

IVF ban lifted in Costa Rica—a success for reproductive rights?

March 31 2016, by Lynn M. Morgan

The lack of access to reproductive rights in Latin America can have unanticipated consequences. The Zika virus outbreak, for example, highlights the [need for reproductive rights](#). So does the alarming number of triplets, quadruplets, and quintuplets born as a result of Costa Rica's 16-year ban on in vitro fertilization (IVF).

Last year on May 17, 34-year old Silvia Villegas gave birth to [Costa Rica's first sextuplets](#). National jubilation was followed soon after by tragedy, as four of the babies died within the first month, and a fifth died four months later. Multiple births are dangerous. Ms. Villegas suffered a heart attack two months after the delivery, and the babies had been born close to the margin of viability at 27 weeks gestation. Even when pre-term infants survive, they often suffer breathing and heart trouble, brain hemorrhage, vision problems, and a host of long-term complications including cerebral palsy and learning disabilities.

The sextuplets were the culmination of a rise in [multiple births](#) recorded in Costa Rica beginning in the mid-2000s. From 1997-2005, just ten sets of quadruplets were reported, while 122 sets of quadruplets were reported from 2005-2012. The epidemic of quadruplets seems like a bizarre, counterintuitive result of the [ban](#) on IVF—especially because a spike in multiple births usually follows the use of IVF, not its absence. So what happened?

In 2000, Costa Rica became the only country in the western hemisphere to ban IVF when its Constitutional Court ruled that IVF creates excess

embryos and violates their right to life. Some infertile women and families appealed the decision through the Inter-American human rights system, in hopes that the ban would soon be lifted. In 2012 the Inter-American Court of Human Rights ruled that the IVF ban violates the rights to privacy, liberty, personal integrity, and to form a family.

The decision, known as [Artavia Murillo et al. \("In Vitro Fertilization"\) v. Costa Rica](#), has been called the "Roe v. Wade of Latin America." It establishes for the first time in international law that reproductive rights are [human rights](#), embryos cannot be considered judicial "persons," and embryo rights do not trump women's rights. The IACHR ordered Costa Rica to lift the ban. But a small group of evangelical Protestant legislators supported by the Catholic hierarchy blocked all subsequent attempts to legalize the procedure. Exasperated with the political gridlock, President Luis Guillermo Solís signed an Executive Decree to legalize IVF in September 2015, trying to bring the country into compliance with the IACHR's ruling. A month later, the Constitutional Court "[struck down that decree, saying a law to legalize and regulate IVF must be passed by the Legislative Assembly in order to be constitutional](#) ." The IVF ban remained in effect.

On February 26, 2016, the [IACHR finally ruled that IVF must be allowed](#) in Costa Rica, effective immediately. Ideally, this decision will also halt the dramatic rise in multiple births.

It has been a long 16 years for the [women and couples confronting infertility](#). Some resigned themselves to their fate. Those who could afford to travel abroad went to Panama or Colombia for IVF. Others chose to adopt children through Costa Rica's notoriously bureaucratic process. And some individuals set their hopes on the remaining legal options, including hormonal stimulation of the ovaries followed by artificial insemination.

Ms. Villegas chose the last option. When ovarian stimulation is followed by artificial insemination, it is impossible to control the number of embryos produced. Multifetal pregnancy reduction is not available in Costa Rica, so Ms. Villegas had to carry all six resulting embryos. If she had used IVF, her eggs would have been removed from her body and fertilized in a Petri dish. No more than two of the resulting embryos would have been transferred to her womb. This explains how the absence of IVF produced the spike in high-order multiple births. The Minister of Health, Dr. Fernando Llorca, said, "Once we begin to realize IVF in our country, [multiple births will become a thing of the past](#), because the greatest number of children a couple could have using this technique would be two." In effect, the ban on IVF caused five children to die.

The decision to ban IVF was misguided from the start. Last month's IACHR decision ensures that women in Costa Rica will not have to resort to desperate measures—or to suffer five dead children—to have the babies they want. Now they can turn their attention to the Zika virus, which is just beginning to circulate in Costa Rica as rainy season approaches.

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