



*The Law Library of Congress*

# **REPORT FOR THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

**November 2012**

---

Global Legal Research Center  
LL File No. 2012-008437

## **MEXICO**

### **MISTREATMENT FACED BY HOMOSEXUAL AND TRANSGENDER INDIVIDUALS AND THE GOVERNMENT'S EFFORTS TO PROTECT THEIR RIGHTS**

---

The Library of Congress  
James Madison Memorial Building, 101 Independence Avenue, S.E., Room LM-240  
Washington, DC 20540-3200  
(202) 707-6462 (phone), (866) 550-0442 (fax), [law@loc.gov](mailto:law@loc.gov) (email)  
<http://www.loc.gov/law>

## LAW LIBRARY OF CONGRESS

### MEXICO

## MISTREATMENT FACED BY HOMOSEXUAL AND TRANSGENDER INDIVIDUALS AND THE GOVERNMENT'S EFFORTS TO PROTECT THEIR RIGHTS

### *Executive Summary*

*Mexico's Federal Constitution prohibits all discrimination based on sexual preference. Mexico's federal government, some Mexican states, and Mexico City have their own antidiscrimination government agencies and laws dealing with mistreatment faced by homosexual and transgender individuals. The Civil Code for the Federal District was recently amended in order to allow same-sex marriage and adoptions by same-sex couples. Despite Mexico's legal efforts aimed at protecting homosexual individuals, mistreatment against this group currently persists, as explained below.*

### **I. Legal Efforts to Combat Discrimination and Mistreatment Against Homosexual Individuals**

Mexico is a federal republic made up of thirty-one states and the Federal District, best known as Mexico City. Mexico's federal government, some Mexican states, and the Federal District have their own antidiscrimination laws and initiatives dealing with mistreatment faced by homosexual and transgender individuals.<sup>1</sup> A summary of relevant federal and state statutes follows.

#### **A. Federal Law**

Mexico's Federal Constitution prohibits all discrimination based on sexual preference.<sup>2</sup> Furthermore, Mexico's Federal Law to Prevent and Eliminate Discrimination provides that inflicting or promoting physical or psychological mistreatment based on an individual's physical appearance, style of dress, manner of speech, or public expression of his/her sexual preference is prohibited.<sup>3</sup>

---

<sup>1</sup> CONAPRED, CONSEJO NACIONAL PARA PREVENIR LA DISCRIMINACIÓN, EL COMBATE A LA HOMOFOBIA: ENTRE AVANCES Y DESAFÍOS [COMBAT AGAINST HOMOPHOBIA: BETWEEN PROGRESS AND CHALLENGES] 4 (2012), [http://www.conapred.org.mx/documentos\\_cedoc/DocumentoHomofobia\\_ACCSS.pdf](http://www.conapred.org.mx/documentos_cedoc/DocumentoHomofobia_ACCSS.pdf).

<sup>2</sup> CONSTITUCIÓN POLÍTICA DE LOS ESTADOS UNIDOS MEXICANOS [POLITICAL CONSTITUTION OF THE UNITED MEXICAN STATES], *as amended*, art. 1, DIARIO OFICIAL DE LA FEDERACIÓN [D.O.], Feb. 5, 1917, available on the website of Mexico's House of Representatives, at <http://www.diputados.gob.mx/LeyesBiblio/pdf/1.pdf>.

<sup>3</sup> Ley Federal para Prevenir y Eliminar la Discriminación [Federal Law to Prevent and Eliminate Discrimination], *as amended*, art. 9 (XXVIII), D.O., June 11, 2003, available at <http://www.diputados.gob.mx/LeyesBiblio/pdf/262.pdf>.

The National Council to Prevent Discrimination (known as CONAPRED in Spanish) is Mexico's main federal agency on this issue and has the authority to adjudicate complaints of discrimination.<sup>4</sup> In addition, CONAPRED advises individuals who want to file complaints, publishes and distributes antidiscrimination guides, and provides antidiscrimination courses both online and in person.<sup>5</sup>

## B. State Law

CONAPRED indicates on its website that some Mexican states and Mexico's Federal District have enacted general antidiscrimination legislation.<sup>6</sup> More specifically, CONAPRED indicates that fifteen states have enacted laws on discrimination on the basis of sexual preference.<sup>7</sup>

Furthermore, a report published by Mexico's National Commission on Human Rights indicates that the penal codes of a number of Mexican states (specifically Aguascalientes, Chiapas, Chihuahua, Coahuila, Colima, Durango, Tlaxcala, Veracruz, and Quintana Roo) and the Federal District provide that discrimination on the basis of sexual orientation may be criminally punished.<sup>8</sup> This report adds that the Criminal Codes of Coahuila, Campeche and the Federal District include the element of "hate" as an aggravating circumstance for the crime of homicide in order to punish perpetrators more severely when the victim has a sexual orientation different than heterosexual.<sup>9</sup>

---

<sup>4</sup> *¿Quiénes Somos? [About Us]*, CONAPRED, [http://www.conapred.org.mx/index.php?contenido=pagina&id=38&id\\_opcion=15&op=15](http://www.conapred.org.mx/index.php?contenido=pagina&id=38&id_opcion=15&op=15) (last visited Nov. 28, 2012).

<sup>5</sup> *Trámites y servicios [Procedures and Services]*, CONAPRED, [http://www.conapred.org.mx/index.php?contenido=pagina&id=151&id\\_opcion=159&op=159](http://www.conapred.org.mx/index.php?contenido=pagina&id=151&id_opcion=159&op=159) (last visited Nov. 28, 2012).

<sup>6</sup> *Estados en los que se cuenta con cláusula antidiscriminatoria constitucional, ley antidiscriminatoria y tipificación del delito de discriminación [Mexican States That Have Enacted Antidiscrimination Legislation]*, CONAPRED, [http://www.conapred.org.mx/index.php?contenido=pagina&id=505&id\\_opcion=650&op=650&id\\_opcion=651&op=651](http://www.conapred.org.mx/index.php?contenido=pagina&id=505&id_opcion=650&op=650&id_opcion=651&op=651) (last visited Nov. 19, 2012). See also *Discriminación en México [Discrimination in Mexico]*, CONAPRED, [http://www.conapred.org.mx/index.php?contenido=pagina&id=425&id\\_opcion=434&op=434](http://www.conapred.org.mx/index.php?contenido=pagina&id=425&id_opcion=434&op=434) (last visited Nov. 19, 2012).

<sup>7</sup> CONAPRED, *EL COMBATE A LA HOMOFOBIA: ENTRE AVANCES Y DESAFÍOS [COMBAT AGAINST HOMOPHOBIA: BETWEEN PROGRESS AND CHALLENGES]* 4 (2012), [http://www.conapred.org.mx/documentos/cedoc/DocumentoHomofobia\\_ACCSS.pdf](http://www.conapred.org.mx/documentos/cedoc/DocumentoHomofobia_ACCSS.pdf).

<sup>8</sup> COMISIÓN NACIONAL DE LOS DERECHOS HUMANOS, *INFORME ESPECIAL DE LA COMISIÓN NACIONAL DE LOS DERECHOS HUMANOS SOBRE VIOLACIONES A LOS DERECHOS HUMANOS Y DELITOS COMETIDOS POR HOMOFOBIA [SPECIAL REPORT BY THE NATIONAL HUMAN RIGHTS COMMISSION ON HOMOPHOBIA-RELATED HUMAN RIGHTS VIOLATIONS AND CRIMES]* 6, 7 (2010), [http://www.cndh.org.mx/sites/all/fuentes/documentos/informes/especiales/2010\\_homofobia.pdf](http://www.cndh.org.mx/sites/all/fuentes/documentos/informes/especiales/2010_homofobia.pdf).

<sup>9</sup> *Id.* at 7.

### C. Federal District

The Civil Code for the Federal District was amended in 2010 in order to allow same-sex marriage and adoptions by same-sex couples.<sup>10</sup> This amendment was declared constitutional by Mexico's Supreme Court, which determined that same-sex marriages celebrated in the Federal District are valid in all Mexican states.<sup>11</sup>

The Federal District Attorney General recently issued a directive that provides instructions aimed at effectively processing cases of crimes committed on the basis of sexual orientation.<sup>12</sup>

In 2011, the government of the Federal District opened a Community Center on Sexual Diversity, which provides health and legal services to the lesbian, gay, bisexual, and transgender community.<sup>13</sup> An online news service has reported that after one year of operation, this Center has provided its services to individuals from all boroughs in Mexico City and from the Mexican states of Querétaro, Veracruz, Puebla, Baja California, San Luis Potosí, and Michoacán.<sup>14</sup>

## II. Recent Data on Mistreatment Faced by Homosexual and Transgender Individuals

Notwithstanding the existence of a legal framework aimed at protecting the rights of homosexual individuals, they still face mistreatment in Mexico. In 2012, CONAPRED published a report on discrimination against the homosexual and transgender community.<sup>15</sup> The report indicates that from January 1, 2011, through April 30, 2012, CONAPRED received 273 complaints for alleged acts of discrimination committed against lesbian, gay, bisexual,

---

<sup>10</sup> CÓDIGO CIVIL PARA EL DISTRITO FEDERAL [CIVIL CODE FOR THE FEDERAL DISTRICT] arts. 146, 391, GACETA OFICIAL DEL DISTRITO FEDERAL, May 25, 2000, *as amended through 2012*, available on the website of the Federal District government, at <http://www.consejeria.df.gob.mx/LeyesYReglamentos/CODIGOCIVIL/PARAELDISTRITOFEDERAL.pdf>.

<sup>11</sup> Press Release 186/2010, Mexico's Supreme Court, Válidas, reformas que permiten en DF matrimonio entre personas del mismo sexo y que éstas adopten menores [Amendments to DF Law Providing That Same-Sex Marriage and Adoption Are Valid] (Aug. 16, 2010), <http://www2.scjn.gob.mx/red2/comunicados/comunicado.asp?id=1896>.

<sup>12</sup> Acuerdo A/007/2012 del Procurador General de Justicia del Distrito Federal, mediante el cual se emite el Protocolo de Actuación para la Atención a las Personas de la Comunidad LGBTTTI [Directive A/007/2012 of the Attorney General of the Federal District Issuing the Protocol of Service for Persons of the LGBTTTI community], GACETA OFICIAL DEL DISTRITO FEDERAL, June 1, 2012, *available at* <http://www.consejeria.df.gob.mx/uploads/gacetas/4fc830c40787b.pdf>.

<sup>13</sup> Press Release 137/2011, Federal District Commission on Human Rights, La Ciudad de México cuenta con el Primer Centro Comunitario de Atención a la Diversidad Sexual [Mexico City Opens Its First Community Center on Sexual Diversity] (Apr. 22, 2011), <http://www.cdhd.org.mx/index.php/boletines/1262-boletin-1372011>.

<sup>14</sup> *Cumple un año Centro Comunitario de Atención a la Diversidad Sexual [Community Center on Sexual Diversity Celebrates Its First Year]*, NOTIESE (an online news service focused on health, sexuality, and HIV/AIDS) (Apr. 12, 2012), [http://www.notiese.org/notiese.php?ctn\\_id=5620](http://www.notiese.org/notiese.php?ctn_id=5620).

<sup>15</sup> CONAPRED, EL COMBATE A LA HOMOFOBIA: ENTRE AVANCES Y DESAFÍOS [COMBAT AGAINST HOMOPHOBIA: BETWEEN PROGRESS AND CHALLENGES] (2012), [http://www.conapred.org.mx/documentos/cedoc/DocumentoHomofobia\\_ACCSS.pdf](http://www.conapred.org.mx/documentos/cedoc/DocumentoHomofobia_ACCSS.pdf).

transsexual, transgender, transvestite, and intersex individuals.<sup>16</sup> Of these complaints, 237 were filed against private individuals and entities and thirty-six were filed against federal officials or public servants.<sup>17</sup>

Complaints against private individuals and entities included the following allegations:

- Homophobic comments and opinions disseminated through newspapers, radio, and the Internet
- Restricting or denying access to employment and promotions as a consequence of stating homosexual preferences (in some instances verbal and physical aggression and harassment in the workplace were also reported)
- Denying access to commercial establishments (including bars, restaurants, hotels, coffee shops, malls, convenience stores, and so forth) as a consequence of stating or making evident homosexual preferences, which in some instances also resulted in verbal and physical aggression
- Homophobic comments made by high-ranking leaders of religious associations<sup>18</sup>

Complaints against federal officials or public servants included the following allegations:

- Denial of medical services for expressing or making evident homosexual preferences
- Denial of applications for social security services submitted by same-sex couples
- Homophobic comments and teasing by medical and administrative personnel in public health institutions
- Physical and verbal mistreatment in educational institutions
- Termination of employment and harassment in the workplace due to homosexuality
- Verbal aggression and harassment in the workplace for being a lesbian<sup>19</sup>

Furthermore, the United States Department of State (USDOS) recently reported that in 2011, two prominent activists for the rights of the lesbian, gay, bisexual, and transgender (LGBT) community were assassinated in separate incidents in Mexico.<sup>20</sup> These killings were characterized by Mexican authorities as “crimes of passion,” which activists criticized as an oversimplification of “patterns of violence against LGBT persons.”<sup>21</sup>

---

<sup>16</sup> *Id.* at 7.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 8.

<sup>19</sup> *Id.* at 9.

<sup>20</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2011: MEXICO at 30, <http://www.state.gov/documents/organization/186738.pdf> (last visited Nov. 26, 2012).

<sup>21</sup> *Id.*

In a different report, the USDOS provided information about another serious case of violence against a gay activist in Mexico, who was physically and verbally harassed after he participated in a gay rights event wearing high heels and a dress in 2007.<sup>22</sup> This individual was reportedly fired from his teaching position at a school for disabled children in 2008, was incarcerated for some time, and after his release continued to be harassed by Mexican authorities.<sup>23</sup>

The USDOS also reported that in 2007<sup>24</sup> and 2008<sup>25</sup> homophobic practices in Mexico were common in everyday attitudes and entertainment media programs, and attacks against transsexuals and homosexuals were frequently reported.

### III. Concluding Remarks

Despite Mexico's efforts aimed at protecting homosexual and transgender individuals, mistreatment against this group currently persists. CONAPRED recently indicated that, although rights on sexual preferences have been advancing in Mexico, there is still work to do on sexual diversity.<sup>26</sup>

Prepared by Gustavo Guerra  
Senior Foreign Law Specialist  
November 2012

---

<sup>22</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: MEXICO (Mar. 11, 2010), <http://www.state.gov/j/drl/rls/hrrpt/2009/wha/136119.htm>.

<sup>23</sup> *Id.*

<sup>24</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2007 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: MEXICO (Mar. 11, 2008), <http://www.state.gov/j/drl/rls/hrrpt/2007/100646.htm>.

<sup>25</sup> U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, 2008 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: MEXICO (Feb. 25, 2009), <http://www.state.gov/j/drl/rls/hrrpt/2008/wha/119166.htm>.

<sup>26</sup> CONAPRED, EL COMBATE A LA HOMOFOBIA: ENTRE AVANCES Y DESAFÍOS [COMBAT AGAINST HOMOPHOBIA: BETWEEN PROGRESS AND CHALLENGES] 2 (2012), [http://www.conapred.org.mx/documentos\\_cedoc/DocumentoHomofobia\\_ACCSS.pdf](http://www.conapred.org.mx/documentos_cedoc/DocumentoHomofobia_ACCSS.pdf).