

**WOMEN WITHOUT THE RIGHT TO BE MOTHERS:
forced sterilization of women with disabilities**



Source: CREMI Women Foundation, May 26, 2017 demonstration in Madrid

2020 was a year full of difficulties and bad news due to the health crisis and the subsequent economic crisis. Yet December 17, 2020 was a historic day for a group of people who are constantly excluded and discriminated against by society: people with disabilities. In fact, that day **Organic Law 2/2020, of December 16**, was published in the BOE, and then came into force the following day. With this law, the elimination of the second paragraph of article 156 of the Spanish Penal Code was unanimously approved by Congress and the Senate. This article excluded from criminal sanction the forced or non-consensual sterilization of judicially incapacitated persons with disabilities. For this reason, until a few months ago, in Spain this type of forced sterilization was not only practiced but was also supported by the law. This was

so despite the fact that multiple human rights of those subjected to this operation were violated: their sexual and reproductive rights, their right to health, information and sexual freedom among others.

In Spain there were 865 interventions between 2005 and 2013 while there has been 140 only in 2016, affirms the CERMI Women Foundation. In fact, according to the reports of the General Council of the Judiciary, there are around 100 cases of judicial sterilization of people with disabilities each year in Spain. This type of forced sterilization "is a practice that women suffer especially," as Marta Valencia Betrán, president of the DFA Foundation and president of COCEMFE Aragón and COCEMFE Zaragoza, explains. In addition, it should be noted that many women do not know what operation they are undergoing and do not

find it out even afterwards. This not only makes it difficult to have transparency about the number of operations that are currently being carried out in Spain, but it also prevents these women from being able to report the crime.

Sterilization is defined by the *NGO Human Rights Watch* as a process or act that renders an individual unable to reproduce sexually, whilst forced sterilization is understood to be any type of sterilization that is done without information, without consent or once said practice has been expressly rejected. It can be either permanent or temporary. This practice violates the fundamental rights of the people who are subjected to it and, moreover, it goes against two international treaties ratified by Spain. In the first place, this practice is contrary to the provisions of the **2006 Convention on the Rights of Persons with Disabilities**, ratified by Spain in 2008, which recognizes the right for persons with disabilities to “maintain their fertility, under equal conditions as the others” (art. 23.1 c). In fact, it also violates art. 23.1 b) which establishes that people with disabilities have the right to freely decide the number of children they want to have. Second, this practice violates the provisions of the **2011 Istanbul Convention on preventing and combating violence against women**, ratified by Spain in 2014, which in its article 39 b) defines forced sterilizations as a crime. Therefore, both the UN and the Council of Europe recognize that forced sterilization is another form of gender violence and that it is suffered mainly by women. It is then clear that women with disabilities are discriminated against not only for their gender, but also for their disability. They are women who, through these non-consensual sterilizations, are denied the right to decide and the right to be mothers.

The preamble to the new law recognizes that the permanence of article 156.2 in the Penal Code is "a serious anomaly in terms of strict human rights" of the Spanish legal system. In addition, it directly cites general comment *No. 1 of the Committee on the Rights of Persons with Disabilities*, which confirms that women with disabilities are subject to high rates of forced sterilization, they are often denied control of their reproductive health and of their decision-making because they are considered to be unable to consent to sex. Towards the end of the preamble, it is highlighted the fact that in 2011 the United Nations had already requested the Kingdom of Spain to accommodate its internal regulations to respect the provisions of the Istanbul Convention, but this did not occur due to the inaction of the different Administrations.

On the one hand, in an interview with *Newtral.es*, Isabel Caballero, coordinator of the *CERMI Women Foundation*, explained how in reality forced sterilization is only one of the negative aspects of the judicial incapacitation of people with disabilities. In addition, she noted that incapacitation "affects all spheres of your life. You cannot dispose of your assets, you cannot get married, you cannot work... They make you an absolutely dependent subject, it is a total annulment as citizens ". This foundation along with many others are fighting to implement a model of support in decision-making for people with disabilities instead of incapacitating them judicially and this would imply the need to modify the precepts of the Spanish Civil Code.

On the other hand, Ana Peláez, member of the *United Nations Committee for the Elimination of Discrimination against Women*, explains how many times this practice is disguised as "therapeutic

sterilization" but in reality it affects the health of women and especially girls and teenagers. In fact, if it is practiced at a too young age, it can lead to the early onset of menopause, osteoporosis or the development of cardiovascular diseases. Therefore, it is clear that this is not a way to protect these women since it leaves them more inclined to have certain diseases and, above all, more vulnerable to abuse and sexual violence. In fact, due to such sterilization, it is very difficult to determine whether women with psychosocial or intellectual disabilities are suffering violence because pregnancy will never manifest itself.

Some known cases of women with disabilities who have suffered from this practice have revealed this serious double violation of women's human rights, such as Cristina Paradero, affected by Asperger's syndrome. In her interview with Freeda.es, she explains how her parents manipulated her to be sterilized against her will. Asperger syndrome is a neurological difference, considered as a disorder within autism, which affects above all at a social level and the people who suffer from it are people who are not aware of the feelings of others, have non-verbal communication problems, sometimes are very naive and often fix their attention on a specific topic usually in an obsessive way. Despite these differences, they are people with completely normal intellectual capacity and their language is normally not altered.

In the video Cristina tells how her own parents told her that because she had a boyfriend and Asperger's syndrome, she was clearly a "person who can be taken advantage of". She also explains how disabled people are seen as very vulnerable, without sexual desires and unable to have children. Moreover, Cristina denounces

the lack of sexual education of disabled people since neither the parents, nor the schools nor the doctors consider that it is necessary for them. She affirms in her testimony that her own parents told her that the boys were not going to love her because she was "very strange and chubby": << you must never get naked in front of a person because you have all these characteristics and they are going to mess with you for this >>.

Cristina continued to live her life like any other person: having a love relationship and friends, until finally, her parents convinced her to have a tubal ligation done through the argument "all are advantages, your period will be regulated, this will give you protection against ovarian cysts" and, especially when they said, "Cristina, you would be irresponsible if you had biological children because these children would suffer the same as you have suffered".

With all these arguments, Cristina agreed to go to a clinic to be sterilized. She tells how the doctors did not explain what the operation consisted of or offered her any other possibility. At the age of 25, Cristina realized, thanks to her partner, how she had been manipulated to undergo this practice. Now she is aware that she could be a good mother and contribute a lot to society, as her potential children could too, and that is why she invites people with disabilities to fight every day so that their rights are respected.

There is still much to do to completely eradicate discrimination against people with disabilities and to guarantee the respect for their human rights, but Organic Law 2/2020, of December 16 is a great legal and social advancement towards this direction.

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