



DISABILITY RIGHTS INTERNATIONAL

## **At the Mexico-US border and segregated from society:**

**Children and adults with disabilities subject to arbitrary detention, abuse and  
early death inside Mexican orphanages and institutions**

**Disability Rights International**

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In order to protect the privacy of the people interviewed this report does not mention the names of the majority of the people, including the children and adolescents and adults with and without disabilities who are living in institutions, nor the providers of the services, professionals interviewed or public officials.

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**ABBREVIATIONS**

**CEDH** – Human Rights Commission for the State of Baja California, Mexico

**CRC Committee** – United Nations Committee on the Rights of the Child

**CRPD Committee** – United Nations Committee on the Rights of Persons with Disabilities

**CRPD** – United Nations Convention on the Rights of Persons with Disabilities

**CRREAD** – Rehabilitation and Recovery Center for Drug Addicts and Alcoholics

**DIF** - System for the Development of the Family

**INM** – National Migration Institute

**I. INTRODUCTION**

Disability Rights International (DRI) carried out two investigation trips to Baja California, Mexico, in November 2018 and February 2019. DRI was accompanied by the Human Rights Commission of the Mexican State of Baja California (CEDH) and visited four residential, private institutions for children and adults – including migrants - with disabilities. In these institutions DRI found grave instances of torture and abuse, including use of prolonged restraints and isolation rooms. Particularly worrying was the high death rate of children with disabilities at an institution near Ensenada, Baja California, called *Casa Gabriel*. According to the information provided by staff, in February 2018 four children with disabilities died within days of each other. The fact that the institution is still operating, one year after the deaths, and that there has been no serious and exhaustive investigation into the deaths, raises serious concerns for the safety of the children detained in *Casa Gabriel* and in institutions across Baja California.

Two of the four institutions visited by DRI were operating without a license and arbitrarily detained children and adults with disabilities –some of whom were sent by the government. DRI visited a private facility that locked-up minors, adults with drug and alcohol abuse problems and adults with disabilities, all mixed together. The institution had no registration or legal authority to operate. This facility subjected minors and adults to isolation and physical restraints and had no formal treatment program other than prayer and other religious programming. Despite the lack of treatment, people at the facility were tied up for hours and locked in isolation rooms for days at a time when they misbehaved. Mexico must stop private parties from locking up individuals with perceived disabilities without any form of legal authority and forcibly treating them with unproven, experimental programming.

DRI found another unregistered unlicensed institution called *Pequeño mundo especial*. This institution was operating in a dilapidated house and children and adults with disabilities were detained and mixed together. The government sent children to this institution for months, despite it being unlicensed. When DRI visited it, in November 2018, the government was removing the children because they were mixed with adults, not because the institution had no registration. In fact, according to the director, the children were leaving but the adults with disabilities were going to stay.

Based on our findings, DRI is deeply concerned about the rights of children and adults with disabilities detained in institutions in Baja California. While children and adults with disabilities is the primary population subject to these abuses, unaccompanied minors and persons with disabilities deported or stopped at the US border and returned to Mexico are also at risk. According to the National Migration Institute, around 3,000 unaccompanied migrant minors are deported every year from the United States to Tijuana. DRI met with the Director of the System for the Development of the Family (DIF) for the State of Baja California who stated that 80% of unaccompanied minors are returned immediately to their families. The remaining 20% are reunited with their families within a year –if the family can be identified. For a number of them, their family is never found. DRI expresses its concerns for migrant children for whom the only alternative is to spend months in institutions while their family is found, and who may end up staying in orphanages for years if their families cannot be traced.

**II. RISK OF DEATH AND TORTURE FOR CHILDREN WITH DISABILITIES IN INSTITUTIONS**

DRI found a high death rate of children with disabilities at a private institution – *Casa Gabriel*, near Ensenada, in the state of Baja, California, Mexico. Most of the children living there had cerebral palsy, and what seemed like muscle atrophy. Children spent most of their time in wheelchairs and/or lying down in

beds and cribs, so it was difficult to discern whether the atrophy was a disability from birth or caused by the lack of movement and activity in the facility. Other children had hydrocephaly.

According to the coordinator of *Casa Gabriel*, in 2017 there were 32 children living there. When DRI visited the institution in February 2019, only 19 remained. According to *Casa Gabriel* staff, two children were transferred to other locations, many others had died.

Staff at *Casa Gabriel* told DRI investigators that four children – of ages ranging between 12 and 22 years old– died within days of each other in February 2018. All had been fed with feeding tubes. Staff confided to us that “complications” with feeding tubes were the cause of their deaths. Two other children died in November and December 2017. It was unclear what happened to the other 7 missing children as staff would not divulge that information. The fact that four deaths occurred within a month raises serious concerns about the inadequate use of feeding tubes at the institution. According to staff at *Casa Gabriel*

“Last year, in February alone, four children died. These four children died within a week of each other. They had cerebral palsy, hydrocephaly and muscular atrophy. They were 12, 15, 17, and 22 years old. All of them were fed through a feeding tube. The children died due to complications with the feeding tubes. We have a doctor and a nurse who we notify if the children get sick. If they get sick and do not improve, we take them to the hospital or health center.”<sup>1</sup>

One of the caretakers gave the following details about the deaths of these four children:

“The first girl to die in February was 12 years old. We took her to the hospital and they were about to discharge her. The director went to pick her up at the hospital, but when the director arrived, she was told that the girl had just died. Her intestine burst, I think it was peritonitis. When the nurse arrived in the hospital room, the girl had vomited blood, she was in a pool of blood.

Elisa\* was the second one to die. She was 22 years old. She was fine the night before she died. I finished my shift and left and the next morning they told me that she had died. She fell asleep and did not wake up. She used to produce a lot of phlegm, the phlegm often caused her to choke, and she died asleep.

Maria\*, the third girl to die, died in the hospital. Maria became sick here, we took her to the emergency room and brought her back. Our doctor followed exactly what she was prescribed, but there was no improvement, so we took her again to the hospital. She was there for a day and a half and died.

John\* was the last one to die. We took him to the hospital where the doctors performed a tracheotomy, he was discharged and we brought him home. But you have to be very careful with these types of procedures, the child cannot be moved. We had him well monitored but the child started bleeding from the tracheotomy. I feel awful because I imagine drowning in my own blood. We took him to the emergency room. We brought him back but the next day the same thing happened again. We took him to Ensenada, and during the night he died in the hospital.”

Interview with program manager at Gabriel’s House, February 2019.

According to the staff “we have a young woman with a feeding tube [called Anne\*], her three sisters were the ones who died last year.” The fact that all other residents who had feeding tubes have died puts her at risk.

“Right now, I worry about Anne.\* Anne\* is 28 years old, and she has been living here for about 20 years. She is the sister of the three girls who died in February. I see that she’s been emotionally affected by their deaths. She does not receive any type of professional therapy to deal with the grief. We are the ones who are on the lookout, we seek to pamper her and distract her so that she does not get depressed, because it is very hard. She is mentally well, but her mood goes up and down.”

Interview with staff, “Casa Gabriel”, February 2019.

According to the caretaker, Anne\* is able to eat on her own but she ‘struggles,’ which is why she is on a feeding tube.<sup>2</sup> By 2017, before the 6 children died, at least 25% of the children at the facility had feeding tubes. The former President of the Developmental Disabilities Nurse Association -who has worked with children with disabilities in institutions for decades, observed that people in institutions are often maintained on feeding tubes unnecessarily for convenience of staff.<sup>3</sup> Feeding tubes carry a risk for children and adults with disabilities, especially if managed improperly. Major complications include aspiration, intestinal perforation -that causes internal bleeding-, peritonitis, site infections, bloodstream infection, gastrointestinal bleeding, pneumonia and death.<sup>4</sup> Other complications include tube dislodgement, tube leakage, intestinal blockages, pain, vomiting, constipation and diarrhea.<sup>5</sup>

International clinical guidelines for care indicate that feeding tubes can be compromised by poor hygiene and inadequate nutrition.<sup>6</sup> DRI is concerned about the risk of inadequate nutrition at the facility.<sup>7</sup> The coordinator of the institution reported to DRI that “sometimes we do not have enough vegetables and we have to ask for donations.” When the coordinator was asked why the children do not get physical therapy, she repeated that “we cannot afford vegetables.” She further indicated that the facility cannot afford “expensive” treatments because they have trouble affording vegetables.

Moreover, DRI investigators observed staff who were engaged in feeding children with cerebral palsy consistently offering too much food before the child had chewed and swallowed the previous mouthful. This would be a life-threatening concern for any individual with a swallowing problem since it can cause choking and food aspiration, especially for children with cerebral palsy who have problems controlling the muscles of the throat (dysphagia).<sup>8</sup>

## **1. Torture, abuse and neglect**

### **a. Use of bed cages and physical and chemical restraints**

In the institutions DRI observed prolonged restraints of children and the use of cages, both of which could be avoided with adequate medical treatment. According to staff in *Casa Gabriel*, a six-year-old boy

“spends all of his time in a bedroom,”<sup>9</sup> lying down in a crib with rails (pictured to the right). He was described as having soft bones, but the coordinator did not seem to know his diagnosis. A DRI investigator observed that the muscles in his arms and legs appeared severely atrophied. According to staff at the institution, the doctor has said that “he must remain flat in his bed except for very short periods in a chair. He has bone problems; they don’t want to give him more therapy because they say it does not help. The doctor has ordered a prone wheelchair.”<sup>10</sup> This is contrary to accepted medical standards of treatment for conditions of children with soft bones for which physical therapy and exercise should be prescribed.<sup>11</sup>



One child, a three-year-old who DRI saw walking around, was later restrained in a wheelchair because according to staff, he is “hyperactive.” According to disability experts, there is no excuse for tying a child down because he is hyperactive without having alternatives in place to redirect the child -such as other activities that would focus them and engage them. Doing so constitutes undue restraint and a form of abuse.<sup>12</sup> Unless the life of the child is at risk, the use of restraints to treat hyperactive children is prohibited and damaging to the child. When a DRI investigator inquired about behavioral problems, staff said that some residents get medication to keep them calm.

Former United Nations Special Rapporteur on Torture (Rapporteur on Torture), Juan E. Mendez, found that the use of restraints and isolation on children and persons with disabilities causes severe pain, has long lasting mental and physical consequences -some of which can be deadly- and exacerbates psychological damage.<sup>13</sup> Given the pain it causes, the Rapporteur on Torture concluded that “there can be no therapeutic justification” for the prolonged use of restraints and isolation rooms on children and persons with disabilities, and they constitutes inhuman and degrading treatment and may amount to torture.<sup>14</sup>

### b. Inadequate care

Developmental stimulation, supports and treatment are largely absent at *Casa Gabriel*. According to staff, “most of the residents do not speak;” however, no resident has received speech therapy. Language stimulation was very limited as was active engagement of staff with children. DRI did not observe use of alternative communication strategies such as sign language or pictures. The coordinator said they are not used. We did not see any activities with the children.

Most of the children at *Casa Gabriel* are in wheelchairs. Many of them were positioned with their legs crossed onto the chair seat and appeared to have developed contractures in that position. Their legs were atrophied, in part because they do not get exercise or bear weight. These children may be at increased risk for pressure sores, especially if they are putting any pressure on bones that are close to the surface of the skin.<sup>15</sup>

Lunch consisted on a soup with carrots, potatoes and some chunks of chicken. As there were only four or five workers and most residents could not feed themselves, many had to wait for a long time to eat. Relatively simple strategies were not employed such as dividing the group for staggered meal times,



engaging activities and songs. One girl in a wheelchair vocalized her discontent about having to wait a long time while another child was fed a few feet away. The worker nearby seemed annoyed with the girl who was complaining and positioned her so that she was facing toward the wall with her bowl of soup in sight but she was unable to access it.

Lack of adequate care is in part due to the lack of adequate staff. The program coordinator at *Casa Gabriel* admitted that “our caretakers are not specialized because we cannot afford to pay higher salaries. We live on donations.”

c. Physical abuse

An unaccompanied migrant teenager that DRI interviewed at the YMCA House for Migrant Children in Tijuana told DRI how he witnessed physical abuse against a child with a disability in one of the institutions he was sent to by DIF. “DIF once sent me to *Tesoros Escondidos*, an institution in Mexicali. The institution receives children that have been rejected from other institutions. Once I saw the Director kick a child in the head, the child had a mental problem.”<sup>16</sup> According to the UN, children in institutions are 6 times more vulnerable to physical and sexual abuse than children who remain in the community.<sup>17</sup>

**2. Lack of family and community supports**

According to Save the Children, between 88% - 99% of children in orphanages around the world are actually not orphans, but have at least one living parent.<sup>18</sup> In *Casa Gabriel*, several of the children have families. The coordinator told DRI that “there are 10 children who have families that come to visit them every 15 days, every month or every two months. There is a child whose mother drops him at 6 in the morning and picks him up after work, like a nursery.”<sup>19</sup> These children are at the institution because their parents are too poor and/or they do not have the necessary supports to care for their children.<sup>20</sup>

The United Nations Committee on the Rights of the Child (CRC Committee) has expressed its concern regarding the “insufficient policies to support families in fulfilling their parental responsibilities”<sup>21</sup> in Mexico. The United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee) has urged the Mexican State to “[e]stablish family support mechanisms.”<sup>22</sup>

Family supports are essential to prevent family separation and institutionalization of children with disabilities, particularly those living in poverty. The CRPD Committee found that in Mexico, “children with disabilities living in poverty are at greater risk of abandonment and placement in institutions.”<sup>23</sup> Mexican laws contemplate the responsibility and the obligation of the Mexican State to protect the family and prevent family separation.<sup>24</sup> Under the CRPD Article 23 (right to a family), these supports are not an option, they are an obligation. Mexico must ensure that the children at *Casa Gabriel* and their families have the necessary supports so that the children can be reintegrated and grow up in their families and communities and not in an institution.

The CRPD Committee has called on Mexico to create services in the community and supports for children and adults with disabilities, and to start a deinstitutionalization process to reintegrate them to the community.<sup>25</sup> Until Mexico fulfills its obligation to create community services, children with disabilities in institutions will remain detained indefinitely, even after they have become adults. In *Casa Gabriel*, DRI found two young adults, who, according to staff, had been there for years, since they were children, and were staying on because they had nowhere else to go.

### **III. ARBITRARY DETENTION OF CHILDREN AND ADULTS WITH DISABILITIES IN UNREGULATED INSTITUTIONS**

*Pequeño mundo especial* is an institution for children and adults operating in a rundown house. The place is dirty, there were piles of clothes on the floor and four adults with disabilities lying on makeshift beds in the living room. The living room is an open area with a gas stove where cooking is also done. The place is not legally registered as an institution. According to the director, it was in the process of getting a license to operate. Despite not having a license, this institution had been operating for months. Until a few days before DRI's visit, in November 2018, children were living in the institution mixed with the adults. The director told DRI that several of the children had been sent to the institution by DIF Baja California, despite knowing that it was not registered. Recently, DIF had decided to remove the children because they were mixed with adults, not because of a lack of registration. After removing the children, DIF did not close the institution. This unregistered facility continued to operate and detain adults with disabilities in unhygienic conditions and without any treatment, rehabilitation or plan to reintegrate them to the community.

*Centro de Rehabilitación Fortalécete en Cristo* was opened by its director in an unregistered, unlicensed house that he obtained. He opened this 'center' and -without adequate training- started to receive people before he was registered by the government. According to the Director, "the government knows about us and sometimes they send people here"<sup>26</sup> -despite the lack of government permits. The director told DRI that "we will register eventually." His motivation to register however is to be able to fundraise, not to operate. He is already operating and even though he has no permits "the government does not interfere."<sup>27</sup>

The conditions in this place were very dangerous for any person and would not meet any minimum safety standards. It is in a residential area, next to a sewage canal. The doors have padlocks on them. DRI observed that there were no working toilets and showers. There were no banisters on an outside staircase to reach a room upstairs, where a man with a physical disability lived. Other detainees carried him up and down the stairs in his wheelchair, which put him and the people carrying him at risk of falling and of serious injury.

### **IV. PEOPLE WITH DISABILITIES, INCLUDING MIGRANTS, ARE DETAINED IN INSTITUTIONS WHERE THEY ARE SUBJECTED TO TORTURE**

Adults with disabilities are at risk of ending in so called "rehabilitation centers" -unregulated, locked facilities where people detained in them do not have the freedom to come and go. These facilities are supposed to be for people with drug and alcohol abuse problems but in reality they detain people with disabilities, migrants and minors, all mixed together with people recovering from drug and alcohol abuse.

In two private rehabilitation centers DRI visited, *Centro de Rehabilitación y Recuperación para Enfermos de Alcoholismo y Drogadicción (CRREAD) Cañón Rosarito* and *Centro de Rehabilitación Fortalécete en Cristo A.C.*, we found people with disabilities that had been at the institutions for years. *CRREAD Cañón Rosarito* has 60 people, 6 of them are people with intellectual disabilities. According to one of the supervisors, "they have been here for years, they brought them one day and they have never left, they have nowhere else to go."<sup>28</sup> At this facility there were several people with psychosocial disabilities but staff was unable to give us an exact number.

*Centro de Rehabilitación Fortalécete en Cristo A.C.*, is a dilapidated house with no running water that functions as a 'rehabilitation center.' When DRI visited, there were 8 people locked up there. Two were

people with intellectual disabilities and one was an adult with psychosocial disability. The director stated that it often receives people with psychosocial disabilities.<sup>29</sup> The people with intellectual disabilities had been there for 3 years and, since they had ‘nowhere else to go,’ they were going to stay there indefinitely.<sup>30</sup>

“These rehabilitation centers do not have any sort of screening, keep people against their will and make people with intellectual disabilities sign contracts to detain them with their ‘consent.’ In one case a facility told [Al Otro Lado that a] person had signed a contract to be there. They had him doing handyman work because nobody was paying for him to be at the rehabilitation center. When [Al Otro Lado] saw him in the facility, he had his hands covered in urine and had no shoes on. This is a man who was [eventually brought] to the border crossing point, it was raining and there were puddles and he needed to hold [someone’s] hand and was jumping over the puddles. He clearly had a type of disability but was nevertheless forced to sign a contract and he probably was not explained what that meant.”

Interview with Mexico Director of *Al Otro Lado*.

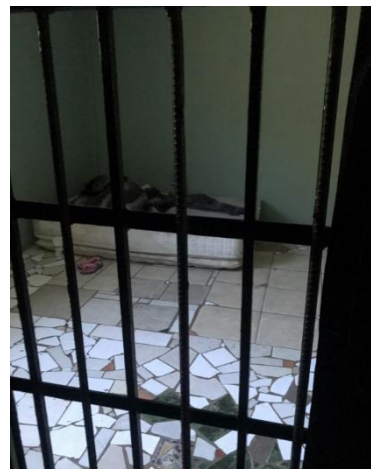
DRI also found minors at *Centro de Rehabilitación Fortalécete en Cristo A.C.* detained with other adults. *Al Otro Lado*, a migrant rights organization with offices in Tijuana, interviewed a man with a psychosocial disability who had been detained at a rehabilitation center. He reported that at the rehabilitation center there were children mixed with adults.

People are mostly taken to these ‘rehabilitation centers’ by police, who picks them up from the street. In practice, there is no need for a judicial order to forcibly place people in these facilities.<sup>31</sup> According to a supervisor at *CRREAD Cañón Rosarito*, “it’s mostly the police that brings people here. They get tired of the people hanging around in the streets. They want to have the streets clean for tourists so they pick them up, gather them and bring them to us.”<sup>32</sup>

## 1. Abuse and torture in ‘rehabilitation centers’

### a. Isolation rooms and prolonged restraints

Isolation rooms and prolonged restraints were common in the rehabilitation centers visited by DRI. In *CRREAD Rosarito* DRI saw several cells that were used to ‘detox’ people and as a form of punishment (pictured to the right). In one of the cells there was one woman who had been locked up for a ‘couple of days.’ A young man at *CRREAD Rosarito* told DRI: “there are ‘detox’ rooms. I was there for three days. My friend was there for seven days. The days you spend in the ‘detox’ room depends on the state in which you arrive at the institution. If someone becomes aggressive, they lock him there. They tie them up and lock them up.”<sup>33</sup>



At *Centro de Rehabilitación Fortalécete en Cristo A.C.*, DRI found two people with disabilities locked in the ‘detox’ room, a room with bare

walls and a pungent smell of urine and feces. According to the director of this institution, people are put in this room for days at a time while they ‘detox.’ The people with disabilities were not ‘detoxing,’ they were just locked up there for no apparent reason. In this same institution, the director stated that when one of the patients became aggressive, he handcuffs them and places them face down for hours, “until they calm down.”<sup>34</sup>

A Mexican national diagnosed with bipolar disorder and schizophrenia, who had lived in the US for years, was deported to Mexico in 2011. In his asylum hearing testimony, he recollected his experience at *CRREAD El Campito*, near Rosarito –another subsidiary of the same organization:

“As soon as I arrived, I went in to look at one of the rooms. Within just a few moments of being there someone grabbed me around the neck from behind. I could not get away. The person was really aggressive. I was placed in a detox room for days and could not leave. They forced me to stay against my will. The place was like a jail. There were guards at all the doors and people were never allowed to leave.”<sup>35</sup>

The use of isolation rooms and restraints on people with disabilities constitutes inhuman and degrading treatment and may amount to torture. Former UN Rapporteur on Torture, Juan Méndez, has stated that “given their diminished mental capacity and that solitary confinement often results in severe exacerbation of a previously existing mental condition, the Special Rapporteur believes that its imposition, of any duration, on persons with mental disabilities is cruel, inhuman or degrading treatment and violates article 7 of the Covenant and article 16 of the Convention [against Torture].”<sup>36</sup>

b. Rape

According to one of the supervisors at *CRREAD Cañón Rosarito*, “the facility employs the patients as guards. There are around 15 patients that ‘guard and control’ the others. If they become aggressive, the ‘guards’ control them.”<sup>37</sup> The Mexican national with a disability that was deported and detained in *CRREAD El Campito* in 2011 stated in his asylum hearing testimony that:

“About one or two weeks after I was there, I went to go take a shower in the downstairs bathrooms. The room had a line of showers with just small curtains. While I was taking a shower, someone came up behind me and grabbed me around the neck. The way they grabbed me was the same way the person grabbed me when I was first forced into to the center. The person who grabbed me did it really fast and I did not have time to react. A few more men came and they all began hitting me on the head. One of the men pulled my towel off and was trying to rape me. I fought back against them, but I eventually I passed out from the beating. When I woke up my whole body hurt. My rectum hurt a lot and it was bleeding. I do not know exactly what happened, but I know they raped me. I think it was the people who worked at the center because of the way they grabbed me from behind. I do not like to talk about it because it is still painful for me to think about. I thought I was going to get help, but they hurt me instead.”

c. No rehabilitation and adequate treatment

Medication at *CRREAD Cañón Rosarito* is administered by one of the supervisors, a recovering addict who has no training -by his own admission. The only type of ‘rehabilitation’ available is the constant reading for hours throughout the day of a ‘twelve-step recovery program.’<sup>38</sup> No special therapeutic services are

available to residents with disabilities. They just attend the same compulsory two-hour ‘twelve steps’ meeting morning, afternoon and evening. At *Centro de Rehabilitación Fortalécete en Cristo A.C.*, the director told DRI that for cases of depression, anxiety and panic attacks, the only treatment available at the facility is prayer and ‘herb tea.’ When they act out and are violent, the only option is to tie them down. For people with disabilities at both institutions there were no types of rehabilitation and habilitation, nor plans to reintegrate to the community.

### d. Forced labor

According to the supervisor at *CRREAD Cañón Rosarito*, “some of patients go outside to do cleaning work for grocery stores in exchange of food and groceries for the center.”<sup>39</sup> Two people detained at *CRREAD* told DRI “we are the cooks. There are some who are guards. Going out to work in the community or working here in the kitchen is a reward, because if we do not, we have to sit at meetings all day.”<sup>40</sup> At *Centro de Rehabilitación Fortalécete en Cristo A.C.*, two ‘patients’ are in charge of bathing and feeding two people with intellectual disabilities.

## 2. Lack of community-based services

In Baja California, Mexico there are no community-based services for people with disabilities and migrants. There are no housing supports, free mental health outpatient consultations and medication, nor educational and work training opportunities for people with disabilities. There are no programs to create alternatives to institutions in the community and deinstitutionalize people with disabilities. According to the President of the CEDH: “For people with mental disabilities in the State of Baja California there is only one private mental health hospital in Tijuana and one psychiatric hospital in Mexicali.”

## V. RECOMMENDATIONS

### 1. Recommendations to the Mexican government

- a) **Start a deinstitutionalization process of all children and adults with disabilities in the State of Baja California, Mexico.** The Committee on the Rights of Persons with Disabilities (CRPD Committee) has called on Mexico to (a) adopt a strategy for the de-institutionalization of persons with disabilities, within a time frame and measurable indicators; (b) launch a comprehensive strategy, with time frame and human rights based indicators, to make community-based services available for persons with disabilities; and (c) take steps to introduce specific budgetary allocations for the promotion of independent living.<sup>41</sup>
- b) **Immediately adopt a moratorium on institutionalization of children with disabilities and instead, provide supports and services in the community.** For children unable to remain in their family due to risk of violence, the CRPD has called on Mexico to “opt for the placement of all abandoned children with disabilities in foster care instead of in institutions and ensure that foster families receive the requisite support for their care.”<sup>42</sup>
- c) **Prevent family separation of children with disabilities on the basis of poverty and/or disability.** In its 2014 Concluding Observations on Mexico, the CRPD Committee expressed its concern “that children with disabilities living in poverty are at greater risk of abandonment and placement in institutions.”<sup>43</sup> The CRPD Committee has requested Mexico to create family support mechanisms that prevent separation due to poverty and disability. Mexico must create family supports for

children at risk of institutionalization and provide supports and services to them and their families in the community.

- d) **Ensure that people with disabilities and unaccompanied minors deported from the United States or turned away at the US border are not placed in institutions in Mexico.** Mexico must instead provide social supports and access to mental health treatment in the community.
- e) **Investigate deaths, abuses, and life-threatening conditions facing children and adults with disabilities in institutions and rehabilitation centers.** DRI calls on Mexico to immediately and thoroughly investigate the deaths of children and young adults with disabilities in institutions. This particularly includes *Casa Gabriel* where an independent medical examination of all children is urgently needed. The children who remain in this institution must be given essential medical care and improved treatment to protect them from avoidable early death. Immediate plans should be made to place all children in supported, family-based programs (such as emergency foster care) where they have access to adequate medical care in the community. Abuses that amount to torture in institutions where children and adults with disabilities are detained must be investigated and those responsible must be brought to justice. Physical restraint as a form of treatment (e.g. for children with hyperactivity) should be banned.
- f) **Ban unregulated institutions.** People who improperly detain and abuse people with disabilities must be criminally prosecuted. Authorities should never refer children and adults with disabilities to any facility that is not regulated and safe and able to provide meaningful treatment, rehabilitation and care.
- g) **Monitor institutions and programs in the community.** Under Article 16 of the CRPD, Mexico has the obligation to “ensure that all facilities and programs designed to serve persons with disabilities are effectively monitored by independent authorities.”<sup>44</sup> Until the government adopts a comprehensive deinstitutionalization strategy accompanied by alternatives in the community for all children and adults with disabilities, it is imperative that the government effectively monitors institutions and takes immediate action in case of abuses. The government must also monitor new programs that are created to reintegrate children to their families or to foster care families.

The former Rapporteur on Torture, Juan Mendez, observed that one of the most important sources of ill-treatment of children in institutions is in fact the lack of proper government oversight.<sup>45</sup> Governments must establish effective complaint mechanisms to investigate allegations of abuse and create strong and independent oversight mechanisms at “all places of deprivation of liberty, including places run by private actors, through regular and unannounced visits, and to include civil society organization in the monitoring of places of deprivation of liberty.”<sup>46</sup>

- h) **Involve people with disabilities and their representatives in all steps relating to program design, implementation and monitoring.** Article 4(3) of the CRPD recognizes that people with disabilities have a right to be involved in policy-making and program implementation through their representative organizations. Advocacy groups that include adults with disabilities and parents of children with disabilities must be considered key stakeholders and must be included.

## **2. Recommendations to the US government**

- a) **Adults and children with disabilities have a reasonable fear of persecution in Mexico and should not be deported.** DRI's findings in Baja California are consistent with abuses we have found throughout Mexico over the last ten years. There is a broad lack of community support, people may be improperly forced to receive treatment in institutions where they are subjected to pervasive inhuman and degrading treatment and torture.
- b) **Children should not be separated from their parents at the border under any circumstance and if they are separated they not should be deported separately.** Extensive psychological evidence demonstrates the danger of placing children without family members. Children face a risk of being placed in abusive institutions in Mexico if they are deported separately from their family.

**\*The names used in this report are not the real names of the children and young adults with disabilities.**

## ENDNOTES

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<sup>1</sup> Interview with program manager at Gabriel's House, February 2019.

<sup>2</sup> It is important to note that behavioral feeding difficulties are not among current indications for tube feeding and that the effectiveness of behavior intervention for such difficulties is well-established. See Singhal, S., Baker, S. S., Bojczuk, G. A., & Baker, R. D. (2017). Tube Feeding in Children. *Pediatrics in review*, 38(1), 23; Silverman, A. H. (2015). Behavioral management of feeding disorders of childhood. *Annals of Nutrition and Metabolism*, 66(Suppl. 5), 33-42.

<sup>3</sup> Observation by Karen Green McGowan, DRI Expert and clinical nurse consultant who has been working in the field of developmental disabilities nursing since 1965.

<sup>4</sup> Soccia NP-Paeds, J., & Friedman, J. N. (2011). A guide to the management of common gastrostomy and gastrojejunostomy tube problems. *Paediatrics & child health*, 16(5), 281-287.

Blumenstein, I., Shastri, Y. M., & Stein, J. (2014). Gastroenteric tube feeding: techniques, problems and solutions. *World Journal of Gastroenterology: WJG*, 20(26), 8505.

<sup>5</sup> Soccia NP-Paeds, J., & Friedman, J. N. (2011). A guide to the management of common gastrostomy and gastrojejunostomy tube problems. *Paediatrics & child health*, 16(5), 281-287.

Blumenstein, I., Shastri, Y. M., & Stein, J. (2014). Gastroenteric tube feeding: techniques, problems and solutions. *World Journal of Gastroenterology: WJG*, 20(26), 8505.

<sup>6</sup> Clinical protocols are specifically designed to prevent death and morbidity from infection due to poor hygiene or contaminated food, faulty tube placement, inadequate nutrition or hydration and other poor practices. National Clinical Guideline Centre (UK). *Infection: Prevention and Control of Healthcare-Associated Infections in Primary and Community Care: Partial Update of NICE Clinical Guideline 2*. London: Royal College of Physicians (UK); 2012 Mar. (NICE Clinical Guidelines, No. 139.) 11, Enteral feeding. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK115259/>; Malhi, H. (2017). Enteral tube feeding: using good practice to prevent infection. *British Journal of Nursing*, 26(1), 8-14; Adams, R. C., & Elias, E. R. and Council on Children with Disabilities (2014) "Nonoral feeding for children and youth with developmental or acquired disabilities." *Pediatrics*, 134(6), e1745-62.

<sup>7</sup> According to the expert Javier Aceves, children with cerebral palsy are at risk of malnutrition since they consume a lot of energy due to spasticity and possible seizures.

<sup>8</sup> Adequate pacing when feeding is an important safety measure for any individual with a swallowing problem, such as some children with neurodevelopmental disorders. See ASHA (American Speech-Language-Hearing Association), *Pediatric Dysphagia*, accessed 4/8/19 at <https://www.asha.org/PRPPrintTemplate.aspx?folderid=8589934965>.

- <sup>9</sup> Interview with caretaker at Gabriel's House, February 2019.
- <sup>10</sup> Interview with caretaker at Gabriel's House, February 2019.
- <sup>11</sup> NIH National Institute of Child Health and Human Development. What are the treatments for osteogenesis imperfecta (oi)? Accessed 4/8/19 at <https://www.nichd>.
- <sup>12</sup> Assessment by Melanie Reeves, who has 25 years of experience as a disability's expert, human services professional, administrator, case manager, and direct support provider as well as experience developing supports for vulnerable people, and measuring quality of services and compliance.
- <sup>13</sup> Mental Disability Rights International (now Disability Rights International), *Torment Not Treatment Serbia's Segregation and Abuse of Children and Adults with Disabilities (2007)*, pp.19, 47 and 49.
- <sup>14</sup> ONU, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, Juan E. Méndez A/HRC/22/53, (Feb 1, 2013), para. 63.
- <sup>15</sup> Observation by Diane Jacobstein, DRI Expert and Investigator, Clinical Psychologist and Senior Policy Associate in the Georgetown University Center for Child and Human Development-UCEDD, and Research Associate Professor in Pediatrics.
- <sup>16</sup> Mexican 15 year-old boy at YMCA House.
- <sup>17</sup> UNICEF, Paulo Sérgio Pinheiro, *World Report on Violence Against Children*, p. 183.
- <sup>18</sup> The Guardian, Save the Children claims most 'orphans' have living parent. Available at <https://www.theguardian.com/society/2009/nov/24/save-the-children-orphans-report>.
- <sup>19</sup> Interview with program manager at Gabriel's House, February 2019.
- <sup>20</sup> Interview with program manager at Gabriel's House, February 2019.
- <sup>21</sup> Committee on the Rights of the Child, *Concluding observations on the combined fourth and fifth periodic reports of Mexico CRC/C/MEX/CO/4-5* (July 3, 2015) para. 39, a). (Hereinafter CRC/C/MEX/CO/4-5).
- <sup>22</sup> Committee on the Rights of Persons with Disabilities, *Concluding observations on the initial report of Mexico CRPD/C/MEX/CO/1*, para. 46.c. (Hereinafter CRPD/C/MEX/CO/1).
- <sup>23</sup> *Id.* at para. 45.
- <sup>24</sup> General Law on the Rights of Girls, Boys and Adolescents [entered into force December 5 2014], Article 22.
- <sup>25</sup> CRC/C/MEX/CO/4-5, *supra* note 21, para. 40.
- <sup>26</sup> Interview with the Director of *Centro de Rehabilitación Fortalécete en Cristo A.C.*, November 2018.
- <sup>27</sup> Interview with the Director of *Centro de Rehabilitación Fortalécete en Cristo A.C.*, November 2018.
- <sup>28</sup> Interview with *CRREAD Cañón Rosarito* Supervisor, February 2019.
- <sup>29</sup> Interview with the Director of *Centro de Rehabilitación Fortalécete en Cristo A.C.*, November 2018.
- <sup>30</sup> Interview with the Director of *Centro de Rehabilitación Fortalécete en Cristo A.C.*, November 2018.
- <sup>31</sup> Interview with President of the CEDH and the Mexico Director for *Al Otro Lado*.
- <sup>32</sup> Interview with *CRREAD Cañón Rosarito* Supervisor, February 2019. According to the Mexico Director for *Al Otro Lado*, "In practice, there is no need for a judicial order to pick homeless people up and forcibly place them in a rehabilitation center. It all started in 2015, when the first 'clean up' of the canal took place and homeless people, among them migrants, were picked up and taken to rehab centers. Since then, they routinely cleanup homeless people from the streets. Especially people who are homeless in the zona Norte, where the police are notoriously corrupt. They take the people that are homeless and take them to the rehab facilities. They were paying USD \$400 to keep the people, I don't know if they are still paying them but originally, they were. PBS covered the cleanup extensively.
- <sup>33</sup> Interview with young man detained at *CRREAD Cañón Rosarito*, February 2019.
- <sup>34</sup> Interview with the Director of *Centro de Rehabilitación Fortalécete en Cristo A.C.*, November 2018.
- <sup>35</sup> Testimony, Mexican national in deportation proceedings.
- <sup>36</sup> ONU, *Torture and other cruel, inhuman or degrading treatment or punishment*, A/66/268 (Aug 5, 2011), para. 78. [Hereinafter A/66/268].
- <sup>37</sup> Interview with *CRREAD Cañón Rosarito* Supervisor, February 2019.
- <sup>38</sup> According to one of the supervisors "there is a twelve-step program that we follow. Someone reads the program first and then the others are invited to participate. There are three a day. One from 5:30 to 9, then they have breakfasts. The next one is from 10:30 to 2, then lunch and showers. And the last one is at 5pm. Mostly everybody attends the meetings." Interview with *CRREAD Cañón Rosarito* Supervisor, February 2019.
- <sup>39</sup> Interview with *CRREAD Cañón Rosarito* Supervisor, February 2019.
- <sup>40</sup> Interview with young man detained at *CRREAD Cañón Rosarito*, February 2019.



<sup>41</sup> UN, CRPD Committee, Concluding observations on the initial report of Mexico, CRPD/C/MEX/CO/1, (27 oct. 2014), para. 44.

<sup>42</sup> *Id.* at para. 46 d).

<sup>43</sup> *Id.* at para. 45.

<sup>44</sup> Convention on the Rights of Persons with Disabilities, G.A. Res. 61/106, UN GAOR, 61stSess. Supp. No. 49, U.N.Doc. A/RES/61/106, Annex II, at 65 (13 December 2006) [entered into force May 3, 2008] art. 16.

<sup>45</sup> A/66/268, *supra* note 36, para. 71.

<sup>46</sup> *Id.* at para. 84.