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Uruguay Decriminalizes Abortion
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Both houses of the Uruguayan legislature have now passed an abortion law (Ley de Interrupción Voluntaria del Embarazo, IVE) allowing any woman—adolescent or adult—to have an abortion during the first 12 weeks of a pregnancy by making her decision known to the national health care system (Sistema Nacional Integrado de Salud, SNIS), which includes public and private health providers. The law, which the Senate approved on Oct. 17, was signed five days later by President José Mujica and lacks only its enabling regulations to go into effect.

To counter the negative campaign by the Catholic Church and pro-life groups that opposed the law, lawmakers and the government have taken pains to explain to society that the law is not legalization but rather decriminalization of abortion when carried out under supervision.

"With some exceptions—Cuba and Mexico City (SourceMex, Oct. 5, 2011)—abortion is allowed in some countries only if the pregnancy results from rape or to protect the life of the woman. We decriminalize it without conditions. And when there is risk [to the woman's life], rape, or serious [fetal] malformation, the time frame if flexible. Uruguay will have a progressive law that will put it ahead of its peers in certain women's rights," said Constanza Moreira, a governing Frente Amplio (FA) senator and coordinator of the bicameral women's bloc in the legislature.

Decriminalization proponents compromise to ensure passage

In 2008, a more progressive bill than the one just passed was vetoed by then President Tabaré Vázquez (2005-2010). Now, although polls show that Uruguayans support abortion decriminalization and movements tied to the Catholic Church say that "life is not decided by plebiscite," the political opposition—the Partido Blanco—has announced that it will begin collecting signatures to call for a referendum to annul the law.

"We understand the position of the Catholic Church and its lay activists, but it's hard to understand the blindness of opposition groups that are determined to bang their heads against a wall. They say they are defending life when in reality they are contributing to the continuation of the criminal practice of clandestine abortions, which result in the deaths of hundreds of women each year," said Sen. Moreira when Partido Blanco leader Jorge Larrañaga announced the signature-gathering campaign. "They know very well that the bill had an objective (to decriminalize, not legalize, abortion within the first trimester), that it had a condition (that it be only at the woman's discretion), and that it looked for a consequence (that voluntary interruption of pregnancy be a state health policy). To adopt their attitude, saying that it is a matter of conscience, is to hide their complicity in the hundreds of murders each year at the hands of doctors and health auxiliaries who amass fortunes carrying out abortions illegally and without the minimal health-safety conditions."

The law has several key points: 1) It decriminalizes abortion within the first trimester of pregnancy, but the women must first explain the reasons for her decision to a multidisciplinary review panel made up of a gynecologist, a mental-health expert, and a social worker. After five days of "reflection," the woman will have the final word. 2) The woman will have to explain to the SNIS experts "circumstances resulting from how the pregnancy occurred or any economic, social, family-

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hardship, or age issues that, in her judgment, prevent her from continuing the pregnancy." 3) The interdisciplinary panel's role is to explain the law and the inherent risks from abortion, as well as social and economic support available and programs for giving the child up for adoption if the woman decides not to proceed with the abortion. (This point was opposed by some pro-choice women's organizations.) 4) The woman's parents can accompany her but cannot force her to decide to either continue the pregnancy or end it. 5) Minors can apply for an abortion only with the signed consent of their parents or legal guardians or with court approval. 6) Women with disabilities will be covered only if they have the consent of their custodian and legal permission from the competent judge. 7) Aside from the stipulations outlined above, a free abortion could be provided if the pregnancy would present "a serious risk to the woman's health, if it is verified that a pathology exists that produces fetal malformations incompatible with survival outside the womb, or within the first trimester if the pregnancy resulted from rape."

Deputy Iván Posada of the Partido Independiente, the only lawmaker not from the FA who voted for the law and who played a decisive role in its approval, explained some of those points and said that the number of weeks of pregnancy does not apply when the mother's health or life are at risk. In the case of rape, the limit is 14 weeks, along with the requirement that a legal complaint be filed, which does not imply a conviction but only verification that a complaint was filed. Posada said medical professionals who object to the law on moral grounds must inform the institutions at which they work of their position; if they do not, it will be understood that they have no objection to carrying out the procedure. Their decision will be the same for all clinics and hospitals, government and private, at which they work. "Only Uruguayans or those with at least a year of residency can access the service," Posada said, adding that that point was the second-biggest reason that women's groups opposed the law.

The organization Salud y Mujer en Uruguay (SYMU) said it would organize a campaign against any referendum on the law and said that, if a referendum is held, it will vote "No." SYMU is, however, very critical of the law. It says, "No one guarantees that the health system, public or private, is able to offer abortion services if the health teams that would have to provide the service are not available." It added, "We are adults who do not need any interdisciplinary panel whose only role will be to pressure women from a biased perspective." The group said that in small towns in remote rural areas there are no professionals to be part of the teams, which also must act within urgent timeframes, and, finally, it complained that the law is discriminatory because "it excludes immigrant women." (In fact, it requires a year of residency.)

Martha Aguñín, a SYMU spokesperson, focused her criticisms on two points: 1) The law does not decriminalize abortion; and 2) it is "incoherent, partial, and discriminatory." For backers of the law that was vetoed in 2008 and that had to be watered down this time to obtain the votes necessary for passage and guarantee that it would not be vetoed, "This is not everything, but at least it is progress."

Lack of Catholic Church influence made passage easier

Uruguay is the only former Spanish colony in which the Catholic Church has little institutional or political influence; it is a special case in this regard. Between 1934 and 1938, it was the first Latin American country to legalize abortion, and it did so based on unusual reasoning by lawmakers at the time. Faced with the alarming number of women who died during or as a result of an abortion, legislators passed a law that said, "Unable to stave off these acts [abortions], we must wrest them
from disreputable and venal hands, turning them over as a licit intervention to the right people with the aim of saving at least one or two lives in danger." Later, the intelligent lobby of the Catholic party Unión Cívica offered the votes of its two deputies to dictator Gabriel Terra (1931-1938) in exchange for his annulling the law, which ended the experiment.

In addition to that episode, other earlier ones serve to illustrate a tumultuous relationship between the Catholic Church and the Uruguayan state. In 1852, the government took away cemetery administration from the church. In 1859, the Jesuits were expelled. In the 1860s, all religious references were eliminated from social norms. In 1877, an education reform secularized education. In 1885, the Oficina del Registro Civil was created, and the Catholic Church no longer registered births, marriages, and deaths. In 1906, religious images were removed from public hospitals. In 1907, divorce was legalized. In 1917, the Constitution established the definitive separation of the state and the Catholic Church. José Artigas (1764-1850), the greatest hero of Uruguayan independence, never signed any document with his baptismal name (Gervasio).

With this background, it is not surprising that 52% of Uruguayans support the law and only 37% oppose it. All legislators who voted for the law are excommunicated under Canon 1398 of the Code of Canon Law, which says that "a person who procures a successful abortion incurs an automatic excommunication" at the moment the act previously condemned by the church is committed, without need for explicit imposition. In any case, the bishops did not even have to threaten the lawmakers because all who voted in favor either are not Catholic or have been excommunicated since 2008.

No one knows whether the announced signature drive was posturing or whether the Partido Blanco will really carry out this futile effort. And not just because only 37% could support its efforts but because both the Catholic Church and the pro-life organizations have already said that they will neither sign the petition nor vote to annul the law, simply because "human life does not depend on a vote," as Dr. Cristina Grela, spokesperson and founder of the pro-choice Católicas por el Derecho a Decidir (CDD), said.

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