

Abortion in Mexico: Ten Years After Beijing

Abortion in Mexico is severely restricted. Although there are seven indications for which abortion is not punished throughout the country, abortion laws fall under the jurisdiction of individual states, and vary among them. In addition, very few state penal codes regulate abortion access procedures, and thus these laws are rarely applied. In the health sector, abortion is officially recognized as the third or fourth leading cause of maternal mortality, but –in most cases – the public programs and policies for decreasing unwanted pregnancies are weak (for example, many women do not have access to birth control methods) and access to abortion services, when abortion is legal, is extremely complicated. The above all form important references to analyze abortion in Mexico.

The Mexican context also determines limitations and possibilities for abortion rights. In general, the Mexican context does not generate the conditions to regard abortion rights as reproductive rights. The majority of political actors are not committed to reforming laws that penalize abortion or even regulating abortion under the indications for which it is allowed, not to mention proposing reforms that would make effective the Beijing Platform of Action recommendation that governments should “consider reviewing laws containing punitive measures against women who have undergone illegal abortions (Paragraph 106 K).

In Mexico, the efforts to implement the Beijing agreement are confronted by equally strong rival forces. The following cases, from the last few years, serve as examples: an initiative to imprison women who have been raped and become pregnant as a result who then have undergone an illegal abortion (Guanajuato, 2000); an attempt to prohibit embryonic stem cell research, based on religious criteria for the right to life from the moment of conception (Mexico City, 2003); and most recently, (Jalisco, 2005), a proposal to legislate on “violence against the fetus”, which, if passed, would represent a serious setback to laws that allow abortion under some circumstances. Playing fetal “rights” against those of women is a strategy that anti-choice groups have used in the United States and are trying to introduce in Mexico.

The above attacks on abortion rights necessitate sustained efforts to *defend the abortion rights that have already been recognized*. The termination of pregnancies resulting from rape has been legal in *every* Mexican state since 1931, and as such, the attempt to instate laws that privilege fetal (or the “unborn”) rights over recognized women’s rights would -unavoidably- be detrimental to a tendency that recognizes individual self-determination on reproductive matters, as has been established in Article Four of the Mexican Constitution since 1974.

With this background, the advances made in Mexico City toward the 1995 Beijing Platform of Action recommendation are significant. Although in 1995, Mexico

City had implemented a comprehensive medical care program for victims of sexual abuse that included access to public abortion services, this program was not well-known and as such, inaccessible. Collaboration among administration of justice and public health agencies required significant strengthening.

Later, in 2000, three additional indications for legal abortion were added to the Mexico City penal code including: serious fetal malformations, risk to the woman's health and artificial insemination without consent. As a result, in 2002, clear guidelines for public officials involved in the legal abortion process were established. In 2004, a new reform decriminalized abortion under the indications where it was already sanctioned, demanded that public abortion services be offered free of charge, regulated individual doctors' right to conscientious objection yet required public health institutions to have staff at all times who are willing to perform terminations, in order to guarantee access to legal abortion services. All of these advances result from an auspicious balance between a determined political sensitivity to the abortion problematic and coordinated civil society efforts with governmental agencies to liberalize abortion laws and implement mechanisms that facilitate women's access to legal abortion services, both in the health and administration of justice sectors.

Nonetheless, barriers to women's access continue in Mexico City, due to a lack of political will as well as the existence of personal dilemmas in enforcing the law. In addition, the capital city's residents do not know when abortion is allowed, nor is there much public information to that effect. Instead, civil society has taken on the initiative and responsibility of informing women on legal abortion. Even so, Mexico City is in a much more favorable position with regard to abortion than the rest of the Mexican states, given that the vast majority does not regulate legal abortion access procedures and even fewer have advanced toward the liberalization of these laws in the past few years.

Given the above, it is a responsibility –principally of the executive and legislative branches- to *deal with unsafe abortion that puts women's health and lives at risk, particularly poor women*, as recognized in Paragraph 106 J of the Beijing Platform "...deal with the health impact of unsafe abortion as a major public health concern..." Advances must continue, not only in Mexico City but in all Mexican states and, as a start, the indications under which abortion is legal must be homogenized according to the highest standard and access to abortion, when legally permitted, must be facilitated, as recommended by the Cairo Conference (1994), and reaffirmed by the Platform of Action of the Fourth World Conference on Women (Beijing, 1995). Finally, the Convention on the Elimination of All Forms of Discrimination Against Women, ratified by the Mexican government in 1981, *requires* the adoption of policies and legislative measures directed toward eliminating discrimination and guaranteeing women access to all of their rights, which includes, among others, protection of health. And health protection integrates reproductive and sexual health, according to the Cairo and Beijing agreements and recommendations.