

Face Equality International (FEI) Research Project

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Mexico

No.	Question		Answer
1.	<p>a. Do people with facial disfigurements (marks, scars, etc.) have any legal protection against discrimination?</p> <p>b. Which law relates or mentions the legal protections?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>People with facial disfigurement are protected against discrimination in Mexico not because they are deemed to have a disability and would be afforded special protection for that, but because discrimination is recognized when based on physical appearance, which comprises facial disfigurements. The protection is therefore not afforded through the lens of disability but through the lens of discrimination.</p> <p>The relevant piece of legislation is the Federal Act to Prevent and Eliminate Discrimination (official/original name in Spanish: Ley Federal para Prevenir y Eliminar la Discriminación) of 11 June 2003, last revised on 8 December 2023 (the “Discrimination Act”), only available in Spanish here</p> <p>Article 2 of the Act states that “<i>It is up to the State to promote the conditions so that the freedom and equality of people are real and effective.</i>”</p> <p>In 2017, 14 years after the adoption of the Act, at the local level there were:</p> <ul style="list-style-type: none"> • 31 anti-discrimination laws. • 26 anti-discrimination clauses that are established in local constitutions. • 28 states that have penal codes or other legislation that criminalise conduct related to discrimination. <p>Also relevant is the 2011 General Law for the Inclusion of People with Disabilities (official/original name in Spanish: Ley General para la Inclusión de las Personas con Discapacidad) (the “Disability Act”), available in English here</p> <p>Sources :</p> <ul style="list-style-type: none"> • The Discrimination Act, in Spanish

			<ul style="list-style-type: none"> • The Disability Act, in English • Mexican Government website, in Spanish • UN website • El Economista, 31 January 2023, in Spanish
2.	<p>a. What is this country's legal definition of disability?</p> <p>b. When do people with a facial disfigurement fit within that definition? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>c. How does being excluded from that definition affect the protection of their rights?</p>		<p>The Act defines “discrimination” (not “disability”) as:</p> <p><i>“any distinction, exclusion, restriction or preference that, by action or omission, with or without intention, is not objective, rational or proportional and has the purpose or result of hindering, restricting, preventing, impairing or annulling the recognition, enjoyment or exercise of human rights and freedoms, when based on one or more of the following reasons: ethnic or national origin, skin color, culture, sex, gender, age, disabilities, social, economic, physical or mental health, legal status, religion, <u>physical appearance</u>, genetic characteristics, immigration status, pregnancy, language, opinions, sexual preferences, identity or political affiliation, marital status, family situation, family responsibilities, language, criminal record or any other reason;”</i></p> <p>We understand “physical appearance” as covering facial disfigurements.</p> <p>Article 1, second paragraph, III of the Discrimination Act states that:</p> <p><i>“The provisions of this Law are of public order and social interest. Its purpose is to prevent and eliminate all forms of discrimination exercised against any person in the terms of Article 1 of the Political Constitution of the United Mexican States, as well as to promote equality of opportunity and treatment.”</i></p> <p>Article 9 of the Discrimination Act, under “measures to prevent discrimination”, states that the following are considered discrimination <i>inter alia</i>:</p> <ul style="list-style-type: none"> • <i>“Prevent access or permanence to public or private education, as well as scholarships and incentives in educational centers;</i> • <i>Prohibit the free choice of employment, or restrict opportunities for access, permanence and promotion in it;</i> • <i>Set differences in remuneration, benefits and working conditions for equal jobs;</i> • <i>Negate or condition the right of political participation and, specifically, the right to active or passive suffrage, eligibility and access to all public charges;</i> • <i>Prevent the exercise of property rights, administration and disposition of goods of any other type”</i>

			<p>Considering that discrimination should be “prevent[ed] and eliminate[d]” based on Article 1, the above-listed practices which constitute discrimination should be prevented and eliminated.</p> <p>The UN Convention on the Rights of Persons with Disabilities (“UNCRPD”) 2007 has been ratified by Mexico on 17 December 2007 (see here)</p> <p>Article 6 of the Discrimination Act states that:</p> <p style="text-align: center;"><i>“The interpretation of the content of this Law, as well as the actions of the federal public powers, will be in accordance with the applicable international instruments to which the Mexican State is a party in matters of human rights, as well as with the jurisprudence issued by the international jurisdictional bodies, the recommendations and resolutions adopted by multilateral and regional organizations and other applicable legislation.”</i></p> <p>We understand this provision as giving full effect to the provisions of the UNCRPD.</p>
3.	<p>Are there aspects of disability and/or disfigurement law that ensure a legal right to healthcare, education or employment?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>Even though people with facial disfigurement are protected through the lens of discrimination, arguably facial disfigurements constitute a form of disability and people with disabilities are given special protections under the Disability Act.</p> <p>These protections include <i>inter alia</i>:</p> <ul style="list-style-type: none"> - the right of persons with disabilities to enjoy the highest possible level of health, rehabilitation and empowerment without discrimination on the grounds of disability, through programs and services that will be designed and provided, considering criteria of quality, specialization, gender, gratuitousness or affordable price (Article 7); - the right to work and employment of people with disabilities in equal opportunities and equity, which will give them certainty in their personal, social and labor development (Article 11); - the right to education for persons with disabilities, prohibiting any discrimination in the fields of educational, childcare or teaching or administrative staff of the National Educational System (Article 12); - the right to universal accessibility and housing, so rules, guidelines and regulations should be issued to ensure accessibility. mandatory in public or private facilities, allowing them free movement in dignified and safe conditions (Article 16).
4.	<p>a. How effective are the legal protections? Please</p>		<p>A National Council to Prevent Discrimination (the “Council” – in Spanish “Consejo Nacional para Prevenir la Discriminación” or “Conapred”) is created by Article 1, second paragraph, II of the</p>

<p>describe evidence available of the effect of the legal protections.</p> <p>b. What are deficiencies or areas for improvement in these legal protection measures as they apply and affect people with facial disfigurement?</p> <p>c. What evidence exists to prove that the information and resources guaranteed by law are actually available to disabled persons?</p>	<p>Discrimination Act, with the mission <i>inter alia</i> to “Carry out appropriate actions to prevent and eliminate discrimination” (cf. Article 17, II of the Discrimination Act).</p> <p>A comprehensive complaint procedure is described under Chapter V, for which the Council is responsible in the sense that it will hear the complaints (Articles 43 et seq.), carry out an investigation (Articles 73 et seq.), issue a resolution (Articles 77 bis et seq.), and order the adoption of administrative and reparative measures (Chapter VI).</p> <p>Conapred released the record of complaints it has received from 2012 to the end of 2022. The figures show that:</p> <ul style="list-style-type: none"> • the workplace is where the most acts of discrimination occur (49.3%), followed by educational fields and public services. • In these 10 years, 8,113 complaints and claims classified as alleged discriminatory acts have been registered, of which it has been identified that the three main causes of discrimination in a decade have been due to disability, with 1,778; health condition, 1,358; and physical appearance, 988. (see here) <p>There therefore does seem to be enforcement, however it is not stated how many of these complaints have been upheld and were successful.</p>
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