



Doc. 12389

06 October 2010

Women's access to lawful medical care: the problem of unregulated use of conscientious objection

Committee Opinion¹

Committee on Equal Opportunities for Women and Men

Rapporteur: Ms Ingrida CIRCENE, Latvia, Group of the European People's Party

A. Conclusions of the committee

The committee congratulates the Social, Health and Family Affairs Committee on its report on women's access to lawful medical care: the problem of unregulated use of conscientious objection, which sets out a balanced point of view and reasonable proposals. It supports the draft resolution and the draft recommendation and wishes to propose seven amendments.

B. Proposed amendments to the draft resolution

Amendment A (to the draft resolution)

After paragraph 3, insert a new paragraph worded as follows:

"Referring to its Resolution 1607 (2008), the Assembly considers that, where recourse to conscientious objection deprives women of the effective possibility of exercising their right to safe and legal abortion, as recognised by law, the outcome can be unwanted pregnancies and clandestine abortions, along with serious health complications, including deaths."

Amendment B (to the draft resolution)

After sub-paragraph 4.1.1, add a new sub-paragraph worded as follows:

"apply to both public and private health facilities, and to private health facilities, at a minimum, in emergency situations;"

Amendment C (to the draft resolution)

At the end of sub-paragraph 4.1.2.1 add the words:

"and, in reproductive health matters, clear and enlightening advice on family planning and means of contraception."

1. Reference to committee: [Doc. 11757](#), Reference 3516 of 26 January 2009. Reporting committee: Social, Health and Family Affairs Committee. See [Doc. 12347](#). Opinion approved by the committee on 4 October 2010.



Amendment D (to the draft resolution)

After sub-paragraph 4.1.3, add a new sub-paragraph worded as follows:

“establish appropriate sanctions and remedies in cases where a woman’s right to access lawful health services has been violated as a result of recourse to conscientious objection, in particular where the patient’s health or life has been endangered.”

Amendment E (to the draft resolution)

After sub-paragraph 4.1.3, add a new sub-paragraph worded as follows:

“ensure that national health-care systems require that health-care providers receive training on how to perform all legal reproductive health services, irrespective of whether the student or trainee objects to performing them, in order to ensure access to health-care services in emergency and other situations in which conscientious objection is not applicable;”

Amendment F (to the draft resolution)

After paragraph 4.1, insert a new paragraph worded as follows:

“reinforce training of health-care providers concerning ethical standards and referral systems.”

Amendment G (to the draft resolution)

After sub-paragraph 4.2, add a new sub-paragraph worded as follows:

“ensure that non-objecting health-care providers are not subject to a hostile work environment because of their willingness to provide reproductive health-care services that other health-care providers with whom they work may conscientiously object to.”

C. Explanatory memorandum by Ms Circene, rapporteur for opinion

1. I congratulate the Social, Health and Family Affairs Committee and its rapporteur, Ms McCafferty (United Kingdom, SOC) on their report on women’s access to lawful medical care: the problem of unregulated use of conscientious objection. As the rapporteur rightly points out, the issue of conscientious objection with regard to lawful medical care has a significant impact on women’s access to health services, particularly in the field of reproductive health care.
2. Abusive, widespread or unjustified recourse to conscientious objection in practice drains the law of substance and deprives women of the lawful care to which they are entitled. In reproductive health matters this issue takes on special significance. I am therefore particularly concerned about the statistics cited in Ms McCafferty’s report. For instance, in Italy 70% of doctors and 50% of anaesthetists invoke their right of conscientious objection to refuse to perform abortions, which are nonetheless legal.
3. Mention is also made of the situation of women in rural areas, who encounter additional difficulties when a doctor refuses to perform a medical procedure. What alternatives do these women have? What kind of access to health care is ensured in such circumstances? The geographical situation should not result in discrimination against women living in rural areas regarding their access to lawful medical care of a high standard. This aspect should also be addressed in the report on the real situation of women in rural areas being prepared by our fellow committee member Ms Carmen Quintanilla Barba (Spain, EPP/CD).
4. I concur with the rapporteur that use of conscientious objection must be governed by comprehensive, clear legislation, going hand in hand with an oversight and monitoring mechanism to ensure that health-care providers act in accordance with this legislation. At the same time, all the necessary measures must be taken to ensure that women have access to full and unbiased information, within the timeframe provided for by law, and to guarantee that the right to health can effectively be exercised. This entails referring the women concerned to a health-care provider who will perform the desired lawful medical procedure. As recommended by the World Health Organization (WHO), provision must be made for referral systems.²

2. . WHO Strategic Approach to strengthening sexual and reproductive health policies and programmes, WHO/RHR/07.7, WHO, 2007.

5. I consider that use of conscientious objection should be strictly limited as the voluntary practice of medicine and the free choice of a specialisation entail agreement to perform a number of lawful medical procedures prescribed by the public authorities. Those who are unwilling to perform abortions should not opt to join departments specialising in gynaecology, obstetrics or even surgery. Would it be conceivable for a professional soldier to invoke conscientious objection so as to avoid participating in military operations? In the sphere of reproductive health, the medical services provided by public health-care facilities in my view encompass not just medical and surgical procedures, but also educational and preventive measures, clear and enlightening information and advice in family planning matters and, where these are unsuccessful, dealing with unwanted pregnancies.

6. I would like to stress the need to improve the training of health-care providers in performing all legal health-care services. In the United Kingdom, the General Medical Council allows medical students to choose not to witness an abortion; it nonetheless stresses the importance of learning about all medical procedures, despite a conscientious objection and an unwillingness to perform them (see proposed amendment E).³

7. It is also crucial to create a tolerant working environment – both for objectors and non-objectors. On the one hand, health-care providers who do object to the performance of legal reproductive health services, such as abortion, should not be subject to marginalisation in the work place.⁴ On the other hand, non-objecting providers who are exposed to hostile and judgmental behaviour from their colleagues may be deterred from performing such services. The hostility that non-objectors experience in the workplace, therefore, has a negative impact on women's access to legal reproductive health services (see proposed amendment G).

8. Moreover, it is my personal opinion that health-care providers who voluntarily choose a medical specialisation should not be able to espouse their own conception of it, which would lead to the emergence of disparate standards of health care. The medical professions are state regulated. If women cannot exercise their right to a legal abortion because a majority of doctors refuse to perform this procedure, invoking conscientious objection, what is the point of talking about women's rights?

9. In addition, member states should be encouraged to require that public and private health facilities adhere to the same regulatory framework related to conscientious objection. In many emergency situations, indeed, women whose health or lives are at risk may be unable to reach a public facility in a timely manner, and must therefore be able to access legal reproductive health services at the health facility closest to them, regardless of whether it is public or private (see proposed amendment B).

10. In this connection, in Resolution 1607 (2008) the Parliamentary Assembly called for access to safe and legal abortion and invited member states to:

“7.2. guarantee women's effective exercise of their right of access to a safe and legal abortion;

7.3. allow women freedom of choice and offer the conditions for a free and enlightened choice without specifically promoting abortion;

7.4. lift restrictions which hinder, de jure or de facto, access to safe abortion, and, in particular, take the necessary steps to create the appropriate conditions for health, medical and psychological care and offer suitable financial cover.”

11. It should be noted that in the same resolution the Assembly underlined that “the ultimate decision on whether or not to have an abortion should be a matter for the woman concerned, who should have the means of exercising this right in an effective way” (paragraph 6).

12. To ensure access to safe and legal abortion, and also access to universally available, high quality health-care services, I therefore deem it necessary to regulate recourse to conscientious objection so that it does not have primacy over and supersede other rights, in practice depriving women of the possibility to exercise their lawful rights, in particular in matters of sexual and reproductive health. As the Social, Health and Family Affairs Committee states in paragraph 4 of its draft resolution, member states have an obligation, on one hand, to “ensure access to lawful medical care and to protect the right to health” and, on the other hand,

3. . General Medical Council, “Conscientious objection and doctors' personal beliefs,” available at www.gmc-uk.org/guidance/ethical_guidance/personal_beliefs.asp (hereinafter GMC Guidelines); Abortion Review, “GMC develops new guidance on conscientious objection”, 1 October 2007, www.abortionreview.org/index.php/site/article/237/. This reference was brought to my attention by the Center for Reproductive Rights.

4. . In the United Kingdom, the British Medical Association has recognised that “doctors who have a conscientious objection to abortion must not be marginalised professionally”.

to “ensure respect for the right of freedom of thought, conscience and religion of individual health-care providers”. I accordingly invite the committee to endorse the Social, Health and Family Affairs Committee’s proposals and to support the seven amendments set out above.