

They Were Jailed for Miscarriages. Now, Campaign Aims to End Abortion Ban.

By Elisabeth Malkin

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SAN SALVADOR — When Teodora del Carmen Vásquez walked out of the Ilopango women’s prison a few weeks ago, she embraced her parents, her teenage son — and a movement to change an anti-abortion law that stole more than a decade of her life.

In El Salvador, where a total ban on abortion leads to an immediate suspicion of women whose pregnancies do not end with a healthy baby, Ms. Vásquez was marked as a criminal after she began bleeding and suffered a stillbirth. Sentenced to 30 years for aggravated homicide, she was released only after the Supreme Court ruled that there was not enough evidence to show she had killed her baby.

“This is the moment to speak out, this is the moment to act,” said Ms. Vásquez, who was the spokeswoman in prison for a group of two dozen women accused as she was. “With the situation we’re in now, in a few years it will be a crime to be a woman in El Salvador.”

As Latin America has moved slowly toward lifting restrictions on abortion, six small countries have maintained an outright ban, including in cases where the mother’s life is at risk. And no other country enforces that ban with the zeal of El Salvador.

Yet now, women’s rights groups and their allies in congress believe they may be able to assemble a majority of votes to approve abortion under certain conditions. Two bills have been proposed in the legislature, opening up debate on the issue for the first time since the wholesale ban was passed two decades ago.

El Salvador’s health ministry has thrown its support behind changing the law, and doctors have begun speaking out, arguing that the ban ties their hands in treating high-risk pregnancies. International organizations have condemned the ban as a violation of women’s rights, and Chile, which relaxed its law in August, set an influential example.



At a march on International Women's Day last month in San Salvador, one sign called for the release of women who have been imprisoned after suffering miscarriages or stillbirths. Fred Ramos for The New York Times

“There’s a wide spectrum of grays, and we need to have a dialogue on the issue,” said Johnny Wright Sol, a lawmaker who broke from the right-wing Arena party last year and proposed a bill to permit abortion when the mother’s health is at risk or for a minor who has been raped.

“It’s a very conservative approach,” Mr. Wright said. “It’s a minimum standard at a level with the modernity of the 21st century.”

A separate bill would expand exceptions to the ban to include abortion in all rape cases and those involving an unviable fetus. Supporters hope to bring a vote before the legislative Assembly’s term finishes at the end of April, and before the new, more conservative Assembly that was elected last month is seated.

Advocates have paired their lobbying with a social media campaign focused not just on women’s health, but also on the harm done to families when a mother is prosecuted or her life is at risk. El Salvador’s largest television channels refused to run ads, but the campaign has bought radio spots, persuaded journalists to cover the issue and organized support from doctors, legal experts and economists, said Keyla Cáceres, a campaign organizer.

Lorena Peña, a lawmaker from the leftist Farabundo Martí National Liberation Front who proposed the bill with the broader exceptions in 2016, said there was “less fundamentalism now” about the issue. “The debate has been much wider.”

Whatever happens over the next couple of weeks — Ms. Peña said right-wing legislators feared that breaking ranks to support the changes would alienate their wealthy conservative backers — the campaign will continue. “I’m not pessimistic,” she said. “It’s not written in stone that it can’t change.”

Mr. Wright argued that resistance to changing the law “responds to a violent society, to machismo, to poverty,” rather than to the conservatism of Salvadoran society. “As a politician the easy way out is to say, ‘I’m pro-life and I’m against abortion,’” he said. “It’s a way of not delving deeper into the issues that are causing so much of our problems.”



A plastic fetus in an exhibition against abortion last month in Antiguo Cuscatlán, El Salvador. Fred Ramos for The New York Times

Even if the public discussion has won the sympathy of some undecided legislators, many of them argue privately that abortion is not that important to Salvadorans, whose greatest worry is crime, said Morena Herrera, a longtime women’s rights activist who leads the Citizens’ Group, an organization that supports the exceptions to the abortion ban.

“That shows how they value the problems that poor women face,” she said. “If we don’t succeed with the change now, we are condemning another generation of girls to live with this injustice, this uncertainty.”

Abortion is punishable by up to eight years in prison, but a good lawyer can win a reduced sentence or house arrest, said Ms. Peña, the lawmaker. Poor women who suffer late-term miscarriages or stillbirths have been convicted of aggravated or attempted homicide in trials that seem to push them all down the same hall of mirrors.

Ms. Vásquez, 34, was at her job as a school cafeteria cook when she began bleeding and asked for medical help before losing consciousness and suffering a stillbirth. Prosecutors initially charged her with abortion and then changed the accusation to aggravated homicide. She never met her public defender.

She was released in February after the Supreme Court commuted her sentence.

Four weeks later, Maira Figueroa Marroquín left Ilopango after the government commuted her 30-year sentence. In 2003, when she was a 19-year-old maid, Ms. Figueroa began bleeding heavily at work toward the end of her pregnancy and, like Ms. Vásquez, was charged first with abortion and then aggravated homicide, according to the Citizens’ Group.

In its verdict, the court acknowledged that there was no direct proof of a homicide, but it said that the “demonstrated facts” had led to its conclusion. She served almost 15 years.

Since 2015, lawyers have won the release of five women. But 24 women convicted of aggravated or attempted homicide remain in jail and another is on trial, said Elida Caballero Cabrera, the advocacy adviser for the Center for Reproductive Rights in Washington.



A march against abortion in San Salvador on Saturday. Fred Ramos for The New York Times

In a recent study that looked at how anti-abortion rhetoric had seeped into these prosecutions, Jocelyn Viterna, a Harvard sociologist, and José Santos Guardado Bautista, a lawyer in the Salvadoran attorney general's office, found that the words "abortion" and "homicide" were used interchangeably by news reports and high-ranking legal officials.

It was "not surprising that this same blurring of abortion and homicide in cultural discourse became institutionalized" in the country's judicial system, they wrote.

Anti-abortion groups say that the cases of the imprisoned women are unrelated to the abortion ban, and that the main concern should be improving health care for pregnant women. "If there was any injustice against these women, it was an error in the legal process," said Sara Larín, the spokeswoman for a Catholic anti-abortion group Vida SV.

Activists who oppose relaxing the ban have begun their own campaign, arguing that El Salvador's falling rate of maternal mortality shows that doctors can manage high-risk pregnancies without lifting the ban.

In cases of rape, "removing the child won't remove the trauma," said Dr. Mario López Saca, the medical adviser of the El Salvador Bioethics Association, a group that argues that human life begins at conception. When a fetus is unviable, palliative care is the best option for the mother, Dr. López Saca said, adding, "Abortion is a cowardly solution."

But the health minister, Dr. Violeta Menjívar, has said that between 2011 and 2015, 13 women died from ectopic pregnancies, in which the embryo develops outside the uterus with no possibility of survival. Another 36 women died during that period when their chronic illnesses were exacerbated by pregnancy.

In 2015, 1,445 girls aged 10 to 14 became pregnant, according to the ministry's statistics. Girls and young women face a high risk of rape in the home and by gangs, the government says.



Women at risk of giving birth prematurely had their weight checked El Hospital de La Mujer in San Salvador. Fred Ramos for The New York Times

Dr. Guillermo Ortiz Avendaño, who led the unit overseeing high-risk pregnancies at the National Women’s Hospital in San Salvador for 20 years, said the argument about mortality rates was misguided.

The improvement has resulted from new protocols for complications at the very end of pregnancy, he said, and the ban prevents doctors from offering swift treatment at early stages. “It’s absolutely reproachable from the medical point of view,” Dr. Ortiz said of patients whose lives are at risk. “We are waiting until her condition is critical to be able to intervene.”

“When just one woman dies, it’s 100 percent of all the cases for her family,” added Dr. Ortiz, who is now a medical adviser for Ipas, a North Carolina reproductive rights group.

Dr. Victoria Ramírez, a gynecologist who supports a change in the law, said the abortion ban was never questioned during her training. But she now chafes at its restrictions.

Recently a 16-year-old mentally disabled girl who had been raped arrived with a high-risk pregnancy at the provincial hospital where Dr. Ramírez practices. “I couldn’t give her any options,” she said. “As doctors we are trained to do triage, and in this case I couldn’t.”

The girl, who was poor, went into labor about two months early and was taken to San Salvador, where specialized doctors saved both mother and baby after a dangerous birth. But the premature child will have severe developmental problems and no means of support, Dr. Ramírez said.

“When a woman is pregnant, she loses all her rights,” Dr. Ramírez said, “because the baby has more rights than she has.”