

Legal, Social and Medical Aspects of Assisted Reproduction in Mexico: A Legislative Challenge

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Received: February 24, 2025; **Published:** February 28, 2025

To the medical community some reflections

In Mexico, the lack of clear and specific legislation on assisted reproduction techniques has generated a scenario of vulnerability for both health professionals and patients. This legal vacuum not only leaves those who resort to these procedures unprotected, but also opens the door to arbitrary interpretations that can lead to abuse, unjustified restrictions and violations of fundamental rights of professional practice. As a consequence, health professionals dedicated to human reproduction, civil and criminal procedure codes on the use of gametes and embryos, and even users of these techniques, face uncertainty about medical or legal assistance and the constant risk of being affected by discretionary decisions, without legal support due to the lack of legislation on procedures based on the "lex arte" of medical activity, considering the autonomy and human rights of patients in their decisions as they are limited by a solid regulatory framework; There are situations that seriously violate the rights to health and reproduction, according to Article 4 of the Political Constitution of the United Mexican States, which establishes that "every person has the right to decide freely, responsibly and in an informed manner about the number and spacing of their children". Some human reproduction centers have been affected with sanctions, including their closure, for violating this constitutional principle, depriving numerous couples of the possibility of exercising their fundamental human and voluntary right to form a family. This action not only affects the well-being of the family but also society itself and emotionally impacts access to assisted reproduction techniques, imposing unfair barriers in an area as intimate and transcendental as the integration of a family through motherhood and fatherhood, violating the right to integrity and security of the doctor-patient relationship and, in some cases, violating the principle of patient confidentiality and affecting the reputation of medical staff. by reviewing confidential files and documents without a specific order, or following the appropriate protocols, violating the confidentiality and privacy of medical information, protected by the general health law and, as a consequence, violating the right to work and decent working conditions; including suspension of workers, depriving them of their livelihood and job stability.

This action not only impacts their income, but also compromises the well-being of their families, with uncertainty and precariousness; as a "domino effect"; it violates the right to decent work enshrined in article 123 of the political constitution of the United Mexican states, which guarantees fair and equitable conditions for all workers. The lack of a legitimate justification for these events shows an abuse of

labor rights, leaving these people in a vulnerable situation. This should not be mentioned at present, what is serious is the right to the presumption of innocence and due process; in some situations, gaps in procedural conditions cause injustice and inefficiency; some health professionals are subject to arrest warrants based on unfounded complaints related to misinterpretation in some controversial clinical cases; the deficiency in the interpretation of the judging actors as plaintiffs, execute irregular judicial procedures that violate the right to the presumption of innocence and due legal process; forcing doctors, fearing being judged unfairly, to take measures to protect their rights, reputation and honour; in the words of Gustave Le Bon, he observes how public opinion, driven more by emotion than by reason, can be easily manipulated, generating collective judgments lacking solid foundations. This dynamic has been evident in cases of daily medical practice, mainly in the reproductive aspects of women, where both health personnel and workplaces are the subject of a defamation campaign on social networks, television and radio, without concrete evidence being presented to support the accusations, which affect the professional, psychosocial, moral reputation and well-being of the doctor, as well as his credibility and career; few have died from such causes, damaging their family and environment.

In a context where collective perception weighs more than the facts, the lack of regulation and protection against these attacks leaves us exposed to injustice and stigmatization; by cutting the Hippocratic oath, it creates frustration when seeing how the fundamental principles of our profession have been trampled on. What we swore to protect is now threatened by indifference and lack of regulation. This makes one think of the right to the protection of embryos and gametes; as a right that, in Mexico, has been ignored with devastating consequences. The absence of a clear legal framework has allowed reproduction centers, when these events occur, to put the viability of eggs, gametes and embryos at serious risk; which represent the hope of families who have placed their trust in science to fulfill their dream of being parents. This lack of protection not only violates their reproductive rights, it also threatens the integrity of the embryos, which were exposed to negligence and uncertainty. It is unacceptable that in places where the right to life and family is recognized, thousands of embryos are allowed to be treated as mere objects, victims of decisions without scientific or ethical support; where our professional ethics and morality are limited when our vocation requires us to save life in all its forms. The lack of regulation is not just an omission; it is a sentence of lack of protection for those who depend most on our responsibility and commitment. Rights in assisted reproduction urgently and unavoidably require that the Mexican State, at all levels of government, assume its responsibility and act firmly and decisively to fill the legal loopholes that have allowed abuses and injustices in the field of assisted reproduction. The three branches of government cannot remain indifferent to a problem that profoundly affects human rights, reproductive health and the dignity of thousands of families. It is imperative that comprehensive legislation be developed and enacted to clearly regulate assisted reproduction techniques, guaranteeing not only equal access to these procedures, but also legal security for patients and health professionals. This legislation must establish solid protections for reproductive rights, define strict protocols for the management, conservation and safeguarding of genetic material, and specify with absolute transparency the responsibilities and powers of regulatory authorities. Legislative inaction not only perpetuates uncertainty and lack of protection, but also opens the door to arbitrary decisions that put the integrity of patients and embryos at risk. We cannot allow scientific progress in this field to continue to be at the mercy of subjective interpretations or regulatory gaps. It is time for the State to guarantee a fair, clear legal framework in accordance with the principles of dignity, freedom and human rights. Furthermore, it is crucial that medical societies and human rights organizations speak out in defense of these techniques and actively work to create official Mexican standards with guidelines that ensure ethical and safe practices in the field of assisted reproduction. We cannot allow economic or personal interests to prevail over the well-being and rights of those who seek these reproductive techniques in the hope of forming a family. The lack of specific legislation on assisted reproduction techniques in Mexico has created a worrying legal vacuum, leaving both patients and health professionals in uncertainty. This legislative omission not only encourages abuse and bad practices, but also prevents the effective protection of reproductive rights and the safety of genetic material.

In order to address this problem in a comprehensive manner, it is essential to enact a general law on assisted reproduction, which establishes clear principles, rights and obligations for all parties involved, doctors, civil society, patients, governments. This law must contemplate:

- Creation of a national registry of embryos and gametes, guaranteeing the traceability, safekeeping and protection of genetic material, avoiding its misuse or loss.
- Strict safety protocols in laboratories, ensuring the proper handling of embryos and gametes under international standards of bioethics and good clinical practices.
- Standardized forms of informed consent, so that patients make free, informed decisions with full awareness of the procedures they undergo.
- Guarantee of confidentiality and protection of personal data, safeguarding the privacy of patients and avoiding unauthorized use of their information.
- Rigorous supervision and certification of assisted reproduction centers, through mandatory licensing and periodic audits, ensuring that they comply with established regulations and operate under quality standards.
- Development of educational and ongoing training programs for health professionals, with the aim of updating knowledge and improving care in this area.
- Public awareness campaigns on assisted reproduction techniques, promoting accurate information and combating myths and prejudices that affect the social perception of these techniques.
- Promotion of scientific research in the field of assisted reproduction, allowing for medical and technological advances that optimize available treatments.
- Creation of specialized conflict resolution mechanisms, ensuring that any controversy arising from these procedures is handled by experts in the field with an appropriate ethical and legal approach. The regulation of assisted reproduction cannot continue to be postponed. A solid and updated legal framework is essential to guarantee an ethical, safe and accessible practice. It must protect the rights of those seeking to start a family and strengthen the responsibility of health professionals in Mexico.

It is important to remember that Le Bon stresses the importance of the jury focusing on the concrete facts of each case, to counteract the tendency of the masses to form emotional and uninformed judgments. Likewise, it is urgent to establish a legal framework that serves as a guarantee of justice and balance in the field of assisted reproduction, ensuring that decisions in this field are based on scientific evidence and ethical principles, and not on distorted perceptions or external pressures. It is time to act with responsibility and commitment, building clear, fair and protective legislation that provides certainty, security and hope to all those who have placed their faith in assisted reproduction to fulfill the dream of forming a family.

Volume 14 Issue 3 March 2025

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