

different TAKES

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Decriminalizing Abortion in Mexico City: A Victory for Women's Health and Rights

By Laura Villa Torres

It is evident that the scientific arguments, on both sides, on the beginning of human life are very interesting... But it is also true that none of these arguments takes into consideration the immense majority of women who face the dilemma of whether or not to terminate a pregnancy. What women think, feel, want, is relative to their lives and their particular experience in the world. Human life is much more than a biological event. We are the only beings that can plan our own future... Hence it is legitimate to defend what we have been, but above all, what we want to be... It is for that life: aware, free, full, human — that in this case has a beautiful female face — that I request your vote in favor.¹

With this speech, the historic April 24, 2007 legislative session closed and Mexico City's representatives voted to decriminalize abortion up to twelve weeks of pregnancy. Despite enormous pressure from conservative groups, there were 46 votes in favor, 19 against and one abstention, with representatives of six political parties approving the reform.

Abortion is an everyday reality in the lives of thousands of Mexican women. As in many countries in the Latin American and Caribbean region, abortion is criminalized in Mexico. This does not reduce the incidence of abortions, but rather generates an increase in maternal morbidity and mortality and stigmatizes the women who undergo the procedure. For example, between 1990 and 2005, abortion was the fifth cause of maternal death nationally and the third cause in Mexico City where 213 women died from illegal abortion.

Legally, abortion is permitted at the state level to varying degrees. The differences are mainly about the punishments for women and the people who assist them, and the circumstances under which abortion is permitted, including: rape (32 states), imprudent behavior (30 states), danger to life of women (29 states), fetal abnormality (13 states),

danger to woman's health (11 states), forced insemination (11 states), and socioeconomic status (1 state). Although Mexico has broad abortion legislation, it is not sufficient because women's reproductive autonomy continues to be restricted and even when laws allow for legal abortion, women often lack access to services.

Mexico City (DF) has a political history of its own. For over 60 years, under federal legislation, the inhabitants of the city lived under the command of the President, without any possibility of electing local representatives. After various social and political movements, in 1996 the Constitution was changed and the Legislative Assembly of the Federal District (ALDF — Spanish acronym) was created, allowing citizens to elect their representatives. Since 1997, the government of the DF has been, almost in its entirety, under the power of Mexico's powerful leftist party, Partido de la Revolución Democrática (PRD).

After the elections of 2006, two parties presented the ALDF with initiatives to decriminalize abortion up to the twelfth week of pregnancy. These initiatives were analyzed and turned into a bill that was presented to the ALDF by a PRD representative on March 30, 2007. In addition to rape and forced

insemination, health, imprudent behavior, and fetal abnormality, the bill included a fifth indication — giving women the right to an abortion if the pregnancy interfered with her “life plans.” Also included were modifications to the Health Law which recognized woman’s right to terminate her pregnancy because of family, economic, and/or social issues.

After many discussions, the bill was approved and put before the whole assembly for a vote. In the process, however, the fifth indication was dropped from the legislation. Instead the strategy was to modify the definition of the abortion ‘crime’. Up to that time, abortion was defined as the death of the product of conception at any time during pregnancy. In the new law abortion was defined as the termination of the pregnancy after the twelfth week. Other modifications included adding the definition of forced abortion as the termination of pregnancy carried out against women’s will. Penalties for illegal abortion were reduced and already existing indications were made legal until 20 weeks of gestation. The legislative strategy succeeded and the legislation passed on April 24.

The Public Debate

The legal and electoral process alone, however, does not capture the complexity of the political struggle for decriminalization. One must also look at the nature of the public debate. A variety of players — conservative groups, Catholic Church officials, intellectuals, youth groups, women’s groups, celebrities, local and federal governmental institutions, as well as the media — played crucial roles. The subjects of the debate centered around women’s right to make decisions regarding their body and sexuality, the importance of a secular state, science and bioethics, plus conservative positions regarding morality, fetal protection, and even the excommunication of the lawmakers.



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A woman’s right to decide was a controversial subject. For many who opposed the reform, abortion was already sufficiently legislated, and accordingly, there was no need to add a fifth indication. Their arguments were based on the idea that when women face a pregnancy that has been the result of their willful exercise of sexuality, they should be held responsible for it. On the other hand, women’s movement claims were clear: the existing legal indications only recognized the right to terminate pregnancies that were against women’s will, whereas the new modification in its original drafting recognized women as human beings with life plans and with the right to decide about their own maternity.

Leadership by the women’s movement was central to the success of the decriminalization. Public demonstrations by the women’s movement were very important in building support and generated extensive news coverage. Official spokespersons from the movement were prepared to speak about abortion in the media. Monitoring the media was also a big challenge that was successfully addressed.

Women’s and pro-choice organizations were also deeply engaged in the legislative process. For example, women worked with legislators directly on how to reword the bill and how to advocate for it within both the assembly and the public sphere. Gender perspectives, human rights, sexual and reproductive rights, social justice, and public health were some of the issues on which women advised the legislators. One group worked closely with the local Ministry of Health to help them prepare their response to the new responsibility of providing free and legal abortion services to every single woman who requested them. This included training on how to provide safe abortions with modern technologies (including medical abortion) with attention to high quality.

Women led the grassroots mobilization too. In order to counteract the opposition, women’s groups, political parties that supported the reform, and youth groups carried out various activities, from distributing information in the streets to marches and a demonstration outside the ALDF offices. These activities helped support the lawmakers who were promoting the reform. The phrases used in posters, placards and other types of publicity were clear, strong and creative:

Abortion yes?, Abortion no, I'm the one deciding about it; Not the Church or the State, young women we decide on our life; We are not machines of reproduction, we are women with rights and decisions; I am not a criminal, I am a woman; Woman, your decisions are also life.

Abortion lasted around three months in the public debate. Journalists, intellectuals, and leaders of women's groups, political parties and progressive social movements participated in radio and television programs and filled the pages of newspapers with solid arguments that supported abortion reform. To the surprise of many, the subject was not vetoed by the media; on the contrary, the media kept the discussion alive.

The Current Situation

The response to the new abortion law has been inspiring. Of the 28 hospitals of the city, 14 are now offering the service of abortion. In 2000, only 60 cases of legal abortion were recorded in Mexico City; now there are on average 600 legal abortions monthly. It is important to recognize the health workers who have decided to support women seeking abortions even though conscientious objection² is a right that they can invoke.

While the new law is currently in effect, unfortunately there is a constitutional challenge to it. At this time the matter is before the court, where 11

magistrates will be the ones in charge of endorsing or rejecting the reform. The reform requires four votes in favor in order to continue.

The legislative change in the DF represents a real and symbolic triumph in the struggle for sexual and reproductive rights in Mexico and Latin America. The participation of diverse sectors of society enriched the debate and meant that the majority of people in the DF accepted and supported the legislative change. Although a great deal still remains to be done, the DF has become, because of this process, a more democratic, equitable and pluralistic society, respectful and open to dialogue about subjects that before couldn't be touched. This includes the authorization of same sex legal unions and the legalization of euthanasia.

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The challenge for Mexico is to guarantee that women's rights to voluntary maternity, health, dignity, nondiscrimination, and a life free from violence are respected similarly throughout the country. It is necessary to promote legislative changes that decriminalize abortion in other states. To this end, in addition to medical infrastructure and citizen participation, the formation of a wider social movement and sense of collective political will is necessary. The recent victory in Mexico City makes this seem all the more possible.

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References

1. Speech delivered by Víctor Hugo Círiga, representative of the Legislative Assembly of the DF on 24 April 2007.
2. The Health Law of the DF recognizes the right to conscientious objection regarding abortion for moral or religious beliefs on the part of health service providers, making it clear that 1) they should make an immediate reference to another member of the health team that is prepared to provide the care; 2) public institutions cannot invoke this right as they are not persons but public institutions; and 3) in the event that the life of a woman is at risk if an abortion is not carried out, the providers cannot invoke the right to conscientious objection. *Political Weekly*, Vol.XXXVII, 2002, No.28, p. 2874.