



**Mexico – Universal Periodic Review -Consejo de Derechos Humanos**  
**UPR Session 17 – October 23<sup>rd</sup> 2013**  
**Report by Equis: Justicia para las Mujeres**

## **Introducción**

EQUIS: Justicia para las Mujeres, is a feminist human rights organization whose mission is to promote the human rights of women and gender equality through the use of advocacy and legal strategies at the national and international levels. EQUIS works towards the empowerment of women, the establishment of monitoring and accountability mechanisms directed towards government entities, the strengthening of access to justice for women, and the transformation of laws, public policies and discriminatory practices.

The three topics presented in this report (I. Reform of the Criminal Justice System and Women's Rights, II. Impact of the General Laws of Access to a Life Free of Violence for Women in the Administration of Justice, III. Special Prosecutor's Office for Crimes against Women and Human Trafficking) address the serious situation of access to justice for women.

### **I. Reform of the Criminal Justice System and Women's Rights**

Another cause for concern is that in the implementation of the new accusatory justice system as a result of the constitutional reform of 2008, none of the women interviewed across five federative entities<sup>1</sup>, in two studies led by Equis in 2011 and 2012, managed to reach an oral trial: all the processes concluded in the signing of an agreement before a judge<sup>2</sup>. The forms of simplified completion of the process and the suspension of the process are possibilities for women survivors of violence to not go through the different stages of the legal process and instead obtain a legal response with an adequate time frame and redress. Nevertheless, they can also constitute a means for impunity of these types of violations to women's human rights.

Women tend to end their legal process with an agreement without effective compliance- due to the lack of follow up mechanisms and the lack of interest by the part of authorities- leaving the women lacking protection opposite their aggressor and with few guarantee regarding the custody of their children, alimony, and in general, economic survival. After this stage, women are left in a type of legal limbo, in which they do not have the legal tools to demand the fulfillment of the agreements nor does the justice system have the legal and institutional mechanisms to follow up on said agreements<sup>3</sup>. Besides the systematic discriminatory practices against women that are not

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<sup>1</sup> In the federative entities of Nuevo León, Oaxaca, Morelos, Estado de México y Guanajuato

<sup>2</sup> The agreement before a judge permits a disadvantages arrangement between parts (women survivor of violence and her aggressor) in which the aggressor should fulfill the obligations described in the agreement during one year under legal supervision, and at the conclusion of this period the pardon is granted thereby ending the possibilities of exercising legal action for the crime committed.

<sup>3</sup> EQUIS: Justicia para las Mujeres, "Una ruta crítica: de la violencia al limbo. Mujeres sobrevivientes de violencia en Morelos, Nuevo León, y Oaxaca." 2012.



addressed in the implementation of the new system, the alternative forms to resolve the legal process, present at the same time possibilities and risks for the protection of the human rights of women in the new justice system.

**Recommendation:** Create specific indicators and implement follow up mechanisms for the implementation of the accusatory justice system to monitor discriminatory practices against women.

## **II. Impact of the General Laws of Access to a Life Free of Violence for Women in the Administration of Justice**

Between 2007 and 2010 the states of the Mexican Republic included in their regulatory framework, specific legislation for the protection of the rights of women to a life free of violence, and strengthened the criminal codes to recognize different forms of violence against women and/or to clarify certain existing legal concepts. However, the breadth of definition on the types and forms of violence included in the laws on access to a life free of violence is not fully reflected in its effectiveness under criminal law due to the lack of harmonization between the codes criminal and these laws<sup>4</sup>.

While the laws on access to a life free of violence are broad in their definitions of violence, they have no enforcement mechanisms; on the contrary, the criminal norms contain even more limited definitions<sup>5</sup>. Of the 240 judicial decisions analyzed across 15 Superior Courts of Justice, only four mentioned the General Laws of Access to Life Free of Violence for Women, 1.66%. There exists a large gap in the implementation of these laws by members of the justice system.

**Recommendation:** Ensure proper implementation and evaluation of the laws of access to a life free of violence for women.

## **III. Special Prosecutor's Office for Crimes against Women and Human Trafficking**

The Special Prosecutor's Office for Crimes against Women and Human Trafficking (FEVIMTRA, by its acronym in Spanish), depends on the Attorney General's Office, was created in 2008 to correspond to the framework of the Law to Prevent and Punish Human Trafficking in Persons<sup>6</sup>. There exist serious limitations to the mandate of the FEVIMTRA that place in doubt the effectiveness of the institution and its competencies.

In some cases, FEVIMTRA declines jurisdiction in favor of the following authorities to investigate and prosecute crimes of violence against women and human trafficking:

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<sup>4</sup> EQUIS: Justicia para las Mujeres, 'Informe Nacional de México 2008-2010.'

<sup>5</sup> EQUIS: Justicia para las Mujeres, "Una ruta crítica: de la violencia al limbo. Mujeres sobrevivientes de violencia en Morelos, Nuevo León, y Oaxaca." 2012.

<sup>6</sup> <http://www.diputados.gob.mx/LeyesBiblio/pdf/LPSTP.pdf>



- When human trafficking is committed by organized crime (three or more people)
- When "the facts constituting violence against women and human trafficking start or produce effects abroad"<sup>7</sup>.
- When the offense is committed only within a limited territory (not a federal crime).
- When the offense is committed by a member of the armed forces.

In terms of preliminary investigations, the FEVIMTRA reported an extremely low number, a total of 624 preliminary inquiries initiated from 2008 to August 2011, and only 126 finished in this period. The results become more disturbing considering that there have only been two judicial decisions, **one acquittal and one conviction**, since the creation of the FEVIMTRA<sup>8</sup>. This single conviction of the FEVIMTRA in three years, relates to the crime of child pornography against a foreigner. The lack of judicial decisions reveals to limitations related to the mandate of the FEVIMTRA and lack of political will. The FEVIMTRA is an obstacle to access to justice for women. A reform of the FEVIMTRA requires not only a serious and impartial analysis of its mandate, but also demands on its transparency obligations to allow an effective evaluation of the institution.

**Recommendation:** Evaluate the mandate of the FEVIMTRA in the framework of the Law Against Human Trafficking and implement measures to increase its effectiveness to sanction crimes related to violence against women and human trafficking.

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<sup>7</sup> Artículo 9, apartado d

<sup>8</sup> Comité CEDAW, Respuestas a la lista de cuestiones y preguntas relativas a los informes periódicos séptimo y octavo combinados, 14 de marzo de 2012, [CEDAW/C/MEX/7-8].