

URGENT ACTION

EIGHT-YEAR SENTENCE FOR HAVING A MISCARRIAGE

Twenty-seven-year-old Belén has been held in pre-trial detention for over two years in Tucuman Province, northern Argentina, after suffering a miscarriage in a public hospital. Medical personnel and police officials violated her right to privacy and have unfairly accused and mistreated her.

On 21 March 2014, **Belén** went to the public Hospital Avellaneda in San Miguel de Tucuman complaining of abdominal pain. She was referred to the gynecologist because of heavy bleeding. The doctor informed her that she was having a miscarriage of a foetus of about 22 weeks. Belén said she was unaware that she was pregnant.

Hospital staff later found a foetus in the bathroom and denounced Belén to the police claiming it was Belén's "son", without any evidence or DNA analysis to prove she had any relationship to the foetus. Belén has explained that a nurse brought the foetus in a box and insulted her, arguing the foetus "was her son". When she woke up in her bed after surgery, several police officers were surrounding her and she was subjected to an examination "in private parts of her body", which could amount to cruel, inhuman or degrading treatment.

According to international law and standards, non-consensual disclosures of personal medical information, including to law enforcement officials, is a violation of the right to privacy. Medical professionals have an obligation to protect the confidentiality of the information to which they have access as part of their profession.

Belén was accused of self-inducing the abortion and held in pre-trial detention for over two years on charges of abortion. The prosecutor then changed the accusation to aggravated murder, which entails a harsher penalty of up to 25 years.

On 19 April 2016, the Third Chamber of the Criminal Chamber of Tucuman sentenced Belén to eight years in prison for murder and deferred its final arguments to 3 May. Belén's defense has said they will appeal the decision and request her immediate release.

Please write immediately in Spanish or in your own language:

- Urging the authorities to release Belen immediately and unconditionally, guaranteeing that no criminal process is conducted against her nor any other girl or woman who suffers a miscarriage or other obstetric complications;
- Calling on them to instruct health professionals to guarantee the doctor-patient duty of confidentiality and to guarantee mechanisms to sanction anyone who fails to protect women's right to privacy;
- Urging the authorities to open a prompt, impartial and independent investigation into the allegations of ill-treatment and infringements on the right to privacy committed both by health professionals and police officers.

PLEASE SEND APPEALS BEFORE 13 JUNE 2016 TO:

General Prosecutor, Province of Tucumán

Edmundo Jesús Jiménez

Fax: +54 381 4979135

Email: edmundojimeneztuc@gmail.com

Salutation: Dear Prosecutor/ Sr.

Procurador

Health Ministry of Tucuman

Rossana Chahla

Fax: +54 381 4844000 ext. 504/505

Email: rchahla@msptucuman.gov.ar

Salutation: Dear Minister/ Sra.

Ministra

And copies to:

Amnistía Internacional Argentina

Email: activismo@amnistia.org.ar

Also send copies to diplomatic representatives accredited to your country. HER EXCELLENCY MS ALICIA CASTRO, Embassy of the Argentine Republic, 65 Brook Street W1K 4AH, 020 7318 1300, Email info@argentine-embassy-uk.org

Please check with your section office if sending appeals after the above date.

**AMNESTY
INTERNATIONAL**



URGENT ACTION

EIGHT-YEAR SENTENCE FOR HAVING A MISCARRIAGE

ADDITIONAL INFORMATION

Article 17 of the International Covenant on Civil and Political Rights and Article 11 of the American Convention on Human Rights, to which Argentina is a State party, protect the right to privacy and impose an obligation on States to ensure that adequate safeguards are in place to guarantee the confidentiality of medical information, particularly in health settings. Every girl or woman who seeks an abortion in a medical facility or who suffers a miscarriage or stillbirth is protected by doctor-patient confidentiality.

The person who causes an abortion can face prison from one to four years in Argentina. The law permits abortion when the life or health of a pregnant woman is at risk or when the pregnancy is the result of rape. Miscarriages or other complications during pregnancy are not criminalized.

The Committee on the Elimination of Discrimination against Women and other international human rights bodies have called on States to decriminalize abortion in all circumstances and ensure access to safe and legal abortion in law and practice as a minimum in cases where the pregnancy poses a risk to the life or health of the woman or girl, where the foetus suffers from severe malformation or is not viable, or where the pregnancy is the result of rape or incest.

Regardless of the legal status of abortion, States have the obligation to ensure access to quality and confidential health services for the treatment of complications arising from unsafe abortions and miscarriages. This treatment must be free from discrimination, coercion and violence.

Women and girls seeking sexual and reproductive health care in professional settings are often exposed to ill-treatment, including practices that inflict severe pain, or are subjected to coerced or unwanted procedures and examinations that may constitute torture or other cruel, inhuman or degrading treatment. The denial of certain services or ill-treatment in the context of sexual and reproductive healthcare; usually grounded in gender stereotypes; is discriminatory and constitutes a form of violence against women.

The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has stated that: "International and regional human rights bodies have begun to recognize that abuse and mistreatment of women seeking reproductive health services can cause tremendous and lasting physical and emotional suffering, inflicted on the basis of gender. Examples of such violations include abusive treatment and humiliation in institutional settings; involuntary sterilization; denial of legally available health services such as abortion and post-abortion care; forced abortions and sterilizations; female genital mutilation; violations of medical secrecy and confidentiality in health-care settings, such as denunciations of women by medical personnel when evidence of illegal abortion is found; and the practice of attempting to obtain confessions as a condition of potentially lifesaving medical treatment after abortion."

Sexual and reproductive rights are protected under international and regional human rights law, which enshrine the right of people to take informed decisions about their sexual and reproductive lives, free from violence, coercion or discrimination and to ensure that those decisions are respected. These include the right to health, personal integrity, autonomy and equality, among others.

Name: Belén

Gender m/f: f

UA: 95/16 Index: AMR 13/3905/2016 Issue Date: 2 May 2016