

Abortion Rights Legal Mobilization in the Peruvian Media, 1990–2015

CAMILA GIANELLA

Abstract

State and non-state actors engaged in disputes to expand and limit abortion rights have engaged in legal mobilization—in other words, strategies using rights and law as a central tool for advancing contested political goals. Peru, like other Latin American countries, has experienced an increase in abortion rights legal mobilization in recent years, including litigation before national and international courts. This paper centers on societal legal mobilization, or the legal mobilization that occurs outside the legislative and judicial branches and that includes strategies promoted by the executive branch, political actors, and non-partisan organizations and individuals. It presents an analysis of op-ed articles published in two national newspapers, *El Comercio* and *La República*, between 1990 and 2015. The paper argues that the media is also an arena where legal mobilization takes place and is not just a space influenced by legal mobilization. Rather, the media's agenda operates independently of legal mobilization in the legislature and the courts, and it determines whether certain issues receive coverage and the way these issues are framed.

CAMILA GIANELLA is a postdoctoral fellow in the Department of Comparative Politics, University of Bergen, Norway, and at the Chr. Michelsen Institute, Bergen, Norway.

Please address correspondence to the author at camila.gianella@cmi.no.

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Introduction

Access to legal abortion in Latin America has been highly controversial, with various actors adopting diverse strategies to sway policy agendas and social attitudes on abortion, both in favor of and against abortion rights. These struggles around abortion can be traced back to the 1970s, although the 1990s marked a particularly unique era of abortion rights battles in Latin America.¹ Institutional reforms, such as the adoption of new constitutions in many Latin American countries in the late 1980s and early 1990s, created or strengthened high courts' ability to act independently of other branches of government and made the courts readily accessible to ordinary citizens. These reforms must be understood within a regional context in which the promotion of the rule of law was perceived as a necessary step toward democratization and in which judicial reforms were perceived as central to overall democratic reforms. However, the rule of law was also seen as essential for the adoption of free-market economic policies aimed at strengthening private investment, which led to important international support for judicial reforms in the region. International agencies—including the World Bank, the Inter-American Development Bank, the United Nations Development Program, governmental agencies, and nongovernmental institutions—invested nearly US\$1 billion in judicial reform programs in the decade starting in the mid-1990s.²

In parallel, at the International Conference on Population and Development, which took place in Cairo, Egypt, in 1994, and the World Conference on Women, held in Beijing, China, in 1995, the international community recognized the importance of addressing unsafe abortion and the serious public health risk it represents for women's lives.

Meanwhile, at the regional level, several Latin American countries adopted the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (*Belém do Para*) in 1994 and supported the implementation of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in 1999.

The adoption of these mechanisms and conventions encouraged the implementation of sexual and reproductive health programs across Latin America, as well as measures to reduce maternal deaths. For example, according to CLADEM, over the last 20 years, many Latin American countries have promulgated formal regulations protecting the right to sexual and reproductive health and have included this right in their constitutions.³ However, at the same time, across the region, abortion rights have seen “either limited progress or even reversals.”⁴ Chile, El Salvador, and Nicaragua are among the five countries in the world that prohibit abortion under all circumstances; their abortion bans were introduced in 1989, 1998, and 2006, respectively. Legal abortion upon request during the first 12 weeks of pregnancy is available only in Cuba (since 1965), Mexico (Mexico City only, since 2007), and Uruguay (since 2012). Other Latin American countries allow abortion on some grounds, such as when the pregnancy constitutes a serious risk to the woman's life (this is the case in Argentina, Brazil, Colombia, Honduras, Panama, Paraguay, and Peru), when the pregnancy is the result of sexual abuse (Argentina, Brazil, Bolivia, Colombia, Ecuador, and Panama), and when fetal malformations make life outside the womb impossible (Colombia and Panama; Brazil in the case of anencephaly). Nevertheless, research shows that women in Latin America face barriers when seeking legal abortion services—in other words, real access to legal abortion may be more restricted than what is currently provided for by law.⁵

Actors engaged in efforts to expand or limit abortion rights in the region have used a variety of strategies, legal mobilization being one of the most prominent. By “legal mobilization,” I mean strategies that use rights and the law as central tools for advancing a contested political goal.⁶ Legal mobilization can be used by the state, by political actors outside the government, and by non-partisan organizations and individuals. These actors may use legal mobilization in different spheres: the legislature, the courts, and even outside the state apparatus. In most cases, they use two or more of these spheres at once.

Using Peru as a case study, this article explores “societal legal mobilization,” which refers to legal mobilization outside the legislative and judicial branches.⁷ Like other Latin American countries, Peru has recently experienced an increased use of such legal mobilization in efforts to expand or restrict abortion rights.

To conduct this analysis, and operating under the notion that print media is one of the sites of societal legal mobilization, I reviewed op-eds published in two national newspapers between 1990 and 2015. As some scholars highlight, for social movements, the process of producing and mobilizing meaning on a massive level is crucial because it allows them to get their messages into the mainstream, expand the debate around an issue, and increase their legitimacy.⁸ Social movements involved in the type of societal legal mobilization analyzed here are not merely carriers of ideas and meanings; rather, they are active participants in the production and maintenance of meaning.⁹ This process is what social movement scholars call framing, and it has several core features: (1) it is an active process in the sense that it is dynamic and responds to a certain situation; (2) it is produced by social movements; and (3) it is contentious to the extent that it generates new interpretative frames or challenges existing ones.¹⁰

The media is not a neutral or passive actor easily influenced by social movements. While the media can be a part of social movements, it also has its own agenda that can shape the space and coverage it provides to the different positions presented in sociopolitical struggles.¹¹ For example, with regard to the type of material analyzed here—op-eds written by actors with a stated position on abortion rights—the space and coverage provided by the two newspapers in question reflect these newspapers’ desire to communicate certain positions on abortion rights.

Societal legal mobilization is not isolated from other types of legal mobilization. Scholars have described how legal mobilization in the courts influences public opinion by, for example, increasing the amount of news coverage devoted to a particular issue or affecting the way the issue is framed.¹² Other authors have described how the media is a

site of legal mobilization in its own right—not just a space influenced by legal mobilization—noting, for example, how the number of op-eds and editorials regarding a judicial case may be higher before and after the trial, as well as how social movements may make instrumental use of print media by creating narratives around an issue of interest.¹³ This article is aligned with the second approach, analyzing the media as a site of legal mobilization in its own right, and not just as a space affected by legal mobilization. I argue that the media can determine whether a topic such as abortion receives coverage, independently of the legal mobilization taking place in congress or the courts. Unsafe abortions are a daily occurrence in Peru and do not always receive media coverage. However, when legal mobilization is being waged before congress or the courts, the media is also an arena where these disputes are reflected. I argue that the media not only covers the news but also frames the disputes taking place before the legislative and judicial branches.

The article begins by surveying key events regarding abortion rights legal mobilization in Peru between 1990 and 2015. I chose 1990 as the first year for this timeline in light of two key events that took place around that time: debates regarding the Peruvian Criminal Code in 1990, and the International Conference on Population and Development in Cairo in 1994. I chose 2015 as the ending year due to the availability of data and debates on bills to expand or restrict abortion rights in Peru.

I then explore two particular elements of media coverage around the times of these key events: (1) the number of articles published on abortion in two national newspapers, *El Comercio* and *La República*, and (2) the number of op-eds devoted to abortion in each of these newspapers.

Next, to assess changes in the framing of abortion by the actors involved in societal legal mobilization, I analyze the op-eds published by *El Comercio* and *La República*. My analysis follows an inductive approach and adopts a critical discourse analysis—in other words, it goes beyond a tracing of the sequence of texts and considers the context in which these texts were created.¹⁴

Abortion rights legal mobilization in Peru

Therapeutic abortion to save the lives and protect the health of pregnant women has been legal in Peru since 1924. However, for many years, Peruvian authorities neglected to develop and implement regulations and national-level guidelines for the application of therapeutic abortion, and also failed to train health workers on the procedure. This negligence in relation to abortion's practical accessibility has been challenged before national courts and international bodies (for example, two landmark cases, *KL v. Peru* and *LC v. Peru*, were brought to the United Nations Human Rights Committee and Committee on the Elimination of All Forms of Discrimination against Women, respectively).¹⁵ As a result of such litigation, and following recommendations issued by the Human Rights Committee, Peruvian authorities committed in 2013 to issuing national guidelines on therapeutic abortion. These guidelines were approved in June 2014.

In addition, Peru has seen legislative attempts to both expand and restrict the legal grounds for abortion; some of the most outstanding among these include the debates that took place within the framework of criminal code reforms in 1990–1991 and 2014–2015, and the constitutional debates that took place in 1993 and 2002. Moreover, in 1997, Peru enacted a new health code requiring physicians to report abortion cases, including those of women seeking post-abortion care. During the 2001–2006 legislative term, two bills to expand abortion rights were debated: one in 2001 to expand the grounds of legal abortion to include serious fetal malformations, and one in 2004 to expand the grounds to include sexual violence and eugenics. Meanwhile, in 2001, congress passed Law 27716 incorporating offenses against the unborn into the criminal code. Finally, in 2004, Congress passed Law 27654 establishing a national “Day of the Unborn.”

During the 2006–2011 legislative period, some members of congress presented a bill seeking to regulate therapeutic abortion, abortion in cases of sexual abuse, and eugenic abortion (*aborto eugenésico*). The bill, which was debated in 2008 and 2009, included a list of conditions and a fixed pe-

riod of 90 days during which an abortion could be carried out legally.

During the following legislative period (2011–2016), several legislators presented a bill to decriminalize abortion in cases of sexual abuse (2014 and 2015), while others presented a bill to increase the criminalization of abortion (2015).

Moreover, Peru has seen the presentation of bills regarding issues indirectly related to the provision of abortion. In 2003, a bill was presented to grant humanitarian treatment to women who are detained after having an illegal abortion, and during the 2006–2011 and 2011–2016 legislative periods, three bills to criminalize the advertisement of abortion services were presented.

Debates on abortion rights have also touched on the distribution of modern contraceptive methods, as well as emergency oral contraception (EOC) for victims of sexual violence. Key moments in this regard include 1995, when the Ministry of Health issued Resolution 572-95-SA/DM establishing free family planning services (including surgical contraceptives) in public health facilities; 2001, when the Ministry of Health issued Resolution 399-2001-SA/DM including EOC among the contraceptive methods to be distributed free of charge at public health facilities; 2002, when the Ministry of Health announced that it would not distribute EOC due to doubts regarding whether it is an abortifacient; 2003, when High-Level Commission to Evaluate Emergency Contraception created by the Ministry of Health issued a final decision stating that EOC is not abortive and that its distribution does not violate Peruvian law; 2006, when the Constitutional Court issued Decision 7435-2006-PC/TC ordering the Ministry of Health to distribute EOC, stating that it is not an abortifacient; and 2009, when the Constitutional Court issued Decision 02005-2009-PA/TC banning the distribution of EOC.

Trends in print media coverage: *El Comercio* and *La República*

As mentioned above, I selected two national newspapers for this study: *El Comercio* and *La República*

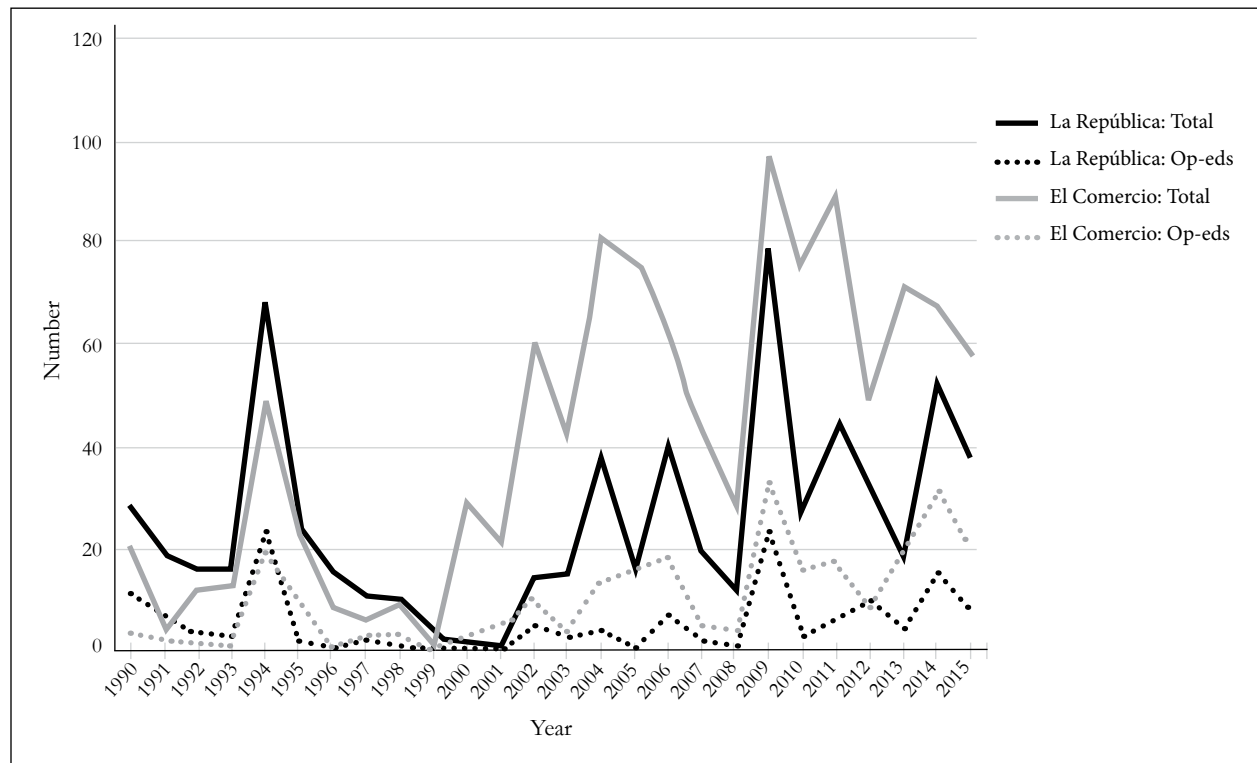
(hereinafter *EC* and *LR*, respectively). My selection of these two newspapers was based on the following criteria: (1) the papers' stability, for both were printed and distributed on a daily basis during the period in question; (2) the papers' reputations as serious, informative newspapers; (3) the fact that neither of these newspapers was controlled by former president Fujimori's regime (such newspapers are referred to as the *chicha* press); (4) the papers' identification with different ideological positions (*EC* is the country's oldest newspaper, with a center-right tradition, and *LR* has been traditionally closer to the left); and (5) until recently (2013), the fact that the two newspapers represented two different conglomerates (*EC* belonged to Grupo El Comercio and *LR* to EPENSA; however, in 2013, Grupo El Comercio acquired 54% of EPENSA).¹⁶

I obtained the articles from two sources: printed newspapers (*LR* 1990–2015 and *EC* 1990–1999) and digital archives (*EC* 2000–2015). I searched for and recorded all articles mentioning abortion. In total, I collected 1,755 articles: 665 from *LR* and 1,090 from *EC*. It is important to note that *EC* is a

longer newspaper in terms of content, which could explain the difference. Of this total, 407 are op-eds (143 from *LR* and 264 from *EC*).

When analyzing the trends in coverage—specifically, determining whether coverage was simply reactive to other types of legal mobilization or, as this article argues, whether coverage also responded to the media's own agenda—I observed that coverage peaks corresponded to some of the key years identified, such as 1994 (Cairo conference), 2003, 2004, 2006 (debates around the distribution of EOC), 2009 (bill seeking to allow abortion in cases of sexual abuse and eugenics), 2011 (*LC v. Peru*), and 2014 (approval of therapeutic abortion guidelines). Interestingly, despite being a smaller newspaper, *LR* provided more coverage to the debates around criminal code reform in 1990–1991, as well as to the Cairo conference, showing the paper's interest in these issues. However, in general terms and with the exception of 1999, *EC* maintained a minimum level of coverage of abortion, showing fewer severe peaks than *LR*, which seems to be more reactive to the legal mobilization taking place

FIGURE 1. Number of articles and op-eds per year and newspaper



in the legislature and judiciary. These differences in trends are even more marked in the op-eds. This could be explained by the fact that *EC* has a section devoted to religion, which regularly dedicates op-eds to the issue of abortion.

Regarding the op-ed positions on abortion rights, I went beyond a mere classification of the positions as either pro-choice or anti-abortion. To classify the op-eds, I adopted an inductive approach, meaning that I read each op-ed and recorded the main topics discussed. This initial analysis allowed me to create six categories and classify each article according to one of these categories (see Table 1). When the op-ed defended a total abortion ban, including the use of EOC or the use of family planning methods on the grounds that they were abortifacients, I classified it as “against all types of abortion and EOC.” Some op-eds addressed the debate on abortion rights but focused on certain aspects, such as family planning methods; when an op-ed was in favor of family planning and did not state a position on abortion, I classified it as “in favor of family planning.” This type of op-ed was more common around the Cairo conference. Similarly, within the debate around EOC, some op-eds defended EOC, highlighting that it was not an abortifacient. When an op-ed defended EOC and did not state a position on abortion, I classified it as “in favor of EOC.” When an op-ed stated that it was in favor of therapeutic abortion but not any other type of abortion, I classified it as “in favor of therapeutic abortion.” Finally, I classified as “neither/informative” any op-ed that did not state a position on abortion, instead addressing the issue from an informative angle, such as by describing debates in congress.

My analysis shows that, overall, *EC* published more op-eds rejecting abortion rights (51.1% of its op-eds were against abortion rights), however, beginning in 2009, it increased its op-eds in support of abortion rights and EOC, and in 2015 it published more op-eds in favor of abortion rights than against. This trend is clearer when analyzing peak moments, such as 1994 (Cairo), 2004 (EOC), and 2014 (therapeutic abortion guidelines). As Table 1 shows, in 1994, of the 19 op-eds published by *EC*, 15 were against abortion rights and four in

favor of family planning without citing a particular position on abortion rights. In 2004, five out of 15 were against abortion rights, and two indicated a clear position for abortion rights. Finally, in 2014, 12 out of 31 op-eds were in favor of abortion rights, five in favor of therapeutic abortion only, and 13 against abortion rights. These numbers show a dramatic change over 20 years toward a greater balance between the different opinions. This evolution could be related to changes in the newspaper’s management, including the removal of Sodalitium Christianae Vitae members (such as Marta Meier and Hugo Guerra, two columnists who wrote against abortion rights) from the editorial board. In the case of *LR*, this newspaper was by and large a platform for those in favor of abortion rights (58.4% of its op-eds were in favor of abortion rights), the distribution of EOC, and family planning policies and modern contraceptive methods in general. In particular, 2009 stands out as a key year, when *LR* published 17 op-eds in favor of abortion rights, out of a total of 23 op-eds.

It is also interesting to note who the expert voices were. During the 1990s, technically skilled elites and members of the feminist movement wrote the majority of the op-eds published by both newspapers. No editorial columns were published in defense of abortion rights, and few regular columnists (such as Rodrigo Montoya from *LR*) wrote in support of abortion rights. During those same years, we can find columns from regular contributors, editorials, and op-eds from politicians written in opposition to abortion rights. This changed dramatically in the mid-2000s, when regular columnists began to write in favor of abortion rights (for example, Mirko Lauer from *LR* and, more prominently, Fernando Vivas from *EC*). A new generation of regular contributors also appeared (such as Gabriela Wiener and Raúl Tola from *LR* and Jenny Llanos and Patricia del Río from *EC*), who began to write in favor of abortion rights.

Particularly notable in the case of *EC* are op-eds written by high-ranking members of the Peruvian Catholic Church (such as Monsignor Luis Bambaren and Monsignor Alberto Brassini), as well as high-ranking members of the Peruvian

Table 1: Number of op-eds by newspaper

	Op-ed tendency														Total	
	Against all types of abortion and EOC		In favor of EOC		Only in favor of therapeutic abortion		In favor of abortion		Neither/informative		In favor of family planning		LR	EC		
	LR	EC	LR	EC	LR	EC	LR	EC	LR	EC	LR	EC	LR	EC		
1990	6	3	0	0	0	0	5	0	0	0	0	0	11	3		
1991	2	2	0	0	0	0	4	0	0	0	0	0	6	2		
1992	1	2	0	0	0	0	2	0	0	0	0	0	3	2		
1993	1	1	0	0	0	0	2	0	0	0	0	0	3	1		
1994	9	15	0	0	0	0	11	0	1	0	2	4	23	19		
1995	1	8	0	0	0	0	0	0	0	0	1	0	2	8		
1996	0	1	0	0	0	0	1	0	0	0	0	0	1	1		
1997	1	3	0	0	0	0	1	0	0	0	0	0	2	3		
1998	0	3	0	0	0	0	0	0	0	0	0	0	0	3		
1999	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
2000	0	1	0	0	0	0	0	0	0	2	0	0	0	3		
2001	0	5	0	0	0	0	0	0	0	0	0	0	0	5		
2002	1	6	0	0	0	0	4	3	0	1	0	0	5	10		
2003	1	2	0	0	0	1	1	1	1	0	0	0	3	4		
2004	0	4	3	4	0	0	1	1	0	5	0	0	4	14		
2005	0	5	0	1	0	0	0	2	0	7	0	0	0	15		
2006	1	2	5	2	0	0	1	5	0	9	0	0	7	18		
2007	0	1	0	0	0	0	1	0	1	4	0	0	2	5		
2008	0	3	1	0	0	0	0	0	0	1	0	0	1	4		
2009	3	18	1	4	1	1	17	9	1	1	0	0	23	33		
2010	0	9	0	1	0	0	0	4	3	2	0	0	3	16		
2011	0	7	0	0	1	0	4	7	1	3	0	0	6	17		
2012	2	6	0	1	0	0	7	2	1	0	0	0	10	9		
2013	0	10	0	0	0	0	4	6	1	2	0	0	5	18		
2014	2	13	0	0	2	5	11	12	0	1	0	0	15	31		
2015	0	5	0	0	0	0	6	12	2	3	0	0	8	20		
Total	31	135	10	13	4	7	83	64	12	41	3	4	143	264		

LR= La República
EC= El Comercio

Catholic Church who were linked with Opus Dei or Sodalitium Christianae Vitae (such as Archbishop Juan Luis Cipriani and Archbishop José Antonio Eguren). Lay members of Opus Dei and Sodalitium Christianae Vitae were also frequent contributors. For example, in 1999, *EC* published five anti-abortion op-eds by Luis Solari.

Framing the topics in dispute

As mentioned earlier, the op-ed writers' positions go beyond a pro-choice/anti-abortion dichotomy. For example, not all of the pieces written in opposition to abortion rights call for harsher penalties; for some authors, women who obtain abortions are victims. For others, however, abortion is an offense that requires punishment:

Instead of promoting abortion, human rights committees should look after the more innocent ones and also women who, many times, opt for abortion while in a state of anguish, without really knowing what it is about.

—Rossana Echeandía, *EC*, April 2, 2013¹⁷

I believe in the need to modify article 120 of the Criminal Code, but not to decriminalize a practice that, I repeat, has been exempt from punishment for many years. Rather, [the practice] should be effectively penalized, which means raising the penalties in accordance with the gravity of the transgression.

—Efraín Vasallo, *EC*, October 17, 2009¹⁸

It would also be a mistake to lump all of those writing in support of access to abortion into the same group. Some writers argue that abortion should be allowed under specific circumstances, while others support more liberal access to abortion:

Furthermore, liberals are being stigmatized as abortion promoters, which is a huge distortion, because nobody promotes abortion but rather its partial decriminalization, allowing women to abort only up to a certain stage of pregnancy and under certain circumstances.

—Fernando Vivas, *EC*, March 11, 2014¹⁹

We cannot talk about safeguarding women's rights unless we also mention their rights to freely exercise their romantic and sexual life; to access the most

effective contraceptive methods; and to decide freely for or against motherhood, including the right to freely abort and in healthy conditions.

—Joseph B. Adolph, *LR*, March 31, 1992²⁰

Framing the right to life

One of the main issues in the abortion dispute centers on the right to life, which is framed within broader societal aims by the different actors involved in abortion legal mobilization. In this way, the disputes on abortion rights also reflect disputes on the understanding of society and societal values. For those against abortion rights, the unborn have absolute rights from the moment of conception. Their position against abortion is framed as a defense of the life of the unborn, which is defined as an independent and vulnerable being:

Fundamentally, we cannot forget that the unborn is another human being, distinct from the mother and not part of the woman's body ... The victim of abortion is not the woman who aborts—because she is the one who decides it—but an innocent human being whose life is eliminated and who in this case is also completely helpless.

—Rafael Rey, *EC*, August 2, 1994²¹

I am an unborn child, the smallest and most fragile member of the Peruvian family. Though I cannot vote, from the moment I was conceived in my mother's womb, I am as Peruvian as that compatriot who is able to do so.

—Archbishop José Antonio Eguren, *EC*, July 2, 2011²²

Positions against abortion rights are framed as protecting basic societal ideals—such as protecting life and the weak—and are embedded in an inaccurate interpretation of constitutional rights, presenting constitutional rights as absolute rights. By presenting constitutional rights as absolute, and the right to life as a superior right, authors denied any venue for weighing up rights, as if constitutional analysis of rights does not allow weighing analysis between competing rights.

The plight of a raped woman is enormous. The question is whether that woman's suffering is above the right of the unborn. I believe that it is not. More-

over, I believe that the Constitution places the right to life above any other. It recognizes the right to life not through a creature's parents but directly for that person, individually, from the moment they were conceived.

—Federico Salazar, LR, October 18, 2009²³

We must say the same about the defense of life and threats to life, such as the crimes of abortion, euthanasia, and experimentation on embryos. Modern science is emphatic and unanimous in stating that human life begins with conception. Therefore, human beings must be respected and treated as persons from the moment of their conception and thereafter must enjoy all their rights as people, mainly the inviolable right to life. This not is a confessional matter, as some say in order to silence the Church, but one of humanity.

—Archbishop José Antonio Eguren, EC, May 25, 2011²⁴

These legal arguments are rooted in what Lemaitre (2012) called Catholic constitutionalism, which lies in the reasoning that there is a universal moral truth, and a universal moral order, which is superior, and accessible to the non-believers “by reason alone.” This universal moral order must guide and be reflected on the interpretation of constitutional rights, and because of its moral superiority cannot be challenged by interpretations (such as weighing) which is against the development of “mainstream constitutionalism.”²⁵ Catholic constitutionalism arguments used by anti-abortion authors like Federico Salazar are rooted in a religious doctrine; for these authors, religious doctrines reflect a universal truth, and therefore are neither dogmatic nor religious.

Catholic constitutionalism arguments do not allow space for other views, such as those of indigenous people, in a multicultural country such as Peru.

But beyond the legal framework, the banning of abortion rights is portrayed as a societal responsibility: society must show its capacity to protect the most vulnerable from murder. “Eugenic abortion” (a term used in the 2009 bill) is regarded as a Nazi-like crime, based on a desire to cleanse society and discharge those considered useless:

International eugenics has come to Peru. Its baggage: to consider that there are “useless” people who

should be killed ... It seems that Herod has arrived, for asking us to become a country in which persons with disabilities are killed before birth is not only Spartan- or Nazi-like eugenics but also an attempt to implement a Herodian policy in our country: to kill innocent people.

—Luis Solari, EC, October 12, 2009²⁶

Abortion is also described as a perversion that goes against family values and therefore society as a whole:

We believe it is urgent to save both the lives of the innocent and the structure of the family, which would be severely battered by a mechanism so destructive of life.

—Manuel Fabrega, EC, July 13, 1990²⁷

While arguments in defense of the right to life from the moment of conception are used constantly in op-eds against abortion and EOC, there is no corresponding core argument similarly used to defend abortion rights. Op-eds defending abortion rights and EOC include arguments that are not necessarily representative of a shared, central idea, sometimes drawing on notions that are still in dispute. One such notion is the definition of “conception,” which is defined by those against abortion and EOC as occurring at the time of fertilization. Advocates of emergency contraception, on the other hand, define conception—and hence the beginning of pregnancy—as the moment when the fertilized egg implants in the uterus. Under this approach, support for contraceptives (which prevent ovulation or prevent the fertilized egg from implanting in the uterus) does not violate the rights of the unborn because there is no unborn to speak of:

At the international level, the World Health Organization and the Ethics Committee of the International Federation of Gynecology and Obstetrics, and in the national context, the Peruvian Society of Obstetrics and Gynecology agree that pregnancy or conception starts with a fertilized egg's implantation in the uterus. Therefore, pregnancy and fertilization are not synonymous. Fertilization occurs before pregnancy, and it is not possible to establish its precise moment of occurrence (up to seven days can pass between coitus and fertilization. Fertilization leaves no medical trace). The legal field does

not discuss when life begins. This debate is perhaps a task for philosophers. The law establishes that life begins with conception—in other words, with pregnancy. —Juan Antonio Ugarte, EC, April 14, 2004²⁸

At the same time, this dispute has been framed as independent from discussions on abortion rights, with one of the main arguments being that EOC is not an abortifacient:

By conviction, I must say that I am against abortion. I hope I never have to deal with a case of this kind in my personal environment, as I believe it is essential to defend human life. However, as a liberal citizen, I also believe in the importance of building an open society on the basis of tolerance, respect, and non-discrimination. Because of this, and because it has been shown from a scientific and legal perspective that the morning-after pill is not abortive, I agree with its mass distribution.

—Hugo Guerra, EC, June 19, 2004²⁹

However, the right to life has also been at the core of abortion rights arguments and has been linked to societal values. In these cases, the focus is on the woman, for embryos are seen as dependent on women's lives. This dependent relationship places women in a special vulnerable situation:

I refuse to think of women as mere beings with uteruses and eggs who may become pregnant by any method, to give birth nine months later. I refuse to accept that there is some type of miracle in submitting a human being to such damage. Seriously, I refuse to believe that there is a right to snatch away our lives like this, using life as an argument.

—Patricia del Río, EC, May 30, 2013³⁰

There is a predominant narrative of abortion as something difficult and dramatic—a last resort where women have few options. It is within this setting that society must be sensitive and respectful of women's autonomy to decide:

I ask you, medical doctor, to put yourself—with a bit of sensitivity, of course—in the place of a woman who aborts, who I'm sure never wanted to go through the experience of removing a piece of possible life from her uterus—a frustrating, painful, and risky situation for life in this country.

—Patricia Córdova, LR, August 8, 1994³¹

It must be stated clearly that abortion is an extremely traumatic and painful solution that in no way can be thought of as a regular method of contraception. It is a very difficult decision that no one wishes to face but which corresponds to the most intimate sphere of each individual.

—Raúl Tola, LR, March 12, 2011³²

For many of those in favor of expanding the grounds for legal abortion, the criminalization of abortion disproportionately affects the most vulnerable women—those who are unable to pay for safe abortion—and this group includes women and girls who are victims of sexual abuse. Unsafe abortions and unwanted pregnancies are portrayed as urgent public health problems. Expanding the grounds for abortion is therefore a social justice measure because it allows those in need to have access to safe abortion. This line of argument is closely related to legal mobilization in the legislative and judicial branches that seeks to guarantee access to EOC.

The saddest thing is that many unwanted pregnancies lead many women to such desperation that they will abort anyway, regardless of the legal status of abortion (let's not forget that 360,000 Peruvian women choose this option each year). The only difference will be that if abortion continues to be criminalized, the quality of an unsupervised procedure will depend on the price paid and one's social position. Poor and isolated women will face a real risk of dying. So, as a matter of public health, decriminalization (nobody proposes "legalizing" it and much less promoting it, because nobody celebrates abortion) is a humanitarian measure to prevent some women from dying unnecessarily, but it will not increase abortions (there is no precedent for such an increase). For this reason, advanced democracies have adopted it as a basic service in a civilized society.

—Carlos Cáceres, EC, October 21, 2009³³

With this, the state and its citizens have the opportunity to address a serious problem in our society, a difficult and harmful reality before which we cannot simply cover our eyes or entrench ourselves in moral prejudices or religious beliefs in order to ignore it. Our country is home to South America's highest rate of reported rapes. According to the Ministry of Women and Vulnerable Populations, in 2010, 34%

of girls and adolescent women between 10 and 19 years of age who were treated in emergency centers for sexual assault were pregnant as a result. For the Ministry of Health's General Directorate of Epidemiology (Minsa), unsafe abortion is one of the main direct causes (29%) of maternal deaths among adolescents. Opponents to the proposal have tried to distort the debate by claiming that these statistics are inaccurate.

—Veronika Mendoza, EC, April 23, 2015³⁴

(Un)dogmatization of abortion legal mobilization

Interestingly, actors against and in favor of abortion rights regularly present their positions as neither dogmatic nor ideologically oriented. Rather, they describe them as “objective.” This perception can be seen in the references to scientific evidence and the law:

[D]octor Guzmán says that pregnancy begins with implantation; this statement is inaccurate. From a scientific point of view, human life begins with fertilization or conception (the union of the egg and the sperm), and from that moment all the genetic information of the new being (DNA with 46 chromosomes) is present; this is recognized in all modern medical embryology books (Moore 2008, Sadler 2006, O'Rahilly 2001, Larsen 1998). Furthermore, it is now known that the embryo, in its early hours (and prior to implantation), produces different hormones (HcG, IL-1a, IL-1β), which help it implant into the maternal endometrium (Lindhard 2002, Licht 2001, Wolf 2001). Therefore, it can be said that pregnancy (as a state of the gestational mother) also begins with fertilization.

—Germán Alvarado, EC, March 26, 2010³⁵

[Life is] neither a religious dogma nor a metaphysical moral. Life is a human right. What do I mean? It is the most important right. Transgressing this right leaves all others very fragile, and it damages both those who violate it and the society that promotes it.

—Rossana Echeandía, EC, April 16, 2013³⁶

Another absence was the regulation of therapeutic abortion, legally established in the Criminal Code since 1924. It refers to an abortion, consented by the pregnant woman, in order to save the woman's life or avoid serious and permanent damage to her health. After 88 years, we are still waiting for this norm's regulation so that it can be applied in very

specific cases and in defense of the mother's life or to prevent a serious and permanent disability.

—Javier Diez Canseco, LR, March 26, 2012³⁷

The use of scientific evidence relies on the idea of scientific neutrality. Besides the questionability of this assumption, the acceptance of scientific evidence is not linked to the use of a scientific method. There is not a systematic approach to the evidence. Authors choose the facts that support their positions, ignoring those facts that could question or that are opposed to their statements. For example, the quote from Rossana Echeandía published in EC on April 16, 2013 refers to human rights but explicitly ignores relevant evidence such as jurisprudence from the Inter American Court of Human Rights. This includes the 2012 decision on *Artavia Murillo et al* (“In vitro fertilization”) *v. Costa Rica*, where the court recognized the adequate balance between competing rights and interests and said “the absolute protection of the embryo cannot be alleged, annulling other rights.”³⁸

These efforts to influence the public opinion show how active the op-ed authors are on the legal mobilization and the central role played by the media on the disputes on abortion rights in Peru. The dispute is also clear when authors discredit their opponents, portraying the opposing arguments as dogmatic, biased, or uninformed:

Then I asked for the figures on infected abortions, since those of us who have worked in health services know the main cause of why a criminal abortion would end up in a hospital. The figure was 2,114. Have you read this clearly? If we applied the same one-out-of-every-five criterion used by the aforementioned “study,” the number of criminal abortions would be 10,570, vastly less than the 271,150 cited by the “study.”

Why lie to inflate the figures of criminal abortion? Obviously, this is in order to later say that we should decriminalize abortion and offer it under “safe conditions.” That's a message quite removed from and opposed to our legal system, which inherently rejects the death of the defenseless, an essential characteristic for a culture based on the protection, promotion, and defense of human rights. —Luis Solari, EC, March 26, 2009³⁹

The debate on the decriminalization of certain types of abortion suffers from acute distortion due to ideological-religious fundamentalism that obstructs rational argument. But the truth is that beyond our narrow limits, at the level of the international community, abortion in cases of rape, danger to the pregnant woman's life, or congenital defects and serious neuropathies that make life unfeasible for the conceived one is absolutely not a matter of religious confession but of public health and the fundamental rights of women.

—Ronald Gamarra, LR, October 16, 2009⁴⁰

Relationship between judicial, legislative, and societal legal mobilization

This analysis of the content in the op-eds concurs with my earlier quantitative analysis: there is a relation between, on the one hand, legal mobilization in the courts and legislature and, on the other, legal mobilization in the print media. However, the relationship is not a linear causal one where legal mobilization in the judiciary and legislature is the independent variable, while the legal mobilization in the op-eds is the dependent one. A closer analysis reveals two main ways in which this relation is expressed.

The first one is a reactive relation: op-eds refer directly to the legal mobilization taking place in the courts and congress, but not merely to describe what is happening. Rather, this reactive stance presents and defends a position:

The proposed reform to the Criminal Code, drafted by a review committee and sent to the executive, includes the crime of abortion, which cannot be criticized because it is the conscious and voluntary action of depriving life from the product of pregnancy.

—César Fernández, LR, December 11, 1990⁴¹

For the last few weeks, there have been clamors against abortion as part of a hard and ongoing campaign, but what is strange is that there is not a single abortionist project in Peru; the defenders of the decriminalization of abortion do not have sufficient force to impose their reasoning ... They respond that the threat exists and is called THE

CAIRO CONFERENCE. It is said that the conference's preliminary document seeks to impose the legalization of abortion around the world. Those who have read the preparatory document know that this is false.

—Ignacio Sánchez, LR, September 7, 1994⁴²

One of the main issues at congressional discussions on constitutional reform is the article on the right to life. The proposal to create a possible exception to this fundamental right has caused some anxiety, because abortion—or the termination of pregnancy, which is the same thing—transgresses this primordial right.

—Jaime Millas, EC, December 31, 2002⁴³

The second relation is an interpretative one: op-eds use international and national legal mobilization as part of their argumentation, and they seek to achieve the (un)dogmatization of the legal mobilization described above.

This time, the Constitutional Court has acted accordingly, with a democratic and technical debate. This ruling is historical and has, in my opinion, direct consequences for the next congressional debate on abortion. If the distribution of the morning after pill is forbidden because of its abortive potential, isn't this all the more reason to make unconstitutional the failure to criminally punish the practice of abortion, as is unfairly sought by proposed legislation?

—José Chávez, EC, October 29, 2009⁴⁴

K.L. and L.C., two Peruvian citizens who litigated and won against the Peruvian state in international human rights courts, survived the state's refusal of a therapeutic abortion, but with serious damage to their health. K.L. and L.C. are still waiting for justice, and we hope for them and for women today who are going through similar circumstances that times will change and that their lives will really matter to our country's authorities.

—Rossina Guerrero, EC, March 11, 2014⁴⁵

Cases in the courts, as well as debates in the executive and legislative branches, are also contested by the op-eds. In this way, the op-eds are a space for contestation, revealing the linkages between the different types of legal mobilization:

It's clear that those judges who are forcing women to risk their lives by having an [illegal] abortion or to have children they don't want would buy Levonorgestrel for their daughters or lovers in less time than it takes the sperm to reach the egg, ensuring that the cervical mucus thickens and inhibits ovulation. But when they refer to poverty-stricken women, may they get pregnant!

—Jorge Bruce, LR, October 24, 2009⁴⁶

What Minister Midori de Habich calls "uterine contents" in her protocol for "therapeutic" abortion has another name, one that does not lie about what it really is: a human being with rights expressly stated in the Peruvian Political Constitution that she and all Humala government members are obligated to respect and enforce.

—Rossana Echeandía, EC, July 8, 2014⁴⁷

Conclusion

This article aimed to assess the extent to which print media is a site of societal legal mobilization. My analysis shows, in line with previous studies, that the media has an agenda and that in the case of abortion legal mobilization, this agenda influences the coverage allocated to the topic, as well as the space given to different positions. However, this agenda is not immune to change. In Peru, both *El Comercio* and *La República* have gradually given more space to positions supporting abortion rights.

Based on this analysis, it is possible to conclude that these two newspapers have served as sites of societal legal mobilization. Op-eds have been written not only to describe legal mobilization in congress and the courts; sometimes, they are used to frame abortion legal mobilization in general, without the need for debates in the legislature or judiciary. This is especially clear in the case of *EC*. However, even when the op-eds refer to legal mobilization in the legislature or judiciary, they are used to frame debates, to contest or support positions, to influence public opinion, and to influence legal mobilization taking place in the legislature or judiciary. Former ministries of health, Catholic Church authorities, and congressional representatives have written op-eds supporting or challenging decisions

made by the executive, congress, and the courts regarding abortion rights in Peru.

Framing is a central element of the strategy deployed by different actors. Societal values and aims are repeatedly brought to the debate. Interestingly, this analysis shows that actors with opposing views quote some of the same phrases, but with different angles. This reveals a type of legal mobilization around the framing of key concepts, such as the definition of conception (fertilization versus implantation), autonomy (embryo autonomy versus women's autonomy to decide), vulnerability (vulnerability of the fertilized egg/embryo versus that of women), and the social responsibility to protect (protection of the fertilized egg/embryo versus that of women, especially poor women and victims of sexual violence).

An especially noteworthy feature of the analyzed material is authors' continuous attempts to present their positions as neutral and objective, when in fact abortion legal mobilization addresses broader debates around societal aims and values, including understandings of equity, social justice, women's role in society, and women's rights. Abortion rights legal mobilization involves far more complex positions and debates than those simply for and against abortion rights, or those around when life starts. The law and scientific evidence are frequently used to avoid more philosophical and moral questions. This finding is in line with previous studies showing a strategic use of facts to present one's position as a representation of reality or the truth.¹⁴ In the case of the topic analyzed here, which entails a debate on women's autonomy, the analysis shows a preference for facts and an almost nonexistent debate over issues related to women's autonomy. This is a worrying finding because it demonstrates an extremely positivist approach, in which law and science are seen as the only valid sources of information. In a country such as Peru, with a significant indigenous population, indigenous knowledge and understandings of abortion are not present in the debates, as if they were not valid sources of information.

One of the main limitations of this study is

that it does not provide an analysis of regional-level trends and debates. Because of the methodology selected and the availability of sources, it was not possible to perform such an analysis. However, my methodology, which involved the review of printed newspapers, allowed for an analysis of trends in Peru over a 25-year period, which would not be possible using online archives alone. A web-based search method would not cover this period of time. Covering a 25-year period is not an arbitrary decision: legal mobilization is a dynamic process in which actors deploy different strategies. Therefore, examining a 25-year period allows for a comprehensive analysis and description of dynamics, which in turn provides a better understanding of legal mobilization's effects.

Using a qualitative approach also provides the opportunity to analyze and describe how arguments change over time, and consequently gives a better understanding of how litigation could shape the framing of the topic. This would not be possible with a quantitative analysis of trends.

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