

PUBLIC POLICY BLOG

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Advancing abortion legislation in Uruguay: a turbulent tail of compromise

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Executive Summary

Worldwide, an estimated 25 million unsafe abortions are carried out every year.ⁱ Only in Latin America and the Caribbean, 96 out of 1000 pregnancies of women aged 15-44 are unplanned, and 44 out of 1000 women have an abortion leading to the highest rate in the world.ⁱⁱ In Uruguay, unsafe abortions comprised 40% of maternal deaths twenty years ago.ⁱⁱⁱ Yet 30,000 unsafe abortions were still recorded in 2011.^{iv} In the following year, Uruguay became the first South American country to pass legislation enabling safe abortions. In the polarized politics of abortion, Uruguay emerges as a blueprint for policy compromise.

Historical breakdown of coalition formation

Abortion legislation is the product of decades of extensive advocacy by divergent alliances. Criminalized in Uruguay in 1898, abortion was briefly legal in 1934-1938 after public indignation over a woman’s death due to an unsafe abortion.^v New, more restrictive legislation was passed in 1938 which nevertheless foresaw exceptions to punishment in cases of rape, family honor of unmarried women, undue economic burden, or danger to the woman’s life. The law required the abortion to be carried out by a doctor for up to three months of pregnancy unless the woman’s life was at risk, in which case no time limit was prescribed. Feminist efforts to reverse this bill continued for years, shaping the rise of two major coalitions.

Pro-life and pro-choice alliances emerged as the issue of abortion gained visibility. Following the military dictatorship (1973-1985), feminist organizations’ first attempt to decriminalize abortion failed to reach the parliament as it was not considered a priority during the transition to democracy. Consequently, feminist leaders forged strategic alliances with a variety of

players to push the topic to the top of the political agenda. In the 1990s, an alliance between feminist organizations and trade unions made decriminalization a key element of the labor movement and helped to legitimize abortion by framing it as a social justice issue. Over time, this interest coalition successfully integrated public health officials, local governments, student groups and academia. These alliances provided access to information that was key to generate evidence, secure resources and increase visibility of the topic. Emerging evidence coupled with public polls indicated wide support for the decriminalization movement and challenged the belief that the issue was politically driven, and instead reframed it as a matter of genuine public concern.^{vi} Eventually, the Frente Amplio, representing a coalition of center-left parties, joined the pro-choice coalition providing it with direct access to the political level. At the same time, a pro-life coalition formed under a religious narrative that was strongly influenced by the Catholic Church and political leaders of the Colorado and National Parties. These opposing groups shaped the politics of abortion throughout the following years.

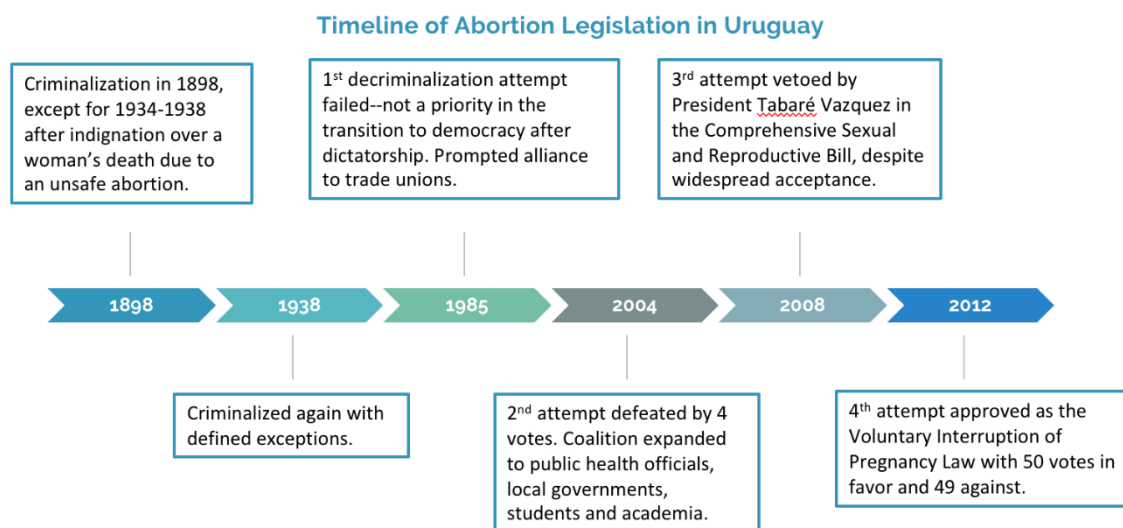


Figure 1: timeline of abortion legislation and multiple decriminalization attempts of abortion between 1898 until 2012. Source: Compiled by the author.

Factors paving the way for more progressive legislation

Internal disputes within coalitions generated a political debt to the pro-choice movement. In 2004, the second decriminalization attempt failed by only four votes in the Senate. Yet, the issue of abortion gained visibility and fueled efforts for a third comeback. In 2008, upon rise of the Frente Amplio to power, the parliament approved the Sexual and Reproductive Health Bill, which included articles on abortion. This bill authorized abortions for up to 12 weeks without restrictions, and no gestational requirements in cases of rape, health risk, or fetal anomalies. Despite the wide support of the public, Parliament, and Senate, President Tabaré Vázquez vetoed the articles on abortion.^{vii} The President's decision sparked internal conflict within his party, forcing a political debt to those in support of decriminalization. Moreover,

the veto, perceived as authoritarian and inconsistent with Uruguay's political culture of consensus, provoked a strong public outcry. These events increased public acceptance of decriminalization and solidified efforts, eventually leading to legislation enabling safe abortions in 2012.

At the same time, policy entrepreneurs paved the road for a compromise towards abortion legislation. President Jose Mujica (2010-2015), member of the Frente Amplio, served as a broker among coalitions by mainstreaming the urgency of decriminalization.^{viii} In 2012, a final attempt to decriminalize abortion was approved by the Senate yet failed to secure a majority in the Parliament by just one vote. Representative Ivan Posada from a Christian Democratic Party emerged as a policy entrepreneur, offering the vote needed in exchange for modifications to the bill. The changes shifted the narrative away from women's rights by setting restrictive requirements to access abortion services. This heated compromise shaped the Voluntary Interruption of Pregnancy Law brought into force on October 22, 2012.

Accomplishments and limitations of abortion legislation

To many Uruguayans, the 2012 law has a bittersweet taste of moving one step forward and two steps backward. The conditions do not fully recognize a woman's autonomy over reproductive matters and criminalize abortions that do not meet the rigid constraints.^{ix} First, the law authorizes abortions for up to 12 weeks of pregnancy, and 14 weeks in case of rape upon filing a sexual assault complaint. The latter requirement risks a psychological toll on victims and survivors of rape who do not want to disclose the assault. Second, the law defines restrictive requirements including meeting a gynecologist, social worker, and mental health professional followed by a five-day reflection period before the procedure is performed, exclusively, by a gynecologist. Beyond being burdensome for women, this condition largely diminishes the number of professionals allowed to perform the procedure. Additionally, the law includes a notion of conscientious objection enabling not only individual practitioners but health institutions to deny the service. Evidence shows that 30% of gynecologists have refused to offer the service.^x Third, while the law makes abortions free of charge under the public health system, it discourages providers who see no economic benefit in offering the services.^{xi} Finally, the text explicitly changes the focus from women's rights to a rhetoric on procreation, value of life, and motherhood. This framing falls short in recognizing women's rights to autonomy over their reproductive lives and reinforces stigma towards those who choose to have an abortion. Overall, these requirements imply that women who do not meet the legal conditions risk going to jail or endanger their health when resorting to unsafe abortions. In fact, in 2015, three women were prosecuted, and two of them imprisoned for the crime of abortion.^{xii} Only in 2016, a woman aged 21 died from an unsafe abortion—the second maternal death due to clandestine abortions since the law was adopted.^{xiii}

Conclusion

The 2012 law marks a compromise in the turbulent politics of abortion. It highlights the significance of alliances in legitimizing and strengthening efforts for policy change. Political consensus and shocks driven by elections and conflict within coalitions are just a few elements that sparked opportunities for decriminalization. Driven by policy entrepreneurs, such as President Mujica and Representative Posadas, these elements set a blueprint for compromise. Consequently, decades of advocacy and collective efforts pushed abortion legislation forward. Yet, the political struggle will continue as the current President Luis Lacalle Pou signals a pro-life agenda, and the feminist movement fights to decriminalize abortions.^{xiv}

ⁱ Singh, Susheela et al., (2018). "Abortion Worldwide 2017: Uneven Progress and Unequal Access." *Guttmacher Institute*. <https://www.guttmacher.org/report/abortion-worldwide-2017>

ⁱⁱ Ibid., Singh, Susheela et al., (2018).

ⁱⁱⁱ Briozzo, Leonel et al., (2016). "Overall and abortion-related maternal mortality rates in Uruguay over the past 25 years and their association with policies and actions aimed at protecting women's rights" *International Journal of Gynecology and Obstetrics*. <https://doi.org/10.1016/j.ijgo.2016.06.004>

^{iv} UNFPA (2011). Eliminating Maternal Deaths from Unsafe Abortion in Uruguay. *United Nations Population Fund*. August 18, 2011. <https://www.unfpa.org/news/eliminating-maternal-deaths-unsafe-abortion-uruguay>

^v Wood, Susan et al., (2016) "Reform of abortion law in Uruguay: context, process and lessons learned". *Reproductive Health Matters*, 24:48, 102-110, <https://doi.org/10.1016/j.rhm.2016.11.006>

^{vi} Bottinelli, Oscar, and Daniel Buquet (2010). "El aborto en la opinion publica uruguaya." [Abortion in the Uruguayan public opinion] *Mujer y Salud en Uruguay*. Época 1, N° 2, 2010 Cuadernos Aportes al debate en salud, ciudadanía y derechos <http://www.mysu.org.uy/wp-content/uploads/2014/12/Descargue-aqui-Aborto-en-la-op-p%C3%BAblica.pdf>

^{vii} El País (2008). "Tabaré Vázquez veta la despenalización del aborto en Uruguay." [Tabaré Vázquez vetoes the decriminalization of abortion in Uruguay.] (Nov 14, 2008) *El País*. Buenos Aires. https://elpais.com/internacional/2008/11/14/actualidad/1226617202_850215.html

^{viii} BBC News (2012). "Mujica: 'Despenalizar los abortos puede reducirlos'." [Mujica: 'Decriminalizing abortions can reduce them']. *BBC News*. September 27, 2012. https://www.bbc.com/mundo/noticias/2012/09/120927_america_latina_uruguay_aborto_hernandez_m ed

^{ix} Ibid., Wood, Susan et al., (2016)

^x Pagola, Florencia (2016). "La objeción de conciencia entorpece el derecho al aborto en Uruguay." [Conscientious objection hinders the right to abortion in Uruguay] *Mujer y Salud en Uruguay*. <http://www.mysu.org.uy/multimedia/mysu-en-medio/la-objecion-de-conciencia-entorpece-el-derecho-al-aborto-en-uruguay/>

^{xi} Ibid., Pagola, Florencia (2016).

^{xii} El País (2015). “Maldonado: dos mujeres a prisión por aborto ilegal” [Maldonado: Two Women in Prison for Illegal Abortion] *El País*. <https://www.elpais.com.uy/informacion/maldonado-mujeres-prision-aborto-ilegal.html>

^{xiii} Ibid., Pagola, Florencia (2016).

^{xiv} Peiro, Claudia (2020). “Uruguay: en qué consiste la ‘política de desestímulo de los abortos’ que anunció Luis Lacalle Pou” [Uruguay: what is the ‘policy to discourage abortions’ announced by Luis Lacalle Pou?] *Infobae*. <https://www.infobae.com/sociedad/2020/05/13/uruguay-en-que-consiste-la-politica-de-desestimulo-de-los-abortos-que-anuncio-luis-lacalle-pou/>; El País (2020). “Lacalle Pou: ‘Hay que tener una política de desestímulo de los abortos’” [“Lacalle Pou: ‘We must have a policy to discourage abortions’”] *El País*. <https://www.elpais.com.uy/informacion/politica/le-preguntaron-lacalle-pou-posicion-aborto-respuesta.html>