

Shield Against Abortion in Honduras

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Global framework

Conception is the beginning of a human life. This is an irrefutable scientific fact, backed by decades of scientific research.² However, for decades, the global abortion agenda has brought together efforts focused in the first instance on the decriminalization of abortion and then on the legalization of it in all countries of the world. Since the legalization of abortion on demand in the former Soviet Union in November 1920,³ an avalanche of political agitation has arisen to promote this act that despises human life and dignity in its earliest stages of development.

After the “*Roe vs. Wade*” case in 1973 in the United States, and because that country is a global power, an archetype was generated in various sectors of societies that supposed that “the countries of the first world have decriminalized abortion.” Additionally, the *Roe* case generated jurisprudence to which abortion advocates turn, and even some bodies of government in some countries refer to it.⁴ All this ignores the fact that Latin American countries have various international treaties that protect life and some are specific in protecting it from conception, as established by the American Convention on Human Rights⁵ (known as the “Pact of San José”) in its Article 4, emphasizing that these treaties constitute positive laws with constitutional hierarchy.

Pro-abortion movements have been very successful in modifying the laws of various countries by decriminalizing abortion, as is the case in Mexico City, the Mexican state of Oaxaca, Uruguay and Argentina. The constant pressure from international organizations and even those organizations that call themselves “human rights defenders” or “precursors of world peace” have caused many countries to give in to this pressure.

The most conservative block in Latin America is Central America, where there are countries that strictly protect life from conception. Such is the case of Honduras and El Salvador that, without giving in to the famous “grounds” under which abortion is often permitted, have been the true protectors of their sovereignty and human rights.

Honduras situation

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² Cfr. Bach, J. M. (2012). The Beginning of Human Life. *Medigraphic*. Obtained from <https://www.medigraphic.com/pdfs/cirgen/cg2012/cgs122p.pdf?fbclid=IwAR2IMx3C3qzdQdkdS9qm598>

³ Cfr. Frencia, C., & Gaido, D. (2018). The origins of the Soviet decree to legalize abortion (1920). *Virtual History Yearbook*.

⁴ We see how a web page of the Argentine government cites the before mentioned jurisprudence: <https://jurisprudencia.mpd.gov.ar/Jurisprudencia/Forms/DispForm.aspx?ID=1935&source=https://jurisprudencia.mpd.gov.ar/Jurisprudencia/Forms/voces.aspx?voces=VIDA%20HUMANA>.

⁵ Full text of the available norm at: https://www.oas.org/dil/esp/tratados_b-32_convencion_americana_sobre_derechos_humanos.htm

Honduras enjoys a strategic geopolitical location, as it is in the center of the American continent. Honduras and neighboring El Salvador have been singled out for adhering to principled laws that criminalize abortion and protect life from conception.

Life in Honduras has been protected by the Constitution and various codes. These include the Civil Code that provides in Article 52 that the law protects the life of the unborn,⁶ as well as the Childhood and Adolescence Code which in Article 11 establishes that children have the right to life and dignity,⁷ in addition to clarifying that the rights established in the Convention on the Rights of the Child⁸ are respected, which recognizes that every child has an intrinsic right to life.

In relation to the above, it is imperative to clarify that in Honduras spontaneous abortions are not grounds for criminalization. Neither the mother nor the medical personnel involved in a spontaneous abortion caused by ectopic pregnancy or in a spontaneous abortion due to any other cause are penalized since there is no intention to threaten the life of another human being. Honduras is a country that has various strategies for intervention in these cases, which are established in the protocols for care during pregnancy, childbirth, the puerperium and the newborn.

In 2017, a new Penal Code was discussed, so feminist organizations together with a left-wing political party⁹ demanded that abortion should be decriminalized under three grounds: in the event of rape, when the life of the mother is at risk, and for cases of congenital malformations which are incompatible with the life of the fetus. Moreover, the constant recommendations of the United Nations¹⁰ to decriminalize abortion in the aforementioned causes put pressure on the Honduran congress. However, the abortionist pressures were in vain, since most of the deputies were not in favor of decriminalization. For this reason, the current Penal Code¹¹ in Article 196 classifies abortion as a crime against life, without foreseeing causes of exemption from penalty.

As a result of what happened in Argentina, whose Congress approved in December 2020 the "legal, safe and free abortion" until the fourteenth week¹² and the growing abortion tide known as the "green tide" in the rest of Latin America; Honduran society began to express concern about future pressure on Congress to decriminalize the crime of abortion in Honduras. As a consequence of this concern, in January 2021, the nationalist deputy Mario Alonso Pérez responded by presenting a bill to reform Article 67 of the Constitution of the Republic before the National Congress of the Republic of Honduras¹³.

⁶ Full text of the available norm at:

[http://www.poderjudicial.gob.hn/UnidadGenero/Documents/CodigoCivil\(Actualizado2014\).pdf](http://www.poderjudicial.gob.hn/UnidadGenero/Documents/CodigoCivil(Actualizado2014).pdf)

⁷ Full text of the available norm at:

<http://www.poderjudicial.gob.hn/CEDIJ/Leyes/Documents/C%C3%B3digo%20de%20la%20Ni%C3%B1ez%20y%20la%20Adolescencia%20%28Actualizado%202014%29.pdf>.

⁸ Full text of the standard available at: <https://www.un.org/es/events/childrenday/pdf/derechos.pdf>

⁹ El Herald newspaper. Journalistic note "Honduras: without consensus the regulation of abortion in the national congress". Available in: <https://www.elheraldo.hn/pais/1066115-466/honduras-sin-consenso-la-regulaci%C3%B3n-del-aborto-en-el-congreso-nacional>

¹⁰ Official page of the United Nations. Note available at: <https://honduras.un.org/es/14634-honduras-necesita-una-reforma-progresiva-de-la-ley-sobre-aborto-para-avanzar-los-ddhh-de-las>

¹¹ Full text of the available norm at: https://www.tsc.gob.hn/web/leyes/Decreto_130-2017.pdf

¹² Journalistic article on the case: <https://www.bbc.com/mundo/noticias-america-latina-55482291>

¹³ Journalistic article on the case: <https://www.latribuna.hn/2021/01/13/mario-perez-presenta-ante-el-cn-reforma-que-impide-legalizar-el-aborto-en-honduras/>

A constitutional shield

Article 67 of the Constitution of the Republic of Honduras provided, "*The unborn will be considered born for everything that favors him within the limits established by law.*"¹⁴ This seemed to be clear in protecting the life of the unborn, but it was not specific and left the door open for lower-ranking laws to establish limits on the right to life of the unborn. In view of the fact that abortionists take advantage of legal loopholes, it was decided to protect life from conception in a verbatim way and in the Great Law.

This bill was referred to as the "Shield Against Abortion in Honduras" by its proponent, who stated that this bill has the purpose of shielding the right to life from conception against any law or provision that violates this right.

Despite all the news, false statements, and condemnation against the Honduran legislature that protects and respects life, the proposal for constitutional reform in Honduras was a source of inspiration for the rest of the nations and national and international organizations that fight for the defense of the unborn against the crime of abortion,. As expected, national and international feminist organizations and organizations such as the United Nations expressed their rejection of the reform throughout the process of its proposal and ratification.¹⁵

For the constitutional reform to be approved, it had to be voted on and approved in two chambers in accordance with the provisions of the Constitution. During the first vote, 88 votes were obtained in favor of the constitutional reform.¹⁶ In the second ballot, 90 votes were obtained in favor,¹⁷ which shows that the legislators did not give in to the various and constant pressures, both national and international, and represented the majority of Hondurans with dignity.

Article 67 of the Constitution of the Republic of Honduras, after the reform was duly proposed, approved and published in the Official Gazette *La Gaceta*,¹⁸ determines the following:

The unborn will be considered born for everything that favors him within the limits established by the Law.

The practice of any form of interruption of the life of the unborn is forbidden and illegal, his life must be respected at all stages. Legal provisions that establish otherwise will be null and void.

¹⁴Old text of the available norm at:

<http://www.poderjudicial.gob.hn/CEDIJ/Leyes/Documents/Constituci%C3%B3n%20de%20la%20Rep%C3%BAblica%20de%20Honduras%20%28Actualizada%202014%29.pdf>

¹⁵Official site of the United Nations. Article available at: <https://honduras.un.org/es/108906-la-onu-manifiesta-su-preocupacion-por-la-aprobacion-de-la-reforma-constitucional-que-impide>

¹⁶Journalistic article on the vote:

<https://tiempo.hn/congreso-intocable-articulo-prohibe-aborto-honduras/#:~:text=El%20Congreso%20Nacional%20de%20Honduras,en%20contra%20de%20la%20reforma.>

¹⁷Journalistic article on the vote:

<https://www.latribuna.hn/2021/01/29/congreso-nacional-con-90-votos-se-ratifico-la-reforma-que-impide-el-aborto/>

¹⁸Journalistic note: <https://www.latribuna.hn/2021/02/03/publicada-en-la-gaceta-reforma-que-impide-legalizar-el-aborto/#:~:text=%E2%80%99CART%C3%8DCULO%2067.&text=Se%20considera%20prohibida%20e%20ilegal,la%20vida%20desde%20su%20concepci%C3%B3n.>

The provisions of this article may only be amended by a majority of three-quarters of the members of the plenary session of the National Congress. Its provisions will not lose validity or cease to be fulfilled when it is supposedly repealed or modified by another constitutional precept.

If a new Constitution is approved, its provisions will be incorporated into it, unless the Constituent Assembly unanimously establishes otherwise.

It is undeniable that the name of the bill, the "Shield Against Abortion in Honduras," represents what this constitutional reform really is - a shield to protect the lives of the unborn. There is no doubt that this shield against abortion will be very difficult to tear down, since it requires 96 votes in favor of the 128 deputies that make up the plenary session to be able to modify it. Considering that Honduras, like the representatives it elects, is a conservative, pro-life and pro-family country, legalizing the heinous crime of abortion will not be an easy task.

The ratification of the reform of Article 67 places Honduras as a reference point for the world in the defense of life and respect for human dignity, highlighting that it is the first constitution in the world that specifically prohibits the crime of abortion, highlighting at the same time that any law or provision that establishes otherwise must be rejected and will be considered null and void.