

Body, politics and religion: the fight for the decriminalization of abortion in Brazil and Argentina – A challenge to the human rights of women

  10.56238/tfisdwv1-024

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ABSTRACT

This study has as object of study the experiences that occurred in Brazil and Argentina, on the political influence of the narratives of religious groups on sexual and reproductive rights, especially in the right to abortion. From an analysis of the historical development of Christian thought on the body and reproduction, as well as patriarchal development in Latin America. Its objective was to verify the interferences of these conceptions on the disputes for reproductive rights of women and how they act in the political processes in these countries. The research was developed through a bibliographic and documentary review, supported by the hypothetical-deductive method, with the aid of historical, legal,

comparative and statistical methods. Studies on reproductive rights, religious thinking about women, as well as international human rights treaties, laws and bills of the two countries in reference were analyzed. Both Brazil and Argentina went through a process of colonization that articulated the economic exploitation and the imposition of Christian customs on peoples. In both, Christianity is still predominant in relation to other religions, a reality that is effectively mixed with politics in these countries from the election of candidates to the implementation of various political projects. Even with clear historical divergences between Christian groups, the majority and uncompromising defense is that life begins from conception. In this sense, attempts to decriminalize abortion and effect reproductive rights in the countries under study face religious groups and conceptions, which put pressure on the social movements of women mobilizations, demand commitments of candidates in it and articulate movements 'pro-life'. In Brazil, it is estimated that in 2014 almost 500,000 women between 18 and 39 years old had an abortion (PNA, 2016) and between 400 and 600,000 abortions in Argentina in 2007 (CARBAJAL, 2007). In the midst of the confrontations of religious groups and religious groups, abortion is a harsh reality to be faced throughout Latin America, which has as a rule the criminalization and disrespect of the conceptions adopted by international human rights treaties and letters.

Keywords: reproductive rights, patriarchy, decoloniality, feminist movements.

1 INTRODUCTION

Abortion gains relevance throughout Latin America and the Caribbean, where it becomes a legal and political problem before it is a health problem. In this region about 90% of women of reproductive age are subject to some form of criminalization of abortion (SAHUQUILLO, 2018), and only Cuba, Uruguay, Guyana and French Guiana, decriminalized it (KILL AGUIAR, DA SILVA et al., 2019). In addition to the latitudinal difference, marked by colonization, social inequalities. They complex the political agenda by legality, making it necessary "reproductive justice" in its completeness, ranging from free, public and universal health to the sharing of care in patriarchal society (ARRUZA, BHATTACHARYA, FRASER, 2019, p.42).

In this way, feminism's demand for the legalization of abortion gained traction in the region, following the impulses of women's strikes around the world in 2018. In Argentina the "green wave" made for the 7th time enter the agenda of congress the *bill by interrupción Voluntaria del Embarazo (IVE)*, having been voted and approved by the chamber, later barred in the senate. In the same year, in Brazil, the women organized the Festival For the Life of Women, with the flag "neither arrested nor dead" in place of "my body, my rules"¹. At the event, women from all over the country followed the public hearing on the Charge of Non-Compliance with Fundamental Precept (ADPF) No. 442, which calls for the non-receipt, by the Federal Constitution of 88, of the article of the penal code that criminalizes abortion in the country.

Both Brazil and Argentina have undergone significant changes in government in previous years, when the governments of Cristina Kirchner (2015) and Dilma Rousseff (2016), first women elected presidents in these countries and considered "progressive", gave way to presidents with more right-wing positions, and broad commitment to the conservadorism. These two women's governments - both from parties positioned on the left - have not given way to the legalization of abortion. That is why we propose to discuss some common aspects in the formation of these two countries, which influence the political abortion agenda, as a demand for a human right today: religion, politics and the body.

2 ABORTION AND HUMAN RIGHTS IN THE SOUTH

From theory to the practice of various feminisms, reproductive rights as a human right have been an important agenda. However, it does not echo in a way - neither as a theory nor as a political claim - because they are imbued with social and regional specificities that are difficult to analyze. We assume that the colonial difference, faced by American women, greatly interferes with the concrete conditions in which reproductive rights, as human rights, are exercised, guided and disputed in the region. The State, as a perpetrator of violence through criminalization, was constituted in Latin America from this reality, where colonization, class, race, gender has a direct implication on women's lives.

Although in 1994 the International Conference on Population and Development (CIPD) recognized reproductive rights as a category of human rights (p.62), as well as the responsibility of states to ensure "universal access to health care services, including those related to reproductive health" (p.43), no legislative changes meant was carried out to achieve this purpose in the countries analyzed. The Brazilian state remains strong in the logic of body seakeeping, and maintains in the penal code of 1940 the criminalization of abortion (BRASIL, 2017b), with sentences from one to ten years. Similarly, the Argentine penal code of 1921 (last reformed in 1984) criminalizes termination of pregnancy with a penalty

¹ The Festival for the lives of women took place in Brasilia, from August 3 to 6 and according to Gabriela Rondon, one of the organizers of the event, the change of the flag of struggle, was a strategy to expand the reach of the agenda to women who are hardest hit. <https://youtu.be/LA0UHN7WtbU>

ranging from one to four years. Most countries where abortion is legalized are positioned in the global north while the countries with the laws that most restrict abortion are in Latin America and Africa (UN, 2011).

Despite the recognition and, to a large extent, legal acceptance of HD standards in the global southern countries, on the need for health assurance in decisions about reproduction itself, why is abortion still a crime?

Several authors and authors have debated that classical theories of human rights disregard some subjects as humans (BALDI, 2016) (LUGONES, 2010). César Badi stressed in his work on "Human Rights and Islam: a mirada desde las mujeres" that:

"de ahí resulta que, la expresión "todos los pueblos" quiere decir "todos, menos los indígenas" y estos, a su vez, quedan fuera de la condición de "sujetos" en la mayor parte de los pueblos de América, África y Asia. (2016)

Similarly, Maria Lugones in her analysis of gender coloniality highlighted the intertwining of oppressions in the dichotomy that establishes exclusion, as it institutes humans and non-humans:

To see coloniality is to see the powerful reduction of human beings and animals, to inferior by nature, in a schizoid understanding of reality that dichotomizes human nature, human nature of non-human, thus imposing an ontology and a cosmology that, in its power and constitution, inderfer to dehumanized beings all humanity, every possibility of understanding, every possibility of human communication. (LUGONES, 2010, p. 946)

These elements contain the thread that explains, why the conception of humanity is not one. As has historically been guided by the movements for legal, safe and free abortion scattered around the world, they have not "descended" to the countries of the global south and face unique obstacles, such as racism, patriarchy, the consequences of the violence of the civilizing mission on the bodies, and etc. For Baldi the construction of a narrative that presupposes a consensus around human rights, hides that these are a field of struggles and disputes (BALDI, 2016).

3 BODY, COLONIZATION AND CHRISTIANITY

At the time of colonization universalizing Christian conceptions and the creation of enemies and witches in America served to overcome resistance (DOUZINAS, 2011) (FEDERICI, 2017). Always to the extent of political convenience, religious conceptions, specific to Christian ones, have been used as an argument against the demands of control of women's own lives and bodies by themselves. For Silvia Federici, the accusations of demon worship, and the witch hunt against Euro-muslim women, were transplanted to America "to break the resistance of local populations, thus justifying colonization and the slave trade before the eyes of the world" (FEDERICI, 2017, p.357). It also points out that the witch hunt - a phenomenon closely linked to the spread of Christianity - constituted a "strategy of enstiling" both the earth, as well as the bodies and social relations, depending on the context in which it could be found. This enduring guaranteed broad *political powers to Christianity in Latina America*, which were not

defragmented, nor even reduced, with the vision of state laity through the Universal Declaration of Human and Citizen Rights in 1789.

The Christian (majority) view that life begins from conception and condemnation for the practice of abortion has only become the official posture of the Catholic Church since 1869 with the Apostolic Sedes of Pius IX, this document that founded "the call to the right to life as superior to all other rights, including the gbook case (GONÇALVES; LAPA, 2008, p.74). Gonçalves and Lapa (2008), make a relationship of the criminalization of abortion by the church, with its defense of the monogamous family, since the practice of abortion was used to hide relationships outside of the monogamous marriage.

As Federici points out, monogamy that was brutally imposed during colonization, and at the time criminalizes polygamous relations:

The new Spanish legislation, which declared polygamy illegal, was another **source of degradation for women**. Overnight, men were forced to separate themselves from their wives, or to convert them into maids (Mayer, 1981), while children who had been born from these unions were classified according to five 402,403 different categories of illegitimacy (Nash, 1980, p. 143). (2017, p. 401, our griffin)

This then becomes a reason from which "women became the main enemies of colonial rule, refusing to go to Mass, to baptize their children or any kind of cooperation with colonial authorities and priests" (FEDERICI, 2017, p. 401).

4 POLITICS AND ABORTION

These are the conditions that consolidate the current power relations, and interfere significantly in politics, especially in the electoral processes of the countries analyzed. According to the last IBGE Census (2010) the Brazilian population is 87% Christian, of which 64.3% are Catholics. In Argentina there are about 79% of Christians, 62.9% Catholics (MALLIMACI, et al. 2019, p. 15), and the country's constant *intuition guarantees differentiated legal status* to the Catholic Church, demanding that the president and vice president, be Catholic Christians.

In the 2010 elections, former President Dilma Roussef was pressured to give up the agenda of the discrimination of abortion, in exchange for political support, receiving direct support from the Holy Pope in this election (MACHADO, 2012). Since 2007, Cristina Kirchner has been demonstrating against abortion (PRESSE, 2007) and when dealing with the issue when she was a member came to ask that women not be angry with the church ((DIREITO AO ABORTO:... 2018).

In the 2018 elections in Brazil, Jair Messias Bolsonaro was the main exponent of the pro-life agenda, but also gave centrality to misogynistic, sexist, LGBTfobic and anti-feminist issues in his campaign, bringing together a range of conservative, anti-science and family defense proposals. In this election, Bolsonaro was the only presidential candidate to speak out against abortion during the public hearings on

ADPF 442 and the Festival Pela Vida das Mulheres in Brasília (LIMA, 2018). After elected made the commitment to veto any proposal on legal abortion (BOLSONARO SE POSICIONA ... 2018).

Maurício Macri, Argentine president (2015-2019), since the campaign period has positioned himself against the decriminalization of abortion (REYES, 2015). In 2019, when Macri lost the elections to Alberto Fernández, the Brazilian president said "Fernández and Cristina Kirchner will now legalize abortion in Argentina" (BOLSONARO CITA..., 2020), and even if Fernandez has actually reiterated this commitment, he will enter the country's second legislative period (2021) without taking effective action to make it happen.

Although in recent years the elements related to the abortion agenda have been similar in Brazil and Argentina, countries are moving in different directions with regard to the strategies of feminist movements in the legal sphere. While in Brazil the agenda has been expressed around ADPF 442 that only discusses issues related to "fundamental precepts" especially human dignity, in Argentina the dispute is based on an intertwining of bills, ranging from Integral Sexual Education, women's health and the decision-making process with popular participation involving the theme. The latter has involved extensive discussions and popular mobilization that gained prominence by force in the streets and became known as the Green Wave.

This is one of the aspects that have made abortion in Argentina a central issue even for the executive. Elizabeth Gomez Alcorta, minister of the Mujeres, Géneros y Diversidad of Argentina said that Alberto Fernandes will not break the commitment to present the law for the decriminalization of abortion, and blames the pandemic delay (CAMACHO, 2020). Unlike in Brazil, pro-life movements have achieved strength in the legislative sphere with the presentation of numerous bills and street mobilizations in recent years, calling for more criminalization. Now they have in the executive their to such support and support, mainly from the figure of pastor Damares Alves in the ministry of Women, Family and Human Rights.

5 FINAL CONSIDERATIONS

Far from saying that secularism is always a benefit to women, we must, however, to consider that the current Christian conceptions, not unanimous, but majority about life and abortion, are a problem, especially political that interferes directly in the legal sphere of countries that have undergone processes of Christian colonization and face colonial structures even today. Christianity that was not elected, was not chosen, on the contrary, was brutally imposed by colonial violence, as a "civilizing" and universalizing means, which today is allied with a patriarchal and racist structure, consolidated in the institutions and in the State structure. The agenda of Reproductive Rights as human rights, within feminist movements, needs to keep this in mind for the elaboration of political strategies that guarantee in practice the enforcement of the right of women and trans, black, black and poor men in these countries to safe abortion.

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