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Austrian Centre for Country of Origin & Asylum Research and Documentation

Mexico: Sexual orientation and gender identity (SOGI)

COI Compilation

May 2017

REPUBLIK ÖSTERREICH
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This report serves the specific purpose of collating legally relevant information on conditions in countries of origin pertinent to the assessment of claims for asylum. It is not intended to be a general report on human rights conditions. The report is prepared within a specified time frame on the basis of publicly available documents as well as information provided by experts. All sources are cited and fully referenced.

This report is not, and does not purport to be, either exhaustive with regard to conditions in the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum. Every effort has been made to compile information from reliable sources; users should refer to the full text of documents cited and assess the credibility, relevance and timeliness of source material with reference to the specific research concerns arising from individual applications.

An electronic version of this report is available on www.ecoi.net.

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1 Relevant legislative framework

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), the world federation of national and local organisations advocating equal rights for lesbian, gay, bisexual, trans and intersex (LGBTI) people, states in its June 2016 *State Sponsored Homophobia* report that same-sex sexual acts in Mexico are legal and that the age of consent for same and different sex sexual acts is equal. In addition, ILGA mentions that in Mexico there exists a prohibition of discrimination in employment based on sexual orientation and a constitutional prohibition of discrimination based on sexual orientation. ILGA further reports that in the State of Coahuila (since 2005) and in the Federal District (since 2009) hate crimes based on sexual orientation are considered an aggravating circumstance and that the incitement to hatred based on sexual orientation is prohibited. (ILGA, June 2016, pp. 35, 38, 43, 45, 47, 49)

1.1 Marriage, other forms of legal recognition of long-term relationships, adopting or fostering children

1.1.1 Marriage

A New York Times (NYT) article published in June 2015 gives the following overview of developments concerning same-sex marriages in Mexico:

> "In 2009, Mexico City, a federal district and large liberal island in this socially conservative country, legalized gay marriage - a first in Latin America. There have been 5,297 same-sex weddings here since then, some of them couples coming to the city from other states. Of the nation's 31 states, only one, Coahuila, near the Texas border, has legalized gay marriage. A second state, Quintana Roo, where Cancun is, has allowed gay unions since 2012, when advocates pointed out that its civil code on marriage did not stipulate that couples be one man and one woman. In most of the rest of the country, marriage is legally defined as a union between a man and a woman - laws that may remain on the books despite the court's decisions.
>
> The Supreme Court upheld Mexico City's law in 2010, adding that other states had to recognize marriages performed there. Advocates of gay marriage saw that as an opportunity to use the court's rulings to assert that marriage laws in other states were discriminatory. The court - taking into account international decisions and anti-discrimination treaties that Mexico has signed - has steadily agreed, granting injunctions in individual cases permitting gay couples to marry in states where the laws forbid it.
>
> A major turning point occurred this month when the court expanded on its rulings to issue a decree that any state law restricting marriage to heterosexuals is discriminatory. 'As the purpose of matrimony is not procreation, there is no justified reason that the matrimonial union be heterosexual, nor that it be stated as between only a man and only a woman,' the ruling said. 'Such a statement turns out to be discriminatory in its mere expression.'
>
> The ruling does not automatically strike down the state marriage laws. But it allows gay couples who are denied marriage rights in their states to seek injunctions from district judges, who are now obligated to grant them.

> 'Without a doubt, gay marriage is legal everywhere,' said Estefanía Vela Barba, an associate law professor at CIDE, a university in Mexico City. 'If a same-sex couple comes along and the code says marriage is between a man and a woman and for the purposes of reproduction, the court says, 'Ignore it, marriage is for two people.' […]
>
> Bureaucratic hurdles, and sometimes hostility, remain. Civil registry authorities abiding by state laws can still block couples hoping to marry. It is up to the couples to appeal to the courts, a process that can cost $1,000 or more and take months. […]
>
> José Luis Caballero, a constitutional scholar who directs the law school at the Iberoamerican University in Mexico City, said that even though judges must now rule in favor of gay couples, full equality has yet to be reached. 'What has to happen is that the state laws have to be reformed so that couples have the same rights and they don't have to spend time and money,' he said. 'A couple with resources can get married. A couple without resources can't.'" (NYT, 14 June 2015)

In an August 2015 query response about the situation and treatment of sexual minorities, particularly in Mexico City, Cancún, Guadalajara and Acapulco, the Immigration and Refugee Board of Canada (IRB) similarly mentions bureaucratic hurdles:

> "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). […] 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), 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)." (IRB, 18 August 2015)

The abovementioned ruling of the Suprema Corte de Justicia de la Nación (SCJN, Supreme Court of Justice), which declares there being no constitutional reason not to recognize same-sex marriages can be accessed via the following link:

- SCJN - Suprema Corte de Justicia de la Nación: Tesis: 1a./J. 46/2015 (10a.), 3 June 2015a (published on 19 June 2015) http://sjf.scjn.gob.mx/SJFSem/Paginas/DetalleGeneralV2.aspx?ID=2009406&Clase=DetalleTesisBL

In April 2017 the gay American journalist Rex Wockner in his blog[1] provides the following explanation concerning legislation on same-sex marriages:

> "The key thing to remember is that the 2015 ruling by the federal Supreme Court's First Chamber created jurisprudence binding on all courts that any ban on same-sex marriage is unconstitutional. That's why state legislatures are legalizing same-sex marriage now, why

[1] See ILGA, State Sponsored Homophobia, June 2016, p. 50.

> some state and city governments have stopped enforcing bans, and why federal politicians, including Mexico's president, have been looking to support same-sex marriage by changing federal laws and the federal Constitution. Because all bans eventually will be struck down anyway.
>
> The jurisprudence says: 'Marriage. The law of any federative entity that, on the one hand, considers that the end of it [marriage] is procreation and/or that defines it [marriage] as that which is celebrated between a man and a woman, is unconstitutional.' ('Matrimonio. La ley de cualquier entidad federativa que, por un lado, considere que la finalidad de aquél es la procreación y/o que lo defina como el que se celebra entre un hombre y una mujer, es inconstitucional.')" (Wockner, 4 April 2017)

The abovementioned ruling of the Suprema Corte de Justicia de la Nación (SCJN, Supreme Court of Justice), according to which restricting marriage to heterosexuals is unconstitutional, can be accessed via the following link:

- SCJN - Suprema Corte de Justicia de la Nación: Tesis: 1a./J. 43/2015 (10a.), 3 June 2015b (published on 19 June 2015)

http://sjf.scjn.gob.mx/SJFSem/Paginas/DetalleGeneralV2.aspx?Epoca=&Apendice=&Expresion=&Dominio=Tesis%20Viernes%2019%20de%20Junio%20de%202015%20%20%20%20%20.%20Todo&TA_TJ=1&Orden=3&Clase=DetalleSemanarioBL&Tablero=&NumTE=11&Epp=20&Desde=-100&Hasta=-100&Index=0&SemanaId=201525&ID=2009407&Hit=9&IDs=2009418,2009417,2009416,2009415,2009414,2009413,2009409,2009408,2009407,2009406,2009405&Epoca=-100&Anio=-100&Mes=-100&SemanaId=201525&Instancia=-100&TATJ=1

There is varying information concerning the number of states in Mexico where same-sex marriages are possible:

Rex Wockner elaborates in his April 2017 article as follows:

> "As was the case in the U.S., Mexico's legalization of same-sex marriage is proceeding state by state but unlike in the U.S., there is no possibility for a single ruling from the highest court that will overturn same-sex marriage bans nationwide. Even the Supreme Court of Justice of the Nation (SCJN) will have to go state by state.
>
> Mexico has 31 states plus the federal entity Mexico City. Marriage equality has arrived in Mexico City and in 10 states -- via three different routes: Legislative legalization, a Supreme Court ruling, and state administrative decisions to stop enforcing their ban. Those states are:
>
> - Campeche (legislative)
> - Chihuahua (administrative)
> - Coahuila (legislative)
> - Colima (legislative)
> - Guerrero (administrative; may not be statewide)
> - Jalisco (SCJN ruling)

- Michoacán (legislative)
- Morelos (legislative)
- Nayarit (legislative)
- Quintana Roo (administrative)
- + Mexico City (legislative)

> There are also cities that have stopped enforcing their state's ban, including Santiago de Querétaro, capital of Querétaro state, and San Pedro Cholula in Puebla state.
>
> Same-sex marriage also became possible everywhere else in Mexico following a June 3, 2015, ruling by the SCJN's First Chamber, but only if a couple is able to jump through some hoops. The ruling declared that any law that defines marriage as 'between a man and a woman' is unconstitutional (and therefore is ultimately doomed) - and the declaration of unconstitutionality means that when any same-sex couple (or group of couples) goes to a federal judge and asks for an injunction (amparo) against the local civil registry allowing them to marry, the judge must grant it. The process works and couples use it, but it requires at least a month of time and up to $1,000 U.S. to pay a lawyer for help. […]
>
> The states of Chiapas and Puebla also recently altered their marriage laws -- again not specifically having to do with marriage being between a man and a woman -- and made the same mistake or decision that Jalisco did. They mentioned in the revised law that marriage is man-woman. Lawsuits were quickly filed with the Supreme Court and are pending." (Wockner, 4 April 2017)

Verne, an online publication of the Spanish newspaper El País that features popular topics trending on the internet, reports in a January 2017 article that only in eleven of the 32 Mexican states same-sex couples have the right to marry and do not need to seek injunctions. The list of 11 states matches the one given by Wockner, with one exception: instead of the State of Guerrero, Sonora is listed. (Verne, 13 January 2017)

An August 2016 article of the Economist newspaper notes the following:

> "Three of Mexico's 32 states (Michoacán, Colima and Morelos) have recently passed laws permitting gay marriage, joining Mexico City, Campeche, Coahuila and Nayarit in a liberal group of seven. Four more allow gay marriage but have not passed laws sanctioning it.
>
> In the 21 states that still forbid it, couples can now defy local laws by going to court; under the supreme court's ruling, judges are obliged to give them permission to marry." (The Economist, 18 August 2016)

In its annual report published in January 2017 Human Rights Watch (HRW) states that since the legalisation of same-sex marriage in Mexico City in 2010 nine further states have legalised it. (HRW, 12 January 2017)

Amnesty International (AI) in its Report 2016/17, which covers the year 2016, mentions two constitutional reforms proposed by President Peña Nieto in May 2016:

> "Rights of lesbian, gay, bisexual, transgender and intersex people
>
> In May, President Peña Nieto presented two draft bills to Congress to reform the Constitution and the Federal Civil Code. The proposed constitutional reform to expressly guarantee the right to marry without discrimination was rejected by Congress in November.
>
> The second proposed reform to the Civil Code would prohibit discrimination on grounds of sexual orientation and gender identity in allowing couples to marry and people to adopt children; the reform also included the right of transgender people to have their gender identity recognized by Mexico. The bill had yet to be discussed in Congress.
>
> In September, Supreme Court jurisprudence upholding same-sex couples' rights to marry and adopt children without being discriminated against on the basis of sexual orientation and gender identity became binding on all judges in the country." (AI, 22 February 2017)

In an interview with the online newspaper Actuall, which advocates the values of life, family and liberty, Fernando Guzmán Pérez Peláez of the movement Mexican National Front for the Family explains similarly that the abovementioned second proposed reform to the Civil Code, which would allow same-sex couples to adopt children, has not been discussed yet. (Actuall, 17 November 2016)

In its 2017 annual report, HRW also mentions a bill to legalize same-sex marriage proposed by the Mexican president in May 2016 which was rejected in November of the same year. (HRW, 12 January 2017)

A joint report by The Cornell Law School LGBT Clinic, which advocates the legal rights of LGBT people and provides free legal help to low-income LGBT individuals and the Transgender Law Center, an Oakland-based organisation that advances the rights of transgender and gender nonconforming people, published in May 2016 gives an overview of the development of the legal situation specifically in Mexico City:

> "In 2006, Mexico City's legislature approved the 'Ley de Sociedades de Convivencia' (Law Regarding Cohabitation Partnerships) which allowed civil unions between same-sex couples. On December 21, 2009, the Legislative Assembly approved legislation allowing same-sex marriage in Mexico City. The bill changed the definition of marriage in the city's Civil Code from 'a free union between a man and a woman' to 'a free union between two people.' The law also allows same-sex couples to adopt children, apply jointly for bank loans, inherit from one another, and be included in spousal insurance policies. In August 2010, the Mexican Supreme Court held that same-sex marriages registered in Mexico City must be recognized in all of Mexico." (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 11)

In February 2017, the news agency Associated Press (AP) reports that the government of Mexico City presented the city's first constitution which ensures gay rights and comes into effect in 2018 (AP, 5 February 2017).

> Paragraph H section 1 of article 11 of the new constitution of Mexico City protects the rights of LGBT persons in order for them to lead a life free of violence and discrimination. Paragraph H section 2 determines that families formed by LGBTI-couples who live in a civil marriage, concubinage or another civil union are accorded the same rights as families formed by heterosexual couples, regardless of whether the LGBTI-couples have children or not. Section 3 stipulates that the authorities shall put in place public policies and undertake the necessary steps in order to eradicate exclusionary or discriminatory behaviour or attitude based on sexual orientation, sexual preference, gender identity, gender expression or sexual characteristics: "Artículo 11 Ciudad incluyente […]
>
> H. Derechos de las personas LGBTTTI
>
> 1. Esta Constitución reconoce y protege los derechos de las personas lesbianas, gays, bisexuales, transgénero, travesti, transexuales e intersexuales, para tener una vida libre de violencia y discriminación.
>
> 2. Se reconoce en igualdad de derechos a las familias formadas por parejas de personas LGBTTTI, con o sin hijas e hijos, que estén bajo la figura de matrimonio civil, concubinato o alguna otra unión civil.
>
> 3. Las autoridades establecerán políticas públicas y adoptarán las medidas necesarias para la atención y erradicación de conductas y actitudes de exclusión o discriminación por orientación sexual, preferencia sexual, identidad de género, expresión de género o características sexuales." (Constitución Política de la Ciudad de México, 5 February 2017)

The new constitution of Mexico City can be accessed via the following link:

- Constitución Política de la Ciudad de México, 5 February 2017 http://www.cdmx.gob.mx/storage/app/uploads/public/589/746/ef5/589746ef5f8cc447475176.pdf

1.1.2 Adoption

A 2014 report of several NGOs and alliances on human rights violations against LGBT people in Mexico states that "[i]n 2010, Mexico City again amended its Civil Code to allow same-sex marriage and adoption of children by same-sex couples" (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, p. 4)

The US-based non-governmental organization Freedom House in its January 2016 annual report on political rights and civil liberties in 2015 mentions that in August 2015, the Supreme Court "extended protections to include adoption of minors by same-sex couples". (Freedom House, 27 January 2016)

The journalist Rex Wockner states:

> "On the eve of the Mexico City march [in September 2016], the Supreme Court issued jurisprudence binding on all courts securing adoption rights for same-sex couples nationwide. It says: 'ADOPTION. The best interest of the minor is based on the suitability of the adopters, within which are irrelevant the type of family into which [the minor] will be integrated, as well as the sexual orientation or civil status of [the adopters].' ('Adopción. El interés superior del menor de edad se basa en la idoneidad de los adoptantes, dentro de la cual son irrelevantes el tipo de familia al que aquél será integrado, así como la orientación sexual o el estado civil de éstos.')" (Wockner, 4 April 2017)

The mentioned ruling of the Supreme Court can be accessed via the following link:

- SCJN - Suprema Corte de Justicia de la Nación: Tesis: P./J. 8/2016 (10a.), 23 June 2016 (published on 23 September 2016)

http://ius.scjn.gob.mx/SJFSem/Paginas/DetalleGeneralV2.aspx?Epoca=&Apendice=&Expresion=&Dominio=Tesis%20Viernes%2023%20de%20Septiembre%20de%202016%20%20%20%20%20.%20Todo&TA_TJ=1&Orden=3&Clase=DetalleSemanarioBL&Tablero=&NumTE=21&Epp=20&Desde=-100&Hasta=-100&Index=0&SemanaId=201639&ID=2012587&Hit=20&IDs=2012613,2012612,2012611,2012610,2012609,2012608,2012607,2012605,2012604,2012603,2012602,2012601,2012594,2012593,2012592,2012591,2012590,2012589,2012588,2012587&Epoca=-100&Anio=-100&Mes=-100&SemanaId=201639&Instancia=-100&TATJ=1

In an article published in January 2017 Letra S, Sida, Cultura y Vida Cotidiana, A.C (in the following Letra S), a Mexican non-profit organisation that promotes human rights for sexual minorities and raises awareness about HIV/AIDS and sexual health, reports that Mexico's Supreme Court issued a ruling on the right of same-sex couples to family life. This ruling is said to have been issued after having analysed similar decisions of international courts regarding the recognition of the rights of same-sex couples and having considered the ruling of the European Court of Justice which concluded that 'homosexual and heterosexual couples are similarly capable of having a family life'. The Mexican Supreme Court specifies further that the family life of a same-sex couple is not limited to living as a couple but can also extend to include procreation and the raising of children. Letra S points out that prior to this conclusion the Supreme Court had already issued five specific rulings between 2012 and 2015 in favour of same-sex couples from different parts of the Republic wanting to start a family either by means of adoption or assisted reproductive technology. Letra S explains that based on that ruling the wishes of same-sex couples to form families with children can't be restricted by any authority. This also includes civil registries, which must issue documentation to such an adopted minor without any objection:

> "Tras analizar las resoluciones de otras cortes a nivel internacional en materia de reconocimiento de derechos a las parejas del mismo sexo y observar que organismos como el Tribunal Europeo de Derechos Humanos han concluido que existe una 'similitud entre las parejas homosexuales y heterosexuales en cuanto a su capacidad de desarrollar una vida familiar', la Primera Sala de la Suprema Corte de Justicia de la Nación emitió la tesis jurisprudencial 08/2017 titulada 'derecho a la vida familiar de las parejas del mismo sexo'. [...]
>
> Publicada el pasado 27 de enero y con vigencia a partir de este lunes, el documento señala que a partir de las consideraciones del Tribunal Europeo sobre 'la similitud entre las parejas homosexuales y heterosexuales en cuanto a su capacidad de desarrollar una vida familiar', la Corte 'entiende que la vida familiar entre personas del mismo sexo no se limita

únicamente a la vida en pareja, sino que puede extenderse a la procreación y a la crianza de niños y niñas según la decisión de los padres'. […]

Para llegar a dicha conclusión, el órgano judicial recordó que ha emitido cinco sentencias a favor de parejas del mismo sexo, de diferentes partes de la República Mexicana, que deseaban conformar una familia, ya sea mediante la adopción de un menor o el acceso a tratamientos de reproducción asistida, entre los años 2012 y 2015.

De esta manera, aquellas parejas del mismo sexo que deseen conformar una familia con hijos o hijas no podrán verse limitadas de esa posibilidad ante ninguna instancia, incluidos los registros civiles, que deben de otorgarles la papelería de dicho menor sin interponer alguna objeción o argumentar su imposibilidad para hacerlo." (Letra S, Sida, Cultura y Vida Cotidiana, A.C, 30 January 2017)

The mentioned Supreme Court ruling of 18 January 2017 states that the family life of same-sex couples is not limited to the life as a couple, but can extend to procreation and raising of children. That means that there are same-sex couples who form families with children born or adopted by one of them, or couples who use scientific means to procreate:

"A partir de las consideraciones del Tribunal Europeo de Derechos Humanos sobre la similitud entre las parejas homosexuales y heterosexuales en cuanto a su capacidad de desarrollar una vida familiar, la Primera Sala de esta Suprema Corte de Justicia de la Nación entiende que la vida familiar entre personas del mismo sexo no se limita únicamente a la vida en pareja, sino que puede extenderse a la procreación y a la crianza de niños y niñas según la decisión de los padres. Así, existen parejas del mismo sexo que hacen vida familiar con niños y niñas procreados o adoptados por alguno de ellos, o parejas que utilizan los medios derivados de los avances científicos para procrear." (SCJN, 18 January 2017)

1.1.3 Pensions, social insurance, etc.

A 2013 Mexico/ Mexico City – SOGI legislation Country Report written by students of the International Human Rights program at the University of Toronto Faculty of Law refers to social benefits for LGBT people:

"Federal Law of Social Security, 2012: Describes 'beneficiaries' in gender-neutral terms making it possible for same-sex spouses or partners to claim the same social benefits recognitions as those of married or common law opposite-sex couples.

Article 5A (XII) - Beneficiaries: the spouse of the insured or pensioner and in their absence, the civil partner, as well as the ascendants and descendants of the insured or pensioner which are identified in the Law." (International Human Rights program at the University of Toronto Faculty of Law, March 2013, p. 7)

The above-cited text of article 5A (XII) has not been changed since. The Federal Law of Social Security as amended on 12 November 2015 can be accessed via the following link:

- Ley del seguro social, 21 December 1995, with amendments up to 12 November 2015 http://www.ordenjuridico.gob.mx/Documentos/Federal/pdf/wo9056.pdf

A Policy Research Working Paper published by the World Bank Group in March 2017 provides the following information:

> "The case of Mexico is particularly interesting. First, Mexico has a comprehensive constitutional framework that covers economic and social rights. Also, its Federal Law to Prevent and Eliminate Discrimination prohibits discrimination in obtaining those services for religious minorities, ethnic minorities, and LGBTI persons. In addition, Mexican laws on social security, health, housing, water, electricity, and financial services all contain an article that prohibits discrimination in the provision of the respective services." (World Bank Group, 3 March 2017, p. 25)

The June 2014 report by the NGO Letra S on human rights violations against LGBT people in Mexico notes:

> "Although the Mexican Social Security Institute (IMSS) issued a press release on 17 February 2014 stating that it would extend social security benefits to same-sex married couples, in practice, same-sex married couples continue to experience difficulties in registering their spouses for social security benefits. The same difficulties are encountered with respect to spousal benefits under programs administered by the Institute for Social Security and Services for State Workers (ISSSTE). The problems appear to stem from lack of appropriate training for IMSS and ISSSTE employees. An additional problem is that the IMSS law, as written, continues to describe eligibility for benefits using language applicable only to opposite-sex couples (i.e., 'the wife of the insured man' or the 'husband of the insured woman'), thus appearing to exclude benefits for same-sex couples." (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, pp. 2-3)

The British daily newspaper The Guardian in a December 2016 article recounts the experience of a woman who was in a same-sex marriage and after the death of her spouse was confronted with obstacles to processing her wife's pension. First she was told by officials that no marriage licence existed, although the couple had officially married in September 2016. When she finally received a copy "due to extraordinary circumstances", the officials claimed that she needed to have been married for at least a year in order to receive the pension. Unlike in the case of heterosexuals, the time the woman and her wife lived together did not count, according to officials. The article mentions "a string of cases" like the one described and goes on to say that these cases "suggest that rights for gay people are still treated as exceptions to be granted at the discretion of local officials". (The Guardian, 19 December 2016)

1.2 Legal recognition of gender identity (e.g issuance of identity documents)

The May 2016 report of the Cornell Law School LGBT Clinic and the Transgender Law Center mentions the following concerning Mexico City:

> "Mexico City has created some avenues for transgender people to conform their identity documents to their gender identity. In 2004, Mexico City amended its Civil Code to permit an individual to change the name and gender marker on their birth certificate. Specifically, the Mexico City Civil Code was amended to allow modification of a person's birth certificate 'upon request to change a name or any other essential data affecting a person's civil status, filiations, nationality, sex and identity.' In 2014, Mexico City also passed a law that permits

> transgender individuals to legally change their gender without a court order. […] Only Mexico City has an antidiscrimination law that explicitly protects against gender identity discrimination. Other protections that exist exclusively in Mexico City include name changes, legal recognition of gender changes, and specialized healthcare for transgender people." (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 12)

In its March 2017 human rights report covering the year 2016, the US Department of State (USDOS) mentions that "[t]ransgender persons may change their gender marker on identity documents only in Mexico City". (USDOS, 3 March 2017, section 6)

A December 2016 report written by several NGOs and alliances deals with discrimination due to gender identity and sex characteristics in Mexico and provides the following information:

> "In Mexico, one can only change the name and sex in the identity documents in Mexico City, thanks to the reforms that were introduced to article 135bis of the Civil Code of Mexico City. These reforms were approved by the local congress in November 2014 and entered into force on February 5, 2015 when it was published in the Boletín Oficial.
>
> These legal reforms introduced is a significant step forward from the previous law. Currently, adults (persons over 18 years old) who want to modify their name and sex marker are not required to undergo medical interventions or to have a medical certificate or to have filed prior legal motions. Under the current law, it is a simple administrative proceeding, for which only applicants need to present a certified copy of the birth certificate, an official identity document and proof of residence.
>
> However, it is important to highlight that this law only applies to people who reside in Mexico City, which excludes the majority of trans Mexican people who live in other states of the country. It also excludes people who, due to a variety of reasons, cannot provide proof of residence. For example, trans people who come to Mexico City from other parts of the country and who can only have access to working in the informal sector, such as sex work, live in precarious conditions in Mexico City.
>
> Another problem arises in the case of people who currently reside in Mexico City, but who come from other states, since in many cases the local authorities that issued the original birth certificate refuse to authorize that the Civil Registry of the City of Mexico issues a new birth certificate with the new name and sex marker." (Hombres XX et al., December 2016, p. 2)

1.3 Anti-discrimination provisions

The June 2014 NGO report on human rights violations against LGBT people in Mexico explains:

> "In 2011, Mexico amended its Constitution to prohibit discrimination on the basis of 'sexual preference.' Several years earlier, in 2003, Mexico passed the Federal Law to Prevent and Eliminate Discrimination. This law, which remains in force, prohibits public and private sector discrimination based on various characteristics including 'sexual preference,' and it explicitly characterizes homophobia as a form of discrimination. The law established a National Council for the Prevention of Discrimination (CONAPRED) as a department within

> the Mexican Secretariat of the Interior, and assigned CONAPRED various responsibilities related to combatting discrimination." (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, pp. 3-4)

Article 1 of the 1917 Political Constitution of the United Mexican States (Constitución Política de los Estados Unidos Mexicanos, with amendments up to 24 February 2017) prohibits any form of discrimination based on sexual orientation:

> "Artículo 1o. […]
>
> Queda prohibida toda discriminación motivada por origen étnico o nacional, el género, la edad, las discapacidades, la condición social, las condiciones de salud, la religión, las opiniones, las preferencias sexuales, el estado civil o cualquier otra que atente contra la dignidad humana y tenga por objeto anular o menoscabar los derechos y libertades de las personas." (Constitución Política De Los Estados Unidos Mexicanos, 5 February 1917)

Article 1 section III of the Federal Law to Prevent and Eliminate Discrimination (Ley Federal para Prevenir y Eliminar la Discriminación, enacted in 2003, with amendments up to 1 December 2016) protects against discrimination based on sexual orientation. The same section lists homophobia as a form of discrimination: "Discrimination: For the purpose of this law, discrimination will be considered as being any intentional or non-intentional distinction, exclusion, restriction or preferential treatment (by any act or failure to act), which is neither objective, rational or proportional and aims to or results in the obstruction, limitation, prevention, undermining or nullification of the recognition, enjoyment or exercise of human rights and liberties, when it is based on one or several of the following motives: ethnic or national origin, colour of skin, culture, sex, gender, age, disabilities, social or economic background, health, legal status, religion, physical appearance, genetic characteristics, immigration status, pregnancy, language, opinions, sexual preferences, political identity or affiliation, marital status, family situation, family responsibilities, use of language, criminal record or any other motive. Homophobia, misogyny, any expression of xenophobia, racial segregation, antisemitism, racial discrimination and other related forms of intolerance are also regarded as discriminatory". (Ley Federal para Prevenir y Eliminar la Discriminación, 11 June 2003, Article 1 section III, unofficial translation):

> "Discriminación: Para los efectos de esta ley se entenderá por discriminación toda distinción, exclusión, restricción o preferencia que, por acción u omisión, con intención o sin ella, no sea objetiva, racional ni proporcional y tenga por objeto o resultado obstaculizar, restringir, impedir, menoscabar o anular el reconocimiento, goce o ejercicio de los derechos humanos y libertades, cuando se base en uno o más de los siguientes motivos: el origen étnico o nacional, el color de piel, la cultura, el sexo, el género, la edad, las discapacidades, la condición social, económica, de salud o jurídica, la religión, la apariencia física, las características genéticas, la situación migratoria, el embarazo, la lengua, las opiniones, las preferencias sexuales, la identidad o filiación política, el estado civil, la situación familiar, las responsabilidades familiares, el idioma, los antecedentes penales o cualquier otro motivo;

> También se entenderá como discriminación la homofobia, misoginia, cualquier manifestación de xenofobia, segregación racial, antisemitismo, así como la discriminación racial y otras formas conexas de intolerancia;" (Ley Federal para Prevenir y Eliminar la Discriminación, 11 June 2003, Article 1 section III)

Besides, Article 9 considers, among others, the following acts as a form of discrimination as defined in Article 1 section III of the same law: "The act or promotion of physical, sexual, psychological, property-related or economic violence on the basis of age, gender, disability, physical appearance, way of dressing, speaking or gesturing, publicly acknowledging one's sexual preference or any other motive for discrimination" (Ley Federal para Prevenir y Eliminar la Discriminación, 11 June 2003, Article 9, unofficial translation):

> "Con base en lo establecido en el artículo primero constitucional y el artículo 1, párrafo segundo, fracción III de esta Ley se consideran como discriminación, entre otras: […]
>
> XXVIII. Realizar o promover violencia física, sexual, o psicológica, patrimonial o económica por la edad, género, discapacidad, apariencia física, forma de vestir, hablar, gesticular o por asumir públicamente su preferencia sexual, o por cualquier otro motivo de discriminación; […]" (Ley Federal para Prevenir y Eliminar la Discriminación, 11 June 2003, Article 9)

The United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Christof Heyns, analyses in a May 2016 report to the Human Rights Council (HRC) the progress made by Mexico following his mission there in 2013. He refers to a government reply according to which the Federal Act for the Prevention and Elimination of Discrimination has been reformed in 2014 to include "homophobia and violence against individuals based on their sexual orientation" and that "[f]ifteen federal entities had adopted constitutional provisions prohibiting discrimination on these grounds". (HRC, 6 May 2016, p. 19)

The May 2016 report of the Cornell Law School LGBT Clinic and the Transgender Law Center however specifies that there are "no federal laws that explicitly protect transgender individuals from discrimination on the basis of their gender identity (i.e., their transgender status) as opposed to sexual orientation". (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 10)

The 2013 Mexico/ Mexico City – SOGI legislation Country Report written by students of the International Human Rights program at the University of Toronto Faculty of Law mentions that "in 2012, the Federal government eliminated a ban on blood donations of gay and bisexual men" (International Human Rights program at the University of Toronto Faculty of Law, March 2013, p. 1).

The June 2014 NGO report on human rights violations against LGBT people in Mexico gives the following overview of the legal situation in Mexico City:

> "Within Mexico, Mexico City (Federal District) has taken the lead in enacting laws and taking measures to protect the rights of the LGBTI population. Mexico City has enacted general antidiscrimination legislation which goes beyond the federal law by prohibiting

> public and private sector discrimination on the basis of gender identity, as well as on the basis of sexual orientation. This law created an agency, the Council for the Prevention and Elimination of Discrimination in Mexico City (COPRED), which has the authority to take and resolve complaints of public and private sector discrimination that occur within the Federal District. The Criminal Code of the Federal District includes a hate crimes provision, under which crimes committed on the basis of the victim's sexual orientation or gender identity are considered hate crimes. […] In 2011, the government of the Federal District opened the Community Center on Sexual Diversity which has provided health and legal services to the LGBTI community. In 2012, the Federal District Attorney General issued a directive that provides instructions on effectively processing cases of crimes committed on the basis of the victim's sexual orientation and gender identity." (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, p. 4)

In its human rights report covering the year 2016, the USDOS writes that "[t]he law prohibits discrimination based on sexual orientation, but only in Mexico City does it prohibit discrimination based on gender identity." The USDOS report states furthermore that "[i]n Mexico City the law criminalizes hate crimes based on sexual orientation and gender identity." (USDOS, 3 March 2017, section 6)

1.4 Anti-hate speech provisions

The World Bank Group provides the following information in its Policy Research Working Paper published in March 2017:

> "Mexico criminalizes hate speech but does not provide for autonomous hate crime legislation at the federal level. Article 138(VIII) of the Penal Code of Mexico City, however, considers 'hate' an aggravating circumstance that augments the punishment of the 'base crimes' of homicide and bodily harm or injuries. Interestingly, this code provides that 'hate' includes the religious and ethnic origin of the victim, but it also expressly mentions sexual orientation and gender identity as characteristics that constitute a bias when committing the crimes of homicide or bodily harm or injuries." (World Bank Group, 3 March 2017, p. 27)

In a short overview of, among others, hate crime legislation in different countries, the same report indicates, however, that in Mexico there is no such legislation. The report, in contradiction to the above cited explanation, states that the federal law neither criminalises hate speech nor hate crimes. The report in this context mentions article 149 Ter of the Federal Criminal Code of Mexico which refers to discrimination. (World Bank Group, 3 March 2017, p. 48)

The Federal Criminal Code of Mexico as amended on 7 April 2017 can be accessed via the following link:

- Código Penal Federal, 14 August 1931, with amendments up to 7 April 2017 http://www.diputados.gob.mx/LeyesBiblio/pdf/9_070417.pdf

An English translation of the above mentioned Article 149 Ter can be found in the following book:

- Naamat, Talia/Osin, Nina/Porat, Dina (eds.): Legislating for Equality. A Multinational Collection of Non-Discrimination Norms. Volume II: Americas, 2013 (excerpts available on Google Books) https://books.google.at/books?id=zqxuKBcmRDUC&pg=PA301&lpg=PA301&dq=Mexico+federal+criminal+code+article+149+ter&source=bl&ots=Dhb63iMGTD&sig=-Fq4yt5dkAdmQia1eiXzyj_nj3M&hl=de&sa=X&ved=0ahUKEwimlujy7trSAhVD2SwKHY44DccQ6AEIKDAC#v=onepage&q=Mexico%20federal%20criminal%20code%20article%20149%20ter&f=false

Defensor, the monthly human rights journal of the Human Rights Commission of the Federal District, dedicates its February 2017 issue to the subject "hate speech, power and human rights". In an overview of laws against hate speech on the national and international level the journal points out that article 1 of the Political Constitution of the United Mexican States prohibits any form of discrimination on grounds of ethnic or national origin, gender, age, disabilities, social status, standard of health, religion, opinions, sexual preferences, marital status or any other form of discrimination that constitutes an attack on human dignity and is intended to nullify or undermine the rights and freedoms of individuals. The journal further mentions that according to article 9 (XV) of the Federal Law to Prevent and Eliminate Discrimination the promotion of hate and violence by messages and images in the media and according to article 9(XXVII) the incitement of hatred, violence, rejection, mockery, insult, persecution or exclusion are considered forms of discrimination. Concerning the local level the journal refers to the Criminal Code of the Federal District. (Human Rights Commission of the Federal District, February 2017, p. 32)

The March 2013 Mexico/ Mexico City – SOGI legislation Country Report written by students of the International Human Rights program at the University of Toronto Faculty of Law notes:

> "On March 6, 2013 the Supreme Court of Justice determined that homophobic expressions such as 'maricones' or 'puñal' are discriminatory, constitute hate speech, and are not protected by freedom of expression laws. The Supreme Court determined that homophobic expressions constitute discriminatory statements even if they are expressed jokingly, since they can be used to encourage, promote, and justify intolerance against gays (Amparo directo en revision 2806/2012, March 6, 2013, Suprema Corte de Justicia de la Nación)." (International Human Rights program at the University of Toronto Faculty of Law, March 2013, p. 1)

A March 2013 article by the UK-based LGBT news site Pink News contains similar information:

> "The top court in Mexico has ruled that two words, both anti-gay slurs which are commonly used in the country, are hate speech, and therefore should not be protected as freedom of speech under the constitution. The ruling by the Supreme Court could mean that those offended by the use of the words could sue for moral damages.
>
> Magistrates voted 3-2 on Wednesday evening, supporting a claim by a journalist from Puebla, who sued a reporter from a different publication who had referred to him as a 'punal', and other people at his newspaper as 'maricones'. Both of the words in question roughly translate into the word 'faggot' in English, reports the Associated Press.

> The ruling by the majority of the magistrates meant that both words were deemed discriminatory and offensive. Their ruling said: 'Even though they are deeply rooted expressions in Mexican society, the fact is that the practices of the majority of society can't validate the violations of basic right.'" (Pink News, 8 March 2013)

The mentioned ruling of the Supreme Court of 6 March 2013 can be accessed via the following link:

- SCJN - Suprema Corte de Justicia de la Nación: Amparo directo en revisión 2806/2012, 6 March 2013 http://www.miguelcarbonell.com/artman/uploads/1/Sentencia_amparo_en_revisi__n_2806-2012.pdf

1.5 Laws not explicitly relating to individuals of diverse SOGI being used in a discriminatory manner

The May 2016 report of the Cornell Law School LGBT Clinic and the Transgender Law Center provides the following information on morality laws in Mexico:

> "Some Mexican communities have explicitly targeted transgender women by enacting morality laws that criminalize 'cross-dressing.' In 2002, the city of Tecate, Mexico amended its Police and Good Governance Code to prohibit 'men dressed as women in public spaces.' This revision 'was coded in terms of infractions against morality.' Upon passing the law, the mayor of Tecate stated that Town Hall officials and the majority of the population supported it. A coalition across the political spectrum spoke out in favor of the morality law.
>
> Supporters stated that Tecate's prohibition of gender nonconformity was needed to protect against social disturbance; they regarded 'cross-dressing' as a threat to order, morality, harmony, mutual respect, and children. They implied transgender women were pedophiles. In explaining his support for the law, counsel advisor José Luis Rojo claimed that transgender women disrupt the public peace and 'take advantage of children.' A senior councilman, Cozme Casares, added that he and others supported the measure because they believed it would prevent the spread of AIDS and sex work.
>
> Local transgender women reported a dramatic increase in police harassment following the law's passage. A woman named Gabriela reported that a police officer had 'pulled [her] out of the doorway of a pool hall by her hair.' Transgender women were frequently accused of being involved in sex work, even when they were simply running errands like going to buy milk. Transgender women stopped by the police frequently faced extortion; '[t]he police used… the threat of arrest… to secure money or sexual favors from [transgender women].' The passage of morality laws like those in Tecate criminalizes transgender women and sanctions police harassment and private discrimination. The passage and retention of these laws reflect continued societal hostility towards transgender people." (Cornell Law School LGBT Clinic; Transgender Law Center, May 2016, pp. 12-13)

The abovementioned provisions of the city of Tecate, which prohibit men dressed as women in public spaces, can be found in article 34 of the 2002 Police and Good Governance Code of

Tecate, Baja California (Bando de Policía y Gobierno para el Municipio de Tecate, Baja California, 25 October 2002). However, in the current 2010 Police and Good Governance Code of Tecate with amendments up to 24 April 2015 no such paragraph exists (Bando de Policía y Gobierno para el Municipio de Tecate, Baja California, 20 August 2010, with amendments up to 24 April 2015).

The Inter-American Commission on Human Rights (IACHR), an autonomous organ of the Organization of American States that promotes and protects human rights in the American hemisphere describes in a November 2015 report on violence against LGBT persons in the Americas the following situation providing information concerning, among other states, Mexico:

> "The UN Committee against Torture has stated, speaking in regard to LGBT persons, that the rules on public morals can grant the police and judges discretionary power which, combined with prejudices and discriminatory attitudes, can lead to abuses against them. Some of these provisions are explicit in national criminal legislation, but they can also be found in local and/or provincial laws, and in police regulations. These laws are criticized for, among other things, their vague language. Vague definitions of outlawed conduct open the door to arbitrary application and enforcement with respect to persons who are seen as defying socially established gender norms, particularly trans persons. There is evidence that law enforcement authorities have repeatedly used such laws to harass and persecute LGBT persons, especially trans sex workers." (IACHR, 12 November 2015, p. 65)

> "Same-sex couples showing public displays of affection are also a frequent target of police abuse and arbitrary detention by state agents – often with excessive use of force or verbal abuse– because of what is considered 'immoral behavior' in public spaces." (IACHR, 12 November 2015, pp. 79-80)

According to footnote 229 of the report, one such vague provision in provincial law can be found in the Penal Code of the State of Jalisco which criminalises among others "acts against public morals, for example "obscene exhibitions". (IACHR, 12 November 2015, p. 65, footnote 229)

The cited Criminal Code of Jalisco State which in article 135 mentions obscene exhibitions as an act against public morals can be accessed via the following link:

- Código Penal para el Estado libre y soberano de Jalisco, 2 August 1982, with amendments up to 1 December 2015
  http://www.ordenjuridico.gob.mx/Documentos/Estatal/Jalisco/wo77048.doc

Frontera, a Mexican tabloid newspaper, reports in a November 2016 article in its online version that in Ensenada, Baja California, a group of transgender persons peacefully demonstrated against the killings of transsexuals in Baja California. Furthermore, they claimed to be constantly abused by the municipal police. The president of the council for the protection of the right to sexual diversity stated that they constantly receive complaints of abuse of trans women who are sex workers. Police detain them and extort their money while making recourse to the Police

and Good Governance Code which contains an article that prohibits a person from being disguised or dressed up in public:

> "Ensenada, Baja California: Un grupo de personas transgénero realizaron una marcha pacífica para manifestar su inconformidad ante las muertes de personas transexuales en el Estado y reclamaron que constantemente sufren abusos por parte de la policía municipal. […]
>
> La Presidenta del Consejo para la Protección de los Derechos de la Diversidad Sexual (Cpdds), Lizeth Dueñas Pérez comentó que constantemente reciben quejas de abusos a chicas trans que son sexservidoras y que están registradas y cuentan con tarjeta del sector salud.
>
> 'Van los policías, las detienen y les quiten su dinero escudándose en el bando de policía y buen gobierno porque hay un artículo que dice que no se puede circular en la vía pública disfrazado, pero los policías no entienden que ellas son chicas trans y las agarran como sie estuvieran disfrazadas', explicó." (Frontera, 10 November 2016)

2 Treatment of individuals of diverse SOGI by state actors

In its query response about the situation and treatment of sexual minorities, particularly in Mexico City, Cancún, Guadalajara, and Acapulco of August 2015, the Immigration and Refugee Board of Canada (IRB) writes:

> "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, CAIT), an NGO that advocates for the rights of transgendered women in Mexico (CAIT 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)." (IRB, 18 August 2015)

The IACHR in the above-cited November 2015 report on violence against LGBT persons in the Americas describes the situation in Mexico in the following terms providing some concrete examples:

> "In January 2013, two police officers were arrested in connection with the kidnapping, torture and execution of a young gay couple. The incident apparently originated with a quarrel between two young men, aged 17 and 22, in Mexico City. After they were both expelled from a nightclub, a police patrol car and other cars arrived and police agents violently pushed them into a white vehicle that was escorting the patrol car. The bodies of the two men were found the following day with numerous signs of beatings in various parts of the body (some of which were so brutal they left bones uncovered), their hands and feet strongly tied with wire, their ears amputated, and with three gunshot wounds in the head of each man. Surveillance cameras showed that the vehicles that were used to apprehend the men outside the nightclub drove to the vicinity of the place in which the bodies were found.
>
> The IACHR has noted that for the majority of cases of violence against LGBT persons recorded in the Registry of Violence covering the time period of January 2013 to March 2014, there is little or no data as to the perpetrators of the violence, particularly in the cases of killings. Notwithstanding this, during that fifteen-month period, the IACHR

received information of alleged executions by state agents of a 15-year-old boy in Patu, Brazil, a 40-year-old trans woman in Mexico city, and the aforementioned two gay men aged 17 and 22 in Mexico City." (IACHR, 12 November 2015, p. 82)

"In Mexico City, a young man was allegedly arrested by federal police officers while he was walking on the street late at night. When he asked why he was being arrested, the officers answered 'because you are gay' and then asked him to perform oral sex on them." (IACHR, 12 November 2015, p. 92)

"Police abuse is also reported to take place in or around places where LGBT persons socialize or its surroundings. For instance, a violent police raid is reported to have taken place at an LGBT beauty pageant in Monterrey, Mexico, in February 2013. Agents of the federal police force —under the command of an official of the Federal Public Ministry— stormed the night club where the contest was taking place, ordered everyone out, and arrested at least 70 people who were present at the event, who were fined, without criminal charges. According to the information presented to the Commission, police agents insulted them using homophobic and transphobic slurs: 'faggots, we are taking you because dressing up as women is immoral.'" (IACHR, 12 November 2015, p. 93)

The May 2016 report of the Cornell Law School LGBT Clinic and the Transgender Law Center notes the following concerning police violence against transgender women, referring in some instances to sources dating back to 2011 and 2012:

"Transgender women in Mexico face brutal violence not only from private citizens, but also from state officials. Police officers and the military subject transgender women to arrest, extortion, and physical abuse. Many transgender women have been victims of police violence or know someone who has been a victim. According to Victor Clark, professor at San Diego State University and the director of the Binational Center for Human Rights in Tijuana, Mexico, the police and military are the 'primary predators' targeting transgender women. Mexican police target transgender women and arbitrarily arrest them for pretextual reasons such as 'disturbing the peace' because they were wearing female clothing; for being perceived to be sex workers even if they were not; for failing to carry a valid health card; for allegedly carrying drugs; or for being said to be gay.

For example, in March 2014, police officers in Chihuahua, Mexico arrested five transgender women for not carrying a health card, even though this is not a crime. At the police station, male police officers forced the transgender women to undress in front of them. The police then illegally forced the women to take HIV tests. The police held the transgender women in jail for 36 hours and demanded 200 pesos from each woman for release. For decades the Mexican police forces have been implicated in cases of arbitrary detention, torture, and other human rights violations that are often unpunished. Police officers often extort transgender women for sex or money in return for not arresting them or for releasing them from jail. Many transgender women have to pay almost daily bribes to avoid being arrested." (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 18)

In its March 2017 human rights report covering the year 2016, the USDOS mentions that according to civil society groups, “police routinely subjected LGBTI persons to mistreatment while in custody.” (USDOS, 3 March 2017, section 6)

3 Treatment of individuals of diverse SOGI by non-state actors

3.1 General attitudes

The Department of Foreign Affairs and Trade of the Australian Government provides the travel advisory that "conservative attitudes prevail in parts of the country" and that "public displays of affection between members of the same sex may not be considered socially acceptable in some areas". (Australian Government – Department of Foreign Affairs and Trade, 22 February 2017)

In its March 2017 human rights report covering the year 2016, the USDOS notes the following concerning discrimination of LGBT persons in Mexico:

> "Discrimination based on sexual orientation and gender identity was prevalent, despite a gradual increase in public tolerance of LGBTI individuals according to public opinion surveys. In March, Rubi Suarez Araujo became the first transgender municipal councilor, in Guanajuato. […]
>
> In October the press reported three killings of transgender individuals in the space of 13 days. NGOs stated transgender individuals faced discrimination and were marginalized even within the lesbian and gay community." (USDOS, 3 March 2017, section 6)

The British daily newspaper The Guardian in its December 2016 article describes the situation in the following terms:

> "Surveys show the country split on same-sex marriage – a poll in the newspaper El Universal showed 49% opposed and 43% in favour – although there is still strong opposition to gay couples adopting children.
>
> Opponents appear emboldened, however. A movement known as the National Front for the Family emerged earlier this year after President Enrique Peña Nieto introduced an initiative to legalise marriage equality nationwide, allow all couples to adopt children and to include positive portrayals of the LGBT community in educational materials. The movement against marriage equality – which appears well funded and appears to have the support of politicians across the political spectrum – has since convened more than 100 marches nationwide under the slogan 'Don't mess with my kids'. It has also started collecting signatures for a citizen initiative which would reform the constitution to define marriage as heterosexual. […]
>
> Observers say the president's initiative was the pretext for a series of pro-Catholic organisations – sponsored by big-money backers – to mobilise. 'These groups came together to take advantage of a weakened president,' said a former member of a militant Catholic organisation, who asked that her name be withheld for fear of reprisal. […]
>
> The campaign was supported by both evangelical Christians and the Catholic church, which regularly lobbies for policy changes on 'social' issues – such as abortion bans – while staying silent on other issues such as drug war violence, which has claimed nearly 200,000 lives. 'Attacks against the family are much more serious than violence, more serious than

narcotics trafficking and more serious than corruption,' said Father Hugo Valdemar, archdiocese of Mexico City spokesman.

The president's plan on marriage equality eventually stalled in congress, where members of Peña Nieto's own party argued that setting federal policy on same-sex marriages would interfere with states' ability to set civil registry rules. Other arguments were more extreme: Edith Martínez, who represents Encuentro Social, a party founded by evangelical Christians, said marriage equality would lead to people marrying 'dolphins or laptops'." (The Guardian, 19 December 2016)

The Council on Hemispheric Affairs (COHA), a Washington, DC. think tank that focuses on developments in Latin America, describes societal attitudes towards the LGBT Community in Mexico in a report of October 2016:

"In Mexico, the Frente de Liberación Homosexual (FLH) was founded in 1971 as the first LGBT rights organization in the country, and many would soon follow. Less than a decade later, 'the [LGBT] community was first made visible during Mexico's first Pride Parade that took place in Mexico City in 1979.' That is not to say that the LGBT community was suddenly accepted into Mexican society. Similar to many other countries, whatever acceptance occurred in the 1970s quickly fell into the background with the global outbreak of the HIV/AIDS epidemic that forced many societies to regress into habits of 'discrimination, violence, and persecution of openly queer individuals.' While many of these tendencies began to subside in the 1990s when transnational nongovernmental organizations (NGOs) began to lobby for LGBT rights, members of the LGBT community never saw true equality when it came to social or institutional acceptance.

Institutional acceptance - although still inadequate - first began to materialize in Mexico City when, in 2006, the city's mayor signed into law a bill authorizing civil unions for same-sex couples. Far from indicative of a change in the national conversation, the bill was 'severely criticized by the Catholic Church and conservative civil groups in the country' as it was believed that recognition of civil unions would be the first step towards full recognition of gay marriage. That is exactly what happened, and in December 2009, Mexico City institutionalized marriage between same-sex couples, the first legislation doing so in Latin America. […]

Unsurprisingly, the same opposition forces that challenged the 2006 measure quickly raised questions regarding the legality of same-sex marriage, sending a case to the Supreme Court of Mexico on the grounds 'that allowing same-sex marriages violates the guarantee of familial integrity,' reflective of rhetoric commonly used by religious groups. Regardless, the Court reaffirmed the constitutionality of the law in an 8-2 vote, citing regulation of marriage to be a state function.

Nevertheless, the transformations experienced in Mexico City did not translate into broad policy shifts across the country. […] For his part, former President Felipe Calderón did little to change the national conversation surrounding the status of LGBT rights and individuals in the country given his staunch opposition to legislation allowing same-sex marriage. After

all, it was his attorney general that brought Mexico City's bill before the Supreme Court, hoping it would be repealed. […]

Most recently, in May 2016, President Enrique Peña Nieto declared his intention to submit legislation that would reform the Constitution of Mexico to assure marriage equality throughout the nation. Many Conservatives see this as a direct rebuke of the several states who have reformed their Constitutions to explicitly deny marriage equality in light of growing social trends. The same Catholic and conservative factions that have opposed homosexuality and same-sex marriage throughout Mexico's storied history have recently mobilized against Nieto. Rather than opposing marriage equality qua marriage equality, the rhetoric of their movement has once again focused on the sanctity of family. On September 14, 2016, the National Front for the Family staged rallies and marches in 122 cities across Mexico, with one of their central concerns being the possibility of same-sex couples adopting children. […] This was followed by a similar march in Mexico City on September 25 by the same coalition. Once again, they characterized it as being in support of family values and the institution of marriage, rather than as anti-LGBT." (COHA, 14 October 2016, pp. 3-5)

ILGA in its May 2016 Global Attitudes Survey on LGBTI People, for which data was collected in December 2015/January 2016, reports that in Mexico 8 % strongly agreed with the proposal that being LGBTI should be a crime, while 52% strongly disagreed. 12% strongly agreed whereas 29% strongly disagreed that same-sex desire is a Western world phenomenon. 81% had no concerns if they have an LGBT neighbour, while 8% replied they would be very uncomfortable. (ILGA, 17 May 2016, pp. 6, 8, 11)

The Cornell Law School LGBT Clinic and the Transgender Law Center mention the difficulty of gathering data about the LGBT community in their May 2016 report:

"Gathering data about the Mexican LGBT community is hampered by the fact that many individuals are reluctant to reveal their sexual orientation or gender identity because they fear harassment, violence, assault, and other negative societal consequences that may follow from such a disclosure." (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 9)

In the aforementioned query response about the situation and treatment of sexual minorities, particularly in Mexico City, Cancún, Guadalajara, and Acapulco of August 2015, the Immigration and Refugee Board of Canada (IRB) writes:

"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)." (IRB, 18 August 2015)

In December 2015 the IACHR published a report on the human rights situation in Mexico which contains the following information on societal attitudes towards LGBT persons:

> "The Commission notes that there have been some improvements in Mexico City in terms of discrimination against LGBTI persons, but as stated by one civil society representative, 'Mexico City is not Mexico,' in reference to the deep-rooted stereotypes and prejudices that persist in many parts of the country. […]
>
> In its observations to the draft of this report, the State stated that the Pew Research Center ranked Mexico, in June 2013, among the countries with a broad acceptance of homosexuality, recognizing that 61% of the people surveyed opined that homosexuality should be accepted by society." (IACHR, 31 December 2015, pp. 122-123)

The December 2016 report written by several NGOs and alliances on discrimination based on gender identity and sex characteristics in Mexico mentions the following concerning intersex people:

> "Mexico is a country with extreme inequalities, a high rate of extreme poverty and a defficient health system. Unlike what happens in the Global North, many persons with intersex bodies have not been subjected to surgery and have preserved their bodily integrity. But body variations are met with social cruelty, disgust and mockery. Many intersex persons can be subjected to discrimination and violence when their intersex status becomes known in their context." (Hombres XX et al. December 2016, pp. 6-7)

3.2 Discrimination: labour, health, work

The Mexican news agency Desastre, which in a November 2016 article focuses on topics related to sexual diversity provides information about a study carried out by Fundación Arcoíris, a Mexican organisation that advocates the rights of LGBT people. For the study, 613 persons between 21 and 69 years in seven central federal entities of Mexico were questioned. According to the answers obtained, more than 60 percent of transgender women have been victims of violence because of their gender identity. In the area of security and justice, 62% of trans women, 51% of trans men, 35% of men, 23% of women and more than 28% of the intersex persons were victims of physical aggression due to their gender identity or sexual orientation. The perpetrators were identified as unknown (32%), police (14%), relatives (11%) and friends and partners (12%). The majority of those who asked the authorities for help (88 cases) pointed out that the latter did not act. In 33 cases the authorities blamed the LGBT persons for the incidents:

> „Más del 60% de las mujeres transgénero en la zona centro del país ha sido víctima de violencia basada en su identidad de género, esto de acuerdo con un informe que tuvo como objetivo identificar los principales desafíos existentes en la atención a la población LGBTI y su acceso a la educación, trabajo, seguridad social, salud y justicia.
>
> El estudio, que recibió el nombre de Atención a personas LGBTI en México. La condición en algunos estados del centro del país, fue elaborado por la Fundación Arcoíris, una asociación civil que lucha por los derechos de las personas LGBTI, a partir de las respuestas otorgadas por 613 encuestados de 21 a 69 años y provenientes del Estado de México, Guanajuato, Hidalgo, Michoacán, Querétaro, Tlaxcala y Zacatecas. […]

> En el rubro de seguridad y justicia, se presentó que el 62% de las mujeres trans, el 51% de hombres trans, el 35% de hombres y el 23% de mujeres han sido víctimas de agresiones físicas por su identidad de género u orientación sexual. En el caso de las personas intersexuales, la violencia se ha presentado en el 28.57% de los participantes. Los agresores fueron identificados como desconocidos (32%), policías (14%), familiares (11%), y amigos y pareja (12%). La mayoría de quienes acudieron a las autoridades (88 casos) para denunciar estos hechos señalaron que las autoridades resultaron inoperantes. En 33 casos las autoridades culparon a las personas LGBT de los hechos ocurridos." (Desastre, 9 November 2016)

Between 15 and 20% of the respondents claimed to have been detained for the simple fact of being LGBT, the Mexican news agency Desastre continues to report. They stated that they were subjected to different forms of aggression while in detention, for example incommunicado detention and insults. Furthermore, they were not informed about the reasons for their detention. Most of the trans and intersex respondents agreed that there are no adequate health services for them. 55% of the homosexual men stated that the staff are only rarely trained to care for LGBT people. More than 50% of the respondents that expressed their sexual orientation while attending health services were discriminated against and faced pejorative remarks. 21% of the respondents stated that they have been forced to undergo treatment related to their sexual orientation and gender identity at one point:

> "Por otro lado, entre el 15% y 20% de los encuestados afirmaron haber sido detenidos por el simple hecho de ser LGBTI. Revelaron que durante su detención fueron objetos de diferentes formas de agresión, como la incomunicación y los insultos; además, no les informaron el motivo de su detención.
>
> Al cuestionar a los participantes sobre si creen que los servicios de salud son adecuados para las personas LGBTI, se encontró que la mayoría de las personas trans e intersex concordaron en que no existen servicios adecuados para ellos. A la vez que 55% de los hombres homosexuales dijo que pocas veces el personal está capacitado para atender a las personas LGBTI.
>
> Se identificó que más del 50% de las personas que expresaron su orientación sexual en los servicios de salud fueron discriminadas y recibieron comentarios peyorativos. Finalmente, 21% declaró que alguna vez se han visto obligados a someterse a tratamientos relacionados con su orientación sexual e identidad de género." (Desastre, 9 November 2016)

The same article states that concerning education, seven out of ten respondents answered that they have not received education on the human rights of LGBTI persons. The participants of the study agreed that primary school, secondary school and high school were the educational levels where they suffered the most discrimination. The most common forms of aggressions in the field of education were the exclusion from academic activities (46.15%), mockery (45.93%) and beatings (44.68%). Of those respondents who stated having concealed their sexual orientation at work almost 29.55% were gay, 28.41% were lesbian, and a similar share was bisexual. Two out of ten respondents answered that they are treated badly or very badly at

work. In addition, it was revealed that for 39% of the surveyed trans women and 37% of the surveyed homosexual men a HIV testing was a job requirement. Of those respondents who answered that they were constantly harassed at work (no absolute numbers available), 51.72% were gay, 20.69% bisexual and 13.79% lesbians. Confronted with the problem of constant harassment LGBT persons choose to hide their sexual orientation, change or leave jobs:

> "En materia de educación, siete de cada diez encuestados declararon que no han recibido educación sobre derechos humanos de las personas LGBTI. Los participantes concordaron que la primaria, secundaria y preparatoria fueron los niveles educativos donde padecieron mayor discriminación. Las agresiones más comunes expresadas en el espacio educativo fueron la exclusión de las actividades académicas, con 46.15%; la burla, con 45.93%; y los golpes, con 44.68%.
>
> En el ámbito de seguridad social y derecho al trabajo, se encontró que el casi el 30% de las personas homosexuales, lesbianas y bisexuales han ocultado su orientación sexual en el trabajo. Dos de cada 10 señalaron que el trato en el trabajo es malo o muy malo. Además, se reveló que algunas mujeres trans (39%) y hombres homosexuales (37%) reportaron que les fueron solicitadas pruebas de VIH como requisito laboral.
>
> De las personas que dijeron vivir constantemente situaciones de acoso y hostigamiento en su trabajo, 51.72% eran homosexuales, 20.69% bisexuales, 13.79% lesbianas; ante esta situación las personas LGBTI optan por ocultar su orientación sexual e identidad de género, cambiar de empleo o ausentarse de su trabajo." (Desastre, 9 November 2016)

In November 2016 Página 24, a Mexican daily newspaper, also reports on the study carried out by Fundación Arcoíris. The article mentions that 49% of the interviewed LGBT persons who have an insurance with the Mexican Social Security Institute (IMSS) worry that they might not be able to insure their partners:

> „Con la presencia de Sara Ortiz, titular del colectivo Hij@s de la Luna; Raquel Ortiz, representante de la Secretaría de Gobernación de Zacatecas; la diputada loca María Elena Ortega; María de la Paz Barrón, representante del grupo Eclipse Lésbico de Zacatecas y Ximena Batista, coordinadora de la Fundación Arcoíris, presentaron los resultados del diagnóstico sobre la atención a personas LGBTI en México.
>
> María de la Paz Barrón, representante del grupo Eclipse Lésbico de Zacatecas, dio a conocer que hay muchos aspectos que hacen que en Zacatecas se viva un 'racismo', una falta de equidad para las personas LGBTI.
>
> Explicó que 49 por ciento de la población LGBTI que está afiliada al Instituto Mexicano del Seguro Social (IMSS), sin embargo es inquietante que no puedan asegurar a sus parejas." (Página 24, 20 November 2016)

The study of Fundación Arcoíris can be accessed via the following link:

- Fundación Arcoíris por el respect a la diversidad sexual: Atención a personas LGBTI. La condición en algunos estados del centro del país, October 2016 https://issuu.com/fundacionarcoiris/docs/atenci__n_a_personas_lgbti_en_m__xi

An August 2016 article by the news agency Reuters on transgender women in Mexico describes the case of a transgender activist who was discriminated against while studying. According to the activist, "[t]he school asked me to leave because I was going to influence the children and encourage them to be homosexual or transgender". Cymene Howe, professor of anthropology at Rice University in Houston, Texas, mentions that "[m]ost transgender women find their appearance prevents them from working in regular jobs". For that reason, many end up as sex workers. (Reuters, 22 August 2016)

The December 2016 report written by several NGOs and alliances on discrimination due to gender identity and sex characteristics in Mexico contains the following information:

> "Since they do not have identification documents that reflect their gender identity, the majority of Mexican trans people are excluded from exercising their economic and social rights. They don't have access to formal employment, to rent a home or to register to study. They are pushed to live in hiding and have less elements to defend themselves from pervasive machismo, cisnormativity, transphobia and social discrimination." (Hombres XX et al. December 2016, p. 3)

> "Intersex persons are born with sexual characteristics (like genitals, gonades and chromosomic patterns) that do not correspond to the typical binary notions on male or female bodies. […] Through the work done by Brújula Intersexual we have witnessed how the intersex community in Mexico faces problems that are similar to those faced by intersex persons across the world but with some specificities.
>
> The medical care protocol for persons with intersex variations includes mutilizing and 'normalizing' practices such as genital surgeries, psychological treatments and others that medically unnecessary, all performed on intersex persons who are under age and without their informed consent. […] The lack of trained and sensitized specialists who can treat intersex persons efficiently and respecting their dignity is noticeable. […] Intersex persons face serious difficulties to access their own medical histories or records. Procedures to access those records can be lengthy and they are not always successful." (Hombres XX et al. December 2016, pp. 5-7)

Concerning employment discrimination, especially of transgender women, the May 2016 report by the Cornell Law School LGBT Clinic and the Transgender Law Center writes the following:

> "Mexico's federal antidiscrimination laws do not prohibit discrimination on the basis of gender identity. The lack of protection leaves transgender women especially vulnerable to employment discrimination. As a consequence, few legal employment opportunities exist for transgender women. Approximately one out of three gay people in Mexico report that they must remain 'in the closet' to avoid being fired from their jobs. But for many transgender women - who largely lack access to gender-confirming health care due to high costs, and are generally denied the ability to change the name and/or gender on ID documents to match their gender presentation - it may be difficult or impossible to hide their transgender status, despite the economic penalty that brings. A fortunate few can

work as hairstylists or perhaps open a salon if they have enough money or family support. But many transgender women face such socioeconomic marginalization that they must turn to sex work to survive." (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 23)

In its March 2017 human rights report covering the year 2016, the USDOS states:

> "The Executive Committee for Victims Assistance, an independent federal agency, completed a survey 425 lesbian, gay, bisexual or transgender persons. Seven of 10 respondents reported discrimination in schools; half reported employment discrimination or harassment; and six of 10 reported having known an LGBT person murdered in the past three years. […]
>
> The National Council to Prevent Discrimination has both national and local level branches. […] The national level council received complaints of discriminatory acts in areas of employment, access to commercial establishments, and access to education and health care." (USDOS, 3 March 2017, section 6)

The June 2014 NGO report on human rights violations against LGBT people in Mexico provides details about homophobic bullying in schools:

> "School children throughout Mexico experience bullying, including insults, taunts, beatings, and other discriminatory behavior, based on their perceived or actual sexual orientation or gender identity. The perpetrators usually are the victims' peers, but in some cases the bullies are teachers or other school staff.
>
> A 2012 survey on homophobic bullying in Mexico revealed that 67% of the survey respondents reported having been victims of homophobic bullying. Seventy four percent of gay respondents reported having been bullied, as did 50% of lesbian respondents and 66% of transgender respondents. Younger students were most at risk. Fifty six percent of respondents indicated that they had experienced the most bullying in middle school (grades 7-9), and 28% indicated that they had experienced the most bullying in primary school (grades 1-6).
>
> While the most commonly reported form of bullying was insults and taunts (experienced by 92% of victims of bullying), approximately one third (32%) of victims reported having been beaten. Asked about the response of teachers and school authorities, only 3% reported that the bullies had been punished. Forty eight percent said that teachers and school authorities did nothing because the conduct seemed normal to them, and 11% said they did nothing because they were themselves involved in the bullying.
>
> This bullying has had profound effects on the victims. Fifty one percent reported suffering from depression and 25% had thought about suicide." (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, pp. 8-9)

Broadly, a website and video channel owned by the American media company Vice, which describes its task as "representing the multiplicity of women's experiences" provides the

following information in a November 2016 article citing information by the Mexican Center of Support for Trans Identities:

> "Suárez's group believe that a large majority of transgender sex workers in Mexico City have fled socially conservative states, often after they were kicked out of their family's homes. He says that Mexico City has few work opportunities for trans people, and they often turn to sex work to survive. 'They then face the double stigmatization, of being trans and being a sex worker,' he adds." (Broadly, 20 November 2016)

In its query response about the situation and treatment of sexual minorities, particularly in Mexico City, Cancún, Guadalajara, and Acapulco of August 2015, the Immigration and Refugee Board of Canada (IRB) writes:

> "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)." (IRB, 18 August 2015)

3.3 Killings, attacks

In 2016 Letra S publishes information according to which 1,310 cases of killings of LGBT persons motivated by homophobia were committed in Mexico between 1995 and 2016 (cases registered until 30 April 2016), 44 of them in 2015 and 15 in 2016. In the last ten years there have been 71 homicides a year on average. The figures are based on the results of a media monitoring in 29 entities of Mexico and cannot be considered representative or final:

> "Con un total de 1,310 casos, las cifras que se presentan a continuación son producto de un monitoreo de medios de comunicaciòn realizado en 29 entidades del país. Por lo mismo, dicho monitoreo no puede considerarse representativo ni definitivo. […]
>
> El promedio de homicidios en los últimos 10 años es de 71.1 casos al año." (Letra S, Sida, Cultura y Vida Cotidiana, AC, 2016)

Transgender Europe (TGEU) a network of organisations that works for the equality of all trans people in Europe, in a November 2016 article lists the killings of trans and gender-diverse persons around the world. Regarding Mexico, the article reports 52 killings in the time period between 1 October 2015 and 30 September 2016. For the longer monitoring period of 1 January 2008 until 30 September 2016, a total of 271 killings are reported for Mexico. (TGEU, 9 November 2016)

The November 2016 article in Broadly mentions "[t]wo high-profile deaths of transgender sex workers" and adds that, according to the spokesperson of the Mexican Center of Support for Trans Identities, "12 trans people have been killed in October of this year alone". (Broadly, 20 November 2016)

Public Radio International (PRI), an American public radio organization, provides the following information concerning homophobia and killings motivated by homophobia in a September 2016 article:

> "A gay rights advocacy group said that homophobia has surged in Mexico since Pena Nieto's proposal. The Citizen Commission against Homophobic Hate Crimes said at least 26 people from the LGBT community were killed so far this year. The group reported 44 anti-gay murders in 2015, down from 72 in 2014. The majority of the population of Mexico is Roman Catholic, and church leaders in Mexico are firmly opposed to same-sex marriage." (PRI, 13 September 2016)

The IACHR in its December 2015 report on the human rights situation in Mexico refers to murders of and attacks against LGBT persons:

> "The Commission's Special Rapporteur on the rights of LGBTI persons received information that in a period of 15 months (between January 2013 and March 2014), there were a total of 42 murders and 2 attacks on physical integrity in Mexico (both knife attacks) against transgender people (or perceived as such); 4 attacks on the physical integrity of lesbians (or perceived as such), 3 of which were beatings and one death threat; and 37 murders of gay men (or perceived as such) and two attacks on the physical integrity, including a case of mutilation where the victim's eyes were torn out, and another related case of sexual violence and beatings from Police agents. […]
>
> Between 1995 and 2014 there were 1,218 murders in Mexico motivated by prejudice against individuals because of their real or perceived sexual orientation and/or gender identity, according to the report by the Citizens Commission Against Homophobic Hate Crimes (CCCOH) of the civil society organization Letra S, AIDS, Culture and Everyday Life AC. The report indicates that the largest number of such murders involved men (976), followed by transgender community members with 226 cases reported, and women (16). It also indicated that over 80% of the records show that the victims suffered various forms of aggression before being killed." (IACHR, 31 December 2015, p. 122)

The November 2015 IACHR report mentions that the Mexican Executive Commission for Attention to Victims ['Comisión Ejecutiva de Atención a Victimas' (CEAV)] in 2014 "expressed its concern with regard to the rising number and increasingly violent nature of crimes based on prejudice against LGBT persons". (IACHR, 12 November 2015, p. 83)

The June 2014 NGO report on human rights violations against LGBT people in Mexico notes the following:

> "An alarmingly high number of LGBTI individuals have been murdered in Mexico in recent years. Based on a review of news media and internet sites, Letra S has compiled a register identifying 288 LGBTI individuals murdered in Mexico from 2010 through 2013. Undoubtedly, this register underestimates the true number killed during this time period. Transgender women are at particular risk of murder. According to a 2012 report by the NGO Centro de Apoyo a las Identidades Trans A.C., 126 transgender women were murdered in Mexico from 2010 through 2012." (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, p. 5)

The August 2016 article of the Economist newspaper states:

"The spread of gay rights has been accompanied by more reports of violence against homosexuals. The number of homophobic murders has jumped to 71 a year on average over the past decade from 50 a year during the previous ten years, according to Letra S. In June, in the northern town of Monclova, a lorry driver shot Jessica González Tovar and ran her over in the presence of her female partner.

But reports of more homophobic violence may be misleading. Letra S draws its data from newspaper reports, since the police do not report such crimes separately. The higher numbers may show that the press is reporting them more accurately, Letra S acknowledges. 'There seems to be more homophobia,' says Nicolás Loza Otero of FLACSO, a university in Mexico City, 'but I think there's less.'

That hopeful assessment is probably right. Even the conservative areas north-west of Mexico City are changing. Fresnillo, a town in Zacatecas, elected Mexico's first openly gay mayor, Benjamín Medrano, in 2013. Rubí Suárez Araujo became Mexico's first transgender municipal councillor in Guanajuato in March this year. Sexual diversity is increasingly visible in Guadalajara, says María Martha Collignon of ITESO, a university there. A gay marriage takes place nearly every week.

Just under half of Mexicans support gay marriage, according to a poll conducted in 2013 and 2014 by the Pew Research Centre, a think-tank. But among those aged 18 to 34, 63% are in favour. Older Mexicans are becoming less censorious. 'Parents aren't saying they're pleased at the news that their children are lesbian,' says Paulina Martínez of Metal Muses, a lesbian pressure group. 'But they accept it more.' It will take years before Mexico becomes as tolerant as its capital, but gay people in the heartlands have grounds for hope." (Economist, 18 August 2016)

The Indian online newspaper Firstpost in a January 2017 article writes on homophobia and violence against LGBT people in Mexico:

"Homophobia has surged in Mexico since president Enrique Pena Nieto proposed to legalise same-sex marriage in May, a gay rights group said, reporting 26 hate-fueled murders this year. Alejandro Brito, head of the Citizen Commission against Homophonic Hate Crimes, said there was a 'defamation campaign' against gays.

'This can trigger a wave of violence and an increase in attacks against homosexuals. We think that it's important for the authorities to take care of this before a tragedy takes place,' he said yesterday. 'Homophobia has worsened this year due to the opposition to the initiative that the president has sent to Congress,' Brito said at a news conference. […] Brito said that at least 26 people from the LGBT community were killed so far this year, with some brutal homicides perpetrated after the president's announcement. […]

Pena Nieto's initiative has been opposed by Mexico's Roman Catholic Church and members of conservative parties. The leftist Democratic Revolution Party and LGBT rights groups filed complaints in the interior ministry and the government's anti-discrimination agency against bishops and a cardinal, accusing them of violating the constitution for their public stance against same-sex marriage. Brito said that propaganda has spread at private schools

claiming that children were at risk of facing questions about gender in class." (Firstpost, 27 January 2017)

The December 2016 report written by several NGOs and alliances on discrimination due to gender identity and sex characteristics in Mexico also refers to the killing of transgender people:

> "The precarious social and economic situation of the majority of trans people in Mexico also has fatal consequences for them. Killings of trans people who engage in sex work and/or who are homeless are frequent, and they tend to end in impunity. For example, only in the month of October 2016, six trans people were killed in Mexico: Paola and Alessa in Mexico City; a trans young woman whose identity couldn't be confirmed in the State of Mexico; Itzel in Chiapas; Cheva in Chihuahua and Ariel in Guanajuato. Statistics gathered by civil society organizations (since there are no official statistics) indicate there are 77 killings of trans people per year in Mexico. The case of Paola, street sex work, shows the precarious situation of trans women: a man stopped his car in front of her, supposedly because he wanted to engage in sex with her, but he shot her until he killed her. Also, the fact that some trans women, like the young woman in the state of Mexico who died as an unidentified person, also shows their condition as 'non-citizens' in Mexico." (Hombres XX et al. December 2016, p. 3)

The May 2016 report by the Cornell Law School LGBT Clinic and the Transgender Law Center provides the following information concerning violence against transgender women:

> "Despite recent legal reforms in Mexico, legal advocates and individuals living in both Mexico and the U.S. report that rates of violence against transgender women are higher than ever. Specifically, violence against the LGBT community has actually increased since the recognition of same-sex marriage throughout Mexico because of backlash to these progressive changes in the law.
>
> Despite the legal changes for same-sex couples in recent years, transgender women in Mexico still face pervasive persecution based on their gender identity and expression. Indeed, violence against LGBT people has actually increased, with transgender women bearing the brunt of this escalation. Changes in the laws have made the LGBT communities more visible to the public and more vulnerable to homophobic and transphobic violence. Increased visibility has actually increased public misperceptions and false stereotypes about the gay and transgender communities. This has produced fears about these communities, such as that being gay or transgender is 'contagious' or that all transgender individuals are HIV positive. These fears have in turn led to hate crimes and murders of LGBT people, particularly transgender women." (Cornell University Law School, Transgender Law Center, May 2016, p. 4)
>
> "Vulnerable communities, including transgender women, are often victims of drug cartel and gang violence. Transgender women fall victim to cartel kidnappings, extortions, and human trafficking. One transgender woman described how cartel members forced her into sex work in Merida. Another transgender woman was targeted for rape and robbery while traveling by bus. In another case, a transgender woman named Joahana in Cancun was tortured to death by drug traffickers who carved a letter 'Z' for the Zeta cartel into her

> body. If a cartel targets a transgender woman, it is nearly impossible to escape the cartel's power. An immigration attorney in the U.S. described in an interview how his transgender female client unknowingly dated a cartel member. After doing so, she could not escape persecution from the cartel." (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, pp. 19-20)

The August 2016 article of Reuters contains the following information:

> "A U.S. immigration judge warned last year of 'an epidemic of unsolved violent crimes' against transgender people in Mexico. Although gender identity is not the same as sexual orientation, many transgender women in Mexico are persecuted on the assumption they are gay, experts said. 'Transgender women have become a focal point for hatred because they are often easier to detect,' said Maria Martha Collignon, a sociologist at Guadalajara's Western Institute of Technology and Higher Education. Ballesteros said transgender women are also at risk from the drug cartels that demand money from sex workers on the streets." (Reuters, 22 August 2016)

The IACHR report of November 2015 further mentions the following information on LGBT persons in the penitentiary system providing information concerning, among others, Mexico:

> "Several NGOs report that LGBT persons often decide to remain in their cells as much as possible in order to avoid being attacked by other inmates. […] In México, for instance, local organizations allege that at least 60% of LGBT persons deprived of their liberty have been subject to different kinds of abuse." (IACHR, 12 November 2015, p. 100)

4 Situation of human rights defenders advocating rights of individuals of diverse SOGI

The June 2014 NGO report on human rights violations against LGBT people in Mexico notes that "Letra S has compiled a register of more than 250 homicides of LGBTI individuals in the years 2010-2013, including homicides of LGBTI human rights defenders" (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, p. 2). The report continues to list the following examples of prominent LGBTI human rights defenders murdered in 2011 and 2012:

> "Quetzalcoatl Leija Herrera, an LBGTI rights activist, was found beaten to death on May 3, 2011, near the central plaza in Chilpancingo.
>
> Cristian Ivan Sanchez Venancio, another LGBTI human rights defender, was found stabbed to death in his home in Mexico City on July 23, 2011. He was a member of the Revolutionary Democratic Party's Coordinating Group for Sexual Diversity, and was an organizer of Mexico City's annual Pride Parade.
>
> Agnes Torres, a transgender woman and LGBTI rights activist, was found murdered in Puebla on March 10, 2012. A 28-year-old psychologist and educator, she was an ardent defender of LGBTI rights who had lobbied for legislative reform. When her body was found, she was stripped to her underwear, with her throat slashed and with burns marks across her body." (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, pp. 5-6)

The May 2016 report of the Cornell Law School LGBT Clinic and the Transgender Law Center also mentions the killings of Quetzalcoatl Leija Herrera, Cristian Ivan Sanchez Venancio and Agnes Torres Sulca and explains that many killings of prominent advocates in the transgender community since 2010 "occurred in Mexico City, despite its adoption of a hate crimes statute and antidiscrimination laws" (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, pp. 14, 16-17).

In addition to the assassinations referred to above, the IACHR report of November 2015 mentions the killing of Edgar Sosa Meyemberg, a gay teacher and reproductive rights activist who "was found dead with clear signs of torture and his skull destroyed by a blunt object" in 2014. (IACHR, 12 November 2015, p. 190)

Michel Forst, the United Nations Special Rapporteur on the situation of human rights defenders, notes the following in a statement on his visit to Mexico from 16 to 24 January 2017, published by the UN Office of the High Commissioner for Human Rights (OHCHR):

> "As I did not want to confine my visit to Mexico City, I travelled to Chihuahua, Guerrero, Oaxaca and the State of Mexico. As a result, I had a chance to meet with more than 800 human rights defenders coming from 24 states, approximately 60 % of which were women defenders. This reinforced my impression of an active, vibrant and engaged civil society in Mexico. I met with a great number of families of disappeared persons, as well as defenders who have been arbitrarily arrested, some of whom were tortured by the police or the army, community leaders and indigenous people who reported having been deprived from their

land, defenders working on sensitive issues such as sexual and reproductive rights or sexual orientation and gender identity. […]

In recent months, defenders of LGBTI rights have also faced a strong public campaign against them, which has increased the climate of fear in which many of these defenders live. Attacks against LGBTI activists are usually related to the promotion of a bigger recognition of their rights. Prejudices based on sexual orientation and gender identity by police officers and prosecutors seem to affect the effectiveness of investigation of these attacks. Assassinations of activists are not investigated as possible hate crimes nor related to their work on defence of LGBTI people human rights. Moreover, authorities often denigrate the victim in an attempt to reduce the attacks to private issues. Transsexual human rights defenders often face more risks as a result of the high levels of sexual violence among transsexual communities. In many states, defenders of LGBTI rights face problems to organise themselves, use public space, access resources and are not taken into account by local and state authorities. I also heard testimonies of defenders working on LGBTI rights who may feel isolated from the broader community of defenders." (OHCHR, 24 January 2017)

General information on the situation of human rights defenders can be found in the following reports:

- AI - Amnesty International: Amnesty International Report 2016/17 - The State of the World's Human Rights - Mexico, 22 February 2017 (available at ecoi.net) https://www.ecoi.net/local_link/336544/466184_en.html
- Freedom House: Freedom on the Net 2016 - Mexico, November 2016 (available at ecoi.net) https://www.ecoi.net/local_link/332095/460040_en.html
- HRC - UN Human Rights Council: Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions in follow-up to his mission to Mexico [A/HRC/32/39/Add.2], 6 May 2016 (available at ecoi.net), pp. 13-14, 15-18 http://www.ecoi.net/file_upload/1930_1465307303_g1609208.pdf
- USDOS - US Department of State: Country Report on Human Rights Practices 2016 - Mexico, 3 March 2017 (available at ecoi.net) https://www.ecoi.net/local_link/337258/467019_en.html

5 Ability and willingness of the state to provide protection to individuals of diverse SOGI and to human rights defenders

In April 2014, the United Nations Human Rights Council (HRC) published a report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, on his visit to Mexico from 22 April to 2 May 2013 which contains the following information:

> "86. Killings of LGBT individuals are marked by either a total failure to investigate or a faulty investigation guided by stereotypes and prejudice. This concern has also been raised by CNDH [Comisión Nacional de los Derechos Humanos], which has indicated that crimes and human rights violations based on sexual orientation, gender identity or expression are not isolated, but are emblematic of patterns of conduct of some members of society and recurrent actions of certain public servants, including prejudices, dislikes and rejections, reflecting the existence of a serious structural problem of intolerance. The Special Rapporteur was told that authorities are quick to close such cases by calling these killings 'crimes of passion' and choosing not to pursue their prosecution as seriously as they should.
>
> 87. The Special Rapporteur was further briefed on two cases in which an LGBT individual reported a death threat to government authorities and the state human rights commission and was subsequently killed without intervention or protective measures. According to information received, CNDH has considered a number of crimes based on homophobia in which the perpetrators have been identified as civilians and police officers. The implication of police involvement is reinforced at a systemic level by large-scale impunity." (HRC, 28 April 2014, p. 18)

The IRB in its August 2015 query response on the situation and treatment of sexual minorities states as follows:

> "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). […]
>
> 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)." (IRB, 18 August 2015)

In the August 2016 article of Reuters, a sex worker whose colleague had been murdered indicates that "police do little to protect the transgender community". According to the article, "no one has been arrested in connection to any of her friends' deaths". Besides that the sex worker says that "street-based sex workers who may be victimized are unlikely to contact police for fear of harassment or extortion". The same article quotes Zapopan Police Commissioner Juan Pablo Hernandez saying that his department aims to protect all citizens. According to Hernandez, sensitivity training has been provided "to promote police empathy towards different vulnerable communities, including the transgender community". (Reuters, 22 August 2016).

In its March 2017 human rights report covering the year 2016, the USDOS states:

> "The law prohibits discrimination against LGBTI individuals, but there were reports that the government did not always investigate and punish those complicit in abuses, especially outside Mexico City. […] Civil society groups reported that the full extent of hate crimes, including killings of LGBTI persons, was difficult to ascertain because authorities often mischaracterized these crimes as 'crimes of passion,' which resulted in the authorities' failure to adequately investigate, prosecute, or punish these incidents." (USDOS, 3 March 2017, section 6)

The June 2014 NGO report on human rights violations against LGBT people in Mexico contains similar information regarding the mischaracterisation of crimes against LGBTI individuals as "crimes of passion" and the failure of the authorities to properly investigate, prosecute, or punish those crimes. (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, p. 2)

The November 2015 IACHR report notes the following with regard to prejudice and bias in investigations of crimes against LGBT persons providing information concerning, among others, Mexico:

> "The IACHR has received copious information regarding prejudice and bias in investigations of crimes against LGBT persons, both from States and civil society organizations. The IACHR has expressed concern over the tendency of state agents in the justice systems of countries in the Americas to make biased assumptions, from the very beginning of an investigation, with regard to the motives, possible suspects, and circumstances of crimes, based on the victims' perceived or actual sexual orientation or gender identity. The usual consequence of these biased assumptions is that — instead of thoroughly collecting evidence and conducting serious and impartial investigations — police officers and other justice system agents direct their actions toward finding evidence that confirms their prejudiced theory of events, which in turn frustrates the purpose of the investigation and may lead to the invalidation of the proceedings." (IACHR, 12 November 2015, p. 249)

> "The IACHR has been informed that in many countries in the region where there is legislation that increases penalties for crimes committed on the basis of the sexual orientation or gender identity of the victim, the legislation is hardly ever applied to specific cases, and hate crimes are more often addressed as common crimes, disregarding the prejudice with which they were committed." (IACHR, 12 November 2015, p. 256)

The May 2016 report of the Cornell Law School LGBT Clinic and the Transgender Law Center describes the National Council to Prevent Discrimination (CONAPRED) and its tasks as follows:

> "The National Council to Prevent Discrimination (CONAPRED) was created by the 2003 Federal Law to Prevent and Eliminate Discrimination. The agency is tasked with promoting policies and measures that contribute to cultural and social development, while advancing social inclusion. People who suffer discrimination committed by private individuals or by federal authorities can file a complaint with CONAPRED. When an aggrieved person files a complaint, the Council undertakes a settlement process between the parties. If they do not

> reach an agreement, CONAPRED can undertake an independent investigation. If it determines that human rights violations have been committed, it can order restitution measures including financial compensation, a public reprimand of the offender, a public or private apology, and a vow from the offender to never repeat the act." (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 10)

However, the March 2017 USDOS report mentions with regard to CONAPRED that "[c]ivil society groups reported difficulty in determining whether individual complaints were ever resolved". (USDOS, 3 March 2017, section 6)

The May 2016 report of the Cornell Law School LGBT Clinic and the Transgender Law Center further states that transgender women, among others, "are often victims of drug cartel and gang violence" and police often cooperate with cartels and gangs "with 98% of all crimes going unpunished". (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 19)

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