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Abortion as a Fundamental Right in Mexico: Exploring the Multiple Layers of Reproductive Freedom

*EL ABORTO COMO DERECHO FUNDAMENTAL EN MÉXICO: EXPLORANDO LAS MÚLTIPLES
DIMENSIONES DE LA LIBERDAD REPRODUCTIVA**ABORTO COMO DIREITO FUNDAMENTAL NO MÉXICO: EXPLORANDO AS MÚLTIPLAS CAMADAS
DA LIBERDADE REPRODUTIVA**Alma Beltrán y Puga¹***Abstract**

This paper explores the significance of recognizing abortion as a fundamental right under constitutional law in Mexico, highlighting its role in advancing reproductive freedom, gender equality, and health as fundamental rights in a democratic society. Through an in-depth analysis of the relational constitutional reasoning employed by the Supreme Court of Justice of Mexico in its 2021 rulings, the paper argues that reproductive freedom—understood as a “multi-layered” right—emerges from the application of a gender perspective in constitutional adjudication, particularly in complex cases. By considering feminist social mobilization since the 1970s and the strategic litigation of abortion cases at both national and international levels since 2000, the paper demonstrates how Mexico’s constitutional jurisprudence has incorporated the historical claims and discourses of the feminist movement, framing abortion as a human rights issue. It further examines how recognizing abortion as a fundamental right in a constitutional democracy requires the State to uphold secularism, employ criminal law only as a last resort (*ultima ratio*) in regulating human reproduction, and actively promote gender equality. Finally, the paper examines the legal and political challenges to advancing reproductive freedom within the context of federalism and recent judicial reforms in Mexico.

Keywords

Abortion; constitutional law; Mexico; gender equality; reproductive freedom.

Resumen

*Este artículo explora la importancia de entender el aborto como un derecho fundamental a través del derecho constitucional en México para la realización de la libertad reproductiva, la igualdad de género y la salud como valores de una sociedad democrática. A través de un análisis a profundidad del razonamiento constitucional “relacional” de la Suprema Corte de Justicia de la Nación en sus recientes fallos de 2021, el artículo sostiene que el desarrollo de las múltiples dimensiones de la autonomía reproductiva fue el resultado del uso de la perspectiva de género en la adjudicación constitucional, lo que implica un razonamiento práctico feminista en la resolución de casos difíciles. Considerando la movilización social del movimiento feminista desde la década de 1970 y lo litigio de casos de aborto emprendida desde el año 2000, tanto a nivel nacional como internacional, el artículo muestra cómo la jurisprudencia constitucional mexicana ha incorporado las reivindicaciones y discursos históricos del movimiento feminista en torno al aborto como un asunto de derechos humanos. Asimismo, el artículo examina cómo enmarcar el aborto como un derecho fundamental dentro de una democracia constitucional implica que el Estado debe adoptar el principio de laicidad, utilizar el derecho penal como el último recurso (*ultima ratio*) para regular la reproducción humana y promover la igualdad de género. Finalmente, se discuten algunos desafíos jurídicos y*

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políticos para avanzar en la libertad reproductiva, considerando el federalismo y las recientes reformas al poder judicial en México.

Palabras clave

Aborto; derecho constitucional; México; igualdad de género; libertad reproductiva.

Resumo

Este artigo explora a importância de compreender o aborto como um direito fundamental por meio do direito constitucional no México para o desenvolvimento da liberdade reprodutiva, da igualdade de gênero e da saúde como valores de uma sociedade democrática. Por meio de uma análise aprofundada do raciocínio constitucional “relacional” da Suprema Corte de Justiça da Nação em suas recentes decisões de 2021, o artigo sustenta que o desenvolvimento das múltiplas camadas da autonomia reprodutiva foi o resultado do uso da perspectiva de gênero na adjudicação constitucional, o que implica um raciocínio prático feminista na resolução de casos difíceis. Considerando a mobilização social do movimento feminista desde a década de 1970 e a litigância de casos de aborto empreendida desde o ano 2000, tanto em nível nacional quanto internacional, o artigo mostra como a jurisprudência constitucional mexicana incorporou as reivindicações e os discursos históricos do movimento pelos direitos das mulheres em torno do aborto como uma questão de direitos humanos. Além disso, o artigo examina como enquadrar o aborto como um direito fundamental dentro de uma democracia constitucional implica que o Estado deve adotar o princípio da laicidade, utilizar o direito penal como último recurso (ultima ratio) para regular a reprodução humana e promover a igualdade de gênero. Finalmente, são discutidos alguns desafios jurídicos e políticos para avançar na liberdade reprodutiva, considerando o federalismo e as recentes reformas ao poder judiciário do México.

Palavras-chave

Aborto; direito constitucional; México; igualdade de gênero; liberdade reprodutiva.

INTRODUCTION

Recognizing and guaranteeing reproductive freedom through legal frameworks has long been a topic of debate in feminist legal scholarship and a historical demand of women's rights movements across Latin America. The question of access to safe abortion in a region marked by deep social inequalities and strong religious influences—such as Catholic and evangelical defenses of prenatal life as sacred and untouchable—has prompted both women's rights activists and feminist scholars to rethink how the law can regulate reproductive freedom beyond criminal law (Bergallo; Jaramillo Sierra; Vaggione, 2019). During the 20th century, abortion was central to a series of legal revolutions, the most significant being its reframing as a human rights issue (Cook; Dickens, 2003; Cook; Erdman; Dickens, 2014, p. 1). This shift sparked enriched legal debates on the role of constitutional law and international human rights standards in abortion regulation, leading to new inquiries about the State's obligations in advancing gender equality within democratic societies. In this context, Latin America has become a fertile ground for constitutional innovation, where gender and feminist approaches in constitutional reasoning have been employed to address the fundamental rights of women and sexual minorities.

This paper examines the significance of recognizing abortion as a fundamental right under constitutional law in Mexico. The first section demonstrates why Mexico stands out as a pioneer in advancing reproductive freedom in Latin America. It does so by analyzing regional legal trends and the historical context of abortion law reform. The analysis is underscored by feminist scholars and examines how Mexico's contentious abortion politics reflect an ongoing cultural and legal struggle between opposing movements—feminists and anti-choice advocates—to shape constitutional understandings of both reproductive freedom and the protection of life from the moment of conception (Sieder; Espinosa, 2021). Since 2000, this struggle has manifested in legal mobilization by both camps, primarily through legislative initiatives in state congresses and legal actions before constitutional courts and federal judges. This paper contends that the landmark 2021 ruling by the Mexican Supreme Court of Justice, which presented a nuanced interpretation of reproductive freedom, was influenced by jurisprudence from 2002 to 2008 on the decriminalization of abortion—particularly decisions rooted in equality principles and proportionality analyses—as well as by the sustained advocacy efforts of the feminist movement. Beginning in the 1970s, this movement initiated public debate on the need to decriminalize abortion, which later led to Penal Code reforms at the state level and strategic litigation. The paper traces how these constitutional rulings have absorbed and reflected the historical claims and discourses of the women's rights movement, positioning abortion as a human rights issue.

The second section analyzes how the fundamental right to abortion in Mexico has been constructed through constitutional interpretation, integrating legal principles, international human rights standards, and a gender perspective to resolve complex cases. I argue that the

“multi-layered” constitutional reasoning articulated in the Supreme Court’s 2021 ruling recognizes reproductive freedom as a right. This includes the right to access abortion when a woman or transgender person faces an unwanted pregnancy, anchored in principles of human dignity, gender equality, privacy, health, and the free development of personality—cornerstones of a democratic society. The paper further contends that framing abortion as a fundamental right in a constitutional democracy requires the State to uphold secularism, limit the use of criminal law to last-resort measures (*ultima ratio*), and actively promote gender equality. The paper’s final section analyzes the legal and political challenges to reproductive freedom within Mexico’s federal system and recent judicial reforms.

I. MEXICO’S CASE IN THE GRADUAL LIBERALIZATION OF ABORTION IN LATIN AMERICA

During the 21st century, feminist movements in Latin America have played a significant role in advocating for the liberalization of abortion laws, specifically by questioning the application of criminal law to regulate reproductive rights. As Bergallo and Ramón Michel (2016, p. 229) note, “this liberalizing trend resulted from a combination of legislative reforms, court judgments, and public health guidelines”. Argentina, Colombia, Mexico, and Uruguay have been pioneers in advancing abortion rights through legislation and/or constitutional rulings that support reproductive autonomy.¹ In these countries, the recognition by constitutional courts of a woman’s right to choose has been achieved through gradual reforms to criminal and health laws, as well as progressive constitutional adjudication. This regional trend has been supported by international rulings advocating for the decriminalization of abortion based on human rights standards, including decisions by United Nations Human Rights Committees (Bergallo; Ramón Michel, 2016). Although these international cases primarily addressed access to abortion in situations involving rape, fetal malformation (such as anencephaly), or threats to the pregnant woman’s health or life, UN bodies have also concluded that states have a binding international obligation to guarantee access to legal abortion services free from discrimination and following the highest standards of health (Fine; Mayall; Sepúlveda, 2017). The Inter-American Court of Human Rights also contributed a critical precedent with its 2012 ruling in *Artavia Murillo*

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1 Argentina, Mexico, and Uruguay have decriminalized abortion through laws or constitutional rulings that support a woman’s right to choose in the first and second trimesters of the pregnancy (12 to 14 weeks). In the case of Colombia, the constitutional ruling C-055 of 2022 allows abortion until the third trimester (24 weeks).

[In-vitro Fertilization] v. Costa Rica, emphasizing state obligations to uphold rights to privacy, family life, and reproductive autonomy across the Americas (Serrano, 2024).

These developments raise important questions about States' duties to ensure access to adequate health services without discrimination based on gender, sex, or socioeconomic status. They also reignited debates about how best to constitutionally protect prenatal life: What values and regulatory frameworks are most appropriate for such protection? How are women's bodies and decisions respected under the authority of the State or private actors? How can international human rights standards inform constitutional law in recognizing reproductive freedom? By contrast, treating criminal law as the primary tool to uphold "the right to life" of a fetus reduces the legal discussion to identifying the "exceptional circumstances" under which a woman may avoid criminal punishment. The reliance on punitive measures to address deeply personal dilemmas ultimately raises a troubling question: How compassionate should the law be to a woman facing a life-altering, morally complex decision—such as carrying an unwanted pregnancy to term?

In this context, feminist movements have long asserted that a democratic society must acknowledge women's agency and free will in making responsible decisions about pregnancy. This claim has fueled the rise of the "Green Wave", with young women mobilizing across Latin America—waving green handkerchiefs and demanding the decriminalization of voluntary abortion. By reframing abortion as a moral, yet conscious and rational, decision centered on a woman's body and conscience, feminist activists and legal scholars have brought forth vital questions for public debate: Should the law support or restrict a woman's reproductive choices? If it supports them, to what extent should it intervene in such personal and intimate matters? If it does not, when and how should a woman be sanctioned for ending a pregnancy, considering it is a decision that primarily affects her own body and conscience? What are the consequences for gender equality when a State either embraces or rejects reproductive freedom?

Taking these questions seriously implies a critical debate on the use of criminal law to regulate reproductive autonomy: Is criminal punishment a legitimate and proportionate measure to protect prenatal life within a constitutional democracy? What are the real effects of criminalizing abortion? Can the criminalization of a woman's decision to become—or not become—a mother, with all its physical, social, and economic consequences, be justified constitutionally? Are there less intrusive legal frameworks that could better regulate reproductive decision-making? These questions have increasingly shaped constitutional reasoning around abortion rights in the region.

The constitutionalization of abortion involves exploring the "roots and dynamic logic of constitutional law" to understand the interaction between doctrine, normative frameworks, and the adjudication of women's reproductive rights—including the recognition of prenatal life as a constitutional value (Siegel, 2014, p. 1059). In the United States and European democracies, "the body of constitutional law that has grown up since the 1970s

is concerned with the propriety, necessity, and feasibility of controlling women’s agency in decisions concerning motherhood” (Siegel, 2014, p. 1058). These developments have converged with the global women’s rights movement, which has advocated for liberalizing abortion laws as a core component of recognizing women’s equal citizenship within democratic societies (Siegel, 2014). Similar dynamics unfolded across Latin America as countries transitioned from dictatorship to democracy during the final decades of the 20th century (Htun; Weldon, 2015).

Since the early 2000s, constitutionalization of abortion in Latin America has given rise to new constitutional debates. Several regional constitutional courts have adopted a rights-based approach rooted in references to dignity, while also incorporating equality and autonomy arguments—albeit to a lesser degree (Bergallo; Ramón Michel, 2016, p. 230). Feminist legal scholars have emphasized the key role of constitutional courts in reinterpreting abortion not just as a medical issue, but as a matter of fundamental rights. In doing so, courts have created new rights, clarified existing laws, and upheld progressive legislative reforms. They have established abortion as a constitutional matter and clarified the State’s obligations to provide access to such services (Ruibal, 2021, p. 2). The constitutional courts of Argentina, Bolivia, Brazil, Colombia, Costa Rica, and Mexico are frequently cited as examples of this progressive jurisprudence on abortion (Bergallo; Ramón Michel, 2016, 2018; Machado; Cook, 2018; Ruibal, 2021).

Mexico was a pioneer in this Latin American trend toward expanding reproductive rights through constitutional adjudication. Alongside Colombia, it has developed some of the region’s most advanced constitutional case law on the decriminalization of abortion grounded in reproductive autonomy (Díez; Ruibal, 2025). In 2008, Mexico became the first country in the region to uphold the constitutionality of abortion decriminalization within the first 12 weeks of pregnancy, affirming the right to choose for women and adolescents. More recently, in 2021, the Supreme Court of Justice of Mexico issued a series of landmark rulings expanding the scope of reproductive rights, employing innovative constitutional reasoning that situated abortion within a broader framework of “multi-layered” reproductive freedom. These groundbreaking decisions—affirming the reproductive rights of women and persons with gestational capacity (in the Court’s words)—must be understood in light of the feminist movement’s earlier legal mobilization. This included presenting *amparos* (constitutional legal challenges) that expanded the Court’s jurisprudence on health, equality, non-discrimination, and gender reparations.

Mexico is particularly notable for achieving legal recognition of the right to choose—not only through constitutional rulings but also via legislative decriminalization at the state level. It represents a rare case of successful feminist mobilization in both parliaments and constitutional courts. While this paper does not examine the full range of legal and social strategies deployed by the feminist movement to advance reproductive justice over recent decades, it highlights Mexico as a compelling example of comprehensive legal mobilization

within a federal system. In contrast to Colombia—where abortion rights have advanced almost exclusively through court rulings due to a historical resistance in Congress—Mexico’s progress reflects a more plural strategy (Vélez; Jaramillo Sierra, 2021).

Mexico also differs from Argentina and Uruguay, where access to abortion has expanded primarily through legislative reforms (Yamin; Ramón Michel, 2023; Bergallo; Ramón Michel, 2016). What sets Mexico apart in the regional trend toward constitutionalizing abortion is the feminist legal mobilization that took place in Mexico City’s Congress in 2000 and 2007, which prompted constitutional challenges and fueled a national dialogue. Since 2008, the Supreme Court has played a crucial role in reframing abortion from a criminal issue to a constitutional one, using international human rights standards. Due to its federal structure, Mexico has experienced a dynamic legal interplay between state and federal actors on reproductive rights, with both feminist and anti-choice groups exerting significant influence—as will be further explored in the next section.

2. CHALLENGING ABORTION AS A CRIME: REPRODUCTIVE FREEDOM AND EQUAL CITIZENSHIP FOR WOMEN

In Mexico, abortion law reform in the 21st century has been made possible largely due to the feminist movement, which has challenged its criminalization since the 1970s, framing it as a matter of women’s rights and equal citizenship in a democratic and secular society. As in other Latin American countries, feminist activists questioned the use of criminal law to regulate reproductive decisions, directly confronting the conservative narratives of religious movements—particularly the Catholic Church’s dogmatic defense of fetal life as sacred and inviolable (Lamas, 2018). In this regard, the feminist demand for voluntary motherhood was rooted in the belief that a representative democratic society must respect individual life choices, with secularism and equal citizenship as its pillars (Kane, 2008). By the 1990s, the women’s rights movement in Mexico argued that civil and political rights could not be fully realized if women were denied the right to choose motherhood freely. Access to abortion and contraception was therefore seen as essential to guarantee voluntary motherhood and, by extension, egalitarian citizenship (Lamas, 1997).

In 1992, feminist anthropologist Marta Lamas and a group of feminist activists founded the Information Group on Reproductive Choice (GIRE), a non-governmental organization aimed at counterbalancing religious narratives on abortion by promoting a scientific and informed debate on reproductive freedom (Lamas; Bissell, 2000). GIRE joined a national pro-choice alliance with organizations such as IPAS Mexico, Catholics for a Free Choice, the Population Council, and Equidad (Gender Equality, Citizenship, Work, and Family). This alliance was committed to modernizing criminal laws on abortion and fostering public discourse grounded in reproductive freedom, secularism, and gender equality (Lamas, 2001).

The alliance succeeded in reframing abortion as a matter of social justice and public health. A decade after its creation, the alliance helped promote reforms in Mexico City's criminal code in 2000, introducing more exceptions to allow for the "legal interruption of pregnancy" (Lamas; Bissell, 2000). These legal exceptions were reinforced in 2003 with reforms to the Health Law of Mexico City, enabling public health services to provide abortions under those circumstances. In 2007, Mexico City went further, fully decriminalizing abortion during the first 12 weeks of pregnancy and authorizing its provision through public health institutions. This reform was the result of feminist legal advocacy with legislators from the left-wing PRD party, which held a majority in the Legislative Assembly. The bill was drafted using a rights-based approach, grounded in gender equality, reproductive autonomy, and the right of women to access adequate healthcare and define their life projects (Sánchez Fuentes; Paine; Elliott-Buettner, 2008). The 12 weeks, aligned with the first trimester, were selected for their consistency with standard medical protocols—offering women access to safe, ambulatory procedures with fewer health risks and reduced stigma (Dzuba; Winikoff; Peña, 2013; Lamas, 2014).

The Ministry of Health of Mexico City implemented a sexual and reproductive health policy to provide legal and safe abortion services to women living both in the capital and in other states (Becker; Díaz Olavarrieta, 2013). This policy responded to the feminist movement's demands and media campaigns that emphasized social justice and gender equality, especially for women from marginalized backgrounds (Sánchez Fuentes; Paine; Elliott-Buettner, 2008). Feminists underscored that poor, Indigenous, and rural women—unlike their wealthier, urban counterparts—were most often denied access to safe abortions and bore the heaviest economic and social burdens of motherhood (Lamas, 2008).

Moreover, the legal exceptions to criminalization in many state laws did not translate into real access for survivors of sexual violence. The structural barriers were exemplified in the case of *Paulina Ramírez v. Mexico*, the first abortion case to be brought before the Inter-American Commission on Human Rights (IACHR). It was litigated by GIRE and Alaíde Foppa (a feminist NGO in Baja California), with legal counsel from the Center for Reproductive Rights (Farmer, 2000). Paulina, a 13-year-old girl of scarce resources living in Baja California, became pregnant as a result of rape. Although she qualified for a legal abortion, public health authorities obstructed the procedure by persuading her mother to abandon the request using religious arguments. The case was resolved through a friendly settlement in 2006 and did not proceed to the Inter-American Court of Human Rights. Nonetheless, it ignited public debate around rape survivor rights and reproductive justice for marginalized women (Taracena, 2002); it also helped reframe access to abortion as a human rights issue (Ortiz-Ortega, 2005).

The liberalization of abortion in Mexico City, combined with its grounding in international human rights, provoked a strong counter-mobilization. Anti-choice groups, supported by conservative political allies, challenged these reforms before the Supreme Court of Justice of Mexico to undermine reproductive autonomy (Madrazo, 2009). Actions of unconstitution-

ality were filed in 2000 and 2007 to: (1) strike down access to abortion in public health services by invalidating criminal code reforms, and (2) establish the fetus’s right to life from the moment of conception as a fundamental right under both the Mexican Constitution and the American Convention on Human Rights. At the legislative level, conservative actors also successfully introduced “pro-life amendments” in 20 of Mexico’s 32 state constitutions, establishing protection of life “from the moment of conception until natural death” by leveraging federalism (Sieder; Espinosa, 2021). Scholars note that anti-abortion groups have often been more effective in state-level politics, benefiting from alliances with hegemonic religious institutions that lend moral and financial legitimacy to restrictive reproductive rights reforms (Reuterswärd, 2021, p. 22).

Beyond these legislative victories, anti-choice groups turned again to the judiciary. In both the 2000 and 2007 cases, the conservative opposition argued that: (1) the right to life from the moment of conception is a fundamental, non-derogable right under national and international law; (2) abortion in cases of fetal malformation or during the first trimester is discriminatory against fetuses; and (3) potential fathers also have reproductive rights that must be taken into account, limiting a woman’s autonomy (as per Acciones de Inconstitucionalidad 10/2000 [México, 2000], 146/2007 and 147/2007 [México, 2008]).

The Supreme Court adopted a minimalist approach in both rulings, avoiding robust engagement with the constitutional foundations of women’s reproductive rights (Pou, 2009). In its 2002 decision, while acknowledging that the right to life of the fetus was recognized under Mexican and international law, the Court emphasized that certain legal exceptions allowed abortions without penalization—such as in cases of severe fetal malformations. Still, abortion remained classified as a crime, and women were treated as criminals under the law, albeit exempted from punishment under limited circumstances. Notably, the Court did not engage with Article 4 of the Constitution (which recognizes the right to decide on the number and spacing of children [México, 1917]), nor did it examine the broader human rights implications related to gender equality, health, or privacy.

The 2008 decision also relied on a textualist interpretation of the Constitution, focusing on the literal meaning of its provisions rather than conducting a comprehensive analysis that reflected the full scope of women’s human rights (Pou, 2009). This narrow approach resulted in a constrained reading of reproductive rights, failing to incorporate evolving international norms on gender equality. However, the Court did shift its position on the right to life: it concluded that this right is not absolute nor superior to others, but rather a “constitutionally protected good”, as per Acciones de Inconstitucionalidad 146/2007 and 147/2007 (México, 2008). This reclassification clarified the ambiguity of the 2002 ruling. The Court also held that neither the Constitution nor international law obliges state legislatures to criminalize abortion.

Furthermore, the Court deemed criminal sanctions ineffective as tools to protect prenatal life, describing them as symbolic and appropriate only as a last resort (*ultima ratio*) in a democratic society (Pou, 2009). It affirmed the legal competence of Mexico City’s

Legislative Assembly to decriminalize abortion during the first 12 weeks of pregnancy. As noted by Bergallo and Ramón Michel (2016, p. 45-46), this was the most permissive stance on the constitutionalization of abortion across Latin America at the time. This conclusion was based on a proportionality analysis, balancing the State's interest in protecting prenatal life against women's rights to health, autonomy, and equality. The Court found that decriminalization of abortion during the first trimester was a reasonable and constitutionally valid legislative measure, particularly given that unsafe illegal abortions disproportionately endangered the health and lives of poor women. The Court also considered the physical, social, and economic burdens of pregnancy on women's lives, and rejected arguments that men should have veto power over reproductive decisions. On August 28, 2008, the Court upheld the constitutionality of first-trimester abortion in a public session, with a majority of eight to three (Sieder; Espinosa, 2021).

However, the 2008 decision revealed deep divisions among the eleven Justices, largely due to intense lobbying from both pro-choice and conservative groups. It remains the only case in Mexican judicial history in which the Supreme Court held public hearings to hear expert testimony from scientists, civil society organizations, religious leaders, and legal scholars. These sessions were broadcast to the public, generating broad civic engagement. Justice Aguirre Anguiano, a conservative, was initially tasked with drafting the opinion, but his draft was rejected as too extreme. Justice José Ramón Cossío ultimately authored a more moderate opinion, although it failed to satisfy all Justices, several of whom issued dissenting opinions (via Acciones de Inconstitucionalidad 146/2007 and 147/2007 [México, 2008]). While the 2002 and 2008 rulings fell short of an integrated, human-rights-centered interpretation—as outlined in treaties like CEDAW—they laid crucial groundwork for the Supreme Court's landmark decisions on reproductive rights in 2021.

In parallel, the feminist movement advanced innovative litigation strategies by filing *amparos* on behalf of women who were criminalized or denied reproductive healthcare (Paine; Tamés; Beltrán y Puga, 2014). In 2019, the Supreme Court ruled in a case brought by GIRE on behalf of Margarita, a 41-year-old woman receiving care at a federal hospital (GIRE, 2019). She faced a high-risk pregnancy due to gastric bypass surgery, and her fetus was diagnosed with Klinefelter syndrome—a condition that would prevent normal genital development during puberty. Margarita requested an abortion for health reasons, but federal health authorities denied it, citing that the Federal Criminal Code did not allow abortion under such circumstances. The Court granted the *amparo*, recognizing that the delay and ultimate denial of services violated her right to health and non-discrimination.² It ordered

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2 See Amparo en Revisión 1388/2015, decision issued by the First Chamber of the Supreme Court of Justice (May 15th, 2019), Reporting Justice: Alfredo Gutiérrez Mena. This decision was included in Supreme Court of Justice (2022, p. 277-314).

reparations for the harm suffered (Supreme Court of Justice, 2022). This was the first *amparo* in which the Supreme Court affirmed the right to abortion on health grounds. The case paved the way for future litigation, highlighting the barriers women face in accessing abortion, and marked a shift in the Court's reasoning—framing abortion primarily as a human rights issue rather than a matter of criminal law (Méndez Díaz, 2025).

3. REPRODUCTIVE FREEDOM AS A MULTI-LAYERED FUNDAMENTAL RIGHT

On September 7, 2021, the Supreme Court of Mexico, in a unanimous decision on Action of Unconstitutionality 148/2017, recognized reproductive freedom as a fundamental right of women, as well as of transgender and non-binary persons. Mexico's Attorney General had filed the action challenging reforms to the Criminal Code of the State of Coahuila, arguing that they violated constitutional rights to equality under the law, autonomy, and reproductive freedom by criminalizing legal abortion during the first trimester of pregnancy. He also contended that establishing a lesser sanction for marital rape was discriminatory (México, 2021a).

The Court's decision was groundbreaking in both its constitutional reasoning and its use of inclusive language (Beltrán y Puga, 2024). The Court held that criminalizing abortion violated fundamental rights protected by the Mexican Constitution and by international human rights treaties ratified by the State. These included the principles of equality and non-discrimination, human dignity, the right to health, the autonomy to decide whether to continue a pregnancy, and the free development of one's personality. Consequently, the Court concluded that abortion should not be treated as a crime in a democratic society that upholds gender equality, secularism, and religious freedom as constitutional values. Criminal law, therefore, should be used only as a last resort (*ultima ratio*) for State intervention in personal decisions concerning sexual and reproductive choices held in Acción de Inconstitucionalidad 148/2017 (México, 2021a).

Understanding abortion under the umbrella of reproductive freedom—grounded in various fundamental rights—marked a significant shift from the Court's previous constitutional reasoning. Moving away from its earlier minimalist approach to reproductive rights, the Court explicitly addressed the content and scope of reproductive freedom as a fundamental right. It also established limits to the protection of prenatal life, recognizing it as a constitutional good (or value) that must be balanced within a democratic and secular society. In its official summary of the decision, the Supreme Court acknowledged:

The woman's right to decide (and whose exercise of that right extends, of course, to all persons with gestational capacity) is the result of a particular combination of different rights and principles associated with an essential notion. This notion is that it is intrinsic to each person to have the freedom to self-determine and freely choose the options and

circumstances that give meaning to his or her existence, in accordance to his or her own convictions. The substratum of this prerogative is constituted by human dignity, autonomy, free development of one's personality, legal equality, the right to health (physical and psychological) and reproductive freedom (Supreme Court of Justice, 2022, p. 295-296, translated).

Reproductive freedom, as a fundamental “multi-layered” right, derives from Articles 1 and 4 of the Mexican Constitution, which establish the rights to equality and non-discrimination, the individual right to freely and responsibly decide the number and spacing of children, and the right to health. It is also grounded in various international human rights treaties and case law that recognize the principles of human dignity, gender equality, the right to the highest attainable standards of physical, mental, and social health, personal integrity, freedom of conscience, and the autonomy to make decisions about sexual and reproductive matters.³ The treaties cited in the Court's ruling include: the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (“Convention of Belém do Pará”); the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); and the American Convention on Human Rights (“Pact of San José, Costa Rica”) (México, 2021a).

In interpreting the Mexican Constitution, the Supreme Court has affirmed that international human rights treaties are part of the constitutional framework and must be taken into account when determining the content and scope of fundamental rights, as provided in Article 1 of the Constitution. In 2011, the Mexican Congress enacted a landmark constitutional reform that significantly transformed the hierarchy of legal norms by recognizing that international human rights treaties ratified by the Senate possess constitutional status. As a result, the rights enshrined in these instruments are justiciable and may be directly invoked before domestic courts as grounds for legal remedies and constitutional review of national legislation (Anaya-Muñoz *et al.*, 2024). Therefore, constructing fundamental rights from both international and constitutional sources is especially important in the context of reproductive rights, as human rights principles have expanded and enriched the Court's understanding of the interconnectedness of rights. The notion of interdependence of rights—

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³ See Articles 1 and 4 of Mexico's Constitution establishing the principle of equality under the law for men and equality and non-discrimination based on ethnicity, gender, age, religion, civil status, and political views (among others), as well as the right of every person to choose freely and with responsibility the number and spacing of children. Gender parity is also established in Article 41.

developed in international human rights doctrine and case law (Porter, 2020)—has shaped the foundation for the Court’s constitutional analysis, supporting the conclusion that reproductive freedom is grounded in a broad array of fundamental rights and related principles. It is through this framework that the criminalization of abortion is deemed to violate those rights.

Accordingly, the Supreme Court applied a “relational constitutional analysis” based on the interdependence of rights to conclude that reproductive freedom is a “multi-layered” fundamental right of women and persons with gestational capacity. This conclusion is based on the numerous rights and principles implicated in the intimate decision to become pregnant—or not—and, therefore, to become a mother—or not. As a foundational human rights principle, human dignity is essential to the realization of other fundamental rights and is closely linked to the free development of one’s personality. In this sense, dignity is a necessary precondition for free will (human agency) and freedom of conscience, enabling individuals to make deeply personal decisions regarding reproduction and bodily autonomy. Based on human dignity, individual autonomy, and the right to freely develop one’s personality, reproductive choices are protected as part of the private sphere. Reproductive autonomy, as an expression of these rights, implies “freedom of action” for personal development and obliges the State to protect this intimate domain (México, 2021a).

This private sphere, in which autonomy over personal decisions is exercised, imposes a constitutional limit on the State: it may not interfere with such decisions or impose alternative life paths. As the Court stated:

The integration of personal autonomy, the free development of one’s personality and the protection of privacy must be understood as an interdependent prerogative of the principle of a dignified life, specifically in the possibility of building a life project. The right to decide serves as an instrument to exercise the free development of one’s personality, personal autonomy and the protection of privacy, in a way that allows the woman or the person with the capacity to gestate to choose who she/he wants to be because [...] it is recognized that maternity underlies the notion of will [...]. (Supreme Court of Justice, 2022, p. 298, translated).

Under this premise, the Court stated that the State must not adopt a paternalistic position regarding decisions about sexual and reproductive life. Mexico’s Constitution explicitly recognizes the nation as secular, federal, and democratic in Article 40. Accordingly, secularism imposes a duty on the State to protect religious freedom and diverse belief systems through a “neutrally active position.” A secular state “cannot identify itself with a particular ethic or morality, nor use state controls to limit, repress, or inhibit individual freedoms that are part of personal convictions” (Supreme Court of Justice, 2022, p. 298, translated). Secularism and reproductive autonomy “mutually strengthen one another by leaving

individuals a broad sphere of sovereignty in determining their beliefs, models of human virtue, and the means to achieve them, as well as freely deciding on fundamental aspects of their existence, including matters related to sexuality and reproduction, without interference from the State or any institution” (Supreme Court of Justice, 2022, p. 298, translated). Therefore, criminal sanctions should be used only as *ultima ratio*—that is, the last resort—for regulating reproductive decisions. In other words, criminalizing abortion in a constitutional democracy must remain a last resort when designing public policy concerning sexual and reproductive health.

The right to equality and non-discrimination was also recognized as a foundational pillar in the construction of reproductive freedom. The Supreme Court reframed the conventional “woman question” prevalent in Western legal debates regarding constitutionalization of abortion (Siegel, 2014), expanding it into the broader “gender inequality question,” thus evoking the question of who else, besides women, is excluded under the analyzed criminal law. By using the inclusive term “persons with the capacity to gestate”, the Court extended reproductive autonomy protections to transgender and non-binary individuals, deconstructing discriminatory gender stereotypes associated with motherhood. The Court emphasized that criminalizing abortion targets women by reinforcing traditional gender roles, assuming they are the “natural recipients” of criminal sanctions. Such criminalization—regardless of gender identity—can inflict a gender-based injury that violates the right to equality, as guaranteed by the Constitution and international treaties. Drawing on General Recommendation No. 35 of the CEDAW Committee (Cedaw, 2017), the Court held that an absolute ban on abortion constitutes a form of gender-based violence and, in some circumstances, may also amount to cruel, inhuman, or degrading treatment (México, 2021a).

In exploring the relationship between gender inequality and reproductive freedom, the Court went beyond a simple proportionality test in assessing the constitutionality of abortion bans. It argued that gender equality entails a guarantee for women to make decisions about their life projects without being placed at a disadvantage compared to men in terms of access to the same opportunities. The denial of reproductive freedom constitutes a violation of gender equality by stripping women of their agency and reducing them to vessels of procreation, rather than recognizing them as individuals capable of making rational, autonomous decisions (Supreme Court of Justice, 2022, p. 300-301). In line with international human rights standards regarding the right to health—which includes physical, mental, and emotional well-being—the Court affirmed that reproductive freedom is intimately linked to the principle of non-discrimination. Citing recommendations from the Committee on Economic, Social and Cultural Rights, the Court emphasized the State’s obligation to ensure that sexual and reproductive health services are provided without discrimination. This includes the duty to make abortion services safe, available, accessible, acceptable, affordable, respectful, and delivered by qualified professionals to support individuals facing complex moral decisions (México, 2021a).

As a multi-layered fundamental right, the Court concluded that reproductive autonomy for women and persons with gestational capacity carries the following specific implications: (1) sexual education must be a central pillar of public policies on reproductive health; (2) the State has an obligation to provide access to information and family planning counseling; (3) women and persons with gestational capacity are entitled to reproductive autonomy; (4) the State must ensure the right to make an informed decision to either continue or interrupt a pregnancy; (5) the right to choose encompasses both motherhood and abortion as free and conscious personal decisions, with the State serving as an enabler and guarantor of that autonomy; (6) abortion services must be available in public healthcare institutions at no cost, provided by trained personnel in accordance with principles of confidentiality and equality; (7) the right to choose must be exercisable within a defined period at the beginning of pregnancy (México, 2021a, p. 67-75). In summary, this holistic approach toward reproductive autonomy settles the false opposition of the discourse of abortion as a social justice and public health issue versus an autonomous and private decision.

By outlining the contours of reproductive freedom, the Supreme Court clarified the legal status of the *nasciturus* (embryo or fetus): it is recognized as a constitutional value, but not as a legal person entitled to fundamental rights, unless born. In summary:

The embryo or fetus has an inherent value as it constitutes the possibility of the birth of a human being for which there is a fundamental interest in its preservation and development. Although the embryo or fetus is not entitled to human rights, the interest in providing a spectrum of protection is limited to the expectation itself; only the person who is born alive can be considered holder of fundamental rights and this can only exist if the State seeks a scope of protection in its natural previous step: the gestational process (Supreme Court of Justice, 2022, p. 303, translated).

Reaffirming the precedent set by its 2008 ruling, the Court held that abortion services can be provided within a reasonable period during pregnancy. Therefore, state legislatures are encouraged to rely on scientific evidence when crafting reproductive health policies and to seek guidance from jurisdictions that have already implemented such policies—such as that of Mexico City, which has decriminalized abortion within the first 12 weeks of pregnancy. This period has been validated as reasonable by the Supreme Court, based on its review of the scientific rationale provided by the Mexico City legislature (México, 2021a, p. 80-98).

This landmark decision on reproductive freedom marked the Supreme Court's integration of feminist legal methods into constitutional adjudication, applying what is known as “a gender approach” to its reasoning. As Katherine Bartlett (1990) described decades ago, feminist legal methods include: “asking the woman question” when analyzing the facts and context of a case, incorporating feminist practical reasoning into legal argumentation, and promoting

consciousness-raising to expose and eliminate discrimination against women and other oppressed groups. These feminist legal methods have increasingly shaped constitutional reasoning in Mexico, primarily through the implementation of gender policies in the judiciary, such as via the Gender Protocols issued by the Supreme Court. These protocols promote gender-sensitive decision-making among judges and courts, informed by international human rights jurisprudence on equality, non-discrimination, and the recognition of gender-based violence (México, 2020). As head of the judiciary, the Supreme Court of Justice has explicitly adopted a gender perspective in its review of Amparo Directo en Revisión 6181/2016 (México, 2018).

Following this methodology, in 2021 the Court issued two additional rulings that advanced reproductive rights. First, it reaffirmed that a fetus cannot be considered a legal person unless born, analyzing whether states had the authority to grant legal protections to life from the moment of conception in their constitutions (Acción de Inconstitucionalidad 106/2018 y su acumulada 107/2018 [México, 2021b]). The Court concluded that state legislatures cannot establish absolute protections for prenatal life in a way that disregards the sexual and reproductive rights of women and gender minorities.

The Court also ruled on the scope of conscientious objection in healthcare. It held that conscientious objection is a limited, individual right that must not obstruct or undermine the exercise of sexual and reproductive rights (Acción de Inconstitucionalidad 54/2018 [México, 2021c]). As noted by Bonifaz Alfonzo and Mora Sierra (2024, p. 380), “this ruling applies to all private and public facilities that offer gynecological care”. Healthcare providers who object to performing abortions must inform patients of their objection and immediately refer them to medical professionals or institutions that can provide the required services (Bonifaz Alfonzo; Mora Sierra, 2024). The Court also ordered the Federal Congress to amend the General Health Law to incorporate the new constitutional standards on reproductive freedom and to regulate conscientious objection accordingly (Beltrán y Puga, 2024).

4. CHALLENGES TO REPRODUCTIVE JUSTICE IN A FEDERAL COUNTRY FACING AN AUTHORITARIAN REGIME

There are several challenges to implementing this comprehensive constitutional jurisprudence in a federal system. As a federal country, Mexico has a multi-layered legal framework in which different authorities operate at the federal and state levels, creating a complex bureaucratic web that women and gender minorities must navigate to access sexual and reproductive health services. The main consequence of the Court’s ruling on abortion is that no woman—or healthcare provider—can be punished for performing or undergoing an abortion during the first trimester of pregnancy. If a woman is criminally accused, she may file an *amparo* based on the Court’s decision to avoid sanctions. Moreover, the Supreme

Court's case law applies to all federal judges and tribunals, meaning that individuals convicted or imprisoned for first-trimester abortions should be released.

However, women and persons with the capacity to gestate still face discrimination when exercising their reproductive rights, depending on the state in which they reside (GIRE, 2021). Thanks to the Supreme Court's groundbreaking 2021 ruling and continued feminist advocacy in local legislatures, 23 out of Mexico's 32 states now allow abortion during the first 12 weeks of pregnancy. In contrast, GIRE has challenged the federal-level criminalization of abortion through an *amparo*, deploying an innovative legal strategy. GIRE argued that criminal provisions in the Federal Criminal Code—which govern services provided in federal public hospitals—violate the collective rights of women, who have historically been discriminated against due to state-imposed maternity roles (Amparo 267/2023 [México, 2023]). This *amparo* opens a new pathway for securing reproductive rights within national healthcare institutions. The Court ordered Mexico's Federal Congress to amend the Federal Criminal Code in line with the constitutional standards established in this *amparo* and prior decisions on the matter. The nine states that have yet to reform their criminal codes and continue to restrict abortion (except in narrow legal exceptions) are also obligated to update these discriminatory laws.

Thus, a key challenge in advancing reproductive justice nationwide lies in reforming state-level criminal and health laws to establish a reasonable time frame for the legal practice of abortion. These reforms are vital, as “decriminalization continues to be resisted by local state authorities whose Criminal Codes still classify VTP [voluntary termination of pregnancy] as criminal, even if these provisions no longer result in imprisonment or the suspension of professional licenses” (Bonifaz Alfonzo; Mora Sierra, 2024, p. 380). Furthermore, “the Ministry of Health should issue clear guidelines for medical personnel—especially in public hospitals—on how to provide sexual and reproductive health services to all individuals, regardless of gender or sexual identity. These guidelines must ensure patients' reproductive freedom when physicians invoke conscientious objection” (Beltrán y Puga, 2024).

Given the challenges posed by federalism, the Supreme Court of Justice has played a crucial role in advancing abortion as a fundamental right. In this context, the judicialization of political conflicts through the courts has enabled a public debate on reproductive rights over recent decades. This process was made possible by the fragmentation of political power and the 1994 judicial reform, which transformed the Supreme Court into a constitutional tribunal (Ríos-Figueroa, 2007; Saavedra Herrera, 2020; Sánchez; Magaloni; Magar, 2011). The reform expanded the Court's authority to review the constitutionality of laws, granting legislative minorities, the Attorney General—and later, political parties and human rights commissions—the power to submit actions of unconstitutionality. Additionally, it allowed the Court to arbitrate federalism and separation-of-powers disputes by empowering it to resolve constitutional controversies between federal, state, and municipal authorities (Saavedra Herrera, 2020).

The decline of the hegemonic rule of the Institutional Revolutionary Party (PRI) in 2000 also fostered political pluralism and increased litigation of political disputes between federal and state actors. This political fragmentation helped reinforce checks and balances in Mexican democracy. As Sánchez, Magaloni and Magar (2011, p. 4) argue, court activism is more likely “only if 1) there is ideological dispersion between the president and Congress and 2) the Court is positioned between both branches”. An autonomous Court—one not influenced by the ruling party or another branch of government—can more freely invalidate legislation or rule on jurisdictional overreach. After the alternation of political power in 2000, the Supreme Court’s policymaking role expanded significantly. Scholars have shown that “the probability of the court striking down a law increased significantly after 2000, but only in the type of rulings (constitutional actions) likelier to involve substantive ideological disputes” (Sánchez, Magaloni; Magar, 2011). Nevertheless, in federalism-related constitutional controversies, the Court often sided with the ruling party (PRI), which still controlled most state governments at the time.

The Court’s three abortion rulings (2002, 2008, and 2021) exemplify the consequences of this political fragmentation following the PRI’s fall in 2000. Diverse actors filed these actions of unconstitutionality: in 2002, a conservative minority in Mexico City’s Congress; in 2007, the Attorney General and the National Human Rights Commission President (both aligned with anti-choice groups and the Catholic Church) (Madrazo, 2009); and in 2020, the President of the Human Rights Commission of Coahuila (who supported abortion rights). Moreover, the composition of the Supreme Court changed significantly after 2003, allowing for more ideologically diverse deliberations on abortion decriminalization.

Political pluralism—both within and outside the Court—has driven litigation and renewed constitutional interpretation on major social issues. These rulings have shifted the framing of abortion rights from a criminal to a constitutional perspective, while also promoting national public debate. In 2008, during deliberations on Actions of Unconstitutionality 146/2007 and 147/2008, concerning Mexico City’s decriminalization of abortion in the first trimester, the Supreme Court held public hearings featuring testimony from civil society organizations, physicians, scientists, journalists, and legal scholars presenting arguments for and against abortion (Ford, 2010). These hearings provided a rare instance of transparent dialogue between the Court and the public—one that was not repeated in subsequent, controversial cases.

As underscored by the Supreme Court, reproductive freedom requires living in a democratic society where gender equality, human dignity, secularism, and religious liberty are upheld as core constitutional principles. However, due to Mexico’s pattern of “hyper-reformism”—driven by ongoing political tension and inter-branch negotiations—the Constitution has been amended over 750 times since 1917 (Pou Giménez; Pozas Loyo; Saavedra Herrera, 2023). In September 2024, former president Andrés Manuel López

Obrador proposed sweeping constitutional reforms that would replace judicial appointments with popular elections, reduce the number of Supreme Court justices, and establish a new Judicial Disciplinary Tribunal with the power to sanction and impeach judges for alleged misconduct (México, 2024a).

These controversial reforms are now being implemented by President Claudia Sheinbaum (Morena), who won the 2024 national elections. In June 2025, more than 800 federal judges—including all Supreme Court justices, whose number was reduced from 11 to 9—were elected by popular vote. The new constitutional requirement for serving as a judge requires only five years of legal experience, without requiring expertise in judicial decision-making (Gobernación, 2024). Legal scholars, bar associations, international human rights bodies, and civil society organizations have raised concerns about the democratic legitimacy of these reforms, especially given that Morena currently controls both the executive and legislative branches (Li, 2024; López Ayllón *et al.*, 2024). Rather than enhancing impartiality or legal expertise, critics argue that these changes threaten judicial independence and undermine constitutional safeguards essential for protecting human rights (Aguilar, 2024).

The June 2025 judicial elections also reflected low public engagement, with a voter turnout of only 12%. Voters faced difficulties in making informed choices due to the complexity and scope of the election. Furthermore, the autonomy of newly elected judges is in question, as all nine new Supreme Court justices have close political ties to Morena or an ideological alignment with the current regime. This judicial overhaul represents a significant threat to the separation of powers, weakening the constitutional checks and balances that uphold democratic governance. Mexico's history of authoritarianism—characterized by the PRI's 70-year dominance, strong presidentialism, and marginalization of opposition and civil society—has made democratic consolidation a persistent challenge (Camp, 2015). After 2000, Mexico began a slow democratic transition, which “strengthened the judiciary and generated more judicialization of politics as more political actors began to use strategic litigation to promote their interests. The transition to democracy also created a more polarized partisan environment, with the left and the right providing radically different visions for the future of Mexico, setting the stage for intense conflict over abortion policy” (Beer, 2024, p. 457). Despite this polarization, political pluralism fostered a nationwide debate over abortion rights, as previously described.

Considering these constitutional reforms, feminist organizations and legal scholars now face a significant challenge: preventing backlash against the constitutional parameters established by the former Supreme Court. The future of reproductive freedom is uncertain in a judiciary that is no longer composed of merit-based legal experts but is increasingly influenced by the politics of popular election. In this environment, reproductive rights risk becoming a “flipping coin”, vulnerable to shifting ideological majorities. As Beer (2024, p. 460) notes, “the policymaking process for abortion law in Mexico evinces a

complex interplay between federal court decisions and subnational legislation within a context shaped by social movement activism and partisan politics”. Within this evolving political landscape, preserving the constitutional recognition of reproductive freedom as a multi-layered fundamental right remains critical for safeguarding democratic institutions and resisting institutional backsliding.

CONCLUSIONS

Over the past two decades, constitutional debates on abortion in the Supreme Court of Mexico have undergone a significant transformation in the framing of reproductive rights. In 2002, the Court upheld abortion as a criminal offense, allowing only limited legal exceptions—such as in cases of sexual violence, fetal malformations, or risks to the health or life of the pregnant woman. By 2021, however, the Court had adopted a relational constitutional approach, recognizing voluntary motherhood as a fundamental right, independent of gender identity. This jurisprudential shift affirms that decisions regarding pregnancy fall within the private sphere of the individual and cannot be dictated or evaluated by the State. The constitutional reasoning behind these rulings is rooted in the historic social mobilization and innovative litigation strategies of the Mexican feminist movement, which has framed abortion as both a human rights issue and a demand for the realization of egalitarian citizenship.

Despite challenges from anti-choice groups following the 2007 decriminalization of abortion during the first trimester in Mexico City, abortion has progressed as a reproductive health service within public hospitals. Nonetheless, considerable barriers remain in a federal country where a complex legal apparatus hinders the consistent exercise of reproductive rights by women and sexual minorities. In this context, the Supreme Court of Mexico has played a vital role in defining reproductive freedom as a “multi-layered” fundamental right, intrinsically linked to principles of gender equality, human dignity, personal autonomy, the right to develop one’s personality, and the right to health. Through this framing, the Court has articulated a constitutional foundation that situates reproductive autonomy within the broader landscape of fundamental rights, reinforcing the notion that access to abortion is not merely a matter of public policy, but a constitutionally protected liberty.

Through its progressive reasoning, the Supreme Court of Mexico has set a precedent within Latin America by articulating a constitutional doctrine that frames access to abortion within the broader sphere of reproductive freedom. Its conceptualization of reproductive freedom as an interdependent and multidimensional right aligns with international human rights law and gender-sensitive approaches to constitutional interpretation. This analytical framework not only defines the limits of prenatal life as a constitutional value but also advances a holistic understanding of reproductive autonomy. It establishes clear state obligations to guarantee reproductive choices without discrimination while respecting religious freedom. The Court also emphasized secularism as a constitutional principle essential

to affirming reproductive freedom in a democratic society. The significance of these rulings extends beyond Mexico, contributing to a broader regional trend of constitutionalizing abortion in Latin America. By embracing the feminist movement's longstanding demands for equal citizenship and reproductive justice, the Court has reaffirmed that reproductive freedom is grounded in human dignity, privacy, personal autonomy, equality, non-discrimination, and the highest standards of health. This "relational constitutional analysis" recognizes the complexity of moral decision-making in reproductive matters and positions abortion rights at the intersection of multiple constitutional protections.

The preference for constitutional law over criminal law in regulating reproductive rights in Mexico underscores the central role of fundamental rights in shaping public discourse on abortion, as essential to realizing the life projects of women and gender minorities. In a country with deep-rooted Catholic traditions, where fetal life has often been framed as a legal absolute, the feminist movement's strategic legal and social mobilization has been pivotal in shaping the Court's jurisprudence. Over the past two decades, reproductive rights have been reframed as human rights, influencing not only Supreme Court decisions but also the rulings of federal judges. Unlike many other Latin American countries, the liberalization of abortion in Mexico reflects a gradual and sustained legal mobilization by the feminist movement at both local and national levels.

However, the exercise and protection of reproductive freedom remain embedded within a complex legal landscape shaped by federalism. Implementing the Supreme Court's constitutional rulings requires a thorough understanding of its jurisprudential framework to ensure that legislators, policymakers, and judicial authorities can provide equitable access to reproductive healthcare nationwide. In this regard, robust legal education and feminist advocacy will be crucial in translating judicial advancements into effective legal and policy reforms. The increasing recognition of collective *amparo* actions as a legal mechanism also opens new pathways for reproductive justice litigation. Still, the most profound impact of these rulings may not be legal, but cultural: fostering a new social understanding of what it means to face an unwanted pregnancy. The redefinition of reproductive freedom within Mexico's constitutional framework offers the potential to deconstruct pervasive gender stereotypes surrounding motherhood and to expand both the conceptual and social boundaries of reproductive rights for women and gender minorities as integral components of human rights.

Given recent constitutional reforms that threaten judicial independence and separation of powers in Mexico, defense of democratic principles—such as that of secularism—and the centrality of human rights in informing constitutional law are more critical than ever for the future of reproductive justice.

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