



Access to Abortion Around the World

Although legal restrictions on abortion worldwide are generally becoming more liberalized, continuing limits on access to abortion services deprive many women of a meaningful opportunity to exercise their rights and realize their full potential. As a result, many women are forced to terminate their pregnancies using alternative methods that lead to higher risks of infection, illness, or death.

Access to a Safe Abortion

International human rights treaties and protocols recognize access to safe and affordable reproductive health services as a fundamental human right. Unfortunately, many women, especially those in developing nations, face nearly insurmountable obstacles in obtaining abortion services, even though abortion is an important component of ensuring and promoting women's health.¹

- Currently, an estimated 41.6 million abortions occur worldwide each year with 48% taking place under unsafe conditions, resulting in the death of 67,000 women.²
- Although abortion rates are similar in developing and developed nations,³ a woman in a developing country is far more likely to have an abortion take place in unsafe conditions. Over 90% of abortions in developed regions take place in conditions deemed to be safe, compared to only 45% in developing countries.⁴

Costs for abortion procedures vary widely across the globe. They can range from free to as high as US\$1,000.⁵ Women who cannot afford the procedure or who must travel far from home to secure an abortion often resort to high-risk and dangerous attempts to terminate the pregnancy.⁶ Even if costs associated with the initial procedure and travel are affordable, critical post-procedure care may often not be feasible.⁷ United Nations treaty monitoring bodies increasingly recognize government obligations to at least ensure access to safe abortion services, where legal, and call upon governments to liberalize abortion laws to protect the lives and health of women and girls.⁸

Access to a Legal Abortion

Currently, approximately 61% of the world's population resides in 70 countries where few, if any, restrictions are placed upon abortion.⁹

- Fifty-six countries, home to almost 40% of the world's population, generally allow abortion (at least during the first trimester) without requiring a justification for the procedure.¹⁰
- The remaining 14 countries restrict abortion access to saving the woman's life, physical and/or mental health, or on socio-economic grounds.¹¹

Even in those countries with few restrictions, the law may impose barriers which can substantially impede the realization of a woman's right to choose and procure a safe abortion.¹² For example:

- Belgium and Germany impose mandatory counseling and waiting periods.¹³
- Many countries—including countries with poverty and health crises, such as India and South Africa¹⁴—impose facility and provider requirements,¹⁵ creating additional logistical and financial barriers.
- In Japan, Denmark, Italy, and most Eastern European countries, a woman may not have an abortion without first obtaining permission from her spouse or parents.¹⁶
- Belgium, France, and Great Britain have a gestational limits requirement, which specifies how late in the pregnancy a termination may be performed.¹⁷



Access to Abortion Around the World

Approximately 13% of the world's population resides in 58 countries where abortion is restricted to:

- preserving the woman's life or her physical health (35 countries);¹⁸ or
- preserving the woman's life, physical health, or mental health (23 countries).¹⁹

Approximately 26% of the world's population resides in 68 countries where abortion is generally prohibited.²⁰

- Thirty-three countries prohibit abortion without exception, but some may allow a necessity defense when the procedure accompanies life-threatening circumstances.²¹ Nicaragua joined this group in 2006 by passing a complete ban on abortion, eliminating the only exception under the previous law (for women whose lives or health were at risk).²² The government refused to meet with health and human rights experts and considered only the opinions of conservative, anti-choice groups.²³ In September 2007, the National Assembly approved a new penal code reaffirming the ban.²⁴
- Thirty-five countries make an explicit exception to save the life of the woman.²⁵

Some Recent Improvements

In the past 15 years, only 15 countries—including Albania, Switzerland, Ethiopia, and South Africa—effectively changed domestic laws to allow for greater access to abortion procedures.²⁶ Many of the changes occurred within the last five years, a hopeful indicator. For example:

- May 2006: Abortion, previously prohibited without exception, was decriminalized in Colombia pursuant to a ruling by its constitutional court.²⁷ In October 2009, the court reinforced and clarified the right, issuing a number of orders strengthening access.²⁸
- January 2007: Nepal adopted an interim constitution in which reproductive rights were recognized as fundamental rights.²⁹ In August 2008, Nepal's Supreme Court upheld a woman's right to abortion access.³⁰ In May 2009, the Court ordered the government to enact comprehensive legislation guaranteeing access to a safe abortion, including the establishment of a "fund to cover the cost of abortion for poor and rural women[.]"³¹
- April 2007: Portugal legalized abortion on request during the first 10 weeks of pregnancy.³² That same month, Mexico City voted to legalize abortion during the first 12 weeks of pregnancy.³³ In August 2008, this right was upheld by Mexico's highest court.³⁴
- December 2007: The Slovak Constitutional Court rebuffed an attempt by conservative politicians to outlaw abortion,³⁵ marking the first application of *Vo v. France*, in which the European Court of Human Rights declined to give a fetus the legal rights of a born person.³⁶
- April 2008: In April 2008, the Parliamentary Assembly of the Council of Europe approved a resolution urging all member states to decriminalize abortion.³⁷ This would apply to the 47 existing member states and also to any states hoping to join the Council of Europe.³⁸
- January 2009: In January of 2009, in an effort to "protect and empower women and promote global economic development," President Obama rescinded the Global Gag Rule, also known as the "Mexico City Policy."³⁹ In overturning this law, conditions upon grants have been removed, allowing NGO's to provide information, advice, and counsel on abortion services without threat of losing USAID funding.⁴⁰
- February 2010: Spain approves a more liberal law regulating abortion, which had been a crime for 25 years (with rape, maternal health, and fetal abnormality exceptions).⁴¹ The new law would, among other things, allow the procedure upon request during the first trimester, including for girls ages 16 and up.⁴² In July, three days before the law was to take effect, the Constitutional Court agreed to study whether the law violates precedent according rights to the fetus and the parents of minors equivalent to those of the pregnant woman.⁴³

Some Recent Developments

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Prohibition on U.S. funding for international family planning organizations lifted

In 1984, President Reagan instituted the Mexico City Policy, also known as the “global gag rule.”⁴⁴ The Foreign Assistance Act of 1961 prohibited organizations from using federal funds to provide abortions or refer patients to abortion clinics.⁴⁵ The Mexico City Policy significantly expanded this prohibition, denying all grants to organizations which perform or promote these or other related services (counseling, information campaigns, advocacy, etc.).⁴⁶ President Clinton rescinded the policy, President George W. Bush reinstated it, and President Obama again rescinded it—each during his first few days in office.⁴⁷ In his 2009 memorandum, President Obama decried the policy’s “unwarranted” conditions which “undermined efforts to promote safe and effective voluntary family planning programs in foreign nations.”⁴⁸ The Foreign Assistance Act of 1961 conditions on the use of federal funds remain in place.⁴⁹

Challenge to Ireland’s abortion restrictions before the European Court of Human Rights

Ireland continues to maintain some of the strictest restrictions on abortion access in Europe.⁵⁰ Even if a woman satisfies the limited, hypothetical exemption,⁵¹ she would be hard pressed to find a provider. The Irish Medical Council does not consider *any* circumstances to justify an abortion procedure, and it has “told doctors that, even if the Supreme Court allows such a termination, it will revoke the license of any doctor doing one in Ireland.”⁵² Further, if the authorities later determine the circumstances did not warrant exemption, the provider faces life in prison.⁵³ In December 2009, the Grand Chamber of the European Court of Human Rights (ECHR) heard oral argument in the case of *A., B., and C. v. Ireland*.⁵⁴ The applicants, like hundreds of thousands of other women,⁵⁵ were forced to leave Ireland to obtain a safe and legal abortion. The Court has never established a maximum degree of restriction which would be consistent with relevant treaties and human rights concerns;⁵⁶ however, Ireland has previously obtained some guarantees that enforcement will not impact its abortion laws.⁵⁷ In 2010 the Court decided in favor of Ms. C, finding a violation of the right to privacy under Article 8 ECHR.⁵⁸ The Court held that when the state decides an abortion may be permitted, albeit heavily circumscribed, they have an obligation to ensure the woman can vindicate that right.⁵⁹ Court however, was careful not to acknowledge a right in European law to abortion.⁶⁰ Furthermore, the Court has not asked Ireland to change its Constitutional provision regarding abortion, noting that as it stands it is compatible with Article 8.⁶¹ However, Ireland is required to take measures to avoid further violations of Article 8 under international law, but it remains unclear how this will be implemented into practice.⁶²

¹ Mehribon Abdullaeva, *Abortion Around the World- Overview*, NOW Found. (May 8, 2008), http://www.nowfoundation.org/issues/reproductive/050808-abortion_worldwide.html.

² GUTTMACHER INST., *FACTS ON INDUCED ABORTION WORLDWIDE (2009)*, available at http://www.guttmacher.org/pubs/fb_IAW.pdf.

³ *Id.*

⁴ *Id.*

⁵ SUSHEELA SINGH ET AL., *ABORTION WORLDWIDE: A DECADE OF UNEVEN PROGRESS 23*, GUTTMACHER INSTITUTE (2009), available at <http://www.guttmacher.org/pubs/AWWfullreport.pdf>.

⁶ *See id.* at 27-29.

⁷ *See id.* For additional discussion on barriers to accessing a safe and legal abortion procedure, see INT’L PLANNED PARENTHOOD FOUND., *LEGAL ABORTION: A COMPARATIVE ANALYSIS OF HEALTH REGULATIONS 149-55 (2009)*, available at http://www.ippfwhr.org/sites/default/files/Legal_Abortion.pdf.

⁸ CTR. FOR REPROD. RTS., *BRINGING RIGHTS TO BEAR: ABORTION AND HUMAN RIGHTS 15 (2008)*, available at <http://reproductiverights.org/en/document/bringing-rights-to-bear-abortion-and-human-rights>.

⁹ CTR. FOR REPROD. RTS., *THE WORLD’S ABORTION LAWS FACT SHEET 2 (2008)*, available at http://reproductiverights.org/sites/crr.civicaactions.net/files/pub_fac_abortionlaws2008.pdf.

¹⁰ *Id.*

¹¹ *Id.*

¹² For an expanded discussion, see SINGH ET AL., *supra* note 5, at 23-24.

¹³ Abdullaeva, *supra* note 1. For a discussion on the effect of counseling and waiting periods in the United States, see *Mandatory Delays and Biased Counseling for Women Seeking Abortions*, CTR. FOR REPROD. RTS. (Mar. 5, 2009), <http://reproductiverights.org/en/project/mandatory-delays-and-biased-counseling-for-women-seeking-abortions>.

¹⁴ See SINGH ET AL., *supra* note 5, at 24.

¹⁵ Abdullaeva, *supra* note 1.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ CTR. FOR REPROD. RTS., *THE WORLD'S ABORTION LAWS*, *supra* note 9.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² IPAS, *THE FACES BEHIND THE FIGURES: THE TRAGIC EFFECTS OF THE CRIMINALIZATION OF THERAPEUTIC ABORTION IN NICARAGUA* 5 (2007), available at http://www.ipas.org/Publications/asset_upload_file637_3431.pdf.

²³ *Id.*

²⁴ Karim Velasco, *Nicaragua: Working For Safety Despite Abortion Ban*, RH REALITY CHECK, May 8, 2008, <http://www.rhrealitycheck.org/blog/2008/05/07/in-nicaragua-struggling-safety-despite-abortion-ban>.

²⁵ *Id.*

²⁶ CTR. FOR REPRODUCTIVE RIGHTS, *ABORTION WORLDWIDE: TWELVE YEARS OF REFORM* 2, 3 (2007), available at http://www.reproductiverights.org/pdf/pub_bp_abortionlaws10.pdf.

²⁷ INT'L PLANNED PARENTHOOD FOUND., *supra* note 7, at 38; *Abortion in Colombia: Hard-Won Gains at Risk*, CTR. FOR REPROD. RTS., <http://reproductiverights.org/en/feature/abortion-in-colombia-hard-won-gains-at-risk> (last visited June 10, 2010).

²⁸ Press Release, Ctr. for Reprod. Rts., *Center Praises Momentous Decision in Abortion Case in Colombia* (Oct. 27, 2009), available at <http://reproductiverights.org/en/press-room/center-praises-momentous-decision-in-abortion-case-in-colombia>.

²⁹ *Nepal Supreme Court Upholds a Woman's Right to Abortion*, CTR. FOR REPROD. RTS., (Sept. 1, 2008), <http://reproductiverights.org/en/press-room/nepal-supreme-court-upholds-a-womans-right-to-abortion>.

³⁰ *Id.* Of note is that until 2002, abortion procedures in Nepal had been prohibited altogether. Press Release, Ctr. for Reprod. Rts., *As World Eases Restrictions on Abortion, U.S. Becomes More Restrictive, Study Finds* (Mar. 4, 2005), available at <http://reproductiverights.org/en/press-room/as-world-eases-restrictions-on-abortion-us-becomes-more-restrictive-study-finds>.

³¹ Press Release, Ctr. for Reprod. Rts., *Court Orders Nepal to Improve Women's Access to Abortion* (May 20, 2009), available at <http://reproductiverights.org/en/press-room/court-orders-nepal-to-improve-women%E2%80%99s-access-to-abortion>.

³² Associated Press, *Portugal Ratifies Law Allowing Abortions*, THE GUARDIAN, Apr. 10, 2007, available at <http://www.guardian.co.uk/world/2007/apr/10/1>.

³³ James C. McKinley, Jr., *Mexico City Legalizes Abortion Early in Term*, N.Y. TIMES, Apr. 25, 2007, at A8.

³⁴ Press Release, Ctr. for Reprod. Rts., *Mexico Supreme Court Upholds Mexico City Abortion Law* (Aug. 27, 2008), available at <http://reproductiverights.org/en/press-room/mexico-supreme-court-upholds-mexico-city-abortion-law>.

³⁵ Pro Choice Slovakia, *Landmark Decision of the Constitutional Tribunal*, 56 CEE BULL. ON SEXUAL AND REPROD. RTS. (Astra Network, Warsaw, Pol.) 2007, available at http://www.astra.org.pl/56_issue.htm.

³⁶ *Vo v. France*, App. No. 53924/00, 40 Eur. H.R. Rep. 12 (2004).

³⁷ Eur. Parl. Ass. Res. 1607 (Apr. 16, 2008), available at

<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta08/ERES1607.htm>.

³⁸ For a list of member states, see Council of Europe, Council of Europe in Brief, <http://www.coe.int/aboutCoe/index.asp?page=47pays1europe&l=en> (last visited July 13, 2010).

³⁹ Statement by Barack Obama, President of the U.S. (Jan. 24, 2009), available at <http://www.whitehouse.gov/statement-released-after-the-president-rescinds>.

⁴⁰ Statement by Barack Obama, President of the U.S., Memorandum for The Secretary of State (Jan. 23, 2009), available at http://www.whitehouse.gov/the_press_office/MexicoCityPolicy-VoluntaryPopulationPlanning/.

⁴¹ Victoria Burnett, *Spain Steps into Battle with Itself on Abortion*, N.Y. TIMES, Apr. 10, 2009, at A4.

⁴² *Id.*

⁴³ Daniel Woolls, *Spain Court will Study Challenge to Abortion Law*, THE BOSTON GLOBE, June 30, 2010, available at http://www.boston.com/news/world/europe/articles/2010/06/30/spain_court_will_study_challenge_to_abortion_law/.

⁴⁴ POPULATION ACTION INT'L, *FACT SHEET: HOW THE GLOBAL GAG RULE UNDERMINES U.S. FOREIGN POLICY & HARMS WOMEN'S HEALTH* 1 (2004), available at http://www.populationaction.org/Publications/Fact_Sheets/FS5/Summary.shtml.

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⁴⁵ See 22 U.S.C. § 2151b(f)(1) (2010).

⁴⁶ Robin Toner, *Critics Seek to Overturn Abortion Rule*, N.Y. TIMES, Feb. 16, 2001, at A12.

⁴⁷ Peter Baker, *Obama Reverses Rules on U.S. Abortion Aid*, N.Y. TIMES, Jan. 23, 2009, at A13.

⁴⁸ Memorandum from Barack Obama, President of the U.S., to the Sec'y of State (Jan. 23, 2009), available at http://www.whitehouse.gov/the_press_office/MexicoCityPolicy-VoluntaryPopulationPlanning. Secretary of State Hillary Clinton is also a very vocal critic of the policy and has embraced and staunchly defended its rescission. See, e.g., *Clinton Defends Abortion Right Worldwide*, Int'l Planned Parenthood Fed'n, (Apr. 24, 2009), <http://www.ippf.org/en/News/Intl+news/Clinton+defends+abortion+right+worldwide.htm>.

⁴⁹ See Memorandum from Barack Obama, *supra* note 48.

⁵⁰ See HUMAN RIGHTS WATCH, A STATE OF ISOLATION: ACCESS TO ABORTION FOR WOMEN IN IRELAND 10 (2010), available at <http://www.hrw.org/en/reports/2010/01/28/state-isolation-o>; CTR. FOR REPROD. RTS., *supra* note 9, at 2. Only three European countries—Andorra, Malta, and San Marino—have greater restrictions (abortion is prohibited without exception). *Id.* The Parliamentary Assembly of the Council of Europe has urged all Member States to decriminalize abortion. Eur. Parl. Ass. Res. 1607, *supra* note 37.

⁵¹ The circumstances under which a woman can legally procure an abortion in Ireland are thought to be when there is a real and substantial risk to her life. See Amy M. Buckley, *The Primacy of Democracy over Natural Law in Irish Abortion Law: An Examination of the C Case*, 9 DUKE J. COMP. & INT'L L. 275, 279-80, 289 (1998). The Irish government has not provided guidelines or produced any statistics regarding how many legal abortions have actually been permitted in Ireland. Carl O'Brien, *Irish Abortion Laws Defended*, IRISHTIMES.COM, Dec. 9, 2009, <http://www.irishtimes.com/newspaper/breaking/2009/12/09/breaking38.html>.

⁵² Karen Birchard, *Irish Government Widens the Abortion Debate*, 354 LANCET 1010 (Sept. 18, 1999).

⁵³ RTÉ News, *Ireland's Abortion Law Challenged in Europe* (Dec. 9, 2009), <http://www.rte.ie/news/2009/12/09/abortion.html>; see also Offences against the Person Act, 1861, 24 & 25 Vict., c. 100, § 59 (Gr. Brit., Ir.).

⁵⁴ A., B., and C. v. Ireland, App. No. 25579/05, lodged on July 15, 2005. The archived webcast can be viewed at http://www.echr.coe.int/ECHR/EN/Header/Press/Multimedia/Webcasts+of+public+hearings/webcastEN_media?&p_url=20091209-1/en.

⁵⁵ News Release, Int'l Planned Parenthood Fed'n, *Landmark Irish Abortion Case to be Heard by European Court of Human Rights* (Dec. 7, 2009), available at <http://www.ippf.org/en/News/Press-releases>. In the 1980s, England alone provided over 37,000 abortions to women from Ireland, which is about one abortion for every 20 women of child-bearing age, though the true rate may have been higher. Robert A. Pearce, *Abortion and the Right to Life under the Irish Constitution*, 6 J. SOC. WELFARE & FAM. L. 386, 387 (1993).

⁵⁶ Bryan Mercurio, *Abortion in Ireland: An Analysis of the Legal Transformation Resulting from Membership in the European Union*, 11 TUL. J. INT'L & COMP. L. 141, 151-52 (2003).

⁵⁷ HUMAN RIGHTS WATCH, *supra* note 48, at 14 n.24.

⁵⁸ [Máiréad Enright](#), *A, B & C v. Ireland: Where to Now?*, HUMAN RIGHTS IN IRELAND (Dec. 17, 2010), <http://www.humanrights.ie/index.php/2010/12/17/a-b-c-v-ireland-where-to-now/>.

⁵⁹ *A Matter of time on Abortion*, THE IRISH TIMES, Dec. 17, 2010, available at <http://www.irishtimes.com/newspaper/opinion/2010/12/17/1224285736308.html?via=rel>.

⁶⁰ *Id.*

⁶¹ [Enright](#), *supra* note 58.

⁶² *Id.* (noting that the state has two main options, either hold a constitutional referendum, accompanied by implementing legislation, or leave the constitution as is, and pass implementing legislation to fill the gap identified by the Court).