Mexico: Situation and treatment of sexual minorities, particularly in Mexico City, Cancún, Guadalajara, and Acapulco; state protection and support services available (2012-July 2015)

1. Overview and Legislation

The 2003 Federal Law to Prevent and Eliminate Discrimination (Ley Federal para Prevenir y Eliminar la Discriminación) protects against discrimination based on sexual orientation (Mexico 2003, Art. 1). The website of the National Council for the Prevention of Discrimination (Comisión Nacional para Prevenir la Discriminación, CONAPRED), an independent federal institution created in 2003 to prevent discrimination and to promote and design policies for social and cultural development (ibid. n.d.a), indicates that 29 out of the 32 states in Mexico (not including Jalisco, Nuevo León, and Tabasco) have state legislation that prohibits discrimination based on sexual orientation (ibid. 2015, 7). In addition, 21 states have anti-discrimination clauses in their Constitutions (ibid. 31 Dec. 2014).

Sources indicate that same-sex marriages were first recognized in Mexico City in 2009 (BBC 24 June 2015; Al Jazeera 28 Jan. 2014). A 2015 document produced by CONAPRED indicates that same-sex marriages are legally recognized in three states: Federal District (called Matrimonio), Coahuila (Matrimonio igualitario), and Quintana Roo (Matrimonio) (Mexico 2015, 2-3). The document also indicates that five states recognize same-sex civil unions: Federal District (Sociedad en convivencia), Campeche (Sociedad en convivencia), Coahuila (Pacto de solidaridad), Colima (Enlace conyugal), and Jalisco (Libre convivencia) (ibid., 3). CONAPRED also indicates that same-sex marriages can be recognized anywhere in the country through a writ of amparo (constitutional legal protection) (ibid. 2015, 7). For further information on writs of amparo, see Response to Information Request MEX103802. The Supreme Court of Justice (Suprema Corte de Justicia de la Nación, SCJN) ruled on 3 June 2015 that [translation] "there is no constitutional reason to not recognize same-sex marriages" (ibid. 4 June 2015).

The SCJN judgment further stated that [translation]

[t]he reason why same-sex couples have not enjoyed the same protections available to heterosexual couples is not because of negligence from the legislative branch of government but because of the legacy of severe prejudices that have traditionally existed and the historical discrimination against them. (ibid.)

However, according to Alejandro Madrazo, a lawyer and investigator with Mexico City's Center for Research and Teaching Economics (Centro de Investigacion y Docencia Economicas, CIDE) [1], same-sex couples will continue facing challenges regarding marriage as civil registries [translation] "will continue rejecting applications for same-sex marriages and these couples will have to file an amparo with the associated costs
and bureaucracy this process implies" (qtd. in BBC 24 June 2015). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

CONAPRED indicates that same-sex partners can be registered as beneficiaries before the Mexican Institute of Social Security (Instituto Mexicano de Seguridad Social, IMSS) and the Institute of Security and Social Services for State Workers (Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado, ISSSSTE) (Mexico 2015, 8).

2. Treatment by Society

Sources indicate that discrimination against sexual minorities remains common across Mexico (Al Jazeera 28 Jan. 2014; US 25 June 2015, 31). A study on transgendersed women in the Federal District was produced by the National Institute of Public Health (Instituto Nacional de Salud Pública, INSP) [2], the Condesa Specialized Clinic (Clínica de Especialidades Condesa, CONDESA) [3], and Population Services International in Mexico (PSI Mexico) [4], and supported by the US Agency for International Development (USAID) (INSP et al. 8 May 2013). The study, which consisted of 585 interviews with transgendersed women, took place in the Federal District at 77 locations where transgendersed women typically meet (351 participants), the CONDESA Specialized Clinic (150), and four penitentiaries (84) (INSP et al. 8 May 2013, 10, 19-20). According to the survey, the following percentages of women surveyed have faced discrimination: 67.1 percent of respondents at typical meeting places, 78.7 percent at the CONDESA clinic, and 79.5 percent at penitentiaries (ibid., 37). CONAPRED indicates that, according to the CNDH, between 2009 and 2013, 176 inquiries on discrimination have been opened by the Public Ministry (Mexico 2015, 5). Information on the status of these inquiries could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

In correspondence with the Research Directorate, a representative from the Colectivo León Gay, A.C., an NGO that advocates for the rights of LGBT persons in Mexico, indicated that LGBT persons face discrimination when accessing health care services (Colectivo León Gay, A.C. 10 July 2015). Excelsior, a Mexico City-based newspaper, quotes the Deputy Director of the Complaints Unit at CONAPRED as indicating that the most common complaints received at that institution from LGBT persons include the denial of access to health services, the rejection of applications to access social security for same-sex partners, and homophobic comments made by health care providers (8 Sept. 2013). The INSP et al. study indicates that of those transgendersed women surveyed, 7.1 percent at meeting places, 9.3 percent at the CONDESA clinic, and 7.3 percent at penitentiaries in the Federal District have been denied access to health services (8 May 2013, 38).

The US Department of State's Country Reports on Human Rights Practices for 2014 for Mexico indicates that sexual minorities face discrimination in employment (US 25 June 2015, 38). The INSP et al. study indicates that the following percentages of those transgendersed women surveyed have been denied employment based on their sexual orientation: 8.7 percent at meeting places, 20.3 percent at the CONDESA clinic, and 10.9 percent at penitentiaries (8 May 2015, 38). A national online survey by the National Commission of Human Rights (Comisión Nacional de los Derechos Humanos, CNDH) [5], Espoela [6], and Google Mexico, among other sources, indicates that 39 percent of respondents have been asked at some point in their lives about their sexual orientation in order to obtain employment (Mexico et al. 15 May 2014, 11). The survey, which consisted of 2,284 LGBT respondents in Mexico, of whom 64 percent were gay males and bisexuals, 24 percent were lesbians and bisexual women, and 8 percent were transgendersed women, also indicates that 35 percent of the respondents have been refused employment and 26 percent have been fired due to their sexual orientation (ibid.). The survey further indicates that 53 percent of respondents did not take any action against this treatment, while 15 percent did, of which 17 percent filed a complaint with authorities (ibid. 13).

Sources indicate that sexual minorities face discrimination at educational institutions (Colectivo León Gay, A.C., 10 July 2015; El Financiero 10 Feb. 2014). Sources report that children of same-sex couples are denied access to education (El Financiero 10 Feb. 2014; Milenio 20 Sept. 2013). An investigation undertaken by El Financiero, a Mexico City-based financial newspaper, reports that educational institutions in several states, including Querétaro, Guanajuato, and the Federal District, deny access to education to children of same-sex couples (El Financiero 10 Feb. 2014). Milenio, a newspaper based out of Mexico City, similarly reports on the dismissal of a two-year-old girl from a school in Monterrey because her parents were a gay couple (Milenio 20 Sept. 2013). The article points out that one of the spouses asked for assistance from CONAPRED and the Office of the Under-Secretary of Education of Nuevo León, but that the school still refused to register the girl (ibid.). The Secretary of Education was reportedly studying the case (ibid.). Additional information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources indicate that sexual minorities also face violence at educational institutions (Excelsior 8 Sept. 2013; Colectivo León Gay, A.C. 10 July 2015; NotieSe 16 May 2012). Sources report that an online study
conducted in 2011 on homophobic bullying at schools in Mexico by the Youth Coalition for Sexual and Reproductive Rights [7] and the Youth Coalition for Education and Sexual Health (Coalición de Jóvenes por la Educación y la Salud Sexual, COJESS) [8], which was presented to the CNDH, from a sample of 1,273 LGBT persons (UN n.d.; Proceso 3 June 2014), indicates that 74 percent of gay men (of 875 participants), 50 percent of lesbians (of 124 participants), and 66 percent of transgendered persons (of 32 participants) experienced violence at educational institutions (ibid.; NotieSe 16 May 2012). Proceso, a Mexico City-based news magazine, also reports that, according to the study, 50 percent of teachers considered aggressions against LGBT students as [translation] "normal" and that in 5 percent of the cases the aggressors were punished (Proceso 3 June 2014).

The representative from the Colectivo León Gay, A.C. indicated that some parts of Mexico City, Guadalajara, Puerto Vallarta, and Monterrey "can be considered as safe for LGBT persons, however, in the rest of the country it would be difficult to publicly show yourself as an LGBT person" (10 July 2015). Al Jazeera reports that on 31 December 2014, a gay couple was asked to leave a "trendy" nightclub in Guadalajara after they kissed each other, and that two months prior to this incident, a lesbian couple was thrown out of a bar after kissing and holding hands (Al Jazeera 28 Jan. 2014). The gay couple filed a complaint with municipal, state, and federal authorities, as well as with human rights organizations but did not receive a response to their complaint (ibid.). Additional information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Violence Against Sexual Minorities

The INSP et al. study indicates that of the 585 transgendered women interviewed, 21.9 percent at meeting places, 26.3 percent at CONDESA clinic, and 33.8 percent at penitentiaries have faced physical violence (8 May 2013, 38).

CONAPRED indicates that, according to the CNDH, between 2009 and 2013, 91 homicides have been committed in Mexico that were motivated by homophobia or transphobia (Mexico 2015, 5). Proceso reports that, according to a report produced by the Citizens Commission Against Hate Crimes Motivated by Homophobia (Comisión Ciudadana contra los Crímenes de Odio por Homofobia, CCCOH) [9], 1,218 homicides motivated by homophobia have been committed since 1995 in Mexico, with the majority of victims being gay men (976), followed by 226 victims who were transgender, transsexual or transvestite individuals, and 16 women (Proceso 11 May 2015). The CCCOH investigation indicated that homicides against lesbians are underreported because the murders are usually categorized as femicides and not murders caused by homophobia (ibid.). The Federal District has the highest number of these types of homicides (190 homicides), followed by the State of Mexico (119), Nuevo León (78), Veracruz (72), Chihuahua (69), Michoacán (65), Jalisco (66), and Yucatán (60) (ibid.). The report further indicates that the rate of homophobia-motivated homicides has been increasing since 2005, when it reached the highest number recorded at 71 cases (ibid.).

4. Treatment by Authorities

A report on crimes against transgendered women sent to the Research Directorate by a representative at the Support Centre for Transgender Identities (Centro de Apoyo a las Identidades Trans, CAITT), an NGO that advocates for the rights of transgendered women in Mexico (CAITT n.d.), indicates that transgendered women are discriminated against by the police and judicial authorities (ibid. Feb. 2013). The representative from Colectivo León Gay, A.C. indicated that LGBT persons are [translation] "frequently" harassed and arbitrarily detained due to their physical appearance, the way they dress, or for expressing affection in public (Colectivo León Gay, A.C. 10 July 2015). The representative also indicated that they are barred from assembling in public because they are seen as "engaging in prostitution or giving a 'bad example' or 'bad image' to society" (ibid.).

According to the Colectivo León Gay, A.C. representative, officials from the Public Ministry often mistreat LGBT persons and refuse to open investigation for crimes against them (ibid.). In correspondence with the Research Directorate, a representative from Queer Investigations (Investigaciones Queer, A.C.), a civil society organization that advocates for the rights of LGBT persons in Mexico (Investigaciones Queer, A.C. n.d.), indicated that despite the training provided to judicial authorities on sexual diversity, [translation] "there is still a lot of intimidation and threats against the LGBT population due to what they perceive as 'faults against morals,' which are used to extort members of the LGBT community" (ibid. 10 July 2015). The INSP et al. study indicates the following percentage of women surveyed as identifying the police as agents of discrimination: 33.4 percent at meeting places, 24.6 percent at the CONDESA clinic, and 20.6 percent at penitentiaries (8 May 2013, 38).

5. State Protection
Sources indicate that authorities did not always investigate and punish those who are complicit in human rights abuses against sexual minorities (US 25 June 2015, 31; Colectivo León Gay, A.C. 10 July 2015). Sources indicate that crimes committed against sexual minorities are often characterized by authorities as "crimes of passion" (crímenes pasionales) and that these types of crimes are investigated less (OAS 25 June 2012; Investigaciones Queer, A.C. 10 July 2015). Proceso reports that, according to the CCCOH report, homicides motivated by homophobia run the risk of becoming [translation] "invisible" due to the "violence, impunity and corruption' that are present during the investigation of these crimes" (11 May 2015). The report provided by CAIT similarly indicates that homicides of transgendered women tend to result in impunity and [translation] "people often tend to view this as the rule rather than the exception," which adds to the stigmatization, discrimination, and human rights violation of this segment of the population (ibid. Feb. 2013, 1). According to the Queer Investigations representative, the LGBT population in Mexico continues to be persecuted, criminalized, and discriminated against due to the [translation] "high degree of corruption, negligence, and impunity" in the justice system (ibid. 10 July 2015). In a response to an access to information request made by the Research Directorate, the Human Rights Commission of the Federal District (Comisión de Derechos Humanos del Distrito Federal) indicated that, between January 2012 and May 2015, 132 human rights violations were identified in the 87 complaints received and finalized by that federal institution regarding crimes against LGBT persons (Federal District 29 June 2015, 10). Out of the investigations into these 132 violations, 56 were terminated due to lack of evidence, 13 were terminated due to "lack of interest" from the complainant, and 57 were resolved (ibid.).

Excelsior quotes a physician at the López Mateos Hospital in Mexico City as stating that many LGBT persons who arrive at the hospital as victims of violence and abuse refuse to file a complaint with the Public Ministry, arguing that these authorities [translation] "do not do anything and they make fun of their sexual preferences" (Excelsior 8 Sept. 2013). The physician explained that even though physicians and health service providers administer the paperwork that provides notice to authorities regarding cases, LGBT patients do not follow through with the complaint (ibid.).

The representative from the Colectivo León Gay, A.C. indicated that even though Mexican authorities have been receiving training in sexual diversity issues, they do not have an integrated strategy nor do they seek the participation of LGBT rights organizations in that training (Colectivo León Gay, A.C. 10 July 2015).

5.1 Support Services

Sources report that the Community Centre for the Assistance of Sexual Minorities (Centro Comunitario de Atención a la Diversidad Sexual) is located in the Zona Rosa area of the Federal District (Time Out México 12 Dec. 2014; La Jornada 1 Nov. 2012). La Jornada, a Mexico City-based newspaper, reports that the Centre, which is located at Génova Street No. 30, was inaugurated on 8 April 2011 and is the [translation] "only one of its type" in Mexico (ibid.). The Centre provides medical, legal, and psychological assistance, as well as testing for HIV and syphilis (ibid.; Time Out México 12 Dec. 2014). A specialized unit that provides assistance to LGBT persons at the General Attorney's Office of the Federal District also has an office located at the Centre to assist victims of crimes (ibid.; La Jornada 1 Nov. 2012). Time Out México indicates that services are provided for free (Time Out México 12 Dec. 2014). According to the Under-Secretary of Government (Subsecretario de Gobierno) of the Federal District, the Centre provided services to 13,600 people during its first year of operations, including investigations by the Public Ministry (1,253 people) and the provision of health services (2,398 people) (qtd. in La Jornada 1 Nov. 2012).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] CIDE is "one of Mexico's most important centers of higher education and research in the social sciences. Recognized both nationally and internationally, CIDE has been a non-profit public institution since its establishment in Mexico City in 1974" (Stanford University n.d.).

[2] INSP is an academic institution that undertakes research on public health issues (INSP 30 June 2015).

[3] Clínica de Especialidades Condesa is the [translation] "largest" clinic that provides services to HIV patients in Mexico (Federal District n.d.).

[4] PSI Mexico is a non-profit charitable organization that "aims to improve the health of low income and vulnerable Mexicans" (PSI n.d.).

[5] The CNDH is the national body responsible for the promotion and protection of human rights in the country (ibid. n.d.b).
Espolea is an NGO made up of young people that advocates for the promotion and protection of human rights (Espolea n.d.).

Youth Coalition for Sexual and Reproductive Rights "is an international organization of young people (ages 18-29 years) committed to promoting adolescent and youth sexual and reproductive rights at the national, regional and international levels" (Youth Coalition for Sexual and Reproductive Rights n.d.).

COJESS is an organization based in Mexico that advocates for the sexual rights of young people (COJESS 29 Oct. 2012).

The CCCOH is an organization that provides assistance to the families of victims during the investigation of homophobia-motivated homicides to bring the perpetrator to justice (Letra S, Sida, Cultura y Vida Cotidiana, AC n.d.). It also develops strategies to publicize and disseminate information about these cases (ibid.).

References


Colectivo León Gay, A.C. 10 July 2015. Correspondence from a representative to the Research Directorate.


Federal District. 29 June 2015. Comisión de Derechos Humanos del Distrito Federal. Information obtained through an access to information request.


Investigaciones Queer, A.C. 10 July 2015. Correspondence from a representative to the Research Directorate.


Additional Sources Consulted

**Oral Sources**: The following were unable to provide information for this Response: Jalisco – Ayuntamiento de Guadalajara, Fiscalía General, Instituto de Transparencia e Información Pública de Jalisco; Federal District – Consejo para Prevenir y Eliminar la Discriminación de la Ciudad de México, Procuraduría General de Justicia, Procuraduría Social del Distrito Federal; Mexico – Comisión Nacional de los Derechos Humanos, Procuraduría General de la Nación.

The following were unable to provide information within the time constraints of this Response: Fundación Arcoiris por el Respeto a la Diversidad Sexual, A.C.

Attempts to contact the following were unsuccessful within the time constraints of this Response: Agenda LGBT, A.C.; Centro de la Diversidad Sexual Buenas Intenciones, Yucatán; Colectivo Binni Laanu, A.C.; Colega O.A.C.; Comunidad Metropolitana, A.C.; Comunidad Orgullo GLBTI Tijuana; Género, Ética y Salud Sexual, A.C.; Guerrero – Comisión de los Derechos Humanos, Procuraduría General de Justicia; Migrantes LGBT; Quintana Roo – Comisión de Derechos Humanos, Procuraduría General de Justicia.

**Internet sites, including**: Amnesty International; *The Atlantic*; *Cambio de Michoacán*; Contralinea; *Diario de Guerrero*; *Diario del Sur*; Egale Canada; *El Universal*; Factiva; Federal District – Legislative Assembly; Freedom House; Friedrich-Ebert-Stiftung; *The Guardian*; Guerrero – Comisión de los Derechos Humanos, Procuraduría General de Justicia; Human Rights Watch; Instituto para la Seguridad y la Democracia A.C.; International Crisis Group; International Gay and Lesbian Human Rights Commission; International Lesbian, Gay, Bisexual, Trans and Intersex Association; Jalisco – Fiscalía Federal del Estado; Mexico – Cámara de Diputados, Instituto Nacional de Estadística y Geografía, Procuraduría General de la República, Secretaría de Gobernación; *La Nación*; Noticias Terra; *La Página*; Quintana Roo – Comisión de Derechos Humanos, Procuraduría General de Justicia; TeleSUR; Transrespects Versus Transfobia; Washington Office on Latin America; *Zócalo Saltillo*.

Tips on how to use this search engine.