



Rashida Manjoo

Special Rapporteur on Violence against Women, its causes and consequences

Mr. Anand Grover

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of health

June 27, 2014

Dear Ms. Manjoo and Mr. Grover,

The undersigned organizations are writing to urge your mandates to address an appeal to the Spanish government regarding the draft bill “[for the protection of the life of the fetus and of the rights of pregnant women]” approved by the Council of Ministers in Spain in December 2013.

The bill constitutes a step backwards in relation to the current law, which is similar to that of other European countries, giving women the right to choose to terminate a pregnancy without restriction as to reason up until the fourteenth week. The draft bill introduces severe **restrictions on women’s access to legal and safe abortion services and**, if enacted, would put **women’s lives** and health at risk. Moreover, it denies girls and women their individual capacity to make decisions about their sexual and reproductive health.

The draft legislation will limit the possibilities to obtain legal abortions to cases in which the **woman’s physical** or mental health is endangered (up to 22 weeks) and in which the pregnancy is the result of sexual violence (up to 12 weeks). Moreover, the bill introduces a number of severe barriers to **women’s access to abortion services**, including:

- a mandatory 7-day waiting period,
- mandatory counseling,
- third-party authorization requirements (for girls under the age of 18 and for women under legal guardianship),

- inadequate regulation of **health providers' use of conscientious objection** that fails to ensure that **women's** access to lawful and timely abortion services is not **hampered by health providers' refusals to provide care,**
- the requirement to obtain medical reports from two different specialist doctors excluding the doctor carrying out the abortion affirming that the pregnancy poses a serious threat to **the woman's** life or physical or mental health, and
- the requirement for victims of sexual violence to have reported the violence to the police in order to access a legal abortion,

Furthermore, the bill fails to establish effective mechanisms to address and resolve conflicts of opinion among medical professionals or between the woman and medical professionals in connection with termination of pregnancy. Additionally, the bill introduces a ban on all advertising by centers, establishments, or medical services and any publicity about means, techniques, or procedures for interrupting pregnancies.

We are concerned that the severe restrictions introduced by the bill, permitting only two legal grounds for abortion, combined with all these obstacles will force women to seek illegal and unsafe abortions or to terminate their pregnancies abroad, which would pose a serious threat to their physical and mental health and social wellbeing. We are further concerned that these obstacles would disproportionately affect the poor and marginalized.

We have raised these concerns with the Minister of Justice. In a joint letter sent on May 9 (please find attached), we detailed how the proposed changes to **Spain's current legislation on abortion would constitute unreasonable interference with women's exercise of a wide** range of rights. We reminded the Minister of Justice that the WHO has considered mandatory counseling and waiting periods to be unnecessary barriers to safe abortions and that it has recommended that prompt and safe abortion services should be provided on the basis of a **woman's complaint rather than requiring forensic evidence or police examination.** Additionally, we referred to the jurisprudence of the European Court of Human Rights concerning a number of issues, namely, that governments must ensure that the exercise of freedom of conscience must not prevent women from obtaining access to services to which they are entitled, the need for an effective mechanism to promptly address and resolve disagreements among doctors or between women and doctors in connection with termination of pregnancy, that proper regard must be made to **an adolescent's** personal autonomy concerning her reproductive choices, and that the Court has found that restrictive abortion laws can constitute inhuman and degrading treatment. For all these reasons, we respectfully urged the Minister of Justice to withdraw the draft legislation. We have not received any reply to our letter.

Since the Council of Ministers approved the draft legislation in December 2013, the Minister of Justice has initiated the mandatory consultation process with a number of bodies,

including, among others, health authorities, the Prosecution Council and the Judiciary Council. The latter released its report on June 13 (**please find attached the Judiciary Council's** report), being supportive of the bill, and according to media reports, the government plans to introduce the bill in Congress in July, thus avoiding consultation with the Council of State.

We are deeply concerned that the bill will be adopted in the very near future. We therefore kindly request your mandates to address an appeal to the Government concerning the draft legislation as soon as possible.

Please do not hesitate to contact us if you need more information or clarifications.

Best regards,

Alianza por la Solidaridad
Center for Reproductive Rights
Creación Positiva
Federación de Planificación Familiar Estatal
Human Rights Watch
Médicos del Mundo
Rights International Spain
Women's Link Worldwide