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MEXICO: UPDATE ON TREATMENT OF HOMOSEXUALS

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I. OVERVIEW

Mexico is a large and diverse country, with stark contrasts between bustling modern cities and quiet rural villages that have changed little in half a century;

- with a complex mix of Spanish, American, and indigenous cultural influences;
- with a Napoleonic legal tradition that considers private consensual sexual activity to be beyond the scope of the law, but a Catholic religious tradition that teaches that homosexuality is a sin;
- with a dominant cultural ideal of hypermasculinity (*machismo*), but with a great deal of tolerance for sexual diversity in some indigenous subcultures;
- a country proud of history and tradition, but one that is undergoing rapid change as it integrates itself into the global economy, and as it undergoes a transition from one-party rule to democracy.

That complexity is reflected in the often contradictory conditions faced by Mexican homosexuals. Politically, this is a time of unprecedented gains. An openly lesbian legislator serves in the federal Chamber of Deputies. Discriminatory legislation has been expunged from the federal codes, and the *Asamblea Legislativa del Distrito Federal* (ALDF, Legislative Assembly of the Federal District) has passed an ordinance explicitly prohibiting discrimination on the basis of sexual orientation in Mexico City. Two of the three principal political parties (*Partido Revolucionario Institucional*, PRI / Institutional Revolutionary Party and *Partido de la Revolución Democrática*, PRD / Party of the Democratic Revolution) are gay-tolerant, and dire predictions that the third party (*Partido Acción Nacional*, PAN / National Action Party) would unleash a wave of anti-gay repression have proven unfounded. Contrary to the situation that prevailed in the first half of the 1990s, repression by federal, state, and municipal authorities is now the exception, not the rule. Note: Although Mexico City and the Federal District are often used interchangeably, some portions of the city lie outside the Federal District.

Yet the social environment in most of Mexico remains repressive, and often dangerous. *Machista* ideals of manly appearance and behavior contribute to extreme prejudices against effeminate men, and often to violence against them. The Roman Catholic teaching that homosexuality is a sin further contributes to intolerance, and is seen by many to provide moral sanction for mistreatment. To live an undisturbed gay or lesbian lifestyle in most of Mexico, one has to hide it.

As the influence of foreign cultures—especially the United States—grows in Mexico, attitudes are beginning to change. That is especially true in the bigger cities, where education and access to foreigners and foreign news media are greatest. But change continues to be slow in the hinterlands, and even in the big cities discomfort with change often leads to backlashes.

The poor are most vulnerable, for several reasons. One is that they tend to live in the most tradition-bound neighborhoods. Another is that crowding allows them little privacy. And a third is that their scarce resources provide little cushioning from the outside world. At the extremes of vulnerability are poor effeminate men. Their lack of education and marketable skills, to say nothing of barriers to entry in many professions, frequently drive them to become transvestite prostitutes, exposing them to the most severe levels of prejudice, hatred, and—in many cases—violence.

Another group that is highly vulnerable are persons who are HIV-positive. For all but the most prosperous Mexicans, access to effective health care, including anti-retroviral drugs, depends on participation in payroll insurance plans. But with HIV-testing commonly a condition of employment, and with employers routinely excluding those who test positive, prospects for decent care for those who are infected are not good.

II. ALLEGED HOMOPHOBIC HOMICIDES

Two reports by a Mexican anti-hate group have raised serious concerns about killings of homosexuals—almost all of them gay men. As discussed in the next section, the potential for violence against homosexuals, especially effeminate men and transvestites, is inherent to the culture of *machismo*. The reports, however, suffer from methodological shortcomings that call into question the high number of hate crimes alleged to have taken place.

On May 6, 1998, several prominent Mexico City citizens announced formation of the *Comisión Ciudadana contra los Crímenes de Odio por Homofobia* (CCCOH, Citizen's Commission against Homophobic Hate Crimes). Among those present at the press conference were Alicia Valle, mother of Estrada Valle, a physician and AIDS activist who was murdered in July 1992, possibly by police (See *Mexico Treatment of Homosexuals*, April 1998, p. 7. URL: <http://www.ins.usdoj.gov/graphics/services/asylum/ric/documentation/toc_qa.htm>); Carlos Monsiváis, a nationally-renowned (and openly gay) writer and journalist; and David Sánchez

Camacho, a gay and lesbian rights supporter and PRD deputy to the Legislative Assembly of the Federal District.

In launching the organization, the panelists presented an initial report alleging a national epidemic of homicidal hate crimes. It lists 125 murders throughout Mexico over a three-year period from February 1995 through April 1998, with 65 occurring in the Federal District, 24 in the adjoining state of Mexico, 12 in the state of Veracruz, and a lesser number in other states.

Though the report raises troubling questions, it suffers from methodological shortcomings. Its sole source is the Mexico City daily newspaper *La Prensa*, a tabloid (*nota roja*) which focuses on the police beat.[1] Second, many of the victims are listed as "unknown," with brief descriptions—"beaten and strangled," "hung," "stabbed," "asphyxiated with a plastic bag and shot in the head"—that are insufficient to corroborate either their homosexuality or allegations of a hate crime. Third, no effort is made to verify any of the newspaper accounts, or find corroborating sources.[2]

Rodolfo Millán, the attorney who was the report's chief author, explains that human rights investigators face serious challenges in trying to obtain the facts needed to find out what really happened in such murders. The first problem is legal. Mexican law restricts access to police files to those who have a material interest in the case, such as family members. That leads to a second problem. Relatives are often reluctant to allow public disclosure of information that could expose the sexual orientation of the deceased, and thereby embarrass the family. For these reasons it has so far proved virtually impossible to obtain further information about the cases.[3]

Mexican criminologist Rafael Ruiz says the overall numbers do not point to a higher homicide rate for homosexuals than for the general population. There were 3,257 reported homicides in the Federal District in the years 1995 through 1997. The 57 reported killings of homosexuals in the DF during that period represent 1.75% of total reported homicides.[4] On the

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[1]*La Prensa* is not a newspaper of record. If one were to make an analogy to New York City, it would be to the *Daily News*, not the *New York Times*.
[2]Millán, Rodolfo / Aguayo, Angela / Candelas. *Reporte de Crímenes Cometidos por Odio Homofóbico: Investigación Hemerográfica* (Mexico City: Comisión Ciudadana Contra los Crímenes de Odio por Homofobia, 6 May 1998), 15 p.
[3]Millan, Rodolfo. Telephone interview, 27 May 1999.
[4]Immigration and Refugee Board, Research Directorate. *Mexico: Treatment of Sexual Minorities* (Ottawa: IRB, April 1999), Section 4.1.1. URL: http://www.irb.gc.ca.

other hand, it is likely that homicides of homosexuals are underreported, to avoid unwanted publicity for their families.

The assertion by the Jesuit-run Miguel Agustín Pro Juárez Human Rights Center (citing *La Jornada*) that Mexico ranks second only to Brazil in the number of homicides of homosexuals, is true, but would be expected based on relative populations.[5] Brazil's total population is 166 million, the highest in Latin America; Mexico's is in second place at 96 million, well above Colombia, which is third with 41 million.[6] All other things being equal, one would expect Mexico to have the second highest number of homicides, whether of homosexuals or heterosexuals.

In the summer of 1999, the CCCOH issued a second report, claiming a total of 495 hate-motivated "executions" of homosexuals in the four years beginning in 1995 and culminating in 1998. The vastly larger number attracted sensational coverage in some news media.[7] Yet careful examination of the second report shows little that is different from the first report. The only new information is a figure of 47 alleged "homophobic hatred executions" in Mexico in the year 1998. The same tabloid—*La Prensa*—was the sole source, and the report suffered from the same methodological limitations as its predecessor. Moreover, the figure of 495 was obtained by arbitrarily multiplying the total number of alleged murders over four years (164) by three, ostensibly to compensate for underreporting.[8]

There is another reason to question even the base figure of 164 hate-inspired murders over four years. Several influential Mexican periodicals—including the national weekly *Proceso* and the Mexico City daily *La Jornada* —are left-leaning and sympathetic to the movement to secure equal treatment for all persons regardless of sexual orientation. It was *Proceso* that exposed the killings of transvestites in Chiapas in the early 1990s, and *La Jornada* that focused

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[5]Centro de Derechos Humanos Miguel Agustín Pro Juárez. "México, Segundo Lugar en Asesinatos de Homosexuales en América Latina," *Servicio Diario de Derechos Humanos en México* (Mexico City: Volume VI, 7 May 1998).
[6]This figure was rounded off from the United Nations 1998 revision of world population estimates and projections. UN Population Division. *World Population Prospects: The 1998 Revision* (New York: UN, 1998). URL: <http://www.popin.org/pop1998/2.htm>.
[7]See for example, Cevallos, Diego. "Right—Mexico: 495 Murders of Gays Go Unpunished," (Inter-Press Service, 13 August 1999).
[8]Citizen's Commission Against Homophobic Crimes. *1998 Crime Report* (Mexico City [Summer 1999]), p. 8. Careless errors are commonplace. For example, the anonymous authors assume that "for every registered case of execution, there may be at least three more cases." That would suggest multiplying by four to reach an estimate, but they instead multiplied by three. Even so, multiplying 164 alleged cases by 3 yields 492, not 494. The error occurred when a 0 was multiplied by 3 to get 3 in one square of the spreadsheet.

attention on an anti-homosexual hate crime in Mexico City in 1995.[9] Both publish the columns of Carlos Monsiváis, a writer who is among Mexico's most prominent openly gay men. Neither has reported on homophobic homicides since 1995.

Anti-homosexual prejudice does, however, affect the criminal justice system. According to criminologist Rafael Ruiz, prosecutors are less likely to assign high priority to homicide cases if they believe victims are homosexual, and courts are more likely to hand down harsher sentences if they believe convicts are homosexual. He makes an analogy to Mexican courts' prejudice against women, reflected in the fact that women receive harsher sentences than men do for the same crimes.[10]

There is also a tendency on the part of the police to dismiss murders of homosexuals as "crimes of passion," in lieu of conducting a proper investigation. It is true, as discussed in the next section, that the societal stigma against "unmanliness" contributes to a pathology in which some men, feeling their masculine image impaired by having sex with other men, attack and kill or beat casual sexual partners or prostitutes. True crimes of passion also occur in homosexual liaisons just as they do in heterosexual ones. Yet in Mexico, it is all too common for the police to affix the label "crime of passion" without supporting evidence, thereby eliminating any possibility of exposing hate crimes.

III. SOCIETAL PREJUDICES

Though reported killings of gay men by, or with the tacit approval of, local authorities, have declined sharply since the early 1990s, most of Mexico remains a hostile and potentially dangerous place for those who are public about their sexual orientation, especially effeminate men and transvestite prostitutes. The fact that reported killings of gay men (mostly transvestite prostitutes) by state and municipal police have dropped dramatically since 1995 does not mean that basic societal attitudes have changed, or that men or women can lead openly homosexual lives without fear of physical abuse and harassment.

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[9]"Psicosis en Chiapas por la cacería de homosexuales," *Proceso* (Mexico City: No. 852, 1 March 1993), p. 26. "Atacaron a grupo de homosexuales en la calzada de Tlalpan; uno murió," (Mexico City: *La Jornada*, 28 June 1995).

[10]Immigration and Refugee Board, Research Directorate. *Mexico: Treatment of Sexual Minorities* (Ottawa: IRB, April 1999), Section 4.1.1. URL: http://www.irb.gc.ca.

It is difficult to lead an openly gay or lesbian life anywhere in Mexico, including large cities. Though Mexico City is among the world's most populous metropolises, it does not have a gay district comparable to New York's Greenwich Village, Miami's South Beach, Los Angeles' West Hollywood, San Diego's Hillcrest, or San Francisco's Castro.

Homosexuals remain for the most part invisible, for two reasons. The first, which helps explain why there are no residential gay districts in Mexico, is that Mexicans—including gays and lesbians—tend to reside with their families far longer than their counterparts in the United States. This is in part for economic reasons. Low incomes and scarce housing keep many living with their parents. So does the fact that in the absence of a government social welfare system, the family is the primary bulwark of social security. Perhaps more important than the economic reasons, but closely related to them, are the strong attachments most Mexicans feel to their families—attachments comparable to those that prevailed in the United States a century ago, prior to the development of a broad middle class and the welfare state. Even wealthy Mexican homosexuals often continue to live at home, acquiring a separate lodging as a meeting place for their sexual partners.[11]

For all but the wealthy, however, the crowding typical of developing countries places a serious strain on relationships. In Guadalajara, according to anthropologist Joseph Carrier,

> A comparison of family size with rooms occupied per family shows that most of the people live under circumstances of considerable crowding. About two-thirds of the city's population, for example, live in families of six or more; close to 40 percent in families of nine or more. Yet, close to two-thirds of the population live in three rooms or less and 18 percent in only one room.[12]

According to sociologist Stephen Murray,

> The pattern of residence pushes pre-and extra-marital intercourse (heterosexual as well as homosexual) into the streets. This does not prevent quick sexual encounters (*fichas*), but it is a major obstacle to ongoing relationships. Those who wish "to walk in the plan of love" (*amblar en el plan del amor*) do not have the easy path—moving in together—open to *norteamericanos*. Even families that accept a relationship within the family circle (treating the *amante* as another son) do not want outsiders to know that they have produced and are harboring *un raro* (a queer one). In gratitude for this (far-from-certain) minimum of acceptance, few couples are willing to demand more, such as the chance to be alone together sometimes. Some couples do manage to carry on long-term relationships without

[11]Murray, Stephen O., ed. "Family, Social Insecurity, and the Underdevelopment of Gay Institutions in Latin America," *Latin American Male Homosexualities* (Albuquerque: University of New Mexico Press, 1995), p. 33-37.
[12]Carrier, Joseph. "Gay Liberation and Sex Outside the Bedroom" (Unpublished, 31 May 1999).

> any place in which they can be together in private, but this is quite a difficult achievement.[13]

That pattern of residence, which places a premium on maintaining discretion, tends to keep homosexuals invisible.

A. Influence of *Machismo*

The second major reason gays and lesbians remain invisible is the strong social stigma attached to homosexuality, particularly where it comes into conflict with the highly-accentuated and differentiated sex roles prescribed by *machismo*. According to Joseph Carrier,

> The Mexican *mestizo* culture places a high value on "manliness." A salient feature of the society is a sharp delimitation between the roles played by males and females. In general, men are expected to be dominant and independent and females to be submissive and dependent. The distinct boundary between male and female roles in Mexico appears to be due in part to a culturally defined hypermasculine ideal referred to as *machismo*.[14]

But *machismo* is as much about power relationships among men as it is about establishing the dominance of men over women. As described by Roger Lancaster,

> [It] is not exclusively or primarily a means of structuring power relations between men and women. It is a means of structuring power among men. Like drinking, gambling, risk taking, asserting one's opinions, and fighting, the conquest of women is a feat performed with two audiences in mind: first, other men, to whom one must constantly prove one's masculinity and virility; and second, oneself, to whom one must also show all signs of masculinity. *Machismo*, then, is a matter of constantly asserting one's masculinity by way of practices that show the self to be "active," not "passive"...yesterday's victories count for little tomorrow.[15]

One of those practices is an ongoing game of verbal sparring and one-upmanship, which Stanley Brandes describes as "a constant attempt to force masculine rivals into the feminine role, in a never-ending quest to avoid adopting the role themselves."[16]

Machismo has important implications for how most Mexicans view homosexuality. Unlike the United States, where homophobia tends to be directed more evenly against all individuals who are attracted to other persons of the same sex, in Mexico it is far more intensely

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[13]Murray, Stephen O., ed. "Family, Social Insecurity, and the Underdevelopment of Gay Institutions in Latin America," *Latin American Male Homosexualities* (Albuquerque: University of New Mexico Press, 1995), p. 40-41.
[14]Carrier, Joseph. *De Los Otros: Intimacy and Homosexuality Among Mexican Men* (New York: Columbia University Press, 1995), p. 3-4.
[15]Lancaster, Roger. *Life is Hard: Machismo, Danger, and the Intimacy of Power in Nicaragua* (Berkeley: University of California Press, 1992), p. 236-237.

directed against those who violate norms of male and female conduct. That is especially pronounced among men, where effeminate behavior elicits far greater levels of social disapproval than does homosexuality per se. In the *machista* perspective, a man's greatest offense against the norm is to not act like a man. Effeminacy and cross-dressing are serious violations of the masculine ideal. But the greatest transgression is for a man to assume the sexual role of a woman in intercourse. The man who penetrates another man remains masculine. The man who is penetrated loses his masculinity, and incurs by far the greater social stigma.

According to Mexican Nobel laureate Octavio Paz,

> It is likewise significant that masculine homosexuality is regarded with a certain indulgence insofar as the active agent is concerned. The passive agent is an abject, degraded being. This ambiguous conception is made very clear in the word games or battles—full of obscene allusions and double meanings—that are so popular in Mexico City. Each of the speakers tries to humiliate his adversary with verbal traps and ingenious linguistic combinations, and the loser is the person who cannot think of a comeback, who has to swallow his opponent's jibes. These jibes are full of aggressive sexual allusions; the loser is possessed, is violated, by the winner, and the spectators laugh and sneer at him. Masculine homosexuality is tolerated, then, on condition that it consists in violating a passive agent. As with heterosexual relationships, the important thing is not to open oneself up and at the same time to break open one's opponent.[17]

So ingrained are these distinctions that they are reflected in the popular vocabulary. In common parlance, Mexicans distinguish male homosexuals by their degree of masculinity, and their sexual roles. According to Joseph Carrier,

> From early childhood on, Mexican males are made aware of the labels used to denote homosexual males—*puto, joto, maricón*—with the clear understanding that these homosexual males are guilty of unmanly, effeminate behavior. It is important to note that *homosexual* and *afeminado* are synonymous with the more often used colloquial terms *puto, joto, and maricón*. Since all these terms apply only to those males who play the anal-receptive sex role in a homosexual encounter, the implication is that the anal-insertive masculine male is not homosexual—and separate terms exist to describe him (*mayate*, *chichifo*, and *picador*). Thus, from an early age Mexican males are likely to be aware of same-sex contacts and of the *activo-pasivo* dichotomy that exists between males having

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[16]Ortner and Whitehead, eds. "Like Wounded Stags: Male Sexual Ideology in an Andalusian Town," *Sexual Meaning* (New York: Cambridge University Press, 1981), p. 223.

[17]Paz, Octavio. *The Labyrinth of Solitude: Life and Thought in Mexico* (New York: Grove Press, 1961), p. 39-40. Originally published in Spanish as *El Laberinto de la Soledad* (Mexico City: Fondo de Cultura Económico, 1950).

> sexual contact, and that there is a stigma associated with the *pasivo* but not the *activo* sex role.[18]

It is commonplace to think of men who consistently take the "active," "top," or "dominant" role in intercourse as still being "manly," and not really "homosexual." For men who are able to project a masculine image, there is a degree of tolerance, corresponding to the society's tolerance of extramarital dalliances by heterosexual men:

> Although Mexican society generally disapproves of homosexuality, it seems to recognize the inevitability of homosexual contacts between men. There seems to be acceptance in Mexico of the reality that most males have multiple sexual outlets both when single and when married. A man's sexual outlets other than his wife are not socially approved, but are nevertheless put up with so long as they are carried out discreetly.[19]

The focus on masculinity has serious consequences. It means that most Mexican gay or bisexual males, regardless of the sexual roles they assume in private, are at pains to project a manly image in public. The relative few who are unable to do so are therefore highly exposed and subject to ridicule and harassment, to say nothing of discrimination in employment.

A further hazard arises when social stigmas become internalized. The fear of losing one's masculinity, or the public image of masculinity, is so strong that it can lead to hatred of one's self and one's partners for indulging in stigmatized behavior. E.A. Lacey describes this tortured dynamic among men who try at all costs to reconcile their sexual orientation with the stern demands of the *machista* code:

> Influenced by the social reality he inhabits, he has accepted and bowed to the *macho* ethic...by completely internalizing and assimilating its code of rules, and attempting to live by them. He is no closet case: he openly pursues and beds down boys, and he appears to recognize and condone, even to trumpet, his own homosexuality, but only to the extent that he is the active partner. He is unable psychologically to abandon his cherished masculine orientation. Intimately, moreover, he despises his sexual tendencies, despises all other gays, especially effeminate ones, despises his own sexual partners and despises himself.[20]

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[18]Carrier, Joseph. *De Los Otros: Intimacy and Homosexuality Among Mexican Men* (New York: Columbia University Press, 1995), p. 17. See also Murray, Stephen O., ed. "Hispanic Homosexuals: A Spanish Lexicon," *Latin American Male Homosexualities* (Albuquerque: University of New Mexico Press, 1995), p. 184-188.
[19]Carrier, Joseph. *De Los Otros: Intimacy and Homosexuality Among Mexican Men* (New York: Columbia University Press, 1995), p. 16.
[20]Leyland, Winston, Ed. *My Deep Dark Pain Is Love: A Collection of Latin American Fiction* (San Francisco: Gay Sunshine Press, 1983), p. 10.

Such insecurities often lead to violence against effeminate males, prostitutes, and casual sex partners. Occasionally, they culminate in murder, as described by Joseph Carrier:

> Gilberto talked at length about his belief that in smalltown Mexico it is very important to play *only* one sexual role in anal intercourse. The consequences of f****** a *mayate* when he is drunk may be severe. As an example he related the details of a murder late in 1986 of a relatively young queen (about twenty-eight or twenty-nine) across the river from Tuxpan in San Vicente. "She" was found shot in the head. Gilberto thinks the murder might be the result of a vendetta by a *mayate* the queen had f*****. Gilberto said that though he personally was *internacional* while living in California (that is, he played both sex roles), he is *puro pasivo* (only anal receptive) with men in Tuxpan.[21]

So strong is the stigma against effeminacy that the suggestion that a man is effeminate can lead to murderous retaliation by male relatives, in order to defend the family's honor. Rodrigo, who now lives in a suburb of Mexico City, fled his home town in Veracruz after hacking to death a buddy—Carmelo—who insulted his brother. The two young men had been drinking when Rodrigo's brother showed up to try to coax Rodrigo home. Carmelo, inebriated, said, "Hey Rodrigo, your brother seems like a fag, the way he moves, and when I look at him he smiles; they say in town that he likes to go out at night in your sister's clothes in search of a husband." Rodrigo immediately punched Carmelo in the mouth. But townspeople continued to gossip that his brother was a *marica* (an effeminate homosexual). One night, at a bar, a group of friends teased him to the point where he snapped. In a drunken stupor, Rodrigo assaulted Carmelo outside the latter's home, slashing him to death with a machete. He then fled to Mexico City, where he joined a suburban police force in order to avoid being pursued for the murder. The last he had heard, his brother had moved to Guadalajara, where he was working in a transvestite bar.[22]

Further contributing to feelings of insecurity that can lead to violence are societal taboos on premarital sex by women, who are expected to preserve their virginity for marriage. These taboos cause some men to seek outlets for their sexual urges among other men. Allen Walden, of Gay Travel Plus, in Columbia, Maryland, describes what can happen in such societies:

> Places like Egypt are very antigay, but there are strict religious laws against premarital and nonmarried sex, and therefore you find a bunch of horny men

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[21]Carrier, Joseph. *De Los Otros: Intimacy and Homosexuality Among Mexican Men* (New York: Columbia University Press, 1995), 83-84.

[22]Botello, Nelson Arteaga / Rivera, Adrián López. "Viaje al interior de la policía: El caso de un municipio de México," *Nexos* (Mexico City: April 1998), p. 73.

> imprisoned by society. So for release they'll have sex with other men, but they may also commit violence against them.[23]

The need for discretion, and for projecting an image of masculinity, is reflected in the business of prostitution. It is a measure of societal prejudice that market forces drive male prostitutes to earn a living by assuming the appearance of women. The influence of *machismo* is so strong that their gay or bisexual patrons insist on disguising their same-sex orientations not only from others but from themselves.

Joseph Carrier, who has studied homosexuality in Mexico over the span of a quarter century, notes that

> ...only a small percentage of my respondents believed that their families knew about their homosexual behavior. Moreover, it was not something they wanted them to know. And they did not want them to know mainly because of their belief that it is stigmatizing behavior. Not only do they believe that their families would not approve or condone such behavior, but they also fear possible rejection by family and friends or that if their behavior were known they would be forced to leave or be cast out of their family home. Interestingly, however, even respondents who have had their homosexual behavior revealed to their families, and thus are labeled "homosexual," still maintain themselves—or try to—in such a way that revelations about their homosexual involvements are minimized. Since most of the respondents do in fact continue to live with their families—the fear that they will be cast out only rarely appears to be realized—the family must also maintain a front.
>
> The point here is that *none* of my respondents has looked upon his homosexual encounters as behavior generally acceptable to his family, nonhomosexual friends, or to society at large...None has ever overtly betrayed himself as a homosexual to his family in a group situation, even in those cases where most of the family members knew about his homosexuality. At birthday parties, for example, respondents always invited and danced with neighborhood girls. Even the most effeminate of my respondents presented the most masculine image possible during family gatherings.[24]

With few exceptions, the only homosexuals who are open about their orientation are those with little or no choice. That can be either because their personality gives them away, or because their livelihood requires them to cross-dress. The very prejudices that cause most homosexuals to carefully conceal their identity cause those who service them sexually to have to

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[23]Kirby, David. "Trouble in Paradise: Dangers Gay Travelers Face in Overseas Places That Are Anti-Gay," *The Advocate* (20 July 1999), p. 24.
[24]Carrier, Joseph. *De Los Otros: Intimacy and Homosexuality Among Mexican Men* (New York: Columbia University Press, 1995), p. 13-14.

expose *their* identity in ways that subject themselves to the most extreme prejudice. Because the vast majority of the homosexual population remains hidden from view, homosexuality becomes identified in the minds of many with prostitution, disease, and cross-dressing. That reinforces a vicious cycle, as prejudice keeps homosexuality underground, and the few surface manifestations of homosexuality reinforce prejudice.

It also means that transvestites are subject to hatred, harassment, and police abuse. Police abuse stems not only from popular prejudice, but from the fact that prostitution is illegal. Mexican police, whose wages tend to be very low, are notorious for corruption—for the infamous *mordidas* ("little bites") they extort out of citizens. Seizing on the vulnerability of male and female prostitutes alike, they frequently wait for them to complete a transaction, then appear on the scene to demand payment. Should the prostitute not comply, he or she may face detention and physical abuse. Also, when prostitutes are mistreated or killed by their patrons, the police generally show little interest in pursuing investigations.

In a ground-breaking study of municipal police in a Mexico City suburb, Adrián López Rivera, a sociology student, enlisted in the force, then—with his sociology professor—published a detailed description of what he encountered during his two-year stint. When first assigned to a neighborhood, his commander told the rookies:

> Yours truly does not tolerate extortion, let alone any kind of corruption. However, the zone can be characterized as a gold mine, and all it's missing is some good miners.[25]

A senior officer elaborated, saying "the money must come in little by little, without forcing anything, without giving any reason to be caught." Turning to prostitution, he told the rookie, "OK now, partner, if you want a woman to calm your fire, what you need to do is get out of the patrol car and pick out the woman you want. And if she doesn't want to, force her into the patrol car and take her to the station. Try it and you'll see."[26] The mistreatment is not limited to women. "La Isis," a transvestite who hangs out at the *La Cueva* bar, described how one male officer "drugged me and forced me to have relations with him."[27]

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[25]Arteaga Botello, Nelson / López Rivera, Adrián. "El Aprendizaje de un Policía," *Nexos* (Mexico City: August 1998), p. 64.
[26]Arteaga Botello, Nelson / López Rivera, Adrián. "El Aprendizaje de un Policía," *Nexos* (Mexico City: August 1998), p. 65.
[27]Arteaga Botello, Nelson / López Rivera, Adrián. "El Aprendizaje de un Policía," *Nexos* (Mexico City: August 1998), p. 68.

Openly gay or effeminate individuals who are not transvestites and do not engage in prostitution also face daunting challenges, including violence. Marcos Calamateo is an effeminate 25-year-old who fled Guadalajara for San Francisco, California.

> With his slight build, soft features, and curly hair, Marcos could never pass for straight. As a child, Marcos didn't like to get dirty and was delicate in his mannerisms. At 7, his aunt would yell, "Be like a man!" Then she'd hit him. By 14, Marcos was being beaten regularly by boys in the street who taunted him for his feminine looks. During his teens, he tried to kill himself several times. Four years after leaving Guadalajara, Marcos considers San Francisco a "sanctuary." Even the Mission, with all its Mexican immigrants. "They might see gay people the same as in Mexico, but at least in the Mission, they'll think twice before attacking you," Marcos says. "Here, they can get arrested for it. Not like Mexico, where the police beat you up, too."[28]

Edgar Zendejas, a Mexican emigrant who is now a dancer with *Les Ballets Jazz de Montréal*, in Canada, reports a similar experience:

> I came out at the age of 20, but my parents thought it was just a phase. I was popular at school but at the same time I was always picked on because other students had trouble dealing with me. I was kind of feminine and different. Today, in Mexico City, it's more acceptable but the machismo is still very aggressive.[29]

Effeminacy is systematically repressed throughout society, from the family to the community, as described by Joseph Carrier:

> There appears to be an accommodation not only between families and their effeminate sons and brothers but also between the society at large and effeminate males. The principal tactic, common both to the family and society, is to keep effeminate behavior out of sight as much as possible. An effeminate male tries as best he can, especially in family gatherings, to behave in a masculine way. If he has sexual contacts with males rather than females, he does it discreetly. The fact that the contacts are taking place is ignored by all parties concerned. On a more general level...the police attempt to keep effeminate male behavior, or any kind of male behavior that might be interpreted as homosexual, out of public view—unless such behavior is clearly a matter of "horsing around."[30]

Another manifestation of the desire to keep homosexuality out of public view is a bit more bizarre. It is commonplace for Mexican men—particularly younger men—to be seen in

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[28]Engardio, Joel P. "You Can't Be Gay—You're Latino; A Gay Latino Identity Struggles to Emerge, Somewhere between the Macho Mission and Caucasian Castro," *San Francisco Weekly* (San Francisco: 14 April 1999).
[29]Burnett, Richard. "Double the Demons: Gays and Lesbians from Minority Communities Face Double-Barreled Discrimination Because They Encounter Racism Even in the Gay Subculture Where They Seek Refuge from Homophobia," *The Gazette* (Montreal: 1 August 1999), p. C3.
[30]Carrier, Joseph. *De Los Otros: Intimacy and Homosexuality Among Mexican Men* (New York: Columbia University Press, 1995), p. 18.

public with their arms around each other, an act that would generally be interpreted in the United States as a sign of homosexual affection (and thus leads to a lot of confusion by American visitors to Mexico). In Mexico, however, such behavior is universally accepted, and assumed to signal no more than friendship. Yet if two men should hold hands, it is commonly seen as homosexual and as an affront to community values. According to Joseph Carrier, police often invoke municipal ordinances against public morals (*por faltas a la moral*) against men who hold hands.[31]

Miguel Flores is a gay Mexican who grew up in Guadalajara. Until he moved to San Francisco at age 23 and visited the Castro, a predominantly gay part of town, he had never seen two men holding hands in public, and it shocked him. Debbie Landeros, a second-generation Mexican lesbian who also lives in San Francisco, says "If two women walked through the Mission [a predominantly Mexican part of town] holding hands, there would be a lot of stares. If it were two men, they'd get beat up." The threat of violence is real. Gustavo Ramos, who grew up in the small town of Acuña, Coahuila, on the Texas border, then immigrated to San Francisco at age 17, retains the scars from a teenage stabbing. Three men assaulted him outside town. Though he did not look feminine or gay—he's tall and beefy—he had a friend who did. "That's what you get for hanging out with fags in Mexico," he says.[32]

This cultural obsession with keeping up appearances—with covering up all visible manifestations of male effeminacy and homosexuality—has implications for finding employment in Mexico. With the exception of the Federal District (Mexico City), there are no laws protecting homosexuals against job discrimination. Employers in most trades, conscious of the impression their businesses make with the public, seek to avoid the embarrassment of having obviously effeminate or homosexual men on their payrolls. That tends to constrain such individuals to trades that have traditionally been considered fit for women and (by association) homosexuals, such as cooking, the arts, hairdressing, and, unfortunately, prostitution.

Annick Prieur, a female Norwegian doctoral student who lived for extended periods among male transvestite prostitutes in Mexico, has provided a rare glimpse of that subculture from within. She stayed in the two-bedroom home of Mema, a sex worker in his 30s who

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[31]Carrier, Joseph. Telephone interview, 7 July 1999.
[32]Engardio, Joel P. "You Can't Be Gay—You're Latino; A Gay Latino Identity Struggles to Emerge, Somewhere between the Macho Mission and Caucasian Castro," *San Francisco Weekly* (San Francisco: 14 April 1999).

provided a sort of sanctuary and way station for young effeminate boys with nowhere else to go. Typically, the boys had been molested by male relatives such as uncles or brothers, beaten by family members or peers, and expelled from their households. For most of these boys, the only two options for making a living are hairdressing and prostitution.[33]

Reinforcing attitudes toward homosexuality in Mexican culture is the stance of the Roman Catholic Church. Mexico City's Cardinal Norberto Rivera denounces "euphemisms" that contribute to "moral disorientation": "The arguments expressed by those who sympathize with this current that favors sexual libertinism, often appear under humanist banners, although at root they manifest materialist ideologies that deny the transcendent nature of the human person, as well as the supernatural vocation of the individual." The complementary union of man and woman, he says, is the only relationship capable of generating "true conjugal love."[34] Guadalajara's Cardinal Juan Sandoval Iñiguez adds that sex should only be practiced between a man and woman in the context of marriage, and should not be exercised in a manner that is "lewd, shameful, or like a toy for the satisfaction of the ego and passions."[35]

The new Catholic Catechism describes homosexual acts as a "grave depravity" and "intrinsically disordered." It states that lesbian and gay relationships are "contrary to natural law....They do not proceed from a genuine affective and sexual complementarity. Under no circumstances can they be approved." Recognizing that "the number of men and women who have deep-seated homosexual tendencies is not negligible," it specifies that "they must be accepted with respect, compassion, and sensitivity," avoiding "every sign of unjust discrimination." Yet it mandates that "homosexual persons are called to chastity."[36]

With Mexican culture highly resistant to change from within, the primary force for change is coming from international contact—primarily the influence of U.S. culture. Not surprisingly, that influence is being felt most strongly in Mexico City, in the tourist zones of such

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[33]Prieur, Annick. *Mema's House, Mexico City: On Transvestites, Queens, and Machos* (Chicago: University of Chicago, 1998), 293 p.
[34]"La Iglesia, contra la marcha lésbico-gay," *La Jornada* (Mexico City: 24 September 1999), p. 58.
[35]Muñoz, Alma E. "Plantea un cura exorcizar a gays," *La Jornada* (Mexico City: 25 September 1999).
[36]*Catechism of the Catholic Church*, 1994 English edition, Sections 2357-2359. URL: <http://www.polarnet.ca/~prince/dignity/catechis.html>. Ontario Center for Religious Tolerance. *Roman Catholic Church and Homosexuality*. URL: http://religioustolerance.org/hom_rom.htm. The new Catechism issued in 1992 stated [section 2358] that "They [homosexuals] do not choose their homosexual condition; for most of them it is a trial." That language was altered in 1997 to read "This inclination, which is objectively disordered, constitutes for most of them a trial."

cities as Acapulco and Puerto Vallarta, and on the border (especially in Tijuana), where a semantic change is signalling new perspectives among youth. According to anthropologist Marta Lamas,

> In the specific case of the urban homosexual youth of Mexico City, [writer Carlos] Monsiváis finds that an overwhelming majority have reached a certain level of acceptance of "normality" with the term gay. Monsiváis suggests that the semantic space of the word "gay" is becoming transformed into the social space of tolerance: to become gay is to become part of an international movement, to go from a problematic position to an extravagant, yet "modern," lifestyle.[37]

B. Effect of *Machismo* on Lesbians

Because *machismo* is by definition male-oriented, and is premised on male dominance in relations between the sexes, lesbian relationships are generally perceived as far less threatening to society. That is, to the extent that they are perceived at all, because to a great degree they remain invisible in a cultural context that gives little recognition to female sexuality in the first place.

According to Mexican feminist and lesbian scholar Claudia Hinojosa,

> One of the cultural factors that has had the greatest impact in making lesbian women invisible is the notion that we women do not have our own sexuality...people continue to think there's no such thing as lesbian women, they don't understand what happens sexually between lesbian women...That has made the culture much more permissive towards female partnerships. It would be difficult for two men to live together by themselves without giving rise to rumors; but for two women to accompany each other—how beautiful it is that the poor things have found company to avoid loneliness![38]

Hinojosa's perspective is echoed by Mexican lesbian organizer María Trinidad Gutiérrez:

> In general, lesbians are more invisible than gay men in urban and rural areas. People don't believe that lesbians exist, and less is known about us. Perhaps, that

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[37]Lamas, Marta. "Escenas de un Campo de Batalla: La Política Sexual en México," *Letra S*, supplement to *La Jornada* (Mexico City: 7 January 1999). En el caso particular de los jóvenes homosexuales urbanos de la ciudad de México, Monsiváis encuentra que una inmensa mayoría ha alcanzado un cierto nivel de aceptación de "normalidad" con el término gay. Monsiváis plantea que el espacio semántico de la palabra "gay" se transforma en el espacio social de la tolerancia: asumirse gay es formar parte de un movimiento internacional, es pasar de una condición problemática a un modo de vida extravagante, pero "moderno."

[38]El Clóset de Sor Juana. *¡Y Sigue la Marcha Andando! Historia del Movimiento Lésbico en México*, video (Mexico City, 1998). Statements by Claudia Hinohosa: "Uno de los factores culturales que ha tenido un mayor peso en invisibilizar a las mujeres lesbianas es la noción que las mujeres no tenemos una sexualidad autónoma...la gente no acaba de creer que no existe las mujeres lesbianas, no entiende lo que pasa sexualmente entre las mujeres lesbianas...Eso entonces ha hecho la cultura mucho más permisiva en turno a las parejas de mujeres. Dos hombres difícilmente podrían vivir sólo sin que hubiera rumores en torno a ellos. Dos mujeres que se acompañan, pues ¡Que linda! Probrecitas así que sobrelleva su soledad."

> makes us feel less vulnerable, less easily attacked. I am not sure, but I suspect that in the community where I live with my lover, our neighbors don't think we are a couple. They can't imagine it, they can't believe it, so we are invisible. In their minds, we can be friends. Perhaps it would be different if we were two men living alone. Then I believe the two men would be sufficiently scandalous.[39]

That helps explain the view often expressed among Mexican men that lesbians are just women who have not experienced real sex with a real man. If women lack their own sexuality, what could possibly fulfill them other than a man? In that sense, lesbians suffer much the same treatment as other women in a society that so exalts the masculine over the feminine.

IV. TOLERANCE AMONG INDIGENOUS CULTURES

Though Mexico's dominant *mestizo* (racially mixed and assimilated) culture, permeated by *machismo*, is hostile to male homosexuality (particularly in its more effeminate manifestations), some of its indigenous cultures are a lot more tolerant. Isthmus Zapotecs and Yucatán Maya are cases in point.

It is perhaps no coincidence that the two conquering cultures that have had the most influence on modern Mexico—the Spanish and the Aztec—placed a high premium on "manly," "assertive" behavior, and a corresponding stigma on "submissive" behavior. That attitude is nowhere near as prevalent among many of the other indigenous cultures of Mexico. In some cases, those cultures have developed an alternative perspective on gender and sexual orientation that is in some ways more tolerant than that of advanced industrial societies such as the United States.

As conquerors, the Spanish sought to justify the subordination of native peoples. When they encountered cultures that sanctioned male-male sexual relations, they immediately labeled such behavior "sodomy," after the biblical city of Sodom, which was said to have been destroyed by God for the sinful behavior of its inhabitants. That the biblical sin in question was the failure to show hospitality to strangers was irrelevant in the light of subsequent ecclesiastical interpretation, which ascribed it to homosexuality.[40] Thus homosexual behavior among many of

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[39]Thompson, Becky. "Maria Trinidad Gutierrez and the Mexican Lesbian and Gay Movement," *Sojourner: The Women's Forum*, (Vol. 21, No. 10, 30 June 1996), p. 13.

[40]Loppnow, Rev. L. Jonathan. *The Bible on Same-Gender Sexual Behavior* (Manhattan, Kansas: Metropolitan Community Church of Manhattan). URL: http://worldpolicy.org/americas/sexorient/bible-gay2.html.

the native peoples became one of several theological justifications for the destruction of their culture, subjugation of their societies, and conversion to Roman Catholicism.

Homosexuality also conflicted with the warrior ideal of "manliness." What better way to justify the subjugation of the natives than to ascribe to them effeminate and depraved behavior? The Spaniards had previously leveled the same accusations at the Moors, their enemies on the Iberian Peninsula.[41]

Among the Aztecs, the evidence points to similar ways of thinking about masculinity, and similar ways of delegitimizing conquered peoples. When not sacrificed on temple altars, the males of conquered nations were often demoted to the status of women. The penalties for male homosexual intercourse were severe. In Tenochtitlán, the site of present-day Mexico City, the Aztecs hanged homosexuals. In nearby Texcoco, the active partner was "bound to a stake, completely covered with ashes and so left to die; the entrails of the passive agent were drawn out through his anus, he was then covered with ashes, and wood being added, the pile was ignited."[42]

Among the Zapotecs of the Isthmus of Tehuantepec in southeastern Mexico, on the other hand, a very different tradition prevailed. The Zapotecs did not develop a culture of conquest, which may explain their more relaxed attitude toward masculinity. Nor were they conquered by the Aztecs, which may explain the survival of their distinctive cultural outlook to the present.

Like many other North American native peoples, the Zapotecs have developed the concept of a third gender, which they refer to as *muxe*, as an intermediate between male and female.[43] According to anthropologist Beverly Chiñas,

> *Muxe*, persons who appear to be predominantly male but display certain feminine characteristics are highly visible in Isthmus Zapotec populations. They fill a third-gender role between men and women, taking some of the characteristics of both. Although they are perceived to be different from the general heterosexual male population, they are neither devalued nor discriminated against in their communities. Isthmus Zapotecs have been dominated by Roman Catholic ideology for more than four centuries. *Mestizos*, especially *mestizo* police,

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[41]Murray, Stephen O., ed. "Legends, Syncretism, and Continuing Echoes of Homosexuality from Pre-Colombian and Colonial Mexico," *Latin American Male Homosexualities* (Albuquerque: University of New Mexico Press, 1995), p. 84-85.

[42]Bancroft, Hubert. *Native Races of the Pacific States* (San Francisco: San Francisco History Co., Vol. 2, 1886), p. 585.

[43]Roscoe, Will, ed. *Living the Spirit: A Gay American Indian Anthology* (New York: St. Martin's Press, 1988), p. 217-222. At least 133 North American native cultures recognized additional genders. Examples (with their own names) include the Lakota (*winkte*), Cheyenne (*heemaneh*), Zuni (*lhamana* and *katsotse*), Hopi (*hova*), and Navajo (*nadle*).

> occasionally harass and even persecute *muxe* boys, but Zapotec parents (especially mothers and other women) are quick to defend them and their rights to "be themselves," because, as they put it, "God made them that way." I have never heard an Isthmus Zapotec suggest that a *muxe* chose to become a *muxe*. The idea of choosing gender or of choosing sexual orientation—the two of which are not distinguished by the Isthmus Zapotecs—is as ludicrous as suggesting, that one can choose one's skin color.[44]

Muxe is the specifically Zapotec name and variant of the gender identity referred to by sociologists and anthropologists as *berdache*. The problem with the latter term is that it is not derived from native North American usage. It originated as a Persian designation for a boy who is kept as a passive sexual partner, then was applied to native North American cultures by Europeans who, whether from ignorance or prejudice, or in order to justify the subjugation of native peoples, either misinterpreted or misrepresented the actual phenomenon.

Native peoples prefer to use either the particular name developed in their own language, such as *muxe*, or the new generic term "two-spirit," which better describes the third-gender concept. A "two-spirit" person combines the spirits of male and female, partaking of some of the qualities of each. It is important to note that "two-spirit" (and similar native terms) refer to gender, not sexual orientation. "Two-spirit" individuals may be heterosexual, bisexual, or homosexual. Metis (British Columbia indigenous group) spokesperson, Ryan Mercredi, emphasizes that the "two-spirit" model is not linear:

> Within aboriginal communities there's a movement away from defining things according to a linear spectrum or a continuum. A model a lot of people can relate to is the circle, because the circle is a very important symbol both spiritually and culturally. There's an infinite number of points along a circle—there's no one way to be, and no one end or beginning.[45]

It is hard to argue that any position on a circle is inherently superior to any other. Far from being seen as deviant or degraded, "two-spirit" persons are perceived as merely different and in some sense gifted. As Walter Williams puts it, "Viewing things from outside the usual perspective, they are able to achieve a creative and objective viewpoint that is seldom available to ordinary people."[46] Moreover, they are often seen as having special spiritual powers. Again,

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[44]Murray, Stephen O., ed. "Isthmus Zapotec attitudes toward sex and gender anomalies," *Latin American Male Homosexualities* (Albuquerque: University of New Mexico Press, 1995), p. 294.
[45]Lovejoy, Bess. "Two-Spirit Peoples," *The Peak* (Simon Fraser University's student newspaper, Vol. 101, No. 5, 8 February 1999). URL: <http://www.peak.sfu.ca/the-peak/99-1/issue5/spirit.html>.
[46]Williams, Walter L. *The Spirit and the Flesh: Sexual Diversity in American Indian Culture* (Boston: Beacon Press, 1986), p. 42.

according to Williams, "If a person is different from the average individual, this means that the spirits must have taken particular care in creating this person . . . by this reasoning, such an individual must be especially close to the spirits."[47] For both of these reasons, as well as the belief that they are uniquely placed to mediate between the sexes, androgynous individuals were often favored to perform special religious roles as shamen.

In this worldview, there is therefore little if any stigma attached to nonstandard gender roles. According to Will Roscoe,

> In traditional native societies berdaches were not anomalous. They were integral, productive, and valued members of their communities. But the European culture transplanted to America lacked any comparable roles, and the Europeans who saw berdaches were unable to describe them accurately or comprehend their place in Indian societies. Indeed, through a long span of history, European social institutions have sought to suppress the very economic, social, and sexual behaviors typical of berdaches. Few aspects of European and American Indian cultures conflicted as much as they did in this.[48]

Though *muxe* play no special religious role today among Isthmus Zapotecs (Roman Catholicism does not countenance it), it continues to be a common belief that *muxe* are especially intelligent and gifted. In the context of poverty, parents often do not believe they can afford to let their children have more than a sixth-grade education, but will encourage their *muxe* children to do so.

Muxe are more likely than other men to engage in professions that are generally associated with women, such as embroidery, sewing women's clothing, and decorating home altars. But they also make silver and gold jewelry, which is thought of as men's work. In either case, it is widely believed that they are artistically gifted, and do better work than women.[49]

More recently, *muxe* have been able to use their relatively high levels of education to gain important footholds in the more prestigious white-collar jobs in government and business (including banking) that constitute the social elite in their communities. They have also been getting elected to political office. At least one has been elected municipal president, equivalent to

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[47]Williams, Walter L. *The Spirit and the Flesh: Sexual Diversity in American Indian Culture* (Boston: Beacon Press, 1986), p. 32.
[48]Roscoe, Will. *The Zuni Man-Woman* (Albuquerque: University of New Mexico Press, 1991), p. 5.
[49]Murray, Stephen O., ed. "Isthmus Zapotec attitudes toward sex and gender anomalies," *Latin American Male Homosexualities* (Albuquerque: University of New Mexico Press, 1995), p. 295.

a county executive in the United States. Others have been elected to municipal councils, no doubt benefiting from the public perception that they are intelligent and gifted.[50]

Unlike the practice in many other native societies, where "two-spirit" individuals commonly wore women's clothing, *muxe* seldom do. They do, however, tend to pay greater attention to style, including fit, quality, and tailoring.[51] Since Isthmus Zapotecs do not insist on rigid delineation between the sexes, and have a more relaxed concept of manliness than that which predominates in *mestizo* society, there is little pressure on *muxe* to assume women's ways in order to keep the "manly" ideal pure.

According to Beverly Chiñas, "Isthmus Zapotec culture allows both women and men more freedom to express affection in public for persons of the same sex than does Anglo North American culture." In the special case of fiestas, however, heterosexual men are expected to not engage in any bodily contact with either men or women while dancing. Women, on the other hand, are allowed to dance with each other, and *muxe* may dance with each other or with women.[52]

Though not necessarily approving such liaisons, Isthmus Zapotec society is tolerant of persons who publicly form same-sex couples, whether male or female. Both types of couples occur with comparable frequency. Zapotecs are also tolerant of bisexuality and transvestism. In more than two decades of field work in the village of San Juan Evangelista, Beverly Chiñas has seldom witnessed any instances of ostracism based on sexual orientation or same-sex liaisons.[53]

Another indication of tolerance in the Isthmus of Tehuantepec is the annual fiesta and gathering of transvestites from southeastern Mexico held in Juchitán, Oaxaca. The city's top officeholders (who for decades have been from leftist parties) take part in the celebration, as does a large segment of the heterosexual population.[54]

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[50]Murray, Stephen O., ed. "Isthmus Zapotec attitudes toward sex and gender anomalies," *Latin American Male Homosexualities* (Albuquerque: University of New Mexico Press, 1995), p. 295, 299-300.
[51]Murray, Stephen O., ed. "Isthmus Zapotec attitudes toward sex and gender anomalies," *Latin American Male Homosexualities* (Albuquerque: University of New Mexico Press, 1995), p. 295-296.
[52]Murray, Stephen O., ed. "Isthmus Zapotec attitudes toward sex and gender anomalies," *Latin American Male Homosexualities* (Albuquerque: University of New Mexico Press, 1995), p. 296.
[53]Murray, Stephen O., ed. "Isthmus Zapotec attitudes toward sex and gender anomalies," *Latin American Male Homosexualities* (Albuquerque: University of New Mexico Press, 1995), p. 298.
[54]"Para Servirle a Usted: Directorio de Organizaciones Lésbico-Gay," *La Jornada*, Letra S monthly supplement (Mexico City: 5 September 1996).

According to Walter Williams, similar practices are found among the Yaquis of the northwestern state of Sonora, who recognize an androgynous gender.[55]

In his field work in the Yucatán, Walter Williams has found the Maya people to be very accepting of homosexual behavior between young men and teenagers. These attitudes seem to have strong cultural roots. While exploring the Yucatán coast in 1517, Bernal Díaz del Castillo came upon numerous clay "idols" in which "the Indians seemed to be engaged in sodomy one with the other." In 1515, Fernandez de Oviedo reported that "In some part of these Indies, they carry as a jewel a man mounted upon another in that diabolic and nefarious act of Sodom, made in gold relief. I saw one of these jewels of the devil twenty pesos gold in weight. . . . I broke it down with a hammer and smashed it under my own hand." Because of the Spanish practice of smashing "idols" and stealing the gold, few examples of these aboriginal works of art survive.[56]

Franciscan friar Juan de Torquemada, writing from Guatemala sometime before 1615, reported that the Mayas told of a god who instructed males on how to have sex with one another:

> Convinced therefore that it was not a sin, the custom started among parents of giving a boy to their young son, to have him for a woman and to use him as a woman; from that also began the law that if anyone approached the boy, they were ordered to pay for it, punishing them with the same penalties as those breaking the condition of marriage.[57]

In essence, homosexual bonds were considered normal among young men, a pattern which continues to this day. According to Williams,

> After my arrival in Yucatán, I soon learned that the society provides a de facto acceptance of same-sex relations for males. It did not take long to establish contacts, and my informants suggested that a large majority of the male population is at certain times sexually active with other males. This usually occurs in the years between thirteen and thirty, when sexual desire is strongest, but it also involves men older than that. Marriage to a woman does not seem to have much effect on the occurrence and amount of homosexual behavior.[58]

Though Williams found that peninsular Maya hold to the sexual-role definitions customary in *mestizo* society, with only those who are penetrated in anal sex seen to be

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[55]Williams, Walter L. *The Spirit and the Flesh: Sexual Diversity in American Indian Culture* (Boston: Beacon Press, 1986), p. 26, 51-52, 220.
[56]Williams, Walter L. *The Spirit and the Flesh: Sexual Diversity in American Indian Culture* (Boston: Beacon Press, 1986), p. 135-136.
[57]Williams, Walter L. *The Spirit and the Flesh: Sexual Diversity in American Indian Culture* (Boston: Beacon Press, 1986), p. 90.
[58]Williams, Walter L. *The Spirit and the Flesh: Sexual Diversity in American Indian Culture* (Boston: Beacon Press, 1986), p. 144.

homosexual, "For those who follow the cultural dictates of taking on a clearly defined homosexual role, there is an easy acceptance by society. This can apply even for those who follow the role for their entire lives." In a Maya town in southern Yucatán, Williams met a forty-year-old man who dressed in a mixture of men's and women's clothing.

> Everyone knows I'm homosexual, and I am well respected. There are hundreds of *homosexuales* in town, most openly so, but I am the only one who dresses as a woman. The people treat me as a woman, and there are never any problems. I attend mass devotedly; the priest often visits my house for meals because I'm one of the best cooks in town. People respect my good citizenship. The men come to visit me for sex; I have to turn them away. I had a lover for several years, and we walked around town holding hands being completely open. No one objected. I feel no discrimination for being different.[59]

Carter Wilson, who has observed the homosexual scene in the Yucatán over a far greater period of time, and has studied it into the 1990s, corroborates many of Walter Williams' findings. Wilson asked Reinaldo Burgos, a man in his fifties who works at a local bank, how the people of Mérida (the capital of the state of Yucatán) felt about gays.

> "Oh basically they accept them," Reinaldo said. "The age for boys is the time before they get married, from about fifteen until they're twenty-four. They have their *novias*, their girlfriends, but the families are very careful about their girls, about protecting their virginity, so the boys also have a special friend, another boy they have sex with. Sometimes they give up the special friend when they get married and sometimes they don't. These are the ones who become bisexuals later on."
>
> "And how do they decide who's going to be the *penetrator*?"
>
> "They change off. It doesn't matter. They do it to each other, and when they get up from the bed one doesn't feel any less masculine than the other."[60]

Further corroboration comes from a survey conducted by Karla Beatriz Uribe Martínez, who interviewed one hundred Maya of reproductive age (14-45) in 1988-1989. Half were men, half women. 88% of the men and 62% of the women said they knew at least one male homosexual. Attitudes towards male homosexuality differed sharply among the sexes, with about three-quarters of the women saying they "rejected" it, but most men saying they were at least "indifferent" to it. When asked what percentage of young men between 14 and 20 had had sex

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[59]Williams, Walter L. *The Spirit and the Flesh: Sexual Diversity in American Indian Culture* (Boston: Beacon Press, 1986), p. 146-147.
[60]Wilson, Carter. *Hidden in the Blood: A Personal Investigation of AIDS in the Yucatán* (New York: Columbia University Press, 1995), p. 77, 86.

with another male at least once, almost half of the men and almost half of the women estimated it to be between 20% and 40%.[61]

The greater degree of acceptance of homosexuality that occurs in some traditional native cultures in Mexico does not in most cases provide viable options for relocation by gays and lesbians from other parts of Mexico. Native peoples tend to live in predominantly rural areas, with limited employment opportunities outside of agriculture. There are potential language barriers, since many of these peoples speak only their native tongue. Family and roots are of great importance in getting established in such communities.

V. POLITICAL AND LEGAL GAINS

Despite the generally unfavorable cultural environment in *mestizo* Mexico, significant political and legal gains are being made by gays and lesbians.

Unlike the United States, where 19 states still have "sodomy" laws that penalize certain sexual acts between consenting adults in the privacy of their own home, Mexico has a legal structure inherited from the French Napoleonic Code, which considers such private behavior to be exempt from legal interference. Only where sexuality is expressed in a public way, or where it involves improper behavior with minors, do legal sanctions kick in.

Until recently, Article 201 of the Federal District Penal Code (which is federal legislation, because of the special status of the Federal District) provided for three to eight years' imprisonment and a fine of 50 to 200 days' income for the corruption of minors, with homosexuality listed as an aggravating factor. The law also stated that if the minor later acquired corrupt habits, such as "homosexual practices," then the penalty would rise to five to ten years' imprisonment and a fine of 100 to 400 days' income.[62]

On December 12, 1998, the Mexican Chamber of Deputies voted 473-0, with two abstentions, to repeal the discriminatory language. The law now applies equally to all, without regard for sexual orientation. "With this achievement, Mexico eliminates the last vestiges of

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[61]Wilson, Carter. *Hidden in the Blood: A Personal Investigation of AIDS in the Yucatán* (New York: Columbia University Press, 1995), p. 116-117.
[62]Immigration and Refugee Board, Research Directorate. *Mexico: Treatment of Sexual Minorities* (Ottawa: April 1999), Section 4.1.1. URL: http://www.irb.gc.ca.

discrimination based on sexual orientation from its legal framework," said lesbian Congresswoman Patria Jiménez, who cosponsored the legislation.[63]

Provisions similar to those that previously existed in the DF persist in the penal codes of at least 15 of Mexico's 31 states (Aguascalientes, Baja California, Baja California Sur, Campeche, Chiapas, Chihuahua, Coahuila, Durango, Jalisco, México, Puebla, San Luis Potosí, Sinaloa, Sonora and Tamaulipas). In three of those states (Puebla, Sinaloa and Sonora), homosexuality is singled out in the definition of acts constituting corruption of a minor. In all fifteen of these states, penalties rise if the minor acquires corrupt habits, including "homosexual practices," following the acts of corruption. Penalties range from three months to nine years' imprisonment, and a fine of up to 700 days' pay. Since the states generally copy federal reforms, there is reason to believe many will follow suit in removing the discriminatory language, particularly following the virtually unanimous vote at the federal level.[64]

In other respects, Mexican law is lenient, reflecting its origins in the Napoleonic Code, which considers private consensual sexual activity to be beyond the scope of the law. Homosexual magazines with erotic photography are available for sale in kiosks in major cities. The authorities generally permit open displays of political activism, including protests and homosexual pride parades, and allow homosexual service organizations and gay bars to operate relatively unhindered in larger cities. Homosexuals are invited to take part in educational programs and debates on television.[65]

Participation by homosexuals is widely accepted in two of Mexico's three principal political parties—very openly in the center-left Party of the Democratic Revolution (PRD), more discreetly in the long-governing Institutional Revolutionary Party (PRI). In 1998, President Ernesto Zedillo (PRI) appointed Pedro Joaquín-Coldwell, who is openly bisexual, ambassador to Cuba. Joaquín-Coldwell formerly served as secretary of tourism and as governor of Quintana Roo (the state in which Cancún is located).[66]

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[63]Wockner, Rex. "Mexico Repeals Last Anti-Gay Law," *International News* (No. 244, 28 December 1998)\. URL: http://www.qrd.org/qrd/world/wockner/news.briefs/244-12.28.98.

[64]Immigration and Refugee Board, Research Directorate. *Mexico: Treatment of Sexual Minorities* (Ottawa: April 1999), Section 3. URL: http://www.irb.gc.ca.

[65]Murray, Stephen O., ed. "Legends, Syncretism, and Continuing Echoes of Homosexuality from Pre-Columbian and Colonial Mexico," *Latin American Male Homosexualities* (Albuquerque: University of New Mexico Press, 1995), p. 92.

[66]Wockner, Rex. "Mexico Appoints Bisexual Cuban Ambassador," *International News* (No. 214, 1 June 1998). URL: http://www.qrd.org/qrd/world/wockner/news.briefs/214-06.01.98.

The growing political influence of the PRD has led to further gains. In the 1997 national elections, Patria Jiménez became the first openly lesbian member of Congress, and gay and lesbian rights advocate David Sánchez Camacho was elected to the Legislative Assembly of the DF, and subsequently designated Secretary of the *Comisión de Atención Especial a Grupos Vulnerables* (Commission for Special Attention to Vulnerable Groups). With the PRD firmly in control of the DF, there has been a marked change in the official attitude towards the rights of homosexuals.

On July 17, 1998, the *Comisión de Derechos Humanos del Distrito Federal* (CDHDF, Human Rights Commission of the Federal District), federal congresswoman Patria Jiménez (PRD), and the *Fundación Arcoiris* (Rainbow Foundation) jointly issued a "Human Rights Primer to Prevent Discrimination Based on Sexual Orientation." At the dedication, Mexico City human rights ombudsman Luis de la Barrera said it is wrong to discriminate against someone for making love in their own way.[67]

The primer begins by emphasizing that "being homosexual, lesbian, bisexual, transsexual, or transgendered is in no way an infraction of the law," and acknowledging that these groups "have traditionally been discriminated against, stigmatized, and marginalized, even though from a legal standpoint they enjoy the same rights as anyone else." It then enumerates nineteen rights, such as the right "to be treated the same as any other person, without regard to sexual orientation," to receive education free of stigma or prejudice, to obtain prompt and quality medical care with ethical treatment by medical professionals, to equality in the workplace, to the free expression of ideas, to freedom of association, to not be molested or subjected to torture, to not be deprived of life, liberty, or property, to equal protection of the laws, and to not be discriminated against or harassed because of sexual orientation. The primer then directs persons to the proper government agencies and human rights organizations to get assistance or file complaints of rights violations.[68]

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[67]Wockner, Rex. "Mexico City Officials Defend Gay Rights," *International News* (No. 222, 27 July 1998). URL: http://www.qrd.org/qrd/world/wockner/news.briefs/222-07.27.98.

[68]*Cartilla de Derechos Humanos para evitar la Discriminación por Orientación Sexual* (Mexico City: Comisión de Derechos Humanos del Distrito Federal and Fundación Arcoiris, A.C., 17 July 1998).

In September 1999, the *Asamblea Legislativa del Distrito Federal* (Legislative Assembly of the Federal District) passed an ordinance banning discrimination based on sexual orientation.[69] The ordinance, which modifies Article 281 bis of the Federal District Penal Code, is the first of its kind in Mexico. It provides for prison sentences of one to three years, fines equivalent to 50 to 200 days' salary, and community service of 25 to 100 days for anyone who "provokes or incites hatred or violence," "refuses to provide an individual with a service...offered to the general public," "harasses or excludes an individual or group," or "denies or restricts employment," based on "sexual orientation." Public servants who violate these provisions are to be removed from office and their penalties augmented by an additional 50%.[70] The law, sponsored by PRD Deputy David Sánchez Camacho, went into effect October 1, 1999.

It should be kept in mind, however, that the ordinance applies only to Mexico City. There is also a longstanding breach between law and practice in Mexico. Though the aforementioned developments point to a substantial improvement in conditions for homosexuals in the capital, it remains to be seen how vigorously they will be enforced.

Better organizing will be a key element in any further progress, as demonstrated in Guadalajara, the capital city of the west central state of Jalisco, where a well-organized gay movement has achieved a significant level of acceptance in one of Mexico's most Catholic and conservative cities. Though both the city and state are governed by the center-right and generally gay-hostile National Action Party (PAN), a political accommodation has been reached, significantly improving conditions for the city's homosexual population. The gay liberation movement there began in 1981, led by Pedro Preciado and the *Grupo Orgullo Homosexual de Liberación* (GOHL, Homosexual Pride Liberation Group). When the PAN won the elections in February 1995, it was widely believed that gay and lesbian rights would face a major setback. But Preciado met with the mayor and governor, and negotiated a mutually-satisfactory arrangement.

According to Joseph Carrier, who has been studying the process firsthand,

> The accommodation continues at present and there appears to be more rights now for gay people in Guadalajara and other cities in Jalisco than there were when

[69]Wockner, Rex. "Mexico City Bans Discrimination," *International News* (No. 281, 13 September 1999). URL: http://www.qrd.org/qrd/world/wockner/news.briefs/281-09.13.99.

[70]Artículo 281 bis del Código Penal para el Distrito Federal Título decimoséptimo bis: Delitos contra la dignidad de las personas. URL: <http://worldpolicy.org/americas/sexorient/df-antidiscrimination.html>.

> PAN took over the government four years ago. There are, for example, more gay bars and discos than before, completely nude male dancers are allowed to perform in bars, and gay male magazines with nude photos are legally sold by vendors. Moreover, *Siglo 21*, a leading Guadalajara newspaper presents a list every Friday of what is happening in gay places. And in Puerto Vallarta, an internationally known beach resort in Jalisco, gay foreign tourists and residents are now being informed about the gay scene by a 16-page "Gay Community" newspaper in English (*El Reportaje*) and a 52-page free gay guidebook (*South Side PV Guide*). One can also find complete descriptions of the gay world in Puerto Vallarta on the world wide web (http://www.discoveryvallarta.com).[71]

Gay and lesbian organizing is rapidly spreading outward from its established bases in Mexico City, Guadalajara, and Tijuana, and is becoming more accessible through the telephone and the Internet. In January 1999, a Lesbian, Gay and Bisexual Switchboard began operating in Mexico City on Monday to Friday from 7 p.m. to 10 p.m. and Saturday and Sunday from noon to 8 p.m.[72] That same month, Rex Wockner reported the formation of the first gay organization in the city of San Luis Potosí north of Mexico City.[73] In May 1999, a gay group formed in Ciudad Juárez, Chihuahua, calling itself the *Comité Orgullo Nawi Juárez* (Juárez Nawi Pride Committee). *Nawi* means "gay" in the local indigenous language. Members were interviewed on television channel 44, the most popular local station, and most of the callers to the live program were sympathetic.[74] In June 1999, 50 persons attended a gay pride celebration at the kiosk in the central plaza (*zócalo*) of Culiacán, Sinaloa.[75]

To promote better national coverage and solidarity, gay and lesbian activists have divided the country into five regions, each of which is to organize in preparation for a national convention. In April 1999, 30 gay activists from the Mexican states of Baja California, Sonora, Veracruz and Sinaloa met in Puerto Peñasco, Sonora, for the Sixth Northwest Mexico Gay/Lesbian Conference. In July 1999, gay and lesbian activists from the states of Veracruz,

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[71]Carrier, Joseph. *Gay Liberation and Sex Outside the Bedroom* (Unpublished paper, 31 May 1999).
[72]Wockner, Rex. "Gay Switchboard Opens in Mexico City," *International News* (No. 249, 1 February 1999). URL: http://www.qrd.org/qrd/world/wockner/news.briefs/249-02.01.99.
[73]Wockner, Rex. "Gays Organize in San Luis Potosí," *International News* (No. 245, 4 January 1999). URL: http://www.qrd.org/qrd/world/wockner/news.briefs/245-01.04.99.
[74]Wockner, Rex. "Gay Group Formed in Ciudad Juárez," *International News* (No. 267, 7 June 1999). URL: http://www.qrd.org/qrd/world/wockner/news.briefs/267-06.07.99.
[75]Wockner, Rex. "Mexicans Celebrate Pride," *International News* (No. 281, 13 September 1999). URL: http://www.qrd.org/qrd/world/wockner/news.briefs/281-09.13.99.

Tabasco, Campeche, Chiapas, Oaxaca, Yucatán and Quintana Roo met in Veracruz for the First Southeast Gay/Lesbian Conference.[76]

In a further sign of increasing official tolerance of homosexual organizing, on June 26, 1999, some ten thousand gays, lesbians, bisexuals, and sympathizers marched through Mexico City to the Zócalo, the first time they had been authorized to hold a rally in the central city square that adjoins the seat of the federal government. In honor of the event, *Ejercito Zapatista de Liberación Nacional* (EZLN, Zapatista Army of National Liberation) leader Subcommander Marcos (aka, Rafael Sebastian Guillén Vicente) sent a message that read:

> For a very long time, homosexuals, lesbians, transsexuals and bisexuals have had to live and to die concealing their difference, suffering persecution, contempt, humiliation, extortion, blackmail, insults, violence and killings in silence.... For those who are present at this mobilization, you have our admiration for your courage and audacity to make yourselves seen and heard, for your proud, dignified and legitimate "Enough Already!"[77]

On September 25, 1999, some 150 openly gay and lesbian Mexican Christians extended their efforts to the Catholic Church. The pilgrimage, organized by the Mexico City chapter of the gay and lesbian-friendly Metropolitan Community Church, proceeded for 1.5 miles along Guadalupe Boulevard, culminating at Mexico's holiest shrine, the Basilica of the Virgin of Guadalupe. The pilgrims entered the Basilica without incident. The Virgin of Guadalupe, a dark-skinned native incarnation of the Virgin Mary, was a symbol of liberation during the war of independence. In the words of Metropolitan Community Church pastor Jorge Sosa, "The Virgin protects everyone and accepts everyone, and we're here to show her our devotion and to ask her protection as we fight for our rights in Mexico."[78]

Gay pride parades are spreading from Mexico City and Tijuana to other major cities. On July 18, 1999, Veracruz held its first gay pride parade, in which 35 persons marched without incident. In Guadalajara, 54 men formed the Tapatío Gay Pride Committee on July 23, 1999, to begin planning gay pride events and an annual parade.[79]

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[76]Wockner, Rex. "Mexican Gays Met in Sonora," and "Mexican Gays to Gather in Veracruz," *International News* (No. 266, 31 May 1999). URL: http://www.qrd.org/qrd/world/wockner/news.briefs/266-05.31.99.
[77]Wockner, Rex. "Pride Celebrated in Lisbon, Mexico City and Tel Aviv," *International New* (No. 271, 5 July 1999). URL: <http://www.qrd.org/qrd/world/wockner/news.briefs/271-07.05.99>.
[78]Sandoval, Ricardo. "Mexican Gays March against Intolerance," *Miami Herald* (Miami: 26 September 1999).
[79]Wockner, Rex. "Gays Organize in Mexico," *International News* (No. 275, 2 August 1999). URL: <http://www.qrd.org/qrd/world/wockner/news.briefs/275-08.02.99>.

VI. PROSPECTS FOR INTERNAL RELOCATION

There are three groups for whom internal relocation would be difficult if not impossible. One is effeminate men, including transvestites. A second (as discussed in the following section) is HIV-positive persons who do not have access to insurance, and who do not have the means to pay for anti-HIV medicines, which typically cost well over ten times the minimum wage.[80] The third would be political activists and whistle-blowers whose homosexuality would be used against them, either for blackmail, or through mistreatment by the police, or by public exposure.[81]

In most other cases, the improving climate towards homosexuals in many big cities means that gays, lesbians, and bisexuals who live in the more intolerant rural areas and smaller urban areas do have internal relocation options. Mexico City has an increasingly vocal and visible gay subculture, which for the first time has gained representation in both the Legislative Assembly of the DF and the federal Chamber of Deputies. As reported by Carrier, conditions for homosexuals in Guadalajara have also improved markedly. The same is true of other cities that have had a high degree of exposure to foreign (especially American) tourists and influences, such as Tijuana (Baja California Norte), Cuernavaca (Morelos), Acapulco (Guerrero), Puerto Vallarta (Jalisco), and San Miguel Allende (Guanajuato). Veracruz and other cities in the state of Veracruz have always had a greater level of sexual tolerance, according to Rodolfo Millán, in part because of more relaxed attitudes towards sexuality by indigenous groups in the area. It should be noted, however, that in all cases the extent to which an individual can lead a fulfilling life as a homosexual depends heavily on that individual's socioeconomic status.[82]

As discussed earlier on, the greater degree of acceptance of homosexuality that occurs in some traditional native cultures in Mexico does not in most cases provide viable options for relocation by gays and lesbians from other parts of Mexico. Native peoples tend to live in predominantly rural areas, with limited employment opportunities outside of agriculture. There

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[80]Illiff, Laurence. "A Prescription for Saving Lives; Activists Send AIDS Medications to Foreign Countries through Informal Network," *Dallas Morning News* (Dallas: 8 March 1998), p. 1J.

[81]Riva Palacio, Raymundo. "Viñetas de la represión," *Crónica* (Mexico City: 11 August 1997. In 1997, a U.S. immigration judge granted asylum to Jacquelin Larrainzar Flores, the 25-year-old daughter of a Mexican army general, whose advocacy of the *zapatista* rebel cause in Chiapas led to harassment by security forces that was aggravated by the fact that she's lesbian. Treviño, Joseph and McDonnell, Patrick J. "More Seek Asylum to Flee Anti-Gay Persecution," *Los Angeles Times* (Los Angeles: 13 March 1999), p. B1. In a similar case in 1999, a U.S. immigration judge granted asylum to a 28-year-old PRD activist named Antonio, whose homosexuality would presumably increase his vulnerability to harassment by security forces.

are potential language barriers, since many of these peoples speak only their native tongue. Family and roots are of great importance in getting established in such communities.

VII. HIV-POSITIVE RETURNEES

Only 12% of the Mexican population has access to private medical care.[83] The remaining 88% depend primarily on care obtained through two social security systems run by the federal government. One of these—the ISSTE (*Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado* / Social Security Institute for Government Workers)—serves government employees. The other—the IMSS (*Instituto Mexicano del Seguro Social* / Mexican Social Security Institute)—serves the formal private sector. Coverage under the IMSS is obtained through mandatory employer contributions in the formal sector of the economy. It can also be obtained through voluntary payments by those who are not otherwise covered.

That has the effect of leaving those who are unemployed without access to adequate medical treatment. Carter Wilson describes how poor henequen workers in the Yucatán, after losing their jobs because of failing international demand for the hemp fiber derived from Sisal plants (*Agave rigida*), also lost access to most health benefits:

> Now henequen worker families are entitled only to the "basic" or "level-one" services the system offers (in Wakax, this means the attention they can get at the small IMSS clinic there). The husband and wife who are seropositive are thus no longer entitled to the stipend that would enable them to get to Mexico City for a T helper cell test, or to the test itself. The catch is that without proof of a T helper ratio of less than five hundred, they cannot receive AZT through IMSS.[84]

Similarly, in the case of those employed in the informal sector, low incomes generally preclude the possibility of being able to pay the voluntary contributions required for access to the IMSS.

For those who are uninsured, the Health Ministry is the last resort. In December 1997, the federal government announced the creation of a new fund to purchase HIV-fighting medicines. But the 1998 budget was set at 30 million pesos (then equivalent to $3.7 million), a sum anti-

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[82]Carrier, Joseph. "Gay Liberation and Sex Outside the Bedroom" (Unpublished: 31 May 1999). Millán, Rodolfo. Telephone Interview (27 May 1999).
[83]Vargas Medina, Agustín. "IMSS e ISSSTE podrían descapitalizarse: Derechohabientes de medianos y altos ingresos tendrán la opción de atenderse en hospitales de 'cinco estrellas'," *Proceso* (Mexico City: No. 1173, 25 April 1999).
[84]Wilson, Carter Wilson. *Hidden in the Blood: A Personal Investigation of AIDS in the Yucatán* (New York: Columbia University Press, 1995), p. 128.

AIDS activists estimated would cover less than 1% of the thousands of Mexicans in terminal stages of AIDS. In desperation, activists have been breaking the law on international transfers of such medicines, retrieving unused supplies from persons who have died in the United States, or who have had to abandon particular medications because of serious side effects. Yet the quantities of medicines being smuggled into Mexico in this way are not enough to make much of a difference.[85]

So insurance, which depends on employment, remains critical. Yet it is a common practice for employers in the formal sector of the economy to subject job applicants to HIV tests, and to deny employment to those who test positive. Such practices are said to be especially prevalent in the *maquiladora* (assembly plant) sector, but occur throughout the formal economy.[86]

Formally speaking, these practices are of doubtful legality. The *Norma Oficial Mexicana para la Prevención y Control de la Infección por VIH* (Official Norm for the Prevention and Control of HIV Infection) requires that HIV test results be kept confidential, and cannot be used to deny employment or to fire existing employees.

Yet the Official Norm is seldom enforced. One reason is that older laws that contradict it have not been modified. Article 134 of the Federal Labor Law, for instance, states that employers may require whatever medical tests they deem appropriate to establish that workers do not suffer from any incapaciting condition or "contagious or incurable" illness. If an applicant or employee tests positive for HIV, employers often justify denials of employment and firings on other grounds.[87]

Another problem, according to the Jesuit-run *Centro de Derechos Humanos Miguel Agustín Pro Juárez* (Miguel Agustín Pro Juárez Human Rights Center) is the ineffectiveness of the *Comisión Nacional de Derechos Humanos* (CNDH, National Human Rights Commission). Out of 311 complaints filed by persons alleging discrimination because of HIV/AIDS over the past four years, the Commission has issued recommendations in only five cases. Part of the problem is that the Commission is barred by Article 102B of the Constitution from hearing

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[85]Iliff, Laurence. "A Prescription for Saving Lives; Activists Send AIDS Medications to Foreign Countries through Informal Network," *Dallas Morning News* (Dallas: 8 March 1998), p. 1J.
[86]Commission for Solidarity and the Defense of Human Rights (*Comisión de Solidaridad y Defensa de los Derechos Humanos, A.C.*, COSYDDHAC). Telephone Interview (Chihuahua, Chihuahua: 29 April 1999).

complaints involving labor rights. The other part of the problem is the Commission's method of investigating complaints:

> We have observed that the investigation of a complaint is often limited to an exchange of correspondence with the authorities who have been identified as responsible. These generally deny the charges or give an inadequate explanation, and the CNDH considers the response sufficient to say that the complaint has been attended to, without verifying the truthfulness of the information received from the authorities alleged to have committed the violations.[88]

The net effect is that HIV-positive individuals are commonly unable to obtain the very jobs they would need in order to have access to even a modicum of the medical care required to hold HIV infections in check. For individuals who are receiving advanced HIV treatment in the United States to be returned to Mexico in such circumstances is likely to be an indirect death sentence, unless the particular individuals or their families have the financial resources to pay for private care.

In addition, Mexican society remains highly prejudiced against homosexuals who are HIV-positive. As was the case in the United States several years ago, AIDS continues to be identified as a gay disease. An association is commonly made between homosexuality, AIDS, and death. Misconceptions about how the disease is spread give rise to fear, which, in tandem with deeply-ingrained homophobia, give rise to discrimination—as in the case of employment described above. Similar attitudes result in discrimination in medical care by health professionals who are not properly informed about the risks of HIV transmittal. They also result in ostracism and harassment by the communities in which HIV-positive individuals live. The lower the income and education levels, the more severe the persecution faced by such individuals.

> Abel, 33, a dishwasher in Seattle, no longer can dream of returning to his native town just outside of Guadalajara, buying a store and raising his kids, 11 and 13. After finding out he was HIV-positive four years ago, he went home, only to be ostracized after word spread of his illness, and had to return to the United States. "I realized then that Mexico is really still a Third World country," he said. "We're very backward."[89]

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[87]Centro de Derechos Humanos Miguel Agustín Pro Juárez. *El Sida en México: Un Problema de Derechos Humanos* (Mexico City). Estévez, Ariadna. Telephone Interview (Mexico City: 29 April 1999).
[88]Centro de Derechos Humanos Miguel Agustín Pro Juárez. *CNDH: La Legitimidad a Prueba*," (Mexico City: June 1999), p. 7.
[89]Illiff, Laurence. "A Prescription for Saving Lives; Activists Send AIDS Medications to Foreign Countries through Informal Network," *Dallas Morning News* (Dallas: 8 March 1998), p. 1J.

Though it is not government policy to mistreat HIV-positive individuals, neither the government nor the courts have acted to uphold the rights of such individuals, leaving them no effective means of protection or redress. According to Ariadna Estévez of the Jesuit-run Miguel Agustín Pro Juárez Human Rights Center in Mexico City,

> There are no effective recourses in Mexican juridical practice that would enable homosexuals to redress violations of their rights. In the case of firings, the courts do not act, and in the case of physical aggression, they blame gays and lesbians for having provoked the violence.[90]

[90]Estévez, Ariadna. *Aspectos de la Situación de los Derechos Humanos de Lesbianas y Homosexuales en México* (Mexico City: October 1997).