

## Mexico

### 1. Discrimination in the family

#### a) Overarching legal framework for marriage

The Civil Code stipulates that men and women have equal legal capacity to enter into marriage and that a woman's civil rights cannot be restricted on grounds of her sex (Civil Code, Art. 2). However, divorced women must wait a delay of 300 days before entering into a new marriage (Civil Code, Art. 158). This restriction does not apply to divorced men. Forced marriage is criminalised in the Law on Human Trafficking and defined as an act by which a person is promised or forced to marry against her will, in exchange of benefits for the trafficker or a third person (Ley para prevenir y sancionar la Trata de Personas, Art. 5). It is punished with four to ten years of imprisonment (Ley para prevenir y sancionar la Trata de Personas, Art. 28).

All marriages must be officially registered before the civil registrar (Civil Code, Art. 146). Informal partnerships are not regulated in the Federal Civil Code.

#### b) Child marriage

Mexico's laws against human trafficking prohibit forced marriage (Ley para prevenir y sancionar la Trata de Personas, Art. 28). However, early marriage is not specifically included in the definition of forced marriage (Ley para prevenir y sancionar la Trata de Personas, Art. 5). As the minimum age for marriage is established at the state level in Mexico, numerous states allow the marriage of persons under the age of 18 with the consent of the parents or the legal guardian (Girls not Brides, 2017). Since December 2014, the General Law on the Rights of Boys, Girls and Adolescents is in force, which stipulates that all federal laws and entities shall set the minimum age of marriage at 18 years, without exceptions (Ley General de los Derechos de Niñas, Niños y Adolescentes, Art. 45). Since then, a growing number of states, including Baja California Sur (Código Civil para el Estado libre y soberano de Baja California Sur, Art. 100), Coahuila (Ley para la Familia de Coahuila de Zaragoza, Art. 143), Jalisco (Código Civil del Estado de Jalisco, Art. 262), Oaxaca (Código Civil del Estado de Oaxaca, Art. 148), Quintana Roo (Código Civil para el Estado libre y soberano de Quintana Roo, Art. 697), San Luis Potosí (Código Familiar para el Estado de San Luis Potosí, Art. 17), Veracruz (Código Civil para el Estado de Veracruz de Ignacio de la Llave, Art. 87), Yucatán (Código de Familia y Código de Procedimientos Familiares del Estado de Yucatán, Art. 54), Zacatecas (Código Familiar del Estado de Zacatecas, Art. 106), Hidalgo (Código Familiar reformado para el Estado de Hidalgo, Art. 15) and the autonomous entity of Mexico City (Código Civil del Distrito Federal, Art. 146) have changed their legislation and increased the legal age of marriage to 18 years for boys and girls (Girls not Brides, 2017). However, some states' laws still include exceptions: in Mexico City for example, individuals who are under the age of 18 but no younger than 16 years can marry with the consent of their parents or a judge (Civil Code of the Federal District, Art. 148). A reform of article 148 of the Federal Civil Code has been approved and will set the minimum age for marriage at the age of 18 years (Secretaria de Servicios Parlamentarios, 2015). It will enter into force once it has been published in

the *Diario Oficial de la Federación* (Estados Unidos Mexicanos, 2015). At the time of writing, the reform had not yet been published (SEGOB, 2016).

The Federal Civil Code provides for legal sanctions for judges facilitating marriage of an individual who is under the minimum legal age of marriage (Civil Code, Art. 110). Sanctions specified in the Penal Code include fines and imprisonment of three to eight years (Penal Code, Art. 225).

The National Programme for the Equality of Opportunity and Non-Discrimination against Women 2014-2018 (Programa Nacional para la Igualdad de Oportunidades y No Discriminación contra las Mujeres) provides for awareness-raising campaigns on the rights of women and girls (Strategy 6.1) and foresees stronger collaboration with indigenous municipalities in order to eradicate early and forced marriage of indigenous women and girls (Estados Unidos Mexicanos, 2013).

Early marriage is more frequent in Mexico's rural areas, especially among indigenous groups in the Yucatan peninsula and south-eastern states (Girls not Brides, 2017). Discriminatory practices, such as marriage rites that form part of indigenous customary law, prevail over state legislation and often limit the rights of women (CDMCH and COLEM, 2012). Young indigenous girls are often married to older men in exchange for a payment agreed upon between the parents (Girls not Brides, 2017). A 2015 study has shown that poverty is one of the main drivers for early marriage in Mexico: households with a higher level of education or a higher socioeconomic level have significantly lower rates of child marriage (UN WOMEN, 2016).

### **c) Household responsibilities**

The Federal Civil Code stipulates that married men and women have the same authority and responsibilities in the household (Art. 168), that they share parental authority (Art. 414) and that they shall choose the matrimonial domicile together (Art. 163). However, especially in rural areas and indigenous communities, men mainly take on the role of heads of the household and choose the family domicile. Discriminatory norms hold that women become part of their husband's family after marriage, are obliged to serve their husbands and can be brought back to their families by the husband in case they do not fulfil their domestic duties (CDMCH and COLEM, 2012).

### **d) Divorce**

According to Mexico's Federal Law, women and men have the same rights to initiate divorce (Civil Code, Art. 156 and 263) and to be the legal guardian of their children after marriage (Civil Code, Art. 414 and 283). However, divorce procedures are regulated at the state level and thus differ (Thomson Reuters, 2014). Customary practices often discriminate against women's legal right to initiate divorce: in indigenous communities the elders of the community often decide if a woman can separate from her husband (CDMCH and COLEM, 2012).

### **e) Inheritance**

The Federal Civil Code and the Agrarian Law recognise women's equal rights to inheritance of land and non-land assets applicable at the state level (Civil Code, Art. 1602, 1607 and Art. 18 of the Agrarian Law). However, in practice, men are often privileged when it comes to inheritance (FAO,

n.d.). Articles 17 and 18 of the Agrarian Law stipulate that an *ejidatario* (owner of a land parcel) can designate whomever he or she wishes to inherit the land. The default order of succession is: spouse; companion; one child; one parent; and, finally, anyone who is economically dependent upon the deceased (Agrarian Law, Art. 17 and 18). However, sons often inherit land in rural areas. (FAO, n.d.). Young widows are often victims of property grabbing by their deceased husband's family (FAO, n.d.), even though property grabbing is criminalised in article 395 of the Federal Penal Code and punished with three months to five years of imprisonment (Penal Code, Art. 395).

Even though men who inherit land are traditionally expected to take care of their families, especially of their mother and non-married daughters, they often fail to take responsibility and consider the land as their private property (CDMCH and COLEM, 2012).

## 2. Restricted Physical integrity

### a) Violence against women

The national legal and institutional framework on violence against women has been expanded in the last years, with the creation of the Law on Women's Access to a Life free of Violence (*Ley General de Acceso de las Mujeres a una Vida libre de Violencia*) in 2007, the *Norma Oficial Mexicana* NOM-046-SSA2-2005 on family and sexual violence against women, which provides for guidelines to detect, prevent and attend cases of violence against women, the creation of the National Subcommission to Prevent and Eradicate Violence against Women (*Subcomisión para Prevenir y Erradicar la Violencia contra las Mujeres en el Territorio Nacional*) in 2009 and the elaboration of a comprehensive program to prevent, address, punish and eradicate violence against women 2014-2018 (*Programa Integral para Prevenir, Atender, Sancionar y Erradicar la Violencia contra las Mujeres 2014-2018*) (INEGI, 2016b). In addition to this, the federal government started using a gender alert mechanism in 2015. Gender alerts are activated by the government whenever and wherever there are laws or policies in place that limit women's equal access to justice (INMUJERES, 2017). Gender alerts urge the relevant local, state or federal authorities to take immediate action to combat violence against women, to revise discriminatory legislation, to guarantee that victims receive legal, medical and psychological assistance, and to speed up investigations of unsolved cases (U.S. Department of State, 2016). Currently, there are gender alerts in place in the states of Campeche, Colima, Guerrero, Jalisco, Nayarit, Puebla, Nuevo León, Puebla, Quintana Roo, San Luis Potosí, Sonora, Tabasco, Tlaxcala, Veracruz and Zacatecas (INMUJERES, 2017).

Despite efforts of the Mexican government to incorporate protection and non-discrimination against women into domestic law and to establish national programmes against violence, violence against girls and women continues to be a widespread problem (OECD, 2017). Between 2013 and 2015, seven femicides (murders of women on account of their gender) were registered in average per day across the country; femicide is the main cause of death for women aged 15-19 years (10% of deaths of this age group are caused by murder) (INEGI, 2016a).

## b) Domestic violence

The Law on Women's Access to a Life free of Violence (*Ley General de Acceso de las Mujeres a una Vida libre de Violencia*) and the *Norma Oficial Mexicana* NOM-046-SSA2-2005 on family and sexual violence against women provide for measures for detection, prevention and punishment of domestic violence and for the assistance of victims (*Ley General de Acceso de las Mujeres a una Vida libre de Violencia*, Art. 7-9 and *Norma Oficial Mexicana*, Art. 4.27). Both instruments apply to all Mexican states (*Ley General de Acceso de las Mujeres a una Vida libre de Violencia*, Art. 1 and *Norma Oficial Mexicana*, Art. 2). The definition of domestic violence covers physical, sexual, psychological and economic violence within the family, from partners and former partners (*Ley General de Acceso de las Mujeres a una Vida libre de Violencia*, Art. 7). In the Federal Penal Code, domestic violence is sentenced with six months to four years of imprisonment (Penal Code, Art. 343bis).

The Law on Women's access to a Life free of Violence and the Program to prevent, address, punish and eradicate Violence against Women 2014-2018 provide for integrated services for women and girls victims of domestic violence. This includes emergency shelters, health services and free of charge hotlines (*Ley General de Acceso de las Mujeres a una Vida libre de Violencia*, Art. 8 and Programa Integral para Prevenir, Atender, Sancionar y Erradicar la Violencia contra las Mujeres).

To improve the access of female survivors to legal support, 31 Justice Centres for Women (Centros de Justicia para las Mujeres) have to date been established across the country in a federal-statal collaboration. The centres offer legal, medical and psychological assistance and redirect women to emergency homes in case of necessity (CEDAW, 2016).

Women are often reluctant to report domestic violence, because they fear social stigma or victimisation and threats or because they mistrust the criminal justice system (OECD, 2017). Women in low-income households or in rural communities often cannot access qualified legal counsel or defence lawyers because they lack financial resources or time (CDMCH and COLEM, 2012). Additionally, indigenous communities often count with their systems of dealing with domestic violence: higher authorities of the community get involved in cases of violence, decide upon the consequences and whether or not the woman can separate from her husband (CDMCH and COLEM, 2012).

## c) Rape

Rape is criminalized in the Federal Penal Code (Penal Code, Art. 265). Its definition is based on the lack of consent and requires proof of penetration (Penal Code, Art. 265). Rape entails penalties of 8 to 14 years of imprisonment (Penal Code, Art. 265) or up to 20 years of imprisonment in case of aggravating circumstances (rape carried out by two or more persons, by parents or legal guardians, by misuse of a professional position) (Penal Code, Art. 266Bis). The legal definitions of rape in the Federal Penal Code (Penal Code, Art. 265Bis) and in the Penal Codes of 24 states include marital rape (CNDH, 2015). There are no provisions in force in the Federal and state Penal Codes that reduce the sentence if the perpetrator marries the victim (CNDH, 2015).

The Law on Women's Access to a Life free of Violence addresses sexual violence (*Ley General de Acceso de las Mujeres a una Vida libre de Violencia*, Art. 6V) and the *Norma Oficial Mexicana* NOM-046-SSA2-2005 on family and sexual violence against women provides professionals who may deal with rape with guidelines (*Norma Oficial Mexicana*, Art. 6.4). Both instruments apply to all Mexican states (*Ley General de Acceso de las Mujeres a una Vida libre de Violencia*, Art. 1 and *Norma Oficial Mexicana*, Art. 2).

The Program to prevent, address, punish and eradicate Violence against Women 2014-2018 supports the legislation on sexual violence (*Programa Integral para Prevenir, Atender, Sancionar y Erradicar la Violencia contra las Mujeres 2014-2018*). The Law on Women's Access to a Life free of Violence contains provisions for medical support and legal assistance for victims of rape and other forms of violence and for awareness-raising campaigns regarding violence against women. It also obliges the government to provide for the necessary budget for programs that aim to eradicate violence against women (*Ley General de Acceso de las Mujeres a una Vida libre de Violencia*, Art. 51).

#### d) Sexual harassment

Sexual harassment is defined in the Law on Women's Access to a Life free of Violence as "lascivious behaviours" in the form of verbal and physical harassment. The definition specifies that a victim of sexual harassment is in a subordinated position of power (e.g. in the workplace or in an educational establishment) or that it is left in a state of defencelessness (*Ley General de Acceso de las Mujeres a una Vida libre de Violencia*, Art. 13). All 31 states and the Federal District criminalise sexual harassment in their legislation (OAS, 2012). In the Federal Penal Code, sexual harassment is punished with a 40 day-fine and with the loss of the job if the perpetrator has misused his/her professional position to perpetrate the harassment (Art. 259Bis). However, sexual harassment is only punishable if the victim can prove that the harassment caused harm ("*Solamente será punible el hostigamiento sexual, cuando se cause un perjuicio o daño*", Penal Code, Art. 259Bis). In addition, the Federal law does not cover harassment in public places, even though this is a very common phenomenon in Mexico: eight in ten women report having experienced sexual harassment in public transport in Mexico City (CEPAL, 2016).

The program to prevent, address, punish and eradicate violence against women 2014-2018 foresees measures to prevent sexual harassment (*Programa Integral para Prevenir, Atender, Sancionar y Erradicar la Violencia contra las Mujeres 2014-2018, Strategy 2.2*).

#### e) Female genital mutilation

There is no evidence to suggest that female genital mutilation is practiced in Mexico.

#### f) Abortion

Abortion laws are made at the state level in Mexico. Abortion on demand is illegal in all states with the exception of Mexico City, where it was decriminalized in 2007 and is legal in the first 12 weeks of pregnancy (Becker and Diaz, 2013). Women from outside Mexico City often travel to the capital to seek legal abortion: statistics from the Ministry of Health of Mexico City show that about 26% of all

clients obtaining abortion services are non-residents (Becker and Diaz, 2013). According to the Federal Penal Code, abortion is only permitted if a woman's life is in danger or in case of foetal unviability or rape (Penal Code, Art. 330-334). In the latter case, the woman needs the approval of a medical practitioner to seek legal abortion (Penal Code, Art. 334). All Mexican states provide for legal abortion in case of rape (Clínicas Aborto, 2016).

### **3. Restricted Access to productive and financial resources**

#### **g) Secure access to land and assets**

According to the Mexican Civil Code, married and unmarried women have the same right as married and unmarried men to own and use land and non-land assets (Civil Code, Art. 2 and 830-853) and married women and men have the right to administer their property without spousal consent, except for property that belongs to both of the spouses (Civil Code, Art. 172). Marital property can be administrated under the system of separate (independent control of property) or community property (shared property) regime (Civil Code, Art. 178). However, as regards to land property, deeply rooted cultural norms continue to restrict women's land rights and most land continues to be held by men. When it comes to land inheritance, men are generally given priority (FAO, n.d.). The lack of access to land for rural women makes them economically dependent on men and limits their political participation: in rural communities, it's mainly landowners who have the right to participate in community assemblies and to express their political opinion (CDMCH and COLEM, 2012).

The National Programme for the Equality of Opportunity and Non-discrimination against Women 2014-2018 (*Programa Nacional para la Igualdad de Oportunidades y No Discriminación contra las Mujeres*) aims to increase women's access to land : it foreses land titling programmes and technical assistance and capacity building for women, among other measures (Estados Unidos Mexicanos, 2013).

#### **h) Secure access to formal financial resources**

The Federal Civil Code stipulates that men and women have equal legal capacities and does not restrict married and unmarried women's legal rights to access and benefit from financial services (Civil Code, Art. 52 and 2). Yet, many women still lack the opportunity to use the formal and regulated financial system (National Institute for Statistics and Geography, 2015).

The *Prospera* programme decreased gender gaps in account ownership. This government conditional cash transfer programme started shifting payments from cash to debit cards and opened up access for low-income women (World Bank, 2016). In June 2016, Mexico launched its National Financial Inclusion Strategy (NFIS), to facilitate access to financial services for the population left out of the formal and regulated financial system (World Bank, 2016).

#### **i) Workplace rights**

The Mexican Labour Code mandates non-discrimination on the basis of sex in employment (Labour Code, Art. 164). Non-discrimination in employment legislation specifically covers selection criteria, recruitment, hiring, terms and conditions, promotions, training and assignment (Labour Code, Art. 3,

133 and 153a and Ley Federal para Prevenir y Eliminar Discriminación, Art. 9) and mandates equal remuneration for work of equal value (Labour Code, Art. 86).

Women are entitled to a 12 weeks paid maternity leave, and fathers are entitled to a five-day paid leave. During maternity and paternity leave, the government pays 100% of wage (Labour Code, Art. 170 and Decree on Paternity Leave, Art. 3).

The National Council to Prevent Discrimination (CONAPRED) is tasked with receiving, investigating and enforcing discrimination-related complaints (CONAPRED, 2017). However, there is a pronounced gender wage gap in certain sectors of the economy: in industrial jobs for example, the wage difference between men and women is 32% (CEDAW, 2016).

The Federal Civil Code stipulates that spouses are free to carry out any activity of their choice, on condition that it does not harm the structure of the family (Civil Code, Art. 169) and the Labour Code stipulates that all Mexicans can pursue the profession of their choice, as long as it is licit (Labour Code, Art. 4). However, Mexico presents the widest gender gap in labour force participation of all OECD countries. It is mainly due to women's balancing act between household chores, childcare and professional life. Many women stay at home with their children, especially when their labour market opportunities are limited. Women in Mexico perform on average 77% of all unpaid care and domestic work (OECD, 2017). Although labour market programmes encourage female labour force participation, Mexico still is the country with the lowest level of public spending devoted to labour-market policies (OECD, 2015).

### *More*

There is a pronounced gender gap in entrepreneurship. This difference may be partly explained by personal attitudes towards entrepreneurship: women's confidence in their own entrepreneurial capacity is generally lower than men's (GERA, 2015). Furthermore, women often have to reconcile family and professional life (OECD, 2013). In 2016, a national program (Mujeres PYME) was launched to support micro, small and medium women-led enterprises (CEDAW, 2016).

## **3. Restricted Civil liberties**

### **a) Citizenship rights**

Mexico's Constitution guarantees the same citizenship rights to all individuals. Mexican women have the same rights as men to acquire, change or retain nationality and to confer their nationality to their children and foreign spouse (Mexican Constitution, Art. 30 and 37). The Federal Civil Code stipulates that married and unmarried women and men have the same rights to register the birth of their children (Civil Code, Art. 55). In 2014, article 4 of the Mexican Constitution was amended to explicitly guarantee the right of every person to free of charge birth registration, in order to make birth registration accessible to the poor strata of the population (CMS, n.d.).

The Mexican Constitution does not recognise multiple/intersectional discrimination but it specifically prohibits discrimination on grounds of ethnicity, nationality, gender, age, disability, social condition, religion, opinion, sexual preference and marital status (Mexican Constitution, Art. 1).

The passport regulation does not restrict married and unmarried women's right to apply for passports and provides women with the same rights as men to apply for passports for their minor children (Reglamento de Pasaportes, Art. 18). The General Population Act obliges men and women to apply for identity cards (Ley General de Poblacion, Art. 98).

There are no laws in place that restrict married or unmarried women's right to travel outside the country.

### **b) Voting**

Mexican men and women have equal rights to vote (Mexican Constitution, Art. 35). Until 2014, discriminatory indigenous laws often denied indigenous women their right to vote when elections were carried out under the indigenous normative system (TEPJF, 2015). In 2014, the Electoral Tribunal of Justice of the Mexican Federation (TEPJF) introduced a new law that establishes women's suffrage in the indigenous normative system (TEPJF, 2015). However, efforts are still needed to enforce this right in practice (Cultural Survival, 2018).

The General Law on Equality between Men and Women contains measures to ensure that women understand their right to vote and how to exercise it (Ley General para la Igualdad entre Mujeres y Hombres, Art. 35).

### **c) Political voice**

The Mexican Constitution provides men and women with the same rights to hold public and political office in the legislature, executive and judiciary (Constitution, Art. 55, 82 and 95). The state is undertaking numerous initiatives to encourage women's participation in political decision-making: in 2014, article 41 of the Mexican Constitution was amended to oblige political parties to observe and respect the principle of gender parity in the composition of candidates' lists for federal and local elections (IDEA, 2014). Gender quotas are in place at the national level: political parties are required to guarantee that at least 40% of the candidates on the lists are of the same gender and there are sanctions in case of non-compliance (Código Federal de Instituciones y Procedimientos Electorales, Art. 219 and 221). Since the reforms of article 41 of the Constitution, all 32 Mexican states have introduced gender parity legislation (OECD, 2017).

The General Law on Equality between Men and Women provides for additional measures to support women's participation in political and public life (Ley General para la Igualdad entre Mujeres y Hombres, Art. 38).

### **d) Access to justice**

Women and men have the same rights to access justice. The Law on Women's Access to a Life free of Violence, which applies to all Mexican states, provides for legal equality of men and women (Ley General de Acceso de las Mujeres a una Vida libre de Violencia, Art. 4).

Impunity remains very high in Mexico: a 2015 victimisation survey revealed that 92% of crimes committed in Mexico are not reported or investigated (INEGI, 2016c). In particular, indigenous, rural and poor women have limited access to justice, as they are often not aware of their rights, speak



their local language only, are illiterate or live in remote areas (CDMCH and COLEM, 2012). Customary conflict resolution mechanisms in indigenous communities in Chiapas often discriminate against indigenous women's legal right to sue: conflicts are mainly resolved inside the communities and higher authorities of the community decide upon sanctions and consequences of violence (CDMCH and COLEM, 2012).

In 2016, a new criminal justice system (*Nuevo Sistema de Justicia Penal*) entered into force. It is an accusatory system in which the prosecution and defence present evidence and arguments in open court, and it aims to increase fairness, efficiency and transparency of criminal justice in Mexico, fight impunity and enhance human rights (WOLA, 2016). Strategy 2.5 of the Mexican National Programme for the Equality of Opportunity and Non-discrimination against Women includes measures to integrate the gender perspective in the Mexican justice system (Estados Unidos Mexicanos, 2013).

The Law on Women's Access to a Life free of Violence provides for procedural rules that take into account the particular interests of women and girls (*Ley General de Acceso de las Mujeres a una Vida libre de Violencia*, Art. 47). The program to prevent, address, punish and eradicate violence against women 2014-2018 provides for the creation of courts to facilitate girls and women's access to justice (*Programa Integral para Prevenir, Atender, Sancionar y Erradicar la Violencia contra las Mujeres 2014-2018*, Strategy 4.3).

In 2015 and 2016, a working group composed by institutions of different Mexican states elaborated a Protocol on Political Violence against Women to ensure women are protected from violence in political life (OECD, 2017).

The Law on the Protection of Human Rights Defenders and Journalists specifically addresses violence against human rights defenders (*Ley para la proteccion de personas defensoras de derechos humanos y periodistas*).

INMUJERES, the National Women's Institute of Mexico is in charge of monitoring gender equality in the country. It has the power to monitor compliance of national laws with international human rights standards and international conventions on women's rights, to plan and conduct awareness-raising campaigns regarding gender equality and to produce and disseminate gender statistics (*Estatuto Orgánico del Instituto Nacional de las Mujeres*, Art. 8 and 71).

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