

IN THE SUPREME COURT OF MEXICO

ACCIÓN DE INCONSTITUCIONALIDAD 146/2007

Re Mexico, Federal District. Decree Reforming the Federal District Penal Code and Amending the Federal District Health Law. Official Gazette of the Federal District. No. 70. April 26, 2007

WRITTEN COMMENTS BY:

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I. Introduction

1. This submission supports the legal reforms of the *Decree Reforming the Federal District Penal Code and Amending the Federal District Health Law* (Decree)¹ as consistent with the international human rights obligations of the United Mexican States under the *Convention on the Elimination of All Forms of Discrimination against Women* (Women's Convention).²
2. This submission addresses the following reforms in particular:
 - in Article 1 of the Decree, the redefinition of the crime of abortion as the interruption of pregnancy after the twelfth week of gestation (Article 144 of the *Federal District Penal Code*),³
 - in Article 2 of the Decree, the prioritization of sexual and reproductive health care (Article 16 Bis-6 and Bis-8 of the *Federal District Health Law*).⁴

It is submitted that these reforms represent significant measures to eliminate discrimination against women in the field of health care. By enacting these reforms, the Federal District seeks to ensure access to health care services on a basis of equality of men and women.⁵

3. This submission draws authority from *General Recommendation No. 24 (Article 12: Women and Health)* (General Recommendation No. 24),⁶ and Concluding Observations issued by the Committee on the Elimination of Discrimination against Women (Committee).⁷ *General Recommendation No. 24* elaborates the content and meaning of Article 12 of the *Women's Convention*. Article 12(1) requires States parties to “take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health-care services, including those related to family planning.”⁸ Concluding Observations provide important guidance on the concrete implementation of Article 12 and related provisions of the *Women's Convention*.
4. Authority is also drawn from national courts, which are increasingly applying the *Women's Convention* and constitutional equality provisions to find that the legal treatment of abortion as distinct from other health care services discriminates against women.⁹ The Colombian Constitutional Court has held that the criminalization of health care that only women need violates the rights to sexual non-discrimination under the *Women's Convention*.¹⁰

II. Interest of the Programme

5. The International Reproductive and Sexual Health Law Programme, Faculty of Law, University of Toronto, is an academic programme dedicated to improving the legal protection and promotion of reproductive and sexual health. The Programme has particular expertise in the application of equality and non-discrimination rights in the regulation of reproductive health care. It has collaborated with government and international agencies, non-government organizations, and academic institutions to develop policies and scholarship on this subject.

III. The redefinition of the crime of abortion as the interruption of pregnancy after the twelfth week of gestation is consistent with the Federal District's obligations under the *Women's Convention*

A. In redefining the crime of abortion, the Federal District recognizes that criminal abortion laws discriminate against women

6. “[L]aws that criminalize medical procedures only needed by women and that punish women who undergo those procedures” constitute discrimination under Article 12(1) of the *Women's Convention*.¹¹ This is true of all criminal laws, both prohibitive and restrictive, that impose punitive provisions on women who undergo abortion. Criminal abortion laws discriminate against women because they:
 - contribute to unsafe abortion with consequent risks to women's lives and health (paragraph 7)
 - disproportionately impact women belonging to vulnerable and disadvantaged groups (paragraph 8)
 - stigmatize women who undergo abortion and the medical practitioners who provide services (paragraph 9)
 - limit women's capacity to make autonomous decisions about their health care, and private and family lives, on the basis of gender stereotypes (paragraph 10)
7. Criminal laws do not restrict access to abortion. They restrict access to *safe* abortion.¹² Criminal laws lead hundreds of thousands of Mexican women every year to seek abortion services from individuals without the necessary skill or in an environment that does not conform to minimum medical standards, or both.¹³ Criminal laws are thus in part responsible for abortion-related complications being a leading cause of maternal death among Mexican women.¹⁴ Men do not suffer similar rates of death and disability as a consequence of criminal restrictions on access to health care services. Given their contribution to high rates of mortality and morbidity, criminal abortion laws deny women their rights to life and health on the basis of equality with men.¹⁵
8. Criminal abortion laws discriminate against women on the compounded basis of sex, race, age and income. Women belonging to vulnerable and disadvantaged groups are in practice disproportionately affected by criminal laws. In a series of Concluding Observations, the Committee has observed high rates of abortion-related maternal mortality especially among poor, rural, indigenous and Afro-descendent women,¹⁶ and has linked high rates of unsafe abortion to poverty, exclusion and a lack of access to information, among other causes.¹⁷ In Mexico, women belonging to socio-economically advantaged groups tend to circumvent the law through private providers or by traveling abroad,¹⁸ while poor women and women with low levels of education are more likely to resort to unsafe abortion.¹⁹ Contrary to *General*

Recommendation No. 24, criminal abortion laws neglect rather than give special attention to the health needs and rights of women belonging to vulnerable and disadvantaged groups.²⁰

9. Where criminal laws only provide exemptions from punitive provisions if abortion is performed for specific indications (e.g. risks to life and health, and rape), women still can not access safe services for those indications.²¹ As recognized by the Committee, unsafe abortion persists in Mexico despite legalization for specific indications.²² This is in part due to the stigmatizing effect of the criminal law. By setting abortion services in a criminal context, it denies abortion the status of legitimate medical care. The continuing criminality of abortion expresses disapproval of and contributes to social sanctions against abortion and those who engage it. Women are reluctant to seek information about abortion, leading many, who satisfy indications for legal abortion, to resort to unsafe services.²³ Women and medical practitioners are deterred from respectively seeking and providing care for the management of abortion-related complications.²⁴ The failure to ensure effective access to abortion-related aftercare, an essential health care service, violates women's rights to life and health.
10. Criminal abortion laws discriminate against women because they are based on stereotypes of women as incapable of making responsible decisions about their reproductive health. Criminal abortion laws limit the capacity of women to make autonomous decisions about their health care, and their private and family lives, according to their health needs and personal conscience. Criminal laws obstruct a woman from accessing abortion services unless she meets criteria unrelated to her own best health interests, priorities and aspirations. A woman's decision-making capacity in matters of her reproductive health is thus subject not to her own control, but to the control of the state.²⁵ Contrary to Article 16 of the *Women's Convention*, criminal abortion laws deny women the same rights as men to decide freely and responsibly the number and spacing of their children, and to access the means necessary to enable them to exercise these rights.²⁶ Contrary to Article 5, criminal laws deny women these rights on the basis of stereotyped roles for women.²⁷

B. In redefining the crime of abortion, the Federal District implements its obligations to eliminate discrimination against women

11. Given that criminal abortion laws discriminate against women, international human rights obligations to eliminate discrimination against women require their reform. In a series of Concluding Observations, the Committee has recommended that State parties review laws relating to abortion with a view to removing punitive provisions imposed on women who undergo abortion in accordance with *General Recommendation No. 24*, and the *Beijing Declaration and Platform for Action*.²⁸
12. *General Recommendation No. 24* advises that “[w]hen possible, legislation criminalizing abortion should be amended, in order to withdraw punitive measures imposed on women who undergo abortion.”²⁹ The *Beijing Declaration and Platform for Action* similarly urges states to “consider reviewing laws containing punitive measures against women who have undergone illegal abortions.”³⁰

13. In the *Penal Code* reforms of Article 1 of the Decree, the Federal District implements its obligations to eliminate discrimination against women under the *Women's Convention*. The Decree reforms Article 144 of the Federal District *Penal Code* to withdraw punitive measures imposed on women who undergo abortion during the first twelve weeks of pregnancy.³¹ The crime of abortion is redefined as the interruption of pregnancy after the twelfth week of gestation.³² This reform affirms women's rights to non-discrimination in the health care context, and in matters relating to private and family life.
14. In reforming its criminal abortion law, the Federal District of Mexico joins more than 56 countries worldwide that legally permit abortion without restriction as to reason for at least some period of pregnancy.³³ Since 1996, Albania, Cambodia, Nepal, Portugal, South Africa and Switzerland have all enacted legal reforms to permit abortion without restriction as to reason during the first 12 to 14 weeks of pregnancy.³⁴

C. In redefining the crime of abortion, the Federal District recognizes that the legitimate objective of protecting prenatal life may be pursued only in a manner consistent with the human rights of women

15. The protection of prenatal life, as guaranteed by the *Political Constitution of the United Mexican States*, is a legitimate objective. The redefinition of the crime of abortion as the interruption of pregnancy after the twelfth week of gestation should not be interpreted as detracting from the legitimacy of this objective. Rather, in reforming Article 144 of the *Penal Code*, the Federal District recognizes that punitive measures imposed on women who undergo abortion in the first twelve weeks of pregnancy is neither the sole nor most effective means of protecting prenatal life. The high incidence of unsafe abortion in Mexico and other jurisdictions with criminal abortion laws speaks to the ineffectiveness of such measures.
16. In the reform of Article 144, the Federal District further recognizes that the protection of prenatal life may be pursued only in a manner consistent with the human rights of women, and its obligations under the *Women's Convention* and other international human rights treaties.³⁵ In a recent decision on the constitutionality of the criminal abortion law, the Colombia Constitutional Court interpreted the right to life consistently with the state's human rights treaty obligations. The Court explained that the state may only protect prenatal life in a manner compatible with the rights of women, including their rights to life and health as protected by the Colombian *Constitution* and international human rights treaties.³⁶
17. Measures to protect prenatal life consistent with the human rights of women include the provision of safe motherhood services and prenatal assistance,³⁷ the reduction of spontaneous miscarriages, including recurrent miscarriages, and, welfare measures to ease the social and economic burdens of pregnant women.³⁸ States parties may also enact measures to reduce the need for abortion by ensuring that appropriate family planning and contraceptive services are available and accessible.³⁹

IV. The prioritization of sexual and reproductive health care is consistent with the Federal District's obligations under the *Women's Convention*

A. In prioritizing sexual and reproductive health care, the Federal District recognizes that measures to ensure women’s access to health care services are necessary to eliminate discrimination against women

18. Article 12 of the *Women’s Convention* requires that States parties not only refrain from obstructing women’s access to health care services, but also enact measures to ensure that women realize their rights to health care.⁴⁰ The reform of criminal abortion laws is insufficient to eliminate discrimination of women. *General Recommendation No. 24* provides that States parties must also enact measures to “ensure timely access to the range of services which are *related to family planning*, in particular, and to sexual and reproductive health in general.”⁴¹
19. In 2006, the Committee advised the United Mexican States “to implement a comprehensive strategy which should include the provision of effective access to safe abortion in situations provided for under the law and a wide range of contraceptive measures.”⁴² The Committee urged Mexico more generally to improve women’s access to health care and health-related information and services, in particular regarding sexual and reproductive health.

B. In prioritizing sexual and reproductive health care, the Federal District enacts measures to ensure women’s access to health care services

20. In the *Health Law* reforms of Article 2 of the Decree, the Federal District implements its obligations under the *Women’s Convention* to enact measures to ensure that women realize their rights to health care. The *Health Law* reforms prioritize comprehensive sexual and reproductive health care as a government priority. These reforms seek to ensure women’s safe and timely access to a comprehensive range of sexual and reproductive health care information and services, including legal abortion.⁴³
21. The *Health Law* reforms seek to improve access to family planning services, including free counseling and a full range of safe and effective contraceptive methods, with the intention to reduce the incidence of abortion, lower reproductive health risks, and prevent sexually transmissible infections.⁴⁴ By reducing the need for abortion through expanded and improved family planning services, education and information, the Federal District protects prenatal life in a manner consistent with women’s human rights.⁴⁵
22. The *Health Law* reforms seek to ensure women’s safe and timely access to legal abortion services. Legal abortion is to be provided free of charge in public health facilities.⁴⁶ The reforms also address the provision of reliable information, counseling support and quality services for the management of abortion-related complications.⁴⁷ By integrating legal abortion into comprehensive sexual and reproductive health care, the Federal District recognizes legal abortion as legitimate care, requiring the same safe and timely provision as any other health care service.⁴⁸ Integration further contributes to the de-stigmatization of abortion and the persons who engage it, including both women and medical practitioners.
23. Consistent with *General Recommendation No. 24*, the *Health Law* reforms require that sexual and reproductive health care be provided in a manner sensitive to gender⁴⁹ and the

different needs of women, especially young persons and adolescents.⁵⁰ By ensuring that sexual and reproductive health care is acceptable to women disadvantaged on the basis of age, the Federal District gives special attention to the health needs and rights of women belonging to vulnerable and disadvantaged groups.⁵¹

24. Article 16 Bis-8 of the reformed *Health Law* explicitly states that the measures to improve access to sexual and reproductive health care services are intended as means to ensure the rights of all persons to decide freely and responsibly on the number and spacing of their children. Through the *Health Law* reforms, the Federal District recognizes and affirms women's capacity to make independent and responsible decisions about their reproductive health care and their private and family lives.

V. Conclusion

25. The *Penal Code* and *Health Law* reforms of the *Decree* are important measures to improve women's access to sexual and reproductive health care services. These reforms are consistent with the international human rights obligations of the United Mexican States to eliminate discrimination against women in the field of health care under Article 12 and related provisions of the *Women's Convention*. The *Decree* represents a significant step in the recognition and protection of women's reproductive health and rights, and women's equal status and worth more generally.

¹ Mexico, Federal District. *Decree Reforming the Federal District Penal Code and Amending the Federal District Health Law*. Official Gazette of the Federal District. No. 70. April 26, 2007 (“Decree”).

² *Convention on the Elimination of All Forms of Discrimination against Women*, 18 Dec 1979, GA Res. 34/180, UN GAOR, 34th Sess, Supp. No. 46 at 193 (entered into force 3 September 1981, ratification by the United Mexican States 23 March 1981) (“Women’s Convention”)

³ *Decree*, *supra* note 1 at Art. 1, amending the Federal District *Penal Code*, Art. 144.

⁴ *Decree*, *supra* note 1 at Art. 2, amending the Federal District, *Health Law*, Art. 16 Bis-6 and Bis-8.

⁵ *Women’s Convention*, *supra* note 2 at Art. 12(1).

⁶ Committee on the Elimination of Discrimination against Women. *General Recommendation No. 24 (Article 12: Women and Health)*. U.N. Doc. A/54/38 at 5 (1999) (“General Recommendation No. 24”).

⁷ The CEDAW Committee is the treaty monitoring body responsible for “considering the progress made in the implementation of the present [Women’s] Convention.” *Women’s Convention*, *supra* note 2 at Art. 17(1).

⁸ *Women’s Convention*, *supra* note 2 at Art. 12(1).

⁹ *Jane Doe 1 v. Manitoba*, [2004] 248 D.L.R. (4th) 547 (Man. Q.B.); rev’d. [2005] 260 D.L.R. (4th) 149 (Man. C.A.); leave to appeal to S.C.C. refused, [2005] S.C.C.A. No. 513 (Canada); see generally J.N. Erdman, “In the Back Alleys of Health Care: Abortion, Equality, and Community in Canada” (2007) 56(4) *Emory L.J.* 1093; *In re Abortion Law Challenge*, Corte Constitucional de Colombia, Sentencia C-355/06 (10 de mayo de 2006) (Colombia); *Tucson Women’s Clinic v. Eden*, 379 F.3d 531 (9th Cir. 2004) (United States of America); *New Mexico Right to Choose/NARAL v. William Johnson, Secretary of the New Mexico Human Services Department*, 126 N.M. 788 (1999) (New Mexico S.C.) (United States of America): “We conclude from this inquiry that the Department’s rule violates New Mexico’s Equal Rights Amendment because it results in a program that does not apply the same standard of medical necessity to both men and women, and there is no compelling justification for treating men and women differently with respect to their medical needs in this instance” (792); see generally R.B. Siegel, “Sex Equality Arguments for Reproductive Rights: Their Critical Basis and Evolving Constitutional Expression” (2007) 56(4) *Emory L.J.* 815.

¹⁰ *In re Abortion Law Challenge*, Corte Constitucional de Colombia, Sentencia C-355/06 (10 de mayo de 2006).

¹¹ *General Recommendation No. 24*, *supra* note 6 at para. 13. See also Art. 2(g) of the *Women’s Convention*, *supra* note 2, which requires States parties to undertake “[t]o repeal all national penal provisions which constitute discrimination against women.”

¹² See World Health Organization (WHO). *Unsafe abortion: global and regional estimates of incidence of unsafe abortion and associated mortality in 2000*. 4th ed. (Geneva: WHO, 2004).

¹³ D. Walker et al. “Deaths from Complications of Unsafe Abortion: Misclassified Second Trimester Deaths” (2004) 12(24 Supp) *Reproductive Health Matters* 27, 27. See definition of “unsafe abortion” in World Health Organization (WHO). *The prevention and management of unsafe abortion. Report of a Technical Working Group*, 3 (Geneva: WHO, 1993).

¹⁴ *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Mexico*, CEDAW, UN GAOR, 61st sess., supp. no. 38 (A/61/380) part III (2006) 264: “The Committee notes with concern that abortion remains one of the leading causes of maternal deaths” (para. 613). See also: Secretaría de Salud. *Mortalidad materna en México 2002, 2003, 2004* (Mexico City: Secretaría de Salud, 2004).

¹⁵ See *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Belize*, CEDAW, 01/07/99, U.N. Doc. A/54/38: “... the Committee notes that the level of maternal mortality due to clandestine abortions may indicate that the Government does not fully implement its obligations to respect the right to life of its women citizens” (para. 56); *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Colombia*, CEDAW, 05/02/99, U.N. Doc. A/54/38/Rev.1: The Committee notes with great concern that abortion, which is the second cause of maternal deaths in Colombia, is punishable as an illegal act ... The Committee believes that legal provisions on abortion constitute a violation of the rights of women to health and life and of article 12 of the Convention” (para. 393).

¹⁶ See e.g. *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Colombia*, CEDAW, UN Doc. CEDAW/C/COL/CO/6 (2007), at para. 22.

¹⁷ See e.g. *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Brazil*, CEDAW, UN GAOR, 58th sess., supp. no. 38 (A/58/38) part II (2003) 93, at para. 126; *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Ethiopia*, CEDAW, UN GAOR, 59th sess., supp. no. 38 (A/59/38) part I (2004) 42, at para. 257.

¹⁸ See also *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Ireland*, CEDAW, 25/06/99. U.N. Doc. A/54/38/Rev.1, “[T]he Committee is concerned that, with very limited exceptions, abortion remains illegal in Ireland. Women who wish to terminate their pregnancies need to travel abroad. This creates hardship for vulnerable groups, such as female asylum seekers who cannot leave the territory of the State” (para. 185).

¹⁹ A. Kulczycki. “The Abortion Debate in Mexico: Realities and Stalled Policy Reform” (2007) 26(1) *Bulletin of Latin American Research* 50, 53.

²⁰ *General Recommendation No. 24*, *supra* note 6 at para. 6.

²¹ *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Colombia*, CEDAW, UN Doc. CEDAW/C/COL/CO/6 (2007): “While noting ... decision C-355 of May 2006 of the Constitutional Court, which decriminalized abortion in cases where the pregnancy represents a risk to the life or health of the mother, in cases of serious malformation of the foetus or in cases of rape ... [The Committee is] concerned that, in practice, women may not have access to legal abortion services, or to guaranteed care for the management of complications arising from illegal and unsafe abortions” (para. 22); *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Saint Lucia*, CEDAW, UN GAOR, 61st sess., supp. no. 38 (A/61/38) part II (2006) 114: “It [the Committee] welcomes the entry into effect of the Criminal Code No. 9 on 1 January 2005 ... which now permits abortion under certain circumstances ... The Committee notes with concern the persistence of unsafe abortions in the country. It also notes with concern that no information was provided about measures to provide safe abortion services where those are permitted by law” (paras. 154, 181).

²² *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Mexico*, CEDAW, UN GAOR, 61st sess., supp. no. 38 (A/61/380) part III (2006) 264: “The Committee notes with concern that abortion remains one of the leading causes of maternal deaths and that, in spite of the legalization of abortion in specific cases, women do not have access to safe abortion services” (para. 613).

²³ See Human Rights Watch. *The Second Assault: Obstructing Access to Legal Abortion after Rape in Mexico*, 60 (New York, Human Rights Watch, 2006), citing a 2003 independent survey, which “concluded that 74 percent of low-income women in Mexico City (where procedures exist) did not know that abortion is legal in some circumstances” [“Aborto in México, realidad cotidiana,” CIMAC noticias (México), March 19, 2004; Roberto Blancarte, “¿Qué piensan los mexicanos sobre el aborto?” *Libertades Laicas*, (Mexico City: Colegio de Mexico, no date)]. Medical practitioners are also deterred from providing abortion services to which women are legally entitled. See *Concluding Observations of the Human Rights Committee: Argentina*, HRC, UN Doc. CCPR/CO/70/ARG (2000): “[T]he Committee is concerned that the criminalization of abortion deters medical professionals from providing this procedure without judicial order, even when they are permitted to do so by law” (para. 14).

²⁴ See e.g. *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Brazil*, CEDAW, UN Doc. CEDAW/C/BRA/CO/6 (2007): “The Committee is further concerned at the high number of unsafe abortions, the punitive provisions imposed on women who undergo abortions and the difficulties in accessing care for the management of complications arising as a result” (para. 29).

²⁵ *R v. Morgentaler*, [1988] 1 S.C.R. 30 (Canada), Wilson J., at p.173: “[T]he flaw in the present legislative scheme [criminal abortion law] goes much deeper than that. In essence, what it does is assert that the woman's capacity to reproduce is not to be subject to her own control. It is to be subject to the control of the state.”

²⁶ *Women's Convention*, *supra* note 2 at Art. 16(1)(e).

²⁷ *Women's Convention*, *supra* note 2 at Art. 5. See also: *In re Abortion Law Challenge*, Corte Constitucional de Colombia, Sentencia C-355/06 (10 de mayo de 2006), wherein the Court relied on the recommendations of the Committee to eliminate all forms of discrimination that stereotype women into child-bearing roles, inhibiting their ability to make free and informed decisions as to whether and when to found a family.

²⁸ *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Belize*, CEDAW, UN Doc. CEDAW/C/BLZ/CO/4 (2007), at para. 28; *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Brazil*, CEDAW, UN Doc. CEDAW/C/BRA/CO/6 (2007), at para. 30; *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Chile*, CEDAW, UN GAOR, 61st sess., supp. no. 38 (A/61/38) part III (2006) 216, at para 314; *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Honduras*, CEDAW, UN Doc. CEDAW/C/HON/CO/6 (2007), at para 25; *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Liechtenstein*, CEDAW, UN Doc. CEDAW/C/LIE/CO/3 (2007), at para. 26; *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Mauritius*, CEDAW, UN GAOR, 61st sess., supp. no. 38 (A/61/38) part III (2006) 210, at para. 286; *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Nicaragua*, CEDAW, UN Doc.

CEDAW/C/NIC/CO/6 (2007), at para. 18; *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Pakistan*, CEDAW, UN Doc. CEDAW/C/PAK/CO/3 (2007) at para. 41; *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Peru*, CEDAW, UN Doc. CEDAW/C/PER/CO/6 (2007) at para. 25; *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Philippines*, CEDAW, UN GAOR, 61st sess., supp. no. 38 (A/61/38) part III (2006) 252, at para. 536.

²⁹ *General Recommendation No. 24*, supra note 6 at para. 31(c).

³⁰ United Nations. *Fourth World Conference on Women: Action for Equality, Development, and Peace, Beijing Declaration and Platform for Action*, U.N. GAOR, U.N. Doc. A/CONF.177/20 (1995), reprinted in *Report of the Fourth World Conference on Women* (1995) (recommended to the UN General Assembly by the Committee on the Status of Women on 7 October 1995), at para. 106(k).

³¹ *Decree*, supra note 1 at Art. 1, amending the Federal District *Penal Code*, Art. 144.

³² Mexico, Federal District. *Penal Code*, Art. 144.

³³ Center for Reproductive Rights. *The World's Abortion Laws* (New York: Center for Reproductive Rights, 2007).

³⁴ Center for Reproductive Rights. *Abortion Worldwide: Twelve Years of Reform*, 2-3 (New York: Center for Reproductive Rights, 2007).

³⁵ See *Political Constitution of the United Mexican States*, Art. 133 which states that: "This Constitution, the laws of the Congress of the Union that emanate there from, and all treaties that have been made and shall be made in accordance therewith by the President of the Republic, with the approval of the Senate, shall be the supreme law of the whole Union. The judges of each State shall conform to the said Constitution, the laws, and treaties, in spite of any contradictory provisions that may appear in the constitutions or laws of the States."

³⁶ *In re Abortion Law Challenge*, Corte Constitucional de Colombia, Sentencia C-355/06 (10 de mayo de 2006).

³⁷ See e.g. *General Recommendation No. 24*, supra note 6 at para. 31(c). *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Chile*, CEDAW, UN GAOR, 61st sess., supp. no. 38 (A/61/38) part III (2006) 216: "The Committee also calls on the State party to reduce maternal mortality rates through safe motherhood services and prenatal assistance" (para. 314).

³⁸ See R.J. Cook & S. Howard. "Accommodating Women's Differences under the Women's Anti-Discrimination Convention" (2007) 56(4) *Emory L.J.* 1039, 1050.

³⁹ *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Nicaragua*, CEDAW, UN Doc. CEDAW/C/NIC/CO/6 (2007): "It [the Committee] requests the State party ... to take measures to ensure that women do not seek unsafe medical procedures, such as illegal abortion, because of the lack or inaccessibility, including due to cost, of appropriate family planning and the contraceptive services" (para. 18).

⁴⁰ *General Recommendation No. 24*, supra note 6 at para. 21.

⁴¹ *General Recommendation No. 24*, supra note 6 at para. 23.

⁴² *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Mexico*, CEDAW, UN GAOR, 61st sess., supp. no. 38 (A/61/38) part III (2006) 264, at para. 614.

⁴³ *Decree*, supra note 1 at Art. 2, amending the Federal District *Health Law*, Art. 16. Bis-6 and Bis-8.

⁴⁴ Mexico, Federal District. *Health Law*, Art. 16, Bis-8.

⁴⁵ See *General Recommendation No. 24*, supra note 6 at para. 31(c), which advises States parties to "[p]rioritize the prevention of unwanted pregnancy through family planning and sex education and reduce maternal mortality rates through safe motherhood services and prenatal assistance." See also: *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Brazil*, CEDAW, UN Doc. CEDAW/C/BRA/CO/6 (2007): "It [the Committee] requests the State party to strengthen measures aimed at the prevention of unwanted pregnancies, including by increasing knowledge and awareness about, as well as access to, a range of contraceptives and family planning services" (para. 30).

⁴⁶ Mexico, Federal District. *Health Law*, Art. 16, Bis-6.

⁴⁷ Mexico, Federal District. *Health Law*, Art. 16, Bis-8.

⁴⁸ See e.g. *Family Planning Ass'n of N. Ir. v. Minister for Health, Soc. Services & Public Safety*, [2004] NICA 37-39 (Civ), [2005] N. Ir. L.R. 188 (Civ) (Northern Ireland), Campbell LJ, at para. 41: "These measures are designed to ensure that the Department discharges its overall duty to provide integrated health services. Since this includes services to women who seek a lawful termination of a pregnancy the Department has the same duty to provide this service as any other however controversial the subject matter may be."

⁴⁹ *General Recommendation No. 24*, supra note 6 at para. 31(a).

⁵⁰ See also: *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Belize*, CEDAW, UN Doc. CEDAW/C/BLZ/CO/4 (2007): "The Committee recommends that the State party give

priority attention to the situation of adolescents” (para. 28); *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Colombia*, CEDAW, UN Doc. CEDAW/C/COL/CO/6 (2007): “The Committee recommends that the State party give priority attention to the situation of adolescents” (para. 23).

⁵¹ *General Recommendation No. 24*, *supra* note 6 at para. 6.