

# The Politics of Abortion in the Americas

## Introduction: The Politics of Abortion in the Americas

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**S**weeping changes in abortion politics are underway in the Americas. Argentina, Mexico, Colombia, and Uruguay have legalized abortion in recent years, marking a sea change in the most Catholic region of the world. At the same time, several states in the United States have restricted abortion access following the US Supreme Court's decision to overturn *Roe vs. Wade*, and numerous Central American countries have moved to fully criminalize the practice. Abortion is now legal in countries where it was long taboo, whereas the United States is characterized by a patchwork of laws that spans from some of the most progressive in the world to near-total bans. What explains this changing panorama in terms of reproductive rights in the Americas?

This symposium draws on research encompassing the Americas to keep scholars well informed about *what* has happened during the past decade regarding abortion rights in the Western Hemisphere and *why*. The contributions to this symposium center on three primary themes: (1) changes in the institutional opportunities surrounding abortion laws in the region; (2) the dynamics of mobilization both for and against abortion rights across the Americas; and (3) the impossibility of separating reproductive rights from socioeconomic justice in one of the most unequal regions of the world.

### SHIFTING POLITICAL OPPORTUNITIES

Political regimes in the Western Hemisphere have significant diversity in terms of institutional design: they are almost all presidential systems whereas some are federal and some are unitary; some have programmatic party systems but others are personalistic; and some have independent judiciaries whereas others feature courts that have been controlled by dominant

executives. Several articles in this symposium highlight how these institutional dynamics shaped the opportunities available to abortion-rights activists, making liberalization possible in certain cases and unlikely in others.

In “The Decriminalization of Abortion in Latin America: A Tale of Gradual Judicialization,” Jordi Díez and Alba Ruibal examine the role of the courts in moving decriminalization forward in Argentina, Colombia, and Mexico. Rather than representing a sharp break from prior legal understandings of abortion rights, they argue that the policy changes in these three countries represent the culmination of larger historical processes that have been a part of the judicialization of politics in the region. Their article suggests that these changes have been partly the result of the gradual and successful development and deployment of arguments that resonate with the lived realities of Latin Americans around socioeconomic inequalities.

Caroline Beer also focuses on judicial politics in explaining the diverging paths regarding abortion rights in the United States and Mexico—but through the prism of federalism. Her article, “Judicial Federalism and Abortion in Mexico and the United States,” compares the two federal democracies on several dimensions, including democratization (and erosion), the judicial-appointment process, and degrees of politicization in the US and Mexican Supreme Courts. The two countries are similar in that states have the ability to establish their own criminal codes. However, they vary in important ways that have enabled pro-abortion forces to prevail in Mexico and antiabortion groups to exert disproportionate influence on judicial decisions in the United States. In Mexico, justices serve 15-year terms and are appointed through a less-polarized process that requires the Mexican Senate to choose among three options submitted by the president. In the United States, conservatives have taken control of the US Supreme Court through constitutional “hardball” (Levitsky and Ziblatt 2018), leveraging their relative overrepresentation in Congress and lifetime appointments to remake the highest court in the country.

Cora Fernández Anderson’s article, “Legalizing Abortion in the Southern Cone,” highlights the importance of two other institutions—the party system and the Catholic Church—in determining how open the political regimes of Argentina, Chile, and Uruguay were to the influence of pro-abortion social movements. Uruguay legalized abortion first in 2012, a result of the long-term strength of the abortion-rights

movement and its ties to the left-wing *Frente Amplio* (“Broad Front”) party, which won the presidency in 2004. Uruguay’s institutionalized party system diminished the influence of individual leaders who were against abortion and—in the context of a relatively secular society—allowed for the passage of elective abortion in 2012. Given its fragmented party system and the strength of the Catholic Church, Argentina presented a different challenge, which required significantly more street mobilization to pressure politicians into addressing the issue. In Chile, a religious society with an institutionalized party system, the abortion-rights movement so far has been thwarted in its efforts to pursue full legalization. However, center-left president Michele Bachelet did introduce legislation to legalize therapeutic abortions in 2017.

### MOVEMENTS AND COUNTERMOVEMENTS IN THE FIGHT FOR ABORTION RIGHTS

The second theme that emerges in this symposium is the power of mobilization. In our recent book, we argue for the importance of social movements in pressuring politicians on reproductive justice (Daby and Moseley 2024). Feminist movements originally mobilized to protest gender violence during the *Ni Una Menos* (“Not One [Woman] Less”) uprising across Latin America, framing abortion not as a question of political rights but rather one intrinsically connected to social and economic justice. Eventually, social movements were able to overcome institutional and cultural obstacles to place abortion on the agenda.

According to Ana Sofia Elverdin, even after abortion becomes law, activists continue to play an important role in ensuring policy implementation. In her article, “Weak Institutions, Strong Movements: The Uneven Implementation of Abortion Policy in Latin America,” she draws on the Argentine case to illustrate how social movement organizations continue to work to provide access to abortion in contexts characterized by weak political institutions and reluctant politicians. Based on numerous interviews with feminist activists, political elites, and health care providers, Elverdin states, “Although a *de jure* expansion of abortion rights may have important effects, it does not necessarily reduce the importance of feminist activists for securing *de facto* access to abortion.”

Suzanne Staggenborg’s article, “Movement and Counter-movement Mobilization in the US Abortion Conflict,” traces the ebb and flow of abortion-related activism from pre-*Roe* to post-*Dobbs*. Abortion activism is not a one-way street and, in many ways, the recent recession of abortion rights in the United States is as much a consequence of social movement activity as the gains in abortion access achieved in places such as Argentina and Colombia. According to Staggenborg, whereas the *Dobbs* decision constituted a massive victory for the antiabortion movement in the United States, it also has revealed its extremism and put conservative politicians on the defensive in recent elections. Given the antimajoritarian features of the US political system (as noted by Beer) and the conservative composition of federal courts, Staggenborg states that “much of the battle to come will be fought on the grounds of electoral politics, influenced by public opinion and votes,

which can be swayed by movement framing of the experiences of women with reproductive health services.”

### LINKING ABORTION RIGHTS AND ECONOMIC JUSTICE

Critical to the success of pro-abortion movements in Latin America has been the emphasis on the economic dimension of reproductive justice. We argue in our recent book that by framing abortion as an issue of public health and economic justice—rather than one of political rights and individual freedom—abortion activists have been able to reorient the debate in a way that has made it more difficult for anti-rights groups to counter (Daby and Moseley 2024). Collective-action frames are “intended to mobilize potential adherents and constituents, to garner bystander support, and to demobilize antagonists” (Snow and Benford 1988, 198). “*Las ricas abortan, las pobres se mueren*” (“The rich abort, the poor die”) has been a common rallying cry across the region. It alludes to the notion that prohibitions on abortion have far more negative consequences on poor, often rural women who lack the resources to seek out safe clandestine procedures.

Díez and Ruibal’s contribution to this symposium documents the importance of this strategy in countries such as Colombia. The courts eventually sided with abortion activists, who argued that certain women were not able to access therapeutic abortions due to their socioeconomic status or race. In Colombia, they state that “expanding on its previous intersectionality reasoning...the Court argued that racialized and poor women, as well as women in irregular migration conditions, were disproportionately affected by unequal access to health care, violating equality principles.”

In the United States, the initial 1973 decision that legalized abortion, *Roe vs. Wade*, was justified by the right to privacy as defined in the 14th Amendment to the US Constitution. For decades, the abortion-rights movement has evoked the concept of “choice” in advancing its cause, framing the claim in terms of individual rights rather than public health and economic justice. However, that might be changing. As Staggenborg notes in her contribution, “[In the aftermath of *Dobbs*] the messages of abortion-rights activists include a narrative about who is hurt by the lack of access to safe and legal abortion: poor women and women of color, but also young girls and women with wanted but dangerous pregnancies that must be ended.” By shifting the argument toward emphasizing public health outcomes, social movements in Arizona, Kansas, and Ohio have been able to build diverse coalitions and win victories in ballot initiatives in relatively conservative states.

### CONCLUSION

For a half-century, abortion was the law of the land in the United States, and a seemingly untouchable political issue across Latin America. However, the situation now is reversed, requiring an examination of these diverging trends across the Western Hemisphere. This symposium convenes scholars from across the Americas to describe these changes and examine their implications. The articles focus on expansion

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and retrenchment, and they compare cases within and across countries in the region, examining abortion through the lenses of judicial politics, political parties, social movements, federalism, and countermovements. The scholars in this symposium draw on research using multimethod approaches that combine public opinion data, archival research, legal evidence, in-depth interviews, and fieldwork throughout the Western Hemisphere. Overall, this symposium provides a roadmap for understanding the changes in abortion politics in the Americas and the challenges yet to come.

#### CONFLICTS OF INTEREST

The authors declare no ethical issues or conflicts of interest in this research. ■


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