



29th session of the Universal Periodic Review – France

Introduction

1. France must recognize and protect the rights of parents and legal guardians with respect to their children, as well as the right of all individuals to freedom of expression, especially in light of restrictions on both of these in light of a so-called right to abortion.

Sanctity of Life and Freedom of Expression

2. Abortion is legal on demand up to 12 weeks after conception, and continues to be allowed after that point in cases in which two doctors certify that the continuation of the pregnancy would cause permanent injury to the physical or mental health of the mother, that the life of the mother is at risk, or that the child will suffer from an incurable severe illness.
3. Since 2001, girls under the age of 18 have not been required to attain parental consent for an abortion, and may be accompanied to an abortion clinic by any adult, who is legally prohibited from informing anyone about the abortion. Mandatory week-long waiting periods were abolished in April 2015, and all costs relating to abortion are publicly funded under the national health insurance scheme. The notion that parents have no right to be informed about or be involved in decisions with respect to their children, especially in light of the fact that there is no internationally-recognized right to, is a clear violation of the right of parents to provide such appropriate direction and guidance to their children.
4. In January 2017, the Senate adopted a bill, to be sent to the National Assembly, which seeks to extend the definition of the crime obstruction to abortion, which imposes a potential two years' imprisonment or €30,000 fine for "exercising, by any means, moral or psychological pressures, threats or any act of intimidation against people seeking information on a voluntary termination of pregnancy." The ECLJ has described this as an attempt at using the crime of obstruction in order to violate freedom of speech.
5. A salient example of the sort of speech on the topic of abortion already not welcome in France is that of an advertisement entitled in English "Dear Future Mom." This video, first released in March 2014 and broadcasted on a number of French TV channels, features a number of children with Down syndrome reassuring expectant mothers that her Down syndrome child has and will have just as valuable, happy, and fulfilling a life as any other child. Following two complaints from viewers in June 2014, however, the French Conseil supérieur de l'audiovisuel (Superior Council of the Audiovisual, CSA) ordered that the TV spot be taken off the air, due to its view that "the message is susceptible to disturb the conscience of women who have lawfully made different personal choices" with respect to terminating a pregnancy after receiving a prenatal diagnosis of Down syndrome, and that there was no general public interest in the message being broadcast. Such decision was upheld on appeal in November 2016 on the grounds that the message of the advertisement was liable to cause disturbance and distress to a particular class of person (i.e. women who have had abortions or who are considering abortion due to a prenatal diagnosis of Down syndrome) without a general interest being served. A further appeal was filed with the European Court of Human Rights in May 2017.

6. It is worth pointing out that this advertisement does not even address the question of abortion itself directly, as it simply asserts the value of the lives of children with Down syndrome and leaves it up to the viewer to draw conclusions from that. It also arguably discriminates against persons with Down syndrome under Article 10 of the ECHR and Article 26 of the ICCPR, given that it effectively forbids such persons from appearing on television in France on the same terms as persons without Down syndrome and exercising their right to freedom of expression in order to communicate being happy with their lives.
7. France must cease to unlawfully limit freedom of expression and information, as well as repeal all laws and abandon all bills seeking to stop persons from legitimately making their point of view on the moral issues with abortion known.

Recommendations

8. ADF International suggests the following recommendations be made to France:
 - a. Ensure that the responsibilities, rights, and duties of parents and legal guardians to provide appropriate direction and guidance to their children are respected by the State in accordance with the Convention on the Rights of the Child, and that laws abolishing the need for parental notification and consent to abortions being performed on their children are reversed;
 - b. Abandon all legal reforms, present and future, which criminalise or otherwise prohibit the full exercise of the right to freedom of expression in line with Article 19 of the ICCPR, and to this end that citizens active in the pro-life movement are not unduly restricted in their speech or communications of their positions; and
 - c. Reverse all unfair and unlawful administrative decisions prohibiting the broadcast of pro-life oriented audio-visual communications, in line with Articles 10 and 14 of the ECHR and Article 19 of the ICCPR, and in doing so recognise that subjective disturbance or offence is not by itself a sufficient basis to limit the right to freedom of expression.