

Women's eNews

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Chilean Women Celebrate Gaining Right to Divorce

By Jen Ross, WeNews correspondent

SANTIAGO, Chile (WOMENSENEWS) – After 16 years in an abusive marriage, Teresa Lobos sums up the meaning of the Chilean divorce law that came into force last week: “Freedom.”

The 39-year-old mother of two says she has only started to understand the meaning of that word since she separated from her husband more than a year ago after undergoing years of abuse.

“I think the problem with Chilean women who suffer violence within the home is that they put up with it and we do this because for generations we’ve been raised to stay at home and be submissive housewives,” says Lobos. “My family raised me this way. But this century, women have started going out to work, to be more independent and not depend on their husbands for anything.”

Still, until last week, Chilean law said Lobos needed her husband’s approval for any major financial move. She couldn’t buy a house without it. She couldn’t apply for a mortgage or start up a business without his signature. And when her husband refused to sign papers, she couldn’t do much to stop him from manipulating her financially.

Divorce has never been legal in Chile, but in the past couples could separate and, in some cases, get their marriage annulled. But for that, the decision had to be mutual and it meant the marriage never existed in the eyes of the law, so there were no protections or support payments thereafter. Separation was most common, but as husbands were considered the legal head of the family, women were beholden to their husbands for any financial decision they needed to make.

Now, with a new divorce law all of this is set to change. The law allows for a divorce after one year’s separation if the request is mutual. If it’s unilateral and, for instance, a woman wants a divorce and her husband refuses to grant one, they have to be separated for three years before a divorce can be granted. And the man still retains rights over his wife during the wait.

Increasing Demand

Lawyers in Chile are dealing with a crush of new clients, eager to break their marital bonds after the long-awaited law took effect on Nov. 18. On the first day, 52 divorce applications were filed and the demand has been increasing since. There are an estimated 50,000 requests for divorce

that have begun to make their way through the court system. More than 500,000 people are currently separated in Chile.

Chile was one of only three countries that had not legalized divorce. The change now leaves only Malta and the Philippines without legal divorce. In Malta, lawyers have devised schemes for seeking off-shore divorces in Guam.

In Chile, the new law has been a long time coming. Chilean legislators first proposed a law to allow divorce in 1914. Center-left governments intensified efforts to liberalize Chile's family laws after the return to democracy in 1990. Eighteen bills died in Congress during almost a decade of legislative wrangling, until a bill was finally approved last March. The Catholic Church had been the biggest obstacle, even threatening wayward Catholic senators with ex-communication.

"They should have approved this ages ago," says Cecilia Munoz, a separated young mother coming out of the Santiago Cathedral. "There are many unhappy families that need this . . . the Church is what has stood in the way."

In what is known as one of the most conservative countries in Latin America, Chile has long been under the influence of the conservative Catholic Church leaders.

Manuel Canales is a sociology professor at the University of Chile. He says there has been so much opposition to a divorce law because the sanctity of the family is entrenched in Chilean values.

"Divorce is seen as a checkmate that is extremely deep for those with a traditional mentality," he says, referring to the threat divorce presents for the whole concept of family in Chile. "The family represents the last bastion of support for this way of thinking. It is seen as the basic level of community."

The Rev. Jaime Fernandez, a priest with the Roman Catholic Church's Vicarate for the Family in Chile based in Santiago, says the family has always been seen as the intimate space for both personal and societal development. He says the paternalist model of the family is seen as a fundamental social structure and the building block for the development of the Chilean state itself.

"As a result, everything that touches the family is seen with suspicion," says the Rev. Fernandez.

Turning Away from Marriage

Still, many Chileans began turning away from marriage because of its rigidity.

Over the past 13 years, Chile saw a startling 45-percent drop in the number of Chileans marrying, with only 57,500 tying the knot in 2003 compared to 104,700 marriages in 1990. Many Chileans have grown reluctant to forge a bond that can't be broken, particularly women. If a woman is not married, she retains financial control of her life.

Broken marriages were also fairly common, with 15 percent of married Chileans choosing separation. Another 10 percent of marriages end in annulments.

Maria Antioneta Saa, a legislator from the Democratic Party, the ruling-left-wing coalition, introduced the divorce bill in 1995. She says its success is due to the enormous social changes since democratization.

“I would say that our society is one that is rapidly opening up,” she says. “The effects of globalization are huge. Today the problems of this conservative society are being exposed. People want to be happy and they fight for their rights.”

Cecilia Perez, minister of the National Service for Women, says this bill is a victory over traditional conservatism. She says it will liberate women trapped by antiquated laws, restoring their financial independence while protecting the rights of their children by requiring support payments – not obligatory under separation agreements.

A Way Out

Perez says the divorce law will also help end the spiral of domestic violence by giving women a way out of abusive marriages. It is no coincidence, she says, that the first woman in line for a divorce was Maria Victoria Torres, a 47-year-old housewife who says she suffered domestic violence.

One in four women in Chile has suffered physical domestic violence. And seven in ten report having been the victim of psychological violence.

That was how Alicia Quinonez Bustamante lived most of her life. The soft-spoken 50-year-old separated from her husband almost five years ago after he threatened to kill her on Christmas Day.

“Here, they teach you to accept the lot you were given,” she says. “Unfortunately we are a generation of repressed women . . . They teach you that marriage is for life and I was ashamed to admit that I had made a bad choice. And so I tried to maintain the relationship, hoping it would improve with time. But it only got worse.”

Bustamante still fears her husband will return some day, either to harm her physically or financially. As her husband, he could still theoretically lay claim to half her assets. But once her divorce gets the rubber stamp it needs, she says she will feel free.

For Teresa Lobos, the new law is proof that society is changing.

“Putting that on paper will at least guarantee me that freedom,” she says. “Here women have been too trapped by their marriages. But I’m helping teach them now that marriage doesn’t mean submission. Love is in freedom.”

Jen Ross is a journalist based in Santiago, Chile.

For more information:

Gobierno de Chile – La Comision Asesora Presidencial para la Proteccion de los Derechos de las Personas / Government of Chile – The President’s Advisory Commission for the Protection of Human Rights [in Spanish]:

http://www.comisiondefensoraciudadana.cl/noticia/ficha_noticia.php?noticia_id=69

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