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Guatemala: Congress Raises Marriage Age

(Jan. 11, 2016) A decree of November 2015 adopted by the Congress of Guatemala amended articles 81-84 and 177 of the country's Civil Code on matters pertaining to the minimum legal age to marry. Under the amended article 81, the minimum marriage age is 18. Amended article 82 states, however, that as an exception and based on "well-founded" grounds the marriage of a minor who is at least 16 years of age may be authorized. The new article 83 expressly states that the marriage of minors who are under 16 years of age cannot be authorized. Under the new article 84, a request for authorization of a marriage of minors who have attained the age of 16 must be submitted to the appropriate judge, who, after listening to the opinion of the minors concerned, will make a determination. The new article 177 prohibits the official declaration of the existence of a *de facto* union of minors under any circumstances. A *de facto* union is a concept similar to that of common law marriage recognized under article 173 of the Guatemalan Civil Code. ([Decreto No. 8-2015](#) (Nov. 5, 2015), Reformas al Decreto-Ley No. 106 del Jefe de Gobierno, Código Civil, DIARIO DE CENTRO AMÉRICA (Nov. 23, 2015) [click on pdf of text].)

Prior to the amendment of the Code, article 89(2) prohibited the marriage of boys under the age of 16 and girls under 14, unless before reaching that age the girl had conceived a child and the persons with parental authority over the minors had given their consent. The Code had also formerly provided that the existence of a *de facto* union of minors could be officially declared if the couple had the consent of the persons who had parental authority over them, or the consent of their guardian or the court, when appropriate. (DECRETO-LEY NO. 106, CÓDIGO CIVIL (Sept. 14, 1963) (Juán Antonio Vásquez, comp. IUS-Ediciones, Guatemala, 2012).

It is notable that the amendment did not raise the minimum age at which the crimes of statutory rape and sexual assault are constituted. Under article 173 of the Penal Code, statutory rape is deemed to have been committed when the victim is under 14 years of age. Under article 173*Bis*, sexual assault that does not include rape is committed if the victim is under 14 years of age, even when there is no physical or psychological violence. ([Penal Code](#) (promulgated by Decree No. 17-73 of July 5, 1973) DIARIO DE CENTRO AMÉRICA (Aug. 30, 1973).)

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Topic: [Civil code](#), [Family](#), [Marriage and family status](#)

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