

WHEN ABORTION IS A CRIME

Laws that criminalize abortion presume that the threat of arrest or imprisonment will prevent women from having abortions. This means the state has punitive power over women's reproductive autonomy. But what is the actual impact when laws are enforced? Women's rights are denied; they are punished for making reproductive decisions in the interest of their own health and well-being; and thus they may be subject to a host of human rights violations – against which they are effectively defenseless.

In Bolivia, Brazil and Argentina, abortion is highly restricted. The barriers for obtaining a legal abortion are insurmountably high. As a result, women who feel they cannot carry a pregnancy to term put their health and lives at risk by resorting to unsafe abortion – and at further risk of being charged with the crime of illegal abortion.

Consider **Helena**,* a 28-year-old woman from Santa Cruz, Bolivia, who became pregnant as the result of rape. She attempted to induce an abortion and ended up in the hospital with severe complications. While in the hospital, her doctor reported her to the police and she was apprehended and handcuffed on charges of illegal abortion. She spent her 10-day hospital stay under police custody and was then transferred to a prison where she subsequently spent eight months in “preventive detention.”

*a pseudonym

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LAWS SHOULD NOT BE USED TO SCARE, SHAME OR IMPRISON WOMEN FOR ENDING A PREGNANCY



In Brazil, **Ana*** was arrested in the hospital after seeking post-abortion care. She was unable to afford bail and remained handcuffed to her hospital bed for three months.

And in 2007, police raided a private family planning clinic in Mato Grosso do Sul, confiscating the medical records of more than 9,600 female patients. Four staff members at the clinic were prosecuted for participating in abortions and received prison sentences ranging from four to seven years.

In Argentina, Analia* a young physician with two children, was arrested and spent more than a year under threat of criminal prosecution because she had prescribed misoprostol, a medical drug recommended by the World Health Organization (WHO) to end a pregnancy, to a pregnant 12-year-old girl. She knew that prescribing the drug was illegal in Argentina, but the girl had made it clear that she intended to get an abortion at any cost. The charges were finally dismissed.

When women and, in some cases, health-care providers, are targeted by law enforcement for abortions, they are often stripped of their rights to due process and judicial protections. Young women, poor women, and those who live in rural areas are particularly vulnerable to unsafe abortion and arrest as they are less likely to have resources to obtain safe procedures or legal representation. The right to privacy and medical confidentiality is violated when confessions are obtained while women are receiving care in hospitals or during gynecological exams and when providers report women who are hospitalized.

Abortion is a right, not a crime

Women will always need abortion. An estimated 33 million contraceptive users worldwide are expected to experience accidental pregnancy annually while using contraception, according to the WHO. **Criminal abortion laws do grave harm to women's health and human rights and further stigmatize abortion, a safe and common medical procedure.**

Criminal abortion laws target vulnerable women: Based on 2007-2011 arrest records in Rio de Janeiro state, Brazil

334 WOMEN ARRESTED FOR CRIMINAL ABORTION

45% under age of 24
55% non-white
78% single

53% without education beyond primary school

RECOMMENDATIONS:

- » Repeal all laws that criminalize abortion
- » Eliminate barriers to access to safe and legal abortion
- » Educate the judiciary, police and health sectors on sexual and reproductive rights and how to implement laws in accordance with these rights.
- » Make reproductive health services and information available to all people of reproductive age
- » Develop guidelines and policies for health providers on the importance of preserving patient confidentiality and safeguarding medical records



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