

## **1. Institutional conscientious objection**

In Spain, Organic Law 2/2010 on sexual and reproductive health and voluntary termination of pregnancy (LO 2/2010) states that “refusal to perform a termination of pregnancy procedure for reasons of conscience is always an individual decision by the healthcare personnel directly involved in the voluntary termination of pregnancy, which must be made in advance and communicated in writing” (Article 19.2, LO 2/2010).

However, many public hospitals claim institutional, not individual, conscientious objection, refusing to perform abortions and referring all cases to licensed private clinics. Since 2010, 91% of all abortions have been referred to private clinics from the public hospitals.<sup>1</sup> In 2018, three autonomous communities (Aragón, Extremadura, and Murcia) reported that no abortions were performed in their public hospitals, though some were performed in private clinics.

Institutional conscientious objection is also often done through deceit. Accurate information on the health of the fetus, abortion rights, and the process for requesting abortion is withheld from women. In 2017, Women’s Link sued the health department of Murcia in the case of Antonia,<sup>2</sup> a woman who went to the public hospital in Santa Lucía de Cartagena and was not provided with accurate information on the serious malformations of her fetus. The diagnostic tests she needed in order to decide whether to continue with the pregnancy were delayed.

## **2. Geographic and socioeconomic discrimination**

LO 2/2010 also states that “all women will be guaranteed equal access to these services, regardless of place of residence” (Article 19.1, LO 2/2010).

However, when public hospitals claim institutional conscientious objection, this means that in some provinces and autonomous communities, no abortions are performed at all, and all cases are referred to licensed private clinics outside of

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<sup>1</sup> *El 91% de los abortos se han practicado en clínicas privadas desde 2010: una prestación sanitaria concertada* (2020) [online] [Accessed: 14 December 2020] <<https://www.newtral.es/el-91-de-los-abortos-se-han-practicado-en-clinicas-privadas-desde-2010-una-prestacion-sanitaria-concertada/20200304/>>

<sup>2</sup> *Women’s Link sues the health department of the Region of Murcia, Spain, for violating the right to abortion with dignity* (2017) [online] [Accessed: 14 December 2020] <<https://www.womenslinkworldwide.org/en/news-and-publications/press-room/women-s-link-sues-the-health-department-of-the-region-of-murcia-spain-for-violating-the-right-to-a-dignified-abortion>>

their territory. Up to eight Spanish provinces have not performed a single abortion in 30 years.<sup>3</sup> In 2019, the last year for which official figures are available, 12 provinces reported no abortions performed in their territory: Jaén, Huesca, Teruel, Cuenca, Guadalajara, Toledo, Ávila, Segovia, Soria, Zamora, Cáceres, and Lugo. A total of 4,338 women had to travel out of their province to have an abortion.<sup>4</sup>

Women needing an abortion in a province or autonomous community where no public hospitals or private clinics offer the service have to travel out of the territory. In Ceuta and Melilla, no hospitals or private clinics perform abortions, so women must travel to mainland Spain.<sup>5</sup> As these travel expenses are not always covered by the social security system, this situation constitutes not only geographic discrimination, but is a clear case of socioeconomic discrimination as well, since many women cannot afford the trip.

In addition, the mandatory in-person intake and three-day reflection period mean that women must travel at least twice (once to do paperwork, and once for the procedure), even during the COVID-19 pandemic (except in Galicia and Catalonia).

For termination of pregnancy at 14 weeks or later, which is only allowed for medical reasons, long-distance travel may place women's health at risk. This was what happened to Paula,<sup>6</sup> who had to travel over 600 kilometers from Galicia to Madrid at her own expense in 2012 because none of the public hospitals in her home province would perform the emergency abortion she needed. She lost her uterus as a result.

### 3. Lack of information on procedures for requesting an abortion

The information provided on most health department websites in Spain is highly technical and incomplete and does not usually include the steps women must complete in order to request an abortion at each stage (up to week 14, weeks 14 to 22, and after week 22). None of these sites provide information specifically for migrant women, whose access to abortion depends on their immigration

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<sup>3</sup> *Hasta 8 provincias españolas no han practicado abortos en 30 años* (2020) [online] [Accessed: 14 December 2020] <<https://www.newtral.es/hasta-8-provincias-espanolas-no-han-practicado-abortos-en-30-anos/20200303/>>

<sup>4</sup> *Interrupción Voluntaria del Embarazo Datos definitivos correspondientes al año 2019* (2020) [online] [Accessed: 22 December 2020]

<[https://www.mscbs.gob.es/profesionales/saludPublica/prevPromocion/embarazo/docs/IVE\\_2019.pdf](https://www.mscbs.gob.es/profesionales/saludPublica/prevPromocion/embarazo/docs/IVE_2019.pdf)>

<sup>5</sup> *Las mujeres que quieran abortar en Melilla serán derivadas a un centro privado de Málaga* (2019) [online] [Accessed: 14 December 2020] <<https://www.elboletin.com/noticia/175637/hoy-en-el-boe/las-mujeres-que-quieran-abortar-en-melilla-seran-derivadas-a-un-centro-privado-de-malaga.html>>

<sup>6</sup> *“La objeción de los médicos casi me cuesta la vida”* (2016) [online] [Accessed: 14 December 2020] <[https://elpais.com/politica/2016/11/04/actualidad/1478282736\\_476704.html](https://elpais.com/politica/2016/11/04/actualidad/1478282736_476704.html)>

status. And information is not provided in other languages, such as English or French.

Additionally, there is a lack of information on the membership of the medical committees that must authorize any abortion to be performed at week 22 or later. Although LO 2/2010 states that “appointments [to medical committees] will be published in the Official Gazettes of the respective Autonomous Communities,” community governments fail to fulfill this obligation, and this information is not made public.

In another example of lack of information, diagnoses and tests are often delayed in cases of fetal malformation at week 14 or later. The tests required to make a diagnosis of the fetus’s health are often not properly prioritized. In these cases, women with planned pregnancies are not provided with the information necessary to make an informed decision on whether to terminate the pregnancy, leading to serious impacts on their physical and mental health. Because of these delays in the public healthcare system, women who can afford it have the tests done in the private system at a much higher cost. However, these privately-done tests may not be accepted by the medical committee, erecting an additional barrier to access.

#### **4. Harassment by anti-abortion groups at private clinics**

Ultraconservative Catholic groups in Spain show up every day at private clinics that offer voluntary termination of pregnancy services to harass clinic staff and women seeking services.<sup>7</sup> Because of these actions, many women are intimidated and afraid to go to the clinic.

#### **5. Barriers for migrant women**

LO 2/2010 also states that “access to the services and benefits herein will not be denied because of race, ethnicity, religion, beliefs, opinion, sex, disability, sexual orientation, age, marital status, or any other personal or social condition or circumstance” (Article 3.3 LO 2/2010).

However, since 2012, two royal decrees (RDL 16/2012 and RDL 7/2018)<sup>8</sup> have restricted access to healthcare for migrants. Migrants without residence permits do not enjoy equal access to public healthcare services, because the Spanish

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<sup>7</sup> “A las puertas de una clínica que practica abortos: “¿Viene usted a matar a su hijo?” (2020) [online] [Accessed: 14 January 2020] <[https://elpais.com/ccaa/2020/02/14/madrid/1581693735\\_847594.html](https://elpais.com/ccaa/2020/02/14/madrid/1581693735_847594.html)>

<sup>8</sup> “Valoración de las recomendaciones enviadas a las Comunidades Autónomas para la implementación del RDL 7/2018” (2019) [online] [Accessed: 14 December 2020] <<https://yosisanidaduniversal.net/noticias/valoracion-de-las-recomendaciones-del-rdl-7-2018>>

State requires them to fulfill a set of administrative requirements that may exclude them from the system.

Migrant women who cannot fulfill these requirements<sup>9</sup> may be denied access to abortion in the public healthcare system entirely. But even for women who fulfill the requirements, it can be so difficult to prove their eligibility that delays may result and the legal time limits on abortion may lapse.<sup>10</sup> Finally, information on the process for requesting an abortion is not available in foreign languages, and medical facilities do not have enough interpreters.

## 6. The COVID-19 context

The COVID-19 pandemic has exacerbated existing barriers to access to sexual and reproductive rights worldwide,<sup>11</sup> particularly abortion rights.

The Spanish government has not launched any informational campaigns on abortion rights in this new context, although abortion has continued to be considered an essential service. And telehealth services have not been put into place in Spain to provide information, help complete paperwork, or provide access to medical abortion as they have in other countries such as the United Kingdom,<sup>12</sup> France,<sup>13</sup> and Colombia.<sup>14</sup>

Instead, women still have to travel at least twice to get an abortion (once to do mandatory intake paperwork, and once for the procedure), except in Galicia and Catalonia, the only autonomous communities that offer virtual intake services.

Some women are unable to travel to get an abortion because they live too far from the clinic, cannot leave their children unattended, cannot miss work, or

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<sup>9</sup> "Acceso al aborto por parte de mujeres migrantes en situación administrativa irregular en España" (2019) [online] [Accessed: 14 December 2020] <<https://www.womenslinkworldwide.org/files/3087/dossier-de-prensa-queja-defensor-del-pueblo.pdf>>

<sup>10</sup> "Barriers to Access to Abortion for Migrant Women in Spain" (2019) [online] [Accessed: 14 December 2020] <<https://www.womenslinkworldwide.org/en/news-and-publications/press-room/barriers-to-access-to-abortion-for-migrant-women-in-spain>>

<sup>11</sup> "COVID-19 pandemic cuts access to sexual and reproductive healthcare for women around the world" (2020) [online] [Accessed: 14 December 2020] <<https://www.ippf.org/news/covid-19-pandemic-cuts-access-sexual-and-reproductive-healthcare-women-around-world>>

<sup>12</sup> "England Leads Way in UK after U-Turn on COVID-19 Abortion Access" (2020) [online] [Accessed: 14 December 2020] <<https://www.hrw.org/news/2020/03/31/england-leads-way-uk-after-u-turn-covid-19-abortion-access>>

<sup>13</sup> "FRANCE – Early abortion via telemedicine permitted as of 10 April 2020" (2020) [online] [Accessed: 14 December 2020] <<https://www.safeabortionwomensright.org/news/france-early-abortion-via-telemedicine-permitted-as-of-10-april-2020/>>

<sup>14</sup> "Interrupción voluntaria del embarazo por telemedicina" (2020) [online] [Accessed: 14 December 2020] <<https://orientame.org.co/interrupcion-voluntaria-del-embarazo-por-telemedicina/>>

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cannot explain the trip to their families or partners, particularly during the COVID-19 pandemic. The Spanish State is failing to offer information or solutions to these obstacles.