

# Immigration and Refugee Board of Canada

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## Responses to Information Requests

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8 September 2011

### MEX103801.E

Mexico: Implementation of the General Law on Women's Access to a Life Free of Violence (*Ley General de Acceso de las Mujeres a una Vida Libre de Violencia*) in the Federal District (June 2008-August 2011)  
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

### Context

In correspondence with the Research Directorate, a principal researcher with the Legal Research Institute (Instituto de Investigaciones Jurídicas) at the National Autonomous University of Mexico (Universidad Nacional Autónoma de México, UNAM) stated that family violence in Mexico remains [translation] "a serious problem" (Principal Researcher 17 Aug. 2011). Likewise, the Director of Epidemiology and Psychosocial Research at the Ramón de la Fuente Muñiz National Institute of Psychiatry (Instituto Nacional de Psiquiatría Ramón de la Fuente Muñiz) stated, in correspondence with the Research Directorate, that domestic violence in the Federal District [translation] "continues to be a problem" (Director 16 Aug. 2011).

The principal researcher, citing a 2010 report by the National Commission to Prevent and Eradicate Violence Against Women (Comisión Nacional para Prevenir y Erradicar la Violencia contra las Mujeres, CONAVIM), said that the Federal District ranks as the state with the sixth highest incidence of deaths due to gender-based violence (Principal Researcher 17 Aug. 2011). An ABC article provides data from Mexico's National Citizens' Observatory for Femicide (Observatorio Ciudadano Nacional del Femicidio, OCNF) indicating that, in the Federal District, 203 women were murdered between January 2009 and December 2010 (ABC 27 July 2011).

In 2010, Mexico's National Institute of Statistics and Geography (Instituto Nacional de Estadística y Geografía, INEGI) provided a summary of its 2006 national survey on household relationships (Mexico 25 Nov. 2010, 2). The results showed that, in the Federal District, 733,612 women over the age of 15 had experienced violence from their partner in the previous 12 months, and 1,361,301 women had experienced violence from their partner at some point during their lifetime (ibid., 3). The report also notes that in 2008, 22,156 women sought information about or treatment for domestic violence from the Network of Family Violence Care and Prevention Units (Red de Unidades de Atención y Prevención de la Violencia Familiar, UAPVIF) (ibid., 10), a network of Federal District care units that offer, free of charge, psychological, legal and social work assistance (Federal District n.d.c).

In addition, the Federal District Human Rights Commission (Comisión de Derechos Humanos del Distrito Federal, CDHDF) reported that in 2008 it received 195 complaints of violence against women, an increase of 34.5 percent from the previous year (Federal District 6 Mar. 2009). In 2010, the CDHDF indicated that 116, or 14.5 percent, of all of the complaints it had received about human rights violations alleged that the right to a life free of violence had been violated, and that 39, or 4.9 percent, alleged that women's human rights had been violated (ibid. Apr. 2011, 24). The CDHDF also notes that young women face [translation] "double discrimination" on the basis of their gender and their age (ibid. Mar. 2011, 9). Information on the outcome of the complaints received by the CDHDF could not be found among the sources consulted.

### Legal Framework

The Federal District sought to align itself with federal legislation protecting women's right to live free from violence - specifically, the federal government's General Law on Women's Access to a Life Free of Violence in the Federal District (*Ley General de Acceso de las Mujeres a una Vida Libre de Violencia*) (Federal District July 2009, 5) -- by approving the Law on Women's Access to a Life Free of Violence (*Ley de Acceso de las Mujeres a una Vida Libre de*

*Violencia para el Distrito Federal*) on 13 December 2007 (ibid.; Mexico June 2011, 2). The law came into effect on 8 March 2008 (Federal District July 2009, 5). The Regulations of the Law on Women's Access to a Life Free of Violence for the Federal District (*Reglamento de la Ley de Acceso de las Mujeres a una Vida Libre de Violencia del Distrito Federal*) were approved one year later on 24 February 2009 (Mexico June 2011, 2).

The General Law, which was enacted in 2007, stipulated that a national database on violence against women be established (CIMAC 13 June 2011). However, the Mexico City-based news agency CIMAC Noticias reported in June 2011 that it has not yet been created (ibid.). The General Law also called for the creation of a National System for the Prevention, Assistance, Sanctioning and Eradication of Violence Against Women (Sistema Nacional para Prevenir, Atender, Sancionar y Erradicar la Violencia contra las Mujeres) to [translation] "coordinate efforts, instruments, policies, services and inter-agency actions to prevent, assist, sanction and eradicate violence against women" (Mexico n.d.a, 10). In keeping with the requirement to create its own version (ibid.), the Federal District installed the Inter-Agency Coordination System for Prevention and Assistance Measures (Sistema de Coordinación Interinstitucional para las Medidas de Prevención y Atención) on 18 July 2008 (ibid. June 2011, 2).

On 26 July 2011, the Federal District published the Decree Amending and Supplementing Various Provisions of the Criminal Code for the Federal District and the Code of Criminal Procedure for the Federal District (*Decreto por el que se reforman y adicionan diversas disposiciones del Código Penal para el Distrito Federal y del Código de Procedimientos Penales para el Distrito Federal*) in its Official Gazette (Federal District 26 July 2011). The decree adds the crime of femicide into the Federal District's Penal Code and Penal Procedures Code (ibid.). The reform also stipulates the following:

[Translation] Article 148 *bis*. Whoever, for reasons of gender, kills a woman commits the offence of femicide.

Reasons of gender exist in any of the following cases:

- I. The victim presents signs of sexual violence of any kind;
- II. The victim suffered dishonouring or degrading injuries or mutilations before or after she was killed;
- III. It is known that the perpetrator threatened, harassed or injured the victim or used violence against her;
- IV. The victim's body was exposed, discarded or thrown out in a public place; or
- V. The victim was confined for any length of time before her death.

Those guilty of femicide shall be sentenced to twenty to fifty years in prison.

If the perpetrator and the victim had a romantic relationship, a friendship, a relationship of trust, or a parent-child, employer-employee or teacher-student relationship or any relationship involving subordination or superiority, and it is shown that any of the cases in the previous paragraphs applies, the penalty will be thirty to sixty years in prison. (ibid.)

The decree also stipulates the creation of a Genetic Information Database (Banco de Datos de Información Genética) for the Federal District in the following terms:

Article 105 *ter*. (...)

In the case of unidentified bodies or those that cannot be recognized, a study must be done to determine the DNA, which will be sent to the Genetic Information Database kept by the Attorney General of the Federal District. Genetic information from families of missing women or women who are presumed to have been victims of femicide will be added to this bank when requested or in compliance with a court order.

#### TRANSITIONAL PROVISIONS

5. Within six months, the Attorney General of the Federal District must establish the registers to which article 105 *ter* of the Penal Procedures Code for the Federal District refers, as well as the Genetic Information Data Bank mentioned therein. (ibid.)

#### Government Services

In 2008, the Care Centre for Family Violence (Centro de Atención a la Violencia Intrafamiliar, CAVI), a Federal District government agency, created a multidisciplinary team that [translation] "arranges emergency protection measures for women at risk or whose rights might be violated" (Federal District n.d.a). The team is composed of professionals specializing in psychology, law and social work and operating 24 hours a day, 7 days a week (ibid.). The CAVI also offers economic support and emergency medical care, as well as certifies the physical condition of women and children under 12 years old who are victims of family violence (ibid.).

According to the Director of Epidemiology and Psychosocial Research, the Federal District also has two social programs for women victims of violence: the Social Reintegration Program for Women Leaving Shelters and Hostels (Programa de Reinserción Social para Mujeres Egresadas de Refugios y Albergues), and the Insurance Against Family Violence (Seguro contra la Violencia Familiar) (Director 16 Aug. 2011). The Social Reintegration Program offers

psychological, employment and legal assistance services, as well as shelter, scholarships and housing support (ibid.). In the first trimester of 2011, the program assisted 1,964 women (ibid.). However, according to the Director, the program [translation] "puts too little emphasis" on employment services and access to housing and productive projects to help women reintegrate effectively (ibid.).

The second social program, the Insurance Against Family Violence, provides women who have sought assistance from the UAPVIF or any civil organization \$1,500 pesos [C\$121 (XE 17 Aug. 2011)] per month for one year (Federal District n.d.b). The Federal District government reports that, since 2008, it has made 4,000 benefit payments and thereby [translation] "freed from this harmful situation at least 12,000 people, including spouses, daughters and sons, who in a short period of time found a better quality of life" (14 Aug. 2011). However, the Director of Epidemiology and Psychosocial Research argues that the money allocated to women [translation] "is very little" (16 Aug. 2011).

At the federal level, the Attorney General of the Republic (Procuraduría General de la República, PGR) created the Special Prosecutor for Crimes of Violence against Women and Trafficking in Persons (Fiscalía Especial para los Delitos de Violencia contra las Mujeres y Trata de Personas, FEVIMTRA) in 2008 to investigate and prosecute federal crimes of violence against women and trafficking in persons; provide medical, psychological, and legal assistance, protection and shelter; locate women reported as [translation] "missing"; and coordinate the efforts of civil society organizations, academics and government organizations in developing prevention, assistance and research programs (Mexico 11 Aug. 2010). The FEVIMTRA has offices in several cities, including Mexico City (ibid. 11 July 2011). From February 2008 to January 2009, FEVIMTRA worked on 189 cases of gender violence, 52 of which it was unable to prosecute because the cases fell outside of its jurisdiction (Mexico n.d.b, 6).

In addition, the United States (US) Department of State notes in its *Country Reports on Human Rights Practices for 2010* that "[w]ith only five lawyers dedicated to federal cases of violence against women and trafficking countrywide, FEVIMTRA faced challenges in moving from investigations to convictions" (US 8 Apr. 2011, Sec. 6).

## Effectiveness of Legislation

In a 2011 press release, the Federal District Human Rights Commission recognized the work of several Federal District agencies in creating a group of judges specialized in the application of the Law on Women's Access to a Life Free of Violence in the Federal District (Federal District 10 Mar. 2011). The agencies recommended the specialized body of judges be formed after meeting to discuss allegations made by the Commission's Fourth General Inspector (ibid.). The Fourth General Inspector alleged that there existed an [translation] "unjustified refusal to provide emergency and protection measures to women victims of violence" (ibid.). The Research Directorate did not find additional information on the Fourth General Inspector's investigation and these alleged refusals within the time constraints of this Response.

In a 2011 evaluation report on the Federal District's gender-equity policy, the consultants commissioned to write the report -- Consultora Latinoamericana Inclusión y Equidad (CLIE) -- note that the Law on Women's Access to a Life Free of Violence in the Federal District represents a [translation] "substantial advance in the extent of the policy's definition and identification, its strategic direction, organizational support and action procedures" (CLIE 28 Feb. 2011, 10). However, CLIE also notes that planning around prevention is [translation] "deficient" and that the human and financial resources allocated to implementation of the Law on Women's Access are [translation] "insufficient" (ibid., 10-11). CLIE further observes that various state laws need to be harmonized with the Law on Women's Access and also the Law on Substantive Equality Between Women and Men in the Federal District (Ley de Igualdad Sustantiva entre Mujeres y Hombres en el Distrito Federal), especially the Penal Code, which contains [translation] "conceptions that are in violation of the human rights of women or are contradictory to the two cited laws" (ibid., 14).

In addition, the Director of Epidemiologic and Psychosocial Research states that, in the Law on Women's Access to a Life Free of Violence in the Federal District, the provisions authorizing a specialized intervention with a gender perspective to assist women's access to justice have not been carried out (16 Aug. 2011). Various access-to-justice mechanisms, such as protection measures, legal representation and reparation, are [translation] "just being implemented, and in some cases, there is resistance from public servants in the justice system" (ibid.).

The Federal District Human Rights Commission's annual report for 2010 notes that [translation] "the recurring environment" in which women experience violence, is "limited access to justice, sexual and work harassment that they experience in government departments where they work, as well as the the lack of measures to prevent, investigate and sanction offenders" (Federal District Apr. 2011, 31). Similarly, the UNAM principal researcher stated that there are [translation] "limitations" at the state level to assist, prevent, sanction and eradicate violence as a consequence of the centralization of economic resources at the federal level (17 Aug. 2011).

The principal researcher also highlighted the following as challenges to the implementation of the General Law on Women's Access to a Life Free of Violence:

- Duplication of work by government agencies, which consumes vital resources;
- Failure to include indigenous women, lesbians and the elderly;
- [Translation] "null specialization, supervision, surveillance, and security" among the public servants who assist victims of domestic violence;

- [Translation] "lack" of reliable statistics on violence against women;
- Lack of access [translation] "to prevention and assistance services" for women victims of violence because, "in the majority of cases," there is "persistent bureaucracy" in the responsible organizations;
- Absence of a robust process of gender mainstreaming stemming from the [translation] "lack of staff training to carry out the directives in the Law"; and
- Inconsistencies in the procedures for assigning responsibility for shelters and in declaring a [translation] "Gender Alert" (Principal Researcher 17 Aug. 2011), a mechanism that seeks to ensure the safety of women, the cessation of violence and the elimination of discrimination against women in a specific area of the country (Mexico 11 Jan. 2011).

In a subsequent telephone interview, the principal researcher stated that the same obstacles apply to the Law on Women's Access to a Life Free of Violence in the Federal District as well (19 Aug. 2011).

In a 2009 alternative report on the human rights situation in Mexico for the United Nations' Universal Periodic Review, Mexican and international civil society organizations also expressed the opinion that public servants at all levels of government lack the necessary training in [translation] "incorporating a gender perspective in the execution of their duties and decisions, which is necessary to avoid the revictimization of women in legal investigations" (CLADEM et al. 2009, para. 20).

At the federal level, the General Director of the General Directorate for Gender Mainstreaming (Dirección General de Transversalización de la Perspectiva de Género) of the National Institute for Women (Instituto Nacional de las Mujeres, Inmujeres) stated, in correspondence with the Research Directorate, that Mexico [translation] "has made advances in the guarantee of the right to a life free of violence and in the substantive equality between women and men" (Mexico 15 Aug. 2011). However, CIMAC Noticias reports that a former federal legislator who was one of the main proponents of the General Law said that, three years after the law's implementation, the [translation] "balance is negative" (CIMAC 5 Feb. 2010). Although required to create legislation that corresponds with the General Law, state laws do not fully do so, in part because of a "limited understanding of the law" (ibid.).

The National Commission of Human Rights (Comisión Nacional de Derechos Humanos, CNDH) states in its annual report for 2010 that the justice system needs to be [translation] "strengthened" to facilitate access to justice for women and to reduce levels of impunity (Mexico 2011, 6-7). In the *Freedom in the World 2011* report, Freedom House notes that in Mexico,

[d]omestic violence and sexual abuse are common, and perpetrators are rarely punished. Implementation of a 2007 law designed to protect women from such crimes remains halting, particularly at the state level. (Freedom House 2011)

Similarly, in its *Annual Report 2011*, Amnesty International (AI) states that

[l]egislative measures introduced in recent years to improve protection were often not applied in practice or were ineffective in protecting women or ensuring perpetrators were held to account. (AI 2011)

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.

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**Oral sources:** Representatives from the Sistema para el Desarrollo Integral de la Familia del Distrito Federal, the Comisión Mexicana de Defensa y Promoción de Derechos Humanos, the Facultad Latinoamericana de Ciencias Sociales - México, the Comisión de Derechos Humanos del Distrito Federal and the Observatorio Ciudadano Nacional del Femicidio did not respond within the time constraints of this Response.

**Internet sites, including:** Agenda de las Mujeres; Colectivo de Investigación, Desarrollo y Educación entre Mujeres; Comisión Nacional para Prevenir y Erradicar la Violencia contra las Mujeres; Human Rights Watch; Mexico - Secretaría de la Función Pública; United Nations - Office of the High Commissioner for Human Rights, Refworld.

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