

## INFORME EPU SOBRE SISTEMA PENITENCIARIO EN MEXICO 2013

### *Coalición por los derechos de las personas privadas de libertad en el Sistema Penitenciario Mexicano.*

Asilegal-Documenta- Instituto de Derechos Humanos Ignacio Ellacuría  
Comunicación conjunta del EPU-México-Octubre 2013 (Período 2009-2012)

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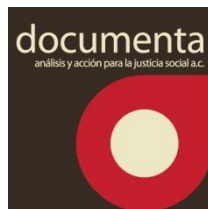
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## **INFORME EPU SOBRE SISTEMA PENITENCIARIO EN MEXICO 2013**

This report outlines the current situation found in the penitentiary system in Mexico, and tackles the main problems identified in the recommendations made to the Mexican Government in 2009, which concern penal reform, with specific reference to living conditions, the use of human and economic resources, violence, and overcrowding. The situation with regard to the living conditions and human rights as experienced by vulnerable groups in prison – such as indigenous groups, members of the LGBT community, and people with learning disabilities– are also outlined and discussed. Finally we present a series of recommendations with the objective of transforming the human rights situation for those detained in the penitentiary system in Mexico.

### **A. REFORM TO THE PRISON SYSTEM**

1. As of June 8, 2008, the constitutional reform of the criminal justice system took effect with the aim of creating a new national prison system. From such reform, each state has the responsibility of, in no more than three years, promulgating secondary legislation that enacts the new reintegration system as well as a new framework for the modification of sentencing.

2. Currently, all federal entities have passed their respective legislation; nevertheless, there are serious flaws in these state laws due to the haste with which they were written. Some flaws are forcing new judges to prioritize, in their resolutions, discretionary criteria of a technical and medical nature issued by prison authorities (a file of individualized and progressive technical data), thus infringing intangible rights, such as the assumption of normalcy, and undermining the responsibility that has been constitutionally reassigned to judges, namely the determination of the length of a custodial sentence. Therefore, the actual length of such criminal penalties would continue to be subject to the penal administration and its technical staff.

3. Another serious flaw is that local laws have prevented judges from examining prison living conditions. It has also impeded them from investigating whether the punishment experienced by the inmate is disproportionate compared to the penalty imposed due to living conditions that are deleterious to human dignity. In this way, the length and the nature of the penalty depend on the prison administration and the judgments it makes.

### **B. PRISON CONDITIONS**

4. Undoubtedly, the last administration made unprecedented efforts to increase the current capacity of federal prison facilities. On taking office, the administration had 6 federal prisons, which had increased to 14 by the end of its term with 3 under construction. Nonetheless, this improvement in infrastructure has not been able to

definitively eliminate the problem, since the total national number of inmates is 242,754; placing Mexico in sixth place worldwide<sup>1</sup>, with a total nationwide overpopulation rate of 28.32%. Currently, federal prisons can house, in total, 192,118 people, meaning that there are no places for 48,636 current inmates.

5. One of the most urgent actions required to improve living conditions in the country's federal prisons and to ensure the effectiveness of reintegration programs lies in solving the overcrowding and overpopulation problems that are overwhelming the prison system. Currently, Mexico has a prison population of 126%<sup>2</sup>. There are states in which the population in prisons is higher than 170%. Such is the case for Mexico City with 181% and Jalisco with 176.4%.<sup>3</sup>

6. Of 420 prisons in the country, 220 have an overpopulation problem. As 48.5% of the total prison population is found in 7 states, it is necessary to distribute this population more evenly.

7. A survey of the inmates at the prison on the Islas Marias shows that 34% of the surveyed inmates share a dormitory with between 20 and 22 people, while 16% share with 12 inmates, and 9% with 4.<sup>4</sup>

8. The President of the Special Prisons Commission of the Mexico City Legislative Assembly found up to 40 inmates in one cell while visiting the *El Reclusorio Sur* facility in the capital. These problems with chronic overcrowding make inmates devise alternative sleeping arrangements, such as tying themselves upright to enable them to sleep on their feet.<sup>5</sup>

9. In recent years, the increase in the prisons population is mainly due to the expansion of the catalogue of serious felonies, and the lack of criteria for the implementation of preventative measures alternative to different from pre-trial detention.

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<sup>1</sup> World Prison Brief by the International Centre of Prison Studies,  
See: [http://www.prisonstudies.org/info/worldbrief/wpb\\_stats.php?area=all&category=wb\\_poptotal](http://www.prisonstudies.org/info/worldbrief/wpb_stats.php?area=all&category=wb_poptotal).

<sup>2</sup> World Prison Occupancy Rate. See:  
[http://www.prisonstudies.org/info/worldbrief/wpb\\_stats.php?area=all&category=wb\\_occupancy](http://www.prisonstudies.org/info/worldbrief/wpb_stats.php?area=all&category=wb_occupancy).

<sup>4</sup> Secretaría de Seguridad Pública, Federal Prison System Statistics, January 2013.  
See: <http://www.ssp.gob.mx/portalWebApp/ShowBinary?nodeId=/BEA%20Repository/365162//archivo>

<sup>5</sup> Results of the first Survey to the Federal Prison Facilities done by El Centro de Investigación y Docencia Económicas, 2012.

[http://publiceconomics.files.wordpress.com/2013/01/encuesta\\_internos\\_cefereso\\_2012.pdf](http://publiceconomics.files.wordpress.com/2013/01/encuesta_internos_cefereso_2012.pdf).

<sup>6</sup> Note written in El Periódico Universal <http://www.eluniversal.com.mx/notas/890470.html>, December 18th 2012.

<sup>7</sup> Secretaría de Seguridad Pública, Federal Prison System Statistics, September 2012.  
See: <http://www.ssp.gob.mx/portalWebApp/ShowBinary?nodeId=/BEA%20Repository/365162//archivo>.

10. In Mexico, 40.1% inmates are awaiting sentencing.<sup>6</sup> The prison system crisis will not be solved until the pre-trial detention is controlled. The overuse of this exceptional measure contravenes the principle of the presumption of innocence.

10. While the constitutional reform establishes the exceptionality of pre-trial detention, the current catalogue of serious felonies allows for the arbitrary imprisonment of tens of thousands of people that have been accused of a crime, but never tried.

11. In Mexico, 60% of sentences are related to misdemeanors and only 12% are connected to crimes such as murder, rape and violent robbery. This means that a huge proportion of state resources dedicated to the justice and prison systems are spent on dealing with misdemeanors. The ideal approach would be the implementation of alternative judicial mechanisms and resolutions for the criminal proceedings prosecuting these types of crimes, which would enable the states' security and criminal justice systems to prioritize and focus their resources on addressing more serious crimes. Likewise, the responsible agencies and institutions should be required to effectively oversee penalties, suspension conditions and treatment programs. The development of bail finance programs run by social interest groups is advisable, since at least 10% of people with the right of to be freed on bail face difficulties obtaining the funds required to secure their release.

12. The overcrowding has led to a crisis situation in the Mexican prison system, characterized by self-government, corruption, and high levels of violence and other incidents that jeopardize the life and safety of those imprisoned by the State.

13. From 2009 to 2012, the number of violent incidents within prisons has increased. While in 2008 the official statistics for federal prisons showed 22 incidents in which 46 inmates participated, in 2012 the number had reached 74 incidents with the participation of 364 people. This data only shows the reality in the facilities under federal government administration. In state and municipality prisons, figures for violent incidents have also increased. While between September 2008 and July 2009 incidents involving 829 people were identified, with 180 dead, 507 injured and 142 escaped inmates, between July 2009 and July 2010, the number of people involved increased to 3,681, with 293 deaths, 216 fights, 47 suicides, 17 hunger strikes, 17 attempted suicides, 22 jailbreaks, 8 riots, 3 attempted jailbreaks, 1 attempted rape, 1 rape, and 37 homicides. Between 2010 and 2011, 887 incidents were recorded, involving 5,179 inmates, of which 3269 inmates were involved in riots, 922 in fights, 316 died, 320 escaped from prison, 52 killed, 83 committed suicide, 60 assaulted third parties, 107 went on hunger strikes, 11 attempted suicide, 14 self-harmed, 10 tried to escape, 8 attempted homicide and 7 committed rape.<sup>7</sup>

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<sup>7</sup> Fifth Government Report from Ex-President Felipe Calderón Hinojosa, Secretaría Seguridad Pública 2010-2011.

14. Certain states — the majority in the north of the country — show more than double the number of violent incidents compared to the national rate.<sup>8</sup>

15. The most recent events demonstrating the violence generated by self-government in these reintegration facilities took place in 2012 at the Altamira Prison in Tamaulipas, where a gang fight left 31 people killed and 13 wounded. In February 2012 at the Apodaca prison, Nuevo Leon, 44 inmates were killed and 30 others escaped from jail with the help of penitentiary employees.

16. The self-government problem in Mexico has worsened due to the ever-increasing number of inmates recruited by organized criminal organizations in both municipal as well as state facilities. These groups control the inmate population, forcing them into regime of personal favors and privileges regulated, generally, by a system of fee and protection payments. This is a situation accepted and even condoned by various authorities. The general public is aware of these diverse criminal activities which corrupt prison authorities with the goal of receiving all levels of assistance in order to plan or continue committing serious crimes from within the prisons themselves.<sup>9</sup>

17. Besides this type of gang and crime motivated violence, we must highlight violence committed against inmates by prison staff. Violation of inmates' human rights, acts of corruption, and cruel, inhuman and humiliating treatment have all been recorded by public commissions protecting human rights<sup>10</sup> and the United Nations Sub-committee on Prevention of Torture<sup>11</sup>, as well as several non-government organizations and many media reports.

18. Since 2006, it has been clear that “it is a common practice to beat and mistreat inmates (...) for officers and other inmates in Mexican prisons”, as described in the 2006 *Special Report of the National Commission on Human rights situation in the prisons of Mexico* by the National Commission on Human Rights (CNDH). Mistreatment on the part of prison staff was registered in the National Assessment of Prison Supervision, in 2009 and 2010. One year later, the CNDH found that the majority of prisons do not register cases of torture and/or mistreatment, nor do they have a system to deal with this problem.<sup>12</sup>

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<sup>8</sup> It was registered in Nuevo León (8.7), followed by Tamaulipas (8.4), Coahuila (7.7), Distrito Federal (6.2) and Durango (5).

<sup>9</sup> General Recommendation No. 18, about the situation of Inmates' Human Rights within Mexican Federal Prisons. See: [http://www.cndh.org.mx/sites/all/fuentes/documentos/Recomendaciones/Generales/REC\\_Gral\\_018.pdf](http://www.cndh.org.mx/sites/all/fuentes/documentos/Recomendaciones/Generales/REC_Gral_018.pdf).

<sup>10</sup> See Diagnóstico Nacional de Supervisión Penitenciaria en México presentado por la Comisión Nacional de los Derechos Humanos de 2010. Considering several variables, a grade is given to prisons from 6.9 out of 10 points, found in: <http://200.33.14.34:1003/principal.asp>. General Recommendation 18: About the situation of inmate' human rights in Mexican Prisons on September 21, 2010, found in: <http://www.cndh.org.mx/node/33> and the reports on detention centers of the National System for Torture Prevention, from 2007 to 2011, founding: <http://www.cndh.org.mx/node/582>.

<sup>11</sup> See Informe sobre la visita a México del Subcomité para la Prevención de la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes. 31 May 2010. Found in: [http://www.2.ohchr.org/english/bodies/cat/opcat/docs/ReportMexico\\_sp.pdf](http://www.2.ohchr.org/english/bodies/cat/opcat/docs/ReportMexico_sp.pdf).

<sup>12</sup> Result of the Analysis to the National Prison System Supervision, 2011.

19. The number of complaints filed against the Federal Prison system with CNDH increased from 473 to 928 between 2009 and 2011, the most common being those related to poor medical attention, irregularities in the granting of early release, the imposition of arbitrary or punitive conditions on visiting rights, and arbitrary transfers.<sup>13</sup>

20. On the other hand, it is necessary to implement management mechanisms that facilitate frequent visits to both prisons and the solitary confinement units within them by the authorities of the human rights administrations, public commissions for human rights protection, the inmate's relatives, and civil organizations working in this field.

*"In the place of punishment you are totally isolated. They squeeze in as many people as will fit -like 800 people approximately. You find all sorts of people: Murderers, rapists, street fighters, and yobs, it is really ugly in there. In addition, since you do not get permission to take a shower, just imagine what it smells like there after two weeks. In order to sleep, people tie themselves to the bars to keep from falling down while sleeping." (Testimony from an inmate).*

## **B. PRISON STAFF**

21. Within the structure of the prison system it is the responsibility of the security and custody team to guarantee safety by ensuring that the inmates' human rights are respected inside the prison facility. The shortage of prison staff poses a tremendous challenge to this task; the national average is 7.3 inmates per officer. Across the territory, this ratio varies from 3.1 to 19.2 inmates per officer<sup>14</sup>. Besides the shortfall and uneven distribution of officers, the lack of staff professionalization with regards to human rights and gender sensitivity must also be taken into account.

22. In spite of projects such as the National Academy for Penitentiary Management, cases of abuse, torture<sup>15</sup>, and corruption on the part of administrative authorities and

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<sup>13</sup> General performance of the National Commission for Human Rights in response to complaints against the Federal Prison System. ITAM, FLACSO, March 2012, Mexico.

<sup>14</sup>Elías Carranza, Director del Instituto latinoamericano de las Naciones Unidas para la Prevención del Delito y el Tratamiento del Delincuente (ILANUD) subrayó que "la relación numérica óptima estimada es 1:1, es decir, de un funcionario o funcionaria de seguridad por cada privado o privada de libertad. Aunque pudiera parecer elevada, ésta es la relación que existen normalmente en los países de Europa occidental y en algunos penales selectos de América Latina. En realidad, como explica Carranza, en razón de los necesarios turnos del personal, la mitad está en su domicilio y la otra mitad en el sistema penitenciario, y de esta última, un 50% se encuentra cumpliendo sus funciones, mientras el otro 50% está preparándose para el relevo, descansando, durmiendo o comiendo, con lo que, en realidad, la relación no es 1:1, sino 4:1. Elías Carranza, "Sobrepoblación penitenciaria en América Latina y el Caribe: situación y respuestas posibles" en Elías Carranza (coord.) Justicia penal y sobrepoblación penitenciaria. Respuestas posibles", México, Siglo XXI, 2001.

<sup>15</sup> Example: Recommendation 01/2012, *Torture inflicted by Prison staff Special Group Tiburón to inmates in CERESOVA for rioting to demand more visit days and improvement in found.* Comisión de Derechos Humanos del Distrito Federal.

prison staff are still commonplace. In the last three years, for example, at least 365 officers, security chiefs and prison directors have been investigated as a result of jailbreaks.

### C. FINANCIAL RESOURCES

23. Figures from recent years indicate a considerable increase in resources allocated to the prison system. An analysis of the authorized budget for the Decentralized Institution for Prevention and Social Reintegration of the Federal Ministry of Public Security shows that its budget rose from \$2,280.1 million (MXN) in 2007 to \$12,681.3 million (MXN) in 2012. The most significant increase took place in 2009, when the budget increased by 197% compared to that of 2007. This was mainly because of the amounts earmarked for the construction and maintenance of federal prisons.<sup>16</sup> While this amount of money represented 14% of the budget for public security in the first three years of the last administration, for 2010 the figure had reached 23% and rose to almost 31% for 2011.

24. While it is true that a significant increase has been observed in the funds allocated to this area at a federal level, the availability of resources varies considerably between federal states, ensuring that the amount of money spent per inmate varies greatly also. It has been found that 50% of prisons managed by state governments have poor infrastructure.<sup>17</sup>

25. This situation appears even more severe if we consider that State expenditure for the almost 100,000 inmates in Mexico who have not been sentenced amounts to 4.4 billion pesos.<sup>18</sup> As stated in *Cámara* magazine: "In this region, a man in jail is more expensive than the money received by a family living below the poverty line. This indicates that, in social terms, it is more profitable to invest in improving poor people's living conditions than to continue imprisoning criminals".<sup>19</sup>

26. The Mexican Government must prioritize budget distribution at both federal and state levels for the following; improvement of facilities in order to ensure basic dignity for inmates, the assurance of high-quality medical service, more opportunities for work and - including technical and professional training - education, leisure time, and respect for both human and gender rights. These must be given priority since it is improvements in these areas that can help to deter crimes in prison, crime that emanates from prison, and crime that is committed after release from prison.

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<sup>16</sup> Sixth Government Report from Ex-President Felipe Calderón Hinojosa, 2012.

<sup>17</sup> The governments of the states of Chihuahua and Oaxaca are considering the closing of approximately 4 state prisons due to the facilities deterioration and overpopulation in them.

<sup>18</sup> El Informador. Newspaper Report considers an analysis to the "Centro de Estudios Sociales y de Opinión Pública de la Cámara de Diputados". See: <http://www.informador.com.mx/mexico/2010/212128/6/presos-en-mexico-cuestan-mas-de-cuatro-mil-mdp.htm>

<sup>19</sup>[http://www3.diputados.gob.mx/camara/005\\_comunicacion/a\\_boletines/2012\\_2012/005\\_mayo/08\\_08/5143\\_e\\_nfrenta\\_una\\_grave\\_crisis\\_el\\_sistema\\_penitenciario\\_del\\_pais](http://www3.diputados.gob.mx/camara/005_comunicacion/a_boletines/2012_2012/005_mayo/08_08/5143_e_nfrenta_una_grave_crisis_el_sistema_penitenciario_del_pais).

## E. HIGHLY DISCRIMINATED GROUPS

27. People from indigenous groups, members of the LGBTTTI community, people with mental illness and learning disabilities, and women are conspicuously vulnerable groups in the Mexican penal system.

28. **Indigenous groups.** From the information provided by the database of the Federal Ministry of Public Security, in August of 2011 there were 229,824 people imprisoned, of which 8,349 came from indigenous groups. In July of 2012, the National Commission on Human Rights reported that there were 8,530 indigenous people incarcerated (7,715 imprisoned for state crimes and 815 for federal crimes).

29. It is important to mention that from 2007 to 2012, through its Release of Indigenous Prisoners Project, the National Committee for the Development of Indigenous Groups facilitated the release of 5,228 indigenous people<sup>20</sup>. The results were achieved through the use of economic resources<sup>21</sup> to make bail payments to the relevant authority. Nevertheless, in the current economic climate there are insufficient resources to meet the demand posed by the sheer number of imprisoned indigenous people or those who are at risk of being imprisoned. Another aspect to take into account is that, according to the information provided by the unit responsible at the project, it is making very slow progress, where less than 35% of the planned targets of cases have been processed<sup>22</sup>.

30. While there are government projects<sup>23</sup> aimed at facilitating access to justice for indigenous people, these have proved insufficient and ineffective in the face of the prevailing circumstantial and material factors, such as the devastating consequences of poverty. People are face with the possibility of up to six years imprisonment, even when only a misdemeanor has been committed, due to their lack of economic resources to pay an average bail of no higher than two thousand pesos. In other words, even when the offense allows for the application for bail, which does grant the offender liberty, indigenous people will hardly ever be able to afford it. That is why the use of the measure, when set against its great benefit, becomes an authentic contributor to the criminalization of poverty. Another greatly prejudicial aspect is the high level of illiteracy, the lack of comprehension of. at times even basic Spanish, and the absence of an interpreter during criminal proceedings. Such circumstances have enabled public servants to force imprisoned indigenous people into signing incriminating confessions despite their innocence.

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<sup>20</sup> Documentary Memoir 2006-2011 Comisión para el Desarrollo de los Pueblos Indígenas.

<sup>21</sup> 64.7 million pesos were applied.

<sup>22</sup> Results of the Assessment of Congruence and Results applied to the Project for the Release of Indigenous Prisoners 2011.

See: [http://www.cdi.gob.mx/coneval/ecyr\\_2011\\_2012\\_posicion\\_institucional\\_excarcelacion\\_cdi.pdf](http://www.cdi.gob.mx/coneval/ecyr_2011_2012_posicion_institucional_excarcelacion_cdi.pdf).

<sup>23</sup> Project such as “el Diplomado de Formación y Acreditación de Intérpretes en Lenguas Indígenas en los Ámbitos de Procuración y Administración de Justicia realizado por la Comisión para el Desarrollo de los Pueblos Indígenas” in collaboration with “El Instituto Nacional de Lenguas Indígenas”.



31. There is one very emblematic fact that shows that most indigenous people in Mexico have no access to an adequate defense that conversant in their language and culture. There are just ten attorneys linguistically certified to represent speakers of the country's various indigenous languages, and there is no specialized formative educational program in the language and culture of the indigenous groups in prisons.

32. **Women.** From the moment that they are arrested, women in prison face abuse, violence and corruption. Mixed prisons pose a particularly acute risk for women and there are only 10 female prisons out of the 420 currently existing facilities. In mixed prisons, we have found out that female inmates share several areas with male inmates such as workshops, grocery stores and visiting yards, in which forced prostitution is carried out in improvised areas such as small houses or cabins.

33. With regard to women's health, seriously ill female inmates are transferred to hospital under disproportionate security conditions such as the use of handcuffs. Mandatory contraceptive use is a practice commonly applied in order that women do not lose their right to conjugal visits, but one that is carried out without allowing them to make an informed choice in terms of their own wishes and the suitability of the measure for their own bodies, and, most importantly, it is a practice implemented regardless of their consent. Pregnant women are highly discriminated against by not providing them with appropriate medical assistance according to their needs. In prisons, there are no specialized doctors in obstetrics and gynecology.<sup>24</sup>

34. Female inmates claim that the most common forms of sexual abuse are as follows: molestation, obscene comments, pestering, sexual harassment, prostitution and the imposition of sexual favors that determine which rights they are allowed to exercise. The 04/2010 recommendation on "gender institutionalized violence" reports that sexual harassment, third-party prostitution and the human trafficking of females are just some examples of what women are undergoing in penal facilities in Mexico City. Some women claim they have been tortured with plastic bags used to suffocate them, and have been subject to beatings, electric shocks to their breasts, psychological violence and rape.

35. The use of force alongside disciplinary measures is excessive in many of these facilities. Women are arbitrarily taken to punishment cells, whose conditions are completely inappropriate for the length of time for which they are held there. The prison officers that enforce such penalties are usually male. This is a female inmate's testimony:

"The established punishment was two weeks in one room; women were isolated from the prison population and taken to a cell, they, are rooms with a

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<sup>24</sup> De la Peña. Cariño y Gutiérrez (2011). Mujeres privadas de libertad ¿Mujeres sin derechos? Diagnósticos sobre la situación de los Derechos Sexuales y Reproductivos de las mujeres privas de libertad en los estados de Guanajuato, Guerrero, Puebla y Querétaro. México. Found in: [http://dl.dropbox.com/u/79437401/Publicaciones%20ASILEGAL/diagnostico\\_sobre\\_los\\_derechos\\_sexuales.pdf](http://dl.dropbox.com/u/79437401/Publicaciones%20ASILEGAL/diagnostico_sobre_los_derechos_sexuales.pdf)

tiny window and the women were in there and there were some who spent from two or three months there, who were called “zetas” and those poor women, you could hear their screams, let us out please, have mercy, because they were very close to the punishment rooms, they were not with the population and they came to take them to the court, an eight-officer squad arrived to take them and you could hear them screaming and crying” (a prisoner’s testimony).

**36. People with mental illness and learning disabilities.** Official statistics point out that in July of 2011, 796 belonged to the psychiatric and not imputable population. Of these, 736 are men and 60 women.

37. Important advances have been achieved in the area of persons with disability but there is little data available on the topic of the rights of prisoners with mental illness or a learning disability. No real conditions exist to guarantee them due process when they are subjected to prosecution after being accused of perpetrating a crime.

38. The support available for disabled people during administrative and/or judicial procedures to help them gain access to justice is not sufficient to counterbalance the obstacles and barriers common to this environment. This is not only in terms of physical and regulatory issues and access to information and the communications infrastructure, but also in terms of the attitudes they have to deal with.<sup>25</sup>

39. Life in prison for people with mental illness and learning disability becomes even more difficult than for the rest of the prison population, due to the unsuitable conditions, the lack of special installations to accommodate them, deficient integral<sup>6</sup> medical<sup>5</sup> care, unsanitary conditions, and the lack of understanding<sup>7</sup> and training on the part of prison officers. These issues combined with the permanent isolation they experience and lack of activities which they are offered, when considered as a whole, violate their human right to receive decent and non-discriminatory treatment.

40. All of this is, beyond any doubt, a consequence of the insufficiency of the legal framework and of the inadequate institutional practices that should, but fail to, guarantee the defense and protection of human rights of persons with any form of disability.

## **RECOMMENDATIONS FOR THE PENITENTIARY SYSTEM**

1. Incorporate control and observance mechanisms in the national legislation that include the participation / presence of civil society with the objective of ensuring dignified conditions in penitentiary facilities.

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<sup>25</sup> National Commission on Human Rights (Mexico): recommendation 9, on the situation of the Human rights of the persons who suffer mental disorders and are in centers of imprisonment of the Mexican Republic, October, 2004.

2. Carry out an extensive diagnostic examination of the living conditions experienced by inmates in the new penitentiary complexes.
3. Taking the recommendations made to Mexico in 2009 by The Subcommittee on Prevention of Torture as a basis, provide training for security and custodial personnel in the areas of both Human Rights and gender perspectives through the auspices of the *Career Professional Service*. Increase the number of prison officers and ensure that all personnel are adequately remunerated.
4. Formulate a national strategy with concrete criteria and objectives with the intention of providing alternatives to detention on remand and legislation that ensures that the privation of liberty be the last measure taken, thus guaranteeing the presumption of innocence.
5. Using sufficient financial and human resources, implement constitutional reform in the area of criminal justice, specifically the penal system, guaranteeing its jurisdiction in the vigilant maintenance of dignity in the living conditions found inside penal facilities.
6. That the new regulatory legislation for criminal sentencing derived from the constitutional reform of criminal justice in the area of the penal system guarantees the right for due process to regulate the procedure for imposing internal disciplinary measures in order that these measures are not imposed at the discretion of the authorities, as currently happens in practice on a daily basis.
7. In accordance with the recommendations of the Inter-American Commission on Human Rights in 1998, and in line with the international treaties to which Mexico is party, it is recommended that “assessments of personality and danger to the public as a requisite to any form of parole” is deleted from the new regulatory legislation of criminal sentencing.
8. Ensure that tribunals seek recourse to sentences that are an alternative to prison and widen the scope of their application<sup>26</sup>.
9. Establish a protocol for a psychological-medical treatment individualized for the rehabilitation of those in prison with learning difficulties, including the creation of services in the community that would guarantee their reintegration and prevent them from reoffending.

## **QUESTIONS REGARDING THE PENAL SYSTEM**

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<sup>26</sup> As was recommended by the National Commission on Human Rights (Mexico) in 2010 and by the Inter-American Commission on Human Rights in 1998.

1. How can the participation of the civil society in the Mechanism for the Prevention of Torture?
2. How many people are currently detained in each of the new federal penal facilities and in extant facilities?
3. How many prison officers per inmates are found in the social reintegration centers in Mexico City, one of the States that suffers from the greatest overcrowding?
4. How many people are currently detained in pre-trial detention and how many have now been sentenced?
5. What is the average time for which a person finds themselves detained on remand?
6. What measures will the Mexican state take in the short and medium term to combat delays in the sentencing process for people detained on remand?
7. What has been the increase in the on remand population in the last 6 years?
8. What measures are being taken in the short term to decrease overcrowding in penal facilities in your country?
9. How many states in the Republic of Mexico have fully implemented the constitutional reform of criminal justice in the area of the penitentiary system?
10. What obstacles to the full implementation of the penal reform in each of the states of the Republic of Mexico have been identified?
11. In which states do judges have full jurisdiction to examine the conditions inside these penal facilities?
12. What legal processes can be enforced by detainees in order to denounce the living conditions inside penal facilities, such as the lack of food and medical attention or mistreatment?
13. In what ways are the life and personal dignity of inmates being protected against violent incidents and mistreatment in the social reintegration centers?
14. What measures are being carried both to make judges aware of the catalogue of alternative sentences provided in the law and to foster their application?
15. What percentage of sentences passed by judges are alternatives to prison?

16. How many people with learning disabilities are detained in penal facilities in your country?
17. What measures are being taken by the State to examine and investigate the number of people with a learning disability currently detained?
18. What actions are being taken to improve conditions for women detained in social reintegration centers in terms of sterilization, forced prostitution and maternity?
19. What actions have been taken to protect the human rights of the indigenous population detained in social reintegration centers?