Same-Sex Marriage in Mexico City: Who, When, and How?

Abstract

This essay seeks to provide a descriptive analysis of same-sex marriages in Mexico City as of 2010, following the reform of Mexico City’s civil code. Using statistics from the city’s civil registry, this paper is brief but unprecedented, as previous works tend to focus on judicial aspects, as with Lázaro Tenorio (Tenorio, 2012); on qualitative perspectives, as with Jordi Diez’s work (Diez, 2015), which focuses more on the description of social and political developments around the issue; or on understanding the reasons why gay populations seek to engage in marriage, as with Hector Miguel Salinas’s work (Salinas, 2013). This paper provides an overview of the chain of events that preceded the reform of article 146 of the civil code and subsequently focuses on describing several aspects of the composition of these unions.

Keywords: Same-Sex Marriage, Mexico City, Descriptive Analysis, Divorce, ISSSTE, IMSS

Brief Review

Same-sex marriage is a relatively recent practice in Mexico and is only allowed in Mexico City and the state of Coahuila. Nevertheless, same-sex marriage has become more widely recognized nationwide, with spouses now able to register in a range of social security institutions. Those who practice same-sex marriage now have the right to adopt, which essentially gives these unions the same chance of creating spaces for raising minors as their counterparts. In vitro fertilization and surrogate pregnancies also give way to "partial" reproduction. Thus, these two functions—raising children and partial reproduction—may or may not be present in same-sex marriages, just as cohabitation could also be involved.

In light of the practice's relatively short history in Mexico, this paper aims to measure and register the trends and sociodemographic aspects of same-sex marriage, thus providing a framework for subsequent studies. This paper will focus on same-sex marriage's development in Mexico City between 2010 and 2014.

In Mexico, same-sex marriage was preceded by the civil union law, which was approved by Mexico City's legislative assembly back when Alejandro Encinas was Mexico City's mayor. The law came into effect in November of 2006, just one month before President Calderon and subsequent Mexico City Mayor Marcelo Ebrard took office. The assembly took advantage of this time of political turmoil to curb the law's potential political costs.

Several years earlier, left-wing politician Andrés Manuel Lopez Obrador lobbied for a referendum so that citizens could cast their votes on the issue, thereby assuaging the political costs of approving same-sex marriage—especially the costs of overlooking the Catholic Church and several other conservative entities such as ProVida, a pro-life organization.

Even though the civil union law is not equivalent to marriage, given that domestic partners retain their "single" status and that family ties also lack recognition, those engaging in civil unions do
acquire a set of legal rights. For instance, domestic partners can become guardians of property if a 
partner falls ill. Domestic partners also have inheritance and food-provision rights, among several 
other rights and obligations that apply to those who subscribe to civil unions.

Three years later, with the winter holidays underway in late December 2009, article 146 of Mexico 
City's civil code was modified. The article, which originally stated that "marriage is the free union 
between a man and a woman" now stated that "marriage is the free union between two persons 
for the communion of life, in which both provide respect, equality, and mutual assistance. Marriage 
must be celebrated before a Civil Registry Judge with all the formalities stipulated in this code" 
(Mexico City Civil Code, 2009).

The fact that gender has been removed from the definition of marriage has allowed people of the 
same sex to engage in marriage and change their marital status, which could not be done under civil 
unions. The Attorney General's Office responded to the code's modification by motioning to 
challenge the article's constitutionality before the Supreme Court, arguing that the article fails to 
protect families and prioritize children, given that adoption was approved as well. The Supreme 
Court (SCJN) ruled against the Attorney General's Office (PGR) in August of 2010, thereby curtailing 
any attempt at revoking the changes in Mexico City's civil code (SCJN, 2010).

**Descriptive Analysis**

As of 2010, same-sex couples residing in Mexico City or hailing from other states have increasingly 
engaged in this marital practice—which has registered very low divorce rates thus far. Figure 1 
shows that marriage and divorce trends from 2010 to 2014 have been on the rise. In the last two 
years, marriage rates doubled from 879 to 1,597, while divorce rates climbed eight times higher in 
turn.

**Figure 1: Marriage and Divorce Trends 2010-2014**

![Marriage and Divorce Trends [2010-2014]](image)

*From January to April of 2015, 397 same-sex marriages and 20 divorces took place.*
As shown in Figure 2, men have chosen same-sex marriages at a higher rate than women, with the biggest difference registered in 2011, when 14.6 percent more men celebrated same-sex marriages. However, when all five years are grouped together, men's same-sex marriage rates were only 6 percent higher on average.

**Figure 2: Same-Sex Marriage by Gender 2010-2014**

Most of those engaging in same-sex marriage are residents of Mexico City, however, some couples hail from other states and countries as well. In 2011, the National Council to Prevent Discrimination (CONAPRED) issued a recommendation to the Institute for Social Security and Services for State Workers (ISSSTE) asking the institute to make the registration of same-sex marriages as easy as possible. Nevertheless, the registration of same-sex marriages was not fully streamlined until 2013. Meanwhile, the Mexican Social Security Institute (IMSS) started registering same-sex marriages under the ordinary regime in 2014.

The fact that the two largest social security institutions in Mexico recognize same-sex marriage is a huge milestone in the LGBTTI community’s fight for equality. Couples from all around the country are flocking to Mexico City's civil registry to get married, which, for the purpose of social security, is recognized in all states.

*Source: General Directorate of the Civil Registry Department of Mexico City, Judicial and Legal Services Department*
In terms of numbers, a total of 4,900 same-sex marriages and 58 divorces were registered by the end of 2014, meaning that 99 percent of said marriages are still intact (though this rate could still change going forward). A key variable in several marriage studies, such as those conducted by Harkonen & Dronkers and by Teachman, is the length of the union's duration.  

In Mexico, the most long-lived same-sex marriages have only just celebrated their fifth anniversaries. Usually, the chances of separation are evaluated 10 to 20 years into the union. It is worth keeping in mind that there is no way of knowing whether people who have engaged in marriage are separated, which is the most common form of marriage rupture according to demographers Norma Ojeda and Eduardo Gonzalez (Ojeda and Gonzalez, 2008). Indeed, we cannot jump to conclusions with divorce rates alone.

Using microdata from the 2010 Population and Housing Census, Albert Esteve and Anna Turu roughly calculated that a total of 212,000 couples live in same-sex unions. Nevertheless, the authors have warned that their measurement methods leave ample room for error. Given that the census includes no specific question for same-sex couples, the authors used data on the informants' genders and stated relationships to the head of household. The U.S. Census Bureau, which uses the same method to determine how many people live in same-sex unions, cut its estimated figures by 28.3 percent due to calculation problems. (Esteve & Turu 2014).

According to these authors, the men-to-women ratio is higher for same-sex couples who live together than for marriages, which is consistent with the data found in the civil registry. Approximately 25 percent of same-sex couples live in the Valley of Mexico (this includes Mexico City

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and the eastern half of the State of Mexico), which is lower than the percentage of Mexico’s same-sex marriages in the area. These unions' median age registered at 36.5 for couples from ages 20 to 49 (Esteve & Turu, 2014). This cannot be compared with Mexico City’s data, which only registers in 10-year age groups.

A total of 88 percent of married couples fall between the ages of 20 and 50. Marriage is legal as of age 16, but only 6 people under the age of 18 engaged in same-sex marriage in 2014. Notably, some people who are more than 80 years old have chosen to get married, too.

Figure 4: Spouses by Age Group

As for spouses' matrimonial regime, most have chosen community property, whereby assets acquired after marriage are split equally—in contrast to separate property regimes, under which assets belong to the spouse who made the acquisition, unless both spouses are co-owners. Of the 58 divorces registered, 32 fell under community property systems and 26 were under separate property regimes.

Source: General Directorate of the Civil Registry Department of Mexico City, Judicial and Legal Services Department
However, the study's timeframe is quite short and a lot of necessary data is still unavailable. Information on the spouses' occupation, schooling, and urban-vs.-rural setting is still lacking, as is information on their parents' marital status and on whether the spouses cohabitated prior to marriage. Given the controversy around same-sex marriage, it could take years for this information to be collected.

According to Dr. José Arturo Granados Cosme, sexuality is currently organized according to heteronormative constructs, whereby homosexuals are considered dissidents (Granados, 2011). This concept is reflected in the National Survey on Youth Values, in which only 3.6 percent of participants claimed to be non-heterosexual (IMJUVE, 2012), falling well below probable rates in Granados's point of view. Indeed, homosexuality is still a complicated subject for many people, making it hard to gather basic information from studies—which tend to focus on heterosexual marriage.

**What's next?**

Mexico's National Institute of Statistics and Geography (INEGI) conducted an intercensus survey in 2015, which failed to include any questions on sexual orientation. The lack of information makes it difficult to conduct quantitative studies on marriage equality, heavily limiting data to descriptive analysis alone. Thus, there is a great need for mechanisms to conduct large-scale studies that guarantee secrecy and seek local representation. The statistics on same-sex marriage being compiled and processed in Mexico City's civil registry have only just scratched the surface of this process to register quantitative data for multivariate analysis.
On June 12, 2015, The Supreme Court of Justice just ruled a favorable sentence regarding same sex marriages nationwide, the states laws must comply with this new ruling that declared unconstitutional any local laws forbidding same sex marriage. State congresses must reform their civil codes and allow these kind of unions. A couple of Weeks later the U.S Supreme Court also ruled on the same direction.

Hopefully these rulings will boost more research on the subject, as for instance, conducting representative surveys that could help us to understand the same sex phenomenon under a quantitative perspective that is actually scarce.

Sources


