

Challenges and opportunities in seeking to guarantee the right to decide of Peruvian women

National Coalition-Building Meeting, Lima

20 February 2019

I. Key aspects of the legal, health service and advocacy landscape on abortion (safe and unsafe)

In Peru, abortion has been partly legal since 1924; however, access to legal abortion remains highly restricted. Currently, the law only considers risk to the woman's health as a ground to access therapeutic abortion. The law does not consider fetal anomaly, rape or incest as grounds for abortion.

The Ministry of Health (MINSA) does not have recent data on the provision of therapeutic abortion. For 2014 to 2016, it was recorded that the number of women who had an abortion on therapeutic grounds was 153 in 2014, 453 in 2015,¹ and 311 in 2016.² However, there is no public information on the number of requests for abortions or the kind of care provided for therapeutic reasons.

The results of a national survey to measure the prevalence of abortion in the age group 18-49 years, carried out by the Institute of Peruvian Opinion Studies (OIP) of the Pontifical Catholic University of Peru, commissioned by Center for the Promotion and Defense of Sexual and Reproductive Rights (PROMSEX), showed that out of a total of 2,400 women surveyed,³ 19% had had an abortion at some time in their lives, despite the legal prohibition existing in the country. Data are not available for girls under the age of 18, but according to the Comprehensive Health Insurance (SIS), approximately eight births are reported daily for adolescents under the age of 15 years.⁴

It was only in 2014 that the "National Technical Guide for the Standardization of the Procedure of Comprehensive Care of Pregnant Women for Voluntary Termination of Pregnancy for Therapeutic Indications", covering pregnancies of less than 22 weeks, was approved. This called for informed consent in the framework of the provisions in Section 119 of the Criminal Code. The National Technical Guide has to some extent been disseminated in public health care services, but it has seen limited implementation to date. The lack of implementation is mainly due to social stigma, and restrictive interpretations of the consequences for health personnel regarding issues such as the risk of women experiencing harm or dying when denied an abortion, the impact on the woman's mental health, the gestational age limit of 22 weeks, and the specific health institution (secondary level hospital) required to provide the procedure.

The lack of access to safe abortion is a violation of the reproductive rights of women who request a legal abortion, and criminalizes those who go to clandestine services and do not

¹ Response of the Ministry of Health to the request for access to public information. Docket No. 16-051635-001.

² Ministry of Health, number of women who have had a voluntary termination of pregnancy by therapeutic indication, divided by months and departments (territorial subdivision), from July 2014 to 2016.

³ The survey used a methodology called "response in amphorae" to ensure the privacy and confidentiality of women and their responses.

⁴ Comprehensive Health Insurance (SIS) 2018: Press release, February 1, 2018. General Office of Institutional Image and Transparency.

go the hospital for post-abortion care, for fear of being legally accused. This is because patient confidentiality, guaranteed in the Constitution, is exempted in cases of abortion, as stated in the General Health Act. In addition, the Ministry of Health is currently facing two legal challenges aiming to stop the implementation of the Therapeutic Abortion Guide, filed against them by the anti-rights NGO Acción de Lucha Anticorrupción sin Compenenda.

II. Organization and work on abortion

PROMSEX is a feminist, non-governmental organization. The organisation includes men and women, professionals and activists and contributes to people's access to sexual and reproductive health, justice and rights through political advocacy, generation of knowledge, and cooperation with other civil society organizations.

In the framework of sexual and reproductive rights, and the country's abortion legislation, we work to strengthen the capacities of health care professionals and other state officials, activists and civil society. We also work to strengthen public knowledge on the legality of therapeutic abortion in Peru.

PROMSEX's focus is both on guaranteeing abortion access through the implementation of the National Guide of Therapeutic Abortion in health care facilities and through law reform through decriminalization/legalization of abortion. In addition, we develop actions calling for accountability on the part of the government and strategic litigation of emblematic cases at the national and international level, as a tool to defend compliance with this right as protected by law.

We contribute to the generation of evidence on unsafe abortion, to support and assist the debate on the current situation of unsafe abortion, and decriminalization of abortion, articulating efforts with other collectives, both national and international. Moreover, we are a founding and active member of the Latin American Consortium against Unsafe Abortion (CLACAI), and currently serve as its Technical Secretariat.

III. Aim, outcomes and lessons learned from the meeting

The aim of the meeting was to create a space for dialogue with representatives from various regions of Peru on women's right to choose. Specific objectives included:

- To assess the current state of women's right to choose in Peru.
- To share experiences from Argentina and El Salvador on abortion activism and strategic litigation.
- To outline national strategies to guarantee and expand access to legal abortion in Peru.
- To identify the legal and health challenges with a new regulatory system for abortion in Peru.

To start the meeting, it was suggested to have an open dialogue about the current status of abortion in Peru. This also included the latest results of a survey on the situation of abortion conducted by PROMSEX. In addition, the agenda included a panel discussion with representatives from Amnesty International in Argentina, and Ipas in El Salvador to understand how the Campaign for legal, safe, and free abortion was developed in Argentina and learn more about the situation in El Salvador, a context where the sexual and reproductive rights of women are highly restricted.

The meeting agenda included group work to ensure a space for debating four topics: treatment in the healthcare system; information strategies and accompaniment for women; strategic litigation; and media and social stigma. Finally, the agenda included a presentation and discussion on the new regulatory system for access to abortion in Peru, from a legal and health point of view. The presentation was followed by comments on the previous group work and the closure of the meeting. (See agenda, Annex 1).

The meeting included the participation of 69 activists (58 women and 11 men), covering representatives of institutions from various regions in Peru and different age groups: Abancay (2), Amazonas (1), Arequipa (3), Cuzco (1), Loreto (1), Piura (2), Madre de Dios (1) Trujillo (1) and Lima (55). At the international level, two representatives, one from Argentina and one from El Salvador, also attended the meeting. The representatives came from non-governmental organizations, groups that provide accompaniment for women, academia, communicators, legal defenders, government and public health care services, and international agencies such as UNFPA, Amnesty International, among others. In addition, the event managed to include feminist participants of different generations with valuable experiences in the field of women's right to choose, which was much appreciated by the participants.



The meeting created a space for NGO representatives, activists, and healthcare providers from different age groups, who are involved in the defence of access to abortion in nine regions in Peru, the State and civil society, to share information. Bringing these stakeholders together gave them an opportunity to talk face-to-face, which is often not possible due to the large territorial distances. The following information was shared and discussed:

- There is a growing national and regional context of threats to women's sexual and reproductive rights, especially regarding access to legal and safe abortion. This context is characterized by the presence of anti-rights groups in government spaces and parliaments, with an agenda aimed at reversing the progress made so far, and hindering new proposals that could expand access. Among these groups, there is the movement "Con mis hijos no te metas" (Don't mess with my children), which brings together several sectors, including evangelical groups.
- There are still barriers to women's access to legal abortion in Peru, due to issues such as the lack of awareness by some health care personnel of the technical standards, lack of political will to implement the technical standards, and continuing social stigma around the subject of abortion.

Throughout the meeting, and especially in the group work, there was a rewarding dialogue on the challenges and opportunities in the different regional areas. For example: feminists who carry out accompaniment for women in Lima got to know activists and health providers from other regions, establishing communication and making alliances for the work they do. From the legal perspective, the lawyers were able to share their national and international litigation strategies for the protection of women's rights. Those who work or have experience in the media in influencing public opinion, contributed with information on how social stigma is perceived with regard to abortion, and the media coverage of the issues and individual cases.

Learning about the experiences in Argentina on access to abortion provided insight into the significant progress they have made in the social decriminalization of abortion. This has succeeded, even though abortion is still legally restricted. It was equally important to learn about the experiences in El Salvador. Abortion in El Salvador is extremely restricted, and human rights groups are fighting a long-standing battle to protect women criminalized for having abortions and miscarriages.

To continue to contribute to the scientific and evidence-based information with regard to abortion in Peru. This is through the dissemination of results of the research conducted by PROMSEX.



IV. Future priorities and follow-up activities

– More meetings and communication

It was decided to maintain communications at the local and national levels through the use of communication technology, and through the organization of more face-to-face meetings. This is to ensure regular updates on events, and the development of strategies and campaigns. PROMSEX has included the implementation of these activities in its annual plan. Nevertheless, support from other organizations will be needed in the planning of new workshops.

– Mapping of organizations and strategies

It was considered important to continue the mapping of organizations that are working at the regional and national levels on the subject of abortion; as well as the different strategies that are being implemented, with the aim of incorporating them into future actions. Each organization will do individual mappings to share with the others.

– A key element in the development of alliances is the continuing analysis of the threats posed by conservative groups, and communication on the implementation of legal strategies.

The meeting was supported by the International Campaign for Women's Right to Safe Abortion, International Women's Health Coalition, Planned Parenthood Global and FOS.

Annexes

Annex 1: Agenda

TIME	ACTIVITY	
8:30-9:00	Registration	
9:00-9:45	Presentations/discussion: Women's Right to Choose: At What Point Are We? From the Global to the National Stage. Presentation of the National Survey on Abortion in Peru - Abortion in Figures: Survey of Women in Peru.	Speakers: PROMSEX / CLACAI
9:45-10:45	Panel Discussion 1: Possibilities for Legal Change: International Case Studies Experience in Argentina: Lessons Learned from the Campaign for Legal, Safe, and Free Abortion in Argentina in 2018. Experience in Central America: A Highly Restrictive Context. Questions and comments.	Speakers: International NGOs
10:45-11:00	RECESS	
11:00-12:15	Group Work: Strategies to Guarantee and Expand Access to Legal Abortion in Peru: Assessment Group A: Treatment in the Health Care System Group B: Information Strategies and Accompaniment for Women Group C: Strategic Litigation Group D: Media and Social Stigma	Facilitators: International NGOs National NGOs
12:15-13:00	Plenary session for sharing of the work done in the groups.	
13:00-14:30	LUNCH	
14:30-15:30	Panel Discussion 2: Towards a New Regulatory System for Abortion in Peru Legal Challenges: Legal Grounds, Upper Time Limits, among others. Health Challenges: Abortion as Healthcare in the Area of Sexual and Reproductive Health.	Speakers: International NGOs
15:30-16:00	Final Comments Comments on the conclusions of the work groups.	Speakers: All participants
16:00-17:00	Assessment and Closure Where are we going? How do we get organized at the national level?	Speakers: PROMSEX