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President Michelle Bachelet Hoping to Scale Back Chile’s Blanket Abortion Ban

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Since its implementation in 1989, shortly before the end of the dictatorship of Gen. Augusto Pinochet (1973-1990), Chile’s all-out ban on abortion—even in cases of rape or when the pregnancy puts the mother’s life at risk—has proven to be as unyielding as it is unusual.

But in recent months, real pressure to soften the stance has begun to coalesce, raising the prospect that 2015, when Chile marks the 25th anniversary of its return to democracy, could finally deliver changes to a law that sets the South American country apart from all but a handful of nations. Only Nicaragua, El Salvador, Honduras, and Malta have similarly restrictive abortion rules. The Dominican Republic, which also had a blanket ban, loosened its abortion legislation just last month.

Part of the impetus for scaling back the dictatorship-era law has come from President Michelle Bachelet, who returned to power last March after serving a three-year stint as head of the New York City-based UN Entity for Gender Equality and the Empowerment of Women (UN Women). Bachelet, 63, previously served as Chile's president from 2006 to 2010. During her first State of the Nation address, delivered, as tradition dictates, on May 21, the president said that Chile needs to have "an immediate, mature, and informed discussion" on the matter and "take up a debate in parliament on a measure to decriminalize voluntary abortion in rape cases, when the mother’s life is in danger, or when the fetus is not viable (NotiSur, June 20, 2014)."

The Bachelet administration originally promised to submit a bill allowing for the aforementioned exceptions—often referred to as therapeutic abortion—by the end of the year. It now says it will do so by late January.

Bachelet’s would by no means be the first such bill considered by the Chilean Congress. But it would be the first submitted directly by the executive branch. Past initiatives have come from civil-society organizations or been drafted by lawmakers. The promised legislation would thus have significantly more political weight than any of its predecessors. "President Bachelet is the first person with power to push this kind of legislation in Chile," political scientist Marcela Ríos told BBC Mundo in June. "It makes all the difference that she is investing part of her political capital in this."

Mandate for change?

Popular opinion appears to be on the president’s side. In a survey carried out last June, the polling firm Adimark found that 71% of Chileans back Bachelet’s plan. A more recent poll by Corporación Humanas, a women’s rights organization, found that 79% of Chilean women believe abortions should be allowed if the mother’s life is at risk, 74% think exceptions should be made in cases where the fetus is unlikely to survive, and nearly 73% feel women should have the right to abort if they were impregnated as a result of rape.

On paper, at least, Bachelet also has strong support in Congress. Lawmakers affiliated with her center-left Nueva Mayoría coalition hold 67 of 120 seats in the Cámara de Diputados, the lower
house, and 21 of 38 in the Senate. The president’s chances of scaling back the total abortion ban have been boosted as well by the declining influence of the centrist Partido Demócrata Cristiano (PDC), the most conservative of the Nueva Mayoría’s various party groupings. The PDC, which now has fewer representatives in Congress than at any time since democracy was restored, has traditionally sided with the right-wing Alianza coalition on the abortion issue.

The media has played a role, too, by drawing public attention to cases involving precisely the kind of extreme circumstances—dangerous pregnancies, often resulting from rape—that the upcoming Bachelet bill would try to address. In early November, a 13-year-old rape victim from the Araucanía region, in south-central Chile, made headlines when the baby she was carrying died shortly after birth. The baby reportedly had a congenital heart defect. Two years earlier, news stories surfaced about an 11-year-old Chilean girl who had been raped repeatedly by her stepfather and was also prohibited from aborting the fetus.

"This is horrifying. Here you have all of the circumstances and arguments for allowing therapeutic abortions," Deputy Cristina Girardi of the center-left Partido por la Democracia (PPD) said of the Araucanía case. "This poor girl suffered all of them."

Girardi’s sentiments were echoed by her brother, Senate health committee head Guido Girardi (PPD), a trained physician. "Chile can’t go on with this situation, which is so dramatic, so cruel, so authoritarian," Sen. Girardi told reporters. "The time to discuss this was years ago. This is something that was allowed in Chile until Pinochet overturned it. This is about the human rights of women."

"Like doing a drug deal"

Conservative sectors and Catholic Church leaders, in the meantime, continue to defend Chile’s no-exceptions abortion policy. Following Bachelet’s promise last May to amend the ban, hospital administrator Ignacio Sánchez, who is also the rector of the prestigious Universidad Católica, one of Chile’s leading universities, threatened to openly disobey any eventual changes to the law. "Even if the law allows it, we’re not going to carry out abortions in our hospitals. Conscientious objection takes precedent," he said.

Concepción Archbishop Fernando Chomalí also spoke out against the Bachelet initiative, dismissing it as a shrouded attempt to legalize all types of abortion. "It’s clear they want to promote abortion in Chile, and not just in the three cases that have been suggested," he said. "This is the same strategy that was used in Europe in the 1970s."

The Bachelet administration has given no indication it plans to push for anything beyond therapeutic abortions. Anything more—even if President Bachelet wanted to—simply is not feasible given the political and cultural climate in Chile, which didn’t legalize divorce until a decade ago (NotiSur, Dec. 17, 2004). Bachelet’s former health minister, Helia Molina, learned that lesson the hard way when she was forced to resign late last month after pointing out, in comments published in the afternoon daily La Segunda, that the abortion ban does not affect all socioeconomic groups equally. "In upper-class clinics, many conservative families have had their daughters abort," Molina said. "The people with money do not need laws, because they have the resources."

Archbishop Chomalí is right, though, that some groups, both in and outside Chile, would like to see the country’s abortion laws loosened further still. A team of human rights experts from the
UN recommended late last year that for "physiological and mental health" reasons Chile legalize abortions for girls under the age of 18. The influential rights group Amnesty International (AI) has called on Chile to legalize abortions in general.

The problem, argue AI and other rights groups, is that Chilean women and girls have tens of thousands of abortions every year regardless. Those who can afford to do so travel abroad. Others visit clandestine clinics or use products such as Misoprostol, a gastric-ulcer medication that can be purchased online and used to terminate pregnancies. "Getting an abortion in Chile is like doing a drug deal, surrounded by illegality and precariousness," a 27-year-old Chilean women identified only as Alicia told the Inter Press Service (IPS) late last year.

The blanket ban hasn’t put an end to abortions in Chile. But it has pushed the practice underground, putting women’s lives at risk and even, in some cases, putting some people afool of the law. A report by the Universidad Diego Portales found that, between 2008 and 2014, 159 people were prosecuted for abortion-related offenses. While many of those cases resulted in fines, 31 actually led to jail time.

The Chilean law is "highly punitive," Corporación Humanas head Carolina Carrera told IPS. "It’s a violation of the human rights of women because this level of penalization means that those who abort do so in unhealthy conditions, where they face physical and psychological risks."

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