

SUPPORT LETTER

"HISTORICAL VOTE TO GUARANTEE THE REPRODUCTIVE HEALTH OF WOMEN"

AMPARO REVIEW: 636/2019

NATIONAL SUPREME COURT OF JUSTICE (SCJN-Mexico)

**COMPLAINANT: JUSTICE, HUMAN RIGHTS AND GENDER,
A.C, NATIONAL CITIZEN OBSERVATORY OF FEMICIDE**

**RESPONSIBLE AUTHORITY: DEPUTIES OF THE SIXTY-
FOURTH LEGISLATURE OF THE HONORABLE
CONGRESS OF THE STATE OF VERACRUZ.**

HONORABLE JUSTICES FROM THE FIRST HALL OF THE NATIONAL SUPREME COURT OF JUSTICE IN MÉXICO

The undersigned national and international organizations and individuals, address you with the aim of expressing our support and appreciation for the draft judgment to resolve the *amparo* under review AR 636/2019 made public last Friday, July 17, 2020, which is proposed by Justice Honorable Juan Luis González Alcántara Carrancá, in which the possible legislative omission of the Congress of the state of Veracruz is analyzed as it has not modified various articles of the Criminal Code of that entity that violate or restrict human and reproductive women's rights.

These modifications refer to the decriminalization of abortion up to 12 weeks of gestation, the inclusion of health risk to the mother as grounds for *Interrupcion Legal del Embarazo* (ILE, Legal Termination of Pregnancy) and the elimination of the term of ninety days for ILE in case of rape, which were requested in the second Declaration of Alert of Gender Violence (AVG, Alerta de Violencia de Género) for Veracruz in its Comparative Grievance modality.

According to the study published in Lancet Global Health¹, 61% of unwanted pregnancies (73.3 million) worldwide, ended in abortion between 2015 and 2019, which corresponds to a global rate of 39 per 1,000 women from 15 to 49 years. Also noting that in the past three decades, the proportion of unwanted pregnancies ending in abortion has increased in

¹ Refer to <https://www.guttmacher.org/article/2020/07/unintended-pregnancy-and-abortion-income-region-and-legal-status-abortion-estimates>

countries where there are more legal restrictions and where it may be more difficult to access safe and appropriate contraceptive methods, as in Mexico.

In this context, we consider that the proposed resolution fully complies with the obligations of the Mexican State to guarantee the life, integrity and health of women from Veracruz, which, as indicated in the draft judgment, are provided for in the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and in the Inter-American Convention to Prevent, Punish, and Eradicate Violence against Women (Convention of Belém do Pará).

If approved by the majority of the Justices of the First Hall of the SCJN, the proposed resolution will be essential to close the inequality gap for women, since the existence of penal legislation that criminalizes abortion reinforces the discriminatory stereotypes against women, which prevent them from fully exercising their right to decide about their own bodies and access specialized health services that include the legal termination of pregnancy, in an accessible and safe way.

We believe that this resolution can set a fundamental precedent for Mexican women, which will allow them to guarantee their reproductive health under international standards of greater protection. It will also contribute to reduce the gap of substantive and structural inequality based on a culture that denies these rights, giving a forceful message for local congresses to transform discriminatory regulatory frameworks, based on compliance with the international obligations of the Mexican State in the field of women's human rights.

Of the fundamental arguments that are taken up from this project, we highlight the following, as they are paradigmatic and of public interest to Mexican women:

1) It is determined that the District Judge correctly identified the existence of a legislative omission on the part of the Veracruz Congress because it has not exercised its legislative power.

2) It highlights that articles 149, 150 and 154 of the Criminal Code for the State of Veracruz are discriminatory and / or constitutive norms of violence against women that should have been promptly reformed by the state of Veracruz.

3) The importance of the Declaration of Gender Violence Alert is highlighted as an internal mechanism to raise public awareness of possible breaches by the Mexican State and its entities with conventional and constitutional commitments in the field of human rights. In this case, it revealed a serious problem of discrimination, violence and lack of access to human rights for women in Veracruz.

4) In relation to the aspects that have to do with the health of women, adolescents and girls, the following stands out:

- After reading articles 149 and 154 of the local Criminal Code, it is concluded that in Veracruz there is a total prohibition to terminate the pregnancy.
- Article 149 of the local Criminal Code is contrary to the Convention of Belém do Pará since it is a provision that, by absolutely prohibiting the ILE, preserves and replicates gender stereotypes about the role of women, due to the implicit transmission of the

message that the concept of woman-mother has primacy and that women have value for their reproductive function, and not in themselves.

- The total prohibition of the interruption of pregnancy -via criminal classification- is a barrier that generates discrimination against women in relation to access to the right to health.
- It is affirmed that the decisions of the woman during the period of the first twelve weeks of the pregnancy are part of her private sphere that is not subject to the sanctioning power of the State. Therefore, it is not in accordance with the conventional obligations to carry a criminal sanction for the interruption of the pregnancy during this period.
- Punishing abortion as an “educational” or “health” measure represents a way of infantilizing women, since they question their decision-making capacity and prejudice that the decision they made regarding their bodies is not adequate, reasoning that is stereotypical.
- Establishing a time limit and conditions under which women victims of rape or nonconsensual artificial insemination can access the ILE, ignores the nature of the sexual assaults.
- To file a complaint as a condition to access the ILE for victims of rape, constitutes a form of violence against women because it can exacerbate the psychological and sexual suffering in their detriment.

SINCERELY,

INDIVIDUALS AND SIGNING ORGANIZATIONS

INDIVIDUALS:

1. Neelam Raina. UK Research and Innovation.
2. Amina Rasul-Bernardo, Democracy and Human Rights Advocate, Philippines
3. Khedija Arfaoui, Tunisian Association of Democratic Women
4. Mossarat Qadeem, Pakistan
5. [Visaka Dharmadasa, Sri Lanka](#)
6. Ruby Kholifah, the Asian Muslim Action Network (AMAN)
7. Rosa Emilia Salamanca, Colombia
8. Hafida Benchehida , Algeria
9. Cherifa kheddar, President of the *association Djazairouna des Familles Victimes du Terrorisme Islamiste*
10. Julia Tétrault-Provencher, Lawyer, Canada
11. Justine Duby, feminist activist, France
12. Pierre Espérance, défenseur des droits humains, directeur exécutif du Réseau national de défense des droits humains (RNDDH), Haïti
13. Paulina Acevedo, journalist and Human Rights Defender, Chile
14. José Aylwin Oyarzún, lawyer and Human Rights Defender, Chile

15. Hernando Javier Silva Neriz, lawyer and Human Rights Defender, Chile
16. Elsa Berthault, student and feminist activist, France
17. César Contreras León, human rights defender
18. David Rivero Fragoso, human rights defender
19. Alice Mogwe, Botswana
20. Guissou Jahangiri, vice President of FIDH
21. Vitor Graça President of the Portuguese League for Human Rights - Civitas
22. Eleonore Morel, FIDH CEO
23. Guissou Jahangiri, executive director of Open Asia/Armanshahr Foundation, FIDH Vice-president, Iran/Afghanistan
24. Hafidha Chekir, founding member of the Association tunisienne des femmes démocrates, FIDH Vice president, Tunisie
25. Sanja Bornman, feminist lawyer and human rights defender, South Africa
26. Reyhan Yalcindag, member of Honorary Board of İnsan Haklari Derneği (« Human Rights Association »), FIDH Vice-president, Turkey
27. Nedal Al Salman, president of the Bahrain Centre for Human Rights, FIDH, Vice-president, Bahrein
28. Daisy Schmitt, feminist activist, France
29. Christine Mauget, feminist activist, France
30. Alma Ochoa, Colombia
31. Liliana Guzmán, Colombia

ORGANIZATIONS:

1. PAIMAN Trust, Islamabad
2. Association Djazairouna des familles victimes du terrorisme islamiste, Algérie
3. Corporación de Investigación y Acción Social y Económica CIASE, Colombia.
4. Association of War Affected Women, Sri Lanka
5. Tunisian Association of Democratic Women
6. Dalo & Senda Association for Peace
7. Amnesty International Tunisie
8. Tunisian Association of the UN
9. Everywoman Treaty
10. International Federation for Human Rights (FIDH)
11. Finnish League for Human Rights
12. Comité de América Latina y el Caribe para los Derechos de las Mujeres-CLADEM
13. IDHEAS-Litigio Estratégico en Derechos Humanos, A.C.
14. Réseau national de défense des droits humains (RNDDH), Haïti
15. Comisión Mexicana de Defensa y Promoción de los Derechos Humanos-CMDPDH

16. DITSHWANELO - The Botswana Centre for Human Rights
17. Observatorio Ciudadano, Chile
18. OPEN ASIA/Armanshahr Foundation (Afghanistan, Tajikistan, Iran)
19. Instituto Latinoamericano Para una Sociedad y Derechos Alternativos- ILSA
(Colombia)
20. Red de Salud de las Mujeres Latinoamericanas y del Caribe- Rsmlac
21. ATFD - Association tunisienne des femmes démocrates - Tunisie
22. Católicas por el Derecho a Decidir - Colombia