgo de desarrollar una discapacidad, hemos ampliamnete documentado la situación niños institucionalizados en este informe.