Abortion and Politics in Mexico: ‘Context is All’

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A strong collective pro-choice mentality was recently manifested in Mexico when a legislative initiative to revoke the legal right of rape survivor to abortion in the state of Guanajuato awakened national indignation. Pro-choice values were expressed in public opinion with such force that it sparked off the passage of liberalising law reforms in Mexico City and the state of Morelos. In this paper we trace the development of these manifestations of pro-choice views, beginning with the Democratic Revolution Party’s (PRD) refusal in 1999 to modify abortion legislation within the context of penal code reform, and moving through the events surrounding the Guanajuato reform, and the pro-choice response of Mexico City and Morelos legislators. This analysis allows us to recognise the emergence of a pro-choice consciousness and to understand that, when it comes to abortion, ‘context is all’.1

Keywords: abortion law and policy, advocacy and political process, Roman Catholic church, Mexico

Mexico’s left-of-centre party, the Democratic Revolution Party (PRD) came to power in Mexico City2 in December 1997. The PRD’s platform, along with that of the Labour Party (PT), which became an ally of the PRD in the 2000 elections, included the decriminalisation of abortion in support of ‘voluntary motherhood’, a concept that has been used by the feminist movement in Mexico since the 1970s.3 Voluntary motherhood comprises four basic feminist demands: comprehensive sexuality education at all levels, inexpensive and reliable birth control, sterilisation only with the consent of the woman, and legal abortion as a last resort. In response to the PRD’s stance on reproductive and sexual rights, member groups of the Red por la Salud de las Mujeres del Distrito Federal (Mexico City Women’s Health Network), which represents one of the most active currents of the Mexican feminist movement, held a meeting in May 1997 with PRD mayoral candidate Cardenas during his election campaign. At that meeting, Cardenas signed a letter containing a number of commitments that he would fulfill were he to be elected mayor, including a public consultation on abortion law reform.

Cardenas won the mayoralty of the Federal District with 42 per cent of the vote, which gave the PRD an absolute majority in the Federal District Legislative Assembly (ALDF) and generated hope among Mexican feminists regarding the possibility of reforming local abortion legislation. ALDF legislators who took office in December 1997 had the responsibility of creating a new penal code for the Federal District, a task that was to be completed during their three-year term to end in September 2000. The Penal Code in effect at the time had been created in 1931 and although it had been amended several times over the years, the clauses on abortion had remained intact. Thus, Mexico City had more restrictive abortion legislation than the other 31 Mexican states. Table 1 shows the number of states plus Mexico City in which abortion in specific circumstances was not punishable by law up to August 2000, before the Mexico City reform.

In Mexico City abortion was not illegal in cases of rape, risk to the woman’s life and spontaneous abortion, prior to August 2000. It was clear that residents of Mexico City were at a disadvantage compared to residents of the states
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Table 1. Circumstances in which abortion was not illegal in Mexican states to August 2000

<table>
<thead>
<tr>
<th>Circumstance in which abortion was not illegal to August 2000</th>
<th>Number of states in Mexico (n=32)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rape</td>
<td>32</td>
</tr>
<tr>
<td>Risk to the woman’s life</td>
<td>28</td>
</tr>
<tr>
<td>Abortion due to an accident (for women with 3+ children)</td>
<td>28</td>
</tr>
<tr>
<td>Fetal impairment</td>
<td>11</td>
</tr>
<tr>
<td>Risk to the woman’s health</td>
<td>8</td>
</tr>
<tr>
<td>Insemination by donor without the consent of the woman</td>
<td>6</td>
</tr>
<tr>
<td>Socio-economic reasons (for women with 3+ children)</td>
<td>1</td>
</tr>
</tbody>
</table>

* Mexico has 31 states plus Mexico City.

in which abortion is not punishable by law for fetal impairment, risk to the woman’s health or socio-economic reasons. The non-governmental organisation (NGO), Grupo de Información en Reproducción Elegida (GIRE) put forward a proposal to modernise Mexico City’s penal code, to include these same three exceptions. GIRE thought that such a proposal could not be turned down for two reasons: it incorporated exceptions already valid in other states and it was consistent with the political platform of the PRD. While Cárdenas’ campaign promise did not include the long-time feminist demand for complete decriminalisation of abortion, it was GIRE’s hope that the PRD would use its support for voluntary motherhood during the updating of the penal code, and based on its large majority, would legislate a moderate reform to allow abortion in these three circumstances.

The ‘Access to Justice for Women’ campaign

At the same time as GIRE began advocacy and public information activities on this issue, several other feminist organisations met to discuss and develop parallel reforms to the civil and penal codes. This initiative, which was dubbed the ‘Campaign for Access to Justice for Women’ (from here on, the ‘Access Campaign’) proposed reforms in five areas: victims’ rights, domestic violence, children and young people’s rights, the right to freedom from discrimination, and abortion as part of the right to health. GIRE joined the Access Campaign in its initial phase specifically to work on the abortion issue. All of the feminist groups in the Access Campaign supported GIRE’s proposals to increase the grounds for legal abortion, though some leaders wanted to press even further.

GIRE’s advocacy efforts had begun in 1998 to generate consensus among PRD legislators, as well as some PRI legislators, to encourage them to pass liberalising legislation. However, when the Access Campaign’s proposals were presented to the ALDF in early 1999, PRD took the position that it would be best to put aside the issue of abortion during the penal code reform process. Later, all parties came to a formal agreement on this so as to have a ‘peaceful’ reform process without negatively affecting discussions on other topics. Thus, the proposal on abortion was not taken up by the PRD legislators for passage.

Just as the Access Campaign was put in motion, in early January 1999, the former governor of the state of Guanajuato, Vicente Fox, now president-elect of the country, made a public statement regarding his stance on the issue: abortion should be allowed in cases where the woman’s life is endangered or when cerebral death is diagnosed in the fetus. It should not, however, be allowed for rape survivors because ‘women who are raped end up wanting and falling in love with their little ones’. Shortly thereafter, on January 22, Pope John Paul II arrived for a three-day visit, greeted by the masses within a grandiose setting. Building on Mexico’s Catholic devotion, the Pope issued his slogans against abortion before an audience of two million in the city’s superdome: ‘May no Mexican dare to harm the precious and sacred gift of life in the maternal womb.’ This declaration and its repercussions in the media influenced the discussions in the ALDF. Parties were reminded of the great power of the Church and the political risks of making any efforts to liberalise the abortion law in this critical pre-election period. Concerned about the parties’ reluctance to address the issue, GIRE commissioned a public opinion poll in April, strategically hiring a company (ARCOP) that had been previously used by the conservative, anti-choice National Action Party (PAN), so as to decrease the possibility of their questioning the validity of
the results, which GIRE knew would be favourable to abortion rights.

The poll showed that if abortion reform were taken up, the PRD would have the support of Mexico City residents: 24 per cent said that abortion should be voluntary and 47 per cent believed that it should be permitted under certain circumstances. Complete or partial support for permitting abortion under certain circumstances was manifested as follows: 72 per cent in the case of rape; 73 per cent in the case of risk to the woman’s life; 61 per cent in the case of fetal impairment; and 63 per cent in the case of risk to the woman’s health. However, the forces at work in the political context and how they would influence the PRD’s reaction to the initiative were not well calculated. Reform advocates placed too much faith in the value of public support. In a pre-election year, abortion had become too hot a topic, one that neither the PRD, PRI or PT wanted to deal with, despite the fact that doing so was consistent with their own party platforms and offered the possibility of advancing their own political programmes. The PAN, faithful to its theocratic principles, opposed any modernising measures whatsoever. While the reactions of the different parties were not altogether surprising, what was unexpected was that the PRD seemed to be overcome by a kind of temporary amnesia, conveniently forgetting that people had voted for them because of their progressive stance on reproductive and sexual rights. Harassed by the right-wing and fearful of mistreatment from the media during the presidential campaign, PRD legislators let down their supporters, who want legislative changes in line with the times and do not share the beliefs and stances of ProLife or the Catholic church hierarchy.

The PRD ALDF members did not want to spur the wrath of a powerful political enemy of the likes of the Catholic church months before a Presidential election that they had high hopes of winning. Even their campaign promise of a public consultation on abortion was not carried out. This would have opened up public discussion, raised public awareness and begun a process of negotiation, and created demands for the implementation of what is just and desirable. But the PRD put its faith in the benefits of silence, ignoring their campaign promises, and their feminist allies looked on with dismay as the topic of abortion was postponed once again.

The case of Paulina del Carmen Ramírez Jacinto

In late 1999, feminists from the NGO Alaide Foppa in the state of Baja California learned about the case of Paulina del Carmen Ramírez Jacinto, a 13-year-old girl who became pregnant as the result of rape, and the public hospital’s refusal to carry out a legal abortion for her. GIRE worked to raise public awareness through the national media of what would become a paradigmatic case.

The story is shocking. On 31 July 1999, Paulina was awakened and raped by a heroin addict who broke into her modest home in Mexicali, Baja California, to rob her family, taking away about US$100 in cash and leaving behind a terrorised family bound with rags and a young girl destroyed by what had happened to her.

Paulina became pregnant. For a 13-year-old girl in this terrible situation, Paulina seemed to have all she needed to ensure that she did not become a mother of an unwanted child at age 14: inner strength and unwavering conviction, the support of a loving mother and older brother, the legal right to an abortion in a country where abortion is legally restricted, early detection of the pregnancy 19 days after she was raped, and an order from the State Attorney’s Office to Mexicali General Hospital to perform the abortion, issued 34 days after the rape.

But things did not work out that way. Two and a half months after the rape, Paulina was admitted to Mexicali General Hospital to have the abortion. She was kept there for an entire week while the hospital administration stalled. While there, Paulina was visited by two unidentified women claiming to represent the state Comprehensive Family Development Office (DIF), who showed her ProLife’s grotesque anti-abortion film, ‘The Silent Scream’, and made her concentrate on an image of Christ. The General Attorney of the State of Baja California also took Paulina and her mother to visit a priest, who explained to them that abortion is a sin and grounds for excommunication. Paulina and her mother did not falter and insisted on her right to a legal abortion.

However, moments before the scheduled abortion, the hospital director pulled Paulina’s mother aside, grossly exaggerating the supposed risks of abortion. Paulina’s mother says that he told her, for example, that Paulina could die or
become sterile from the abortion, and that her mother would be responsible for her death. This effectively scared the family to the point of retracting their request for a legal abortion. They went home, angry and indignant.

Feminists from Alaide Foppa found out about the situation from a newspaper article on 16 October 1999 and immediately contacted Paulina to offer their help. Unable to secure the legal abortion Paulina sought, the feminist group submitted a complaint about the violation of Paulina’s rights to the Baja California Law Offices for Human Rights and Citizen Protection on 25 October 1999. Since that time, Alaide Foppa members have offered constant support in the legal suits and proceedings that have been underway, working closely with Epikeia, an NGO that offers legal defence and advocacy in reproductive and sexual rights. Overwhelming public support in Mexicali and throughout Mexico was raised. Media coverage of the case was unprecedented. Anti-choice groups took up the case for their own ends, disregarding the family’s wishes. Activists from ProLife, who sent the unidentified women to Paulina’s hospital room, continued with their familiar diatribes against abortion under all circumstances, including rape, because ‘no reason is enough to kill an innocent being’. To the great indignation of Paulina’s family, anti-choice groups made public announcements falsely claiming to have given Paulina large amounts of in-kind and financial support, including paying for Paulina’s caesarean section and the ‘donation’ of a scholarship from a Catholic university, a questionable gesture towards a young girl who badly needs economic support now if she is to attend university later.

With the approval of Paulina and her family, reproductive and sexual rights advocates have worked to raise public awareness of the hospital authorities’ abuse of power. The scandalous imposition of personal religious beliefs over legal responsibilities, trampling the human rights of a young girl, were highlighted. The family, migrants from one of Mexico’s poorest states, Oaxaca, precariously settled in a city on the US border, are representative of thousands. In addition to the horror of rape, the criminal abuses Paulina suffered in the hospital include the withholding of a public service and the breach of a judicial order, with negative repercussions for a minor’s freedom, dignity and right to privacy. Paulina’s lawyers speak of psychological torture.

The case became entrenched in local and federal politics and in a dirty war between the ruling PRI and their opponents from PAN, which holds the governorship of Baja California. The state governor and legislators from PAN responded by re-introducing a measure that had been struck down in late 1998 – to amend the state constitution to protect life from the ‘moment of conception’. A high profile lawyer, who has defended PRI functionaries accused of fiscal fraud and diverting public funds for election purposes, became interested in the case. Some, however, believe that his real interest was to use the case as a weapon against the state’s PAN government during the most important Presidential elections of the century, in which PAN had a good possibility of defeating PRI.

The Catholic church also played a large role. Besides the priest who warned Paulina that abortion is grounds for excommunication and tried to persuade her to desist, many others have spoken publicly on the subject. Mexico City’s archbishop and other church leaders reiterated their proclamations against abortion under any circumstances and claimed that the Baja California state authorities acted as their role dictates, and that it was fitting for Paulina to be shown the ProLife video. When Paulina asked Silvia Reséndiz, the member of Alaide Foppa who has helped her out the most, to be her son’s godmother, the bishop of Tijuana refused to baptise the child, saying that Reséndiz had been excommunicated for her work in defending Paulina’s right to a legal abortion. More recently, in September 2000 at the presentation of a book by Elena Poniatowska supporting Paulina’s case, a progressive Jesuit priest publicly criticised the Church hierarchy in Baja California for later refusing to baptise the child under any circumstances due to the family’s attempts to have it aborted.

The clarity and presence of mind with which Paulina and her family have managed this difficult situation is astounding, given the number of different people who have descended on their lives. From the outset, Paulina was clear that she did not want to become a mother at 14, let alone to the child of her rapist. As her pregnancy advanced, she made heartbreaking
statements like: 'I traded my dolls for a baby, thanks to the governor'\(^{21}\) and 'All I want is not to be pregnant, not to have this inside of me'.\(^{22}\) Following the birth of the child, Paulina's mother stated, 'It was a boy; I feel very angry but at the same time I'm happy. Because of them [the state authorities] my daughter became a mother at an age when this should never have happened.'\(^{23}\) Now, with her son, Paulina and her family are struggling with the situation imposed on them by the state. A recommendation by the State Human Rights Law Offices to establish a trust fund for Paulina and her son was not honoured. Seeking reparation for damages, Epkeia lawyers sent a petition to the National Human Rights Commission to confirm the State Human Rights Commission's recommendation to the state Governor. On 20 September 2000 the National Human Rights Commission sent that confirmation,\(^{24}\) and on 5 October, the governor accepted the decision.\(^{25}\)

This case demonstrates the large gap between the law and reality; the severity of human rights violations and the extent of religious fanaticism among public officials. The director of Mexicali General Hospital stated that the doctors debated who would perform the abortion and all the hospital's gynaecologists refused.\(^{26}\) He claimed he could not find any doctor willing to perform the procedure and that he had to respect the principle of conscientious objection.\(^{27}\) However, conscientious objection is strictly an individual mechanism, it can never be claimed by an institution. In Catholic countries with liberal abortion legislation, conscientious objection frees medical personnel from the obligation of offering abortion services when this practice is contrary to their personal credo. But a public hospital cannot transgress the law in the name of the religious beliefs of its director. Public hospitals in countries that allow abortion under specific circumstances must guarantee that at least some of their medical staff will perform abortions, or will refer to others who do. In this case, the director was ethically obliged to help Paulina.
Paulina

Elena Poniatowska

On Saturday 31 July 1999, at half past three in the morning, while Paulina, her sister Janet and Janet’s two children were sleeping, Janet was awakened by the cold edge of a knife on her neck. ‘Get up, mother-fuckers.’ The burglar’s face was covered with a scarf; he was looking for something to steal. He tied Janet and her children face down on the bed. Paulina, aged 13, was jabbed with the knife, insulted and raped on the same bed. ‘Where do you keep the money, mother-fucker?’ he screamed. Janet told him where the money her husband had sent her was. He took 1000 pesos and a cell phone and left. Janet untied herself and the children. Terrified, she asked, ‘Where were you?’ This went on day after day.

Paulina was taken to a nearby community clinic to see a doctor, who found that Paulina was pregnant. This doctor said she would perform an abortion for her, but not without the proper authorisation from the State Prosecutor’s office. An agent for the State Prosecutor issued an order for the General Hospital at Mexicali to perform the abortion. Paulina went into hospital.

Paulina’s mother Maria Elena brought a blanket for herself and stayed in the hospital for seven nights, outside her daughter’s room, in a tiny space in the lobby. She kept asking if ‘it’ had been performed, but she was embarrassed to ask directly because there were so many people around. Invariably, the hospital personnel would ask, ‘What’s your daughter’s name? Why is she here?’ This went on day after day.

Paulina: ‘I was not fed. They put me on a ward where all the women were giving birth... I felt at fault, as if I weren’t a person.’

Maria Elena: ‘Every three to four hours I asked about my daughter. I was never informed and nothing was ever done to her. They asked who I was and why was I there: “What do you want!” They humiliated us.’

Humberto (Paulina’s brother): ‘There were always delays. I was asked to buy medicine to dilate her uterus, spent 400 pesos for an injection that was never given her. An ultrasound was never done either. They said the machine was broken, the ultrasound would have to be done elsewhere. We spent 6000 pesos in total. In fact, one of the physicians there told me he would perform the abortion because if this had happened to his daughter, he’d have done it. He asked for medication. I bought it but we never saw him again... I looked for him for four days. “He has surgery, he’s too busy, he’s still in the surgery room, he’s gone...” In my despair, I decided to catch him in the morning when he starts work. “Doctor, it’s been a week now, I have bought the medication.” He said to me: “...Look, in fact I will not do it.” I answered: “You should have said so from the beginning so I didn’t spend this money and my sister wouldn’t have waited this long either.” He left me in the middle of the sentence. I was furious. I went to the prosecutor’s office and my sister was discharged, only to return a few days later. Once again, nothing happened. We were told there were many risks. We were treated very badly and I shall never forget it.’

Dr Avila Iñiguez: ‘Paulina arrived with authorisation for a pregnancy termination because of rape. As director, my work is to give an order so one of the hospital gynaecologists performs the abortion’... The head obstetrician-gynaecologist told me: “I consulted with our medical staff and no one will perform the procedure. They said they were doctors to preserve life, not to destroy it.” This was pretty much their decision.’

Isabel: ‘Conscientious objection deserves respect but, institutionally, there must always be doctors ready to comply because abortion after rape is legal according to Article 136 of Baja California’s Penal Code.’

Dr Avila Iñiguez: ‘Right. When we searched for precedents we realised this was the first abortion case ever in this hospital, and I challenged the physicians’ refusal. The next day I had a riot of sorts here, among the gynaecologists. They said they would seek to obtain judicial protection if need be, because there was no authority that could force them to perform an act they were against and they had not been trained to perform. The doctors asked me: “Why does Mexicali’s General Hospital have to solve these cases for the prosecutor’s office? The prosecutor has money and can treat their personnel in private hospitals.”’

Isabel: ‘But Paulina’s legal right to the procedure was clear... and it is a simple procedure, no?’

Dr Avila Iñiguez: ‘...the problem is that we had entered the territory of beliefs, and the hardest thing to do is to try to force people to do something they disagree with. The doctors knew Paulina was a minor and that it was an abortion due to rape. One of the doctors told me: “None of us will do the procedure. If you pressure me, I’ll quit.” The head of Obstetrics-Gynaecology left. This happened during the first week Paulina was in the hospital. Faced with this situation, I asked her family for time.’

Isabel: ‘Why was she not fed?’

Dr Avila Iñiguez: ‘Because we wanted her to be ready at any time, in case any of the doctors agreed to perform the abortion.’

Dr Avila Iñiguez was detained for 36 hours for having disobeyed the prosecutor’s order. He called Baja California’s Minister of Health, who spoke with the prosecutor, after which he was released.

Isabel: ‘This girl was visited from outside the hospital, with the hospital’s consent, by two women from the prolife movement who came to tell her that...’

Dr Avila Iñiguez: ‘...With the hospital’s consent? Not at all.'
Unfortunately our security service has no control whatsoever... I really don’t know how these people got in.’

Paulina: ‘Two women... came to see me. They didn’t ask how I was feeling, or if I had eaten or anything. They simply brought their video player out, played the video on it and told me: “You are three months’ pregnant, see how your baby will end up if you have an abortion.” They showed me a baby torn to pieces. “Look, we’ll help you out at childbirth with medicine and food, and if you want to give the baby up for adoption, we have people who’d like to keep it...” I said no, I did not want to be pregnant. They asked me if I did not love my child and I told them it wasn’t like that, that what I did not want was to be like this, with this inside me. And they said I had to accept it, it was God’s will.’

Isabel: ‘How can you tell a mother her daughter will die if she has an abortion? The girl’s mother said you put her in front of a blackboard and explained to her the child could die or become infertile. That’s what you said, isn’t it, doctor?’

Dr. Avila Iñiguez: ‘Yes, but I believe this situation is a bit manipulated. In fact, the word death was never mentioned; I told her about the complications surrounding pregnancy terminations.’

Isabel: ‘But do you really think that at an early stage of pregnancy there are so many risks?’

Dr. Avila Iñiguez: ‘The risks are not so high. I think there is exaggeration. The mother was told what the risks were objectively. These are written facts.’

Isabel: ‘Infertility, uterine perforation, haemorrhage, profuse bleeding...?’

Dr. Avila Iñiguez: ‘But those are the risks. The mother was also told that complications could be taken care of, such as profuse bleeding, we have a blood bank, but that complications were possible. It may be only one chance in 10,000 or one in 100,000, yes, but she had to authorise the procedure.’

Isabel: ‘She was even told if the child died, she would be guilty.’

Dr. Avila Iñiguez: ‘No, that is not true.’

Isabel: ‘That must not be told to a mother, doctor.’

Dr. Avila Iñiguez: ‘I did not say so.’

Isabel: ‘Do you get cases of abortion complications here at the hospital?’

Dr. Avila Iñiguez: ‘No.’

Isabel: ‘If a woman walks in bleeding, you send her away?’

Dr. Avila Iñiguez: ‘Oh no, she’s admitted, but we don’t regularly assess whether it is a clandestine abortion. Numerous complications of abortion are treated here monthly.’

Isabel: ‘Are women who come in with these complications reported to the authorities?’

Dr. Avila Iñiguez: ‘The woman who arrives here in such a circumstance is questioned to determine whether a clandestine abortion was induced.’

Isabel: ‘And the woman tells you whatever story she wants to.’

Dr. Avila Iñiguez: ‘That is correct, basically.’

Isabel: ‘However, you did not do the same with Paulina and her mother because the abortion itself had to be done here. That is why you brainwashed and terrorised them. You terrorised Paulina’s mother by telling her her child could die and she would be guilty of her death.’

Dr. Avila Iñiguez: ‘Could die? I never mentioned those words. The family backed down.’

The Alaide Foppa group from Mexicali, in support of Paulina, brought a complaint against the violation of Paulina’s rights before the Law Office for Human Rights and Citizen Protection, an independent agency in Mexicali. That Office issued a recommendation to the Governor of the State of Baja California, calling for the Hospital Director’s removal and the creation of a trust fund for reparations of moral and material damages to this minor, and to cover the expenses incurred to that point by her family, as well as for the education and medical care of Paulina and the child until they are both of legal age. To date, this recommendation has not been honoured.

Paulina del Carmen Ramirez Jacinto, aged 14, gave birth to a boy on 13 April 2000 by caesarean section.

Acknowledgements

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Translator’s Notes

1. Article 136 of Baja California’s Penal Code states: Abortion will not be punishable: ‘...when pregnancy results from rape...’, if abortion takes place within the first 90 days of gestation and rape was legally confirmed. In such a case, the prosecutor’s confirmation of the facts will suffice for the abortion to be carried out’.

2. There are about 10 Mexican pesos to one US dollar, at this writing.

3. Dr. Avila Iñiguez is director of Mexicali General Hospital, Mexicali, Baja California.

4. Isabel Vericat is a human rights lawyer affiliated with Grupo de Información en Reproducción Elegida (GIRE) and with EPKEIA, a non-governmental organisation interested in the legal protection of women in Mexico. She interviewed Paulina, her family and others involved in the case, with the author.

5. The complaint addressed Paulina’s right to confidentiality, broken by the visit of ProVida representatives, as well as her right to have her decisions respected. The Law Office admitted the complaint on 16 November 1999; it was registered as a "Violation of the right of minors to protection of their integrity, torture, insufficient protection of persons, undue exercise of public responsibilities, violation of the right to privacy and illegal disclosure of information." From: Paulina, In the Name of the Law. Topics for Discussion No 2. GIRE, Mexico City.
From Guanajuato to Mexico City

Mexican society was shaken by the details of Paulina's case, and it undoubtedly sparked the explosion of a pro-choice reaction to the events in Guanajuato. One month after the presidential elections, on the evening of 3 August 2000, the PAN representatives in the central state of Guanajuato, the home of the new president-elect Vicente Fox, passed a previously unheard of amendment to make abortion for rape survivors illegal. The reform introduced penalties of one- to three-year prison sentences and fines for the woman and the abortion practitioner, who would also have their medical licence suspended while in prison.

Article 228 of Guanajuato's penal code states that abortion ‘is not punishable when it is induced or agreed to by the pregnant woman when the pregnancy is the result of rape and a formal report of the crime has been presented’. The reform passed by the local Congress struck down this language and was to take effect on 1 October, if signed into law by the state governor, who had ten days to make a decision after receiving it from the legislature. The measure closely divided the local Congress: 15 PAN legislators, a former member of the PRI and a member of the Social Alliance Party (PAS) voted for it (thus 17 votes in favour) against 16 votes against by members of the PRI, PRD, PT and Mexican Green Ecological Party (PVEM).28 Legislators opposed to the measure pointed to public opinion and co-operated with civic groups to arouse public concern and mobilisation, and by 5 August the national papers carried the opinions of several sexual and reproductive rights advocates from leading NGOs as well as political figures opposed to the bill. In Mexico City, leaders from GIRE and Católicas por el Derecho a Decidir and the feminist political association Diversa gave a press conference in front of PAN's national headquarters. In a closed meeting with national PAN leaders afterwards, they witnessed the internal disagreement among party members and the silencing of some PAN women leaders' objections to the bill.

There was a growing suspicion among political analysts and critics of Fox and the PAN that this initiative came directly from president-elect Fox to test the waters for future possibilities of restricting abortion legislation. The national president of the PRD questioned Fox directly, the day news of the bill hit the newspapers, implying that this was a sign of what the newly elected government planned to do at national level once it took office in December 2000. Fox insisted that this was strictly a local affair in which he played no part, and stated publicly that his administration would not make similar moves at federal level;29 he later added that the national party had nothing to do with the reform initiative either.30

Whether Fox knew about and supported the initiative or not, the interim governor is one of Fox's closest political allies, and Fox himself has stated on numerous cases his personal opposition to abortion. He is on record as opposing legal abortion for rape victims, as cited earlier, and he opposed legislative change in the state of Chiapas to liberalise the abortion legislation,31 which is still frozen due to strong pressure from the Catholic church hierarchy. In addition, Fox left the country on a scheduled tour of Latin America just as news of the amendment began to create scandal. The measure posed no political threat to Fox as he had already been through the presidential elections. Furthermore, his administration had yet to take office, freeing it from political risk. It was rather PAN itself, along with the local legislators, who experienced the weight of national disapproval. In the national party headquarters, leaders realised the move was a political mistake and asked local legislators to retract the amendment,32 despite their party's stance against abortion and for life 'from conception'. Internal ruptures within the party are no secret, but they became deeper with the Guanajuato affair. After the elections, Fox had made public statements about his need for greater independence from his party. It is plausible that Fox was less concerned about the image of his party than the need to test the waters for a future initiative under his own administration.

Throughout the days that the Governor reviewed the bill, various sectors of civil society demonstrated against it in front of the national PAN headquarters in Mexico City, Fox's offices and the Guanajuato Congress building. Activists travelled back and forth from Guanajuato to Mexico City, strategising on how to impede the process and meeting with representatives from PAN and allied parties in the Guanajuato Congress. The presence of a pro-choice woman legislator from the PRD in Guanajuato was key to
the successful defeat of the measure. Opinion leaders – medical doctors, public servants from all parties including the PAN, civic leaders and NGOs – expressed their opposition based on religious freedom, the need to strengthen the separation of church and state, democracy, social justice and the right to decide.

In the face of such staunch public opposition, the interim governor of Guanajuato organised a public opinion poll in the state to hear the views of the public. Concerned about the validity of such a poll and how it would be used, reproductive and sexual rights NGOs quickly commissioned a poll of their own, which was conducted the same week as the governor’s poll.

Results of the NGO poll were presented in a press conference three days before the results of the governor’s poll were to be made public. Of a random sample of 774 people interviewed, 62 per cent knew about the bill; of these, 43 per cent were against penalising abortion in cases of rape, 70 per cent in cases of risk to the woman’s life and 68 per cent in cases of risk to her health. They also replied that the opinion of women (36 per cent), society at large (30 per cent), churches (15 per cent) and the medical community (9 per cent) should be taken into consideration when legislating on abortion. Eighty-four per cent believed that legislators’ religious beliefs should not influence abortion law, only 13 per cent responded that it should. Only 26 per cent were completely in favour of the amendment, 8 per cent somewhat in favour, 18 per cent somewhat against, and 47 per cent completely against. Those who were in favour of the amendment cited reasons such as ‘the life of a baby should not be taken’, ‘the child is not guilty for how it was conceived’, ‘even so, women who practice abortion should be punished’ and ‘abortion is a crime/murder’. Leading reasons against the amendment were: ‘women who are raped and abort should not have to go to jail’, ‘only the raped woman should decide what to do’, ‘women are raped against their will, it’s not their fault’, and ‘women should not be punished for their decision [to abort]’. Although 57 per cent of all interviewees were against abortion in cases of rape, 63 per cent were against the punishments stipulated in the bill. Ninety-four per cent said that a public consultation should be organised before abortion legislation is voted on by the state Congress. Of the total polled, 97 per cent were self-defined as Catholics, with an average of 1.3 visits to religious services per week, and 62 per cent had voted for PAN in the Presidential elections.

The governor had commissioned the University of Guadalajara, known for its ties to Catholic institutions, to carry out a poll in 15 regions of the state, also a random sample. Among the 1,204 people polled, 59.5 per cent knew of the bill, 53 per cent of those polled disapproved of the bill, and 67.8 per cent believed it should be returned to the local Congress for more extensive discussion. Additional questions regarding the ‘right to life’ and abortion in general were asked, to learn more about the ‘values of the citizens’. These showed that 51 per cent believed that abortion in this circumstance should not be penalised, that all human beings have the right to life (97 per cent) and that life begins from the moment of conception (70 per cent). The conclusions drawn from the poll were that: ‘Residents of Guanajuato do not want to close the case; on the contrary, they want the bill to be returned to Congress so that it is discussed not only by local legislators. First and foremost, they want the opinion of rape survivors who became pregnant to be taken into consideration, as well as the opinions of specialists in the field and society at large. This would allow for legal reform compatible with medical and legal aspects, the right to life and the citizens’ opinions.’

GIRE commissioned an expert in statistics to analyse the results of the governor’s poll, the reliability of the questions asked and the answers received. He found that questions were phrased in a way that led interviewees to respond in a certain manner, there was a lack of information corroborating the stated margin of error and reliability, a lack of information corroborating the representativeness of the sample, inconsistencies in the way interviewees responded to similar or related questions, confusing and manipulative language in questions and guided responses, irrelevant questions, questions that were not pertinent to citizens’ perspectives on the bill itself and poor information regarding the design of the study. He concluded that these problems made it difficult to weigh the significance of the results. Value-laden questions and apparently guided responses further put the
reliability of the results in question, most worrisome being the inclusion of the term ‘right to life’ in questions. For example, one survey question was: ‘Why would you support the bill?’ Among the choice of answers was included: ‘Because the baby is not guilty and it would be killing an innocent’. Other questions were leading, e.g. ‘Do you agree that women who resort to abortion when the pregnancy is the result of rape should be penalised?’ and ‘Should a woman who becomes pregnant as the result of rape and who takes the life of the product be punished?’

It seems evident that the poll and its results were framed so as to make it possible for PAN to have another chance to pass this bill or a similar one. In fact, one question in the poll implied this, as it did not allow interviewees the option of rejecting the bill altogether: ‘If you could return the bill to the legislators to study more, or accept it as is, which would you do?’ In response, 68 per cent would return it; 32 per cent would accept it. In this way, the state could say that citizens were not asking to ‘close the case’ and that they had been correct in identifying a problem in need of attention. Thus, the state government was able to recuperate from the blow it had dealt itself. Although they were temporarily unable to pass the bill, they had saved face, could avoid admitting to a political mistake, and had left open the opportunity for the next Congress to take up the subject again. It was in this light that, on 29 August 2000, the governor of Guanajuato announced his veto of the bill, based on the results of the government-sponsored poll.

Mexico City

On 14 August, before the Guanajuato governor’s veto was announced, the interim mayor of the Federal District, Rosario Robles, a young politician with feminist convictions, introduced a bill to the Federal District Legislative Assembly (ALDF) to make fetal impairment and risk to the woman’s health exemptions in the penal code. Robles called an extraordinary session of the ALDF to present this initiative, among others. The Access to Justice Campaign had continued to press for liberalising the abortion law even after PRD refused to raise it in 1999, and continued to insist following the July 2000 presidential elections. This pressure was key in convincing Mayor Robles of the support she would have for a reform bill, and Campaign members attended the official presentation of the initiative to demonstrate that support publicly. The presentation became in and of itself a significant pro-choice act, attended by many civic and opinion leaders, some of whom made presentations backing it.

Although members of PAN objected, they were unable to obstruct the process or the passage of the reform bill itself, given their small numbers. Accusations of political opportunism were made by PAN legislators and their national leaders, but the initiative was widely backed through the Access Campaign and other venues. The public opinion poll conducted by GIRE in April 1999, along with several polls conducted by the media, lent the initiative legitimacy, allowing ALDF legislators to reject accusations that they were introducing a bill without sufficient discussion or support from civil society. However, the most extensive support came from the response of civil society to the Guanajuato situation. Robles herself emphatically stated that her initiative was in clear response to the Guanajuato bill, as PAN itself had opened the door to debate and the need for further legislation on the matter.

The PRD, which had previously argued for postponing any legislative change on abortion because of the desire to reach consensus among the different parties in the ALDF and avoid the topic of abortion during the presidential race, was now instigating the very reform it had rejected a year and a half earlier, with the support of PRD upper echelons, the Federal District mayor, feminist party leader Amalia Garcia, civil society and popular opinion. The PRD majority in the ALDF agreed with the mayor’s initiative and legislated in favour. Arguably, PRD had nothing to lose. The elections were over, and they could count on PRI to be an ally in passing the bill (this never would have happened before the presidential elections), since PRI had also loudly criticised PAN for the Guanajuato affair. Although the bill could have been passed without PRI legislators, their endorsement demonstrated that the reform had ample support, giving it greater credibility. The tables had turned. It became politically useful for PRD and PRI to demonstrate their sensitivity about abortion, capitalising on the pro-choice
support that had been manifested for Paulina and in response to the Guanajuato bill.

Anti-choice groups reacted with vehemence to the Mexico City bill. ProLife called in experienced anti-choice activists from the USA and Canada to help lead public protests in front of a newly-opened legal abortion clinic in the state of Yucatan and in Mexico City's main plaza. They also rallied in front of a Mexico City clinic that they claimed was offering illegal abortions despite affirmations to the contrary by clinic staff. Mexican laws prohibiting the participation of foreigners in politics are harsh, and the federal government responded with an order for their deportation and fines against ProLife. Mexico's archbishop and other Church leaders made public proclamations that any person involved in promoting abortion would be summarily excommunicated, but when questioned directly about whether this would apply to the mayor, the archbishop said no.

The media carried criticism of the extremism of the president of ProLife and the archbishop in editorials and cartoons; their blanket condemnations, expressions of intolerance and lack of tact have cost them credibility in a society that is increasingly concerned about threats to the secular state and recognisant and respectful of diversity.

Despite the Church and ProLife's attempt to block the liberalisation of abortion laws, in late August a bill to decriminalise abortion on several grounds was passed by the PRD and PRI in the state legislature of Morelos just months before the newly elected PAN governor would take office. In comparison to the debate generated by the Guanajuato and Mexico City reforms, the reform in Morelos attracted minimal attention but remains as a clear signal of the changing mentality toward abortion.

Conclusions
While severe restrictions on abortion have remained in Mexican law, secularisation and religious diversity have slowly increased and people's moral values have changed. Years ago, cultural critic Carlos Monsiváis pointed out that with regard to abortion, Mexico had already achieved moral decriminalisation. It is clear that the case of Paulina was a precursor to the public awareness and outraged expressed during the Guanajuato reform. Monsiváis has called Paulina's case 'the collective discovery of horror.'

In previous years, PAN pressured PRI authorities not to reform abortion legislation, using its influence as a political party and through anti-choice NGOs. The events surrounding Paulina and Guanajuato show that they had not understood how much the Mexican people have changed. These events have shown that different ways of thinking emerge in radical cultural transformations. Although the struggle for abortion as a reproductive right has not yet been won in Mexico, the changes in public opinion are incontestable, including in the conservative state of Guanajuato. Further, the right-wing were responsible for the extent of the negative reaction to their cause. Unbelievable declarations were made by PAN and religious leaders in the case of Paulina, e.g. 'It's a good thing that Paulina did not abort, because to the sadness of her rape she would have added the crime of becoming a murderer' and that in order to avoid rape, 'women have to do their part, their way of dressing is provocative; women have to be more decent and not encourage it [rape].'

PRD entered the politics of abortion when, capitalising on PAN's failure to pass a reform that was neither timely nor publicly supported, the mayor of Mexico City obliged her party to take action on the 1999 Access Campaign proposal. Above and beyond party lines, what has been manifested in the succession of events is a new awareness of the ethical obligations of respect for diversity in a democratic society. In the face of the weight of Catholic ideology, positioning abortion as a private decision breaks with their absolutist approach and honours social diversity. The pressure for legal reform comes from feminist sectors because women who suffer from clandestine abortion keep silent out of fear of social reprisal. However, it is the response of an indignant and moved society that will in the end break down the prejudices against abortion that keep women suffering in silence.

Reproductive and sexual rights must be positioned at the core of debates on the quality of life, individual responsibility and freedom of beliefs. The defence of reproductive rights leads to a central tenet of freedom and equality: freedom to decide and equality of access to
information and medical services. This is why reproductive rights are intrinsically democratic rights: they stem from freedom, particularly sexual freedom, and require a common ground, i.e. equal access. The social justice argument for reproductive rights lies in equal access to good quality health services, reductions in maternal and infant mortality and in unwanted adolescent pregnancy, and therefore the need to provide safe and legal abortion in the health services.

In Mexico, the defence of reproductive rights also serves to establish a set of ethical and political values to confront the advance of religious fundamentalism and the right-wing. Influencing public discourse on abortion requires effective and ongoing work with the media because of the vast disproportion between the resources of the right-wing and the Catholic hierarchy and reproductive and sexual rights groups. The Church hierarchy places costly full-page advertisements in the newspapers and can buy television and radio air time, and thanks to its political alliances with important media entrepreneurs, it also has access to free air time. In some cases, however, public opinion can be more powerful than the Church hierarchy’s financial backing, as was the case in Mexico throughout 2000. Thanks to the media’s own interest and the social expression of pro-choice values, the news of the Guanajuato scandal and the Mexico City bill were covered every day for over a month. GIRE’s advocates, among many others, appeared frequently on television and radio, promoting reproductive and sexual rights as values related to social and individual freedoms, and emphasising the development of personal potential, democratic and tolerant vocation and the defence of privacy, a perspective shared by many social sectors today.

Thousands of Mexican women decide every year to terminate unwanted pregnancies. Their decisions can be interpreted as representing a general transformation in women’s aspirations and their growing desire to live differently from women in the past, with fuller exercise of citizenship that leads them beyond the restricted field of motherhood. Women’s life plans are changing; their traditional sacrifice to their families is beginning to be replaced by a more individualistic desire to live their own lives. Beginning to conceive of their own future as something more personal, women have begun to take control of their lives, with sexuality more as a symbol of personal realisation than ever before.

In trying to extend their field of action in this search for freedom, however, women – particularly young women – have found that there is a large gap between the messages they receive and the reality of their lives. The limits on the options open to them make it impossible for them to realise many of their dreams. In a society marked by unemployment and housing problems, family relations are undergoing great changes and new patterns in sexuality are bringing new horizons for love, couples, having children and families. Sexual encounters are more easily had, yet the material and ideological obstacles to a responsible sexual life lead not only to many abortions but also the birth of many unwanted children. In the past large families were the norm, but this situation no longer pertains today.

The difficulties Mexican women currently face in exercising their reproductive and sexual rights creates pain and frustration, which have an important potential when mobilised. However, women’s desire for democracy in and of itself does not automatically lead to greater attention to reproductive and sexual rights. For these rights truly to become part of the public debate and consciousness, they must be more explicitly articulated through the political agenda. For this reason, an essential part of the struggle for reproductive and sexual rights is knowing how to anchor feminist demands in the social context, or how to formulate these demands in a way that touches people’s democratic nerve-ends. In Mexico, Paulina’s case has become a paradigm of how to encourage people to make these demands as part of their political aspirations.

The surfacing of a liberal, secular mentality is related to social change in which the aspirations of modernity play a determining role. The current challenges of development in Mexico render urgent the juridical recognition of women’s right to decide about matters related to their own bodies as a fundamental part of modern citizenship. Feminist NGOs must explore the contradictions of the vast political process, take up opportunities to mediate, and join other sectors to create a modern discourse on citizenship based on a model of a more equitable society, including in the areas of sexuality and reproduction.
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References and Notes

2. The legal term for Mexico City is the Federal District, as the federal powers are located there. The two terms are used interchangeably.
4. Aborto culposo, i.e. if the woman has an accident that triggers an abortion and needs medical attention.
5. The eleven states are: Baja California Sur, Coahuila, Colima, Chiapas, Guerrero, Mexico, Oaxaca, Puebla, Quintana Roo, Veracruz and Yucatan; the eight are Hidalgo, Jalisco, Michoacán, Nayarit, Nuevo Leon, Tamaulipas, Tlaxcala and Zacatecas. The only state with abortion for socio-economic reasons is Yucatan.
6. GIRE (Information Group on Reproductive Choice) began operations in 1991 to formulate a pro-choice response to the constitutional reform granting a legal presence to churches in Mexico and an attempt to liberalise the abortion law in the state of Chiapas that was blocked due to pressure from the Catholic church hierarchy and pro-life groups.
11. Paulina: In the Name of the Law. GIRE, Mexico City 2000.
15. Paulina: In the Name of the Law. GIRE, Mexico City 2000.
22. Poniatowska E, op cit, p. 47.
25. Letters from Alejandro González Alcocer, Governor of Baja California, to Cesar Mancillas Amador, Jose Luis Soberanes Fernández, Carlos Alberto Asztorga Othón, Juan Manuel Salazar Pimentel, and Jose Guadalupe Zamorano Ramirez dated 5 October 2000, advising them to co-operate with this decision and provide the services that correspond to the institutions they head. GIRE archives.
27. Ibid.
31. An article written by Fox and his now ex-wife – in which they state their opposition to the 1991 abortion law reform in Chiapas and their opposition to abortion for rape survivors – was brought to the current debate by the newspaper Reforma, 14 August 2000.
32. Reforma, 12 August 2000.
35. ‘Está de acuerdo en que se penalice a las mujeres que recurren al aborto cuando el embarazo es producto de una violación?’
36. The Spanish term producto...
does not have an appropriate translation in English that maintains the neutrality of the word; hence, we use the English 'product', though it sounds awkward.

37. ‘Se debería de sancionar a la mujer que priva de la vida al producto de una violación?’
42. Universal, 14 August 2000. See also Crónica and Reforma 13 August 2000.
43. Carlos Monsiváis, statement at a GIRE press conference or to Marta Lamas at the time, 27 September 1996.
44. Carlos Monsiváis, paper read at the presentation of the book Las Mil y Una...(la herida de Paulina) by Elena Poniatowska, September 28, 2000.
45. ‘Qué bueno que Paulina no abortó, porque a la tristeza de su violación habría agregado el crimen de convertirse en asesina’ Felipe Arizmendi Esquivel, bishop of San Cristóbal de las Casas, Chiapas, cited in Excelsior, 17 April 2000.
46. ‘Y las mujeres, agrega, “tienen que poner lo que está de su parte, pues la manera de vestirse es provocativa; la mujer tiene que ser más decente y no

Résumé
Un mouvement collectif d’opinion en faveur de l’avortement s’est récemment manifesté au Mexique quand un projet de loi de l’Etat de Guanajuato visant à abroger le droit légal de la victime d’un viol à bénéficier d’un avortement a soulevé l’indignation dans tout le pays. L’opinion publique s’est exprimée en faveur de l’avortement avec une telle force qu’elle a ouvert la voie à une libéralisation juridique dans la ville de Mexico et l’Etat de Morelos. Cet article retrace l’évolution de ces manifestations en faveur de l’avortement, à commencer par le refus du Parti démocratique révolutionnaire en 1999 de modifier la législation sur l’avortement dans le cadre de la réforme du code pénal, et les événements entourant la réforme de Guanajuato, ainsi que la réaction en faveur de l’avortement des législateurs de Mexico et du Morelos. Cette analyse permet de discerner l’émergence d’une prise de conscience favorable à l’avortement et de comprendre que, pour l’avortement, le contexte fait toute la différence.

Resumen
Una fuerte mentalidad colectiva a favor de la maternidad voluntaria se manifestó recientemente en México cuando una iniciativa legislativa que pretendía revocar el derecho al aborto de las sobrevivientes de violación en el Estado de Guanajuato despertó la indignación nacional. La expresión de los valores asociados con la maternidad voluntaria en la opinión pública fue tan fuerte que motivó la aprobación de reformas liberalizadoras en la Ciudad de México y el Estado de Morelos. Este trabajo muestra la evolución de esta expresión a favor de la maternidad voluntaria, a partir de la negativa del Partido Revolucionario Democrático (PRD) en 1999 de modificar la legislación sobre el aborto dentro del contexto de una reforma del código penal, y pasando por los eventos que impidieron la explosión de la opinión pública acerca de la reforma en Guanajuato, para llegar a entender mejor la respuesta de los legisladores en la Ciudad de México y en Morelos a favor de la maternidad voluntaria. Este análisis nos permite reconocer la emergencia de una conciencia a favor de la maternidad voluntaria y comprender que, de tratarse del aborto, todo depende del contexto.