

Mexico's Choice: Abortion Laws and their Effects Throughout Latin America

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In 2015, a 21-year-old woman named Patricia Mendez miscarried a 20-week old fetus in the state of Veracruz, Mexico. While lying in a hospital, police and detectives arrived, stood at the side of her bed, all while saying, “Confess, you have committed the worst sin in the world.”ⁱ Stories such as this are becoming more common not only in Mexico, but in other Latin American countries as well, where the laws pertaining to abortion slowly have become a pathway to humiliate, stigmatize, or charge innocent women. The 2007 decriminalization of abortion in Mexico City was hailed as a major victory by women’s reproductive rights groups, such as the National Abortion Federation, throughout Latin America and the world.ⁱⁱ Since then, however, abortion laws in other Mexican states have continuously become stricter, and the penalties have worsened for women who have received abortions. Under current Veracruz law, Mendez has been charged with having an abortion and could be subject to “educational measures.”ⁱⁱⁱ However, “nobody really knows what the term [educational measures] means, since it is not defined [within the law] and has yet to be enforced.”^{iv} Though her lawyers have currently stalled these charges, the issue remains that Mendez has been persecuted for an event she had no control over. Women are being condemned after already suffering the trauma associated with miscarriages and stillbirths, or are being stigmatized for making the difficult decision of having an abortion. Though the argument between pro-life and pro-choice is not one that can be solved overnight, this current treatment of women is not the answer to unwanted pregnancies, mothers with poor prenatal healthcare, or clandestine abortions.

History of Abortion Law

The Latin American and Caribbean regions as a whole have some of the most restrictive abortion laws in the world, with only Cuba, Guyana, Puerto Rico, and Uruguay legally allowing first trimester abortions with no restrictions. Mexico operates with a federal system where “each state has the ability to restrict or liberalize abortion as long as [these] laws ... do not violate the Mexican Constitution,” and therefore, abortion laws vary with each state.^v In 1931, the Mexican government first addressed abortion, making it illegal except for in the case of “negligence of the mother, continuation of the pregnancy [endangering] the life of the mother, or in pregnancy resulting from rape.”^{vi} Numerous barriers, however, were still in the way of a woman having an abortion in the case of rape. The woman had to petition the state’s attorney general for permission and

the performing physician had to obtain the consent of another physician. This often delayed the process and created a negative stigma surrounding women who became pregnant through rape.

By 1974, the Mexican government amended the constitution to recognize that it should be a right of all citizens to “decide in a free, responsible and informed manner on the number and spacing of their children” and encourage the use of family planning services by offering them at no cost.^{vii} Through the 1990s, family planning services were expanded, especially in rural areas, and contraceptive use has doubled since 1976. However, the stigma that surrounds women who choose to have an abortion, for medical reasons or otherwise, is still very strong. With 81 percent of Mexicans identifying as Catholic, abortion is heavily frowned upon by religious and pro-life groups in the country.^{viii} An editorial from 2007 in the Los Angeles Times stated, “the laws regulating sexuality in Mexico, the world's second-most-populous Catholic nation, are more discriminatory toward women than most people realize.”^{ix}

Reforming Discrimination

Due to the Catholic presence within Mexico, it was shocking that the 2007 reform by Mexico City's legislative assembly to legalize abortion was able to pass. This reform allows abortion within the first trimester with no restrictions, and abolished the law that invoked criminal penalties against women who decided to have abortions. The bill, backed by the left-leaning Democratic Revolutionary Party (*Partido Revolucionario Democrático*, PRD), was approved by a margin of 46 to 19, making Mexico City the largest city in Latin America to have such liberal laws surrounding abortion. The reform was not easily accepted though. In response, the Vatican stated that abortion is “terrorism with a human face” and Pope Benedict XVI threatened the excommunication of Mexico from the Catholic Church if the bill was passed.^x Nothing came of this threat, however, though the Vatican continues to condemn the legalization of abortion. There were also large protests from the citizens of Mexico City, in which protestors surrounded the legislative building while the assembly voted on the bill. Signs saying, “Yes to Life” and “Adoption is another option” filled the streets, and abortion opponents started referring to the day as “Black Friday”.^{xi}

Results in Mexico City

Even with the strong opposition and disapproval from the Catholic Church, safe abortion services were implemented throughout Mexico City after the 2007 reform passed. The Ministry of Health, MOH-DF, established a publicly owned medical sector, offering a free legal abortion program in 14 of the 28 hospitals in Mexico City. Within the first year, more than 7,000 women received legal abortions, and as of October 31, 2012, over 82,500 abortions have been performed. Comparatively, between 2001 and 2007, there were approximately 33 abortions per 1000 women, and only 62 of the abortions performed during this time period were legal.^{xii} Of the women receiving abortions after 2007, most were between 18 and 29 years of age, only 5.5 percent were minors, and 82.6 percent were Catholic.^{xiii} The law also strengthened the sexual education curriculum within schools, encouraged widespread access to contraceptive methods, and provided women with free post-abortion counselling and contraceptive services. These programs have resulted in a high percentage of women using

intrauterine devices (IUD), as their form of birth control, and, as of October 31, 2012, only 2.09 percent of women have had a subsequent abortion.^{xiv}

The results of legalizing abortion in Mexico City have resulted in a more educated and healthy female population through the promotion of a safe environment for people who would otherwise feel persecuted. Though a high number of women are receiving abortions relative to other Mexican states, having legal and safe procedures has reduced the general risk. Due to the previous legal restrictions, many abortions were illegal and these were practiced in unsafe conditions. Between 1990 and 2008, 7.2 percent of maternal deaths were abortion related, and in 2006, almost 150,000 women throughout Mexico were hospitalized from complications following induced abortions.^{xv} The percent of maternal deaths is now estimated to be closer to 3 percent, based on an average for Mexican states with more permissive legislation.^{xvi} Altogether, what was once frowned upon now has the means to become the solution to a widespread health problem and a culture of gender discrimination.

Beyond Mexico City

The reform in Mexico City has not been the tipping point for permissive abortion legislation for the rest of Mexico. It has actually been the opposite—18 of the 32 Mexican states have actually created “right-to-life” measures as a response. Constitutional changes have been made that outline principles on protecting life from conception and calling for criminal charges for women who have abortions. Activists have stated that these new legislations have created a worse stigma towards women who do not carry their babies to term. Medical workers call the police regarding patients who have miscarried or had stillbirths, state appointed defense lawyers accuse their clients of having abortions, and women are being treated as social pariahs, being forced to move away from their communities to find anonymity.

The most recent state to take these measures is Veracruz, where a constitutional amendment has been approved which “[protects] life from conception” and outlaws abortion in any circumstance. This has resulted in celebration by many pro-life activists, including Governor Javier Duarte, who pushed through the amendment just months before the end of his term, and the Roman Catholic Archbishop of the city of Xalapa, Hipólito Reyes Larios, who stated, “it is about the defense of something so valuable that we have, which is life.”^{xvii} However, a representative from the Information Group on Reproductive Choice has vocalized that the government’s focus on abortion has taken attention away from many other current issues in Mexico, and “what this means is that the governor cares more about life in gestation than the hundreds of disappeared persons in his state.”^{xviii} The focus on the reproductive rights of women and the rights of a fetus are drawing away from the focus on human rights of other Mexican people. This trend is not one that is sustainable and can result in distrust between civilians and the government. Something needs to be done to prevent this increased schism between the people, and stop access to abortion services from becoming as restricted as it is in other Latin American countries, which might result in Mexico’s social regression.

Comparisons to Other Countries

El Salvador is a country, similar to Mexico, with a very strong presence of the Catholic Church and a powerful pro-life lobbying group. It has one of the highest rate of femicide in the world, as well as some of the highest rates of teenage pregnancy and domestic violence in Latin America.^{xix} All of this considered, it shows that El Salvador has very low tolerance for women's rights, and that violence and discrimination against women is standard within the country. The strict abortion laws, then, are not surprising. In 1998, abortion became illegal in all cases including rape, incest, and even when the mother's life is at risk. "Between 2000 and June 2011, 129 women were prosecuted for abortion-related crimes," and out of these women, 49 were convicted.^{xx} 17 of these 49 women "were young, poor, and [had] experienced a miscarriage or obstetric complication...and are serving sentences ranging from 12 to 40 years".^{xxi} Currently under Salvadorian law, women can face up to 40 years in prison for aggravated homicide. In August, a right-wing member of Parliament, Ricardo Andrés Velásquez Parker, "introduced a bill that could increase the maximum penalty of abortion from eight to 50 years." This would make punishment for abortion equivalent to being assigned a sentence of aggravated homicide. Velásquez Parker is strongly against the 17 women currently imprisoned, and states that "[he is] not against the rights of a woman ... but they end where her baby's begins."^{xxii} The consequences that may befall a woman who in anyway loses her baby in El Salvador could be mimicked in the Mexican states that are already heading in the direction of sentencing jail time for abortion and creating new prejudices against women.

Chile is another Latin American country that is known for its incredibly strict abortion laws. However, on September 7, the government pushed for legislation that will legalize abortions "in cases of rape, danger to mother's life, and grave medical conditions."^{xxiii} This was strongly opposed by the majority of citizens, and a pro-life rally of around 100,000 Chileans took to the streets in response to the bill, denouncing the Christian Democratic Party (CDP) who has supported the bill. Unlike Mexican states and El Salvador, Chile's abortion laws, while strict, provide legal protection for both the mother and the baby. This has meant that health care and education has been provided for women before and during their pregnancy. Surprisingly, the initial total ban on abortion, which was implemented by former president Augusto Pinochet in 1989, had not increased maternal mortality. In fact, the overall maternal mortality rate (MMR), which is the number of maternal deaths related to childbearing, has actually declined "from 293.7 deaths per 100,000 live births to 18.2 deaths per 100,000 live births."^{xxiv} However, it seems that the decrease in mother's mortality rate has more to do with factors such as "an increase in the educational level of women, complementary nutrition for pregnant women and their children in the primary care network and schools, [and] universal access to improved maternal health facilities." The encouragement for women to control their own fertility and to have country-wide improvements to sanitary systems also seems to have had an effect on mother's mortality rate.^{xxv}

The Choice: Regression or Education?

The problem at hand is the treatment of women due to assumed abortions. In Mexico City, the legalization of abortions has led to better health education programs, but it is impossible to determine whether the legalized abortions or programs are leading to a better environment surrounding women's reproductive health. The

opposition to legalizing abortion in the Mexican states is not going away, even if there is a massive push from the government. The changes for this to be implemented need to come from a different source. If the Mexican states take their example from Chile, the introduction of the strict abortion laws may inherently result in a regression to more common dangerous and clandestine abortions. The focus could be put on improving maternal health so that women may have a better chance at carrying a child to term, therefore avoiding the likelihood of a miscarriage or stillbirth. The development of the educational level of these women, and increased access to health care providers, could present a way for the controversy of illegal abortions to be minimized. Mexico is now in the middle of a crossfire between a defense of women's rights and the regression to a chauvinistic society.

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ⁱ National Abortion Federation. "The National Abortion Federation Commends Mexico City's Plan to Legalize Abortion – National Abortion Federation." National Abortion Federation Press Releases. April 27, 2007. Accessed September 22, 2016. <https://prochoice.org/the-national-abortion-federation-commends-mexico-citys-plan-to-legalize-abortion/>.

ⁱⁱ The Associated Press. "Mexico Court Lets Re-education for Abortions Stand." The New York Times. September 07, 2016. Accessed September 13, 2016. <http://www.nytimes.com/aponline/2016/09/07/world/americas/ap-lt-mexico-abortion.html?ref=americas>.

ⁱⁱⁱ The Associated Press. "Mexico Court Lets Re-education for Abortions Stand." The New York Times. September 07, 2016. Accessed September 13, 2016. <http://www.nytimes.com/aponline/2016/09/07/world/americas/ap-lt-mexico-abortion.html?ref=americas>.

^{iv} Ibid

^v Jelen, Ted G., and Jonathan Doc Bradley. "Abortion Opinion in Emerging Democracies: Latin America and Central Europe." *Politics, Groups, and Identities* 2, no. 1 (2014): 52-65. Accessed September 13, 2016. doi:10.1080/21565503.2013.876916.

^{vi} Ibid

^{vii} "Unintended Pregnancy and Induced Abortion In Mexico." Guttmacher Institute. 2016. Accessed September 13, 2016. <https://www.guttmacher.org/fact-sheet/unintended-pregnancy-and-induced-abortion-mexico>.

^{viii} Donoso, Juan Carlos. "On Religion, Mexicans Are More Catholic and Often More Traditional than Mexican Americans." Pew Research Center RSS. December 08, 2014. Accessed September 13, 2016. <http://www.pewresearch.org/fact-tank/2014/12/08/on-religion-mexicans-are-more-catholic-and-often-more-traditional-than-mexican-americans/>.

^{ix} "A Choice in Mexico." Los Angeles Times. April 26, 2007. Accessed September 15, 2016. <http://www.latimes.com/opinion/editorials/la-ed-mexico26apr26-story.html>.

^x Simpson, Victor L. "Vatican Seeks to Clarify Abortion Remarks." Washington Post. May 11, 2007. Accessed September 13, 2016. <http://www.washingtonpost.com/wp-dyn/content/article/2007/05/10/AR2007051002386.html>.

- ^{xi} Roig-Franzia, Manual. "Mexico City's Legislature Votes to Legalize Abortion." Washington Post. April 25, 2007. Accessed September 12, 2016. <http://www.washingtonpost.com/wp-dyn/content/article/2007/04/24/AR2007042400803.html>.
- ^{xii} Becker, Davida, and Claudia Díaz Olavarrieta. "Decriminalization of Abortion in Mexico City: The Effects on Women's Reproductive Rights." American Journal of Public Health. April 2013. Accessed September 12, 2016. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3673241/#bib6>.
- ^{xiii} Ibid
- ^{xiv} Ibid
- ^{xv} Ibid
- ^{xvi} Koch, Elard, Monique Chireau, Fernando Pliego, Joseph Stanford, Sebastian Haddad, Byron Calhoun, Paula Aracena, Miguel Bravo, and Sebastián Gatica. "Elard Koch." Abortion Legislation, Maternal Healthcare, Fertility, Female Literacy, Sanitation, Violence against Women and Maternal Deaths: A Natural Experiment in 32 Mexican States. February 23, 2015. Accessed September 14, 2016. <http://bmjopen.bmj.com/content/5/2/e006013.full>.
- ^{xvii} The Associated Press. "Mexico Court Lets Re-education for Abortions Stand." The New York Times. September 07, 2016. Accessed September 13, 2016. <http://www.nytimes.com/aponline/2016/09/07/world/americas/ap-lt-mexico-abortion.html?ref=americas>.
- ^{xviii} Bilger, Micaiah. "Mexican State Votes to Ban Abortions and." LifeNews.com. July 29, 2016. Accessed September 14, 2016. <http://www.lifenews.com/2016/07/29/mexican-state-votes-to-ban-abortions-and-protect-life-from-conception/>.
- ^{xix} "Femicide in Latin America." UN Women. April 04, 2013. Accessed September 15, 2016. <http://www.unwomen.org/en/news/stories/2013/4/femicide-in-latin-america#sthash.BOpyq2Sl.dpuf>.
- ^{xx} 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/>.
- ^{xxi} Bohn, Lauren. "El Salvador's 'Abortion Lawyer'." The New York Times. September 12, 2016. Accessed September 15, 2016. http://kristof.blogs.nytimes.com/2016/09/12/el-salvadors-abortion-lawyer/?_r=2.
- ^{xxii} Ibid
- ^{xxiii} Ibid
- ^{xxiv} Caballero, Lorraine. "Chile Abortion Bill: 100,000 Chileans Denounce Christian Democrats' Pro-abortion Stance." Christian Daily. September 07, 2016. Accessed September 15, 2016. <http://www.christiandaily.com/article/chile-abortion-law-100000-chileans-denounce-christian-democrats-pro-abortion-stance/56499.htm>.
- ^{xxv} Koch. "Koch Chilean Study: Decreased Maternal Mortality Linked to Women's Education." Prolife - OBGYNs - AAPLOG. May 04, 2012. Accessed September 14, 2016. <http://www.aaplog.org/international-issues/koch-chilean-study-decreased-maternal-mortality-linked-to-womens-education/>.