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## Mexican Court Says Sex Attack by a Husband Is Still a Rape

By Elisabeth Malkin and Ginger Thompson

MEXICO CITY, Nov. 16 – The Supreme Court of Mexico ruled Wednesday that rape within marriage is a crime, bringing Mexico’s laws into line with much of the world and removing one of the many obstacles women here face in reporting rape.

The ruling ended a legal battle waged since 1994, when a majority of the justices agreed that because the purpose of marriage was procreation, forced sexual relations by a spouse was not rape but “an undue exercise of conjugal rights.”

The unanimous ruling on Wednesday said the earlier decision had denied women the right to exercise their sexual freedom and was based on an interpretation of rights relating to property, not human beings. The court stated clearly that forced sexual relations within marriage – whether the force is physical or psychological – was a crime.

“What’s behind this is a modern conception of the relationship between a man and a woman in marriage,” said José de Jesús Gudiño Pelayo, a justice of the Supreme Court. “It’s a relationship of equality in which a woman does not lose her sexual freedom when she marries.”

That the decision came with so little debate suggested that attitudes in this macho country are changing, albeit slowly. But many women’s advocates agreed that while the ruling was a landmark step, polls on social attitudes have shown that deep-rooted opinions that women should be subservient still hold sway over much of society.

They warned that entrenched attitudes still made it very difficult for women to report rape.

A United Nations study found that 9 of 10 sexual assaults go unreported in Mexico and that 18 percent of victims of sexual assault were not aware that it was a crime.

“A recent government survey found that 47 percent of all women report being the victims of either physical, emotional, sexual or economic violence,” said Patricia Espinosa, the director of the National Institute of Women. “But 84 percent of those who are victims of domestic violence remain silent.”

The 1994 ruling by the Supreme Court effectively meant that husbands who raped their wives could walk free under most conditions. It was a retreat from earlier laws on rape, which did not specify anything about the relationship between the rapist and his victim.

The decision left women “defenseless” and “consisted of a serious and systematic violation of women’s human rights,” said Patricia Olamendi, who has worked to change the precedent and pass state laws overturning it. “The court should recognize that it has violated these rights for 11 years.”

Only a few countries in the world do not recognize rape within marriage as a crime; India and Malaysia are the two most prominent examples. But the change in laws is relatively recent. In the United States, it was not a crime in all states until 1993.

*Elisabeth Malkin reported from Mexico City for this article, and Ginger Thompson from Guatemala City.*

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