

Light at the End of the Tunnel: El Salvador Considers Expanding Abortion Rights

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On October 12, El Salvador's ruling party, Farabundo Marti National Liberation Front (*Frente Farabundo Martí para la Liberación Nacional*, FMLN) put forth a bill to expand abortion rights in the Central American country. Currently, El Salvador has some of the harshest abortion laws in the world—it is strictly illegal without any exceptions. This new measure, backed by the President of the Legislative Assembly, Lorena Peña, will legalize abortion in cases where the mother's life would be at risk if she were to carry the pregnancy to term, where the fetus is unviable, or in cases of rape or trafficking. In defence of the bill, Peña stated, "It's a duty of legislators to give women a chance to save their lives, so that they don't die in those circumstances," and that this bill has taken, "into account the impact giving birth has on girls who have been raped."ⁱ The introduction of this bill shows the strides being made by the government towards improving women's rights within the country. However, for this bill to pass, FMLN will need 43 out of 84 votes in the Legislative Assembly. Though FMLN is the current ruling party in El Salvador, it has a parliamentary minority, with only 31 seats in the legislature.ⁱⁱ This means that they will require the support of 12 lawmakers outside of their party.ⁱⁱⁱ However, the Nationalist Republican Alliance (*Alianza Republicana Nacionalista*, ARENA), the country's leading conservative party, has completely rejected the proposal, which it says would "open the door to a practice that violates the moral principles of Salvadoran society."^{iv} ARENA holds 35 seats in the Legislative Assembly, meaning that if the party would retain the ability to persuade any of the other parties holding seats, it has the ability to halt any progressive agenda items FMLN pushes forward, including this abortion bill.^v

Current Abortion Laws

As of April 2015, 57.1 percent of Salvadorians identified as Catholic, a religion that traditionally promotes pro-life beliefs. This is one reason that the stance on abortion holds strong support throughout the country.^{vi} Another contributing factor is that there has been a tradition of right-wing governments holding a majority of control and power. It would not be until 2009 that the left-leaning FMLN won government elections for the first time. El Salvador is also a fairly patriarchal society, and research has found that many women agree with traditional gender norms, such as wives should obey their husband, even if they disagree with them.^{vii} An article published last month by the Council of Hemispheric Affairs (COHA), found that in El Salvador "violence and

discrimination against women is standard within the country, [and that the country has] some of the highest rates of teenage pregnancy and domestic violence in Latin America.”^{viii} With all of these factors considered, the strict abortion laws currently in place are not that surprising. In a government that has not seemed to make gender-issues a priority, the likelihood of a strong women’s rights agenda in the case of abortion is fairly improbable. The introduction of the bill could be the beginning towards a more equal society and the end of violence against women.

As of 1998, “abortion became illegal in all cases including rape, incest, and even when the mother’s life is at risk,” whereas the previous law had been more similar to the currently proposed bill.^{ix} Since then, strict views on abortion have gained in legitimacy in Salvadoran society and are now deeply rooted. The current law states that anyone who is found to have assisted with an abortion in El Salvador can be sentenced to between two and eight years in prison.^x Prosecuting and convicting women for abortion-related crimes has become a common phenomenon. The stigma surrounding abortion has become so great, that even women who are unable to carry their child to term and miscarry, or have stillbirths, can be charged with having an abortion, or with aggravated assault if their child is deemed to have been viable before it was ‘killed’ by the mother. Between 2000 and June 2011, 129 women were prosecuted, and out of this number, 49 were convicted.^{xi} “There are at least 14 women in El Salvador who have been sentenced to prison terms of 12 years or more for abortion and about 130 currently facing legal proceedings, according to the Citizens Association for the Decriminalization of Abortion.”^{xii}

Opposing Right-Wing Action

The bill put forth by FMLN was in response to a rival measure, yet to be passed, that was put forth in August by a member of ARENA, Ricardo Andrés Velásquez Parker. This bill “could increase the maximum penalty of abortion from eight to fifty years.”^{xiii} This would mean women would no longer be prosecuted for aggravated homicide and receive what could be life sentences in retaliation for the death of an unborn child. At a political rally, Velásquez Parker explained that El Salvador is “a pro-life country with a constitution that states life begins at conception,” and noted that “[he is] not against the rights of a woman ... but they end where her baby’s begins.”^{xiv} Velásquez Parker is just one of many ARENA politicians who are trying to draw away from the importance of FMLN’s proposal. The continued push of his increased abortion sentencing bill, shows just how much ARENA believes that El Salvador should remain a pro-life country, with little regard for the women who suffer from this stance. Velásquez Parker also claims that the bill is “an attempt to divert attention away from the financial problems of the government, which is facing a massive deficit.”^{xv} ARENA is, thus, using topical issues to influence other small parties in the Legislative Assembly and the people of El Salvador to convince them that abortion rights aren’t the real issue to be focusing on.

Progressive Agenda due to the Rise of the Zika Virus

The strict laws on abortion have been contested for many years, but with the rapid spread of the Zika virus in the area, the debate is being reconsidered. Given the increased risk associated of birth defects, such debate became more prevalent within the

areas in South and Central America, and civil society organizations have gained momentum.^{xvi} Due to the unknown nature and consequences of the virus, the Salvadoran government has recommended that “all the women of fertile age [...] take steps to plan their pregnancies, and avoid getting pregnant between this year and next.”^{xvii} However, a study in 2014 by the Guttmacher Institute, a research and policy organization committed to advancing sexual and reproductive health and rights in the United States and globally, found that 56 percent of pregnancies in Latin America are unplanned.^{xviii} “The access to information and to contraceptives, even though not illegal, is not totally open and many women don’t have enough information,” states Morena Herrera, president of the Citizen’s Group for the Decriminalization of Abortion.^{xix} She also points out that “there are many pregnancies that are a result of rape—pregnancies imposed on women where they aren’t making their own decisions.”^{xx}

Maria Fabrizio, COHA Research Associate, addressed the idea of the recommendation for women to avoid getting pregnant in previous articles. She found research showing that 25-40 percent of “women aged 15-49 years have experienced intimate partner physical and/or sexual violence in their lifetimes.”^{xxi} Fabrizio and COHA came to the conclusion that the “women experiencing this kind of violence lack autonomy in domestic decisions, and are ultimately deprived the basic choice of whether or not to get pregnant, which makes abiding by the anti-Zika recommendations impossible.”^{xxii} The amount of unplanned pregnancies combined with the fear of the Zika virus, would most likely lead to “an increase in the rates of illegal abortions, unsafe abortions and a mental health issue for women,” says Angelica Rivas of Acdatee, a Salvadorian non-profit that advocates for the decriminalization of abortion.^{xxiii} The introduction of a bill calling for the termination of a pregnancy, if the fetus is threatened by the Zika virus, could eliminate these potential side effects and allow a safer overall environment for women in El Salvador.

Call to Action

In terms of women’s health and social rights, the decision to legalize abortion in the specific cases outlined here seems like it should be the most reasonable path to take. Under current standards, women’s lives are being put at risk due to the lack of adequate options when faced with unwanted pregnancies. Furthermore, they are also endangered by specific circumstances such as the Zika virus, and the fact that they face the possibility of incarceration if they get an illegal abortion. FMLN has put forth a measure that will bring El Salvador towards the standards of more tolerant and progressive countries. However, the fight to pass this bill is one that will not be won easily, and it will likely not be passed without an incredibly strong push for support. That’s why COHA is calling for Salvadorian deputies to vote in favor of FMLN’s bill.

The Grand Alliance for National Unity (*Gran Alianza por la Unidad Nacional*, GANA), the party with the third most number of seats after ARENA and FMLN, has historically held the same position as ARENA on abortion issues.^{xxiv} The 11 seats held by GANA could add their votes to that of ARENA, and it would be impossible for FMLN to get the 43 votes necessary to pass the legislation. However, the introduction of the bill, regardless of whether it is passed, demonstrates the progress being made in terms of women’s rights in El Salvador, a country mostly regarded for its conservative stance on

this topic. It should give hope to women who are currently facing charges for abortion-related crimes, as it may indicate a trend toward lighter sentences, if not a move away from incarceration altogether.

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ⁱ BBC News. "Abortion Laws May Be Relaxed for Rape Cases in El Salvador." BBC News. October 12, 2016. Accessed October 13, 2016. <http://www.bbc.com/news/world-latin-america-37629236>.

ⁱⁱ Renteria, Nelson. "El Salvador Proposes Decriminalizing Abortion in Cases of Rape." Reuters. October 12, 2016. Accessed October 13, 2016. <http://www.reuters.com/article/us-elsalvador-abortion-idUSKCN12COAI>.

ⁱⁱⁱ BBC News. "Abortion Laws May Be Relaxed for Rape Cases in El Salvador." BBC News. October 12, 2016. Accessed October 13, 2016. <http://www.bbc.com/news/world-latin-america-37629236>.

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^v Perla, Hector. "El Salvador Is Divided after Midterm Elections." TeleSUR. March 30, 2016. Accessed October 19, 2016. <http://www.telesurtv.net/english/analysis/El-Salvador-Is-Divided-after-Midterm-Elections--20150330-0018.html>.

^{vi} "The World Factbook — Central Intelligence Agency." The World Factbook: Religions. October 2016. Accessed October 20, 2016. <https://www.cia.gov/library/publications/the-world-factbook/fields/2122.html>.

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^{ix} Ibid

^x BBC News. "Abortion Laws May Be Relaxed for Rape Cases in El Salvador." BBC News. October 12, 2016. Accessed October 13, 2016. <http://www.bbc.com/news/world-latin-america-37629236>.

^{xi} Cavallo, Shena. "In El Salvador, a Woman Who Miscarries Can Get a 50-Year Prison Sentence - International Women's Health Coalition." International Women's Health Coalition. September 03, 2014. Accessed September 22, 2016. <https://iwhc.org/2014/09/el-salvador-woman-miscarries-can-get-50-year-prison-sentence/>.

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^{xiv} Ibid

^{xv} BBC News. "Abortion Laws May Be Relaxed for Rape Cases in El Salvador." BBC News. October 12, 2016. Accessed October 13, 2016. <http://www.bbc.com/news/world-latin-america-37629236>.

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^{xxii} Ibid

^{xxiii} Nikolau, Lisa. "Zika: Women Told to Delay Pregnancy, but Lack Reproductive Rights to Heed Call." Humanosphere. February 04, 2016. Accessed October 18, 2016. <http://www.humanosphere.org/global-health/2016/02/80406/>.

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