

Mexico

# Women of the World:

## Laws and Policies Affecting Their Reproductive Lives



### Latin America and the Caribbean

The Center for Reproductive Law and Policy  
DEMUS, Estudio para la Defensa de los Derechos de la Mujer

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# Mexico

## Statistics

### GENERAL

#### *Population*

■ Mexico's total population is 92 million,<sup>1</sup> of which 46.5 million are women.<sup>2</sup> The population growth rate is approximately 2.05% annually.<sup>3</sup> The life expectancy of women at birth is 76 years.<sup>4</sup>

■ In 1990, 71% of the population lived in urban areas.<sup>5</sup>

#### *Territory*

■ Mexico has a surface area of 1,958 square kilometers.<sup>6</sup>

#### *Economy*

■ The World Bank estimated that Mexico's gross national product ("GNP") grew by \$41.80 per capita in 1994.<sup>7</sup>

■ From 1985 to 1994, the GNP grew at an estimated 0.9%.<sup>8</sup>

■ From 1990 to 1994, the gross domestic product grew at an estimated 2.5%.<sup>9</sup>

■ In 1989, Mexico initiated a process of economic liberalization and privatization of state-owned enterprises.<sup>10</sup>

#### *Employment*

■ In 1995, women made up 35% of the work force.<sup>11</sup>

■ In 1995, women represented 50% of workers in the informal economy.<sup>12</sup>

#### *WOMEN'S STATUS*

■ The average life expectancy is 72.6 years;<sup>13</sup> it is 76 years for women and 69.8 years for men.<sup>14</sup>

■ The illiteracy rate for women was 15.2% in 1992.<sup>15</sup> Two of every three illiterate adults are women.<sup>16</sup>

#### *ADOLESCENTS*

■ In 1995, approximately 16.3 million women in Mexico were under the age of 15.<sup>17</sup>

■ The median age at first marriage is 18.4 years.<sup>18</sup>

■ The median age at first childbirth is 21 years.<sup>19</sup>

■ The fertility rate among women between the ages of 15 and 19 dropped from 132 births per 1,000 women in 1978 to 78 births per 1,000 women in 1994.<sup>20</sup>

■ The prevalence of contraceptive use in women between the ages of 15 and 19 has increased from 14.2% in 1976 to 36.4% in 1992.<sup>21</sup>

■ The contraceptive methods most commonly used by adolescent women include hormonal methods (40.3%), the intrauterine device ("IUD") (33.5%), and barrier methods (8.7%).<sup>22</sup>

#### *MATERNAL HEALTH*

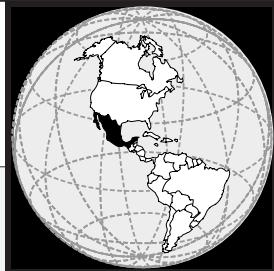
■ The total fertility rate in 1994 was 3 children per woman.<sup>23</sup>

■ The maternal mortality rate in 1994 was 61 deaths per every 100,000 live births.<sup>24</sup>

■ The infant mortality rate for 1990 to 1994 was 35 deaths per 1,000 live births.<sup>25</sup>

■ In Mexico, 85.3% of births are attended by a physician, nurse, assistant, or other health care professional.<sup>26</sup>

■ In 1991, 37% of maternal deaths were due directly to pregnancy-related complications, and 25% were due to toxemia during pregnancy.<sup>27</sup>



## CONTRACEPTION AND ABORTION

- In 1995, 45% of women of childbearing age used a contraceptive method.<sup>28</sup>
- The most commonly used methods are the pill, feminine sterilization, the IUD and traditional methods.<sup>29</sup> Sterilization is the most common method among women of childbearing age, with an average prevalence of 43.3%.<sup>30</sup> The pill and the IUD are also significant, averaging 15.3% and 17.7% prevalence, respectively.<sup>31</sup>
- Governmental institutions estimate that 220,000 induced and spontaneous abortions occur annually.<sup>32</sup> International groups and nongovernmental organizations ("NGOs") estimate that 500,000 to 1,500,000 abortions occur yearly.<sup>33</sup>
- Induced abortions represent the fifth most prevalent cause of maternal mortality in Mexico.<sup>34</sup>

## HIV/AIDS AND STIs

- In 1994, 13.6% of those infected with HIV were women.<sup>35</sup>
- Blood transfusion is the most common means of transmission among women; 56.5% adult women were infected with AIDS through that means.<sup>36</sup>
- In 1993, 2,855 cases of HIV and 3,304 cases of AIDS were reported in Mexico.<sup>37</sup>

## ENDNOTES

1. FEDERAL EXECUTIVE BRANCH, PROGRAMA NACIONAL DE LA MUJER 1995-2000 [NATIONAL WOMEN'S PROGRAM 1995-2000], at 11 (Mexico, 1995).
2. *Id.*
3. *Id.*, at 1.
4. *Id.*, at 19.
5. NATIONAL POPULATION COUNCIL (CONAPO), SITUACIÓN DE LA MUJER. DESAFÍOS PARA EL AÑO 2000 [THE STATUS OF WOMEN. CHALLENGES FOR THE YEAR 2000], at 59 (Mexico, Oct. 1995).
6. WORLD BANK, WORLD DEVELOPMENT REPORT 1996. FROM PLAN TO MARKET, at 189 (1996).
7. *Id.*
8. *Id.*
9. *Id.*, at 209.
10. EUROPEAN YEARBOOK. MEXICO. INTRODUCTORY SURVEY (1994).
11. NATIONAL WOMEN'S PROGRAM, *supra* note 1, at 25.
12. THE STATUS OF WOMEN, *supra* note 5, at 19.
13. WORLD DEVELOPMENT REPORT, *supra* note 6, at 188.
14. NATIONAL WOMEN'S PROGRAM, *supra* note 1, at 19.
15. *Id.*, at 13.
16. *Id.*
17. *Id.*, at 11.
18. *Id.*, at 40.
19. FEDERAL EXECUTIVE BRANCH, PROGRAMA DE SALUD REPRODUCTIVA Y PLANIFICACIÓN FAMILIAR [REPRODUCTIVE HEALTH AND FAMILY PLANNING PROGRAM], at 5 (Mexico, 1995).
20. *Id.*
21. FEDERAL EXECUTIVE BRANCH, PROGRAMA NACIONAL DE POBLACIÓN 1995-2000 (NATIONAL POPULATION PROGRAM 1995-2000), at 11 (Mexico, 1995).
22. REPRODUCTIVE HEALTH AND FAMILY PLANNING PROGRAM, *supra* note 19, at 5.
23. NATIONAL WOMEN'S PROGRAM, *supra* note 1, at 22.
24. *Id.*, at 23.
25. UNITED NATIONS, THE WORLD'S WOMEN 1995: TRENDS AND STATISTICS, at 86 (1995).
26. REPRODUCTIVE HEALTH AND FAMILY PLANNING PROGRAM, *supra* note 19, at 23.
27. THE STATUS OF WOMEN, *supra* note 5, at 3.
28. THE WORLD'S WOMEN, *supra* note 25, at 86.
29. NATIONAL POPULATION COUNCIL (CONAPO), SITUACIÓN DE LA PLANIFICACIÓN FAMILIAR EN MÉXICO. INDICADORES DE ANTICONCEPCIÓN [STATUS OF FAMILY PLANNING IN MEXICO. STATISTICS ON CONTRACEPTIVE METHODS], at 3 (Mexico, 1994).
30. *Id.*
31. *Id.*
32. REPRODUCTIVE HEALTH AND FAMILY PLANNING PROGRAM, *supra* note 19, at 22.
33. Grupo de Información en Reproducción Elejida (GIRE) [Free Choice Information Group], *Aspectos del aborto en México* [Features of abortion in Mexico], 10 BOLETÍN TRIMESTRAL SOBRE REPRODUCCIÓN ELEGIDA [QUARTERLY BULLETIN ON FREE CHOICE], Sept. 1996, at 5.
34. REPRODUCTIVE HEALTH AND FAMILY PLANNING PROGRAM, *supra* note 19, at 25.
35. *Id.*, at 24.
36. *Id.*
37. *Id.*

**M**exico, one of the largest countries in the Americas, is bordered by the United States to the north and Guatemala and Belize to the south and has coasts on the Atlantic and Pacific Oceans.<sup>1</sup> Approximately 60% of Mexico's population is mestizo, 30% is indigenous, and 9% is white.<sup>2</sup> The official language is Spanish.<sup>3</sup> In the sixteenth century, Spain colonized the Mexican territory, which was inhabited principally by the Aztec and Mayan civilizations.<sup>4</sup> Mexico won its independence from Spain in 1821.<sup>5</sup> Since 1929 the country has been governed by the *Partido Revolucionario Institucional* (Institutional Revolutionary Party).<sup>6</sup> Over the past decade, the dominant feature of the political situation has been the gradual weakening of the governing party. This was made evident by the recent defeat of the PRI in the elections for governor of the Federal District held in July 1997.<sup>7</sup> The Mexican government must also deal with high levels of corruption within government institutions, the emergence of guerrilla movements, and an increase in drug trafficking.<sup>8</sup>

Since 1990, the Mexican government has adopted economic reforms aimed at opening the economy and privatizing state-owned enterprises.<sup>9</sup> Because of the economic crisis that hit the country in 1995, the government has implemented an austerity program.<sup>10</sup> As of 1995, Mexico was a party to the North American Free Trade Agreement, along with the United States and Canada.<sup>11</sup>

## I. Setting the Stage: the Legal and Political Framework

To understand the various laws and policies affecting women's reproductive rights in Mexico, it is necessary to consider the legal and political systems of the country. By considering the bases and structure of these systems, it is possible to attain a better understanding of how laws are made, interpreted, modified, and implemented as well as the process by which governments enact reproductive health and population policies.

### A. THE STRUCTURE OF THE NATIONAL GOVERNMENT

The Constitution of the United States of Mexico ("Federal Constitution"), in effect since 1917, has been amended approximately 200 times.<sup>12</sup> The Constitution establishes Mexico as a representative, democratic, and federal republic composed of free and sovereign states.<sup>13</sup> Sovereignty resides in the people and is exercised by the national government and by the states according to the Federal Constitution and the state constitutions.<sup>14</sup> In practice, the Mexican political system is

presidential;<sup>15</sup> the exercise of executive power resides "in a single person," the president of the United States of Mexico.<sup>16</sup>

The Federal Constitution recognizes and protects the multi-cultural composition of the Mexican nation and mandates governmental safeguarding and promotion of the languages and customs of indigenous peoples as well as respect for their legal practices.<sup>17</sup> The Mexican federal government is divided into three branches: the executive branch, the legislative branch, and the judicial branch.<sup>18</sup>

#### **Executive Branch**

The president of the United States of Mexico is the head of the executive branch of government.<sup>19</sup> The president is elected by direct universal suffrage for a period of six years.<sup>20</sup> The president oversees foreign policy and enters into international treaties, which must be ratified by the Senate;<sup>21</sup> he is also charged with promulgating and implementing the laws enacted by Congress.<sup>22</sup> The president names the cabinet secretaries, officials akin to ministers in other countries, who direct state policy within their specific sectors.<sup>23</sup> He also nominates a list of candidates to be justices of the Supreme Court of Justice, who must then be approved by the Senate.<sup>24</sup> In order to become effective, all the regulations, agreements, decrees and orders approved by the president must be signed by the secretary of state or the head of the relevant administrative department that oversees the issues in question.<sup>25</sup>

The federal civil service is centralized and is an organ of the national government.<sup>26</sup> A law passed by Congress determines the administrative responsibilities of the federal ministries and of the administrative departments of the federal government.<sup>27</sup> The ministries are required to inform Congress periodically about the progress of the sector under their responsibility.<sup>28</sup>

#### **Legislative Branch**

The legislative branch is the Federal Congress,<sup>29</sup> which is a chamber of senators and a chamber of deputies.<sup>30</sup> The Senate is composed of 128 senators elected for a period of six years.<sup>31</sup> The House of Deputies is composed of 500 deputies elected for a three-year period.<sup>32</sup> The Senate and the House of Deputies meet independently; they meet in a joint session only when they must designate an interim president of the republic in the absence of the president,<sup>33</sup> at the inauguration of the president,<sup>34</sup> and at the opening of the ordinary sessions of Congress.<sup>35</sup>

The Congress is primarily responsible for enacting legislation.<sup>36</sup> In the process of enacting national laws, the following have the right to introduce legislation: deputies, senators, the president of the republic, and the state legislatures.<sup>37</sup> Once a bill is approved by both chambers of Congress, it is sent to the president, who proposes modifications or promulgates it if he

has no observations.<sup>38</sup> If the President does not return the bill within 10 working days, it is considered approved by the executive branch.<sup>39</sup>

When Congress holds a plenary session, it enacts laws related to national social and economic-development policies, federal crimes, nationality, and the imposition of taxes to cover the federal budget.<sup>40</sup> The Chamber of Deputies must approve the latter.<sup>41</sup> The Senate is responsible for ratifying international treaties signed by the president.<sup>42</sup> The Constitution provides that it is the duty of the Federal Congress and of the state legislatures to create entities to protect human rights within their respective jurisdictions.<sup>43</sup> These institutions are responsible for independently formulating public recommendations regarding human rights issues. They also make denunciations and file complaints regarding human rights violations before the respective authorities.<sup>44</sup> The National Commission on Human Rights was created following this constitutional mandate, and it has served as a model for the creation of state government entities.

### **Judicial Branch**

The Mexican legal system derives from Roman law.<sup>45</sup> In Mexico, the function of judges is to interpret and apply the law but not to create it.<sup>46</sup> The federal judicial branch comprises the Supreme Court of Justice ("Supreme Court"),<sup>47</sup> the Council of the Federal Judiciary,<sup>48</sup> the Electoral Tribunal,<sup>49</sup> the Collegiate and Unitary Circuit Courts,<sup>50</sup> and the district courts.<sup>51</sup> The Supreme Court is comprised of 11 members nominated by the president and appointed by the Senate<sup>52</sup> for a period of 15 years.<sup>53</sup> The Council of the Federal Judiciary designates the district courts.<sup>54</sup> The same rules regarding nomination, appointment, nonremovability, and dismissal from office apply to all judges. The Electoral Tribunal is the highest jurisdictional authority in electoral issues, with the exception of the Supreme Court, which has the power to determine the constitutionality of electoral laws.<sup>55</sup> It is a specialized entity of the federal judicial branch.<sup>56</sup>

In 1994, the Mexican government proposed the adoption of constitutional amendments designed to increase the autonomy of the judicial branch.<sup>57</sup> These amendments gave the Supreme Court of Justice, among others, the power to emit general declarations of unconstitutionality<sup>58</sup> and to review, in specific cases, the legislation of different states.<sup>59</sup>

### **B. THE STRUCTURE OF TERRITORIAL DIVISIONS**

The territory of Mexico is made up of 31 states and the Federal District.<sup>60</sup> Mexico City forms the Federal District, the site of the federal government.<sup>61</sup> Each state must adopt a form of republican, representative, and popular government, with the municipality as the basis of the territorial division and

administrative organization.<sup>62</sup> The administration of the states is parallel to that of the federal government.<sup>63</sup> The federal government and the states may agree that the latter assume functions of federal administration, the implementation of public works, and the provision of public services for the benefit of national and social development.<sup>64</sup> The Federal Constitution, among other prohibitions on states, establishes that in no instance can the states enter treaties or alliances with another state or foreign power.<sup>65</sup> Neither can they issue currency; impose taxes on the transit of persons or merchandise through their territory or on national or foreign property; or contract obligations or loans with foreign governments, foreign corporations, or individuals.<sup>66</sup>

Public authority in the states is divided into the executive, legislative, and judicial branches.<sup>67</sup> Governors, who head the executive branch of the states, are directly elected for a period of no more than six years.<sup>68</sup> State governors are required to publish in an official source and to implement federal laws.<sup>69</sup> The state legislatures are composed of deputies elected by relative majority and proportional representation according to number of votes cast.<sup>70</sup> The states have the power to legislate in all matters that are not specifically reserved to federal competency.<sup>71</sup> The judicial branch of each state comprises courts established by each state's constitution.<sup>72</sup>

The municipalities are administered by a municipal government that is directly elected by the people.<sup>73</sup> Municipal governments autonomously manage municipal assets and are responsible for providing certain public services.<sup>74</sup> The municipal presidents and members of the city council are directly elected by the people.<sup>75</sup>

### **C. SOURCES OF LAW**

#### ***Domestic sources of law***

The laws that determine the legal situation of women and their reproductive rights come from different sources. In the Mexican legal system, the Federal Constitution, laws enacted pursuant to specific constitutional authority, and international treaties entered into by the president and ratified by the Senate, prevail over all other federal and state laws.<sup>76</sup> Federal law is not hierarchically superior to state law;<sup>77</sup> both are applied in accordance with the competencies conferred by the Federal Constitution and laws promulgated pursuant to specific constitutional authority to the federal and local legislatures.<sup>78</sup> When no law exists to govern a specific issue in a civil trial,<sup>79</sup> the source of law is the general principles of law.<sup>80</sup> No law can be applied retroactively, except when it benefits a defendant in a criminal matter.<sup>81</sup>

### ***International Sources of Law***

Several international human rights treaties recognize and promote specific reproductive rights. Governments that adhere to such treaties are legally obligated to protect and promote these rights. Once the president has signed an international treaty, the treaty must be submitted to the Senate for ratification.<sup>82</sup> Once it is ratified, it becomes part of domestic law and, together with the Constitution and laws enacted by Congress, becomes part of the supreme law of the land.<sup>83</sup>

Mexico is a member state of the United Nations and the Organization of American States. As such, it has ratified most of the international treaties that comprise the universal system of the protection of human rights.<sup>84</sup> In particular, Mexico has ratified most of the treaties referring to the protection of women's human rights in the universal and the Inter-American systems, including the Convention on the Elimination of All Forms of Discrimination Against Women<sup>85</sup> and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women ("Convention of Belém do Pará").<sup>86</sup>

## **II. Examining Reproductive Health and Rights**

The status of women's health in Mexico has improved over the past 30 years. This trend is reflected in the reduction in maternal mortality, an increase in life expectancy at birth, and the reduction of the population growth rate.<sup>87</sup>

### **A. HEALTH LAWS AND POLICIES**

#### ***Objectives of the health policy***

The Federal Constitution was amended in 1982 to provide that all persons shall have access to health services through the National Health System ("NHS").<sup>88</sup> The Constitution also establishes that all persons have the right to health care.<sup>89</sup> Mexican law specifies the responsibilities of both federal and state governments in this matter.<sup>90</sup> The Ministry of Health<sup>91</sup> is responsible for establishing and directing national health policy. Pursuant to the federal General Health Law, the duties of the Ministry of Health are to coordinate the health service programs of the departments and entities of the NHS that pertain to the federal civil service and to formulate recommendations to those departments responsible for allocating resources to health programs.<sup>92</sup>

The Federal Constitution also mandates that the social security system provide special protection to women during pregnancy and breast-feeding.<sup>93</sup> Mexican law provides that

maternal and infant health care and family planning are basic health services,<sup>94</sup> and the former is a priority.<sup>95</sup>

The current government program for the health sector is the Reform Program of the Health Sector 1995–2000 ("RPHS"),<sup>96</sup> which sets forth national-level government strategies to reach the objectives outlined in the National Development Plan 1995–2000.<sup>97</sup> These objectives are to promote quality and efficiency in service provision by decentralizing services; to broaden the coverage provided by the social security system, facilitating the affiliation of the non-state-employed population; and to provide basic health services to the poorer sectors of the urban and rural population.<sup>98</sup>

The programs established to implement the health policy are the Program to Promote and Foster Health; the Program for Infants and School Children; the Reproductive Health and Family Planning Program 1995–2000 ("RHFPP"); the Health Program for Adults and the Elderly; Health Programs for the General Public; regional programs; and the Program to Promote Hygiene.<sup>99</sup>

#### ***Infrastructure of health services***

The NHS is composed of private and public health establishments.<sup>100</sup> Public health providers are divided into the social security (or health) system for the employed population (the insured population) and the public health system for the uninsured population.<sup>101</sup> The largest providers of social security are the Mexican Institute of Social Security ("MISS") in the private sector<sup>102</sup> and the Institute for Social Security and Services for State Employees ("ISSSSE") for public employees.<sup>103</sup> Approximately 40% of the population is covered by the social security system.<sup>104</sup> The population that uses this system is primarily urban workers;<sup>105</sup> only 16.7% of the population in rural areas has access to the social security system.<sup>106</sup>

For the unemployed population, the health service providers are primarily the various government agencies, including the Ministry of Health, the Department of the Federal District, the Program for the Comprehensive Development of the Family, and the MISS. The latter provides services to the uninsured population independently of its role as a provider of social security.<sup>107</sup> The government provision of health services comprises approximately 70% of the beds registered in the census;<sup>108</sup> the remaining percentage corresponds to the services provided by the private sector.<sup>109</sup>

Public health services do not reach the most vulnerable groups of the population, which make up approximately ten million inhabitants.<sup>110</sup> In the period from 1991 to 1993, the percentage of women who lacked access to medical services increased from 54% to 59%.<sup>111</sup> In terms of human resources, there were approximately 100,000 physicians employed by the

state in 1992, of which 39% worked for the public health service and the remaining 56% worked in the MISS and the ISSSSE.<sup>112</sup> In 1995, there were 1304 physicians for every 100,000 inhabitants.<sup>113</sup> The public health service employs 66% of the country's physicians and provides approximately 68% of all medical consultations.<sup>114</sup> The impact on women's reproductive health is reflected in the following statistics: approximately 87% of births are attended by physicians, 2% by nurses, 9% by midwives, and just 2% are not attended by trained personnel.<sup>115</sup>

### **Cost of health services**

Since 1980, investment in the health sector has remained constant at approximately 2% of the gross national product.<sup>116</sup> The health services provided to the population that are not covered by the social security system are primarily funded by the federal government.<sup>117</sup> The public services provided by the Ministry of Health are funded through a fee paid by the patient that varies according to the individual's income and the type of service provided.<sup>118</sup> However, in 1992, less than 10% of the Ministry of Health's budget derived from fees charged,<sup>119</sup> which means that the federal government assumes almost all of the total cost of these services.<sup>120</sup> Only 2% of the Mexican population is covered by private health insurance companies.<sup>121</sup>

The funding of social security depends primarily on the contributions of employees and employers, plus contributions made by the federal government.<sup>122</sup> The budget of the social security system is financed by the employer (70%), the employee (25%), and the federal government (5%).<sup>123</sup> A deduction of 12.5% is taken from employees' salaries as a contribution to the social security system.<sup>124</sup> The health services offered by this system also cover the dependents of the insured person<sup>125</sup> and include medical visits as well as drugs and medications.<sup>126</sup>

### **Regulation of health care providers**

The Federal Constitution establishes that states are competent to regulate those professions that require a professional degree and determine the qualifications needed and the entities authorized to give the degree. The General Health Law provides that the Ministry of Health and the state governments — within their respective jurisdictions — must oversee the performance of health professionals, technicians, and assistants.<sup>127</sup> These entities must also promote the establishment of professional associations and organizations for health professionals, technicians, and assistants,<sup>128</sup> which are to serve as ethical reference points for the exercise of the health profession and as consultants to government health authorities.<sup>129</sup> This law also mandates that the exercise of technical and auxiliary activities that require specific knowledge in the field of medicine and nursing also requires legally sanctioned diplomas.<sup>130</sup>

The regulations of the General Health Law dealing with the provision of medical treatment<sup>131</sup> contain specific requirements for reproductive health providers. They provide that those in charge of obstetric-gynecological hospitals must have a minimum of five years' experience in their specialty.<sup>132</sup> Non-professional personnel may provide obstetric and family planning services when they are trained and have received authorization from the Ministry of Health.<sup>133</sup> The state health ministries must maintain a registry of nonprofessional personnel who hold permits to provide obstetric services.<sup>134</sup>

### **Patients' rights**

The General Health Law provides that patients have the right to "obtain timely health care of a suitable quality and to receive professionally and ethically responsible treatment, as well as respectful and dignified treatment from technical and auxiliary health professionals."<sup>135</sup> Health authorities and health establishments are required to regulate orientation and counseling procedures for health services users. They must also establish mechanisms for patients to communicate complaints, claims, and suggestions relating to the health services they receive.<sup>136</sup> The General Health Law encourages the participation of the community in health care prevention programs as well as in the provision of health care services. This participation is encouraged through mechanisms designed to inform the authorities about any failures or deficiencies encountered by health care services users.<sup>137</sup>

The government also regulates the physician-patient relationship. Conflicts can be brought before civil and criminal courts, among other entities.<sup>138</sup> A presidential decree<sup>139</sup> established the National Commission of Medical Arbitration ("NCMA").<sup>140</sup> While its decisions are not binding, this entity can resolve conflicts that arise among patients and providers of health services.<sup>141</sup> Its functions are to provide information to medical service users and providers about their rights and duties; to respond to complaints made by health service users; to intervene as an impartial mediator to reconcile conflicts deriving from service provision; and to award decisions to the parties that submit to its arbitration.<sup>142</sup> The NCMA expresses opinions about the complaints it hears<sup>143</sup> and must remit any documentation and reports solicited by the National Human Rights Commission that are related to complaints that are within the jurisdiction of this commission.<sup>144</sup>

Criminal laws in every state punish medical negligence. For the Federal District, the Penal Code establishes aggravated penalties for the crimes of homicide and assault<sup>145</sup> inflicted by health professionals during the exercise of their functions or as a result of them.<sup>146</sup>

## B. POPULATION, REPRODUCTIVE HEALTH, AND FAMILY PLANNING

The Mexican government's current population policy is outlined in the General Population Law<sup>147</sup> and its regulations,<sup>148</sup> and in the National Population Program 1995–2000 (“NPP”).<sup>149</sup> The family planning laws and policies are outlined in the Mexican Regulation on Family Planning Services<sup>150</sup> and in the Reproductive Health and Family Planning Program 1995–2000.<sup>151</sup>

### ***Population laws and policies***

The General Population Law provides that the fundamental objective of population policy is “to regulate those factors that affect the population in terms of its size, structure, dynamic, and distribution throughout the national territory, with the objective of ensuring that the population participates in a just and equitable manner in the benefits of economic and social development.”<sup>152</sup> The population policy has the following specific objectives: to promote greater balance in the relationship between demographic phenomena and the process of economic and social development; to encourage the territorial distribution of the population so that it is in line with the region's development capacity; and to promote women's participation in the processes of economic, educational, social, cultural, and political development.<sup>153</sup> Through the Ministry of Government Administration, the federal government is responsible for emitting, promoting, and coordinating federal demographic policies.<sup>154</sup>

The National Population Council (“NPC”)<sup>155</sup> is responsible for the demographic planning of the country.<sup>156</sup> One of its principle functions is to include population goals in social and economic development programs formulated by different government entities.<sup>157</sup> The demographic goals of the Mexican government are to attain a population growth rate of 1.75% by the year 2000 and 1.45% by the year 2005, compared with the current rate of 2.05%, and to attain a global fertility rate of 2.4 children per woman by 2000 and 2.1 per woman by 2005, compared with the current rate of 2.9 children per woman.<sup>158</sup>

### ***Reproductive health and family planning laws and policies***

The Federal Constitution recognizes the right to choose freely, and in a responsible and informed manner, the number and timing of one's children.<sup>159</sup> Reproductive health and family planning are considered by the Mexican government to be “strategic axes of the country's development.”<sup>160</sup> The RHFPP 1995–2000 was created within the framework of the policy guidelines established by the NPP and the National Women's Program<sup>161</sup> as part of the RPHS.<sup>162</sup> The objective of the RHFPP is to integrate the following services: reproductive health, family planning, infant and maternal health care,

sexually transmissible infections (“STIs”), cervical, uterine, and breast cancer, and prevention and monitoring of high-risk pregnancies.<sup>163</sup> In order to meet the needs of these services, six subprograms, one for each of the above-mentioned areas, were created within the RPHS.

The objectives of the family planning subprogram are to strengthen and broaden the coverage and quality of family planning information, education, and services, with special emphasis on rural areas; to contribute to a decrease in fertility; to reduce the number of unwanted, unplanned, and high-risk pregnancies; and to broaden activities designed to diversify the use of modern contraceptive methods.<sup>164</sup>

In respect to its reproductive health and family planning policies, some objectives of the federal government are to increase to 70% by the year 2000 the prevalence of contraception among women of childbearing age who live with their partner, compared to the current average of 64%; to increase the prevalence of contraception among women who have had children to 70%, compared with the current rate of 51%; to increase the number of vasectomies; and to reduce maternal mortality, currently 48 for every 10,000 live births, by half.<sup>165</sup>

### ***Government delivery of family planning services***

The General Health Law provides that family planning services are a priority within the general provision of health services.<sup>166</sup> The Regulation on Family Planning Services (“RFPS”) establishes the principles, criteria of operation, and strategies for family planning service provision.<sup>167</sup> It also regulates activities aimed at promoting and disseminating family planning methods, information about family planning, counseling, and the prescription and application of contraceptive methods.<sup>168</sup> The RFPS also establishes the obligation of health providers to inform patients about the different contraceptive methods and to obtain their consent in the selection of any particular method.<sup>169</sup>

The family planning services provided by the government include information, orientation, counseling, selection, prescription, and application of contraceptive methods.<sup>170</sup> These services and the contraceptive methods are free of charge.<sup>171</sup> In particular, public services provide oral, injectable, and subdermal hormonal methods, intrauterine devices (“IUDs”), sterilization, vasectomy, barrier methods, and spermicides.<sup>172</sup>

The participation of the public sector in the provision of family planning services has increased in recent years. In 1979, just 51.5% of all users of modern contraceptive methods visited a public-sector institution to obtain family planning services;<sup>173</sup> by 1995, this number increased to 72%.<sup>174</sup> Within the public sector, the MISS and the Ministry of Health are the principal providers of contraceptives, at 44.1% and 16.5%,

respectively.<sup>175</sup> The private sector (pharmacies, private clinics, etc.) provides 28.9% of contraceptive methods.<sup>176</sup>

### C. CONTRACEPTION

#### ***Prevalence of contraceptives***

In 1995, 66.5% of women of childbearing age who lived with their partner used some method of family planning.<sup>177</sup> The best-known modern contraceptive methods are the birth control pill, female sterilization, the IUD, and traditional methods.<sup>178</sup> Sterilization is most common among women of childbearing age, with an average rate of 43.3%.<sup>179</sup> The pill and the IUD are also frequently used, with average rates of 15.3% and 17.7%, respectively.<sup>180</sup> The use of contraceptive methods is more frequent among women who have higher educational levels and who live in urban areas.<sup>181</sup> There is also greater spacing between pregnancies among women who live in urban areas.<sup>182</sup>

#### ***Legal status of contraceptives***

The only legal prohibition related to contraceptive methods in Mexican law is the prohibition against abortion as a method of family planning.<sup>183</sup> The Ministry of Health is responsible for regulating all medicines and medical supplies, including contraceptives.<sup>184</sup> All contraceptive methods must be authorized by the proper health authorities, according to the procedures established in the General Health Law.<sup>185</sup> This law provides that the processes of production, preparation, preservation, bottling, handling, and distribution of all medicines and health products must take place in hygienic conditions, and prohibits any form of adulteration, contamination, or alteration.<sup>186</sup>

#### ***Regulation of information on contraception***

The Ministry of Health is responsible for authorizing advertisements dealing with health issues<sup>187</sup> and for coordinating publicity on health matters issued by the public health sector establishments.<sup>188</sup> The General Health Law provides that advertising of medicine is classified according to the targeted audience: advertising directed to health professionals does not require authorization except when regulated in specific cases.<sup>189</sup> Mass advertising is allowed only for nonprescription medicines.<sup>190</sup> In such cases, advertisements must be limited to the general characteristics of the product in question and its properties and methods of usage, and they must point out the benefits of consulting a physician before using it.<sup>191</sup>

#### ***Sterilization***

In Mexico, voluntary surgical sterilization is the most common family planning method and has a prevalence rate of 43.3% among women of childbearing age using contraceptives.<sup>192</sup> Surgical sterilization is legal in Mexico and regulated by the RFPS. This regulation establishes the following prereq-

uisites prior to sterilization: the patient must be offered counseling services, and the patient must provide her free and voluntary consent to the operation, which must be documented in writing.<sup>193</sup>

### D. ABORTION

According to government statistics, between 200,000 and 850,000 abortions occur annually in Mexico.<sup>194</sup> International agencies and nongovernmental organizations estimate that the number is much higher and that there are approximately 500,000 to 1,500,000 abortions performed in Mexico every year.<sup>195</sup>

#### ***Legal status of abortion***

Abortion is illegal in Mexico, and its regulation falls under the jurisdiction of the states.<sup>196</sup> This section summarizes the criminal laws that regulate abortion in several Mexican states, highlighting the most significant features of the different state legislation on abortion. Such laws punish women who undergo abortion as well as any individual who performs the abortion with her consent.<sup>197</sup> Most Mexican state laws establish exceptional situations in which abortion is not penalized. Comparing the various state laws, the most frequent exceptions include unintentional abortion or abortion caused by the accidental negligence of the woman (in 29 states and the Federal District);<sup>198</sup> when pregnancy was the result of rape (in 30 states and the Federal District);<sup>199</sup> when it is necessary to save the life of the woman (in 28 states and the Federal District);<sup>200</sup> when the pregnancy was the result of nonconsensual artificial insemination (in two states);<sup>201</sup> abortion for eugenic purposes (in nine states);<sup>202</sup> and when the pregnancy could cause serious damage to the woman's health (in nine states).<sup>203</sup> Only one state provides that abortion is not punishable when there are serious and justifiable economic reasons, and only where the woman already has at least three children.<sup>204</sup> The requirements for obtaining an abortion based on these exceptional circumstances vary by state.<sup>205</sup>

#### ***Penalties***

In the Federal District and the states, a woman who has an abortion, whether she induces it herself or has another person induce it, is liable to imprisonment for six months to five years.<sup>206</sup> Most states outline a series of mitigating factors that could reduce the penalty imposed against the woman who has had an abortion. Some of these circumstances are the fact that the woman does not have a "bad reputation," that she has been able to hide her pregnancy, that the pregnancy is the result of an illegitimate union, and that the abortion takes place in the first five months of the pregnancy.<sup>207</sup> In such circumstances, the penalty is six months to one year of imprisonment.<sup>208</sup> In the Federal District and the states, any person who performs

the abortion is liable to one to three years' imprisonment.<sup>209</sup> If a physician, surgeon, or midwife performs the abortion, he or she is suspended from the medical profession for a period of two to five years.<sup>210</sup> Any person who performs an abortion on a woman without her consent is liable to one to eight years' imprisonment.<sup>211</sup>

#### E. HIV/AIDS AND SEXUALLY TRANSMISSIBLE INFECTIONS

Examining HIV/AIDS within the framework of reproductive rights is essential insofar as the two areas are interrelated from both medical and public health standpoints. Hence, a comprehensive evaluation of laws and policies affecting reproductive health in Mexico must examine the conditions of HIV/AIDS given the dimensions and implications of these diseases. The number of reported AIDS cases in Mexico has increased from six cases in 1983 to more than 21,000 cases in 1994.<sup>212</sup> In 1994, 13 percent of HIV/AIDS cases were women.<sup>213</sup> Blood transfusions are the most common means of transmission for women, representing 56.5% of AIDS cases in adult women.<sup>214</sup> Sexual transmission was the means of infection in four out of every ten cases of women with AIDS.<sup>215</sup> In 1995, the prevalence of HIV in pregnant women was one of every 3,000 cases, and every year, 500 HIV-positive women become pregnant.<sup>216</sup>

##### **Laws on HIV/AIDS and STIs**

In 1995, the Mexican government enacted the Regulation for the Prevention and Control of HIV Infection ("HIV/AIDS Regulation").<sup>217</sup> The objective of this regulation is to standardize the guidelines and criteria governing the network of establishments comprising the National Health System<sup>218</sup> that are involved in HIV/AIDS control and prevention.<sup>219</sup> It notes the necessity of preventive measures directed at informing and educating the community and at encouraging participation in order to reduce the risk of infection.<sup>220</sup> The HIV/AIDS Regulation provides that all information regarding patients with HIV/AIDS is confidential<sup>221</sup> and indicates that all health institutions are required to provide emergency treatment to HIV/AIDS patients in a respectful manner.<sup>222</sup> The HIV/AIDS Regulation also includes recommendations and technical guidelines for health care providers on the treatment of HIV/AIDS patients.<sup>223</sup> The organizations charged with overseeing implementation of this regulation are the Ministry of Health and the state governments, according to their respective jurisdictions.<sup>224</sup>

##### **Policies on prevention and treatment of HIV/AIDS and STIs**

The government program directed toward the prevention and treatment of HIV/AIDS and sexually transmissible infections ("STIs") is a subprogram of the RHFP.<sup>225</sup> The

fundamental objective of the subprogram, Prevention and Control of Sexually Transmissible Infections and HIV/AIDS, is to reduce the morbidity and mortality rates of these infections.<sup>226</sup> It seeks to broaden the population's access to appropriate information and to quality services to prevent, diagnose, and control STIs and HIV/AIDS.<sup>227</sup> Three strategies promote these objectives. The first is the implementation of a permanent program of educational and social communication to promote safe sex. The second is the incorporation, at the primary health care level, of information and services on STIs. The third is the development of programs of prevention, early detection, referral, and notification of new cases of HIV/AIDS.

The subprogram's goals for the year 2000 include a 30% reduction of STI cases;<sup>228</sup> a 50% reduction in the number of children infected with HIV during pregnancy, childbirth, or breast-feeding by 50%; and detection and treatment of 80% of HIV-positive individuals in a timely manner.<sup>229</sup>

### **III. Understanding the Exercise of Reproductive Rights: Women's Legal Status**

Women's health and reproductive rights cannot be fully evaluated without investigating women's legal and social conditions. Not only do laws relating to women's legal status reflect societal attitudes that will affect reproductive rights, but such laws often have a direct impact on women's ability to exercise reproductive rights. The legal context of family life and couple relations, a woman's educational level, and access to economic resources and legal protection determine women's ability to make choices about their reproductive health care needs and to exercise their right to obtain health care services. While the situation of women in Mexico has improved significantly over the past decades,<sup>230</sup> some sectors of the female population, such as indigenous women, female heads of household, and rural women, continue to live in greater poverty.<sup>231</sup>

The Constitution establishes the complete legal equality of men and women.<sup>232</sup> Similarly, the General Population Law and the National Development Plan 1995–2000 have established as one of their objectives the improvement of women's conditions and women's participation in the country's development.<sup>233</sup> Despite these provisions, however, the legal codes in many Mexican states contain discriminatory laws, as well as laws that subordinate women's legal rights to those of men. Provisions of some codes still require that women obtain the authorization of their husbands to work or to sign contracts,<sup>234</sup> and in some states, the penalty for rape is less than the penalty for stealing an

animal.<sup>235</sup> Many Mexican women bear all the responsibility for child-rearing and domestic work, yet their work is not recognized as a contribution to the family's maintenance.<sup>236</sup>

The following section describes laws regulating those areas of women's lives that directly affect their health. It analyzes the laws of the Federal District when discussing matters under local jurisdiction, and federal laws when discussing matters under federal jurisdiction as prescribed in the Constitution. In some cases, laws or regulations of some states that are particularly relevant to the issues discussed below are also mentioned.

#### A. RIGHTS WITHIN MARRIAGE

##### ***Marriage law***

The Mexican Constitution states that the principal function of the law is to protect the organization and development of the family.<sup>237</sup> The states regulate marriage. Both for those living in the Federal District, and for the entire country in federal matters, the Federal District's Civil Code ("FD Civil Code") provides that marriage is a contract to be formalized before the competent authorities according to the requirements prescribed by law.<sup>238</sup> The minimum age to enter into marriage is 18 years.<sup>239</sup>

Husband and wife are obligated to contribute to the maintenance of the home and to support each other.<sup>240</sup> As long as both spouses are of age, they have the legal capacity to administer and dispose of their own property.<sup>241</sup> They have the right to decide, based on mutual agreement, on the number and timing of any children.<sup>242</sup> The rights and duties that arise as a result of marriage are the same for both spouses regardless of their contribution to the maintenance of the home.<sup>243</sup> The father and mother are jointly required to administer the household and to provide for the education and formation of their children.<sup>244</sup> In the Federal District, the penal code defines adultery as a crime punishable by a maximum of two years' imprisonment and suspension of one's civil rights for up to six years.<sup>245</sup>

##### ***Regulation of domestic partnerships***

The regulation of *uniones de hecho*, or domestic partnerships, between a man and a woman is also under the jurisdiction of each state. The FD Civil Code regulates numerous aspects of domestic partnerships under the term "concubinage," though it does not explicitly regulate such partnerships. It establishes that the man and woman who cohabit in a concubinage have the right to inherit each other's property according to the rules of succession applicable to spouses.<sup>246</sup> However, they have this right only when the concubinage has lasted five years or longer, unless they have a child together, and as long as neither of them has been married to another during the period of concubinage.<sup>247</sup> If one of the partners in a concubinage is survived by more than one domestic partner, none of the surviving part-

ners has inheritance rights.<sup>248</sup> Similarly, the FD Civil Code provides that couples who are involved in a concubinage are required, as is the case for spouses, to provide for each other.<sup>249</sup> In addition, the civil code presumes paternity in a concubinage, to the benefit of the children.<sup>250</sup>

##### ***Divorce and custody law***

A legal divorce terminates civil marriage in Mexico.<sup>251</sup> Grounds for divorce include adultery; the wife giving birth during the marriage to a child conceived prior to the marriage who is not the husband's child; the husband's proposal to prostitute his wife; failure to fulfill one's duty as a spouse or as a mother or father; cruel treatment toward one's spouse; conduct on the part of a spouse that corrupts their children; grave offense of one spouse to the other; drunkenness or the habitual use of drugs; and by mutual consent of both spouses.<sup>252</sup> The judgment decreeing the divorce establishes which spouse receives custody of their children and the amount of alimony and child support due.<sup>253</sup> Property is divided evenly between the spouses when marriage was contracted under a joint ownership or community property regime,<sup>254</sup> though measures may be imposed to assure that the spouses fulfill their obligations to each other and to their children.<sup>255</sup> The cost of maintaining the household and paying child support and alimony when the law so requires must be fulfilled by the other spouse as provided by law in case of separation and divorce.<sup>256</sup> The "guilty" spouse loses everything that the "innocent" spouse may have given or promised to him or her, while the innocent spouse may keep anything received from the other spouse and may demand any previously agreed upon item.<sup>257</sup>

#### B. SOCIAL AND ECONOMIC RIGHTS

##### ***Property rights***

There are no limitations or discriminatory provisions applicable to women in the laws regulating inheritance and succession.<sup>258</sup> Generally, the law prohibits those individuals convicted of a crime against the deceased as well as a spouse legally declared an adulterer from acquiring testamentary property.<sup>259</sup>

##### ***Labor rights***

The participation of women in the Mexican workforce has increased, and by 1995, women constituted 35% of the economically active population.<sup>260</sup> Women are employed primarily in salaried positions, are self-employed, or engage in unpaid family work in the home.<sup>261</sup> Women receive lower wages than men.<sup>262</sup> Seventy-four percent of women earned the equivalent of double the minimum wage or less in 1991, while only 54% of men earned this little.

Mexico is a party to several international treaties that protect women in the workplace, such as the International Labor

Organization's Convention No. 100 concerning equal remuneration<sup>263</sup> and Convention No. 111 concerning discrimination in employment.<sup>264</sup> The Constitution recognizes that all individuals have "the right to dignified and socially useful employment"<sup>265</sup> and establishes the principle of equal pay for equal work, prohibiting discrimination based on sex or nationality.<sup>266</sup> It also provides for special protection for pregnant women,<sup>267</sup> noting that a pregnant woman should not engage in labor that endangers her health.<sup>268</sup> The Constitution also provides that pregnant women workers have the right to pre- and postnatal leave of six weeks each. During these periods, they are entitled to be paid at the same salary as prior to their leave.<sup>269</sup>

The Federal Work Law<sup>270</sup> provides that women have the same rights and duties as men.<sup>271</sup> A woman has the right to extend prenatal or postnatal leave when she is unable to work due to pregnancy or childbirth. In this case, she is to be paid 50% of her salary for a period of no more than sixty days.<sup>272</sup> A woman has the right to return to work after her leave ends.<sup>273</sup> The employer is also required to allow the worker two thirty-minute breaks during the work day to breast-feed her child.<sup>274</sup>

#### **Access to credit**

No laws in Mexico exist that restrict women's access to credit. However, since in practice the access of rural women to credit is limited, the Mexican government has passed laws to provide special access to credit to rural women.<sup>275</sup> Some measures adopted to provide greater access to credit for rural women are the establishment of Agricultural Industrial Units for Rural Women,<sup>276</sup> and the Program to Support Productive Projects of Rural Women.<sup>277</sup>

#### **Access to education**

While the participation of women in secondary and post-secondary education has increased considerably in the last few decades,<sup>278</sup> the rate of illiteracy among women was still 15.2 % in 1995.<sup>279</sup> Approximately two out of every three illiterate adults are women.<sup>280</sup> Women with lower educational levels tend to live in rural areas.<sup>281</sup> There are no marked differences in the access of girls and boys to primary school, but by the age of fourteen, 32.5% of girls and 27.5% of boys stop attending school.<sup>282</sup>

The Constitution establishes the right of all individuals to an education.<sup>283</sup> The federal government, the states, and the municipalities are required to provide preschool, primary, and secondary education, which are all free of charge.<sup>284</sup>

#### **Women's bureaus**

The National Women's Program 1995–2000 ("NWP") is being developed by the Secretary of Government Administration of Mexico with the objective of eradicating discrimination against women.<sup>285</sup> The NWP calls for the creation of a

Consulting Council to foster the participation of all entities and departments involved in the program's activities.<sup>286</sup> The Consulting Council identifies the entities responsible for different policies with the goal of encouraging the participation of these entities in the formulation and adoption of policies proposed by the NWP.<sup>287</sup> The government has also mandated the creation of a Social Comptroller's Office whose task is to disseminate, analyze, and update the registry of institutions that participate in the NWP, and to ensure that accurate data is available in order to facilitate the monitoring of the policies aimed at helping Mexican women.<sup>288</sup>

#### **C. RIGHT TO PHYSICAL INTEGRITY**

In Mexico, violence against women has not been systematically studied.<sup>289</sup> Nor is there accurate information about the incidence of violence against women, because few women report sexual crimes.<sup>290</sup> It is estimated, for example, that only one of every ten rapes is reported to the authorities.<sup>291</sup> A study carried out in the Federal District revealed that of the total number of complaints brought before the attorney general's office, 87% of the victims are women. Another study, also in the Federal District, revealed that one of the main factors triggering violence against women is to deny their refusal of unwanted sexual relations.<sup>292</sup> The incidence of violence against women by their partners is so high that it has been recommended that it be treated as a public health problem.<sup>293</sup>

#### **Rape**

The regulation of sex-related crimes falls within the jurisdiction of the states. Most states in Mexico legislate rape in conjunction with crimes against decency and abduction for sexual purposes. In addition, sex-related crimes that involve adolescents and minors are separately classified, such as statutory rape, incest, and the corruption of minors.<sup>294</sup> Some states categorize as sex crimes peculiar situations such as an individual who has sexual relations with a woman by pretending to be her spouse or domestic partner.<sup>295</sup>

In the Federal District, rape is a crime against "freedom and normal psychosexual development."<sup>296</sup> The crime of rape is committed when a person uses physical or psychological violence to engage in intercourse with another person of either sex.<sup>297</sup> The penalty in these cases is eight to fourteen years' imprisonment.<sup>298</sup> The Federal District Penal Code ("FD Penal Code") also categorizes as rape when an adult engages in intercourse, even without the use of violence, with a person under the age of 12. It also categorizes as rape when an adult, even without using violence, engages in intercourse with a person who does not understand the meaning of the sexual act or who is incapable of refusal.<sup>299</sup> These crimes are penalized with eight to fourteen years of imprisonment.<sup>300</sup>

Crimes against decency involve engaging in sexual acts other than intercourse with a person without his or her consent,<sup>301</sup> and are penalized with three months to two years' imprisonment.<sup>302</sup> When an individual engages in such sexual acts with a person who does not have the ability to understand the meaning of the sexual act, or who is incapable of refusal, or who is forced to engage in sexual acts against his or her will, the penalty is six months' to three years' imprisonment.<sup>303</sup> Higher penalties are imposed for this crime when the following aggravating circumstances are involved: if the crime is carried out in conjunction with other people;<sup>304</sup> if the author of the crime is a father, grandfather, brother, guardian, or step-father of the victim;<sup>305</sup> if the crime is committed by a person who holds public office or who takes advantage of the exercise of his or her profession to engage in a sexual act; or if the author of the crime is the person who is charged with the care of the victim or who takes advantage of the victim's trust in him or her.<sup>306</sup>

In Mexico, *raptos* or abduction for sexual purposes, is a sexual crime. Some states only consider this form of abduction as a crime against freedom and personal security.<sup>307</sup> In these states, abduction for sexual purposes is different from the more serious crime of kidnapping only when the woman is older than 18 and only when it involves the actual use or the threat of violence.<sup>308</sup> Few states even classify abduction for sexual purposes of a minor man by a woman.<sup>309</sup> The FD Penal Code classifies abduction for sexual purposes as the act of an individual who "takes control over a woman through the use of physical or psychological violence, seduction, or deceit to satisfy some erotic or sexual desire or to marry the woman." Such an act is penalized with six months' to six years' imprisonment and a fine of 50 to 500 pesos.<sup>310</sup>

Rape of spouses is not a crime under Mexican law. In June 1997, the Mexican Supreme Court of Justice decided a case in which it concluded that sexual relations between spouses that are the result of violence do not constitute a crime but the "undue exercise of a right."<sup>311</sup> This judgment affirms a prior decision of the Supreme Court on the same issue in 1994.<sup>312</sup> As of 1995, only the Penal Code of the state of Querétaro penalized rape between spouses.<sup>313</sup> Sexual crimes committed against adolescents and minors are analyzed in the chapter on adolescents, below.

### **Sexual harassment**

The regulation of sexual harassment falls within the jurisdiction of the states. The FD Penal Code classifies the crime of sexual harassment as the conduct of a person who "with lustful intentions repeatedly harasses a person of any sex, taking advantage of his or her position of authority derived from an

employment, teaching, or domestic relationship or any other relationship that implies some form of subordination."<sup>314</sup> The penalty for such conduct under the Penal Code is a fine.<sup>315</sup> When the perpetrator is a public employee who uses his or her position to engage in harassment, the law mandates that he or she be fired.<sup>316</sup> The criminal legislation provides that for sexual harassment to be a crime, it must have caused damage or detriment.<sup>317</sup> Only the victim may bring charges against the perpetrator.<sup>318</sup>

### **Domestic violence**

No systematic data regarding the dimension of domestic violence in Mexico is available. However, existing information reveals that it is a serious problem that demands attention from the legal system and the health authorities.<sup>319</sup> A study carried out by the Ministry of Health of the Federal District among women between the ages of 14 and 57 who were beaten by their partners revealed that most victims were mothers between the ages of 22 and 29, and that 90% were beaten in front of their children.<sup>320</sup> Twenty-two percent of the battered women were illiterate or had not completed primary school; 44% had finished primary school and/or some secondary school; and the remaining 34% had some post-high school education or were professionals.<sup>321</sup> Other common forms of domestic violence in Mexico include verbal aggression, confinement to the home, prohibitions on seeing family members or working, and forced sexual relations.<sup>322</sup>

Domestic violence against children is legal. In 1995, eleven Mexican states permitted the corporal punishment of children by their parents or guardians. Injuries caused "while exercising the right to reprimand," are not punishable as long as the judge considers that this right is not abused by "reprimanding with cruelty or unnecessary frequency." The injuries are not punishable<sup>323</sup> if they do not endanger the victim's life, if they are healed within fifteen days, and if they involve no other consequences that are punishable by law.<sup>324</sup>

In 1996, the Federal District enacted the Assistance and Prevention of Domestic Violence Law.<sup>325</sup> The objective of this law is to establish nonjudicial procedures to protect the victims of domestic violence to develop the strategies and to determine the entities responsible for the prevention of domestic violence.<sup>326</sup> It defines violence as an "act of power or omission that is recurring, intentional, and cyclical, and is aimed at dominating, subordinating, controlling, or assaulting any member of the family through physical, verbal, psycho-emotional, or sexual violence."<sup>327</sup> The forms of sexual mistreatment mentioned include denying "sexual-affective" needs and inducing undesired or painful sexual practices.<sup>328</sup> This law "may only be used as a means to secure assistance and

“prevention” when the provisions of the FD Penal Code are applicable, particularly those related to sexual crimes.<sup>329</sup> The procedures established for cases of domestic violence include conciliation,<sup>330</sup> friendly settlement, and arbitration.<sup>331</sup> The failure to respect the orders generated by this process is penalized with a fine of thirty to 180 days of the minimum salary in the Federal District or its equivalent in daily wages and with the administrative arrest of the offender for a period of no more than thirty-six hours without bail or parole.<sup>332</sup>

Only in a few states do the penal codes treat violent crimes or homicide committed against family members as aggravating circumstances.<sup>333</sup> In 1995, only one state treated an assault committed by one spouse or domestic partner against the other as an aggravating circumstance.<sup>334</sup> In the Federal District, domestic violence is penalized by the criminal law, specifically within the provisions on assault.<sup>335</sup> Assault includes wounds, bruises, fractures, burns, and, in general, any damage caused by an external force that leaves marks on the human body.<sup>336</sup> Penalties for such crimes range from three months’ imprisonment for minor injuries to 10 years for serious injuries.<sup>337</sup>

## IV. Analyzing the Rights of a Special Group: Adolescents

The needs of adolescents are often unrecognized or neglected. Given that in Mexico 36% of the total population is under the age of 15<sup>338</sup> and the adolescent population constitutes 23.2% of the country’s total population,<sup>339</sup> it is particularly important to meet the reproductive health needs of this group. The effort to address issues of adolescent rights, including those related to reproductive health, are important for women’s right to self-determination as well as for their general health.

The Federal Constitution establishes that “it is the duty of the parents to support the right of minors to have their basic needs met and to care for their physical and mental health.”<sup>340</sup> It also mandates that there should be legally established mechanisms of protection for minors within the various public institutions.<sup>341</sup> However, domestic violence against minors and adolescents is still tolerated by the penal codes of some Mexican states.<sup>342</sup> Minors constitute 67% of the victims of psychological, physical, and sexual aggression in the Federal District.<sup>343</sup>

### A. REPRODUCTIVE HEALTH

The fertility rate of Mexican women between the ages of 15 and 19 dropped from 132 births per 1,000 women in 1978, to 78 in 1994.<sup>344</sup> The prevalence of contraceptive use among women between the ages of 15 and 19 increased from 14.2% in 1976 to

36.4% in 1992.<sup>345</sup> In 1995, 36.1% of adolescents cohabiting with their partner used some form of contraception.<sup>346</sup> The most commonly used forms are hormonal methods (40.3%), the IUD (33.5%), and barrier methods (8.7%).<sup>347</sup> The median age of women at first birth is 21.<sup>348</sup> The maternal mortality rate for women under the age of 20 is 6% higher than that of those between 20 and 24.<sup>349</sup> Between 1990 and 1993, the number of cases of STIs among young adults between the ages of 15 and 24 increased 14%.<sup>350</sup>

One of the fundamental objectives of the RHFPP is to provide for the sexual and reproductive health of adolescents.<sup>351</sup> Its goals include broadening the coverage of information on sexual and reproductive health; increasing the age of adolescent women at first birth; preventing unwanted pregnancies, abortions, and STIs; and providing high-quality contraceptive information and services, as well as counseling.<sup>352</sup> In order to reach these objectives, the Ministry of Health has established 102 service modules, located in health centers and hospitals in all thirty-two states.<sup>353</sup>

### B. MARRIAGE AND ADOLESCENTS

The average age at which Mexican women first marry was 19 in 1992.<sup>354</sup> In rural areas, women tend to establish their first union (marriage or cohabitation) at an earlier age — 17 — while women in urban areas do so at the age of 18.<sup>7</sup><sup>355</sup> Women enter into such unions an average of two years later than men.<sup>356</sup>

The minimum age required to marry in the Federal District is 18.<sup>357</sup> However, men over the age of 16 and women over the age of 14 may marry with the express consent of either their father or their mother.<sup>358</sup> In cases in which neither parent is available, the marriage may be authorized by the paternal grandparents or, if there are no paternal grandparents, by the maternal grandparents.<sup>359</sup> The authorities established by law may make an exception from the age requirement if serious and justified causes are involved, thereby authorizing the marriage of minors without the consent of the aforementioned persons.<sup>360</sup>

### C. SEXUAL OFFENSES AGAINST MINORS

Approximately half of the rapes and other sexual crimes in Mexico are committed against girls and adolescent women.<sup>361</sup> In 60% of the cases of rape of minors that are reported, the aggressors are close relatives of the victim, including the victim’s father.<sup>362</sup> In 90% of such cases, there was either implicit or explicit consent or tolerance by the mothers of the victims.<sup>363</sup>

The states regulate sexual crimes against adolescents and minors. The penal codes of most states classify rape of a person under the age of 13 or 14 as “improper rape.”<sup>364</sup> Other sexual crimes against adolescents and minors that are classified by the

states include crimes against decency, statutory rape, kidnapping for sexual purposes, incest, and the corruption of minors. In cases of a crime against propriety, some states increase the penalty against the perpetrator when the victim is prepubescent or a virgin woman.<sup>365</sup> The FD Penal Code provides that the conduct of a person who engages in intercourse with a person under the age of 12 is committing the equivalent of rape and imposes a penalty of eight to fourteen years' imprisonment.<sup>366</sup> A crime against decency is committed when someone engages in a sexual act other than intercourse with a person under the age of 18. Some states gradate the penalty depending on whether the victim had reached puberty.<sup>367</sup> Different terminology is used for the same crime in some states, such as "lustful acts,"<sup>368</sup> while others call it "unchaste abuse."<sup>369</sup> In the Federal District, if crimes against decency are committed against a minor under the age of 12, the perpetrator of the crime is penalized with six months to three years of imprisonment.<sup>370</sup>

The Penal Code also includes the crime of statutory rape, which involves intercourse with a woman between the ages of 12 and 18 through seduction or deceit.<sup>371</sup> Some states identify this crime as one of many crimes "against sexual freedom and inexperience."<sup>372</sup> States define differently the characteristics of the woman who may be the victim of such crimes. While some establish that the woman's age range between 12 and 18, most also say that she must have reached puberty and that she also must be "chaste" and a virgin.<sup>373</sup> Some Mexican legal experts believe that statutory rape as it is currently defined by the country's criminal law has no valid purpose, as there is no object that the law should protect in this way. "Women do not require the legal protection that the laws defining statutory rape pretend to give them."<sup>374</sup> The FD Penal Code requires that the victim or her representatives report the perpetrator to the authorities.<sup>375</sup>

The crime of abduction for sexual purposes,<sup>376</sup> due to its sexual implications, is penalized in most Mexican penal codes as a sexual crime. Regarding the abduction for sexual purposes of adolescents and minors, only two states consider abduction of a male under the age of 18 by a woman to be a crime,<sup>377</sup> while the rest penalize such acts only when they are committed against females. The FD Penal Code establishes that the abduction for sexual purposes of a girl under the age of 16 is a crime even if the adolescent consented to the abduction. It presumes that the abductor used seduction to win the victim's consent.<sup>378</sup> If the abductor marries the victim, "he cannot be tried for the crime of abduction."<sup>379</sup> Criminal law also penalizes incest, which consists of sexual relations with one's offspring or sibling.<sup>380</sup> The penalty for incest is six months' to three years imprisonment.<sup>381</sup>

In the Federal District, the crime of corrupting minors is defined as the use of acts of "corporal, lustful or sexual exhibitionism" to corrupt or facilitate the corruption of minors under the age of 16.<sup>382</sup> The penalty for this crime is three to eight years' imprisonment and a fine of anywhere from fifty to 200 days of the person's wages.<sup>383</sup> The same penalty is imposed on a person who induces minors of this age group to practice homosexuality.<sup>384</sup> The penalty is five to ten years' imprisonment if, because of the repeated practices of the acts that constitute this crime, the minor becomes a regular practitioner of prostitution or homosexuality or develops alcoholism or drug dependency.<sup>385</sup>

#### D. EDUCATION AND ADOLESCENTS

There is no government-sponsored program of sexual education for adolescents in Mexico. The government's Program of Educational Development for the period 1995–2000 does not mention the inclusion of sexual education as part of the curricula of educational institutions.<sup>386</sup> Information and educational programs for reproductive health and family planning are part of the government's health policies and, more specifically, are an aspect of its policies on reproductive health and family planning.<sup>387</sup>

## ENDNOTES

1. EUROPEAN YEARBOOK, MEXICO. INTRODUCTORY SURVEY: at 2, 1994.
2. THE WORLD ALMANAC AND BOOK OF FACTS 1997, at 798 (1996).
3. *Id.*
4. *Id.*
5. *Id.*
6. *Id.*
7. The Partido Revolución Democrática (PRD; Revolutionary Democratic Party) obtained 48.1% of the vote, while the PRI won 26.3%. Cuauhtémoc Cárdenas of the PRD was elected head of government of the Federal District. ELECTOR 97. *Democracia en Proceso Resumen de los Resultados Electorales 1997 [Democracy in Process Summary of the 1997 Election Results]* (visited Aug. 13, 1997), <<http://www.elector.com.mx/resumen.htm>>.
8. THE WORLD ALMANAC, *supra* note 2, at 798. See also EUROPEAN YEARBOOK, *supra* note 1, at 3–5.
9. EUROPEAN YEARBOOK, *supra* note 1.
10. THE WORLD ALMANAC, *supra* note 2, at 799.
11. THE ECONOMIST INTELLIGENCE UNIT, COUNTRY PROFILE: MEXICO (1996).
12. Guillermo Margadant, HISTORY, STRUCTURE AND CHARACTER OF MEXICAN LAW 3 (Mexico, Universidad Nacional Autónoma de México, Faculty of Law, n.d.) (on file with the Center for Reproductive Law and Policy).
13. CONSTITUTION OF THE UNITED STATES OF MEXICO (FEDERAL CONSTITUTION), art. 40 [hereinafter MEX. CONST.].
14. *Id.*, arts. 39 and 41.
15. *Liberalism and Democracy: Recent Judicial Reform in Mexico*, 108 HARV. L. REV. 566 (June 1995).
16. MEX. CONST., arts. 39 and 41.
17. *Id.*, art. 4.
18. *Id.*, art. 49.
19. *Id.*, art. 80.
20. *Id.*, art. 81.
21. *Id.*
22. *Id.*
23. *Id.*
24. *Id.*, § XVIII.
25. *Id.*, art. 92.
26. *Id.*, art. 92.
27. *Id.*
28. *Id.*, art. 93.
29. *Id.*, art. 50.
30. *Id.*
31. *Id.*, art. 156.
32. *Id.*, art. 52.
33. *Id.*, arts. 84–85.
34. *Id.*, art. 87.
35. *Id.*, art. 69.
36. *Id.*, arts. 50 and 70.
37. *Id.*, art. 71.
38. *Id.*, art. 72.
39. *Id.*, ¶ B.
40. *Id.*, art. 73.
41. *Id.*, art. 74.
42. *Id.*, art. 76.
43. *Id.*, art. 102.
44. *Id.*
45. This system was codified during the time of the Roman Empire. *The Compilation of Justinian* and other legal documents and his other works, such as *Institutions*, *Codex*, *Digesta Novellae*, etc., are collectively referred to as *Corpus Juris Civilis*, to distinguish the civil system from English Common Law and Canon Law. See BLACK'S LAW DICTIONARY, at 168 (6th ed., 1991).
46. J. Herget & J. Camil, *Mexican Civil Procedure*, MODERN LEGAL SYSTEMS ENCYCLOPEDIA, at 55 (1988).
47. MEX. CONST., arts. 94–99.
48. *Id.*, art. 94.
49. *Id.*, art. 99.
50. *Id.*, arts. 103–104.
51. *Id.*, art. 94.
52. *Id.*, arts. 94 and 96.
53. *Id.*, art. 94, § X.
54. *Id.*, art. 97.
55. *Id.*, arts. 99 and 105, § II.
56. *Id.*, art. 99.
57. See *Liberalism and Democracy*, *supra* note 15.
58. Prior to the 1994 reform, the declaration of unconstitutionality emitted by the Supreme Court of Justice was applicable exclusively to the person who requested this declaration.
59. See *Liberalism and Democracy*, *supra* note 15.
60. MEX. CONST., art. 43.
61. *Id.*
62. *Id.*, art. 115.
63. *Id.*, art. 90.
64. *Id.*, art. 116, § VI.
65. *Id.*, art. 117.
66. *Id.*, §§ I, III, IV, V, VI, and VIII.
67. *Id.*, art. 116.
68. *Id.*
69. *Id.*, art. 120.
70. *Id.*, art. 116.
71. *Id.*, art. 124.
72. *Id.*, art. 116.
73. *Id.*, art. 115.
74. *Id.* The municipality is responsible for providing the following public services: potable-water and sewage systems, public lighting, public restroom facilities, markets and central warehouses, cemeteries, public security, and public transportation.
75. *Id.*, § I.
76. *Id.*, art. 133. See also, Jorge Carpizo and Jorge Medrano, DERECHO CONSTITUCIONAL [CONSTITUTIONAL LAW] 14 (1991).
77. MEX. CONST., art. 14.
78. *Id.*
79. MEX. CONST., art. 14.
80. The general principles of law “are supplemental sources [of law] par excellence, to which the judge must refer when he or she finds significant omissions or deficiencies in the law [...] the concept is the equivalent to ‘judicial criteria’ [...] some maintain that there must be a distinction between the principles of the domestic rule of law in effect in a given country and the general principles of universal law [...] giving preference to the former and referring to the latter only when the former is insufficient to resolve the problem at hand.” Pedro Flores Polo, DICCIONARIO DE TÉRMINOS JURÍDICOS [DICTIONARY OF LEGAL TERMS], v.1, 432 (1987).
81. MEX. CONST., art. 14.
82. *Id.*, art. 89, § X.
83. *Id.*, art. 76, § I and art. 133.
84. The government of Mexico is a party to the following international treaties: the International Covenant on Economic, Social and Cultural Rights, adopted Dec. 16, 1966, 993 U.N.T.S. 3 (*entry into force* Sept. 3, 1976) (ratified by Mexico on Mar. 23, 1981); the International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, 999 U.N.T.S. 171 (*entry into force* Mar. 23, 1976) (ratified by Mexico on Mar. 23, 1981); International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature Mar. 7, 1966, 660 U.N.T.S. 195 (*entry into force* Jan. 4, 1969) (signed by Mexico on Jan. 11, 1966, and ratified on Feb. 20, 1975); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, concluded Dec. 10, 1984, S. Treaty Doc. 100–20, 23 I.L.M. 1027 (1984), as modified 24 I.L.M. 535 (*entry into force* June 26, 1987) (signed by Mexico on Mar. 18, 1985, and ratified on Jan. 23, 1986); and the Convention on the Rights of the Child, opened for signature Nov. 20, 1989, 28 I.L.M. 1448 (*entry into force* Sept. 2, 1990) (signed by Mexico on Jan. 26, 1990, and ratified on Sept. 21, 1990).
85. Convention on the Elimination of All Forms of Discrimination Against Women, opened for signature Mar. 1, 1980, 1249 U.N.T.S. 13 (*entry into force* Sept. 3, 1981) (signed by Mexico on July 17, 1980, and ratified on Mar. 23, 1981).
86. Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, adopted June 9 1994, 33 I.L.M. 1534 (*entry into force* Mar. 5, 1995) (signed by Mexico on June 4, 1995).
87. NATIONAL POPULATION COUNCIL (CONAPO), LA DEMANDA DE ATENCIÓN DE SALUD EN MEXICO [THE DEMAND FOR HEALTH CARE IN MEXICO], at 15 (Mexico, 1995). Life expectancy at birth has increased over the past several decades, from 37 years in 1930 to 75 years in 1994. The mortality rate of girls under the age of one year dropped from 84 to 28 per 1,000. The fertility rate dropped from 6.8 children per women to 3 children per women in 1994. SITUACIÓN DE LA MUJER. DESAFÍOS PARA EL AÑO 2000 [THE STATUS OF WOMEN

- CHALLENGES FOR THE YEAR 2000], at 43–5 (Mexico, Oct. 1995).
88. THE DEMAND FOR HEALTH CARE, *supra* note 87, at 29. See also MEX. CONST., art. 4.
89. The right to health care was added in 1983, and was published in the Official Gazette of the federal government on Feb. 3, 1983.
90. MEX. CONST., art. 4.
91. In Mexico, the word *secretaría* (secretariat in English) is used to designate executive branch agencies. These agencies are analogous to ministries in other Latin American countries. The term “ministry” is used for *secretaría* herein.
92. General Health Law, published in the Official Gazette, Feb. 7, 1984, art. 7.
93. MEX. CONST., art. 123.
94. General Health Law, art. 27.
95. *Id.*, art. 61.
96. This program was adopted by the federal government in accordance with MEX. CONST., arts. 4 and 26, Organizational Law of the Federal Civil Service, art. 9 and Planning Law, arts. 9, 17, 22, 23, 27, 28, 29, and 32. FEDERAL EXECUTIVE BRANCH, PROGRAMA DEL SECTOR SALUD 1995–2000 [REFORM PROGRAM OF THE HEALTH SECTOR 1995–2000], at i (Mexico, 1995).
97. *Id.*
98. *Id.*, at 14.
99. *Id.*, at 27–45.
100. THE DEMAND FOR HEALTH CARE, *supra* note 87, at 29.
101. *Id.*
102. *Id.*
103. *Id.*
104. *Id.*
105. *Id.*
106. *Id.*, at 30.
107. *Id.*, at 27.
108. REFORM PROGRAM, *supra* note 96, at 7.
109. *Id.*
110. *Id.*
111. FEDERAL EXECUTIVE BRANCH, PROGRAMA NACIONAL DE LA MUJER 1995–2000 [NATIONAL WOMEN'S PROGRAM 1995–2000], at 28 (Mexico, 1996).
112. THE DEMAND FOR HEALTH CARE, *supra* note 87, at 15.
113. *Información Básica de los Estados Unidos Mexicanos* [Basic Information about the United States of Mexico] (visited July 30, 1997) <<http://cenids.ssa.gob.mx/>>.
114. REFORM PROGRAM, *supra* note 96, at 7.
115. FEDERAL EXECUTIVE BRANCH, PROGRAMA DE SALUD REPRODUCTIVA Y PLANIFICACIÓN FAMILIAR 1995–2000 [REPRODUCTIVE HEALTH AND FAMILY PLANNING PROGRAM 1995–2000], at 7 (Mexico, 1995).
116. THE DEMAND FOR HEALTH CARE, *supra* note 87, at 32.
117. *Id.*, at 30.
118. *Id.*, at 32.
119. *Id.*
120. *Id.*
121. *Id.*
122. REFORM PROGRAM, *supra* note 96 at 6.
123. THE DEMAND FOR HEALTH CARE, *supra* note 87, at 31.
124. *Id.*
125. REFORM PROGRAM, *supra* note 96, at 6.
126. THE DEMAND FOR HEALTH CARE, *supra* note 87, at 31.
127. General Health Law, art. 48.
128. *Id.*, art. 49.
129. *Id.*
130. *Id.*, art. 79.
131. Regulations of the General Health Law, dealing with the Provision of Medical Treatment, published in the Daily Gazette, May 14, 1986.
132. *Id.*, art. 102.
133. *Id.*
134. *Id.*, art. 113.
135. General Health Law, art. 51.
136. *Id.*, art. 54.
137. *Id.*, arts. 57–58.
138. Grupo de Información en Reproducción Elegido [Information Group on Reproductive Choice]. Memorandum dated Aug. 13, 1997, at 2 (Interinstitutional communication on file with the Center for Reproductive Law and Policy).
139. The decree establishing the National Commission of Medical Arbitration was promulgated on June 3, 1996.
140. The NCMA is a decentralized entity of the Ministry of Health that has technical autonomy to emit its opinions, agreements, and judgments. *Id.*, art. 1.
141. *Id.*, art. 2.
142. *Id.*, art. 4.
143. *Id.*
144. *Id.*, art. 14.
145. The Penal Code Governing the Federal District and Other Areas of Law under Federal Jurisdiction, PENAL CODE OF THE FEDERAL DISTRICT, arts. 288–293 [hereinafter, PENAL CODE (DF)].
146. *Id.*, art. 228.
147. General Population Law, promulgated on December 11, 1973.
148. Regulations of the Population Policy, entry into force in September 1993.
149. FEDERAL EXECUTIVE BRANCH, PROGRAMA NACIONAL DE POBLACIÓN 1995–2000 (NATIONAL POPULATION PROGRAM 1995–2000) (Mexico, 1995).
150. Daily Gazette of the Federation, May 30, 1994.
151. REPRODUCTIVE HEALTH PROGRAM, *supra* note 115.
152. General Population Law, art. 1.
153. NATIONAL POPULATION PROGRAM, *supra* note 149, at 56.
154. General Population Law, art. 3.
155. The National Population Council is an interinstitutional public entity created in 1974. It is responsible for the demographic planning of the country, and its primary objective is to incorporate the issues of volume, dynamic structure, and distribution throughout the national territory and the social, economic, and ethnic composition of the population in government programs of economic and social development” (visited July 16, 1997) <<http://unam.mx/conapo/info/>>.
156. General Population Law, art. 5.
157. *Id.*
158. NATIONAL POPULATION PROGRAM, *supra* note 149, at 1, 12, and 60.
159. MEX. CONST., art. 4.
160. REPRODUCTIVE HEALTH PROGRAM, *supra* note 115, at i.
161. *Id.*, at ii.
162. REFORM PROGRAM, *supra* note 96, at 31.
163. *Id.*, at 31–34.
164. REPRODUCTIVE HEALTH PROGRAM, *supra* note 115, at 14–15.
165. *Id.*, at 2, 8, and 19–23.
166. General Health Law, art. 67.
167. The Regulation on Family Planning Services (RFPS), introductory section (n.d.).
168. *Id.*, § 5.12.
169. *Id.*, § 5.4
170. *Id.*, § 5.1
171. *Id.*, § 5.14; REPRODUCTIVE HEALTH PROGRAM, *supra* note 115, at 27.
172. RFPS, *supra* note 167, § 5.5.
173. MINISTRY OF HEALTH AND CONAPO, ANÁLISIS DE LA SITUACIÓN DEL PROGRAMA DE PLANIFICACIÓN FAMILIAR SEGÚN DATOS DE LA ENCUESTA NACIONAL DE PLANIFICACIÓN FAMILIAR [ANALYSIS OF THE FAMILY PLANNING PROGRAM BASED ON DATA FROM THE NATIONAL SURVEY OF FAMILY PLANNING] at 8–9 (Mexico, Oct. 1996).
174. *Id.*
175. *Id.*, at 9.
176. *Id.*
177. *Id.*, at 1.
178. CONAPO, SITUACIÓN DE LA PLANIFICACIÓN FAMILIAR EN MEXICO. INDICADORES DE ANTICONCEPCIÓN [STATUS OF FAMILY PLANNING IN MEXICO. CONTRACEPTIVE INDICATORS], at 3 (Mexico, 1994).
179. *Id.*
180. *Id.*
181. ANALYSIS OF THE FAMILY PLANNING PROGRAM, *supra* note 173, at 4–5.
182. STATUS OF FAMILY PLANNING, *supra* note 178, at 8.
183. The Penal Codes of the different states define abortion as a crime. Abortion is not penalized in specific limited circumstances, which vary among states.
184. General Health Law, art. 68, § 5, and arts. 144 and 204.
185. *Id.*, art. 204.
186. *Id.*, art. 205, in accordance with art. 194 bis.
187. *Id.*, art. 300.
188. *Id.*, art. 303.
189. *Id.*, art. 310.
190. *Id.*

191. *Id*
192. STATUS OF FAMILY PLANNING, *supra* note 178, at 3.
193. RFPS, *supra* note 167, § 6.5.7.
194. Grupo de Información en Reproducción Elegida [Free Choice Information Group], *Aspectos del Aborto en México [Issues of abortion in Mexico]*, 10 Boletín Trimestral Sobre Reproducción Elegida [Trimestral Bulletin on Free Choice], Sept. 1996, at 5.
195. *Id*.
196. PENAL CODE (DF), arts. 329–334. See also the Penal Codes of Oaxaca, Chiapas, Nuevo León, Baja California Sur, Morelos, and Durango, among others.
197. The conduct of the woman and the person who performs the abortion are penalized in all states, and the Federal District.
198. José Luis Ibanez y García Velasco, *Situación Legal del Aborto [Legal Status of Abortion]*, in NUEVAS ESTRATEGIAS PARA ABORDAR EL TEMA DE LOS DERECHOS REPRODUCTIVOS [NEW STRATEGIES TO ADDRESS THE ISSUE OF REPRODUCTIVE RIGHTS] 54 (GIRE ed., 1995).
199. *Id*.
200. *Id*.
201. This exceptional circumstance is recognized in the states of Guerrero and Chihuahua. See GIRE, CAUSALES SOBRE EL ABORTO NO PUNIBLES EN LOS CÓDIGOS PENALES DE LA REPÚBLICA MEXICANA [EXPLAINING NONCRIMINALIZED ABORTION IN THE PENAL CODES OF THE MEXICAN REPUBLIC]. Tabulations by Eugenia Martín Moreno. (Mexico, Oct. 1995).
202. NEW STRATEGIES, *supra* note 198, at 54.
203. *Id*.
204. *Id*. This exceptional circumstance is recognized only in the Penal Code of Yucatán.
205. PENAL CODE (DF), art. 334.
206. Comparative analysis of the Penal Codes of Chihuahua, the Federal District, Chiapas, Aguascalientes, Baja California Sur, and Campeche. Most states establish a penalty of one to three years' imprisonment.
207. See the PENAL CODE (DF), and the Penal Codes of the states of Yucatán, Jalisco, Nayarit and Zacatecas, among others.
208. See the PENAL CODE (DF) and the Penal Codes of the states of Yucatán, Jalisco, and Nayarit, among others.
209. See the PENAL CODE (DF) and the Penal Codes of the states of Aguascalientes, Baja California, Chihuahua, Chiapas, Baja California Sur, and Campeche.
210. See the PENAL CODE (DF), and the Penal Codes of the states of Yucatán, Zacatecas, Aguascalientes, and Baja California Sur, among others.
211. See the PENAL CODE (DF), and the Penal Codes of the states of Chihuahua, Chiapas, Aguascalientes, Baja California Sur, and Campeche.
212. REPRODUCTIVE HEALTH PROGRAM, *supra* note 115, at 10.
213. STATUS OF WOMEN, *supra* note 87, at 48.
214. *Id*.
215. *Id*.
216. REPRODUCTIVE HEALTH PROGRAM, *supra* note 115, at 6.
217. Published in the Daily Gazette, Jan. 17, 1995.
218. For more detail on the establishments that form the NHS, see the section on the Infrastructure of Health Services.
219. Mexican Regulation for the Prevention and Control of HIV Infection, § 1, on the objectives and areas of application.
220. *Id*, § 5, on prevention measures.
221. *Id*, § 6, on control measures.
222. *Id*, § 6.11.1.
223. *Id*, §§ 6.8–6.15. It also provides that treatment of HIV patients must be carried out by trained personnel and that they must follow the recommendations outlined in the Outpatient and Inpatient Treatment Guide for Patients with HIV/AIDS. *Id*, § 6.11.
224. *Id*, § 1.3.
225. REPRODUCTIVE HEALTH PROGRAM, *supra* note 115, at 22.
226. REFORM PROGRAM, *supra* note 96, at 34.
227. REPRODUCTIVE HEALTH PROGRAM, *supra* note 115, at 16.
228. *Id*, at 23.
229. REFORM PROGRAM, *supra* note 96, at 34.
230. STATUS OF WOMEN, *supra* note 87, at 43–45.
231. NATIONAL WOMEN'S PROGRAM, *supra* note 111, at 30–38.
232. MEX. CONST., art. 4.
233. NATIONAL WOMEN'S PROGRAM, *supra* note 111, at 69.
234. Patricia Galeana, *La Violencia Intrafamiliar como Delito Tipificado [Domestic Violence As a Crime]* in NATIONAL HUMAN RIGHTS COMMISSION, MEMORIA DE LA REUNIÓN NACIONAL SOBRE DERECHOS HUMANOS DE LA MUJER [MINUTES OF THE NATIONAL MEETING ON WOMEN'S HUMAN RIGHTS] 19 (1st ed., Mexico City, Nov. 1995).
235. *Id*.
236. *Id*.
237. MEX. CONST., art. 4.
238. CIVIL CODE of the Federal District, arts. 146 and 178. [hereinafter Civil Code (DF)].
239. *Id*, art. 149.
240. *Id*, arts. 162 and 164.
241. *Id*, art. 172.
242. *Id*, art. 162.
243. *Id*, art. 164.
244. *Id*, art. 168.
245. PENAL CODE (DF), art. 273. Adultery is penalized when it is committed in the conjugal household or if it causes a scandal.
246. *Id*, art. 1635.
247. *Id*.
248. *Id*.
249. *Id*, art. 302. This includes “food, clothing, shelter, and assistance in the case of illness. Regarding minors, food also includes the cost of primary education.” *Id*, art. 308.
250. *Id*, art. 383. This article states that the children who fulfill the following conditions are considered the children of the partners in a concubinage: “(I) Children born after 180 days, beginning with the first day of the cohabitation period and (II) Children born 300 days after the day that the concubinage was dissolved.”
251. *Id*, art. 266.
252. *Id*, art. 267.
253. *Id*, arts. 283–288.
254. *Id*, arts. 178–218.
255. *Id*, art. 287.
256. *Id*, arts. 323 and 288.
257. *Id*, art. 286.
258. CIVIL CODE (DF), art. 1602.
259. *Id*, art. 1316.
260. NATIONAL WOMEN'S PROGRAM, *supra* note 111, at 25.
261. *Id*, at 27.
262. STATUS OF WOMEN, *supra* note 87, at 20.
263. Convention No. 100 of the International Labor Organization, Convention Concerning Equal Remuneration For Men and Women Workers for Work of Equal Value, *adopted* June 29 1951 (visited Dec. 8, 1997), <<http://iloex.ilo.ch:1567/public/english/50normes/inf-leg/iloeng/conve.htm>>, (*entry into force* May 23) (ratified by Mexico on Oct. 2, 1962).
264. Convention No. 111 of the International Labor Organization, Convention Concerning Discrimination in Respect of Employment and Occupation, *adopted* June 25, 1958 (visited Dec. 8, 1997), <http://iloex.ilo.ch:1567/public/english/50normes/infleg/iloeng/conve.htm> (*entry into force* June 15, 1960). (ratified by Mexico in Sept. 1962).
265. MEX. CONST., art. 123.
266. *Id*, fraction VII.
267. *Id*, art. 123.
268. *Id*, fraction V. See also arts. 166–167 of the Federal Work Law.
269. *Id*. See also art. 170 of the Federal Work Law.
270. Law published in the Daily Gazette, Apr. 1, 1970.
271. *Id*, art. 164.
272. *Id*, art. 170, fractions II and V.
273. MEX. CONST., art. 123. See also art. 170 of the Federal Work Law.
274. MEX. CONST., art. 123, fraction V. See also art. 170 of the Federal Work Law.
275. NATIONAL WOMEN'S PROGRAM, *supra* note 111, at 36.
276. The Agricultural Industrial Units for Rural Women (AIURW) were created in 1972. Their main goals include the incorporation of women into the economic activities of the *ejido*, a system of communal farming and to foster women's participation in rural development. There were 6,300 AIURW registered in the early 1990s.
277. NATIONAL WOMEN'S PROGRAM, *supra* note 111.
278. *Id*, at 15. Between 1981 and 1994, the number of women with secondary education to every 100 men went from 89 to 95. The number of women with higher education to every 100 men went from 76 in 1991 to 82 in 1995.
279. *Id*, at 13.
280. *Id*.
281. *Id*, at 15–17.
282. *Id* at 15.
283. MEX. CONST., art. 3.
284. *Id*.
285. NATIONAL WOMEN'S PROGRAM, *supra* note 111, at 6.

286. *Id.*, at 72.
287. *Id.*
288. *Id.*, at 73.
289. STATUS OF WOMEN, *supra* note 87, at 38.
290. *Id.*
291. *Id.*
292. *Domestic Violence as a Crime*, *supra* note 234, at 20.
293. *Id.*, at 19.
294. Marcela Martínez Roaro, DELITOS SEXUALES, SEXUALIDAD Y DERECHO [SEX CRIMES, SEXUALITY AND LAW], at 232 (4th ed., Mexico, Editorial Porrúa, n.d.).
295. *Id.*
296. See PENAL CODE (DF), tit. XV.
297. *Id.*, art. 265.
298. *Id.*
299. *Id.*, art. 266.
300. *Id.*
301. *Id.*, art. 260.
302. *Id.*
303. *Id.*, art. 261. If the sex act is carried out with physical or psychological violence, the penalty is two to seven years' imprisonment.
304. *Id.*, art. 306.
305. *Id.*
306. *Id.*
307. This is the case, for example, in the states of Mexico, Michoacán, and Zacatecas. SEX CRIMES, *supra* note 294, at 248.
308. See the Penal Codes of the states of Aguascalientes, Campeche, Puebla, and Yucatán.
309. See the Penal Codes of the states of Veracruz and Zacatecas.
310. PENAL CODE (DF), art. 267.
311. InterPress Service News Agency, 5 (103) IPS DAILY I, June 17, 1997, at 5.
312. Jurisprudence 10/94, 77 Gaceta 18 (First Chamber, 8th *Época* 1994).
313. As of 1995, only the state of Querétaro recognized, in art. 164, the crime of rape between spouses. See *Domestic Violence As a Crime*, *supra* note 234, at 21.
314. PENAL CODE (DF), art. 259b.
315. *Id.*
316. *Id.*
317. *Id.*
318. *Id.*
319. In 1995, only the state of Querétaro recognized, in art. 164, the crime of rape between spouses. See *Domestic Violence As a Crime*, *supra* note 234, at 21.
320. *Id.*, at 20.
321. *Id.*
322. STATUS OF WOMEN, *supra* note 87, at 39.
323. *Domestic Violence As a Crime*, *supra* note 234, at 19.
324. *Id.*
325. Decree of the Assembly of Representatives of the Federal District, promulgated Apr. 26, 1996, and published on Jul. 9, 1996, in the Daily Gazette.
326. *Id.*, art. 1.
327. *Id.*, art. 3, § III.
328. *Id.*, art. 3, § III, sub § c.
329. *Id.*
330. This is the responsibility of the police stations in the Federal District. The official designated as conciliator should seek the conciliation of the parties by providing them with a series of alternatives and exhorting them to conciliate by informing them of the consequences of persisting in their conflict [...] If the parties reach an agreement a contract will be signed. *Id.*, art. 20.
331. This is the responsibility of the police stations in the Federal District. The official designated as friendly arbiter will listen to the parties, who will offer proof and arguments, after which the official will emit a resolution. *Id.*, art. 22.
332. *Id.*, art. 25.
333. Penal Code of the state of Hidalgo, art. 143. *Domestic Violence As a Crime*, *supra* note 234, at 19.
334. *Id.*
335. PENAL CODE (DF), tit. XIX, Crimes Against Life and Physical Integrity, arts. 288–301.
336. *Id.*, art. 288.
337. *Id.*, arts. 289–301.
338. NATIONAL POPULATION PROGRAM, *supra* note 149, at 2.
339. REPRODUCTIVE HEALTH PROGRAM, *supra* note 115, at 4
340. MEX. CONST., art. 4.
341. *Id.*
342. See the detailed discussion of this issue in the section on Domestic Violence.
343. These statistics from the second half of 1992 were provided by the Centro de Terapia de Apoyo de la Procuraduría General de Justicia del Distrito Federal (Therapy Support Center of the Attorney General's Office of the Federal District). *Domestic Violence as a Crime*, *supra* note 234, at 19.
344. REPRODUCTIVE HEALTH PROGRAM, *supra* note 115, at 5.
345. NATIONAL POPULATION PROGRAM, *supra* note 149, at 3.
346. ANALYSIS OF THE FAMILY PLANNING PROGRAM, *supra* note 173, at 6.
347. REPRODUCTIVE HEALTH PROGRAM, *supra* note 115, at 5.
348. *Id.*
349. *Id.*
350. *Id.*
351. *Id.*, at 14–15.
352. *Id.*
353. ANALYSIS OF THE FAMILY PLANNING PROGRAM, *supra* note 173, at 6.
354. REPRODUCTIVE HEALTH PROGRAM, *supra* note 115, at 5.
355. STATUS OF WOMEN, *supra* note 87, at 66.
356. *Id.*
357. CIVIL CODE (DF), arts. 148–149.
358. *Id.*, art. 149.
359. *Id.*
360. *Id.*, art. 148.
361. STATUS OF WOMEN, *supra* note 87, at 38–39.
362. *Domestic Violence As a Crime*, *supra* note 234, at 22.
363. *Id.*
364. SEX CRIMES, *supra* note 294, at 232.
365. For example, the Penal Code of Puebla, art. 252, at 233.
366. PENAL CODE (DF), art. 266.
367. SEX CRIMES, *supra* note 294, at 212–213.
368. Penal Code of the state of Mexico, *Id.*, at 212.
369. Penal Codes of the states of Michoacán, Guerrero, Sonora, Tamaulipas, and Veracruz.
370. *Id.*
371. PENAL CODE (DF), art. 261.
372. SEX CRIMES, *supra* note 294, at 221.
373. *Id.*
374. *Id.*, at 229.
375. PENAL CODE (DF), art. 263.
376. For a more detailed discussion of the concept of abduction for sexual purposes, see the section on Rape in part III of this report.
377. Penal Codes of Veracruz (art. 202) and Zacatecas (art. 300). SEX CRIMES, *supra* note 294, at 249.
378. PENAL CODE (DF), arts. 268–269.
379. *Id.*, art. 270.
380. *Id.*, art. 273.
381. *Id.*, art. 272.
382. *Id.*, art. 201.
383. *Id.*
384. *Id.*
385. *Id.*
386. FEDERAL EXECUTIVE BRANCH, PROGRAMA DE DESARROLLO EDUCATIVO, 1995–2000 [PROGRAM OF EDUCATIONAL DEVELOPMENT, 1995–2000] (Mexico, 1995).
387. REFORM PROGRAM, *supra* note 96, at 32.