



# DISCRIMINATION & Vulnerability

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**SIGNOS VITALES**  
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# DISCRIMINATION & Vulnerability

## SOCIAL EMERGENCY

The vulnerable groups in México had been in an abusive environment, and the Covid sanitary condition has propelled its enhancements. The arrival of the SARS-CoV-2 virus has been te condition enough to increase the tendency or risk to suffer a different affectation (economic, physical, psychic, emotional) without being necessarily related to poverty. There are vulnerable, not poor people, and not all poor people are vulnerable (Naharro, s.f.).

The pandemic management in support to vulnerable groups matter has presented some operational drawbacks as the article 1º of human rights objectives

monitoring, attached to the constitution, where the social politic lacks a discriminatory vision.

The main problems arise with the institutional fragility that these vulnerable groups have had, where adequate access to their written rights hasn't been procured under a sanitary crisis context. Even though the affected groups' recognition has been possible according to the National Council for the Evaluation of Social Development Policy (CONEVAL by its acronym in Spanish), there is no start-up plan with concrete actions to tumble their needs and far less social support to mitigate the Covid-19 effects.

## **SOCIAL POLITICS WITHOUT DISCRIMINATORY VISION**

Ten years after the constitutional article 1<sup>o</sup> reform,<sup>1</sup> the respect to human rights recognized in the Carta Magna and international treats, which the Mexican state is part of, was assured. For any person that inhabits national territory, a broad human rights catalog is recognized where it is also added principles that support the guarantee of these rights.

Therefore, in 2003 the Federal Law for Preventing and Eliminating Discrimination is enacted (LFPED by its acronyms in Spanish). The National Council for the Prevention of Discrimination was created in 2004 (CONAPRED by its acronyms

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<sup>1</sup> The article 1<sup>o</sup> was modified, it was reformed in its paragraphs first and fifth, and two more paragraphs were added –second and third–.

in Spanish). CONAPRED is the state organ responsible for protecting, respecting, compliance, promoting the no discrimination right, and promoting equal opportunities (Table 1).

TABLE 1. REFORMS		
FEDERAL LAW FOR THE PREVENTION AND ELIMINATION OF DISCRIMINATION (2003)	THE CONSTITUTIONAL REFORM TO THE ARTICLE 1° ON HUMAN RIGHTS (2011)	CONAPRED (2004)
<p><b>Objective:</b></p> <p>The law aims to prevent and eliminate all discrimination forms practiced against any person under Article 1 of the Political Constitution of the United Mexican States and promote equal opportunities and equal treatment.</p>	<p>In the United States of Mexico, all people will be entitled to benefit from human rights recognized in this constitution and international treatments that the Mexican state is part of and the guarantees for human rights protection. This enjoyment can not be restricted or suspended unless the case and the conditions established in this constitution, where all the authorities, as competent as they are, must promote, protect, and guaranteeing human rights according to universality, interdependency, indivisibility, and progressivity.</p>	<p><b>Objectives:</b></p> <p>I. To contribute to the cultural, social, and democratic development of the country;            II. To take the proper actions to prevent and eliminate discrimination.            III. To formulate and promote public policies to obtain equal opportunities and treatment for people in national territory.            IV. To coordinate federal executive power entities and agencies in the matter of avoidance and elimination of discrimination.</p>

*Source:* In-house elaboration with data from LGDP and constitutional amendment of the human rights.

On the one hand, the amendment mentioned above to the constitutional article 1° forbids: any discrimination motivated by ethnic or national origin, gender, age, disability, social condition, health condition, religion, opinion, sexual preferences, civil status, or any other that infringes upon human dignity, and that has as an aim to cancel or cut back human rights and people freedom.<sup>2</sup>

On the other hand, the General Social Development Act establishes that: the full exercise of the embodied social rights embodied in the political constitution of the United Mexican States, mainly assuring all people access to social development. Government obligations must be pointed out<sup>3</sup> regulating services and goods provision contained in social programs and establishing evaluation and monitoring mechanism of the programs and actions of the National Social Development Policy, promoting the establishment of justice access instruments in social development matter.<sup>4</sup>

However, the social policy management in Mexico has reflected a disconnection between legislations and a little interest in the government's agenda. Despite

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2 The constitutional amendment on human rights. Conceptual Guide. Available at <https://tinyurl.com/jmlxafqe>

3 Government obligations pointed out by establishing institutions responsible for social development under general guidelines that the National Social Development Policy should be subjected to.; by determining the competency of municipal governments, federative entities and federal governments in social development matter.

4 Ley General de Desarrollo Social. Título Primero de las Disposiciones Generales. [General Law of Social Development. Title 1 of the general provisions] Available at: <https://tinyurl.com/1ebo4xnq>

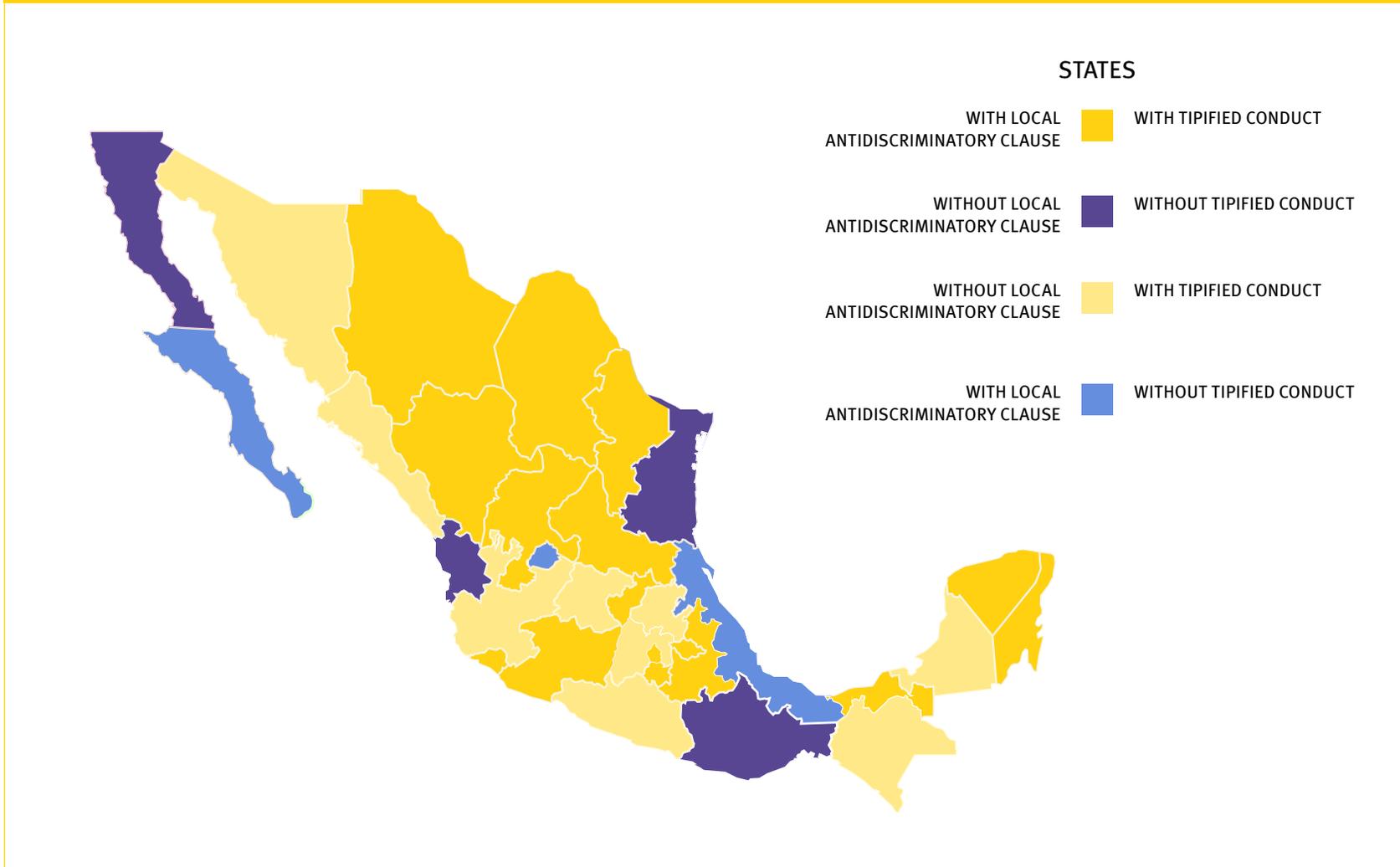
the importance of the institutions responsible for social development, **CONA-PRED will have a cut-out of 14.6% in the 2021 budget, and this implies a more than 23,600 million pesos reduction in the budget**<sup>5</sup> (in 2020, the entity received 161,943,308 MXN to exercise its functions. However, the federal government intends to grant it 138,262,478 MXN for 2021). The effects have been translated into a social policy that lacks discriminatory vision, and it has fewer operative resources for 2021.

Currently, 25 states count with a non-discriminatory local clause in its constitution and 19 with typifying conduct about discrimination, which should be widened to all the entities. It is here where the urge comes before the sanitary crisis; it implies a challenge of nationalizing the non-discriminatory agenda and fight discrimination in the whole country.

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<sup>5</sup> In 2020 the entity received 161,943,308 MXN for the exercise of its functions. However, the federal government intends to grant it 138,262,478 MXN to 2021.

**STATES WHERE THERE ARE AN ANTIDISCRIMINATORY CONSTITUTIONAL CLAUSE, ANTIDISCRIMINATORY LAW AND TIPIFIED CONDUCT RELATED TO DISCRIMINATION**



Source: In-house elaboration with information from CONAPRED. Available at: <https://tinyurl.com/3bom6zwz>

## THE DISCRIMINATION PICTURE

Interestingly, the Politic Constitution articles 1º, 2º, and 4º are dedicated, one way or another, to constitutional guarantees against discrimination. The right to non-discrimination should be the number one right in the world. If People, no matter race, condition, gender, social class, sexual preference, health status, and skin color, had the right to non-discrimination, any other human right would be enshrined.<sup>6</sup>

According to the Human Rights National Commission in Mexico (CNDH for its acronym in Spanish), there are sectors in society in some conditions and characteristics whose human rights are more vulnerable to be violated.<sup>7</sup> Under this scheme, poverty by itself violates multiple human rights. However, it is not the only mechanism of affectation to vulnerable groups. The CNDH recognizes that the issue related to vulnerable groups include: migrants, crime victims, missing people, children and family, sexuality, health and VHI, women-men equity, people and indigenous communities, disabled people, prison system (people in confinement, torture, and sentencing), among others.

International level discrimination types point out that discrimination that affects a greater number of people's gender discrimination. It is involved with more than half of the population (51.2% of the total according to the 2020 Census<sup>8</sup>). After

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<sup>6</sup> *The greater democracy, the less discrimination.* Olivia Gall. Available at: <https://tinyurl.com/1iz8e7n6>

<sup>7</sup> 2020 Acitivites Report. CNDH. Available in: <https://tinyurl.com/6ojno3yu>

<sup>8</sup> Population and Housing Census. Available at: <https://tinyurl.com/1ujdgwcs>

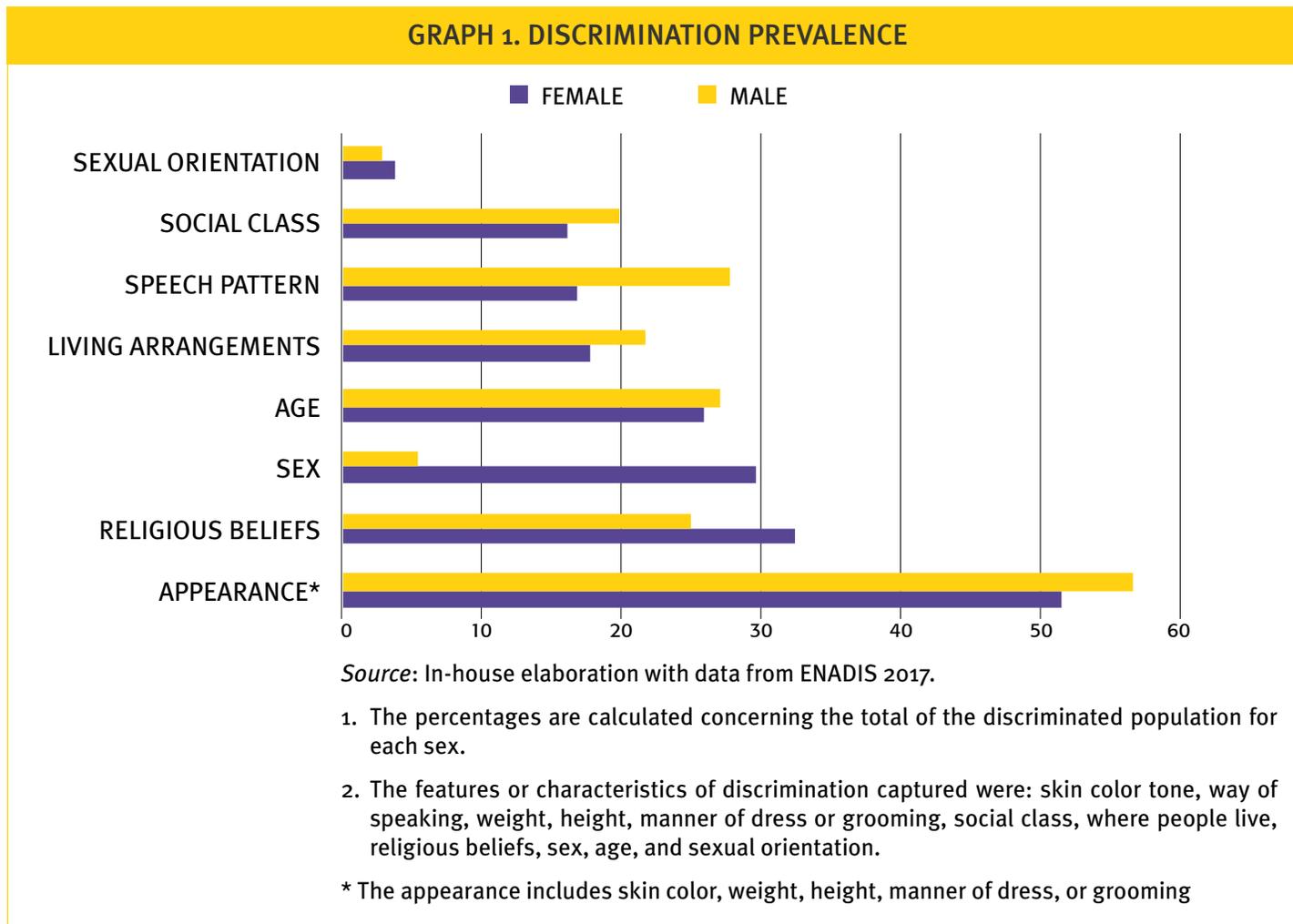
the latter, it is socioeconomic discrimination (it refers to the number of people that live under the poverty line) and ethnic discrimination in the third place due to cultural motives and racial discrimination (based on arguments that naturalize the differences between human groups biologically).

After these three, there are those discrimination types that are against children and finally, the ones that affect minority groups: LGBTQ, disabled people, older adults, and people that live with HIV. The racism image and discrimination in

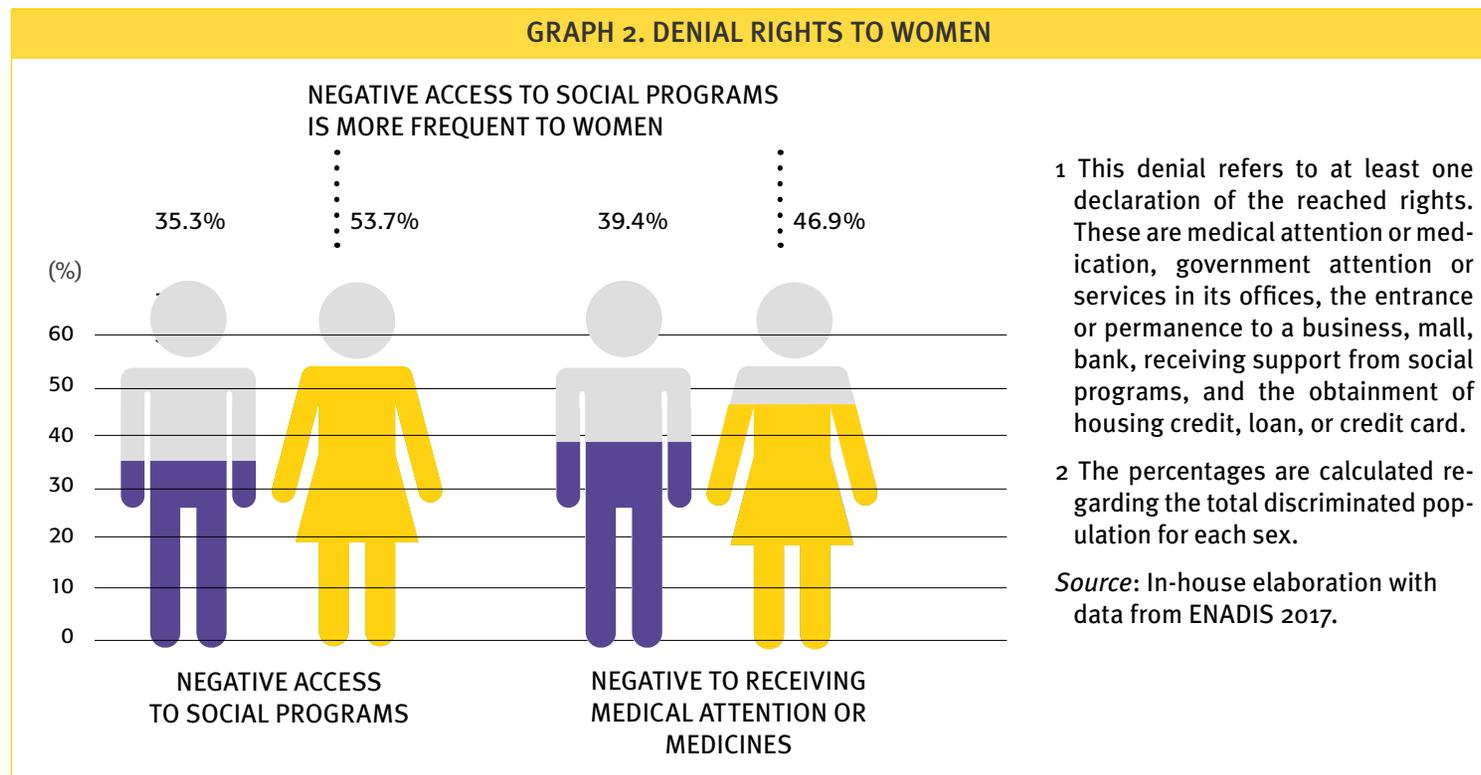
<sup>9</sup> Ethnicity, “race” and equity in América Latina and the Caribbean. CEPAL. Available in: <https://tinyurl.com/yxyyeesx>



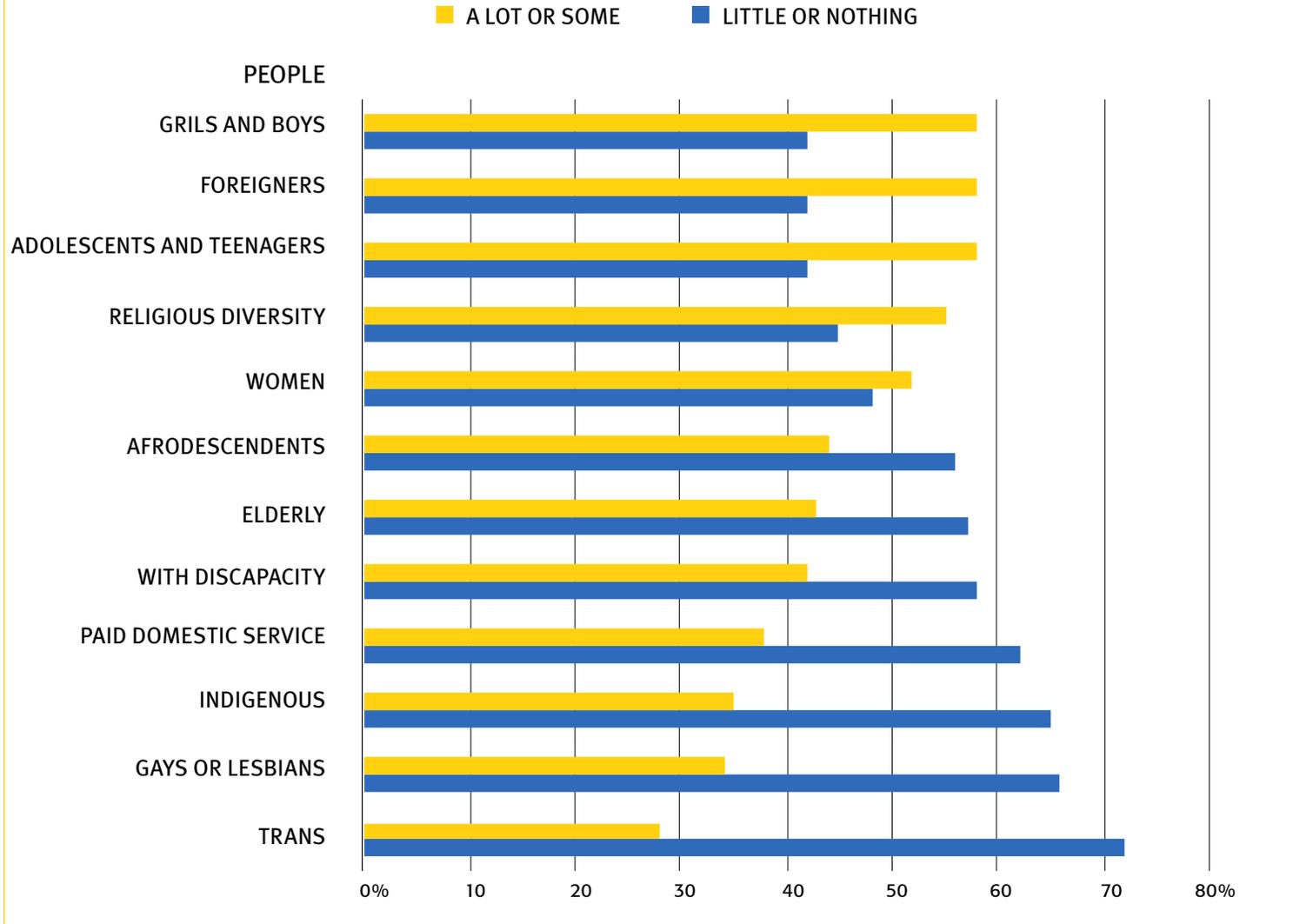
Mexico are portraits in the National Survey of Discrimination (ENADIS for its acronym in Spanish) where, according to the 2017 results: The most frequent motives for discrimination are the appearance, religious beliefs, gender for women, appearance for men, the way of speaking and age (Graph 1).



The disparity in the denial of gender rights exists, where the rejection of support from social programs is bigger for women (53.7%) than for men (35.3%) and the same way for medication or medical attention (46.9% for women and 39.4% for men) (Graph 2). The 18+ population and more think that their rights are little or no respected at all. Transgender people 72%), gay or lesbian people (66%), indigenous people (65%), domestic workers (65%), disabled people (58%), and the eldest (57%), with the biggest percentages in the country's respect to their rights.

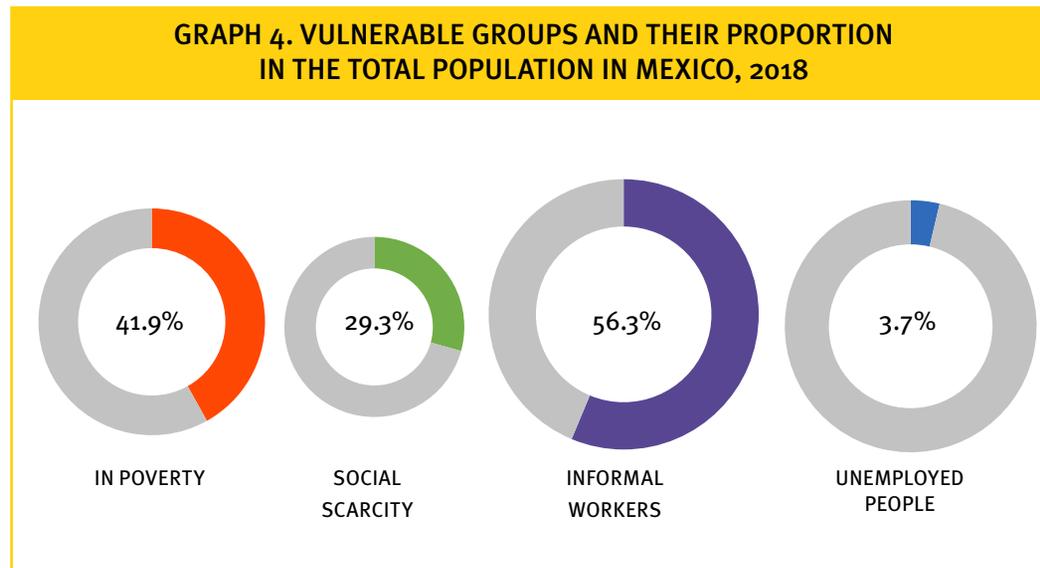


### GRAPH 3. PERCEPTIONS ON HUMAN RIGHTS RESPECTS



Source: In-house elaboration with data from ENADIS 2017.

In the general context, due to the sanitary, economic and social crisis caused by Covid-19, the fall in the per capita income and the employment loss have a different impact on the population (CONEVAL, 2020). These elements are linked to the unstable life exposing people's rights in this sanitary crisis. According to CONEVAL, some groups were identified regarding these affectations: Vulnerable groups due to social deprivation (29.3%), in poverty (41.9%), informal workers (56.3%), and unemployed people (3.7%).<sup>10</sup> (Graph 4).



*Fuente:* Elaboración propia con datos del CONEVAL con base en el MCS-ENIGH 2018.

<sup>10</sup> CONEVAL. <https://tinyurl.com/2ccvrudz>

CONEVAL recognizes the existence of historically discriminated groups that are considered vulnerable facing sanitary crises: women and youngsters (between 18 and 29 years old), older adults<sup>11</sup> (from 65 years old or more), girls, boys, adolescents, indigenous population, and disabled people. Accordingly, it was found that eleven programs provide direct transfers to these groups, where only five serve youngsters, three serve boys, girls, and adolescents, one serves indigenous people, disabled, women, and older adults.<sup>12</sup>

The concerns due to the persistent affectations of vulnerable groups demand to prioritize the coordination of the three government orders. Besides the money transferences, basic transferences in crisis periods. It allows to strengthen a unique roll of beneficiaries and ensure the satisfactory operation that grants direct transfers (CONEVAL, 2020).



Source: <https://expresocampeche.com/notas/nacional/2013/11/18/prohiben-matrimonios-de-ninas-en-comunidades-indigenas/>

<sup>11</sup> Resources from the Wellbeing Older Adults Pension (PBAM for its acronyms in Spanish) will increase 1% and from the Permanently disabled People Pension 5.3% for 2021 compared with the approved budget in 2020. These resources are destined to the population without social insurance, rural, with disabilities, which is more vulnerable, and as a result more affected by the COVID-19 crisis.

<sup>12</sup> Economic package analysis 2021. October 2020. Available in: <https://tinyurl.com/biyl69z5>

## THE ROOT OF ALL PROBLEMS

The legislative framework gaps to support vulnerable groups show where these groups are placed in the government's agenda. To the 10th of June 2011, there has not been a constitutional amendment related to human rights in Mexico or any incorporation to the social policy.

The social rights paradigm didn't become a sign that includes discrimination as a daily practice. A practice that consists of giving unfavorable treatment or underserved contempt to a specific person or group<sup>13</sup> implying negative consequences in people's lives related to the loss of rights and the inequity of access to them. As a result, it could bring isolation, a dash of violence, including loss of lives.

In a country full of victims of all types resulting from multiple and complex circumstances, the greatest relevance of the federal executive government implies the comprehension of human rights in vulnerable groups and the relationship and link between social policy and discrimination, including much more than the related to the criminal field and the administration of justice. It is about the reconstruction of the public system for building the development path required to give effect to what has decided ten years ago for a country that should be the articulation axis of the national project. These actions will bring the possibility of a fulfilled life in dignity for Mexicans under a more significant risk context for the sanitary crisis.



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<sup>13</sup> CONAPRED. Available in: <https://tinyurl.com/2cz8hn67>

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