

# **THE INFLUENCE OF THE CONSTITUTIONAL PROVISIONS IN ESTABLISHING THE LEGAL STATUS OF ABORTION. VIEW IN COMPARATIVE LAW.**

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## **Abstract**

*The abortion problem has been a constant issue along the development of the human society. Through the history, the different views on the status of the unborn children were often unclear, generating discrepant situations. Trying to find the best solution, the modern human beings should, among other things, return to the analysis of Constitutions. That is because here, directly or indirectly, he should find an answer. In many countries, Constitutions don't have any provision referring to the status of the fetus. Also, many international documents relating to human rights don't have such references. In these situations it is the duty of law specialists to correctly interpret the meaning of the constitutional provisions. In some countries, though, the Constitutions directly establish some rights of the fetuses. In other countries, the constitutional articles have been interpreted as denying any right of the unborn children. Confronting this juridical situation, we have to choose the best solution, in order to achieve a balance between all the divergent interests concerning the abortion issue.*

**Keywords: abortion, constitution, fetus, right to life.**

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The abortion issue is one of the most controversial of all times. People fought in favor or against abortion, and some of them even changed their opinion, adopting the opposite solution. Often, politician's view towards abortion has a major influence in the election process. It is likely that the great majority of people already have an opinion about abortion, being pro-abortion or pro-choice. Faced with this reality, we question why has the abortion issue mustered so much energy?

The answer may be the fact that abortion problems reveal essential aspects of human existence. Thus, when someone declares himself as being pro-abortion or against abortion, he actually manifests an opinion regarding people's right to decide the fate of a developing life, that is the life of the fetus. We think it is significant that, many times, the opinions don't have an absolute value. Many of the pro-abortion followers believe that abortion should not be allowed in certain circumstances<sup>2</sup>. Those who declare themselves as pro-life accept that abortion must be permitted in some cases<sup>3</sup>. Scientific research could not bring too much help, because there has not been established beyond any doubt that what we shyly call *life* begins at a certain point of the fetal development. This means that our incertitude towards abortion is actually a proof of our own limits.

That is why we hesitate in giving an answer to the question: the abortion should or should not be allowed?

Trying to find an answer, people have often relied on external elements, because their own conscience could not offer enough support. Many of them tried to find the answer in a certain religion, especially because religions tend to have a well-configured image on abortion. This can provide solution at the individual level, which means that a certain person can be convinced that his religion comprises the right answer. But the main issue towards abortion is that solutions must be found at a general level, because states must adopt legislations in refer to abortion. As states are generally no longer under the direct influence of religion<sup>4</sup>, the base for the legal status of abortion must be found elsewhere.

We think that a solid ground for building a correct regulation of abortion might be the Constitutional provisions. The purpose of the Constitutions, apart from establishing the general rules of a state's well-functioning, is to offer guiding lines for regulating all the aspect of the society. In order to achieve this goal, Constitutions can and must be interpreted. We believe that the role of the Constitutional Courts is exactly to interpret Constitutional texts and to maintain internal legislation in accord with Constitution.

As regards the abortion issue, we found that few Constitutions expressly refer to the fetus. We agree that it would be almost impossibly for a Constitution to directly affirm that a fetus doesn't have the right to life, because Constitutions mainly establish rights and settle principles. When a certain right is not stipulated expressly in a Constitution, this may be interpreted as denying that specific right, but also this may achieve other senses. Thus, if a Constitution doesn't expressly

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<sup>2</sup> For instance, if the pregnancy has already reached an advanced stage.

<sup>3</sup> For instance, when abortion is necessary because it is the only mean to save the mother's life.

<sup>4</sup> For an opposite situation, see states in Latin America.

establish that the fetus has the right to life, this can be interpreted as denying the right to life of the unborn child, but can also mean that a fetus has the same right to life as any other person. The real issue would be then to establish whether the fetus is actually a person. We conclude here that, in lack of an express provision regarding the status of the fetus, the interpretation of a Constitution may vary, depending on the interest of the interpreter.

We notice that there are some issues related to abortion, which, once included in the Constitution, may lead to conclusions regarding the status of abortion. For example, if a Constitution stipulates the citizens' rights to decide upon reproduction, this can mean that the citizens' have the right to choose an abortion.

In the present paper we will analyse the Constitutional provisions of certain countries that refer, directly or indirectly, to abortion. We will also analyse the way in which the Constitutional texts have been interpreted, in order to find viable solutions to the real-life problems that abortion pose. We will mainly underline the provisions that establish the right to life of the fetus and those which deny that right.

*Germany* is one of the countries that admit, on Constitutional grounds, that fetus has a right to life. The Constitutional Court of Federal Germany, on 25 February 1975, pronounced a decision that can be considered contrary to the decision ruled by the Supreme Court of the United States of America in the case *Roe vs. Wade*. The German Court decides that abortion violates the Constitutional provisions regarding the right to life. Thus, it states the fetus has the same right to life as any person has. Following this idea, the Court affirms that, in order to ensure the right to life, the state is obliged to protect life, even before birth, abortion being equivalent to murder<sup>5</sup>. The Court also considers that the right to life of the fetus has priority over the woman's right to self-determination. Furthermore, the Court establishes that the state must mainly *prevent* the induction of an abortion<sup>6</sup>. This means that the accent is not on the sanction, but on prevention. This is why, now, the German legislation stipulates that a woman must wait three days before undergoing an abortion procedure.

This decision of the West-German Constitutional Court may surprise, because, at the time it was ruled, the international context had known a liberalization of abortion. Still, there is a strong reason for such an attitude. Marked by the recent past of the Nazi Germany, when the basic human rights had been violently denied, the Germans tried to counteract the horrible things done by the

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<sup>5</sup> Douwe Korff, *The right to life. A guide to the implementation of Article 2 of the European Convention on Human Rights*, *Human rights handbooks*, No. 8, Council of Europe, 2006, <http://www.echr.coe.int/NR/rdonlyres/16D05FDF-4831-47EC-AE6D-A2C760B0B630/0/DG2ENHRHAND082006.pdf>, (03.11. 2011). See also article 2, paragraph 2. 1 from the *Constitution of Germany*, <http://www.iuscomp.org/gla/statutes/GG.htm#1>, (3.05.2012).

<sup>6</sup> The Decision of the Constitutional Court of Federal Germany, from 25<sup>th</sup> February 1975, available in German at <http://www.servat.unibe.ch/dfr/bv039001.html>, (10. 05.2012). Translation in Romanian by Andra Iftimiei.

Nazis, showing that they value the life of every human being. The abolition of the death penalty is also an expression of this thinking<sup>7</sup>.

In order to respect the Constitutional Court's decision, West Germany adopted a legislation which allowed abortion in the first twelve weeks of pregnancy, in certain conditions. These conditions proved to be permissive, which means that West Germany was concerned mainly about the official view on abortion and did not actually mean to prohibit abortion. Thus, abortion was allowed on medical grounds, when the pregnancy was the result of a rape, and also on social and gravely personal reasons. The procedure required the permission given by two medics. In addition, the woman had to receive counseling, with at least with three days before the abortion procedure. The time between counseling and the abortion procedure was necessary for woman to reflect on her decision to do an abortion<sup>8</sup>.

The reunification of West Germany and East Germany imposed a unification of their legislations, including the abortion legislation. In 1992, a first law on this issue allowed abortion on simple request, in the first twelve weeks of pregnancy, the woman being obliged to receive counseling and to wait three days before the abortion procedure. Thus, in 1993, The Constitutional Court of Germany, constant with the decisions of the Constitutional Court of former West Germany, declared that this law violated the constitutional right to life of the fetus. The Court also suggested that it would be allowed not to punish abortion, in the first twelve weeks of pregnancy. Again, the accent is posed on the principles, not on the accurate implementation of these principles. It also states that the counseling is compulsory and that the people who offer counseling had to try to convince the woman to keep the pregnancy. In 1995, The Bundestag adopted a new abortion law, respecting the Constitutional Court's decision<sup>9</sup>.

*Ireland* is another country which acknowledges the right to life of the fetus. Here, abortion is still regulated by The Offences Against the Person Act, in force since 1861. According to this law, abortion is forbidden, and the punishment is life imprisonment.

In 1973, The Supreme Court of Ireland acknowledged that a married couple may have a right to use contraceptive methods. This decision is grounded on the right to intimacy that a married couple has, as established by the article 41 in the Ireland Constitution. This right to intimacy is considered to refer also to the right to family planning, which necessary implies the use of contraception. The Court affirms that the state may interfere in couple's intimate life only in special circumstances, for example when population level would drop. Except these situations, the Court states that the use of contraception by a married woman doesn't affect the general welfare of the society, or the moral standard of behavior. This, especially when a pregnancy would endanger the woman's life. For these

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<sup>7</sup> The *Constitution of Germany*, available at <http://www.iuscomp.org/gla/statutes /GG.htm> #1, (3.05.2012).

<sup>8</sup> \*\*\* *Abortion Policies: A Global Review*, United Nation's study on abortion, available at <http://www.un.org/esa/population/publications/abortion/profiles.htm> , p. 25 (3.05.2012).

<sup>9</sup> Ibidem, pp. 25-27.

reasons, the Court allows the importation of contraceptive medication<sup>10</sup>. In 1979, The Health (Family Planning ) Act<sup>11</sup> regulates the marketing of contraceptives, which would be sold only by medical prescription, for family planning purpose or for other medical reason.

In spite of the international context of abortion liberalization, Ireland hardens its rigid legislation. In 1983, as a result of a referendum, the Constitution of Ireland is amended, and abortion is prohibited in an express manner. The main reason for the revision of the Constitution was that pro-life activists feared that a decision similar to that ruled in the case Roe vs. Wade could occur, and overturn the prohibition of abortion. The Irish Constitution now states, through the VIII Amendment, that the fetus has a right to life from the conception, and that the Irish state must ensure the achievement of this right. However, this amendment was ambiguous and susceptible to interpretations. Furthermore, the Constitution of Ireland also guarantees the right to life of the pregnant woman, as it guarantees the right to life of every person<sup>12</sup>. As a result, at some point, a conflict between the life of the fetus and the life of the pregnant woman emerges.

Such a conflict occurred in 1992, in the case known as “Case X”. Here, the pregnancy was the result of a rape, and the fourteen years old pregnant woman threatened to commit suicide unless she would be allowed to do an abortion. The pregnant woman and her family wanted to travel to another country, in order to do an abortion procedure. At first, Irish Courts refused to allow her to do an abortion in other country. But the Irish Supreme Court decided that, when her life is endangered because of the pregnancy, a woman has the right to travel to another country and to undergo an abortion procedure<sup>13</sup>. Such a solution was possible because the Constitution of Ireland also guarantees the life of the pregnant woman. This was also valid when the pregnant woman threatened to commit suicide. Still, this rule referred only to cases when the life, not when only health, was endangered.

As a result of the Supreme Court’s decision, Irish Constitution was again revised. As a result of a referendum, the XIII and XIV Amendments had been adopted. Now, the Constitution of Ireland stipulates that the pregnant woman has the right to travel abroad in order to do an abortion, and also the right to have access to information regarding the legal status of abortion in other countries<sup>14</sup>.

Another state that expressly establishes the right to life of the fetus in its Constitution is *El Salvador*. Here, since 1997, abortion is forbidden in all circumstances, even when a doctor considers that abortion is necessary to save the

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<sup>10</sup> The Decizion of the Supreme Court of Ireland, ruled in the case McGee v. A.G & Anor , from 1973, available at <http://www.bailii.org/ie/cases/IESC/1973/2.html> (5.01.2010).

<sup>11</sup> Health (Family Planning) Act, 1979, available at <http://www.irishstatutebook.ie/1979/en/act/pub/0020/print.html>, (5.01.2010).

<sup>12</sup> [http://www.irishstatutebook.ie/1983/en/act/cam/0008/gen\\_1.html](http://www.irishstatutebook.ie/1983/en/act/cam/0008/gen_1.html), (4.01.2010).

<sup>13</sup> *Constitution of Ireland* , available at <http://www.constitution.ie/reports/ConstitutionofIreland.pdf> (10.05.2012).

<sup>14</sup> \*\*\* *Abortion Policies: A Global Review*, op. cit., pp. 68-70.

mother's life. The government of El Salvador reaffirmed its anti-abortion policy on many occasions<sup>15</sup>.

The Constitution of *Guatemala* also provides that life is protected from the conception<sup>16</sup>. Also, the Constitution of Guatemala establishes that citizens have the right to freely decide the number of the children and the moment of their conception<sup>17</sup>. On the one hand, such a provision suggests that, in fact, abortion is not absolutely prohibited. On the other hand, such rule implies an efficient system of family planning.

*Hungary* recently entered the category of the states which expressly establish the right to life of the fetus. The new Constitution provides that the fetus is protected from the moment of its conception<sup>18</sup>. There hasn't been yet established the impact of the Constitutional text on the abortion legislation. Now, abortion in Hungary is ruled by a 1992 law, which allows abortion by simple request, in the first twelve weeks of pregnancy, if the woman finds herself in a "crisis situation"<sup>19</sup>. The exact sense of this "crisis situation" has not been determined, which means that the law has a wide range of interpretation. This situation has been observed in 1998 by the Constitutional Court of Hungary, which affirmed that, in lack of a guiding line, the sense of the "crisis situation" can actually cover all possible cases in which a woman wants to do an abortion. As a response, in 2000, the Hungarian Ministry of Health defined "crisis situation" as that situation which justify abortion on physical or mental health grounds, and also on social grounds<sup>20</sup>. In conclusion, at least for the moment, in Hungary abortion has a liberal regime. Time will decide if the new Constitution changes the status of abortion in Hungary. It is also important to mention that, in 1991, the Constitutional Court of Hungary stated that a pregnancy has such an impact on a woman, that even a partial restriction on her right to decide on having or not an abortion is a severe violation of her right to self-determination<sup>21</sup>.

Canada is one of the states which don't acknowledge the right to life of the fetus. The status of abortion in this country has been established through a series of decisions of the Supreme Court of Canada.

The first case with major implications was the case *R. vs. Morgentaler*, in 1988. The Court stated that the prohibition of the abortion was an infringement of the Canadian Charter of Rights and Freedoms, thus an infringement of the Canadian Constitution<sup>22</sup>. The main reason was that the ban on abortion violated the women's

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<sup>15</sup> Ibidem, p. 137.

<sup>16</sup> Ibidem.

<sup>17</sup> Ibidem.

<sup>18</sup> <http://www.politics.hu/20120102/details-on-hungarys-new-constitution/> ( 10.05.2012).

<sup>19</sup> \*\*\* *Abortion Policies : A Global Review*, op. cit., p. 52.

<sup>20</sup> For further details, see Központi Statisztikai Hivatal (Hungarian Central Statistical Office): *Demográfiai évkönyv 2005* (Demographic Yearbook 2005). KSH, Budapest, 2006.

<sup>21</sup> \*\*\* *The position of the Hungarian Civil Liberties Union on Abortion* , p. 2, available at <http://tasz.hu/files/tasz/imce/polpab.pdf> (10.05.2012).

<sup>22</sup> The Constitution of Canada, available at [http://laws-lois.justice.gc.ca/eng/Charter/page-1.html#l\\_I:s\\_1](http://laws-lois.justice.gc.ca/eng/Charter/page-1.html#l_I:s_1) (10.05.2012).

right to personal security<sup>23</sup>. One of the judges considered that the prohibition on abortion also violates women's right to the freedom of conscience. This is because the decision to make an abortion is a question of morality and conscience, and state should not interfere in these aspects. All restrictions on abortions pass the decision on reproduction from woman to the state, and this process deprives a woman by one of her essential features<sup>24</sup>. The Court neither affirmed a right to do an abortion for the women, nor pronounced in the question of the right to life of the fetus<sup>25</sup>. It appreciated that these questions were not relevant in that case. Still, one of the judges showed that the protection of the fetus should increase on the developing process of a pregnancy<sup>26</sup>. The Court only ruled that the access to abortion in Canada must be improved. As a principle, the Court stated that there is not such a thing as a right to do an abortion, because there is no constitutional base for such a right. And, in lack of a legal basis, the Court can't create such a right<sup>27</sup>. The effect of the decision in the case *R. vs. Morgentaler* is that, in Canada, there are no legal limitations for a woman to undergo an abortion procedure. The only condition is that abortion is performed by an authorized doctor.

Another important case in the Canadian legislation on abortion is the case *Tremblay vs. Daigle*, in 1989. In this case, the father of the fetus obtained a judicial order that prevented the mother from having an abortion. The father argued mainly that the fetus had a right to life which had to be protected. In addition, he showed that every human being, hence also the father, had the right to protect their descendants, even when they are only potential life. The father also argued that even the Civil Code admits a judicial status of the fetus. The Supreme Court of Canada ruled that the fetus is not a person as viewed in the Canadian Constitutions, so it doesn't have a right to life. As regards the Civil Law provisions, the court underlined that they are a legal fiction imposed by practical necessities, and they don't establish that fetus actually is a person with full rights. Also, the Court affirmed that *only the pregnant woman has the right to decide whether she keeps or doesn't keep the fetus*; the father has no right on this issue<sup>28</sup>.

The legal regime of abortion in the United States of America is a consequence of the decision ruled in 1973 in the case *Roe vs. Wade* by the Supreme Court<sup>29</sup>. This decision establishes that abortion is allowed until the fetus becomes

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<sup>23</sup> The Decision of the Supreme Court of Canada ruled in the case *R. vs. Morgentaler*, from 1988, p. 37, available at <http://scc.lexum.org/en/1988/1988scr1-30/1988scr1-30.html> (10.05.2012).

<sup>24</sup> Ibidem, pp. 36-37.

<sup>25</sup> Ibidem, p. 38.

<sup>26</sup> Ibidem, p. 38.

<sup>27</sup> Ibidem, pp. 38-39.

<sup>28</sup> The Decision of the Supreme Court of Canada, ruled in the case *Tremblay vs. Daigle*, available at <http://scc.lexum.org/en/1989/1989scr2-530/1989scr2-530.html> (10.05.2012).

<sup>29</sup> The Decision of the Supreme Court of the United States of America, ruled in the case *Roe vs. Wade*, available at <http://supreme.justia.com/us/410/113/case.html#147>, secțiunea VIII, pg 410, US 152-155 ( 6.01.2010).

viable<sup>30</sup>. After that moment, an abortion is allowed if the pregnancy endangers the mother's life. The Constitution of the United States of America doesn't expressly stipulate the right to do an abortion, but the Court considered that such a right is necessarily implied by the *right to intimacy*. Thus, the right to have an abortion is guaranteed by the Constitution, even if in an indirect way. One of the issues questioned in the case *Roe vs. Wade* regards the moment when the fetus becomes a human being. The court doesn't assume the responsibility of an answer. Still, the Court calls forth the tradition of the common-law system, which doesn't admit that a fetus is a full right person<sup>31</sup>. So, the Court affirms that a fetus is not a person, but that we must respect the *potential life*, which comes into being in the moment the fetus becomes viable. The decision in the *Roe vs. Wade* case is reinforced in the *Doe vs. Bolton* case<sup>32</sup>.

Another case with wide impact on the legal regime of abortion in the United States of America was the case *Gonzales vs. Carhart*, in 2007<sup>33</sup>. In this case, the Supreme Court decides that the Federal Partial Birth Abortion Act<sup>34</sup>, adopted in 2003, is constitutional. Thus, the Court prohibits a certain abortion method, the so-called partial birth abortion, used mainly in late stages of pregnancy. The reason for this solution is that the method implied killing the fetus in a very violent and cruel manner. In addition, researches showed that this method was never truly necessary. So the Court prohibits this method to do an abortion, but reaffirms that abortion is permitted when done through other methods, especially in the first trimester of pregnancy<sup>35</sup>.

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<sup>30</sup> Viability is defined as the ability of the new-born child to continue his existence independently and for an undefined period of time, outside the mother's womb, with or without artificial help. See Henry Campbell Black, *Black's Law Dictionary - with pronunciations, Definitions of the terms and Phrases of American and English Jurisprudence, Ancient and Modern*, abridged sixth edition, Centennial Edition, West Publishing Co., St Paul, Minn., 1991.

<sup>31</sup> See George F. Cole, Stanislaw Frankowski, University of Santa Clara, Institute of International and Comparative Law, *Abortion and Protection of the Human Fetus: Legal Problems in a Cross-Cultural perspective, Current issues in international and comparative law*, Vol. I, New Haven Studies in International Law and World Public Order, Ed. Martinus Nijhoff Publishers, 1987, p 22.

<sup>32</sup> The Decision of the Supreme Court of the United States of America, ruled in the case *Doe vs. Bolton*, available at <http://supreme.justia.com/cases/federal/us/410/179/case.html> (10.05.2012).

<sup>33</sup> The Decision of the Supreme Court of the United States of America, ruled in the case *Gonzales vs. Carhart*, available at <http://www.nytimes.com/2007/04/19/washington/19scotus.html> (10.05.2012) ; Linda Greenhouse, *Justices Back Ban on Method of Abortion*, available at <http://www.nytimes.com/2007/04/19/washington/19scotus.html> (03.02.2010).

<sup>34</sup> Stanley K. Henshaw, *Abortion Incidence and Services in the United States, 1995-1996*, available at <http://www.guttmacher.org/pubs/journals/3026398.html>, (02.02.2010) ;

<sup>35</sup> The Decision of the Supreme Court of the United States of America, ruled in the case *Gonzales vs. Carhart*, available at <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=000&invol=05-380> (03.02.2010).



In *South Africa* abortion is also largely permitted. The constitutional base for such a regulation is the citizens' right to decide over reproduction, a right which is expressly provided in the Constitution. As a consequence, women and men have the right to use safe, efficient and acceptable<sup>36</sup> contraceptive methods. Indirectly, the constitutional text also permits abortion, because, when the contraceptive methods fail, abortion is the only way to permit the control over reproduction. Nevertheless, abortion is not considered a method of birth control. The state assumes its role to create and maintain an optimum climate for people to exert their rights on reproduction. This includes issues like birth control, access to abortion, mother and child care, all being done in the best possible conditions<sup>37</sup>.

The Constitution of *Paraguay*, since 1992, also establishes people's right to control their reproduction. Prior to this year, the family planning services were illegal or at least underrated. As a result of constitutional changes, family planning centers have known a rapid development<sup>38</sup>.

In *Chile* we find a total different view on abortion. Here, abortion is prohibited in all circumstances. In 2006, president Michelle Bachelet started a governmental program which provided a certain kind of contraceptive pill for women over age of fourteen. In 2008, the Constitutional Court of Chile states that this program violates the Constitution<sup>39</sup>.

In *Mexico*, the legislation on abortion is different from one state to another, as Mexico has a federal structure. The most permissive regime is in Mexico City. Here, since 2007, abortion is allowed, by simple request, in the first twelve weeks of pregnancy. The Catholic Church challenged in court this law. In 2008, the Constitutional Court of Mexico decided that the Mexico City law observes the fundamental law of the state<sup>40</sup>.

Constitutional Court of *Spain* had a major role towards adopting a new law on abortion. In 1985, the Court ruled that the legislation didn't ensure best conditions to protect life before birth, and also to protect the mother. As a result, the procedure of medical care through the pregnancy was improved and, as a consequence, abortion procedures gained an increased level of safety<sup>41</sup>.

In *Columbia* we find an unusual situation. Here, the changes in abortion legislation occurred because the Constitution from 1991 stated that citizens have free access to justice. In result, people, dissatisfied with the abortion legislation<sup>42</sup>, addressed to the Constitutional Court and to the Supreme Court, demanding the liberalization of the abortion legislation. After many unsuccessful attempts, finally, in 2006, the Supreme Court decides that abortion must be allowed in some

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<sup>36</sup> We believe that by using the word "acceptable", the legislator suggested that there are some methods considered unacceptable.

<sup>37</sup> \*\*\* *Abortion Policies : A Global Review, op. cit.*, p. 99.

<sup>38</sup> *Ibidem*, p. 31.

<sup>39</sup> *Ibidem*, p. 93.

<sup>40</sup> *Ibidem*, pp. 136-137.

<sup>41</sup> *Ibidem*, p. 103.

<sup>42</sup> In *Columbia*, before the year 2006, abortion was prohibited in all circumstances. See \*\*\* *Abortion Policies: A Global Review, op. cit.*, pp. 98-99.

circumstances ( when the mother's health or life of was endangered, when the pregnancy was the result of rape or of incest, and when the fetus suffered severe deficiencies). In august 2006, the first legal abortion was performed. The pregnant woman was eleven years old and she had been raped by her step father. The Supreme Court's rule is still in force<sup>43</sup>.

As a conclusion, we believe that states must expressly establish the status of abortion, in order to prevent the occurrence of difficult situations for their citizens. We also affirm that a state should not try to impose a moral view on abortion, but rather to find solutions to the real-life problems referring to abortion. Adopting such an attitude, states may approach to that ideal goal of realizing an equilibrium between all his citizens, even when they are yet to be born.

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<sup>43</sup> Ibidem. For further information, see <http://www.nytimes.com/2006/05/24/opinion/24weds3.html> (10.05.2012); Elena Prada, Susheela Singh, Lisa Remez, Cristina Villarreal, *Unintended Pregnancy and Induced Abortion in Colombia. Causes and Consequences*, Guttmacher Institute, New York, 2011.

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20. The Constitution of Ireland, available at <http://www.constitution.ie/reports/ConstitutionofIreland.pdf>