



## RESPONSES TO INFORMATION REQUESTS (RIRs)

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20 May 2003

### MEX41510.E

Mexico: The legal rights of a woman with regard to custody, joint-custody or visitation rights of her child who is currently living with the child's father and who is refusing her access to the child (May 2003)  
Research Directorate, Immigration and Refugee Board, Ottawa

A consular representative at the Embassy of Mexico in Ottawa provided the following information in a 16 May 2003 telephone interview with the Research Directorate.

Unless custody of the child has been lost to one of the parents by way of a judicial decision, both parents have the same rights with regard to access to the child, according to family law. Custody of children is usually a consequence of divorce procedures; in cases where the couple separates, the custody or guardianship of the child is usually decided by the couple based on the best interest of the child. Generally, in custody cases, children of 14 years of age or older are asked by judges which parent they would prefer to reside with; sometimes, children as young as seven years of age are asked the same question. With regard to disabled children, if the minor is unable to state a preference, the judge presiding over the case may seek the opinion of the attorney general's office or a family services' agency such as the System for Integral Family Development (Sistema para el Desarrollo Integral de la Familia, DIF). The consular representative stated that the outcome of custody, joint-custody or visitation cases would always depend on their particular circumstances.

With regard to legal recourse to a woman whose access to her child has been denied by her spouse, the consular representative stated that she can seek legal assistance from the DIF that have offices in the various delegations throughout Mexico City or from the family services offered by the family courts.

The Website of the DIF in the Federal District states that it offers free legal assistance to persons with limited resources who are in need of such assistance or want to pursue family matter cases through the courts, including those related to custody and guardianship matters (Mexico n.d.a). The same Website states that both parents have rights to reside with their children, except in those cases where there is a risk to the child (ibid., n.d.b). In cases where there is disagreement among the parents as to where the child should reside, a family court judge will resolve the matter keeping in mind the Public Ministry (ibid.).

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 to refugee status or asylum. Please find below the list of additional sources consulted in researching this Information Request.

#### References

Mexico. 16 May 2003. Embassy of Mexico, Ottawa. Telephone interview with a consular representative.

\_\_\_\_\_. n.d.a. Sistema para el Desarrollo Integral de la Familia del Distrito Federal. "Asistencia Jurídica." <<http://www.dif.df.gob.mx/juridico/asistencia.html>> [Accessed 16 May 2003]

\_\_\_\_\_. n.d.b. Sistema para el Desarrollo Integral de la Familia del Distrito Federal. "Asistencia Jurídica: Guarda y Custodia." <<http://www.dif.df.gob.mx/juridico/guarda.html>> [Accessed 16 May 2003]

#### Additional Sources Consulted

IRB Databases

LEXIS/NEXIS

World News Connection

#### **Internet sites, including:**

*Country Reports on Human Rights Practices for 2002*

Human Rights Internet

*La Jornada* [Mexico City]. Search engine

Sistema para el Desarrollo Integral de la Familia del Distrito Federal (DIF-DF)

United Nations

**Search engines:**

Google

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