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Mexico: Treatment of homosexuals and availability of state protection (May 2006)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

According to a professor at the Faculty of Psychology of the National Autonomous University of Mexico (Universidad Nacional Autónoma de México, UNAM), homosexuality is not a crime in Mexico (17 May 2006). However, the country has had a long history of [translation] "attacks and murders" of homosexuals and transsexuals (Professor 17 May 2006; see also ILGA 13 July 2005), and members of these communities continue to face discrimination (Mexico 19 May 2006; CEPRODEHI 25 May 2006). *Country Reports on Human Rights Practices for 2005* indicated that although the law "prohibits several types of discrimination", including sexual preference, "[h]omophobic beliefs and practices were common, reflected principally in entertainment programs and every day attitudes" (8 Mar. 2006, Sec. 5).

A survey conducted in 2005 by the National Council to Prevent Discrimination (Consejo Nacional para Prevenir la Discriminación, CONAPRED) and the Social Development Secretariat (Secretaría de Desarrollo Social, SEDESOL) indicated that 94.7 per cent of homosexuals interviewed suffered discrimination in Mexico (Mexico May 2005, 107), 71 per cent of the homosexuals said that the greatest hardship they faced was discrimination (ibid., 108), and 54.5 per cent felt rejected by society (ibid., 109). The results of the same study indicated that 40 per cent of homosexuals felt that they had been treated unfairly at work (ibid., 112), 75 per cent estimated that they were paid less than other workers for the same work (ibid.), and 72 per cent believed it was more difficult to find employment as a homosexual (ibid., 111). The study also showed that 44.1 per cent of the homosexuals interviewed said that their families had tried to force them to change their sexual orientation (ibid., 114) and 43 per cent said they had fewer educational opportunities than heterosexuals, (ibid., 111).

According to an official with the Human Rights Commission of the State of Jalisco (Comisión Estatal de Derechos Humanos Jalisco, CEDHJ), employers justify discriminatory treatment at work and unfair dismissal using the Article 47 of the Federal Labour Law, which states that "immoral acts" committed by a worker at his or her workplace is sufficient cause for dismissal (Mexico 19 May 2006; see also *La Jornada* 16 May 2005; ibid. 30 Aug. 2005). The CEDHJ official indicated that homosexuals, bisexuals and transsexuals are confronted with discrimination from colleagues at work and by society in general (Mexico 19 May 2006). Members of these communities are the subject of verbal, physical and psychological abuse and prejudice (ibid.). In an interview with *Es Mas*, Gilberto Rincón Gallardo from CONAPRED stated that homosexuals in Mexico are also rejected by their own parents (*Es Mas* 17 May 2005). According to the survey conducted by CONAPRED and SEDESOL, 48.4 per cent of the heterosexual surveyed indicated that they would not allow a homosexual to live in their house (Mexico May 2005, 105).

The Citizen's Commission Against Hate Crimes (Comisión Ciudadana Contra los Crímenes de Odio por Homofobia, CCCCOH) citing reports from non-governmental organizations, stated that 15 homophobic or transphobic murders occur each month in Mexico (24 March 2005). Other sources estimated that between 100 and 180 homophobic killings take place each year in Mexico (*Frontera.info* 17 May 2006; CCCCOH 24 Mar. 2005; see also *La Jornada* 16 May 2005), placing Mexico second on the continent for homophobic murders (CCCCOH 24 March 2005). According to the CCCCOH, the majority of victims are men between 20 and 40 years old (CCCCOH 24 Mar. 2005). Most murders of homosexuals occurred in the Federal District, followed by the states of México, Veracruz and Michoacán (*Es Mas* 17 May 2006).

A professor at the UNAM claimed that a large number of homophobic murders go unpunished (17 May 2006; see also CCCCOH 24 Mar. 2005 and Mexico 19 May 2006) because authorities allegedly minimize the significance of sexual preference in hate crimes (ibid; see also CCCCOH 24 March 2005). According to the coordinator of the CCCCOH, while three murders related to sexual preference are reported each month [translation] "for every one of these, five others are lost in the judicial files, classified as common homicides or crimes of passion ...[and] are closed without investigation" (ibid.). Citing statistics from CONAPRED and CCCCOH, various sources also indicated that only one crime of every four crimes against homosexuals is reported (*Es Mas* 17 May 2005; *La Jornada* 16 May 2005; see also Adital 1 July 2005).

The following list provides examples of recent murders of homosexuals in Mexico:

On 13 March 2006, the body of Emilio Zuñiga (13) was found. Emilio had been beaten to death, with stones and sticks... According to CEPRODEHI (Centro de Estudios y Proyectos para el Desarrollo Humano Integral), a local human rights NGO, it is likely that homophobia has played a role in this case and authorities need to be pressured to properly investigate and punish those responsible (IGLHRC 19 Apr. 2006; CEPRODEHI 25 May 2006).

On 21 June [2005], unknown assailants stabbed and killed Octavio Acuña... a prominent human rights activist who campaigned for the rights of persons with HIV/AIDS and worked for a sexual education association; the legal representative of the Queretana Association for Sexual Education, ... said that she considered Octavio's killing an act of homophobia. An investigation continued at year's end (*Country Reports 2005* 8 Mar. 2006; see also ILGA 13 July 2005).

[Translation]

On 19 June 2005, in Mexico City, the body of a man was found at his home with his hands tied and showing signs of torture. ... the local judicial authorities deemed the murder a "crime of passion" (Adital 1 Jul. 2005).

[On 7 February 2005], 17-year-old Mexican Antonio Ruiz was murdered, his killer wrote "I'm a faggot" and "queer" on his body (IPS 15 March 2005; see also *Es Mas* 17 May 2005).

[Translation]

In January 2005, the body of Antonio Chamorro was found hanged in the offices of his civil association located in Puebla and as of [1 July 2005] there [had been no] investigation (*La Jornada* 1 July 2005)

According to the president of CEPRODEHI, the Mexican government does not provide special protection for homosexuals, lesbians and transsexuals (CEPRODEHI 25 May 2006). In a news article, José Aguilar of the Democracy and Sexuality Network (Red Democracia y Sexualidad) condemned the fact that homosexuality is considered a problem but homophobia is not (*La Jornada* 1 July 2005). The activist added that [translation] "The fact that there are deaths of young people under 30 is very serious" (ibid.). He also expressed concern over what is happening with human rights, especially how intolerance and discrimination lead to a high level of violence (ibid.). An official with the CEDHJ stated that, when a crime against a member of the homosexual, transsexual or lesbian community is investigated, authorities tend not to consider the fact that the crime has been motivated by "hate" (Mexico 19 May 2006; see also EFE 1 Feb. 2006). As a consequence of this attitude, the coordinator of a sexual rights group argued that the effectiveness of investigating and preventing these types of crimes is reduced (ibid.).

In 2005, the Mexican government, along with CONAPRED, the National Center for the Control and Prevention of HIV/AIDS (Centro Nacional para la Prevención y el control del VIH/SIDA, CENSIDA) and the Pan American Health Organization (PAHO), launched a radio campaign against homophobia (Mexico n.d.a.; Adital 31 Aug. 2006). According to a professor at UNAM, the radio campaign was a success due to its broad national coverage (25 May 2006; see also IPS 15 Mar. 2006). However, a news article published by IPS indicated that "the Catholic Church and conservative groups have loudly protested the initiative, claiming that it will promote homosexuality, which they view as an 'aberrant disease'" (ibid.). In the professor's opinion, the Catholic Church still plays a very important role in perpetuating homophobia and violence against lesbians and gays (17 May 2006; see also IPS 15 Mar. 2006 and *La Jornada* 1 July 2005).

On 2 May 2006, the signature of an Act which would have fought discrimination against homosexuals and provided homosexual couples the same rights as heterosexual couples was cancelled because the Secretary of the Interior disagreed with one of the Act's articles on sexual orientation (*La Jornada* 2 May 2006; Professor 25 May 2006). No further information on the signature of this plan could be found among the sources consulted by the Research Directorate.

At the end of 2005, the CENSIDA reported 98,933 Mexicans as HIV-positive (Mexico n.d.b), out of an estimated population of 107,449,525 (CIA 16 May 2006). Sexual transmission is the principal cause in 92,2 per cent of cases, and 47,7 per cent of the latter figure corresponding to men who have sex with men (Mexico n.d.b).

In Mexico, CONAPRED is the public institution that receives complaints and deals with matters of discrimination; however its actions are limited and it has no authority to impose penalties (CEPRODEHI 25 May 2006). The CENSIDA, is the administrative agency in charge of AIDS awareness (Mexico n.d.a.)

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 additional sources consulted in researching this Information Request.

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