CRIMINAL ABORTION LAWS IN LATIN AMERICA: BREACHES OF DOCTOR-PATIENT CONFIDENTIALITY

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STRUCTURE OF THE PRESENTATION

1. Breach of confidentiality
2. Impact of duties to disclose
3. International standards on confidentiality
4. Implications for the current Zika outbreak
5. Conclusions
SECTION 1

BREACH OF CONFIDENTIALITY
SECTION 1: BREACH OF CONFIDENTIALITY

- Explicit legal duty to breach confidentiality (Peru)
- Legal obligation to disclose under certain circumstances (Brazil)
- No explicit duty to report (Argentina)
SECTION 2

IMPACT OF DUTIES TO DISCLOSE
SECTION 2: IMPACT OF DUTIES TO DISCLOSE

ON PROVIDERS

Providers of health care → Police officers, investigators and judges
SECTION 2: IMPACT OF DUTIES TO DISCLOSE

ON WOMEN & GIRLS

- Human rights violations
- Culture of suspicion
- Forced confessions
- Lack of trust in the public health system
SECTION 3

INTERNATIONAL STANDARDS ON CONFIDENTIALITY
SECTION 3: INTERNATIONAL STANDARDS ON CONFIDENTIALITY

PATIENTS’ RIGHT TO PRIVACY

INTERNATIONAL HUMAN RIGHTS TREATIES

• International Covenant on Economic, Social and Cultural Rights (Art. 17(1))

• Convention on the Rights of the Child (Art. 16(1))
SECTION 3: INTERNATIONAL STANDARDS ON CONFIDENTIALITY

PATIENTS’ RIGHT TO PRIVACY

INTERNATIONAL HUMAN RIGHTS BODIES

“Accessibility of information should not impair the right to have personal health data treated with confidentiality.”

Committee on Economic, Social and Cultural Rights, General Comment 14, para. 12
SECTION 3: INTERNATIONAL STANDARDS ON CONFIDENTIALITY

DOCTOR-PATIENT CONFIDENTIALITY
THE WORLD MEDICAL ASSOCIATION’S DECLARATION ON THE RIGHTS OF PATIENTS

“All identifiable information about a patient's health status, medical condition, diagnosis, prognosis and treatment and all other information of a personal kind must be kept confidential, even after death.”

– Art. 8(a)
SECTION 4

IMPLICATIONS FOR THE CURRENT ZIKA OUTBREAK
SECTION 4: IMPLICATIONS FOR THE CURRENT ZIKA OUTBREAK
SECTION 5

CONCLUSIONS
THANK YOU!