

SEXUAL AND REPRODUCTIVE RIGHTS ON THE INTERNET UNDER ATTACK

tools to protect our rights in the digital age



women's **LINK** worldwide

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ABOUT US

We are Women's Link Worldwide (WLW), an intersectional, anti-racist, anti-colonial, and Global South-led feminist organization, working with and for the feminist movements in Latin America and the Caribbean, East Africa, and Europe. Our priorities are gender and reproductive justice, especially access to safe and dignified abortions, and the prevention of gender-based violence. Climate and racial justice are closely linked to our work on sexual and reproductive rights and gender-based violence.

Collaboration is at the heart of our work. We believe in the transformative power of our alliances with grassroots organizations and communities, and we are proud to work with more than 60 national partners and 40 regional and global coalitions and networks.

Our intersectional approach means we are committed to fighting against all types of discrimination and violence that women suffer

due to their socioeconomic condition, race, ethnic origin, migration status, age, or disability.

We use different legal strategies to unleash the power of women, girls, and gender-diverse people, and fight alongside them for gender, reproductive, racial, and climate justice.

We transform traditional strategic litigation with a comprehensive vision that goes beyond legal victories, and that aims to influence public debate, promote social mobilization, and bring about deep and lasting transformations. Our method focuses on the communities we work with, empowering them, improving their legal capabilities, and amplifying their voices.

We are driven to break down the structural barriers to access to justice faced by the most vulnerable communities. The law must be a useful tool for social movements and not only for the elites.

WE KNOW THAT OUR WORK IS SUCCESSFUL WHEN:

- ✓ We accompany allied organizations in the search for creative and innovative ways to use national and international laws.
- ✓ There are larger-scale mobilizations that bring together women, girls, civil society organizations, journalists, etc., in support of a case.
- ✓ We help build lasting capacities to use laws as a tool within local and transnational movements.
- ✓ Feminist attorneys take legal arguments developed or used in our work and use them in new regions or contexts.

ABOUT THIS DOCUMENT

At a time when reproductive rights are under attack in Europe and other regions, the Internet allows groups and organizations to provide accurate, evidence-based, and easy-to-read information about abortion. This type of information has proven to be crucial in restrictive legal contexts for abortion such as Poland, Uganda, the United States, and Venezuela.

This document is based on our experience with the case of Women on Web (WoW), the online abortion provider which shares information on sexual and reproductive health and self-managed abortion through their website, which was blocked by the Spanish government. This is not an isolated attempt to restrict and limit women's right to access an abortion and to fully enjoy their sexual and reproductive rights. It occurs within a framework of systematic and continuous harassment against women, civil society organizations, activists, and defenders of all women's right to make decisions about their bodies and their reproductive future.

This case also showed us the close relationship between sexual and reproductive rights and digital rights. With information, people with reproductive capacity are more likely to make better decisions and to access safe abortions. Information helps prevent unwanted pregnancies and reduces the risk of resorting to unsafe methods of terminating a pregnancy.

With this document, we want to share our experience and the lessons learnt during the litigation of the Women on Web case. We share the main barriers to

the exercise of reproductive rights in the digital space identified, which far transcend the specific case. Many of these obstacles and restrictions on digital rights and reproductive rights occur in many other countries and contexts in very different ways.

Then we explain the actions undertaken by WoW, represented by WLW, to overcome those obstacles. Many are legal actions and arguments, which are applicable and can provide input for organizations in the fight against these violations in other contexts. Others speak of a broader vision of litigation, which include alliance building with organizations and groups, the development of advocacy actions, and the communication strategies that must accompany these struggles to change the terms of public debate on abortion and reproductive autonomy.

Finally, good practices learnt in this case are suggested, hoping they will be useful for feminist organizations and those who promote digital rights to strengthen their advocacy and strategic litigation processes against censorship, content blocking, online harassment, and other violations of fundamental rights and freedoms in the digital space.



GLOSSARY

Abortion: When the pregnancy ends prematurely. It can be induced or spontaneous. It occurs in safe or unsafe conditions, legally or illegally. It can be induced with medication, there are also surgical ones. When it is done to save the life of the pregnant person, it is called ‘therapeutic abortion’.

Algorithms: A term used to describe the procedures that computers use to solve a problem. They have many uses. Here we use it to describe the procedure that different platforms use to decide what content to show and recommend to each user.

Anti-abortion: The way of naming people or organizations that are against abortion and the women who request or need one, the medical teams that perform them, or the clinics that provide abortion care. Sometimes they can engage in violent actions. They are also called pro-life, anti-choice, pro-forced pregnancy, and pro-forced motherhood.

Bodily autonomy: When you have the power and ability to decide about your body and your future. This includes the decision of when and with whom to have sexual relations, and when, and how often to reproduce. It also includes the freedom and possibility of accessing health services when they are needed. For it to exist there can be no violence or coercion.

Content moderation: The application of a series of predetermined rules to the content created by people on a specific social network. They include legal obligations and rules that the private company that owns the platform decides to establish. These are generally called ‘terms of service’ and ‘community standards’.

Contraceptives: The practices, methods, medications, or devices used to prevent pregnancy. They are not abortive. They can be hormonal or a barrier. The former come in various formats: pills, injectables, vaginal rings, patches, subdermal implants, intrauterine implants. The latter is mainly condoms and IUDs.

Disinformation: When false information is spread by a person or group who knows it is false. It seeks to cause damage or harm. It has always existed, but in recent years - thanks to digital technologies - the channels, the number of people who spread it, and how it is amplified have changed.

Downranking: It translates as the action of lowering rank. Platforms adjust their algorithms to relegate certain content, typically following their terms of service or community standards to prevent the circulation of false or misleading information. Thus, the contents are less visible to users.

“Gender ideology”: An empty term that has been used as a discursive strategy to delegitimize feminist and LGBTIQ+ struggles. It is also used to misinform regarding topics such as sexual and reproductive health, equal marriage, sexual education, homo-parental families, and voluntary termination of pregnancy, among others. It was invented by the Vatican in response to the advances of the International Conference on Population (Cairo, 1994) and the World Conference on Women (Beijing, 1995).

Misinformation: Like disinformation, it is inaccurate or even false, but its intent is not necessarily to harm. Beyond its objective, it can be harmful, especially when it spreads quickly thanks to technology.

Navigation protocol: A set of rules to know how devices and systems should exchange and manage information such as directing data packets on networks so that they reach their destination correctly. These can be on the Internet, but they can also be in other types of networks. For example, on the Internet, the Hypertext Transfer Protocol (HTTP) and the Secure Hypertext Transfer Protocol (HTTPS), its secure version, are very common when requesting and delivering web pages, and when handling data between servers and browsers.

People with a capacity for pregnancy: Includes people assigned female at birth such as trans men, non-binary people, and transmasculine people.

Reproductive Autonomy: The right and power to make informed and free decisions about one's own sexual and reproductive health (SRHR). This includes decisions about whether to have children, how many, when, how often, and with whom. It includes the freedom and possibility of accessing contraceptive methods, pre and postnatal care, and the possibility of terminating a pregnancy safely and legally.

Reproductive violence: A form of gender violence that consists of actions or omissions that violate reproductive rights through force, coercion, or other forms of withdrawal of consent and that result in physical or psychological harm.

Self-managed abortion: An abortion that is performed with pills that were obtained and taken without the help of a doctor. It is a very common practice and is generally very safe and effective.

Sexual rights and reproductive rights: They are human rights and are understood as such in national laws and international frameworks. They are based on guaranteeing that we all have a healthy sexual and reproductive life with information and responsibility. It includes the right to freely decide when, how many, and how often to have children. They encompass the vision that sexuality can be enjoyed beyond reproduction and that people must be able to access education and health services without any type of discrimination.

Shadow banning: Actions that a social network takes to limit the visibility of the publications of an account, a topic, or a hashtag.

Strategic litigation: It is used in contexts of human rights violations. It is a tool for change, it helps make these violations and the systems that allow them visible. It seeks to generate an impact that translates into social and institutional changes and into individual impacts on people who have experienced specific violence.

Telemedicine abortion: An abortion that is performed at home with the support of a doctor who provides care through Shadow banning: an option for people who have difficulties accessing a health center, whether due to distance, transportation, care and/or work responsibilities, disabilities, among others.

The State Attorney's Office: It is part of the Corps of State Lawyers, the body in charge of providing legal advice and defense of the State, its entities, and the constitutional bodies of Spain, in domestic and international proceedings.

CHAPTER 1: SRHR IN CONTEXT: THE DIGITAL SPHERE

The battlefield

In 2021, the United Nations High Commissioner for Human Rights affirmed that digital technologies serve to “advocate for, defend and exercise human rights”.¹ Furthermore, they can also be used to “violate rights, especially those of people who are already vulnerable or being left behind, for instance through surveillance, repression, censorship and online harassment, including of human rights defenders.”² Governments and companies know this well and use them to censor and suppress vital information, for example, on the sexual and reproductive rights of girls, women, and other people with the capacity to become pregnant. This prevents millions of people around the world from accessing essential healthcare and having complete control over their bodies.

Having access to accurate information about abortion on the Internet, including social media, is extremely important for reproductive autonomy. With it, people can know their rights and understand the available options, unwanted pregnancies can be prevented and the chances of having safe abortions are improved. By accessing this type of information, harassment, stigmatization, and discrimination based on people's reproductive decisions is also prevented, bodily autonomy is normalized and the will of girls, women, and other people with a capacity for pregnancy is valued.

For digital spaces to be safe for the exercise of reproductive rights, reliable information on contraception, family planning, and safe abortion must be guaranteed. The protection of privacy and personal data and the

security of communications are crucial in the exchange of information connected to reproductive health due to the criminalization associated with abortion.

Reproductive justice activists and groups around the world face challenges in digital spaces: from government censorship to content moderation, shadow banning, and the algorithms that promote misinformation and downranking or devaluation of critical content on sexual and reproductive health.

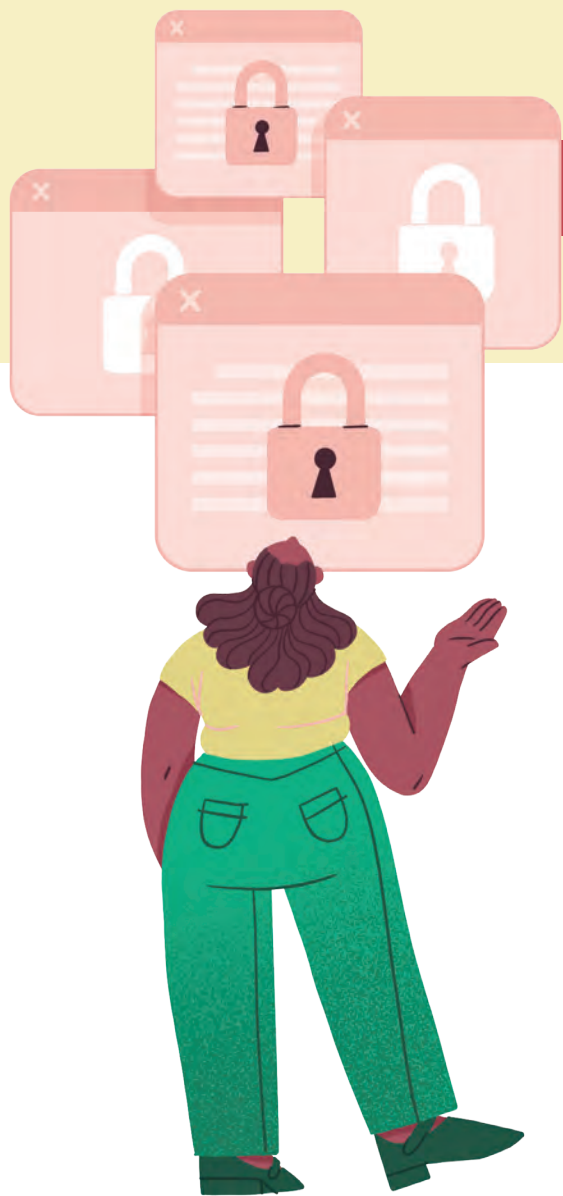
Despite attacks and censorship, with digital technologies much progress has been made in the access to sexual health and reproductive health rights. There are online reproductive health services, medical consultations, information on the delivery of contraceptives, and tests to detect sexually transmitted infections (STIs), and people who undergo medical abortions at home are accompanied. These practices are very positive in that they allow more people to access these services, contributing to mitigate some access barriers related to geographic location, migration status, or socioeconomic situation.

Digital spaces today are a disputed terrain. On the one hand, some people and organizations seek respect and the guarantee of all human rights. On the other hand, we find governments, companies, and organizations that want to misinform, spread lies, damage institutions, deepen inequalities, and openly discriminate against some groups of people. That is why we can say that these spaces are fundamental for democracy, and thus, for all people.

THE CASE OF WOMEN ON WEB

Women on Web is a non-profit organization that provides reliable, safe, and impartial information on sexual and reproductive rights, and in particular, access to abortion, through its website. The organization also offers a telemedicine service so that women and people with a capacity for pregnancy who live in countries where access to abortion is restricted can access an abortion online. It is registered in Canada but operates globally through the website www.womenonweb.org.

The website is blocked in Saudi Arabia, Iran, Türkiye, South Korea, and, since 2020, in Spain.



The COVID-19 pandemic more starkly exposed the vulnerabilities of some sectors of the population around the world in accessing reproductive health services. While health systems were at risk of collapse, sexual and reproductive health services – already minimal in many places – became even more limited.

Telemedicine and online services, such as WomenonWeb.org, became the only alternative for many women and people with reproductive capacity to access a safe abortion and receive accurate and timely information about their reproductive health and autonomy. The pandemic is gone, but websites like WoW and other online applications have demonstrated their power to break down the barriers that prevent many people

from accessing a safe abortion. Adolescents, migrants, victims of gender violence, and those who live in rural areas often find in these tools the only route to avoid unsafe abortions.

It was precisely in this context of mobility restrictions and compromised health services due to the pandemic, that the Spanish Agency for Medicines and Health Products (AEMPS)³ [ordered the blocking of Women on Web's website](#), leaving many women and other people with reproductive capacity without access to an effective tool to exercise their right to a safe abortion, or even to receive information to make a decision⁴.

The decision was based on inaccurate or outright false information about the services offered by the organization. Without any evidence, it stated that the website marketed abortion pills, and without scientific basis, it argued that Women on Web's services put women's health and lives at risk. We will expand on the wave of misinformation surrounding abortion services later.

In 2021, Women's Link Worldwide, representing WoW, filed a lawsuit requesting the unblocking of their website. The Spanish Supreme Court [issued ruling STS 1231/2022](#) in favor of WoW where it considered that the information, recommendations, and opinions on abortion on their website are protected by the fundamental rights to freedom of information and freedom of expression⁵.

The Supreme Court ruling found that the total blocking of the website without judicial authorization was a disproportionate and undemocratic measure. This set an important legal precedent to protect information and freedom of expression on the Internet globally, particularly access to accurate, evidence-based information on abortion and on sexual and reproductive health.

The Supreme Court said that the right to provide and access reliable online information about safe abortion, including abortion with pills, deserves constitutional protection against censorship and content blocking. For this reason, it ordered the partial unblocking of the website.

The ruling did not end there. The Court said that the blocking of the "I need abortion pills" section within the site could be maintained, siding with AEMPS on the alleged sale of abortion pills.

The only technical route to partially unblock the site is for WoW to change the secure browsing protocol (HTTPS) it uses to a less secure one (HTTP), which is unfeasible because it puts the security of users' information at risk and potentially contravenes the General Data Protection Regulation of the European Union (GDPR).

Faced with this prospect, we undertook two legal routes. First, on behalf of Women on Web, we filed a [constitutional appeal](#) before the Constitutional Court of Spain requesting the complete unblocking of the website⁶. We argue that the block order is based on false and discriminatory information and that restricting access to their website violates WoW's and users' fundamental rights such as freedom of expression and association, and the right to information. The Court decided not to examine the merits of the matter, considering that the case had no "special constitutional relevance". At the time of writing, WoW was considering appealing that decision to the European Court of Human Rights.

After the ruling, the AEMPS, with the support of the State Attorney, argued that a partial unblocking was technically unfeasible and that the page should remain wholly blocked. Our second legal action in the face of this refusal to implement the ruling is an "sentence execution incident" where we argue that given the technical impossibility, the appropriate step to comply with the judgment is the complete unblocking of the site. So far, the first instance judge has ruled in favor of the AEMPS; and at this time, the action is pending a ruling on appeal.

We have also argued that, far from protecting users' sexual and reproductive health, the decision not to execute the Supreme Court's decision puts it at risk and violates their fundamental rights to freedom of expression and to access information.

These same rights are violated with regards to WoW, in addition to its right to freedom of association. By blocking access to the only means through which they operate (virtual), its right to exist and to freely operate without any interference in the country is being curtailed, a right protected by the Spanish Constitution and by the [European Convention on Human Rights](#) (ECHR)⁷.

THE CASE IN CONTEXT

In 2018, the Association of Accredited Clinics for the Termination of Pregnancy (ACAI) [issued a report](#) that revealed that 89% of the women surveyed who had an abortion had suffered harassment by radical anti-rights groups, and 66% had received threats⁸. According to this organization, since the extension of the right to abortion in Spain in 2010, more than 8,000 women have been harassed. It is estimated that these groups carry out more than 100 actions per year in front of abortion clinics to dissuade women from their decisions.

For example, every December 28 –a significant date for Christian believers that commemorates the deaths of children known as the “Holy Innocents”– several of these groups gather in front of abortion clinics throughout Spain, harassing their staff and patients.

This strategy is planned, sponsored, and organized by platforms such as Red Madre, the Spanish Federation of Pro-Life Associations, the Catholics, and Public Life Congress, among others.

These actions are combined with other legal and litigation tactics. The fundamentalist association Hazte Oir collected 25,500 signatures and asked the Spanish Constitutional Court to declare the Abortion Law unconstitutional. Also, the ultra-Catholic Christian Lawyers systematically initiate legal proceedings against people and organizations that denounce these harassment practices in the clinics.

In addition, Hazte Oir and Christian Lawyers are promoting a new legal framework in education that allows parents to control activities and courses on sexual and reproductive rights, allowing them to prevent their children from accessing that information. This regulation has already been adopted in the Region of Murcia since the 2019-2020 academic year.

Hazte Oir launched a campaign to promote the “parental veto” policy in those regions governed by the Popular Party –the main Spanish conservative party– with the support of the far-right political party VOX⁹. Hazte Oir has a [consulting service](#) aimed at helping parents prevent their sons and daughters from attending academic activities on the right to abortion, gender violence, or sexual health, even providing free legal representation to sue schools¹⁰.

Around the world, political actors and anti-rights movements are pushing to roll back rights obtained after years of feminist struggle, especially the right to abortion. The Internet became a new battlefield where these actors spread misinformation and hate speech against the rights of women and other people with the capacity for pregnancy to decide about their bodies and their life projects. But the Internet also allowed us to break down barriers to access information on sexual and reproductive health and safe abortions, and that must continue to be a right of all people, in Spain and throughout the world.

CHAPTER 2: BARRIERS TO SEXUAL AND REPRODUCTIVE RIGHTS IN THE DIGITAL SPACE



It has become clear that the blocking of the Women on Web site occurs in a global context of a dispute over digital spaces for the guarantee of sexual and reproductive rights. In this chapter, we expose the obstacles and restrictions that limit the access to sexual and reproductive rights on the Internet that exist throughout the world. We call them barriers because that is what they are for us, structural barriers to women's autonomy over their bodies, which have always existed in the “physical” world and are now extended to the digital one.

CENSORSHIP AND DELETION OF CONTENT ON SRHR

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Impeding access to accurate, factual information on sexual and reproductive health can have serious implications for a range of human rights, including endangering the life and health of women and girls.

”

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan¹¹.

Digital platforms use different techniques to censor and suppress content. Most of them, like the case at hand, can generate violations of freedom of expression, reproduce biases through algorithms, and violate the privacy of the users. These are some of the most frequently used techniques:

Recommendation algorithms:

- **Content filtering:** Recommendation algorithms filter certain types of content based on keywords, images, or behavioral patterns. This may lead to the removal of content that is considered inappropriate or controversial.
- **Content customization:** Platforms can personalize recommendations, which can result in a “echo chamber” where users only see content that reflects their own opinions, limiting the diversity of perspectives.

Content moderation:

- **Algorithmic moderation:** It consists of using algorithms to automatically detect controversial content.
- **Human moderation:** Platforms also employ human moderators to review and remove content that violates their policies, with the ongoing risk that the moderator's own biases will determine which content to remove.
- **Labeled:** Instead of directly removing certain content, platforms can choose to label it or include warnings to inform about its possible controversial nature.

Downranking:

- **Algorithm manipulation:** Platforms can adjust their algorithms to “relegate” certain content, making it less visible to users.

Shadow Banning:

- **Hide contents:** It consists of hiding a user's content without informing them so that they continue interacting and producing content on the platform without knowing that they are invisible to other people.

The blocking of the Women on Web site in Spain is not an isolated event. Different States and technology companies censor content related to women's sexual and reproductive rights, and more and more initiatives from anti-rights sectors promote digital suppression and the blocking of information on abortion. These are some examples of these actions applied by companies and governments:

Censorship and suppression:

- Organizations such as Women on Web, the Oriéntame Foundation, and the International Planned Parenthood Federation have been blocked from publishing or promoting information about abortion, but also about other sexual and reproductive health topics.
- The company Meta (owner of Facebook, Instagram, and Whatsapp) constantly [deletes accounts and publications for having content about safe access to abortion](#)¹². The company justifies its decision by saying that this is “adult content” or that it is promoting products or services for adults while allowing false information and advertising about abortion.
- The short-form video hosting service Tiktok prohibits advertising of abortion services, especially those related to abortion pills. Activists and health workers have stated that this company systematically [deletes content related to abortion](#)¹³.
- In Colombia, Google has put [obstacles for organizations that provide legal abortion services to advertise and appear among the first results of their search engine](#)¹⁴. Google only allows this possibility in some countries such as the United States, the United Kingdom, and Ireland, and limits it in other countries where abortion has also been decriminalized.

Government restriction:

- In 2022, Facebook handed over to Nebraska police the [Messenger conversations](#) of a mother and her daughter, in which they allegedly planned to buy pills to have an abortion¹⁵. This information served to criminally accuse them.
- [Brazil](#) has blocked access to several websites, including [www.womeonwaves.or](#)¹⁶.
- Poland has imposed severe restrictions on access to safe abortions, accompanied by inflammatory rhetoric and disinformation campaigns. A [bill](#) was presented to prohibit any information or promotion of the possibility of having an abortion, not only in Poland but also abroad¹⁷. It was ultimately rejected.
- A [bill in Texas](#) would force internet service providers within the state to block sites that provide abortion information. If approved, it would be illegal to “create, edit, upload, publish, host, maintain, or register a domain name for an internet website, platform, or other interactive computer service that assists or facilitates a person’s effort in obtaining an abortion-inducing drug”¹⁸.

DISINFORMATION

Disinformation is one of the greatest threats today to democracies and human rights. Digital suppression and misinformation regarding sexual and reproductive health are part of a broader problem: gender misinformation.

Gender misinformation is a strategy to silence women and gender-diverse voices. It is also a form of online gender violence. Gender misinformation has multiple objectives: presenting women as weak and incompetent beings and sexualized objects incapable of leading; expelling women and gender non-conforming people from public spaces and areas of power; and silencing those who do not conform to gender norms. It attacks not only people but also their collective struggles, trying to delegitimize feminism and struggles for gender equality.

In addition to a large amount of false data with which the Medicines Agency justified the blocking of the Women on Web site and which we detail later, the State Attorney, in her brief, displays a discriminatory gender bias by indicating that, during the process of requesting abortion pills, the medical professional “does not verify the reality and veracity of what was stated in the questionnaire”.

The State Attorney suggests that the woman requesting the service is lying. In no other type of medical procedure would there even be the suspicion that the patient might lie to the doctor about his or her condition.

Gender misinformation violates the right of women and other gender-diverse people to health by spreading false and misleading information about sexual and reproductive health and rights.

In [Ireland](#), around the time of the abortion referendum, false information was spread linking abortion to depression, cancer, and Down syndrome¹⁹.

In [Italy](#), a campaign by pro-life groups falsely claimed that abortion was the leading cause of femicide in the world²⁰.

A study carried out in [Latin America](#) found a thematic predominance of disinformation campaigns focused on gender violence and abortion, questioning women's right to physical autonomy, as well as polarizing the exercise of that right²¹.

LACK OF RULINGS AND PRECEDENTS

on fundamental rights in the digital space

Digital platforms have become an essential space for organizations and social movements. In the digital space, campaigns are organized and carried out, services are offered, and information is disseminated.

The WoW case showed the absence of a legal framework on the exercise of the right to freedom of association in the digital sphere and the interruption of access to associations' websites. That is, the case raises the question of how this fundamental right is protected for an organization whose activity and contact with its users is carried out exclusively through a website, for example, telemedicine services.

It also reflects the need to review and clarify the framework concerning freedom of expression and the right to information in the digital space, in a context where more and more services are migrating to online platforms.

By completely blocking access to the WoW website, this organization is de facto prevented from existing and carrying out its functions in Spain, even though the Supreme Court recognized that the activities that the organization carries out through the Internet, such as the dissemination of information on sexual and reproductive health and testimonies of women who have had an abortion are protected by freedom of expression and the right to information, and therefore blocking the site required judicial authorization.

Although this ruling is very relevant to protect the rights to freedom of expression and association, Spain lacks a clear procedure for the Administration to ask a judge for authorization to close a website. Without this procedure, the administration, just as the AEMPS did, can block pages arbitrarily and without having to prove substantial reasons.

“

There is no procedure provided to authorize the interruption of websites in all the cases that enable this. Indeed, until now jurisprudence had not had the opportunity to deal with this problem, but the present case has revealed the existence of this gap in our procedural legislation.

”

Supreme Court Ruling 1231/2022²²

The blockade directly affects the provision of telemedicine services, including the facilitation of remote access to medical consultations, which represents a barrier to the exercise of freedom of association.

“

News, data and factual judgments (information), as well as opinions, positions and value judgments (expression), circulate publicly through the Internet; and, in this sense, websites fulfill a function comparable to that of traditional media for information and expression. From this, it follows that, in principle, art. 20.5 of the Constitution applies to the interruption of access to websites

”

Supreme Court Ruling 1231/2022²³

In general, the lack of regulations for digital platforms, search engines, and social networks poses a series of challenges:

<p>1 The cross-border nature of the information that moves on these platforms suggests the need for global and regional consensus on content moderation and the responsibility of the platforms for what is disseminated on them.</p>	<p>2 The lack of regulation leaves too much room for the subjectivity of technology companies to decide what is controversial content and what should be done with it. There are also no common standards on how these companies should deal with disinformation.</p>
<p>3 Data protection and privacy regulations are very uneven between regions and countries. While the EU has the General Data Protection Regulation that creates a strong protection framework, most regions have lax and outdated rules.</p>	<p>4 The focus on self-regulation has dominated this debate in recent years. Although it is a necessary mechanism, it is incomplete if there are no codes of conduct, standards, criteria, and real accountability mechanisms for the actions of the platforms.</p>

The [Digital Services Regulation](#) of the European Union²⁴ will come into force in February 2024. It is the world's first digital standard that requires digital services companies across the EU to be accountable for the content published on their platforms.

It focuses on the creation of a safer online environment and the protection of fundamental rights in the digital environment by establishing new rules on:

- the fight against illegal online content, including goods, services, and information, in full respect of the Charter of Fundamental Rights;
- combating online risks to society;
- the traceability of traders in online markets;
- transparency measures for online platforms;
- reinforced supervision.

Among other novelties, the Regulation establishes the obligation of online platforms and search engines to evaluate and mitigate the risks derived from the design and operation of their services, carrying out risk assessments supervised by independent audits.

Specifically, it establishes as one of the risks to be evaluated “any real or foreseeable negative effect about gender violence, the protection of public health and minors and the serious negative consequences for the physical and mental well-being of the person”. According to the Regulation, these risks can also arise from coordinated disinformation campaigns related to health issues.

Censorship and suppression practices of information on the sexual and reproductive health of these companies are contrary to that mandate.

FACTUAL BARRIERS

to accessing the right to abortion

Although abortion is legal and recognized as a right in the [Organic Law on sexual and reproductive health and voluntary interruption of pregnancy](#)²⁵ in Spain, many women and other people with the capacity to become pregnant resort to unsafe and risky abortions because they cannot access safe services under conditions of equality and dignity. Migrant women in an irregular administrative situation, those who live in rural areas or far from large cities, adolescents, or those who live in contexts of violence, experience greater barriers.

They face barriers mainly related to 1) the generalization of conscientious objection; 2) delays in diagnosis and testing; 3) geographic and socioeconomic discrimination; 4) discrimination based on immigration status; and 5) lack of information about the procedure to access abortion in all the terms and conditions that are in the law.

The Government itself has recognized these obstacles in a modification to the current Law approved on

February 28, 2023.²⁶ The explanatory statement of this reform accepts that the sexual and reproductive rights of women in Spain are not being effectively guaranteed and states, among other things, that:

- The vast majority of voluntary terminations of pregnancy end up taking place in private out-of-hospital centers” (84.5% of abortions are performed in private centers, although the 2010 law establishes it as “a service included in the portfolio of benefits of the health system”);
- “The territorial difference in the exercise of this right is especially worrying since there are territories in Spain that in recent years have not reported any voluntary termination of pregnancy in publicly owned centers.”;
- “The poor regulation of conscientious objection constitutes an obstacle for women when they exercise their right to access sexual and reproductive health services.”

The problem now is that the effectiveness of the modifications of the new law depends on regulatory development by the regional administrations. It is the autonomous communities that must establish mechanisms for access to abortion in conditions of proximity to their home, to guarantee the accessibility and quality of the intervention and the safety of women and other people with the capacity to become pregnant.

Blocking a service for access to pharmacological abortion by telematic means not only does not protect health but also reinforces the barriers to access to abortion, especially for those people who do not have the financial resources to travel and for migrant women without a residence permit.

Unfortunately, this new reform does not establish measures to end discrimination against migrant women in an irregular administrative situation when they need to access an abortion. It is still uncertain what impact the legislation will have to effectively guarantee access to safe abortion without discrimination for all pregnant people in Spain.

LACK OF ACCESSIBLE public information

The right to information on sexual and reproductive health is deeply linked to autonomy and the right to dignity and is framed within the protection of personal and family privacy. Scientific information on health services on known and accessible platforms is essential so that autonomous and informed decisions can be made. Therefore, the lack of this information prevents rights from being guaranteed.

Although LO 2/2010 has been in force for more than ten years in Spain, the information available about the provision of the Voluntary Interruption of Pregnancy that the administrative authorities provide is insufficient. Neither the Ministry of Health nor the Ministry of Equality offers online information on how to access an abortion. Most of the information available is for professional use or statistical purposes.

The Health Departments of the Autonomous Communities (CCAA) also do not offer complete and updated information on how to access the service, the available methods, or the procedure that must be followed to be able to exercise the right. Some CCAA, such as Castilla y León, even [provide misleading information and refer those who have questions about abortion to anti-choice organizations like Red Madre](#)²⁷.

A report prepared by [L'Associació de Drets Sexuals i Reproductius](#) demonstrated that the state health authorities have not carried out any citizen awareness campaign to inform about the right to abortion since the Law came into force.²⁸ The Ministry of Health, in the 2010-2020 period, has carried out more than 80 information campaigns, [none of them about abortion](#)²⁹.

Some revealing data:

- In Spain, in 2016, more than 80% of women did not know that they could have a free abortion, half of those under 30 years of age did not know that they could abort by their own decision, and two out of every three children under 18 years of age had information wrong about the right to abortion for minors.
- No Spanish health authority provides complete and accessible information on pharmacological abortion or facilitates access to the process without having to go to a clinic.
- The Ministry of Health, in the 2010-2020 period, has carried out more than 80 information campaigns, none of them related to abortion.
- The WOW site received 1,100 visits every day from Spanish IPs before the blockade.

CHAPTER 3: HACKING THE LEGAL STATUS QUO



The barriers to the enjoyment of sexual and reproductive rights that we mentioned in the previous chapter must be broken down. In the case of WoW, we have begun to weaken some. The fact that the Supreme Court recognized that the right to provide and access reliable online information about abortion, including abortion with pills, deserves constitutional protection against censorship and content blocking, is a precedent that opens new doors for us to combat arbitrary decisions like that of the Medicines Agency.

In this chapter, we want to discuss how we are hacking the status quo. Our goal is to share the legal and non-legal arguments and actions we used in this case so that they can be useful to other organizations and activists facing similar situations. We believe that some of these legal arguments and strategies have the potential to be adapted and replicated in other contexts.

THE LAWSUIT ON FREEDOM of expression and information

The right to freedom of expression has solid legal protection in international human rights bodies. Litigation to fight against the digital suppression of information on sexual and reproductive health and access to abortion services can strengthen the legal framework of freedom of expression in the area of reproductive rights, generate standards on the intersection between reproductive rights and digital rights, or even promote regulatory changes.

In 2023 in Spain, the Law on Sexual and Reproductive Health and Voluntary Interruption of Pregnancy (IVE) was modified, which includes among the measures to guarantee information about abortion “The positioning on the Internet of information about public centers that provide the voluntary termination of pregnancy service”. Although this provision is not being met, nor is the obligation of national and local governments to provide information on Voluntary Interruption of Pregnancy, the Law offers a solid framework to, through strategic litigation, make effective the fundamental right to information on reproductive health.

The challenges that organizations, activists, and defenders of reproductive rights face in the digital world are very similar in different contexts. A positive judicial decision from a country can favorably impact a broader group of people, as well as reinforce or accompany advocacy and campaign actions at a global level.

Litigation can make visible the problem of digital suppression in terms of reproductive rights and help generate a public debate. A positive or negative decision on a particular case of digital suppression in terms of reproductive rights can be the hook for the media to take an interest in the issue and address this problem from a global perspective. In this sense, litigation in itself constitutes a campaign tool.

Arguments to protect FREEDOM OF EXPRESSION

The right to freedom of expression and information has reached new dimensions in recent decades due to the massive use of cyberspace as a destination for information, opinions, and thoughts around the world. This transformation has been noted by the [European Court of Human Rights](#) (ECtHR) in the judgment of the Delfi case against Estonia, where it recognized that "user-generated expressive activity on the Internet provides an unprecedented platform for the exercise of freedom of expression."³⁰

The Spanish Constitutional Court, in its sentence number [172/2020](#), stated that the protection of freedom of expression contained in Article 10 of the European Convention on Human Rights (ECtHR), and reiterated by the ECtHR, covers not only the substance of the ideas and information expressed but also how they are expressed and transmitted, and that protection extends to the Internet, given its ability to store and disseminate large amounts of data and information³¹.

ARTICLE 10 ECHR

Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television, or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions, or penalties as are prescribed by law and are necessary for a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

The Spanish Constitution recognizes the right to freedom of expression and information in article 20.1. It protects the right to "freely express and disseminate thoughts, ideas and opinions by word, writing or any other means of reproduction", and also says "freely communicate or receive truthful information by any means of dissemination".

This means that the right is protected in two ways. Both for those who disseminate information protected by their freedom of expression and for those who receive it enjoying their freedom of information.

The ECHR has developed a mechanism to determine whether there has been a violation of the freedom of expression protected by Article 10 of the ECHR. Firstly, it assesses whether the measure of restriction on freedom comes from an "interference by a public authority. If so, perform an analysis based on three criteria

1. whether that interference is "prescribed by law."

2. if it corresponds to any of the limits to this right contemplated in article 10.2, that is if it pursues a legitimate objective.

3. If that interference is "necessary in a democratic society" to meet your objectives.

How do we apply all that legal baggage in the case of Women on Web?

Applying the mechanism proposed by the ECHR we find:

- Yes, the interference was exercised by a public authority, in this case, the Spanish Agency for Medicines and Health Products (AEMPS).
- No, such interference is not prescribed by law, especially since the website has different contents and only the "I need abortion pills" section has been questioned for the alleged, unproven sale of pills.
- No, it does not respond to any of the exceptions in article 10.2, because although among them is the protection of public health, there is no evidence that this is put at risk through the website.
- No, the measure is not at all necessary in a democratic society, since, even in the remote case that the intention was to prevent the sale of medicines to protect public health, the administration never managed to prove that theory.

In addition to this weighing examination, we argue that the right to information on sexual and reproductive health is intrinsically related to autonomy and the right to dignity and is framed within the protection of personal and family privacy.

The availability of scientific information on health services on known and accessible platforms for pregnant women and adolescents is essential so that they can make autonomous and informed decisions to which they are entitled. In this sense, the lack of information on issues related to the sexual and reproductive health of women and other people with the capacity to become pregnant prevents these rights from being realized effectively.

The WoW website is made up of very diverse content, most of it unrelated to the alleged distance sale of medicines. For example, the “aborted” section of the website contains testimonies from numerous users of various nationalities about their experience terminating pregnancy with medication.

On the other hand, in the “Questions and Answers”, “News” or “Research” sections, scientific studies and updated information on telemedicine, access to abortion, and pharmacological abortion in different countries around the world is provided.



Thus, WoW plays a fundamental role in protecting the rights of women and other people with reproductive capacity to information on sexual and reproductive health. The censorship of the page has a disproportionate effect on women, leading to discrimination based on gender.

In Spain, women and other people with the capacity to become pregnant resort to WoW when they need access to safe abortion information and services. In 2018, 109 women residing in Spain contacted WoW for help, and in 2019 this number more than doubled to 278 women. In 2020, before the page was blocked, 66 women in Spain had written in search of information.

International Standards of Freedom of Expression

International Framework	Standard
<p>Universal Declaration of Human Rights (1948)</p>	<p>Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.</p>
<p>International Covenant on Civil and Political Rights (1966)</p>	<p>Article 19.</p> <ol style="list-style-type: none"> 1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: <ol style="list-style-type: none"> a) For respect of the rights or reputations of others; b) For the protection of national security or of public order (order public), or of public health or morals.

Marco Internacional	Estándar
<p>African Charter on Human and People's Rights (1988)</p>	<p>Article 9</p> <ol style="list-style-type: none"> 1. Every individual shall have the right to receive information. 2. Every individual shall have the right to express and disseminate their opinions within the law.
<p>Resolution 169 on the repeal of the criminal defamation law in Africa of the African Commission on Human and People's Rights - 24 November 2010</p>	<ol style="list-style-type: none"> 1. Underlines that criminal defamation laws constitute a serious interference in freedom of expression and impede the role of the media as watchdogs, preventing journalists and media professionals from exercising their profession without fear and in good faith; 2. Congratulate States Parties to the African Charter (States Parties) that do not have, or have completely repealed, laws on insults and criminal defamation; <ul style="list-style-type: none"> (a) Calls on States Parties to repeal criminal defamation or insult laws that impede freedom of expression and to respect the provisions on freedom of expression articulated in the African Charter, the Declaration, and other regional and international instruments; b) Also calls on States parties to refrain from imposing general restrictions that violate the right to freedom of expression;
<p>European Convention for the Protection of Human Rights and Fundamental Freedoms</p>	<p>Article 10.</p> <ol style="list-style-type: none"> 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.
<p>American Convention on Human Rights (1969)</p>	<p>Article 13</p> <ol style="list-style-type: none"> 1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice. 2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure: a. respect for the rights or reputations of others; or b. the protection of national security, public order, or public health or morals. 3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.

Marco Internacional	Estándar
	<p>4. Notwithstanding the provisions of paragraph 2 above, public entertainments may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence.</p> <p>5. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds</p>
<p>Declaration of Human Rights of the Association of Southeast Asian Nations (ASEAN)</p>	<p>There is no regional human rights body established for Asia. However, the ten ASEAN countries formally established the ASEAN Intergovernmental Commission on Human Rights (AICHR) on October 23, 2009, during the 15th ASEAN Summit. The group also adopted a Declaration of Human Rights, which guarantees freedom of expression as follows:</p> <p>23. Everyone has the right to freedom of opinion and expression, including the freedom to hold opinions without interference and to seek, receive, and impart information, whether orally, in writing, or by any other means of their choice.</p>

Arguments to protect

FREEDOM OF ASSOCIATION

The fundamental right to freedom of association is crucial to the democratic systems and a starting point for the exercise of many other civil, cultural, economic, and social rights. Associations are the vehicle of expression and performance of minorities or groups with dissident opinions. For this reason, freedom of association has been identified by the Spanish Constitutional Court as "an essential component of pluralist democracies, since without it such a system does not seem viable today, from which results, ultimately, one of its structural elements as an ingredient of the Rule of Law" ([Sentence of the Plenary Session of the Constitutional Court no. 236/2007, of November 7, 2007](#))³².

In another sentence, the European Court of Human Rights has declared that, despite its specificity, art. 11 ECHR must be seen in the light of Art. 10 ECHR, since the protection of personal opinions (freedom of expression) contemplated is one of the objectives of the freedom of assembly and association enshrined in art. 11 ECHR ([Case of Vogt against Germany, September 26, 1995](#))³³.

Interconnection between FREEDOM OF EXPRESSION AND ASSOCIATION

At the international level, there is clear recognition of the interconnection between freedom of expression and freedom of association.

International courts have established that the effective exercise of freedom of expression is often linked to the ability of people to associate and collectively express their opinions.

The ECtHR has held that freedom of expression is intrinsically related to and difficult to separate from the right to freedom of assembly and association.

In [Women On Waves and others against Portugal](#) in 2009, this instance determined that the prohibition of the entry of a ship intended to inform on sexual and reproductive rights violated the right to freedom of expression³⁴.

In the case of *Redfearn v United Kingdom*, the ECtHR specified that Article 11 of the ECHR on freedom of association applies not only to associations whose opinions are favorably accepted but also to those whose opinions offend, shock, or disturb³⁵. This broad approach recognizes the diversity of opinions and the importance of protecting even those that may be controversial.

The reform itself to modify the [Organic Law on sexual and reproductive health and voluntary interruption of pregnancy](#) establishes, in Article 6, the obligation of public administrations to promote and strengthen the participation of non-profit entities that, from the feminist movement, act in the field of sexual and reproductive health and rights, with special attention to those whose actions take place in the specific areas regulated in the organic law³⁶.

We have already said that completely blocking access to the WoW website prevents this association from carrying out its functions of providing online information on pharmacological abortion and providing a telemedicine service in Spain. That is, the dissemination of information and opinions through the web and the offering of telemedicine services is how WoW exercises its freedom of association. There is a clear connection between freedom of expression and freedom of association, and restricting their website violates both rights.

EQUIVALENCE OF WEBSITES with other means of information

The jurisprudence generated with the WoW case highlights the equivalence of websites with other means of information and expression. The Supreme Court Ruling of October 13, 2022, recognized that websites fall within the category of "other media of information", fulfilling a function comparable to traditional media of information and expression.

This is the first time that the Supreme Court has addressed a situation related to the closure of a web page, and there was no jurisprudence of the Constitutional Court in this regard either, so the case has promoted a new standard that can be applied to other pages that experience similar situations. and that could clarify the protection of freedom of expression and association in the digital environment.

The connection between freedom of expression, association, and telemedicine requires development by the courts.

As digital platforms have become fundamental means for the delivery of health services, jurisprudence must adapt and offer specific guidelines to protect these rights in the context of telemedicine.

The development of specific jurisprudence would provide legal certainty in a rapidly developing sector such as telemedicine. The lack of clear regulation can affect the provision of health services through digital platforms and the protection of associated fundamental rights.

Spain is failing to comply with the legal framework and international jurisprudence:

The [Committee on Economic, Social and Cultural Rights](#) (CESCR) of the United Nations has indicated that States must guarantee the right of women to access sexual and reproductive health services. This includes the obligation that services be available at a safe geographical distance, promptly, and at a price affordable to all women.³⁷

The [European Committee of Social Rights](#) (CEDS) considered that the Italian law on the right of medical personnel to conscientious objection in the case of abortion violated the rights to health protection and non-discrimination enshrined in the European Social Charter³⁸.

The [European Court of Human Rights](#) (ECtHR) has recognized that once a Member State has enacted regulations that make abortion possible, it cannot, in practice, create barriers or obstacles that make it impossible. Practices that hinder access to abortion when it is legal contravene Article 8 of the Convention on the right to respect for private and family life. It could even be considered inhuman or degrading treatment and would violate Article 3 of the Convention.³⁹

USE OF EVIDENCE based information

The Spanish Agency for Medicines and Health Products (AEMPS) justifies the blocking of the website based on three false assumptions:

- 1) The medicines (mifepristone and misoprostol) that are mentioned on the site cannot be marketed in Spain.
- 2) WoW sold these drugs.
- 3) These medications are a risk to public health.

The first argument is also reproduced by the State Attorney when she states that the medications offered on the WoW page “lacked authorization for their distribution and dispensation in Spain.” This statement is the basis of their proposal to keep the website blocked in its entirety. It is also repeated by the Supreme Court when saying that its “marketing is prohibited in Spain”

The truth is that both medications [are legal](#) and are used regularly⁴⁰. Medicines whose active ingredient is misoprostol have been sold in Spain since October 1, 1989, and mifepristone since January 1, 1997. They are medicines subject to medical prescription, misoprostol is marketable and its sale is authorized in pharmacies. Mifepristone is also registered for marketing, but it can only be dispensed in hospitals or authorized healthcare centers.

Mifepristone and misoprostol have also been on the list of essential medicines of the [World Health Organization](#) (WHO) since 2005 and are available in practically all countries of the European Union⁴¹. Since [2019](#), they are considered not to require medical supervision⁴².

Regarding the second assumption, the answer must be forceful. Women on Web does not sell abortion pills nor did the AEMPS ever seize any medicine supposedly marketed by the organization. Its service consists of facilitating the contact of women and other people with the capacity to conceive with doctors legally authorized to practice the profession in the European Union. After this professional assessment, the doctor can issue a prescription for the woman to buy the pills at a pharmacy in Spain. European law recognizes and allows the use of “cross-border prescriptions” from doctors in other EU countries.

Although the organization asks for a donation, it is not mandatory and is intended to help fund the service for those who cannot contribute.



WoW operates without restrictions in countries such as France, Italy, the United Kingdom, Ireland, and Germany. And there is only one precedent of judicialization of WoW activities in the European Union. In it, the Vienna administrative court concluded that WoW complied with Austrian law. In other words, Dr. Rebecca Gomperts, founder of WoW, could legally prescribe abortion medications to women established in another country in the European Union.

The third assumption, about the risk to women's health from the pills or having an abortion at home, has been reiterated by the Agency, the State Attorney, and even by the different courts that have heard the case. No one has provided a single piece of evidence to support that claim.

The truth is that multiple scientific investigations show that pharmacological abortion with misoprostol can be performed safely by women themselves at home, without having to be supervised by medical professionals. We mention two WHO publications:

The **"Unified Guidelines on self-care interventions, sexual reproductive health, and Rights"**, published in 2019, include a section on pharmacological abortion without health supervision in the first trimester of pregnancy⁴³.

The news **"Abortion Care Guidelines"** published in 2022, recommends telemedicine as an alternative to in-person interactions with the health care worker to provide medical abortion services in whole or in part⁴⁴.

The vast majority of scientific studies conclude that more than 99% of patients who took the pills did not have serious complications. On April 7, 2023, the New York Times published an [article on the safety of abortion pills](#) based on scientific evidence⁴⁵. The newspaper, along with a group of experts, reviewed more than one hundred studies that together covered more than 124,000 abortions. Studies conclude that abortion pills – such as misoprostol – are a safe method to end a pregnancy.

A comparative law exercise shows us that several EU Member States have allowed telemedicine for abortion:

In the United Kingdom, access to pharmacological abortion is allowed through remote consultations and the delivery of pills by post. Web pages like **"MSI Reproductive Choices UK"** receive state funding to provide information and send medications without having to go to a clinic⁴⁶.

In France, the entire procedure for accessing a pharmacological abortion can be carried out by telephone consultation. The doctor transmits the prescription by some means that guarantees confidentiality to the pharmacy chosen by the woman. Information about the process is published on an [official page of the French government dedicated to the IVE voluntary termination of pregnancy](#).⁴⁷

THE CONSTRUCTION OF PUBLIC OPINION

We understand that to generate social change, legal work must go hand in hand with a communication strategy that allows influencing and creating a favorable current of public opinion, and that promotes social mobilization. That is why all our strategies include, in addition to legal defense, communication and advocacy strategies.

The communication strategy must contain, at least, the definition of communication objectives, priority audiences, key messages, means by which we are going to deliver those messages and the communication products that are going to be produced.

The key message should provide clarity on why the problem is important to the general public and what solution we propose. In this case, one of the key messages we established was:

The decision of the Supreme Court of Spain in a case brought by Women's Link and Women on Web is an example for the world to follow because it recognizes that information about sexual and reproductive health published on the Internet, including information about abortion, is protected by the right to information and cannot be blocked without a court order.

It is also important to generate secondary messages that address the different audiences that we want to involve and add to the cause.



Secondary Messages

For women, girls, and people with the capacity of pregnancy:

Protecting accurate information about abortion on the internet is essential for reproductive autonomy because it helps prevent those who need an abortion from resorting to unsafe methods or facing unwanted motherhood.

For institutions and decision-makers:

At a time when misinformation spreads rapidly on the internet, this decision sets an important precedent to protect access to truthful, evidence-based information about abortion and sexual and reproductive health. When there is no reliable information about abortion, anti-abortion websites and misinformation fill the void, endangering the lives and health of many people.

For feminist organizations in other parts of the world:

This victory can be replicated in other contexts where activists and organizations that provide information and help other people access a safe abortion are also restricted and persecuted. In the face of retrograde decisions such as the reversal of *Roe vs. Wade* in the United States, this success gives us hope to continue expanding access to abortion and protecting the intersection between digital rights, information, and sexual and reproductive rights.

This way, even if a legal victory is not achieved, it increases audiences' awareness and knowledge of the rights we are defending. It is also very likely that in future actions we will have more and more diverse voices allied to the cause.

In general terms, a communication strategy aimed at achieving women's rights must seek to:

:

- Focus on the stories of the women, girls, and other people with the capacity to conceive behind the cases, if possible, with their voices, and without any type of re-victimization.
- Use data and verifiable evidence that help combat misinformation and prejudice.
- Use clear language and messages, staying away from legal or technical jargon.

WOMEN'S VOICES

Testimony 1: I know that abortion is supposed to be free and safe in this country, but when I asked the doctor accused me of being a bad person and did not want to refer me for an abortion. That's why I visited this site.



Testimony 2: I don't know where else to turn. I am less than nine weeks pregnant. I was abused by a member of my family. I'm too afraid to go to a hospital. I am desperately waiting for an answer, please help me!!!

Testimony 3: I am an undocumented migrant in Spain, so I cannot have an abortion through the public health system. I also cannot afford an abortion in a private clinic. I am very worried because I know that this is not the right time to be a mother.

Testimony 4: My closest clinic is in X, which is an hour and a half away and no one will be able to take me home. Also, I don't have anyone to take care of my children. I need your help, is it possible?

Testimony 5: I am in a relationship and I am being abused. He took my birth control pills, so I have no way to protect myself and I can't go to a clinic to have an abortion. I need your help.



In the Dominican Republic, since 2013, we have represented Rosa Hernández, the mother of “Esperancita”, a young woman who died after being denied a therapeutic abortion that would have saved her life. Since then, Rosa Hernández has assumed leadership and become a spokesperson for the process in the country and international forums and media. Her voice has contributed to changing the terms of public discussion about the criminalization of abortion and its consequences.



For 9 years we accompanied Antonia Correa, a woman to whom the Murcian Health Service in Spain denied information about the anomaly suffered by the fetus she was carrying, which prevented her from accessing a pregnancy termination in dignified conditions. The Constitutional Court forced Murcia to compensate Antonia for having hindered her access to abortion and for having referred her to another autonomous community to have an abortion. She was the spokesperson for her story.

CHAPTER 4: LESSONS AND GOOD PRACTICES



Feminist strategic litigation must have an intersectional, anti-racist, and anti-colonial approach. Traditional methods are insufficient to achieve profound transformations in our societies. Therefore, over more than 20 years of experience, we have worked to improve our advocacy and litigation model, placing at the center of the strategies the voices and experiences of communities, grassroots organizations, and above all, women, girls, and gender-diverse people.

Each case and each legal journey has brought us closer to their lives, their realities, and their dreams. Along the way, we have forged strong partnerships in the regions where we work.

Hand in hand with feminist organizations and movements we have achieved rights that previously seemed unattainable.

The Women on Web case on which this toolkit is based brings us closer to a challenging reality. The digital world, on which we increasingly depend for information, and which has become a space for articulation and meeting of movements and groups that fight against all types of discrimination at a global level, also represents a threat when it is used by anti-rights groups to spread disinformation, prejudices and hate speech.

We have said that litigation cannot be an end in itself. A legal victory can be a great step to advance our rights, but lasting change will only be possible if it is accompanied by other actions and strategies and above all if it is strengthened by collective action.

These are some of the most important lessons from this case, and we hope they will be useful to other legal professionals, activists, and organizations that face similar challenges to guarantee the exercise of sexual and reproductive rights in the digital sphere.

THE COURTS MUST BE FREE of all types of discrimination

Gender stereotypes are an obstacle to justice. The way judges select and interpret facts and norms is invariably influenced by their own biases.

Sometimes judges are aware of their own biases and learn to free themselves from them in their decisions, other times there are those who make them aware of them, but many times they go unnoticed by everyone.

Judges must be aware of their biases to avoid making decisions based on stereotypes rather than the facts before them that could result in a discriminatory decision.

Feminist organizations can play an important role in training courts. At Women's Link, we train high-level judges, Supreme Court officials, and prosecutors in Colombia, Uganda, Kenya, Rwanda, Mexico, Argentina, Honduras, Guatemala, and Spain, on how to include a gender perspective in the application of the law.

LACK OF KNOWLEDGE of digital issues

It is necessary to increase the knowledge of courts and tribunals on issues related to the digital world, which is increasingly present in people's lives. As explained, the Supreme Court's ruling turned out to be impossible to execute because there is no technical possibility of partially unblocking the website without putting the security of the users' information at risk, which would potentially be contrary to the General Data Protection Regulation of the European Union (GDPR).

Furthermore, the State Attorney, in her defense before the Supreme Court, said that any violation of WoW's right to freedom of expression and information would be easily repairable "since nothing prevents it from segregating the information activity on a different website" or even suggests that the organization can open as many pages as it would like.

That statement shows a profound lack of digital knowledge.

First of all, designing, programming, and hosting a website has significant financial costs. But beyond that, guaranteeing good performance in search engines requires time and considerable financial effort. A new site will hardly achieve the same traffic as the current one, which has built its presence over the years with a strong brand identity, experience, and reliability. Google searches are the main entry point to the WoW page, and instead of creating more websites and overwhelming those seeking an abortion, the goal should be for users to find the information they need quickly, safely, and reliably.

The need TO WORK IN ALLIANCES

Conservative anti-rights groups operate in an articulated and strategic manner. They permeate in public institutions, in politics, in the media, and increasingly on social networks and digital platforms.

Feminist organizations, and the entire ecosystem of organizations defending the human rights of historically discriminated populations, must make cooperation the heart of our working method. Alliances provide a diversity of perspectives and experiences that enrich strategies and narratives.

We believe in the power of our alliances with organizations, activists, and communities.

Building trust, understanding the contexts and realities of the communities, respecting their cultural backgrounds, and recognizing their needs are necessary bases for solid alliances. Without these alliances, the litigation, even if successful, will not have the desired scope.

We are proud of the alliance between Women's Link and Women on Web that allowed this important advance in the protection of the fundamental right to issue and receive online information on sexual and reproductive health.

Feminist alliances are winning victories to expand women's rights around the world.

The Causa Justa movement, which brings together more than 100 feminist organizations, achieved the decriminalization of abortion until the 24th week in Colombia. This achievement, of which we are proud to have been a part, is a historic victory for the right to abortion and makes Colombia the country with one of the most advanced legislations in Latin America and the Caribbean. We continue to be part of Causa Justa, sharing the goal of achieving the social decriminalization of abortion.



From 2019 to 2021, Women's Link partnered with Black women's organizations to develop and publish several reports ("Brave Voices," "Black Women's Cries for Freedom, Reparation, and Memory," and "No Justice and Reparation there will be no peace"), to make visible how racism, gender and class inequality were experienced by black women in Colombia during the armed conflict. These reports were presented to the Truth Commission and the Special Jurisdiction for Peace. The process of preparing the reports strengthened these organizations, making their voices and demands visible.

We partner with the Consejo Cívico de Organizaciones Populares e Indígenas de Honduras (Civic Council of Popular and Indigenous Organizations of Honduras) y el Movimiento Amplio por la Dignidad y la Justicia (Broad Movement for Dignity and Justice) to accompany the Lenca and Tolupán indigenous peoples in the presentation of an amicus curiae before the Inter-American Court of Human Rights, within the framework of the Advisory Opinion on Human Rights and Climate Emergency requested by Chile and Colombia. Together with these indigenous peoples, we are developing a concept of intersectional justice, which links reproductive, racial, and climate justice, and highlights the disproportionate impacts of the climate crisis on their communities.



We are working with allied organizations in Brazil, Chile, the Dominican Republic, and Panama to incorporate feminist, anti-colonial, anti-racist, and community narratives into the legal ecosystem. We are incorporating a feminist critique into our academic and technical-legal jargon. We know we need to continue strengthening the best way to touch hearts and minds.



The investigation into the conditions of Moroccan workers in the Spanish strawberry fields revealed systematic abuses against women in the selection criteria of workers in Morocco and working conditions in Spain. We used this information to represent affected women and collaborate with local feminist organizations, prompting UN-led statements to the governments and companies involved.

ADDING A GENDER PERSPECTIVE to digital activism, and vice versa

Digital rights and sexual and reproductive rights are interdependent and must be understood as human rights. It can also be said that digital rights are a tool to guarantee access to SRHR.

The Internet must be understood as an essential public service that must be guaranteed by States. In the same way that access barriers for historically discriminated populations are considered for other public services, the virtual space must consider the historical inequities that represent access gaps for women.

Recognizing this complementarity between SRHR and digital rights raises opportunities and challenges.

On the one hand, it opens the possibility of promoting creative strategies for the promotion of SRHR through digital platforms, accompanying women and people who defend the right to abortion, expanding awareness about the consequences of the criminalization of abortion, and co-creating new tools to access this right.

On the other hand, it presents the challenge of counteracting the growing online violence against women and sexual minorities and the difficulties of regulating digital platforms that must arise from a multilateral agreement that does not violate the limits of freedom of expression.

GO BEYOND COURT WALLS

A legal victory is an important step to achieve change in our societies, but it cannot be the only one. The problems are complex and have multiple causes, and litigation cannot resolve them all.

It is important to prioritize what specific aspect the legal process is going to focus on, for example modifying a law or seeking a court ruling, but this action must be complemented with other mobilization, communication, advocacy, and any other action that contributes to follow taking steps to achieve true and deep transformations.

Organizing meetings, seminars, and training on the topic can be a good way to consolidate expert spokespersons, empower activists interested in the topic, test arguments in front of different audiences, and involve actors from governments, academia, or the press, among others.

In the case of WoW, our goal goes beyond unblocking the website. We want to raise awareness about the obstacles to exercising the right to abortion in Spain and other countries and the importance of timely access to reliable information on sexual and reproductive health and abortion. Following that objective, in addition to the legal process, we held awareness sessions with journalists and media editors, published opinion pieces, participated in radio and television interviews, and designed an information campaign for social media.

Women's Link Worldwide, Women on Web, and Freedom of Expression Association held the webinar "Why digital rights are reproductive rights" in May 2022. It was one of the many actions we carried out to generate public discussion about the WoW case.

VIRTUAL CONVERSATION

WHY DIGITAL RIGHTS ARE REPRODUCTIVE RIGHTS

MAY 12, 2022 - 04pm CEST / 10am ET

With the participation of:

- **Aintzane Márquez**, Senior Attorney at Women's Link Worldwide.
- **Venny Ala-Siurua**, Executive Director of Women on Web.
- **Yaman Akdeniz**, Co-founder of Freedom of Expression Association (IFOD, Turkey).
- **Paulina Gutiérrez**, Legal Officer at Article 19.

Moderator: **Keina Yoshida**, Barrister at Doughty Street Chambers.

Register online! (we will send the access link 24h before the event).

Simultaneous translation in Spanish/English available.



Logos for Women's Link Worldwide, Women on Web, IFOD, and Article 19 are visible at the bottom.



In November 2023, in Bogotá, Colombia, we convened a discussion space with Latin American feminist and digital organizations and activists. The meeting was called "The Link between reproductive rights and digital rights: dialogues for action."



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This document is based on the feminist strategic litigation work carried out by the Women's Link Worldwide team. In particular, the document draws on the work of Women's Link in Europe in the case of the blocking of the Women on Web website in Spain, which offered information on sexual and reproductive rights and access to pharmacological abortion. This document was prepared with funding from the [Digital Freedom Fund](#) (DFF).

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Contents and Design: INCLUSIVE Consultants
Illustrations: Pamela Zamora
Madrid, Spain. 2023

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