



UNIVERSITY OF TORONTO
FACULTY OF LAW

INTERNATIONAL
HUMAN RIGHTS
PROGRAM

Mexico

Country Report for use in refugee claims based on persecution relating to sexual orientation and gender identity

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Sexual Orientation and Gender Identity research – sogi.ihrp@gmail.com

International Human Rights Program

University of Toronto

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I: Summary

This country report on the status of LGBT persons in Mexico is intended to provide a comprehensive and up-to-date survey of relevant legislation, case law, scholarship, documentation from government agencies, non-governmental organizations, and the media. The documentation regarding the status of LGBT people in Mexico shows that while formal legal protections for LGBT persons are relatively strong, public attitudes generally remain hostile. Discrimination based on sexual orientation remains commonplace, and a substantial number of reports of discrimination are attributed to state actors. In relation to homophobic violence, there are reports of state inaction and sometimes impunity; in particular, LGBT people who experience homophobic violence have expressed a lack of confidence in state authorities to act on complaints.

As mentioned, formal legal protections for LGBT people in Mexico are relatively strong. Same-sex marriage is legal in the Federal District, and same-sex unions are also legal in the state of Coahuila. The Federal District's Civil Code also leaves open the possibility of same-sex adoptions. The Mexican Supreme Court upheld the provisions of the Federal District's Civil Code allowing same-sex marriages, and held that same-sex marriages from the Federal District are valid throughout the country. There are also anti-discrimination laws in place that protect against discrimination on the basis of sexual orientation at the federal level and also in various state laws. The Federal District's Civil Code also allows individuals to request a new birth certificate if undergoing a sex change.

Recent case law from the Immigration and Refugee Board and the Federal Court of Canada shows that Mexico City is considered to be a viable internal flight alternative, in most cases. Generally, it is recognized that state corruption is being addressed, particularly corruption in the police, and that many legal gains have been made for LGBT people, especially at the federal level and in Mexico City. However, some decisions cite the fact that the most homophobic murders in Mexico occur in Mexico City, and recognize that there may be a lack of state protection where the persecutor is a member of a national police force or a police force with national connections. Additionally, the Federal Court in particular, in some 2007 and 2008 decisions, found that the Federal Attorney General's office (Procurador General de la República) was ineffective in providing state protection.

While formal legal protections are in place, governmental and NGO reports find that homophobia continues to have a strong presence in Mexican society. Numerous reports state that public attitudes in Mexico reflect a serious structural problem of intolerance of LGBT people. Discrimination against LGBT people is common. In a 2005 survey by CONAPRED (a Mexican federal agency), 94.7% of homosexual respondents indicated that they faced some degree of discrimination. Another survey found that 76% of homosexuals in Mexico had been subject to violence, 53% of which had occurred in public places. An academic article by Ortiz-Hernandez & Granados Cosme also details the sorts of discrimination that LGBT people in Mexico suffer, ranging from verbal offenses and harassment to assault, physical injury, and rape.

One Mexican-based NGO report found that Mexico is the country with the second-highest index of crimes motivated by homophobia in Latin America, behind Brazil. Even so, some estimate that the homophobic crime rate in Mexico is grossly underreported. One group that is commonly-cited in government reports is the Citizens' Commission Against Homophobic Hate Crimes, which monitors homophobic violence reported in the media. The group reports that between 1995 and 2009, 464 homophobic murders were reported in the media, and the group suspects that many more have gone unreported. Academic papers included in this report also confirm that many LGBT victims do not

report discrimination and other maltreatment because they feel that it will not be effective, or that police officers will not be sensitive, or that they will even be held responsible for an attack.

A substantial number of reports of homophobic discrimination are attributed to police forces and other state agencies. Many instances of homophobic discrimination have frequently been reported in relation to the delivery of health services, particularly in HIV/AIDS clinics. Several reports indicate that there is state inaction or impunity in relation to complaints of homophobic violence and complaints of homophobic conduct by police officers. It is suggested that incidents of homophobic violence are poorly followed up upon by police, and that prosecutions and/or convictions for homophobic violence are rare in comparison to the number of reports of homophobic violence. Some media reports indicate that homophobic crimes are often simply labelled as ‘crimes of passion’.

Mexico City as an Internal Flight Alternative

While Mexico City is often suggested as an internal flight alternative, homophobic police conduct remains high even in the Federal District. One report cited a 2005-published study from the Universidad Autonoma Metropolitana, which revealed that 11% of the LGBT population in Mexico City had been the victim of threats, extortion, and arbitrary detention by members of the police forces, due to their sexual orientation. The most homophobic murders and violence have come from the Federal District, and Research Directorate reports indicate occurrences of extortion and harassment of sexual minorities in the Zona Rosa district of Mexico City, which is widely known as the centre of the LGBT community in Mexico City.

Gender Identity

The situation for trans people in Mexico is particularly dire. Of all sexual minorities in Mexico, they are reported to be at the greatest risk. Treatment of trans people by members of the police and military forces has reportedly included mass detentions, extortion, and physical abuse. The situation is even worse for trans people who engage in sex work, and this is well-documented in the work of several academics. Also, while the law in Mexico City permits name changes after sexual re-assignment, some reports detail the impracticality of the process in the form of delay, high costs, and the discretion exercised by civil servants.

Please note that the Spanish-language documentation cited in this report has been summarized into English by the authors.

II: Legislation

1. *Civil Code for the Federal District* (“Codigo Civil Para El Distrito Federal”), online: <<http://info4.juridicas.unam.mx/adprojus/leg/10/317/default.htm?s=>>.

- **Article 146 of the Civil Code of the Federal District (Mexico City) states:**

Matrimonio es la union libre de dos personas para realizar la comunidad de vida, en donde ambos se procuran respeto, igualdad y ayuda mutual. Debe celebrarse ante el juez del registro civil y con las formalidades que estipule el presente codigo.

[Marriage is the free union between two people to begin a common life, in which both receive respect, equality and mutual support. It must be celebrated before a Judge of the Civil Registry and according to the formalities specified in this Code.]

- **The current Article 146, which defines marriage as the free union between two persons, represents a reform to the Federal District's Civil Code, which formerly stated that marriage is the free union between a man and a woman.**
- **The law relating to adoption, contained in Article 391, also leaves open the possibility of same-sex adoption. Article 391 reads:**

Los conyuges o concubinos podran adoptar, cuando los dos esten conformes en considerar al adoptado como hijo y aunque solo uno de ellos cumpla el requisito de la edad a que se refiere el articulo anterior, pero siempre y cuando la diferencia de edad entre cualquiera de los adoptantes y el adoptado sea de diecisiete anos de edad cuado menos. Se deberan acreditar, ademas, los requisitos previstos en las fracciones del articulo anterior.

2. International Lesbian, Gay, Bisexual, Trans and Intersex Association, *Mexico (Law)*, online: <<http://ilga.org/ilga/en/countries/MEXICO/Law>>.

- **Same-sex relationships and homosexual sex are not criminalized under Mexican Law**
- **The age of consent is equal for heterosexuals and homosexuals**
- **Same-sex marriages are recognized on the national level**
- **The Federal District recognizes same-sex marriages, and the state of Coahuila recognizes civil unions between people of the same sex.**
- **On August 5, the Mexican Supreme Court upheld the constitutionality of Mexico's same-sex marriage provisions; and later it ruled that same-sex marriages from Mexico City are valid throughout the entire country**

3. Federal Law to Prevent and Eliminate Discrimination ("*Ley Federal para Prevenir y Eliminar la Discriminacion*"), online: <<http://www.cddhcu.gob.mx/LeyesBiblio/pdf/262.pdf>>.

- **Article 4 protects against discrimination based on sexual orientation**
- **Article 9 prohibits all discriminatory practices that aim to impede or annul the recognition or exercise of rights and "la igualdad real de oportuidades."**

4. Legislative Assembly of Mexico City, *Official Gazette of the Federal District* (10 October 2008), Attached as Attachment 1.

- **Article 135 of the Civil Code of the Federal District permits an individual to request a new birth certificate if he/she is undergoing a sex change**
- **Article 498 sets out the requirements for such a request, including professional opinions and judicial approval**

This is an official announcement in the Federal District's Gazette about reforms to the Civil Code to permit an individual to request a legal sex change.

III: Jurisprudence

Immigration and Refugee Board of Canada Decisions

1. *F.N.J. (Re)*, (Immigration and Refugee Board of Canada Refugee Protection Division) [2009] R.P.D.D. No. 15.

- **No persuasive evidence provided to show that corruption within the state/municipal police force was so rife or deeply entrenched at an institutional level that the claimant's ex-partner (a police officer) would be able to subvert the criminal law process of the state prosecutor**
- **Mexican security forces were hierarchical – applicant could have sought redress at a higher level; documentary evidence showed a number of authorities/agencies who would assist him if he encountered a corrupt official**
- **Issues of corruption/inefficiencies were being addressed by the state of Mexico**

Application by Mexican citizen for refugee protection on the grounds of a well-founded fear of persecution from his ex-partner, a member of the police, on the grounds of his homosexual orientation. The ex-partner allegedly threatened to take revenge on the applicant for leaving him and for disclosing to the ex-partner's wife that the ex-partner was bisexual. It was alleged that the ex-partner arrived at the applicant's apartment one night, accompanied by two other police officers, brutally beat him, threatened to shoot him and raped him. Application dismissed. The claimant did not have a well-founded fear of persecution for a Convention reason. The applicant failed to rebut the presumption of state protection. He failed to seek assistance from authorities in Mexico, and it was objectively unreasonable for him not to have done so. No persuasive evidence was adduced to show the ex-partner had any authority or influence extending beyond the federal law jurisdiction to the local level of state and municipal police operations. The preponderance of the documentary evidence indicated that the Mexican authorities were making serious efforts to provide protection to homosexuals, to root out corruption in the police force, to combat discrimination against homosexuals, to generally fight crime in Mexican society, and to change societal attitudes of homophobia towards homosexuals.

2. *G.G.S. (Re)*, [2009] R.P.D.D. No. 13.

- **Most current documentation showed the laws and efforts of the state had had a positive impact for shortcomings that might have occurred in the past – most evident in Mexico City.**
- **Mexican government had installed mechanisms to address discrimination based on sexual orientation and HIV-positive status. For example, the claimant could have approached the State Commission for Human Rights or the National Human Rights Commission when he was fired by a prior employer.**

Claim for refugee protection by Mexican citizen. He feared that his brothers would kill him and that he would be persecuted by Mexican society because he was a homosexual and because he was HIV positive. Claim rejected because of the availability of an internal flight alternative to Mexico City. The documentary evidence showed there had been substantial legal gains for sexual minorities, particularly at the federal level, in major metropolitan areas such as Mexico City. This was most evident in Mexico City where there was an increasingly vocal and visible subculture.

3. *RPD File No. TA8-06796, [2009] R.P.D.D. No. 209.*

- **Perfect protection not required - where a state is in effective control of its territory, has military, police and civil authority in place and makes serious efforts to protect its citizens, the mere fact that the state's efforts are not always successful will not rebut the presumption of state protection.**

Applicant, a Mexican citizen, was raped by a politically active and influential older man with whom he was in an abusive relationship, and who threatened to send him to jail for selling drugs. In 2007, this man kidnapped and raped him; when applicant escaped he fled to Canada. The board found that he did not rebut the presumption that adequate state protection was available to the claimant if he were to return to Mexico, as he had made no attempt to seek protection from this abuse during the course of the relationship, and applicant's claims regarding this man's influence were speculative. There were additional issues of credibility. The Board found that the fact that a state does not provide perfect protection is not in and of itself a basis for determining that the state is unwilling or unable to offer reasonable protection in the circumstances. There was a viable IFA in Mexico City, since the claimant would not face a serious possibility of persecution in Mexico City nor would he face a risk of harm under s. 97. The Board found that if he did run into problems with his abusive partner or others including police, he could report it to any public ministry, Internal Affairs, or if dissatisfied report it to CDHDF or other organizations established particularly to assist the LGBT community.

4. *H.X.Y. v. Canada (Minister of Citizenship and Immigration), [2008] I.A.D.D. No. 1173.*

- **The fact that certain HIV-related medications were not available in Mexico did not make it unreasonable for claimant to relocate to Mexico City**
- **No evidence of Mexico having a systemic, persistent state policy of denial of treatment to persons suffering from HIV/AIDS**

Application by Mexican citizen seeking refugee protection, claiming a well-founded fear of persecution based on his homosexuality. He claimed he feared he would be harmed or killed by his ex-boyfriend's brother, who believed he had turned his brother gay and infected him with HIV. Claim rejected. The applicant did not have a well-founded fear of persecution in Mexico, because of the existence of a viable internal flight alternative. Even if the brother could find him in another state, protection was available to the applicant in Mexico City and other cities. His work skills were transferable, and it was not unreasonable to think he could live elsewhere. The inability of a country to provide adequate health or medical care was not a basis on which a claim might be accepted under s. 97(1)(b)(iv) of the Immigration and Refugee Protection Act.

5. *O.Q.W. (Re), [2008] R.P.D.D. No. 174.*

- **Mexico City is a viable internal flight alternative**
- **Police responded appropriately to complaint and applicant had not pursued the matter by seeking help from other agencies**

Application by Mexican citizen, alleging that he feared a homophobic group that targeted gays in his home city. Claim rejected, as he would not face undue hardships should he use the viable internal flight alternative of Mexico City. The police had responded appropriately to his complaint, as there were serious efforts made to investigate and bring the taxi driver to justice. The applicant had not pursued the matter. He made no efforts to seek help from other agencies such as the National Human Rights

Commission and State Human Rights Commissions. The documentary evidence showed Mexico was making serious efforts to address police corruption and there was no lack of police protection for victims of crime.

6. *Re X*, (2007) RPD File No. VA6-00539.

A claimant fears the state authorities throughout Mexico, not just because he is a gay man, but because he is a gay man with a history of arrest, abduction, and mistreatment, at the hands of the authorities, of a degree of what can only be called savagery, amounting to cruel and unusual treatment or punishment, and torture, as that is meant in the Convention Against Torture. He is in the system with a history of attempted complaints against the police, and a history of having been brutally “warned”. Claimant was kidnapped and raped by judicial police.

Since: 1) the claimant was attacked by persons who may have been members of either a national police force or a police force with national connections and 2) most homophobic murders occur in Mexico City, the Federal District would not be a suitable IFA.

7. *H.W.X. (Re)*, [2007] R.P.D.D. No. 4.

Documentary evidence and the claimant’s testimony both indicate that homosexuals face persecution in Mexico; that despite recent positive initiatives, state protection for homosexuals in Mexico remains woefully inadequate; that CONAPRED, the state public body that deals with cases of discrimination, has limited authority and no ability to impose sanctions; and that IFA is not available because the claimant suffered persecution in Mexico City, the most tolerant area of the country.

8. *H.K.T. (Re)*, [2007] R.P.D.D. No. 28.

The claimant, who lived in Guadalajara, experienced persecution by the police there, and received no assistance from the state’s Human Rights Commission. The panel wrote: “Homophobia and discrimination against gay and lesbian people in Mexico is systematic, institutional and brutal... When considering the situation of a gay man who was attacked by people who may have been members of either a national police force, or a police force with national connections, and given the evidence that most homophobic murders are committed in Mexico City, the panel does not find that [the claimant] would have an internal flight alternative in the Federal District.”

9. *X.D.W. (Re)*, [2006] R.P.D.D. No. 1.

The claimant, living in Mexico City, experienced “incidents of severe human degradation”, including sexual assault, with the main aggressor being a member of the judicial police. He attempted to relocate to Guadalajara and was tracked down by his aggressor, likely using information from national police databases; he was apprehended by police officers in a PGR (Federal Attorney General's Office) car and brought forcibly back to Mexico City, where the abuse continued. The panel found that (1) the claimant would face persecution for being gay if he returned; (2) the claimant would not receive state protection because his main assailant was in the judicial police force; and (3) that the claimant had unsuccessfully attempted IFA to Guadalajara.

Federal Court of Canada Decisions

1. *Gonzalez v. Canada (Minister of Citizenship and Immigration)*, [2011] F.C.J. No. 1278.

- **Finding that exclusion of discrimination claim in provision of medical services was open to the Board given its finding that Mexico was not refusing to provide health care to HIV/AIDS patients**

Applicant, a Mexican citizen, claimed refugee protection on the basis that he feared persecution by criminals as he had witnessed a gang shootout in Mexico approximately three months before he came to Canada. He later amended his claim to include a fear of persecution and risk to his life as a result of being an HIV-positive gay man. While the board found that the applicant was generally credible, the board also concluded that the applicant had failed to rebut the presumption of adequate state protection, especially because he had never personally been the victim of a crime, had not reported the one incident he had witnessed to the police, and that the government had put anti-discrimination legislation into place. In addition, the Board found that the applicant had not provided persuasive evidence that he would be denied adequate medical care because of his HIV status and consequently he was prevented by s. 97(1)(b)(iv) from claiming protection on that ground. The application was dismissed. The Board considered the applicant's evidence regarding the inadequacy of state protection and the existence of discrimination against homosexuals and its finding that the evidence was not persuasive to conclude that adequate medical care was being denied to HIV-positive patients in light of other evidence regarding improving access to treatment was reasonable.

2. *J.E.A. v. Canada (Minister of Citizenship and Immigration)*, [2011] F.C.J. No. 1043.

- **The applicant never expressed to the Board that he feared persecution in Mexico City based on his sexual orientation; it was insufficient to show a fear of persecution based on his sexuality by his family and a fear of relocating to Mexico City because of corruption/kidnappings constituted sufficient evidence to rebut finding of an IFA.**

Applicant, a homosexual citizen of Mexico, was also physically and emotionally abused by his family because of his sexuality, and left home at 15. He then worked in stable employment and lived openly as a gay man. When he discovered a supervisor's corruption, supervisor threatened the applicant not to reveal the fraud, stating that he had friends with the police. He resigned but sent a letter to his employer disclosing the corruption, which revealed his identity. In 2008, the applicant was harassed by several non-uniformed police. He sought refugee or protection status on the basis of persecution by his family due to his sexuality, and by police on the basis of his whistle-blowing. The Board found no objective basis for fear of persecution by the applicant's family, as they had made no effort to pursue him during the prior 15 years. The Board found that an internal flight alternative existed with respect to the extortion by police, as there was no serious possibility that the former supervisor and officers would pursue the applicant in Mexico City. The applicant sought judicial review on the basis that the Board ignored evidence regarding difficulty he would face in Mexico City as an openly homosexual male. Application dismissed. The applicant never expressed to the Board that he feared persecution in Mexico City based on his sexual orientation.

3. *Rendon v. Canada (Minister of Citizenship and Immigration)*, [2011] F.C.J. No. 299.

- **Internal flight alternative: Applicant must adduce evidence to show that police officers he had exposed would have had access to his personal information, and that they were determined to pursue him elsewhere in Mexico**
- **Internal flight alternative: Applicant's statements that that he did not want to live in Guadalajara because of drug traffickers/other problems is a general situation that does not show he feared to move there because of his personal situation**

Applicant, a Mexican citizen, was raped by his stepbrother and was ostracized by his family when he reported it to his father. He became an advocate for gay rights in Mexico. When he reported corruption at the Police College where he worked, he claims he was assaulted on the college principal's orders and that he was raped by one of the assailants, and then that he was fired. He complained to the local authorities without success and arrived in Canada in November 2007. The panel dismissed the applicant's refugee protection claim on the ground that he had an internal flight alternative. With regard to the internal flight alternative, the applicant stated that he could not live elsewhere in Mexico due to the drug trafficking and violence. He also mentioned that he could be found through his elector's card. The panel found that these explanations failed to demonstrate how and why his assailants would have the will and means to track him all over Mexico.

4. *Martinez v. Canada (Minister of Citizenship and Immigration)*, [2011] F.C.J. No. 23.

- **RPD found that Mexico was capable of protecting a lesbian and transgendered man who were a couple (and previously victims of domestic violence)**

Applicants were citizens of Mexico, biological women, partners, and victims of domestic violence. Martinez identified as a transgender man and Ramirez as a lesbian. Martinez was physically and verbally abused by his parents and was banished from the family home for dressing and acting like a male. In July 2005, they began receiving threatening phone calls from Ramirez's father and brother-in-law. The applicants moved, but were found by Ramirez's brother-in-law, who physically attacked Martinez and threatened the couple. They then left Mexico. The RPD concluded that Mexico was capable of protecting them from the harassment and assaults they allegedly suffered. Federal Court application dismissed. Furthermore, the RPD considered the applicant's full case and there was no evidence of a breach of procedural fairness. As the RPD clearly reviewed the documentary evidence before it and considered the difficulties and discrimination the applicants faced, it could not be said that the RPD failed to consider the issues or that their conclusion with respect to the availability of state protection was unreasonable.

5. *O.Y.G.N. v. Canada (Minister of Citizenship and Immigration)*, [2010] F.C.J. No. 1497.

- **The Board found support and counseling were available in Mexico City from many LGBT groups there.**
- **Mexico City authorities protected rights of homosexuals and investigated complaints**

Applicant returned to Puebla City from Mexico City and was detained by police and forced to perform oral sex on a policeman. In March 2008, OYGN was jailed overnight and raped by fellow prisoners. In

May, he and a friend were abducted, robbed, and sexually assaulted by police. He claimed he was insulted and humiliated based on his sexual orientation when he tried to seek the help of the police. The next day, he started receiving threatening phone calls. The Board accepted OYGN's account of events in Puebla City, but found he had an internal flight alternative in Mexico City. It reviewed documentary evidence indicating the authorities there protected and promoted the rights of homosexuals and investigated complaints of discrimination based on sexual orientation. It noted tolerance of homosexuality was growing, especially in major urban centres in Mexico. It also considered the fact OYGN lived in Mexico City for several months without problems.

6. *Gomez v. Canada (Minister of Citizenship and Immigration)*, [2010] F.C.J. No. 442.

- **The claim that police were unresponsive to three reports made regarding attacks from ex-partner were insufficient to rebut presumption of state protection**

The applicant was a gay Mexican who fled to Canada in 2007 seeking protection from his ex-partner. He claimed that police were unresponsive to three reports that the applicant had made regarding attacks by his ex-partner and a separate kidnapping. The Board did not find that protection had been provided to the applicant regarding the first two complaints, but rather that the applicant did not make reasonable efforts to obtain protection. The application was dismissed. The Board was entitled to determine that the applicant's evidence, even if reliable, was not clear enough or convincing enough to rebut the presumption of state protection. For example, with regard to his first encounter with authorities, it was not unreasonable for the Board to find that the police did not start an investigation because the applicant had not given them any documentation to support his accusations.

7. *Villicana v. Canada (Minister of Citizenship and Immigration)*, [2009] F.C.J. No. 1499.

- **While Mexico is a functioning democracy, there are well-documented governance and corruption problems that require decision-makers to engage in a full assessment of the evidence placed before them on the issue of state protection.**
- **The Board had an obligation to review and give reasons for discounting applicants' evidence that Mexican authorities cannot protect ordinary Mexicans who lack wealth and influence; it is those very authorities (the police, the judiciary and the government) who pose the greatest danger to the normal citizen.**

The principal applicant joined a group called Liberation Light to help him “overcome” his homosexuality, which lost many of its clients after the principal applicant made public statements opposing the group's approach to dealing with homosexuals. The leaders of the group threatened serious harm against the principal applicant, and he reported the threat to the police. The sons of one of the group leaders then assaulted the principal and his brother. The principal applicant did not report this assault to the police because his assailants had warned him not to because of their father's contacts with Mexican authorities. Moreover, the applicant felt that Mexican police discriminated against homosexuals and, as a result, assistance would not be forthcoming. The Board refused the applicants' application on the basis that the applicants could find state protection in Mexico. The Board had an obligation to review the evidence that contradicted its conclusions on the availability of state protection, which the applicants had placed before them and say why it could be discounted in favour of other reports that supported its conclusions. Application for judicial review allowed.

8. *Chagoya c. Canada* [2008] A.C.F. No. 908.

IRB was unreasonable in finding that homosexuals have the benefit of state protection in Mexico because it did not address documentary evidence to the contrary. The Federal Court pointed to a 2007 Issue Paper on sexual orientation in Mexico, which cited a report from the Citizens' Commission Against Homophobic Hate Crimes, stating that there were 332 homophobic killings across Mexico between 1995 and 2004. The Federal Court also pointed to information in that Issue Paper stating that legislation to address homophobic hate crimes does not exist in Mexico and that publicly known homosexuals would likely face a higher risk because of their higher public profile.

The Federal Court pointed to several sources that suggested a breach between law and practice in Mexico. The court described several instances of police misconduct regarding homosexuals, in Mexico City and elsewhere in the country. The court pointed in particular to the practice of charging homosexuals with sex work offences where there was no such evidence. One instance also detailed the homophobic attitudes of a judge on a case where 38 homosexuals were arrested and charged with prostitution after the raiding of a gay bar, even though the police failed to substantiate the charges. The court also pointed to homophobic attitudes in Mexico generally.

Upon review of all the evidence against the presumption of state protection, the court found that the IRB selectively read the documentary evidence, *which it found to be far from univocal*.

9. *Ramirez v. Canada* [2008] F.C.J. No. 1028.

The RPD was unreasonable in finding that the homosexual claimants could avail themselves of state protection, since it did not address their testimony regarding multiple fruitless attempts to get help from authorities in different localities.

10. *Soberanis v. Canada* [2007] F.C.J. No. 1279.

IRB erred in finding that the claimant had not sought state protection, when he had attempted to go to the police and had his complaints derided and ignored. The IRB's failure to consider the applicant's experience with the Mexican police makes it impossible to say what the Board would have concluded about the availability of state protection for homosexuals.

11. *Parrales v. Canada* [2006] F.C.J. No. 624.

Considering the extreme abuse to which the claimant was victim, these personal circumstances/experiences should have been considered in the IRB's decision.

12. *Garcia v. Canada* F.C.J. No. 1008.

Federal Court overruled IRB denial of Garcia's refugee claim. It was found that the evidence referred to by the Board did not directly address the incidence of violent crime against gays and lesbians in Mexico City. The central issue in the case was whether, given the fact that he was an openly gay man, Garcia would be able to live safely in Mexico City. Evidence relating to homophobic crimes against gay men in that city (and specifically a 1998 report prepared by the Citizen's Commission Against Homophobic Hate Crimes) should have been seriously considered by the Board in their decision. However, a claimant is obliged to seek out alternative avenues of state protection before seeking international alternatives.

13. *Ouinatzin v. Canada* [2008] FC 937.

It was reasonable for IRB to find that there are reasonable alternative avenues of state protection. Where the agents of persecution are the police, the Board must consider the reasonableness in asking the applicant to approach the same police force for protection. The applicant, however, should attempt to seek state protection before seeking international protection even where the agents of persecution are police themselves.

14. *Soberanis v. Canada* [2007] F.C.J. No. 1279.

The failure of police at a local level does not necessarily answer the question of state protection.

15. *De La Rosa v. Canada* [2008] F.C.J. No. 98.

Numerous decisions of the Federal Court upholding as reasonable or not patently unreasonable IRB findings that Mexico City is an IFA for most gays and lesbians in Mexico. The burden of proof rests with the claimant to overcome the presumption that Mexico City is a reasonable IFA for those fleeing persecution.

Regarding the Public Prosecutor's Office:

16. *Zepeda v. Canada* [2008] F.C.J. No. 625.

The Court found that the Office of the Attorney General (PGR) did not constitute an avenue of protection per se because it did not have enforcement power.

17. *Razo v. Canada* [2007] F.C.J. No. 1610.

The Federal Court found that the IRB's decision that state protection was available in the form of the PGR (Federal Attorney General's Office) to be patently unreasonable. Although the PGR is nominally an agency of state protection, it does not provide actual and adequate protection.

18. *Hernandez v. Canada* [2007] F.C.J. No. 1563.

It was patently unreasonable to contend that the applicants would have received state protection in Mexico. After trying unsuccessfully to file a report with the Public Ministry, the principal applicant began receiving death threats. The applicants couldn't be expected to risk their lives in further steps to seek out state protection.

IV: Governmental Reports

United States: U.S. Department of State

1. U.S. Department of State, *2010 Human Rights Report: Mexico* (8 April 2011), online: <<http://www.state.gov/g/drl/rls/hrrpt/2010/wha/154512.htm>>.

- **Discrimination against homosexual persists; societal discrimination based on sexual orientation was common, primarily reflected in entertainment media programs and everyday attitudes**
- **Gay marriage and adoption were legalized in Mexico City in 2009 and took effect in March 2010.**
- **In August 2010, the Supreme Court ruled that all Mexican states were required to recognize gay marriages conducted in states that permitted it and upheld a law that allows gay couples in the capital to adopt children**
- **In March and October 2010, President Calderon remarked in speeches that corruption was a serious problem in the police forces. The CNDH reported that police, especially at the state and local level, were involved in kidnapping, extortion, and in providing protection for, or acting directly on behalf of, organized crime and drug traffickers.**

Canada: Immigration and Refugee Board Research Directorate Reports

2. Research Directorate, Immigration and Refugee Board of Canada, *Mexico: Situation and treatment of homosexuals (2006-May 2007)* [MEX102518.E], (15 June 2007), online: <http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=451329&l=e>.

- **2007 nation-wide survey found attitudes among Mexicans of age 50 and over remain generally negative compared to respondents of age 18-29. 53% of the age 18-29 group thought homosexual couples should have the same rights as heterosexual couples compared to only 35% in the over 50 group.**
- **Only 51% of 18-29 year olds would accept a homosexual man to live with them, while 66% of respondents over 50 said “no”. 52% of 18-29 year olds would accept a lesbian living in their house, and 67% of those over 50 said they would not.**
- **2006 national survey showed that 26% would be in favour of same-sex partnership laws allowing legal registration of a partnership and entitlement to certain benefits and rights**
- **Same-sex civil unions allowed in Coahuila state and the Federal District [now outdated – same-sex marriage legal in the Federal District]**
- **Citizens’ Commission Against Homophobic Hate Crimes reported that homophobic attacks resulting in homicides still occur – 332 alleged homophobic murders between 1995 and 2004**
- **Prominent local gay activist murdered in January 2007 in Matamoros, Tamaulipas, just days after staging a press conference calling for same-sex partnerships in the state of Tamaulipas**
- **Though municipal authorities in Matamoros claim that there is no homophobia in their city, openly gay federal congressman David Sanchez Camacho disagreed, stating that local residents claim that many homosexuals are harassed and intimidated by police on patrol in certain areas of the city**

The IRB report describes Mexican social attitudes towards LGBT people, statistics, and the degree of

civil rights enjoyed by LGBT people in Mexico.

3. Research Directorate, Immigration and Refugee Board of Canada, *Mexico: Reports of sexual abuse committed by police officers against homosexuals, and against other vulnerable individuals (2006-November 2007)* [MEX102682.E] (9 January 2008), online: <http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=451639&l=e>.

- **June 2007 report on the impact of violence and discrimination on the mental health of homosexual men, bisexuals and lesbians in Mexico City showed that 11% of respondents (506 surveyed) mentioned that they had been threatened with extortion and detention by police officers.**

The Research Directorate found few reports of sexual abuse of homosexuals by police officers. Apart from the above, some vague reports were mentioned.

4. Research Directorate, Immigration and Refugee Board of Canada, *Mexico: Treatment of sexual minorities, other state protection, recourse and services available; treatment of sexual minorities in the Federal District; information on the Zona Rosa* [MEX103804.E] (16 September 2011), online: <http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=453578&l=e>.

- **Homophobia prevalent in Mexico – a “serious structural problem of intolerance” within Mexican society, and human rights violations and crimes based on sexual orientation and gender identity are not isolated events**
- **76.4% of homosexuals have been subjected to physical violence and 53.3% of that violence occurred in public places**
- **Human rights defenders working on sexual diversity issues often subject to threats, aggression, murder, politically motivated criminal charges and imprisonment for organizing protests**
- **Anti-discrimination laws are in place federally and in about half of states; the Federal District has hate crimes legislation, but not at the federal level**
- **Discrimination and harassment on the part of police, including in Mexico City**
- **Reports of state inaction on complaints regarding homophobic police behaviour; also impunity of homophobic crimes.**
- **Homophobic hate crimes still continue to occur, largely in the Federal District, but also within impunity in other states**
- **Formal complaints of violence against sexual minorities in the Federal District: 10 in 2006, 40 in 2007, 33 in 2008, 34 in 2009, and 49 in 2010**
- **11% of LGBT people in Mexico City have been a victim of threats, extortion, or detention by police because of their sexual orientation**
- **Underreporting of discrimination by sexual minorities due to humiliating treatment upon reporting by staff in the public ministries**
- **CDHDF Fourth General Investigator reported complaints of police extortion and harassment of sexual minorities in the Zona Rosa area of Mexico City; though in recent years police training has been implemented**

Homophobia is reported as being prevalent and socially-accepted. A 2010 National Human Rights Commission report stated that human rights violations and crimes based on sexual orientation and gender identity were not isolated and that there is serious structural problem of intolerance in Mexican

society.

The research directorate report outlines discrimination and harassment on the part of police, including in Mexico City. The directorate found evidence that 20% of homosexuals have been harassed by Mexico's security forces and 30% faced discrimination by police. Police and military officials have been accused of conducting mass detentions, extortion, and physical abuse of trans-identified individuals.

Impunity of crimes against sexual minorities is prevalent – five homosexuals killed in Puebla since the beginning of 2011 and no progress made by police on the murder investigations. 19 homicides of homosexuals in Chihuahua from January to April 2011, and no perpetrators detained. By 2010, local authorities had not yet started investigating the 2005 murder of a human rights, sexual diversity, and HIV/AIDS activist.

Homophobic hate crimes continue to occur. The majority of homophobic hate crimes committed during 1995-2008 took place in the Federal District. 143 homophobic homicides occurred in that period – 109 against men, 29 against transvestites, transsexuals and transgendered periods, and 5 against women.

5. Research Directorate, Immigration and Refugee Board of Canada, *Mexico: Information on the Supreme Court rulings regarding same-sex marriage, including societal attitudes* [MEX103798.E] (1 September 2011), online: <http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=453573&l=e>.

- **Mexico's Federal District amended its Civil Code to include same-sex marriage; the Civil Code was also amended to include same-sex adoption**
- **The interpretation of these amendments and their constitutionality were upheld by the Supreme Court in August 2010**
- **The Supreme Court held that all other Mexican states must recognize same-sex marriages performed in the Federal District and accept them as valid**
- **Gay civil unions have been allowed in Coahuila state since 2007**
- **Other states have moved to ban same-sex marriage**
- **Some reports that even same-sex marriage from the Federal District and Coahuila are not recognized in any other state, and there are no sanctions for the states that do not recognize them; media sources also indicated that a judge in Yucatan held that same-sex marriages celebrated in other states are not valid in Yucatan**
- **Unequal access to social security benefits**
- **Various political and church leaders have criticized the same-sex marriage and adoption reforms**
- **Homophobia continues to be prevalent in Mexican society; homophobic violence continues to occur and impunity of crimes is prevalent.**

6. Research Directorate, Immigration and Refugee Board of Canada, *Mexico: The situation of transgender people, particularly in Mexico City, Cancun, Guadalajara and Acapulco, including how they are treated and the support services available to victims of ill treatment* [MEX103460.FE] (21 April 2010), online: <http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=452924&l=e>.

- **Global Rights reports that Mexican society remains “highly repressive in its attitude towards LGBTI persons” and that LGBT's “face a serious threat of violence”**
- **In Mexico City, the Office of the Attorney General has taken steps to ask its employees to**

- **treat transsexuals and all other non-heterosexual people with dignity and respect**
- **While it is possible to change one's name after sexual reassignment, it is practically impossible for many people because of lengthy delays and high costs – at least 6 months and approximately 70 000 pesos are required, and completion sometimes depending on the 'good will' of some civil servants.**
- **In 2008 and 2009, 40 sex workers were robbed, beaten and arrested by police in Cancun; the president of the municipality acknowledged and justified the action as “cleaning garbage from the streets”**
- **Transvestites, lesbians, gays and transsexuals were reported by Jalisco State Human Rights Commission to be among the vulnerable groups that “face discrimination and are sometimes assaulted by police officers”. The Commission representative also stated that the state of Jalisco is very conservative, although it has shown some progress over the years in protecting human rights.**

7. Research Directorate, Immigration and Refugee Board of Canada, *Situation of homosexuals in Guadalajara and whether there are support or advocacy groups acting on their behalf* [MEX-102816.E] (5 June 2008), online: <http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=451936&l=e>.

- **Guadalajara is known as an important gay centre in Mexico and referred to as “gay-friendly”. There are many gay businesses in the city**
- **Not uncommon to see gay couples holding hands and estimated that 9000 families could be headed by same-sex couples in Jalisco state**
- **There were 420 homophobic murders in Mexico between 1995 and 2006; of those, only 1 was reported in the state of Jalisco. It should be noted that for every reporter murder, it is estimated that two went unreported in that period.**
- **The *Rotativo de Queretaro* lists Jalisco as one of the states with the greatest number of complaints of discrimination against homosexuals**
- **A gay rights activist has noted that homosexuals who frequent bars in the neighbourhood of Pedro Moreno-Chapultepec-Parque Revolucion were among the groups most susceptible to arbitrary arrest by the police. On some occasions, police have threatened to publicly reveal a person's homosexual identity**
- **A few anti-gay incidents were reported at the 2007 gay pride event in Guadalajara – homophobic signs and in one incident, a protester pepper-sprayed the dance floor at a gay bar**

8. Research Directorate, Immigration and Refugee Board of Canada, *Issue Paper, Mexico: Situation of Witnesses to Crime and Corruption, Women Victims of Violence and Victims of Discrimination Based on Sexual Orientation* (February 2007), online: <http://www.irb-cisr.gc.ca:8080/Publications/PubIP_DI.aspx?id=327&pcid=1402>.

- **Discrimination against homosexuals common in Mexican society**
- **A 2005 CONAPRED survey found that 94.7% of Mexican homosexuals face some degree of discrimination. 43% of self-identified homosexuals claimed that they had been the victim of an act of discrimination within the last year.**
- **CONAPRED indicated that government statistics are lacking in such areas as the number of complaints made to law enforcement agencies regarding homophobic incidents.**
- **The CCCCOH (Citizens' Commission Against Homophobic Hates Crimes) indicates that there were 332 homophobic killings across Mexico between 1995 and 2004; these statistics**

are based on newspaper articles, and it is suggested that they may not accurately represent the actual situation as statistics from the public prosecutor's office are not available.

- There is a government agency, CONAPRED, that acts in cases of discrimination and the CNDH is mandated to investigate human rights complaints committed by federal employees and institutions; state commissions and the CDHDF handle human rights complaints by state-level or DF public servants.
- A number of other non-governmental advocacy organizations also provide assistance to victims of discrimination based on sexual orientation
- University-educated homosexuals tend to have the most options available to them in fleeing violent situations, while transgendered individuals living outside the Federal District are the most likely to experience threats or violence.

Reports from Agencies in Mexico:

9. Comisión de Derechos Humanos del Distrito Federal, *Informe especial sobre violaciones a los derechos humanos por orientación o preferencia sexual y por identidad o expresión de género, 2007-2008*, online: <<http://www.cd hdf.org.mx/images/pdfs/informes/epciales/infolgbt.pdf>>.

- A substantial share of the reports of discrimination towards LGBT persons are attributed to the actions of “agentes de seguridad pública y procuración de justicia”.
- The government agencies most cited for engaging in discriminatory practices in Mexico City are the Secretary General of the Government of the Federal District, the Attorney General, the Secretary of Public Safety, the Metropolitan Public Transportation System, Legal Aid, and the Secretary of Health.
- Law enforcement officials have used excessive force in the arrest of LGBT persons, or improper and incorrect treatment of LGBT victims of crime by officials who should provide care.
- Discrimination and violence in the work place is of particular concern
- Many transgendered and transsexuals are forced to leave their work because they are unable to acquire official identity documents that coincide with their gender identity
- According to a 2005-published study from the Universidad Autónoma Metropolitana, 11% of the LGBT population in Mexico City has been the victim of threats, extortion, or arbitrary detention by the police, due to their sexual orientation.
- LGBT persons expressing their emotions or gender identity in public were frequently victim to insults, maltreatment, and abuse
- The aggressive behaviour of public servants and police in Mexico City tends to discourage LGBT victims of human rights abuses and discrimination from filing claims
- Out of all the complaints relating to discrimination based on sexual orientation made between 2005 and 2007, only one has been heard by a judge.
- According to the report, homophobia is a significant obstacle for LGBT residents of Mexico city to receiving quality medical attention

This report from the Commission on Human Rights in the Federal District is a special report on violations of human rights based on sexual orientation/preference and on gender identity or expression. The report discusses the ways in which the human rights of members of the LGBT community in Mexico City are being violated.

The report focuses on five key areas of rights violations: the right to non-discrimination; the right to choose one's own identity; the right to liberty and security of the person; access to justice; and access to the highest level of mental and physical health. In particular, the report seeks to identify the ways in which the attitudes and conduct of Mexican authorities sanction violations of these rights.

The report is based on information obtained through interviews, public meetings, and questionnaires filled out by government agencies in the capital city. The interviews were conducted with academics, students, activists, representatives from social service agencies, and business people.

10. Comité Coordinador para la elaboración del Diagnóstico y Programa de Derechos Humanos, *Diagnóstico de derechos humanos del Distrito Federal* (May 2008), online (November 21, 2011): <<http://www.cd hdf.org.mx/images/pdfs/informes/epciales/diagdederechoshumanos.pdf>>.

- **The CDHDF (Commission on Human Rights in the Federal District) has reported complaints from patients in HIV/AIDS clinics in Mexico City. Complaints about the clinics have related to discriminatory conduct, mistreatment, use of offensive language, lack of interest in offering medical attention, mocking and humiliation, threats, aggression, hostility, and negligence.**
- **Currently, the Mexico government does not consider homophobia to be something that can motivate a hate crime**
- **Current legislation about violence against women does not include violence against transgendered and transsexual women.**
- **The report concludes that health services to which LGBT people have access to, do meet the standard set out by article 4 of the Mexican Constitution**
- **Mexican authorities, particularly in institutions relating to the administration of justice (i.e. the police), commonly stigmatize and discriminate against LGBT people and groups.**
- **There is a persistent culture of discrimination in Mexico City towards the LGBT community, due in part to an education system that has not incorporated themes relating to respect for sexual and gender diversity.**
- **The authorities commonly treat trans-gendered and transsexual people as if they have an illness or perversion. This leads to stigmatization, discrimination, and exclusion.**

The 'Diagnostic on Human Rights in Mexico City', by the Coordinating Committee for the elaboration of a Diagnostic and Program of Human Rights in Mexico City, published in May 2008, attempts to identify the principal obstacles impeding residents of Mexico City from enjoying nationally and internationally recognized human rights. The report is intended to serve as a starting off point for discussion amongst academics and public organizations about how Mexico City can meet its international and national human rights obligations.

The report is divided into groups of rights, such as rights relating to security of the person (the right to work, the right to education, the right to health), rights relating to democracy (equality, access to information, freedom of expression), rights relating to justice (access to justice, due process), and rights relating to specific population groups (women, indigenous people, youth, the LGBT population).

The report has a chapter on sexual and reproductive rights which never specifically engages in discussion about the LGBT population, but briefly discusses the obstacles facing people with HIV and AIDS.

The chapter on the rights of the LGBT population (chapter 30) sets out the principle obstacles facing the population as being discrimination, violence, employment rights, health rights, equality before the law, and access to justice. Most of the findings in this report are general and lack specific statistics or numbers. The report also offers recommendations, which tend to be rather general.

11. Comisiones Unidad de Derechos Humanos y de Equidad y Género, *Dictamen con Propuesta de Ley de Sociedad de Convivencia para el Distrito Federal* (undated), Attached as Attachment 2.

- **In preamble: ‘According to the First National Survey on Discrimination, 2005, 94% of homosexual people feel discriminated against, and two out of three state that their rights have not been respected. For 70% of homosexual people, discrimination had increased in the preceding five years’**

This text, put forward by the Human Rights, Equality, and Gender Commissions, contains the Law of Cohabitation in Mexico City. It contains the preamble and text of the law passed in Mexico City which effectively allowed for same-sex unions. The preamble devotes significant time to the struggles of LGBT people in Mexico and how Mexico has begun to address discrimination.

12. Consejo Nacional para Prevenir la Discriminación, *La Transgeneridad y la Transexualidad en Mexico: En Busqueda del Reconocimiento de la Identidad de Género y la Lucha contra la Discriminación* (December 2008), online: <<http://www.transexuallegal.com/pdf/conapred-02.pdf>>.

- **“One of the greatest expressions of rejection and the stigmatization of transsexual and transgendered people is physical violence and homicide. Unfortunately, this phenomenon is common in the country and its elimination has been one of the main goals of the fight for a life free of violence. One of the main strategies employed has been the public denouncement of this crime, through the press and other fora... however, legal denunciation has been less effective, and this issue becomes even more complex where violence has been perpetrated by the police...”**
- **In 2006, the Citizens' Commission Against Crimes of Homophobic Hate reported that between 1995 and 2004, 332 homosexual people had been killed, with the highest number in Mexico City, Veracruz, Michoacán, and the Yucatán.**
- **The police are still one of the main perpetrators of violence against this population. For example, in May, 2007, approximately 40 transsexual and transgendered women in Ciudad Juárez, were brutally beaten by members of the Military Police, who took their money and destroyed their homes. Many were hospitalized in serious condition. The leader of the group (named “Fany”), Debora Alvarez, was hospitalized in serious condition.**

This detailed report discusses the experiences of transgendered and transsexual people in Mexico. The report cites a number of findings about violence against transsexual and transgendered people.

13. Consejo Nacional para Prevenir la Discriminación, *Documento informativo de homophobia*, online (26 October 2011): <http://www.conapred.org.mx/redes/documentos_cedoc/DocumentoInformativoHomofobia.pdf>.

- **Though there have been significant advances in the recognition of the rights of Mexicans to live free of discrimination, due to the prevalence of homophobia in society, there are still many challenges to overcome**
- **Homophobia is still very prominent in Mexican society**
- **While anti-discrimination protections for LGBT people have been recently been introduced into the law, such rights are not always respected**
- **One survey found that the group which sees itself as most discriminated against in Mexico are homosexuals**
- **One organization reports that from 1995-2009, 464 murders were motivated by homophobia, and suspects that to account for underreporting, there have been more than 1000 in that period**
- **There is a lack of diligence by public officials when investigating homophobic violence**
- **Individuals with HIV/AIDS are stigmatized**

In Mexico there has been significant progress to recognize and guaranty the right to not be discriminated against. In 2001 modifications were made to Article 1 of the Constitution of the United States of Mexico to recognize specifically the right not to be discriminated against. In 2003 legislature approved the Federal Law to Prevent and Eliminate the Discrimination prohibits discrimination based on (among other grounds) sex, opinions, sexual preferences, and civil status. Since then 16 states have released state laws on discrimination and 13 have classified discrimination as a penal felony. The Plan of Development of Human Rights for the years 2008-2012 seeks to guarantee the right not to be discriminated against based on sexual preference or orientation. On May 17, 2010 Mexico declared the “Day for tolerance and respect of differences.”

However, there are still “challenges to overcome”. Many of these challenges emerge from the prevalence of homophobia in society. For the purposes of this report, homophobia is understood as all aversions manifested against sexual orientations and preferences as well as gender identities or expressions against the archetype of the heterosexual, including ‘lesbophobia’ and ‘transphobia’. Homophobia as such is very prominent in Mexican society, probably due to the rejection of anything which threatens masculine domination. Victims of homophobia are subjected to it not only at work and in school (relevant because of the discussion of the changing images of women in the workplace against which there has been a backlash, not only taken out against women but also LGTBQ individuals), but also in their own homes at the hands of family members.

Discrimination in Mexico motivated by homophobia provokes restrictions on the human rights of the victims of homophobia. In fact, the violation of the right to equality of treatment is the branch of CONAPRED (Consejo Nacional para Prevenir la discriminación) most signalled to by people who are presenting complaints to this body, followed by sexual preference then by discrimination at work. This indicates that though the rights to equal treatment and right to be protected from discrimination based on sexual preferences/orientation exist in Mexico, such rights are not always respected. According to one survey, the group which sees itself as most discriminated against in Mexico are homosexuals – 94% responded in the affirmative when asked if they believed there was discrimination in Mexico against their conditions. This is affirmed by the daily work of CONAPRED as many complaints received are from victims of homophobia.

This in turn, affects the right to personal liberty and security in Mexico. For example, the report contemplates to what extent should homophobic satire and jokes be tolerated considering their consequences in Mexican society? Such consequences include the further stigmatization and isolation of LGBT individuals from the rest of society. 54.5% of homosexual individuals in Mexico feel *rejected*

by society at large. Furthermore, hate crimes against LGBT individuals are a serious problem in Mexico. The report cites the Annual Report of Hate Crimes motivated by Homophobia by the organization “Letra S” and the Citizens’ Commission against Hate Crimes Motivated by Homophobia (La Comisión Ciudadana contra los Crímenes de Odio por Homofobia) which indicates that from 1995-2009, 464 murders were motivated by homophobia, and it is presumed that actually more than 1000 murders were motivated by this phenomenon. Similarly, suicides motivated by low self-esteem due to poor treatment in society are a rising issue.

In response to these issues, the article focuses on the need to activate mechanisms which would bring to light crimes motivated by homophobia and brings the perpetrators to justice. This is because the lack of diligence by public officials when investigating cases of violence motivated by homophobia results in few perpetrators ever being judged and sentenced for these crimes. This sends a message of support, confirming that this type of violence and discrimination is widely accepted in society, thereby facilitating its perpetuation. Therefore, what is left is a mentality which blames the victims of the crimes, rather than placing the blame where it belongs, on the perpetrators of the crimes.

Homophobia in society also creates barriers for LGBT individuals in accessing their right to health. Despite multiple evidences to the contrary, there is a stereotype in Mexico that connects LGTBQ individuals with HIV and AIDS – myths which must be combated against as they perpetuate discrimination and exclusion. In most hospitals studied, to determine risk factors for HIV/AIDS they ask for, among other things such as tattoos or intravenous drugs use, if the person is a homosexual.

V: Reports by Non-Governmental Organizations

1. Global Rights; International Gay and Lesbian Human Rights Commission; International Human Rights Clinic, Human Rights Program, Harvard Law School; Colectivo Binni Laanu A.C.; *The Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in Mexico* (submitted to the Human Rights Committee), online:

<http://www.globalrights.org/site/DocServer/LGBT_ICCPR_Shadow_Report_Mexico.pdf?docID=11184>.

- **LGBT people in Mexico continue to face discrimination and human rights violations based on their gender identity and sexual orientation. There is a highly repressive cultural attitude towards LGBT people**
- **LGBT people in Mexico face a serious threat of violence**
- **76.4% of LGBT people in Mexico have been subjected to physical violence based of their sexual orientation or gender identity, and 53.3% have been assaulted in public spaces.**
- **30% of LGBT persons in Mexico have been discriminated against by police and 20% assaulted by police**

This report, submitted to the Human Rights Committee, details Mexico’s alleged violations of the ICCPR in relation to the status of LGBTI people in Mexico.

2. Chilango, *Crímenes Pasionales – Asesino a domicilio* (24 October 2011), online:

<<http://www.chilango.com/general/nota/2009/04/27/crimenes-pasionales-pgj>>.

- **1995-2006 in the Federal District alone there were 148 homosexual persons murdered, according to la Comisión Ciudadana Contra Crímenes de Odio por Homofobia (CCCCOH) – The Citizen’s Commission Against Hate Crimes [motivated] by Homophobia**
- **In February 2009, 3 homosexual persons were murdered in their homes within a time span of 25 days. All three murders involved excessive violence including torture with knives and drowning**
 - **The three victims were similar in marital and economic status and all lived alone**
- **Many are now wondering if there is a serial killer or violent group targeting homosexuals**
- **Mexico does not specify felonies of hate crimes**
- **Public officials deny that homophobia is behind the crimes**

In the Federal District of Mexico, 148 homosexual persons were murdered between 1995 and 2006 according to CCCCCOH – an average of 1.1 person a month. Though this number is already incredibly high, in February 2009, 3 homosexual persons were murdered in twenty-five days. The crimes shared similarities including; all three victims were murdered in their homes, the victims were of similar marital status, all three victims lived alone, the victims were of similar economic affluence, and all three murders involved excessive violence including torture with knives and drowning. This raised questions as to whether or not there was a serial killer or violent group targeting homosexuals in the area.

Mexico does not specify a separate category of felony for hate crimes as in the United States of America [NOTE: This article was written in 2009. I am unsure of whether or not this has changed in the last two years]. Furthermore, when interviewed, the Prosecuting Attorney in charge of homicides, Joel Alfredo Díaz, claimed that the murders were independent of each other and avoids reporters’ questions about the common characteristics of the crimes. Sr. Díaz also denies that any of the murders were motivated by homophobia. Rather, he refers to the crimes as “passionate crimes” which he suspects were committed by the victims’ partners or a family member, though he gives no reasons for this. Even when specifically questioned about the excessive violence in the murders, such as the 112 knife wounds on one of the victims, Sr. Díaz continues to deny homophobia as a motive as he says such violence could be seen on heterosexual victims as well.

The CCCCCOH has studied murders since 1995 which it believes to have been motivated by homophobia. In doing so, the organization has identified a common scheme: the future killer has a non-violent sexual relation with the victim then makes a new date to come back. When the killer returns, often he comes accompanied by another, the victim is attacked and murdered. In the February murders, forensics could not determine if the victims had sexual relations just before death and denied there having been a rape. Nonetheless, activists against hate crimes or violence against homosexual community maintain that hate was the motive in these crimes.

3. Ombudsgay, *Caso del Profesor Agustin Humberto Estrada Negrete*, online (22 November 2011): <<http://ombudsgay.wordpress.com/caso-del-profesor-estrada-negrete-agustin-humberto/>>.

- **LGBT activist and professor was dismissed due to his organizing various protests; he was prohibited from participating in further protests. When he ignored this and participated in a peaceful protest for LGBT rights, he was arrested and tortured**

The case of Professor Estrada is presented in greater detail on the Ombudsgay website. Please note that more cases can be found on the website, but we were unable to have them translated in time. The website is entirely in Spanish.

Ombudsgay is an organization devoted to empowering LGBT activists, monitoring homophobia in the public and private spheres of Mexico, sponsors victims of violence motivated by homophobia, tries to bring those responsible through strategic litigation of example cases, and pressures the government to stop abusive practices.

4. Letra S, Sida, Cultura y Vida Cotidiana A.C, *Informe de Crímenes de Odio por Homofobia: México 1995-2008 Resultados Preliminares*, December 2009 (25 October 2011), online: <<http://www.letraese.org.mx/wp-content/uploads/2010/05/Informe.pdf>>.

- **Analysis of reports from 71 different news publications from the years 1995-2008 of murders motivated by homophobia**
- **Mexico is the country with the second-highest index of crimes motivated by homophobia in Latin America – Brazil being the first – though some estimate that the crime rate in Mexico is grossly underreported**
- **Prejudices against LGBT individuals in Mexico is perhaps the prejudice which is the most legitimized and accepted in society**

This is a report which is the product of revision of 71 daily news publications, both local and national in scope, in the newspaper libraries of Mexico City and other cities. The report defines hate crime as a criminal offence committed against a person, property or society which is motivated completely or in part by prejudices held by the offender on the basis of race, religion, physical disabilities, sexual orientation or nationality/ethnicity. Therefore, hate crimes motivated by homophobia are crimes against a person for his/her sexual orientation or gender identity. This report focused exclusively on homicides.

The report recognizes the limitations of its research in the making of a registry of crimes motivated by homophobia. First, not all cases of crimes committed against LGBT individuals are covered by the press. Furthermore, it would be impossible to research all of the news publications of the entire country. However, the authors of this report believe that the information contained in this report is sufficient to give an idea of the dimension of the problem. Second, the authors describe prejudice against the LGBT community as perhaps the prejudice the more prevalent and legitimized in society. For example, the report includes statistics demonstrating the prevalence of homophobia in Mexican society, also taken from other publications such as university studies. Such studies revealed that:

- 66% of Mexicans would not share a roof with a homosexual person
 - 71% of youth wouldn't support rights for homosexual persons
 - 64% of homosexual persons had to pretend to be heterosexual to be/feel accepted
 - 20% of homosexual persons were hounded by the police for being gay

As a result of such discrimination, violence committed against the LGBT community is not always viewed as problematic. This can be seen in a public statement by Raúl Osiel Marroquín, serial killer of gays in Mexico City, where he views what he did as “doing society a favour.” Without public denunciation of these crimes, they go underreported in the media and don't gain much attention. This, in conjunction with the prohibition of access to judicial documents for the lack of “judicial interest”, makes it difficult to obtain complete information on hate crimes motivated by homosexuality in Mexico.

With the reports identified as having a hate crime motivated by homophobia, the report analyzes various characteristics of the crimes and organizes them in various ways according to specific organizational methods. Furthermore, all of the crimes are indexed in a registry and some graphs are included to illustrate the commonality of these crimes. With the information, the following conclusions were drawn:

- Mexico is the country with the second-highest index of crimes motivated by homophobia in Latin America – Brazil being the first – though some estimate that the crime rate in Mexico is grossly underreported
- Highest number is in the Federal District: 143 in total
 - 109 against men
 - 29 against transvestites, transgendered persons, or transsexuals
 - 5 against women

National Centre for Lesbian Rights

5. National Centre for Lesbian Rights, “Case Docket: In re. M.Q.,” *National Centre for Lesbian Rights*, online: <http://www.nclrights.org/site/PageServer?pagename=issue_caseDocket_inremq>.

Homosexual Mexican claimant successfully applies for asylum in United States after alleging experiences of physical assault by family, peers and police on account of his sexuality. A gang had threatened to kill him should they see him again. Asylum in U.S. granted September 2008.

6. National Centre for Lesbian Rights, “Case Docket: In re. Armando,” *National Centre for Lesbian Rights*, online: <http://www.nclrights.org/site/PageServer?pagename=issue_caseDocket_inrearmando>.

Homosexual claimant from Mexico alleges being victim to a raid on a gay bar in which a police member, after taking his ID card, told him, “You are going to remember me.” He thereafter endured harassment, threats, violence, extortion and robbery at the hands of the officer and his friends. His U.S. claim was granted June 2007.

7. National Centre for Lesbian Rights, “Case Docket: In re. Irma,” *National Centre for Lesbian Rights*, online: <http://www.nclrights.org/site/PageServer?pagename=issue_caseDocket_inreirma>.

Transsexual Mexican is granted U.S. asylum in August 2007. She alleged abuse by family and the community and kidnapping and brutal assault by police.

8. National Centre for Lesbian Rights, “Case Docket: In re. Luis,” *National Centre for Lesbian Rights*, online: <http://www.nclrights.org/site/PageServer?pagename=issue_caseDocket_luis_mexico>.

U.S. asylum claimant from Mexico experiences familial and community discrimination and is physically assaulted by police on several occasions. Asylum granted 2004.

9. National Centre for Lesbian Rights, “Case Docket: In re. Valeria,” *National Centre for Lesbian Rights*, online: <http://www.nclrights.org/site/PageServer?pagename=issue_caseDocket_inrevaleria>.

U.S. asylum claim granted September 2007 to Mexican lesbian who endured extreme familial violence, suffered post-traumatic stress disorder and serious depression.

VI: Media Reports

1. Paul Canning, “Why is Mexico persecuting gay lawyer Jaime López Vela?” *LGBT Asylum News* (12 September 2011) online:

<<http://www.asylumlaw.org/docs/sexualminorities/MexicoLGBTAsylumNews091211.pdf>>

- **Charges relating to defence of a victim of homophobia v**
- **Assaulted and arrested by state police on the orders of a civil servant**

López Vela was representing homophobia victim Agustín Estrada Negrete at a scheduled meeting with the Deputy Secretary General of State and was arrested and assaulted by state police for “insult to police and obstruction of the road”, told “State Governor Peña Nieto doesn’t want faggots in the state of Mexico”.

2. Fox News Latino, “Gay rights activist murdered in Mexico City,” *Fox News Latino* (25 July 2011), online: <<http://www.asylumlaw.org/docs/sexualminorities/MexicoFoxnews072511.pdf>>

- **Activist victim of a hate crime, brutally murdered**

A Party of the Democratic Revolution commission said the killing was a hate crime and that officials should not make "the mistake of considering this criminal act a 'crime of passion,' the explanation long used to close investigations of killings of members of sexual minorities."

3. Laura Reyes Maciel, “Los crímenes de odio en contra de personas homosexuales, en la sombra,” *CNN Mexico* (17 May 2011), online:

<http://www.asylumlaw.org/docs/sexualminorities/MexicoCNN0_51711.pdf>

- **Hate crimes against homosexuals, in the darkness**
- **Mexico ranks second in Latin America for frequency of hate crimes**
- **High instance of recorded murders against LGBT community members**
- **True number is likely far higher due to lack of reporting**

LGBT groups cite high numbers of hate crimes as evidence of apathy on the part of the state in preventing these crimes, and due to underreporting the true number is even higher: “...many times the family doesn’t tell the truth and in the police reports it appears the murder happened due to other causes, which are not real,” . . .

4. Camila Maciel, “Investigación apunta a la policía como grupo más intolerante a la diversidad sexual,” *Adital* (15 April 2011), online:

<<http://www.asylumlaw.org/docs/sexualminorities/MexicoAdita041511.pdf>>

- **Investigation identifies the police as the group most intolerant of sexual minorities**
- **Discrimination against sexual minorities by health services**

The police was identified by 42.8% of the interviewees as the group most intolerant of the [gay] community . . .

5. Francisco Iglesias, “En cinco años el rechazo a gays ¿se mantiene igual?, reconoce Conapred,”

Milenio (11 April 2011), online:

<<http://www.asylumlaw.org/docs/sexualminorities/MexicoMilenio041111.pdf>>

- **According to CONARPED, rejection of gays is ‘still the same’ during the last five years**
- **Rejection of sexual diversity has not changed**

The results of a National Discrimination Survey shows that attitudes toward sexual minorities remains virtually unchanged despite the state recognizing their rights, and that 44% of the population would not accept living with a homosexual . . .

6. Yucatan Ahora, “Mexico: Yucatán cuarto lugar nacional en crímenes por homofobia,” *Yucatan Ahora* (19 January 2011), online:

<<http://www.asylumlaw.org/docs/sexualminorities/MexicoYucatanCuarto011911.pdf>>

- **Yucatán: Ranks Fourth Place in Homophobic crimes in the Nation**
- **Homophobia increasing despite awareness programs sponsored by government entities**
- **Underreporting of hate crimes due to lack of response from authorities**
- **Societal acceptance of homophobia**
- **Harassment by state officials**

Yucatan is no exception to the culture of homophobia that exists in the country, where for every one report of crime three go unreported, and the government campaign to end homophobia is “pathetic” as the ads are aired “when few watch TV or listen to the radio,” . . .

7. Tom Godfrey, “Mexican lesbian couple claim refugee status,” *Edmonton Sun* (18 July 2009), online:

<<http://www.edmontonsun.com/news/canada/2009/07/18/10178361-sun.html>>.

Two lesbians claim refugee status. There were constantly persecuted on the basis of their sexuality and alleged long-term harassment, following and physical assault by police. They were detained by police last year.

8. Lauren Smiley, “Border Crossers” *San Francisco Weekly* (25 November 2008) online: <<http://www.sfweekly.com/2008-11-26/news/border-crossers/1>>.

One transsexual reports having fled Mexico because of police brutality. Another transgender claimant for asylum stated have been sexually assaulted twice at 14. Another interviewee’s transgender roommates were murdered with she was out. Another, after lodging a complaint on having been forced to give a police officer oral sex, was victim of a break in and physical violence.

9. Luciano Campos Garza, “Transvestites, victims of repression in Monterrey,” *Processo* (13 March 2009) online:

<http://www.asylumlaw.org/docs/sexualminorities/Mexico_031409.pdf>.

NGO reports municipal police have unleashed a climate of repression against the transvestite community through arbitrary detentions, extortions and false accusations.

10. Rex Wockner, “Gay couple arrested in Mexico for Kissing and Hugging,” *International News* (27 October 2008) online: <http://www.sgn.org/sgnnews36_44/page9.cfm>.

American gay couple arrested in Playa del Carmen, Quintana Roo, for public kissing and hugging. They were accused of moral misdeeds, jailed 15 hours and fined \$148US.

11. Ceci Conolly, "Latin American Nations Treat Gays Better, Asylum is Elusive" (12 August 2008) online: < http://www.washingtonpost.com/wpdyn/content/article/2008/08/11/AR2008081102038_pf.html>.

"People think the homophobia is under control, which is not true," Saavedra said. "Homophobia in Mexico is really high." One interviewee claimed that even Mexico City could be a site for police harassment and that, as he emerged from a gay bar in the Zona Rosa, he and friends were rounded up by police.

12. "Madison Woman Murdered in Mexico," NBC (2 June 2008) online: <<http://www.nbc15.com/home/headlines/19262364.html>>.

Transgender activist from U.S. murdered on vacation in Puerto Vallarta. Murdered has been imprisoned and charged with homicide.

13. Cate Simpson, "Mexico still not safe for queer citizens (3 March 2008) online: <http://www.xtra.ca/public/viewstory.aspx?STORY_ID=4418&PUB_TEMPLATE_ID=2>.

"In a typical case one man described a series of violent incidents beginning with verbal and physical attacks at school, through to being attacked by police officers when he was seen leaving a gay bar with his partner. When he tried to report the incident he says he was told he could not do so without the names of the officers who had attacked him."

"„In Mexico if you are attacked by a government official, the theory is that you can go to a higher level for protection. But it doesn't work like that." Corruption is a major problem in Mexico according to speakers at a University of Toronto panel last month that looked at that country's ability to protect its citizens against abuses."

"He points to the murder of prominent gay rights activist Octavio Acuña in the Mexican province of Querétaro in June, 2005. Acuña was stabbed to death in the building where he had set up an office to distribute condoms and provide harm-reduction services to queers. The police branded the murder a "crime of passion" (as is often the case with homophobic attacks), claiming that his partner was responsible, and refused to investigate further."

14. Rex Wockner, "90 cops visit Mexico City gay bar" International News (25 February 2008) online: <<http://www.tobe.ca/index.php?mact=News,cntnt01,detail,0&cntnt01articleid=248&cntnt01origid=101&cntnt01returnid=101>>.

Some 90 police officers descended on the Mexico City gay bar Neón in the gay Zona Rosa district on February 16.

15. Tamara Letkeman, "Gay man killed after refugee claim denied," Xtra (6 July 2007) online:

<www.xtra.ca/public/viewstory.aspx?AFF_TYPE=1&STORY_ID=3287&PUB_TEMPLATE_ID=2>.

Queer refugees allege harassment by Mexican police. "Friends of a former Vancouver resident murdered in Mexico whose refugee claim was rejected by Canada are claiming he was killed because he was gay, and calling into question this country's attitude toward queer refugees seeking asylum."

"Serrano and Cordero [friends of the victim] are both familiar with this scenario, having both successfully claimed refugee status here after fleeing alleged police persecution in Mexico. Serrano says he left his country with his partner after police began harassing them and extorting money from them after they were seen leaving a gay bar in Mexico City. Cordero left after police allegedly threatened her life when they discovered she was transgendered."

"The police can make your life a nightmare," claims Serrano, who worked as a reporter in the pressroom of the Mexico City police department for 11 years. "They see you as a resource to get money. They threaten to tell your family or your boss." Although they believe they have information that could shed light on Villegas' murder, Serrano and Cordero say it is useless to contact Mexican police. "When they find out the victim was gay, they say gay people deserve that," Cordero alleges."

16. Rex Wockner, "Mexican gay leader murdered," San Francisco Bay Times (25 January 2007) online:

<http://www.sfbaytimes.com/index.php?article_id=6026&sec=article>.

Well-known gay activist murdered in Matamoros, Mexico "just days after staging a press conference calling for the state of Tamaulipas" to pass a gay partnership law. He had also recently demanded police stop their alleged arrests of gays. Gay activists protest the description of the murder as a crime of passion.

17. "Court reinstates transsexual's bid for asylum," Metropolitan News Enterprise (4 January 2007) online: <

<http://www.metnews.com/articles/2007/mora010407.htm>>.

Transsexual refugee claimant from Mexico alleges having been beaten by a police officer in her hometown of San Luis Potosi at age 16. She had also been raped, slapped and harassed fellow inmates at a prison while prison officers stood by laughing.

18. Gary Barlow, "Gays Allege Police Beating in Mexico City," (2006) 7:52 Chicago Free Press.

Three gay men allege apprehension and beating by police in Mexico City. After the police department refused to accept their complaints, they filed complaints with the city's human rights commissioner.

19. Victor Fuentes, "Niegan IMSS-ISSSTE afiliar a prejas gays," El Diario (28 October 2011), online: <

http://www.asylumlaw.org/docs/sexualminorities/MexicoIMSS_ISSSTE102811.pdf>.

"IMSS and ISSSTE deny services to gay couples"

The Federal District IMSS¹ and ISSSTE² refused to affiliate gay claimant partners. The two institutions started lawsuits against CONAPRED³, after CONAPRED refused to suspend a request that calls on both institutions to recognize rights to same-sex couples and accuses them of engaging in acts of discrimination. On the 6th of July, the CONAPRED issued Resolution 2 / 2011 after receiving recurring complaints from gay couples, who after marrying in Mexico City, have tried to enroll their partners as beneficiaries in several states, both in the IMSS and the ISSSTE. In all the cases they were told that the ISSSTE does not consider the possibility of affiliating people other than heterosexual couples.

The CONAPRED issued nine new requests to the managing directors of social security agencies, in particular the areas of enrollment, billing and financial benefits, for them to receive and process applications for membership of spouses of same sex marriage. The IMSS and the ISSSTE challenged these requests through a motion for reconsideration, but on August 16, Council refused to grant a suspension that would nullify the Resolution 2 / 2011 until the motion is fully analyzed. It is important to note that Federal Law to Prevent and Punish Discrimination only empowers CONAPRED in resolutions targeting dependencies, to ensure courses are taught, signs are posted, resolutions are publicized, and to send staff to verify that the discriminatory practices are that insulted the person who started the complaint are being removed.

20. Yvonn Márquez, “Denuncia comunidad gay abusos y extorsión por parte de policías,” (4 October 2011), online: <<http://www.asylumlaw.org/docs/sexualminorities/Mexico100411.pdf>>.

“Gay community complains about abuse and extortion from police officers”

Both the LGBT community of Tlaxcala and the members of the Sexual Diversity committee of Tlaxcala, held a peaceful demonstration in Congress to remind local lawmakers about two bills relating to the Prevention and Elimination of Discrimination and Societies of Coexistence since October 2, 2009. The Sexual Diversity Committee representative, Francisco Alberto Juarez Pereira, claims that the legislature have allowed over two years gone by without reviewing these bills. By refusing to raise these issues, legislators have shown visible discrimination and homophobia. Juarez Pereira also argues that because of the absence of relevant legislation, members of this community have been victims of discrimination and harassment.

He argues that members of the LGBT community have been victims of extortion and human rights abuses by state, municipal and federal police. These police officers demand a "fee" of about 200 pesos to exercise prostitution; otherwise they are taken to the cells where police from Chiautempan, San Pablo and Tlaxcala Apetatitlan physically and verbally assaulted them. Juarez Pereira asked Congress to promptly generate forums about sexual diversity, to discuss the bills, verify the feasibility of these bills and get on Tribune for a vote. By creating a sense of urgency for these bills to be reviewed there may be a stop to the persecution from which transgender or transsexual people have been victims of as well as extortions and assaults on human rights and homophobic hate crimes.

21. Ricardo Baruch, “La población LGBT y los servicios de salud en México,” (15 September 2011), online: <<http://www.asylumlaw.org/docs/sexualminorities/MexicoSalud091511.pdf>>.

“The LGBT community and health services in Mexico”

¹ Instituto Mexicano del Seguro Social [Mexican Social Security Institute]

² Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado [Security and Social Services Institute for State Workers]

³ Consejo Nacional para Prevenir la Discriminación [National Council to Prevent Discrimination]

Union workers from the District Federal Health Services working in the Condesa Clinic wanted to stop providing services to transgender and transsexual people being served at the clinic in addition to wanting to reduce services that are provided at the center. This exposes the degree of stigma and ignorance that still exists between the providers of health services against the LGBT community, even those who closely work with non-heterosexual people. To join as individuals to the IMSS, ISSSTE or “Seguro Popular” is not necessary to say what sexual orientation one person is. It’s enough being a salaried worker in the first case, a federal government worker in the case of second or just a Mexican in the case of the third. However to add a same sex marriage partner is very challenging. The ISSSTE has done everything possible in recent months to reject the protections that would allow same-sex married couples that want to be affiliated.

The big challenge for the LGBT population is not only the membership but also the quality of service. It is known that non-health sector services are ideal in terms of quality. The CNDH (Comision de Derechos Humanos = Human Rights Commissions) and CONAPRED have received numerous complaints about poor treatment by health workers. However the real problem lies on the lack of knowledge and acceptance of the LGBT community. There are no awareness or sensibility programs available to health service providers such as doctors, nurses and administrative staff, social workers to treat and deal accordingly.

The health problems of the LGBT population are in general the same as heterosexuals except perhaps the sexually transmitted infections where there is a higher prevalence, especially among transgender people and gay men. Mental health issues are also important as well as treatment related to alcoholism and drug addiction. Besides these particular issues the LGBT community is just as vulnerable to diabetes, infectious diseases, diseases of the skin or any other condition as heterosexuals. Universal access to health talks that both the federal government is a challenge which should not only involve the mere access to services but also quality.

22. Patricia Monreal, “Michoacán, tercer lugar nacional en crímenes por homofobia,” *Cambio de Michoacán* (4 September 2011), online:
<<http://www.asylumlaw.org/docs/sexualminorities/MexicoCambioMichoacan090411.pdf>>.

“Michoacan, ranks third in the nation for homophobic crimes”

Michoacán ranks third nationally in hate crimes, with about 240 murders, of which only 80 are officially reported. Mexico ranks as the second country in Latin America with the most murders of homosexuals. In the case of Michoacan, the Law to Prevent and Eliminate Discrimination and Violence in the state, states that discrimination means any act or omission of exclusion, distinction, impairment, disability or restriction, motivated by ethnic or national origin, language, sex, age, gender, indigenous identity, race, disability, social or economic status, health, physical appearance, genetic characteristics, pregnancy, religion, opinion, sexual orientation, gender role expression, marital status. Gerardo Herrera, member of a Sexual Diversity group said in 2010 Michoacan, was in second place nationally for hate crimes. Herrera states the type of crimes committed do not use guns. Instead knives and sharp objects are used to make a victim suffer which regularly also end by destroying the victim's skull with a rock.

It should be noted that a constitutional act was amended last March, which now explicitly prohibits discrimination on sexual preference. In 2010, May 17 was named the Day of Tolerance and Respect for Preferences. On that date in 1990, the World Health Organization removed homosexuality from its list of mental illnesses. In 2010 The National Survey on Discrimination in Mexico, which provides results on sexual diversity; noted that male and female homosexuals, lesbians and bisexuals live today in more

visible and public participation. However they still face many problems because of their sexual preference. The survey has lots of different facts. The most relevant to Michoacan, are that 52 percent of people are willing to live at home with someone who is homosexual. Almost three in ten people in Mexico think that it is justifiable to object to two people of the same sex to marry. In Michoacan, 22.5 percent of people consider that it is justified. 3 out of 10 people over 40 years old negatively consider a society made of people with different sexual orientation.

23. Pulso, “Lamenta comunidad gay que persistan actos de homofobia en el gobierno estatal,” Pulsored.com (25 August 2011), online:
<<http://www.asylumlaw.org/docs/sexualminorities/MexicoPulso082511.pdf>>.

“Gay community sorrows homophobic acts still exist in the Federal Government”

As of August 15, 2011 The Sexual Diversity Committee of Tlaxcala reported there are 6 pending complaints before the Commission in June State Human Rights (Comision Estatal de Derechos Humanos CEDH) on discrimination against people with different sexual preferences. President of the Sexual Diversity Committee, Francisco Alberto Juarez Pereira, reported that in recent months the numbers of complaints of discrimination have increased averaging between 3 and 4 a week. Claimants seek the support of the Sexual Diversity Committee to refer them to reliable bodies such as the CEDH; or before a public prosecutor, to denounce if the case is very serious for higher authorities to take appropriate action.

He said that acts of homophobia persist in the CEDH where harassment is much higher, since in these cases those with other sexual preferences are denied or rejected services. Juarez Pereira also states that there is little culture of complaint, especially among people in this sector of the population. This is partly caused by the discrimination in which the public prosecutors also engage in.

24. Alfredo Plascencia Sánchez, “Cada mes asesinan a tres homosexuales, según Conapred,” Portal (25 August 2011), online:
<<http://www.asylumlaw.org/docs/sexualminorities/MexicoPortada082511.pdf>>.

“CONAPRED: 3 Homosexuals are being murdered every month”

- **48.4 percent of Mexicans do find it acceptable to have someone who is homosexual live in their homes.**
- **72 percent of gays and lesbians have less chance of getting a job than other people.**
- **43 percent were victims of this discriminatory act within the past year, among other data.**

According to CONAPRED⁴, every month in Mexico, three homosexuals are murdered because of homophobia. CONAPRED has reported the death of nearly 400 hate crimes during the period 1995-2005. In the last ten years, no recent data on this type of crime has been available, making it more difficult to visualize the magnitude of the problem. Leticia Quezada Contreras, deputy federal, stressed the problem of homophobia, trans-phobia and lesbo-phobia, lies in people’s hatred against those with sexual orientation different from heterosexuals; ranging from insults, discrimination and murder.

⁴ Consejo Nacional para prevenir la Discriminacion [National Council to Prevent Discrimination]

Quezada Contreras recalled that surveys conducted by SEDESOL⁵ and CONAPRED reveal the level of discrimination in Mexico against sexual preferences other than heterosexual.

A proposal from the “Comision Permanente del Honorable Congreso de la Union” (Standing Committee of the honorable Congress of the Union) called on state legislatures, who have not yet done so, to include in its Criminal Code, hate crimes, homophobia, lesbo-phobia and trans-phobia.

25. E-Consulta, “Denuncian brutalidad policiaca contra gays en Rodríguez Clara,” E-Consulta (22 August 2011), online:

<<http://www.asylumlaw.org/docs/sexualminorities/Mexicobrutalidadpoliciaca082211.pdf>>.

“Police brutality against gay people is criticized in the municipality of Rodriguez Clara”

A member of the gay community dedicated to sex services in the municipality of Juan Rodriguez Clara asked for the support of the media to report the harassment to which he and his gay peers are undergoing by the municipal police. Rolando Dominguez, a prostitute in the municipality of Juan Rodriguez Clara said last Saturday a client who refused to pay attacked him with machetes. Rolando said the police arrived, and instead of stopping the attacker and providing medical care for their injuries, he was incarcerated. He said that although he asked for medical assistance, because of three bleeding injuries on his legs, the officer verbally made fun of him and released him on bail Sunday morning after spending Saturday night in jail.

Rolando said it is not fair to aggravate and abuse those who work at night. He acknowledges that he fears police officers but that him and other prostitutes in the Rodriguez Clara municipality will march and protest against this abuse. Rolando launched an appeal to the Secretary of Public Safety, Arturo Bermudez, so that there is a review of police procedures in Rodriguez Clara to avoid future atrocities against citizens.

26. Crónica Digital, “Repunta la homofobia en Veracruz,” Crónica Digital (4 August 2011), online: <<http://www.asylumlaw.org/docs/sexualminorities/MexioCronicaDigital080411.pdf>>.

“Homophobia in Veracruz stands outs”

Activist Silvia Susana Jimenez Galicia says homophobia in Veracruz is a prevalent problem that continues to claim victims because of the hatred that exists in society towards sexual minorities. In an interview Silvia said that far from diminishing, this "fascist culture" is something that is rooted in society and has intensified in states such as Chihuahua, Puebla, Morelos and Veracruz. She claims federal and regulatory bodies do not do much about this problem. Silvia emphasized these crimes have been detected with great vengeance and hatred. These crimes not only remove a person's life, but they also seek for painful suffering of victim by using either weapons or rocks as it has been documented in many cases. Silvia said the problem arises from cultural and religious concepts. These include machismo and the same stigma the Catholic Church has on homosexuality, which is considered a disease and a deflection. This stigma creates conflicts and individuals who accumulate hatred against people with different sexual orientation.

⁵ Secretaria de Desarrollo Social [Ministry of Social Development]

VII: Scholarship

1. Vek Lewis, “Forging 'Moral Geographies': Law, Sexual Minorities and Internal Tensions in Northern Mexico Border Towns.” In *Transgender Migrations: the Bodies, Borders and Politics of Transition* (New York: Routledge, 2012), 32.

- In 2002, an ordinance against the presence of “the male who dresses as a woman and circulates in public view causing social disturbance” was passed in Tecate, Baja California, Mexico, as part of the revised Police and Good Governance Code.
- Similar laws are being either invoked or tabled on the agenda in other Northern border states: In Matamoros, Coahuila, in 2006 municipal authorities threatened “men dressed as women” with legal sanctions, linking their behaviour to sex work and to the transmission of STDs (54n3). In Torreon, Coahuila, local law also prohibits men from dressing as women or conducting sex work (54n3).

Lewis argues that studies on gender, sexuality and legal regulation tend to focus on federal and state law, but that legal frameworks affecting sexual minorities generally obtain at the municipal level, as part of codes against certain moral conduct, and “very often federal and state authorities are not even aware of discriminatory laws existing at the municipal level” (54n1). Northern border towns such as Tecate are seeing increased gang presence and have an influx of migrants attempting to pass through to Tijuana and on to the United States. Reactions against these changes and the problems seen in large border cities—such as increased organized crime and cartel activity—are targeting homosexuals and *travestis* in particular, and are justifying them under the Police and Good Governance Code using the language of protecting the “public good.” Tecate justifies its anti cross-dressing laws as part of a desire to prevent social disturbance, sex work, and the spread of STDs, particularly HIV (43), in fact, the author argues, these laws are an attempt to assert traditional moral values, notions of custom, and traditional identities. Every municipality in Mexico has a Police and Good Governance Code, which centres on public regulation by the police to enforce the law, engender a state of order and legality, protect property and the public good, and ensure social harmony (42).

The author interviewed a group of *travestis* in Tecate, after the 2002 ordinance against men dressed as women was passed. None of the people interviewed had been arrested under the new law, but they knew of people who had. “Open harassment by police increased dramatically with the law's founding” (51). One interviewee had herself pulled out a doorway by her hair. Many were accused of soliciting on everyday errands, such as to buy milk from the corner store. Prior to the law, they had been subject to verbal harassment by members of the public, but this treatment was not particularly pronounced (51).

2. Debra A. Castillo, María Gudelia, Rangel Gómez, and Armanddo Rosas Solís, “Violence and Transvestite/Transgender Sex Workers in Tijuana.” In *Gender Violence at the US-Mexico Border: Media Representation and Public Response*. Edited by Héctor Domínguez-Ruvalcaba and Ignacio Corona (Tucson: University of Arizona Press, 2010), 15.

- The authors conducted interviews with 47 transvestite/transgender individuals working in the sex trade in Tijuana regarding violence they experienced while working and in their daily lives. Their study relies on these interviews, along with supporting evidence from interviewees with transvestites conducted in the film *Las paraditas*.
- Of the interviewed transvestite subjects, 34% reported violence with clients, 36.2 experienced

police violence, 25.5% had been assaulted by people unknown to them, and 60% of the men and 80% of the transgendered interviewees had been jailed. These numbers are much higher than the reported levels of such crimes indicate.

The authors examine violence against transvestite sexual workers in Tijuana, both at the hands of their customers and the police. While Tijuana, with its more cosmopolitan attitudes, may seem to be more accepting of homosexuals, and a study from the World Policy Institute shows that there are very few reports by transvestites of harassment by the police (15-16), the authors note that this should not be taken as evidence that this type of crime does not exist.

Sex workers are inherently vulnerable, and transvestite workers most of all. When asked why they ended up in sex work, transvestites generally say they need the money. The lagging economy and lack of other employment opportunities are especially hard on transvestite men, who are generally discriminated against by employers (19), leaving them with few other options.

Interviewees noted a few situations in which violence occurred at the hands of customers. Violence was occasionally the result when customers learned they were not women. One interviewee speaks of being severely beaten by a customer, even though she thought her identity had been clear from the beginning (20). The authors suggest that “it is not that these clients are fooled by the illusion of femininity and become violent when they discover their mistake, but that these clients actively seek out the services of a transvestite and may become violent out of their own sense of frustrated guilt about desires they perceive as perverted” (22). Transvestites are also often robbed by customers (or they attempt to rob their customers, and violence ensues).

Violence from the police included harassment, robbery, beatings, bribery, and being jailed. “Twenty dollars is the standard bribe each time a transvestite sex worker is approached by police,” and as a result many are paying roughly \$80/day in bribes (23). The police will say it is illegal to dress as a woman or to prostitute oneself, and while neither is true it is easier to pay the bribe (26). When robbing transvestites, officers will wait for the transvestite to pick up a customer, and then stop them and steal both the client and the transvestite’s money (25). Other interviewees say they will be arrested just for walking around dressed like women, even if they are not working (25): “In Mexico they pick you up just for walking around” (25), one interviewee attested, even if the transvestites are not dressed as men and are just attempting to go to the store for groceries. One transvestite says you can even be picked up “for the simple fact that you’re homosexual” (29). In prison transvestites are also subjected to violence and rape (27). Interviewees state that police, in harassing them, will often take their condoms (27) and rip up their health cards (28). The authors note that, significantly, such police behaviour is “making sex work less safe: being a registered sex worker with a health card in order and a pocket-book full of condoms is *more* rather than *less* likely to get an author fined and jailed” (28).

Despite such violence, transvestites “almost never make formal complaints to the police” (17). Violence is such a pervasive part of the job that the authors suggest transvestite sex workers no longer associate such acts with the words “violence,” “kidnapping” and “rape.” When asked if any of these things have happened to her, one transvestite, “Yolanda,” says no, but then describes men forcing her to have sex with them, being taken by force and left outside the city, and being beaten by police officers (22-23). The authors suggest this lack of recognition that the violence they suffer is in fact rape, violence, and kidnapping leads to a failure to report such acts. In addition, interviewees demonstrated little trust in the authorities because of the violence they had already suffered at their hands. The *zona de tolerancia* is small enough that the transvestites and police know one another. If the transvestites do complain, interviewee Rosa explains, “their perception is that it gets much worse for

them in the streets, since the officer or his friends might take revenge” (32).

3. Cesar Infante, Sandra G. Sosa-Rubi and Silvia Magali Cuadra, “Sex work in Mexico: vulnerability of male, travesti, transgender, and transsexual sex workers,” (2009) 11:2 *Culture, Health & Sexuality* 125.

This Mexico City-based study addressed the “growing concern [in Mexico] about rising levels of HIV infection among MSM as well as among travestis, transgender and transsexual (TTT) persons” (126). The report found that socioeconomic characteristics of MSM and TTT sex workers varied from low to mid-range and was linked to the neighborhoods in which the sex workers practiced their trade (130). TTT sex workers in Insurgentes and Nuevo León, for example, were “middle-class” (132). Those in other areas were “from a low-socioeconomic background” with little education (132-133). Many MSMs turned to sex work after relocating from their homes to Mexico City because of abuse and discrimination from families and the community (131).

According to the authors, TTTs report physical abuse, including from family and “are commonly rejected and suffer stigma and discrimination even from the gay community” whose members often equate TTTs with thieves or drug users (133). The lack of legal documentation reflecting the gender identities of TTTs was articulated as a serious problem” (133). One TTT hairstylist reported beatings, discrimination and unfounded detention by police who also raped, cut her hair and beat her (133).

Although TTTs working in bars, clubs or beauty salons had a degree of protection, those in the sex trade experience more violence than non-transsexual male sex workers (133). TTTs also “face violence, abuse, unemployment, discrimination within their homes, stigma within the wider community and difficulty establishing supportive social networks” (133). Those in the sex industry “reported multiple instances of physical and psychological abuse, not only at the hands of their clients and the police, but also from other MSW and the gay community. Their visibly “different” appearance and body transformation made them more vulnerable to violence and abuse in the streets” (136).

A TTT person’s “social trajector[y]” may also vary with individuals working simultaneously in the sex trade and as entertainers and others becoming hair stylists (133). Movement into the hairstyling trade is “a signal of success” (133). Sex workers were subject to “continuous police round-ups” in some areas of Mexico City and were under the control of pimps in some locations (132).

This particular study did not uncover “anyone who said that they had been forced to have sex without a condom and the TTT interviewees “mentioned consistent refusal on their part to have penetrative sex if the client did not want to use a condom or if a condom was not available” (133-134). Non-transgender male sex workers, however were more inconsistent in condom use despite their knowledge of its importance in HIV prevention (134). They were also uncomfortable “talking to public sector doctors” and “had difficulty meeting their basic needs for food, housing, employment, education, healthcare, HIV testing with pre- and post-counselling and access to condoms” (134). TTTs appear to have also been neglected by the public health system in its HIV prevention programs (134).

The study noted other serious health concerns pertaining to the TTT population in Mexico:

For TTTs, another important health need was the need to buy oils and hormones. Many TTT use them incorrectly, take inappropriate doses and damage their skin and muscles by injecting

oil. At the time of this study, we could not identify a single official governmental health service that engaged with the health needs of TTT sex workers. (135)

The authors identified the followed social, cultural and socioeconomic factors associated with vulnerability to HIV infection for TTT and male sex workers: “the context where sex workers work, the stigma and discrimination related to sex work, the violence enacted towards TTTs, the low levels of social and legal support and the limited access to healthcare that sex workers have in Mexico City” (135). They stressed “the complete absence of healthcare services directed to both MSW and TTT sex workers” (135).

4. Paulina Millán Álvarez, “Adolescents Can’t Be Gay”: Perceptions on Youth, Sexual Diversity, and the Case of Mexico,” (2006) 3:2 *Journal of Gay and Lesbian Issues in Education* 141.

This study attributed the scarcity of information on matters related to sexual identity and sexual orientation of Mexican youth to the controversial nature of topics related to homosexuality and transgenderism (142) and the labeling of sexual orientation as “an adult issue” (142). While researchers have focused on topic such as sexuality education, contraception, condoms and intercourse, topics relating to sexual orientation and youth are overlooked (141-142).

With the exception of the Nueva Generación de Jóvenes Lesbianas (New Generation of Lesbian Youth) in Mexico City, there is no other support group for this segment of the LGBT population (142). Though successful, this group encountered criticism from LGBT activists, during its early years, prohibited from inviting members under the age of 18 due to a federal law prohibiting the “induc[ement of]” homosexuality (142). This law was abolished in 1998 (143).

A 2004 study by the author reveals that 7.4% of female and 3.8% of male high school students (out of a pool of 3800 participants) had been sexually active with a member of the same sex (143).

The author stated that “[y]oung gay and lesbian people lack protection from the law or [the] means and support to denounce abuses; others simply lack knowledge about what few rights protect them. This means that many abuses perpetrated against them may remain untold and suffered in silence” (143-144).

In addition to abuse in schools and in the workplace, the family is a significant site of discrimination for Mexican youth” (144). The problems for LGBT youth arising from the almost unlimited control of parents over individuals under 18 in Mexico is exacerbated by “few legal protections for the rights of minors” (144). Álvarez states:

In Mexico, parents aren’t questioned when they decide to send a gay son or daughter to therapy in order to “change” sexual orientation (often there is a lack of regulation in terms of who is certified or not to be a therapist), or when they use physical and psychological abuse if they find out or suspect their child is gay. Amnesty International (2001) has documented many of these abuses. Similarly, it is too common to find LGB youth consigned to Mexican psychiatric institutions due to the ignorance or prejudice of mental health professionals or parents’ desire to find a “cure.” Research on the diagnostic process and the effects institutionalization have on these young “patients” is a topic of necessary attention. (144)

5. Luis Ortiz-Hernández and José Artura Granados-Cosme, “Violence Against Bisexuals, Gays and Lesbians in Mexico City,” (2006) 50:4 *Journal of Homosexuality* 113.

This study noted that, while Latin American politicians and academics have expressed greater interest in the problems of LGB violence, knowledge about the living conditions of LGB is “elementary.” The Mexican Comisión Ciudadana Contra los Crímenes de Odio por Homofobia (Citizen Commission Against Homophobic Hate Crimes) documented 164 LGB murders between 1995 and 1998 (115). Apart from this group, there have been “few attempts” to document “the different forms of aggression endured” by LGBs in Mexico and governmental institutions accord “inadequate attention” to the problem (115).

Participants in this study reported the following experiences of violence in the past year:

Verbal offenses: 35% (men) 26% (women)
Verbal threats: 10% (men) 12% (women)
Had an object thrown at them: 7% (men) 8% (women)
Were spat upon: 1% (men) 4 (women)
Were followed or persecuted: 12% (men & women)
Physical aggression: 5% (men) 12% (women)
Physical injury with a weapon: 2% (men) 4% (women)
Sexual harassment: 20% (men) 17 % (women)
Molestation: 16% (men) 13% (women)
Rape: 4% (men) 3% (women)
Damage to personal belongings: 7% (men) 12% (women)
Assault: 12% (men) 10% (women)
Robbery: 7% (men) 5% (women)
Hit by relatives or acquaintances: 6% (men) 5% (women)

These participants reported the following experiences of violence in their adulthood:

Verbal offenses: 64% (men) 49% (women)
Verbal threats: 23% (men) 21% (women)
Had an object thrown at them: 18% (men) 10% (women)
Were spat upon: 4% (men) 3% (women)
Were followed or persecuted: 23% (men) 15% (women)
Physical aggression: 17% (men) 14% (women)
Physical injury with a weapon: 6% (men) 5% (women)
Sexual harassment: 34% (men) 22% (women)
Molestation: 27% (men) 16% (women)
Rape: 10% (men) 8% (women)
Damage to personal belongings: 16% (men) 15% (women)
Assault: 32% (men) 19% (women)
Robbery: 18% (men) 11% (women)
Hit by relatives or acquaintances: 13% (men) 9% (women) (125).

The study also suggested “it was probable that [Bisexual or Gay] feminine males and [Bisexual and Lesbian] masculine females are attacked with a greater frequency than [Bisexual and Gay] masculine males and [Bisexual and Lesbian] feminine females” (127). It also noted that, according to

“ethnographic studies performed in Latin America”, “feminine males are frequently subjected to sexual harassment” (128). Relatives, especially brothers, or members of a victim’s peer group were frequent aggressors (128). The study noted, moreover, that LGBT victims “do not report violence because they are afraid of being harassed against within the justice institutions or being held responsible for the attack, or they feel that the denunciation will have no effect” (134).

Ortiz-Hernández and Granados-Cosme also found that 42.3% of the male Bisexual and Gay and 19% of the female Bisexual and Lesbian participants in their study “had been detained, threatened or extorted by the police” (134). From this, they deduced that LGBs “do not report aggressions they suffer . . . because they think law enforcement personnel will be insensible to their situation or they might even be held responsible for the attacks.” (134).

Ortiz-Hernández and Granados-Cosme concluded that an LGB individual’s experience of violence was more linked to their defiance of “gender stereotypes [than] their sexual orientation” (134-135) but that attacks were also “due to their sexual orientation” (137).

6. Paulina Álvarez, “LGBT Youth and Issues in Mexico” in *Youth, Education and Sexualities: an international encyclopedia* (Westport: Greenwood, 2005).

Despite the successes of LGBT persons in implements antidiscrimination laws, policies and campaigns, the issue of protecting LGBT youth has been overlooked (557). Álvarez states that “there is a long-standing between law and practice” in Mexico which “makes it difficult, especially for minors who fear a disclosure of their sexual orientation, to claim their rights or to accuse any authority or institution of harassment or discrimination” (557). The Comisión contra la Discriminación, whose budget was reduced 50% by the government, was designed to afford extra protection to vulnerable communities like the LGBT lacks funds “and the legal power to prosecute discriminators” (557). Moreover, the failure of the commission to protect against familial discrimination (“the most common site of violence against LGBT youth”) compromises the effectiveness of protective measures for LGBT youth (557).

Álvarez states that schools can expel LGB youth without legal consequences (557). The consideration of minors as “property” permits parents to send LGBT children to institutions for rehabilitation which includes seclusion and violent punishment (557). Health professionals and other adults working with adolescents are uneducated with regards to LGBT matters (557).

In 2004, a high school was opened by the LGBT community for teens denied an education (558). The program is part of the Centre de Atención para Adolescentes y Jóvenes Gay, Lesbianas y Bisexuales de México (558). In larger states like Guadalajara, Monterrey, Puebla and Mexico City, there are venues that “provide entertainment for the LGBT youth, although none are exclusively for young people” (559).

Teachers, Alvarez reports, are ill-prepared to respond to harassment of students and psychologists are willing to offer “reparative therapies” as a first choice to patients troubled by their sexual identity (559).

Research on LGBT Mexican youth is “scarce” (559) but the mass media has included depictions and homosexuals, lesbians and the transgendered (559).

7. Jorge Adame Goddard, *Análisis y Juicio de la Ley de Sociedades de Convivencia para el Distrito Federal* (September-December 2007), online: <http://www.ejournal.unam.mx/bmd/bolmex120/BMD000012017.pdf>.

- **According to Dr. Adame, the law approving same-sex unions causes serious harm to the values of the Mexican people, especially for young people**
- **Homosexual sex, according to Dr. Adame, is of little social value and is unnatural and unlawful, even if the law allows them to be legal**
- **“The bodily union between two people of the same sex has another source of unlawfulness because the bodies come together in a way that is contrary to their natural physicality.”**
- **Commentary by Dr. Adame compares homosexual sex to natural disasters: ‘Man can act against physical and biological nature, but in doing so he deteriorates it, corrupts it and contaminates it... to the point of risking its purity for subsequent generations’.**

This commentary is an analysis and opinion on the Cohabitation Law for Mexico City, by Dr. Jorge Adame Goddard, for the National Autonomous University of Mexico. Dr. Adame begins by reviewing the protections granted by the Law of Cohabitation, and proceeds to criticize it.

Dr. Adame considers the law to be unnecessary, as there is no judicial penalty for living in a relationship with a person of the same sex. He continues, commenting that the law causes serious harm to the values of the Mexican people, especially for young people. He distinguishes homosexual unions from ‘honest love’, the latter of which leads to the creation of a family. Homosexual sex, according to Dr. Adame, is only at the level of utility and pleasure, and therefore has little social value. Dr. Adame expresses that he does not understand why politicians would privilege the private values forwarded by same-sex unions at the expense of the greater social good.

Dr. Adame then discusses how same-sex relations are unnatural and unlawful, even if the law allows them to be legal. The coming together of bodies of the same sex is contrary to their natural physicality, according to Dr. Adame, and this is another source of unlawfulness. He then compares sex to natural disasters, stating that homosexual acts are acts against physical and biological nature, and risks the purity of subsequent generations.