

General, Particular and Final Conclusions

4.1 General Conclusions

Poverty and population explosion will not be solved unless education is understood in a broad sense and starts becoming a priority in developing countries. Information, or lack thereof, should be used as a tool in assessing the laws in a country, especially if authorities do not want to follow those laws. As demonstrated, there is an urgent need in Mexico for information dissemination on access to abortion in the cases where the laws provide exceptions, such as in the case of rape. For the sake of women's well-being, it is crucial that their protection from unsafe and perilous abortions be a greater priority in Mexican reality. As previously stated, all countries should be aiming to ensure the well-being of women regardless of their economic condition; this encompasses good sex education and use of contraceptives to avoid unwanted pregnancies. Although unwanted pregnancies may still happen, the state must assure these women safe alternatives instead of influencing them indirectly to seek unsafe, clandestine abortions.

I assert that the most pressing issues at hand are the need in Mexican society to enforce existing laws and disseminate information on how to obtain the legal abortions stipulated in the legal framework. In addition, I strove to point out the main issues of the abortion debate and lack of enforcement of the laws permitting legal abortion in the Mexican system. My specific response to these issues are the need for information dissemination to avoid these problems, which should include the work on the inside (grassroots organizations) and from the outside (international organizations); also, better sex education in schools, as I have said before, to avoid cases of unwanted pregnancies.

Second, in order to promote change in societies' attitudes concerning sexual independence, reproductive rights, and abortion such that they are not seen as solely

restricted to female emancipation but as social issues that are a public concern pertaining to all of society, because it pertains public health issues. If women are dying because of unsafe clandestine abortions performed by non-professionals it *is* a matter of public concern and therefore, the State must promote openness and enforce the legal framework.

Third, if Mexico is to demonstrate that it has a serious commitment to international legal and moral standards protecting the rights of women, then these rights might include, for example, the broader human rights to be protected from cruel and unusual punishment, or psychological and/or physical torture. If Mexico seeks to appear as a modern democracy that abides by international standards it must ensure access to safe abortion in legal cases such as in the case of rape, because as The High Commission of Human Rights of the United Nations has expressed in recommendations to Mexico, they must ensure prompt, accessible and safe abortion in the cases where abortion is legal, as well as propitiating the debate of abortion as a matter of public health instead of an ideological debate.¹ If Mexico ignores these recommendations its international image will be compromised as well as demonstrating its lack of responsiveness on women's issues. Women in Mexico and in the world need to be guaranteed that their decisions and their autonomy are respected, especially when a woman was raped and had the distress of being violated. If this woman is impregnated by her perpetrator she must at least have the opportunity to decide whether to bring the pregnancy to term or not. It is a very personal and private decision and neither the State the Church nor any other should impose its own ideas on what choice she should make.

¹ Derechos Humanos de las Mujeres," *Diagnóstico sobre la situación de los Derechos Humanos en México Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos en México* Chapter 5 (2003 [cited 29 Jan. 2007]): available from http://www.cinu.org.mx/prensa/especiales/2003/dh_2003/5derechosmujeres.pdf

The central argument I have defended in this thesis is that *Mexican laws suggest that there are exceptions in who forms part of our moral community, such as a fetus conceived by rape, but in reality, this is not often the case because authorities and officials have inserted their own beliefs in the process, denying the pregnant rape victims a choice.* My hypothesis was that, while the laws in Mexico are intended to reflect the international legal standards in theory, this does not mean Mexico is fully committed to these legal standards in practice. As has been illustrated throughout the thesis, the country is doing little to ensure that the law is being followed and enforced in practice. First, the legal framework is very ambiguous regarding sexual violence and abortion. Second, there have been documented cases in which pregnant rape victims are denied their legal right to abortions. Third, authorities deny that “cases of unwanted pregnancy even exist.”²

The argument was then broken down into two sub-hypotheses: first, given Mexican cultural and political situation it is unlikely that the problem of pregnant rape victims denied legal abortion will come from a purely national level; second, international organizations and grassroots organizations should provide a framework for Mexican authorities to comply with international human rights obligations, such as ensuring access to safe and legal abortions after rape. These organizations work effectively because Mexicans have ideas on abortion that have been constructed throughout their lives. Growing up a Mexican, I noticed pro-life influences particularly during my years in secondary and high school in the Catholic School I attended. However, coming from an American background, I have been able to know different perspectives on the sides of the debate. This contrast has afforded me a unique perspective as well. Today, after writing this thesis I have become more aware of the

² “The Second Assault: Obstructing Access to Legal Abortion after Rape in Mexico,” *Human Rights Watch* Vol 18. No. 1(B) (New York: March 2006), 40.

conceptions behind the pro-life or pro-choice arguments and gained a personal perspective, that leans more to respecting the choice of a woman on regard to abortion. Although, this view in Mexican daily life is seen as very liberal, I see this as opening the views of other people and offer them perspectives they had never thought about. As a response to these internalized, socially constructed ideas, international organizations can deconstruct them by offering new ideas and therefore achieving an objective stance on abortion and choice. As outsiders, international organizations view the problem in a unique and different way. They offer new, progressive and more objective ideas because they view everything from the outside in. International organizations provide a forum where people can express themselves and can speak out through these organizations because they are not biased by the particular culture or moral system. I endeavoured to prove these hypotheses the following way.

4.2 Summary of the Arguments

In the introduction I provided in a broad view an explanation on why this work is relevant and therefore arising to a discussion is important.

Chapter one attempted to show that abortion is a very complex issue in which the moral stakes are very high. This is primarily because various positions on the moral status of abortion draw the line of inclusion or exclusion of membership of our moral community at different points. One consequence of this is that agreement between members of each side of the abortion debate is difficult, if not impossible, to achieve. A related consequence is that it is often difficult for states to formulate coherent laws regulating the practice of abortion; laws that can at least attempt accommodate to some extent the views of all citizens, whether they are pro-life or pro-choice.

In some western countries, such as U.S. federal law and abortion laws in the U.K., for example, the liberal argument behind their law is the following: A true pro-choice position is not pro-abortion, but in favour of the choice of the mother, and this does not force anyone holding a pro-life position to have an abortion. On the contrary, it is possible to exercise a pro-life position *within* pro-choice laws, provided that one does not expect all other people to hold or exercise that pro-life position. Clearly, this kind of position does not fully coincide with pro-life arguments, since those arguments very often claim that *all* fetuses should be protected by law from abortion. In this case, the right to life of the foetus is considered to be at least equal to or greater than the right to choose of the mother. However, in states that legalise abortion in certain cases, particularly where abortion on demand is legalised (although restricted to a number of gestation weeks), it is true that, to some extent, both sides of the debate can follow their own moral inclinations about abortion, provided that they do not force their views on others. This is one practical way in which some states have attempted to resolve the moral disagreement over the abortion debate. Yet, as the example of recent anti-abortion violence in the United States as mentioned in chapter 1 shows, this kind of solution, which—if it includes abortion on demand—favours the pro-choice side of the debate, is not always successful.

Other practical methods have been used to similarly attempt to bridge the disagreement between pro-life and pro-choice positions on abortion, although again my argument has attempted to show that these, too, have not been particularly successful. Mexican and other Central and South American states possess laws on abortion that favour the pro-life side of the debate, but accommodate an element of pro-choice arguments in the exceptions to the ban on abortion provided for in their federal or state laws. As I showed in chapter two, while state laws on abortion differ from state to state

in Mexico, most states converge in legalising at least two exceptions to the abortion ban: first, in cases where bringing the pregnancy to term would endanger the life of the mother, and second, in cases where a pregnancy is the result of rape. From a certain point of view this can again be seen as an attempt to make proponents of both sides of the debate, either inside the country or onlookers beyond the border, feel a little happier with the legal framework even if it does not, indeed cannot, accommodate both sides equally.

In Chapter two, I showed the international and legal treaties, conventions and protocols that Mexico has signed and ratified. International Organisms like the United Nations follow the compliance of the States that have signed these treaties. The accords in the Conferences of Berlin and Cairo, for example, are also monitored in order to detect possible non-fulfilment of their plans of action and by that, offer recommendations. In 2003, United Nations Organisms, in which the CEDAW stands out recommended to Mexico³ to evaluate its legislation on abortion (Rec. 226), and that in the States where abortion is permitted by law, to ensure prompt and easy access to women. (Recommendation 245). Also, the High Commission of the United Nations for Human Rights in 2003⁴ proposed new measures in defence of the reproductive rights of women and women's rights in general. Among these recommendations I would like to highlight that the Commission recommended ensuring programs and access of women to programs of sexual health, with quality and non-discrimination. What all of this leads to is to is that there are international implications. Mexico is attempting to have a better human rights record in theory to show to the western world. However, a central objective of this thesis has been to demonstrate that even though these exceptions are

³ "Compilacion de recomendaciones a Mexico de los mecanismos internacionales y comites de derechos humanos de las Naciones Unias y de la Organizacion de Estados Americanos," *Secretaria de Relaciones Exteriores* (Mexico 2003).

⁴ *Derechos Humanos de las Mujeres*, "Alto Comisionado de las Naciones Unidas para los Derechos Humanos en México, Chapter 5.

featured in Mexican law, the practice has not followed the theory. In order for this to be done, there has to be more dissemination of information on *how* to obtain a legal abortion. Also, an aperture in negotiating, discussion and implementation of current laws needs to start having a greater part in the political agenda. Government authorities that deny legal abortions and therefore, privilege or incorporate their own moral criteria into the interpretation of laws must be impeded from doing so, especially if these new liberal democracies such as Mexico, claim to be secular.

Chapter three was the prescriptive chapter; the central argument of this chapter was to validate the sub-hypothesis of the thesis which was: given the current Mexican cultural and political situation, it is unlikely that the problem of legal abortion will be resolved purely at a national level, and so an international approach is essential to achieving transparency and consistency in all cases of legal abortion in Mexico. This is why I emphasised the need for international organizations in Mexico, so they can act as overseers throughout the whole process. International organizations often offer recommendations that show many errors of how a government is performing. Thus if more organizations were to be functioning in Mexico with respect to women's reproductive rights, they would be able to provide recommendations to the Mexican government. If these recommendations were not followed, Mexico's reputation in the world would in turn be compromised. It will be compromised because Mexico will demonstrate to the world that it is not really concerned about some human rights, particularly when it comes to women's rights.

4.3 Final Conclusions

I have attempted to show throughout this thesis that the laws Mexico in regard to abortion have not been adequately enforced, and partially because, following a similar argument to MacIntyre, of the very incommensurable nature of the grounds for the

arguments on both sides of the debate. The two conceptions of personhood that ground each side of the debate are, to quote Isaiah Berlin's famous argument, "rivalrous and irreducible."⁵ In other words, they are incommensurable to the point that they, and the arguments built upon them, can never be translated into a concept equally acceptable to both sides of the debate.

What lies at the heart of this debate, these critiques, and finally these prescriptions for change is that respect for women's rights is not something that is easily implemented, even countries that are fairly westernized like those of Latin America. Rather, policy convergence will require the help of international and grassroots organizations to achieve law that are fair and just, as well as implemented consistently.

⁵ Isaiah Berlin, "Two Concepts of Liberty," in Berlin, *Four Essays on Liberty* (Oxford: Oxford University Press, 1969).