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**Counteracting Legal Abortion: *Acción Familiar* and ‘Pro-life’ Strategic Litigation
in Spain (1985–1990)**

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Abstract

In this article we present a preliminary exploration of the history of the Spanish ‘pro-life’ movement during the final decades of the 20th century. While recent sociological scholarship has described the movement during the 1980s as dominated by uncoordinated and inexperienced organizations dependent on the Catholic Church, we use primary sources to nuance this interpretation and argue that Spanish ‘pro-life’ activists and organizations did have an impact on access to abortion following the partial decriminalization of 1985. To analyse this impact, we focus on *Acción Familiar*, an organization that played a leading role in deploying strategic litigation to target both abortion regulations and providers. Our case study reveals the strategies and arguments that were mobilized to construct symbolic and material barriers to abortion and restrict its access in Spain under the legal framework of partial decriminalization (1985–2010), a time when abortion was permitted in certain circumstances.

KEYWORDS: ‘pro-life’ movement; *Acción Familiar*; Spain; strategic litigation, history of abortion

1. Introduction

In this article we present a preliminary exploration of the history of the Spanish ‘pro-life’ movement during the final decades of the 20th century. Our aim is to historicize the local configuration of a transnational social movement that, due to its political

expansion and entanglements with far-right ideologies, has lately received significant historical and sociological attention. The Spanish ‘pro-life’ movement of the 1980s has recently been sociologically interpreted as dominated by uncoordinated and inexperienced organizations dependent on the Catholic Church (Aguilar Fernández, 2011; García Martín & Perugorría, 2025). Utilizing primary sources from the period under analysis, we nuance this interpretation and argue that Spanish ‘pro-life’ activists and organizations did have an impact on access to abortion following the partial decriminalization of 1985. To analyse this impact, we focus on one of the earliest ‘pro-life’ organizations, *Acción Familiar* [Family Action], founded in 1978, which played a leading role in deploying strategic litigation to prevent the implementation of legal abortion. Our case study reveals the strategies and arguments that were mobilized to construct symbolic and material barriers to abortion, intended to restrict access under a legal framework that decriminalized the procedure in certain circumstances: when a pregnancy endangered the health or life of a woman, when foetal malformation was suspected, and when a pregnancy resulted from rape (1985–2010).

Since the beginning of the 21st century, historical scholarship has increasingly addressed the local and transnational forms of ‘pro-life’ activism towards the end of the previous century. Much of this scholarship has explored activist ideologies and strategies developed in the United States in response to the legalization of abortion at state (from 1970 onward) and later federal level (1973) (Dubow, 2011; Haugeberg, 2017; Holland, 2020; Maxwell, 2002; Schoen, 2015). Repeatedly identified as the cultural and financial centre of the global ‘pro-life’ movement from the outset (Hopwood, 2024), the US has provided visual abortion cultures – including foetal images such as those reproduced in Dr and Mrs (*sic*) J. C. Willke’s ‘Handbook on

Abortion,' first published in 1971, and the 1984 film *Silent Scream*, an anti-abortion manifesto directed and narrated by ex-abortion provider Bernard Nathanson (Emin Tunc, 2005; Petchesky, 1987) – that have been locally and transnationally mobilized in support of the 'pro-life' cause. Initially driven by Catholic activists through political lobbying, the US 'pro-life' movement now has a primarily Evangelical Christian support base, which has prioritized direct action since the 1990s.

By locating the local and intra-European dynamics of 'pro-life' activism and especially the movement's relationship with Catholicism under various political regimes, recent studies have critically examined this centre-periphery assumption. In her study of 'pro-life' activism by Italian women, Martina Avanza (2020) has explored gender hierarchies and the priorities and situatedness of activists in relation to their degree of radicalism. As well as revealing the movement's diversity, Avanza demonstrates the usefulness of intersectional analysis and the need to understand 'pro-life' women within this diversity and on their own terms. Inspired by this approach, we are also mindful of Klarissa Haugeberg's call to attend to the continuity between 'moderate' policy-oriented and 'radical' direct-action 'pro-life' groups. As Haugeberg (2017) has demonstrated, women 'pro-life' activists in the US moved between groups deemed to exhibit varying degrees of radicalism that shared not only personal resources, but also funding and networks of solidarity and support. Similarly, in Spain during the 1980s, policy-oriented organizations such as *Acción Familiar* shared local and international networks with direct-action oriented groups like *Jóvenes Pro-Vida* [Pro-Life Youth].

European countries in which Catholicism dominates the religious marketplace, such as Italy, Spain, Ireland and Poland, provide particularly fruitful opportunities for

comparative studies of ‘pro-life’ activism (Aguilar Fernández, 2011; Cornejo Valle et al., 2023). One recent example of this is Sylwia Kuźma-Markowska and Laura Kelly’s comparison of Polish and Irish ‘pro-life’ activism in the late 20th century, in which they highlight the foundational character of laws liberalizing contraception (Ireland) and abortion (Poland) for local ‘pro-life’ movements, a relationship that is also evident in Spain. Other characteristics identified in this study that also feature in Spain include an increased intertwining of Catholicism and ‘pro-life’ activism under the papacy of John Paul II (1978–2005) and the significant influence of US networks on the use and construction of science-based anti-abortion rhetoric (Kuźma-Markowska & Kelly, 2022).

Existing accounts of ‘pro-life’ activism in Spain are descriptive chronological and autobiographical accounts of leaders (Latorre Cañizares, 2021), and sociological analyses that partially situate the early organizations within the context of family-oriented activism (Ayuso Sánchez, 2005) or legal and social debates on the decriminalization of abortion during the 1980s (Blofield, 2006; Hernández Rodríguez, 1992). Recent sociological explorations of contemporary conservative mobilizations have situated the origins of organized ‘pro-life’ activism in Spain in the early 2000s, a decade in which the socialist government under José Luis Rodríguez Zapatero legalized same-sex marriage (2005) and abortion on demand during the first fourteen weeks of pregnancy (2010). According to this scholarship, the Spanish ‘pro-life’ movement began to convey moral-religious ideologies through scientific and legal narratives during the early 2000s. The initiation of this ‘strategic secularization’ (Vaggione, 2005) is attributed to the umbrella organization *Foro de la Familia* [Family Forum], founded in 1999 with close ties to the ultra-Catholic organization *Opus Dei*, and *Hazte Oír* [Make

yourself heard], an ultraconservative lobby that separated from the *Foro* in 2009 to pursue more direct and belligerent forms of protest (Aguilar Fernández, 2011; García Martín & Perugorría, 2025).

Sociologists have categorized Spanish ‘pro-life’ activism before the early 2000s in terms of underdevelopment and failure. Susana Aguilar Fernández (2011) and, more recently, Joseba García Martín and Ignacia Perugorría (2025) have highlighted the movement’s heavy reliance on the Catholic Church during the 1980s and 1990s, and the use of largely conventional protest strategies, such as demonstrations, with limited direct action. These authors attribute the failure to prevent the partial decriminalization of abortion in 1985 to weak coordination and limited visibility beyond the Catholic community.

Our article is the first primary source-based historiographic analysis of ‘pro-life’ activism in Spain during the 1980s. We are particularly interested in the legal strategies that were developed to impede abortion access under the partial decriminalization of 1985. Rather than merely measuring success as the ability to promote or hinder legal change, viewing the situation through the lens of access enables us to nuance the early history of the first Spanish ‘pro-life’ generation (Crosetti, 2023). We also demonstrate that organizations such as *Acción Familiar* were already pursuing ‘strategic secularization’ at this time.

Our analysis is based on a range of published primary sources, including newsletters and bulletins produced by the ‘pro-life’ organizations *Andevi* and *Acción Familiar* (1991–2000) located in the Spanish National Library, and articles published by and on selected ‘pro-life’ organizations in the digital repositories of such newspapers as *ABC* and *El País*. Additionally, we accessed two collections of press cuttings: one

donated to the [anonymised for peer review purposes] project research team by Elisa Sesma, the other collected by the Instituto de la Mujer [now *Instituto de las Mujeres*, Institute of Women] in Madrid, an public agency founded in 1983 to promote equality (Instituto de la Mujer, 1990). Author 1 conducted oral history interviews with Elisa Sesma, María Cruz Landa and Pablo Sánchez Valverde, three doctors who were prosecuted for participating in a legal abortion in Pamplona (1987–1990).¹ We have also examined documents relating to legal proceedings taken by *Acción Familiar*. As is the case for many of the histories of European ‘pro-life’ activism referred to earlier, an absence of institutional archives (Crosetti, 2023) necessitates a reliance on grey literature and mass media. These sources enable us to reconstruct the historical identities and self-representations of ‘pro-life’ organizations, as well as the rhetorical components of their fight against legal abortion in Spain. However, they are less illuminative of the rationales and motivations behind the development of these identities and strategies, issues that we intend to tackle in future research.

In what follows, we first contextualize the abortion law reform that took place in Spain during the 1980s, then explore the ‘pro-life’ organizations that mobilized against this reform, including *Acción Familiar*. We explore how *Acción Familiar* strategically utilized litigation with the broader aim of initiating legal change and establishing a legal culture in relation to abortion during the second half of the 1980s, and examine two examples: litigation against the 1986 Royal Decree that liberalized the abortion marketplace, and the prosecution of three gynaecologists for an abortion their performed in a Pamplona public hospital during 1986.

¹ The project has been overseen by the Ethics Committee on Human Research of the University of Granada (date of approval 8 November 2021).

2. Abortion Law Reform and the Genesis of ‘Pro-life’ Organizations in Spain

While the first organizations that explicitly defined themselves as ‘pro-life’ emerged in Spain during the mid-1970s, it is important to contextualize genealogies of the Spanish ‘pro-life’ movement within the broad intellectual and political programme developed and popularized by sectors of a number of Catholic organizations during the 20th century, such as *Opus Dei* and *CONCAPA*, the Association of Catholic Parents, both founded in the 1920s. As the sociologist Gerardo Hernández Rodríguez noted in 1992, *CONCAPA* rejected ‘all forms of human degeneration, including “attacks on the indissolubility of marriage, violence, eroticism and pornography, drugs and alcoholism, abortion and contraceptives, social permissiveness, abandonment of the principles of authority, unfulfillment of laws”’ during the 1970s (Hernández Rodríguez, 1992) and, as can be evidenced in *Revista CONCAPA*, the organization’s magazine published from 1991, maintained this position over the subsequent decades. This declaration of principles, which could be summarized as linking ‘life’ and ‘multidisciplinary support for the family’, with varying prioritization, would constitute a Decalogue for the Spanish ‘pro-life’ movement.

The national-Catholic Franco regime that came to power after the 1936 military uprising against the Second Spanish Republic and subsequent Civil War legislated a total abortion ban in 1941, which was then consolidated in the Criminal Code reform of 1944. This law, which also prohibited the sale and advertisement of all contraceptive methods, was the legal embodiment of the punishment- rather than incentive-based pronatalism that characterized the regime’s sexual politics (Morcillo, 2000, 2010), based on the promotion of rigidly defined traditional gendered roles, and penalized both women who underwent abortions and assisting healthcare professionals. Any of the

latter who performed or aided the procedure could face professional disqualification and imprisonment, and they were legally obliged to report any suspected abortion. Despite these penalties, contraceptive and abortive practices continued in Spain throughout the dictatorship (Beadman, 2002; Blasco Herranz, 1999; Fernández López, 2022).

The ban on contraception was lifted as part of the first dismantling of Francoist sexual politics following the dictator's death in 1975. From at least the late 1960s, oral contraceptives had been prescribed by many doctors under a therapeutic designation, particularly in private practices and in some large public hospitals in cities such as Bilbao and Barcelona (Ortiz-Gómez & Ignaciuk, 2018). Concurrently, from the mid-1960s onwards, the Spanish Catholic community took part in the global debate on whether oral contraceptives could be used within Catholic marriage, a debate that continued among some Catholic intellectuals after publication of the Encyclical *Humanae Vitae* in 1968, in which the Vatican reiterated their rejection of artificial contraception (García Fernández, 2021; Harris, 2018; Ignaciuk, 2018). Debates about the pill during the 1960s and early 1970s facilitated a broader discussion on contraception in Spain, in which arguments relating to (Catholic) parental autonomy and public health attained prominence. However, some ultraconservative voices in the medical profession continued to actively reject any form of contraception. Juan Jiménez Vargas and Guillermo López García (1973), based at the *Opus Dei* University of Navarra, published a book in 1973 in which they equalled contraception with abortion. Similar ideas were also disseminated in the *Opus Dei* magazine for women, *Telva* (Ignaciuk & Ortiz-Gómez, 2016).

These voices, however, were far from dominant. Contraception had a growing support among the medical profession, the newly legalized left-wing political parties,

trade unions, neighbourhood associations, and feminist groups, all of which framed contraception in terms of personal and sexual freedom and developed various forms of activism to challenge the contraception ban (Ortiz-Gómez & Ignaciuk, 2018). These social sectors, separately and in alliance, began providing information on contraception and founding the first bottom-up family planning centres, the institutionalization of which began when the sale and promotion of contraception were eventually decriminalized in the Spanish Constitution of 1978.

It is also in the mid-1970s that political scientist Merike Blofield (2006) situates the foundation of the first ‘pro-life’ group in Spain, *Asociación Navarra de Defensa de la Vida* or *Andevi*. The organization was founded in 1977 in Pamplona, capital of the Navarra region, an area with a particularly strong *Opus Dei* presence, including, as noted above, a University, which included a prominent medical faculty, teaching hospital, and a printing press that disseminated anti-abortion publications. As we will show in the subsequent section of this paper, the local anti-abortion networks in Pamplona facilitated the trial of three local physicians providing legal abortion services as a strategic litigation. Others have assigned pioneering status to the *Asociación Pro Respeto a la Vida* [Association in Favour of Respecting Life], founded in 1977 in Barcelona by Dolores Voltas. Alicia Latorre Cañizares, the current (2025) president of the Spanish Federation of ‘pro-life’ organizations since 2015, locates the beginnings of national ‘pro-life’ organizing at the first National Conference on Family and Constitution held in Madrid during November 1977, where ‘pro-life’ minded people from across Spain met and began to network. From 1979 onward, local groups and charters were founded in other regions of Spain, including Valencia, Madrid, Bilbao, and Zaragoza, and by 1980, the number of regional associations had reached ten. The

First Annual National Meeting of ‘Pro-Life’ Associations was held in May of that year in Barcelona, and it was agreed that a Spanish Federation of ‘Pro-Life’ Associations, *Federación Española de Asociaciones Pro-Vida (FEAP)* should be established. In November 1981, following two meetings of regional representatives, the organization published a charter defining the aims of the ‘pro-life’ movement: to promote respect for human life ‘from conception to natural death,’ and support the unbreakable institutions of marriage and family to maintain ‘a healthy and natural society.’ In April 1983, the organization constituted a federal council headed by the aforementioned Dolores Voltas (secretary) and Justo Aznar, a physician, *Opus Dei* member, and founder of the *Asociación Valenciana para la Defensa de la Vida* [Valencian Association for the Defense of Life]. The latter, who remained *FEAP* president until 1998, was also a leading Catholic bioethicist (‘Dr. Justo Aznar Lucea (1937–2021),’ n.d.). Aznar’s trajectory exemplifies the personal and professional networks that linked *Opus Dei* members, ‘pro-life’ physicians and activists, and the emerging field of bioethics in Spain, which applied exclusively Catholic moral theology to biology and healthcare up to the 1990s (Sánchez González, 2015). According to García Martín and Perugorría (2025), the influence of *FEAP* in the ‘pro-life’ field diminished with the emergence of *Foro de la Familia* during the late 1990s. Although *FEAP* claimed inspiration from ‘natural law and Christian humanism’ (Latorre Cañizares, 2021) rather than association with any particular religion or political group, their words and actions say otherwise.

Acción Familiar, which took the lead in deploying strategic litigation to limit implementation of the 1985 law, adopted a highly similar self-representation strategy from its foundation in 1978, branding itself as independent from ‘political, cultural or religious organizations’ (‘Acción Familiar es una ONG,’ 1997). However, the close ties

between *Acción Familiar* and *Opus Dei* did receive media attention (Laquidain, 1990a; Salas, 1990). As illustrated in their bulletins and newsletter, *Acción Familiar* activism included social assistance, strategic litigation, political and institutional lobbying, and the provision of educational material and activities for school children, university students, parents, and society as a whole. The organization's first president, Julio Castela (b. 1937), is currently a prominent lawyer and scholar. By 1987, the organization had at least seven local branches in Madrid, Barcelona, Tarragona, Burgos, Logroño, Pamplona, and Zaragoza; a decade later it had over ten. The Pamplona branch was particularly active, producing an internal local newsletter, *Hojas de Acción Familiar*, from 1987 until at least 2004, and offering services such as care for children and the elderly as well as training and advice in fertility awareness and responsible parenthood, for which the organization received local public funding in 1992. The organization also developed an international presence. Rosario Gortázar (b. 1936), who presided over the *Acción Familiar* foundation during the 2010s and remains its honorary president, represented the organization at conferences in Cairo and Beijing during the 1990s ('Cumbre sobre la mujer en Pekín,' 1995; 'Cumbre de Pekín,' 1995; 'Cumbre de Pekín sobre la mujer,' 1995; 'Conferencia mundial de la mujer,' 1995; 'Preparación de la IV cumbre mundial de la mujer,' 1995; 'Semana por la vida,' 1994). *Acción Familiar* also arranged for *Silent Screem* narrator Bernard Nathanson to visit Spain a number of times in the early 1980s and attempted to have the film projected in the Spanish Parliament during the decriminalization debate of 1985 ('Acción Familiar pide la proyección del vídeo del 'Grito Silencioso' en el Parlamento,' 1985; 'El Grito Silencioso del Dr. Nathanson,' 1985; 'Más de dos mil personas vieron en Madrid 'El grito silencioso', 1985; Nathanson presenta hoy en Madrid la película 'El Grito

silencioso’, 1985; ‘Nathanson. De rey del aborto a defensor del derecho a la vida,’ 1983; ‘Ni el Congreso ni el Senado quieren ver la película ‘El grito Silencioso’, 1985). In a 1988 report on its activities, *Acción Familiar* divided its work into four areas: mass media, education, societal, and legal. In practice, these were intertwined, as such activities as Nathanson’s appearances and strategic litigation against abortion access were widely broadcast in the media and served educational and political aims.

While *Acción Familiar* did address other issues, abortion was a constant presence in their material and perhaps represented many of the threats perceived by the organization: the liberalization of sexual mores, ‘pornography, drugs, and violence’, family fragility following the legalization of divorce in 1981 (Blofield, 2006), and educational reforms that promoted public education, but nevertheless still entrusted the majority of education provision to the Catholic Church.

The role of the Catholic Church hierarchy in sustaining the early ‘pro-life’ movement in Spain merits a more in-depth analysis. However, it is worth noting here that the Catholic Church had strong historical links with the Franco dictatorship and provided the regime with significant ideological content, particularly in relation to gender and sexuality (García Fernández, 2017, 2021, 2022; Mira, 2007; Morcillo, 2000; Moreno Seco, 2005; Rodríguez Moreno, 2016; Winchester, 2017). Following a recommendation to avoid political interference by the Second Vatican Council (1962–1965), the Spanish Catholic Church distanced itself from the Franco regime and maintained a ‘low’ profile during the abortion debate in the late 1970s and early 1980s (Aguilar Fernández, 2011). García Martín and Perugorría (2025) have interpreted the emergence of the first ‘pro-life’ organizations as political representatives of a Catholic Church unwilling to take an explicitly political role. However, from 1983 onwards, the

Conferencia Episcopal Española (Spanish Episcopal Conference, *CEE*) intensified engagement with the abortion issue by positioning itself firmly in support of ‘life’ and against ‘social demoralization’ (Conferencia Episcopal Española, 1983; Comisión Permanente, 1985; Comité Ejecutivo, 1985; Vicesecretaría para la Información, 1985; Conferencia Episcopal Española, 1986; Comité Episcopal para la Defensa de la Vida, 1986). The central axis of this episcopal discourse was an attribution of responsibilities to various social actors, especially the socialist government, which they accused of promoting individual autonomy at the expense of moral and societal deterioration by enabling the decriminalisation of abortion to be debated. Health professionals who facilitated abortion were also denounced, and the moral obligation of Christian doctors to both conscientiously object and encourage their colleagues to follow suit was emphasized (Conferencia Episcopal Española, 1985; Comité Episcopal para la Defensa de la Vida, 1986). Likewise, the Catholic hierarchy accused the media of being a ‘demoralizing and degrading influence’ on society by promoting abortion with ‘false reasoning’ (Comisión Permanente, 1983) and ‘falsely liberalizing criteria’ (Conferencia Episcopal Española, 1985). Solutions to the ‘abortion problem’ proposed by *CEE* were limited to appealing to the responsibility of Catholic health professionals involved in the procedure and the promotion of sex education based on traditional Christian values (Comisión Permanente, 1983; Conferencia Episcopal Española, 1983; Conferencia Episcopal Española, 1985; Comité Episcopal para la Defensa de la Vida, 1986). In 1986, *CEE* created a Sub-Commission for the Family and the Defence of Life to promote initiatives to combat abortion and foster sex education with a ‘spiritual focus’ (Conferencia Episcopal Española, 1986; Comité Episcopal para la Defensa de la Vida, 1986).

Intensification of the *CEE* anti-abortion campaign coincided with the formalization of *FEAP* as a convergence of ‘pro-life’ organizations. Both organizations responded to the increasing prominence of abortion in public debate, which, having been on the feminist agenda from the mid-1970s, had gained broader social and political prominence in the early 1980s. Following organized feminist activism, including abortion referral provision and mobilizing for the establishment of abortion in public healthcare as a woman’s right, left-wing political parties began to discuss abortion and the prospects of decriminalization. Prosecutions of providers, including traditional empirical practitioners and politicized activists and doctors, furnished opportunities to publicly challenge the abortion ban and raise public awareness of the issue (author 1; Sethna et al., 2024).

Once the Spanish Socialist Workers’ Party had attained a parliamentary majority in the 1982 elections, abortion law reform could begin and the first legal proposal of partial decriminalization was approved in October 1983. In response, according to reports in the liberal press, around 150,000 people attended demonstrations in Madrid organized by *FEAP* (Aguilar Fernández, 2011). ‘Pro-life’ groups across the nation protested and disseminated ‘pro-life’ visual material produced in the US (*Diario de un niño en el seno de su madre*, 1983; Editorial, 1983; Noticias AFA, 1983). The conservative party *Alianza Popular*, which García Martín and Perugorría (2025) claim provided political support for the emerging ‘pro-life’ movement, filed an appeal of unconstitutionality. This described a ‘trend of reconsidering the problem in the countries which legalized abortions, because of emerging currents against depenalization’ and provided a ‘list of European and American “pro-life” organizations as well as some from other continents’ (Sentencia 53/1985 del Tribunal Constitucional, 1985). However,

the Constitutional Court upheld the law with minimal modifications and an updated law was enacted on 5 July that year (Ley Orgánica 9/1985, de 5 de julio, de reforma del artículo 417 bis del Código Penal, 1985). Falling far short of fulfilling feminist demands, the reform only decriminalized abortion in certain circumstances: when a pregnancy endangered the health or life of a woman, when foetal malformation was suspected, and when a pregnancy resulted from rape.

The first implementation regulation, an Executive Order published by the Ministry of Health and Consumer Affairs on 31 July 1985 (Orden de 31 de julio de 1985 sobre práctica del aborto en centros o establecimientos sanitarios, 1985), set specific staff and equipment requirements for any health centre that provided abortion services. These included contracted specialists, a laboratory unit, a blood bank, a nursing and hospitalization unit, and social services either within the centre or in a contracted referral centre. The 1985 regulation also established Evaluation Commissions composed of a chief physician, nurse, a specialist in gynaecology and obstetrics, a psychiatrist or psychologist, and a social worker, that would ensure ‘correct application’ of the law and collect data (Orden de 31 de julio de 1985 sobre la práctica del aborto en Centros o establecimientos sanitarios, 1985). These technical and personnel requirements could only be fulfilled by large hospitals, reflecting the initial intention to channel abortion through public healthcare. However, there was little interest within public hospitals in providing abortion services, and the small amount that did not opt out entirely often took a narrow interpretation of the 1985 law in regard to a woman’s ‘physical’ health and severe foetal malformation in order to limit provision. The technical and personnel requirements combined with a lack of obligation to provide services and no restrictions or oversight of conscientious objection meant very few legal abortions were carried out

during 1985 and 1986: although primary data on registered abortions during these years are not readily available, estimates within secondary literature place the number at less than ten in 1985 and under 500 the following year (El aborto en España, 2014; Evolución del aborto en España: 1985–2005, 2005).

The majority of abortion provision remained outside these frames. An unpublished 1985 report commissioned by the Instituto de la Mujer – the embodiment of institutional feminism within the Spanish democratic state (Valiente, 2006) – analysed available data on abortion travel and locally performed terminations to estimate demand for abortion services in Spain at c. 105,000 a year (Aguinaga Roustan, 1985), a significant mismatch with the estimates of legal terminations cited above. It is worth noting that legal abortion practice was immediately targeted by ‘pro-life’ organizations, and their demands for hospitals to supply information about the procedure and intentions to sue providers were reflected in media coverage of the first ‘legal’ abortion in a Spanish public hospital (‘Dadas de alta las dos mujeres que abortaron en el hospital de Oviendo. Adevida y Pro-vida, dispuestas a presentar una querrela,’ 1985; Los dos primeros abortos legales fueron practicados en Oviedo, 1985). *Acción Familiar* also used this strategy of demanding reports on abortions performed in healthcare centres across Spain, thereby ensuring that providers and women seeking abortion were aware they were under close observation (Seguimos esperando resolución jurídica o administrativa de diversos asuntos tales como, 1988).

The mismatch between social demand for abortion services and implementation of the 1985 law, along with various critiques of this implementation, including open discussions about activist-supported abortion travel (Ignaciuk & Sethna, 2020), feminist criticism (author 1 et. al), and legal prosecution of abortion providers failing to meet the

requirements established by the 1985 law and first Executive Order ('El juez ordenó la detención de 39 personas en Madrid 'por varios delitos de aborto', 1986), provided evidence the law was not working and reform was urgently required.

3. Against 'Legal Fraud': Challenging the Royal Decree of 1986

On 21 November 1986, a Royal Decree (Real Decreto 2409/1986, de 21 de noviembre, sobre centros sanitarios acreditados y dictámenes preceptivos para la práctica legal de la interrupción voluntaria del embarazo, 1986) that reduced and removed requirements, effectively liberalized the abortion marketplace. Centres providing abortions before the twelfth week of pregnancy still required a gynaecologist, nurse, auxiliary healthcare professionals and social workers, a reception, rooms adequate for the procedure and recovery, and educational material, but it was no longer necessary to have a laboratory and a nursing or hospitalization unit on the premises, as long as these services could be accessed. While public healthcare centres were automatically authorized to provide abortion services, private centres were required to apply for accreditation with local healthcare authorities. As clinics that had operated in a clandestine or semi-clandestine form since the early 1980s embraced legitimacy, the number of registered abortions rose steadily: the Ministry of Health reported 16,766 legal abortions in 1987, and 26,069 in 1988. The amount of clinics also increased: between 1988 and 1990, the number of clinics in operation expanded from around eighteen to at least thirty-seven ('Interrupción Voluntaria del Embarazo. Datos definitivos correspondientes al año 1988,' 1989; 'Interrupción Voluntaria del Embarazo. Datos definitivos correspondientes al año 1990,' 1990). These clinics, which generally applied a broad interpretation of health to support pregnancy termination, were required to produce reports outlining the

legal justification for an abortion. Reports would be authorized by clinic staff or – and increasingly over time – cooperative psychiatrists, who would declare that carrying a pregnancy to term could endanger the patient’s mental health. Although public hospitals generally continued to provide abortions in cases of severe risk to health and foetal malformation, over ninety percent of all legal abortions during the first post-decriminalization decade were carried out in clinics.

In response to the Royal Decree of November 1986, *Acción Familiar* filed an administrative litigation before the Supreme Court the following month. Representing *Acción Familiar*, Professor of procedural law, Andrés de la Oliva, submitted the organization’s statute to position itself as a plaintiff representing the unborn. Arguing that the Decree was explicitly designed to broaden access to legal abortion, the very existence of which violated the constitutional right to life, de la Oliva undermined the specific regulations introduced by the Decree as well as the broader indication system implemented by the 1985 law. *Acción Familiar* argued that the distinctions between high- and low-risk abortions and between automatic accreditation for public healthcare centres and specific accreditation for private clinics violated the constitutional principle of equality. They also claimed that therapeutic abortion was not justified as modern medicine could successfully treat women’s health issues without terminating pregnancies, an argument also repeatedly made by *CEE* (Comisión Permanente, 1983; Comité Episcopal para la defensa de la Vida, 1986; Subcomisión para la defensa de la Vida, 1991), and that there was no technique that could accurately detect foetal malformations before the twelfth week of pregnancy (G. & D., 1988). Finally, *Acción Familiar* claimed there was ‘minimal probability of pregnancy following a real [*sic*] rape’ (‘Sentencia 3193/1988 del Tribunal Supremo,’ 1988).

The Supreme Court suspended enforcement of the Decree as a precautionary measure. This was opposed by the State Attorney, who argued the move discriminated against women who could otherwise have accessed legal abortion (D. V., 1988b). The State Attorney also opposed the claims made by *Acción Familiar*, reasoning the appeal was inadmissible as the appellant was neither the holder of the right to life, nor the owner of an abortion clinic. Given the latter consideration, the appellant lacked standing to invoke the principle of equality.

The Supreme Court eventually issued a judgment dismissing the appeal on 30 April 1988 ('Sentencia 3193/1988 del Tribunal Supremo,' 1988). In a subsequent interview by the conservative newspaper *ABC*, the physician and *Acción Familiar* spokesman Luis Riesgo reiterated their position: in cases that endangered the life or health of a pregnant woman there were two lives at risk, 'the impaired' had a right to life, and abortion only added to the anguish of rape victims. He emphasized that the Decree would result in abortion services failing to meet adequate healthcare standards and turn the practice into a business. Finally, he declared that the Decree would be used as a tool to justify abuse of the 1985 law. Riesgo was referring to the possibility of physicians adopting a broad interpretation of health to meet the new criteria, an abuse he claimed had already taken place in the first publicly debated legal abortions carried out in Spain under the maternal, foetal, and rape indications (D. V., 1988a). In the *Acción Familiar* internal newsletter, published by the Navarra section, President of the organization, Fernando Gortazar, made similar arguments following the ruling:

This judgement facilitates legal fraud, a rise in the number of interventions with risk for the mother and elimination of the unborn beyond the three indications,

because they do not place risk on her life, do not have physical or psychological defects or were not conceived by rape (Gortazar, 1988).

He also emphasized that ‘women are not abortionists, they are simply misinformed’ and compared the ruling by the Supreme Court to the US Supreme Court’s legalization of slavery.

To summarize, *Acción Familiar* used a range of arguments from various conceptual orders in their attempt to prevent the Royal Decree being enforced, including the right of women to quality healthcare and the principle of equality, as well as misogynistic arguments about the unlikelihood of pregnancy resulting from rape.

4. Strategic Intimidation: The Pamplona Trial

This opportunistic strategy of mobilizing seemingly contradictory arguments to challenge regulation and providers on as many fronts as possible was also pursued by the Navarra branch of *Acción Familiar* during a trial of three doctors who provided legal abortions between 1985 and 1987. Although all three were acquitted in 1990, the trial effectively halted the provision of abortion services within public healthcare in Navarra.

In 1985, thirty-one-year-old Elisa Sesma was part of a gynaecological team committed to upholding reproductive rights and implementing the new law, and had conducted the first legal abortion in Navarra on 16 October of that year (author 1). Alongside Maria Cruz Landa and Pablo Sánchez Valverde (and in some cases, another doctor, Paz Osejo), Sesma provided legal abortions in Virgen del Camino public hospital. Two doctors prepared the medial report outlining why a termination was

required and permissible, which would then be assessed by the hospital commission, and the third would conduct the procedure. Reports of their work appeared in the local press, with conservative newspapers even printing details from patient histories (Sesma and Cruz Landa, personal communication, 2023). Leaflets were distributed in Pamplona naming Elisa Sesma and describing her as ‘a legal murderer’ who ‘tortured and murdered the first Navarrese in his mother’s womb’ (Sueskun, 2012, p. 98). This direct targeting and intimidation, which continued throughout the trial, exemplifies the activism of the Pamplona ‘pro-life’ groups, who took a far less restrained approach than *Acción Familiar*.

Sesma, Cruz Landa, and Sánchez Valverde had performed less than a dozen abortions, all of which had been due to foetal malformation or considered necessary to maintain maternal health (Sesma, Cruz Landa, personal communication, 2023). *Acción Familiar* had strong support from the right-wing party in Pamplona, Unión del Pueblo Navarro, which requested information about these abortions from the hospital (Laquidain, 1990a). Since decriminalization, this strategy had been pursued by other ‘pro-life’ organizations, who used the information to file complaints that were usually deemed inadmissible by the judiciary (Laquidain, 1990b). However, despite opposition from the Public Prosecutor’s office, Judge Juan José García Pérez admitted a complaint from *Acción Familiar* about the Virgen del Camino team. The resulting legal proceedings gained wide attention and galvanized local and international activism in support of both the plaintiffs and the defendants.

On 18 June 1986, *Acción Familiar* lawyer José Pardinás filed criminal charges in regard to an abortion conducted in the Virgen del Camino public hospital on 21 February 1986 (Muez, 1990). Certified by Sesma and Cruz Landa, the procedure had

been carried out by Sánchez Valverde on a nineteen-year-old woman who had requested termination due to being exposed to several sessions of abdominal radiation early in the pregnancy (Apoyo oficial a los tres médicos que van a juicio en Pamplona, 1990).

Charges were brought against the three doctors, the director of the hospital, Jesús Manuel Carpintero Navarro, and the patient herself, despite the criminal responsibility of women undergoing terminations in medical settings having been abolished by the 1985 law (Albalat, 1990; ‘La espada del aborto,’ 1987; ‘Querella criminal contra los señores Sánchez Valverde y Carpintero,’ 1986). The complaint, largely based on press reports, used genocidal metaphors and constructed foetal personhood for the ‘executed’: ‘bad science’ had been used to claim that ‘simple radiological exploration’ caused foetal defects and thus validate the team’s ‘macabre mission’. Additionally, *Acción Familiar* initially argued that the doctors had coerced the patient into having an abortion, and that the patient had known she was pregnant and intentionally requested radiation to justify termination (Sesma, Cruz Landa, personal communication, 2023).

In their complaint, *Acción Familiar* claimed ‘a simple administrative mechanism, a movement of papers, was enough to set off the extermination of a *nasciturus*. Nobody cared because of a single reason: it could not scream’ (‘Querella criminal contra los señores Sánchez Valverde y Carpintero,’ 1986). The term ‘*nasciturus*’, used in the Constitutional Court 1985 ruling that enabled decriminalization, referred to a viable foetus, despite the pregnancy having been under the twelve-week threshold. This statement also mobilized the visual metaphors of the international ‘pro-life’ movement, particularly those in *Silent Scream* (1984), the dissemination of which in Spain, as previously noted, had been sponsored by *Acción*

Familiar. An intention to maximize public impact was clear: once the complaint was admitted, *Acción Familiar* held a press conference to publicize the case.

Acción Familiar presented evidence based on press reports and medical literature to support their argument that the radiation received by the pregnant woman had not been enough to cause malformation, and requested twelve years of imprisonment and fourteen years of professional disqualification for the doctors, as well as five million *pesetas* bail (the minimum wage in 1986 was c. 40,000 *pesetas*) ('Tabla Anual del Salario Mínimo Interprofesional,' 2021). Charges against the medical director and patient were eventually dropped, but those against Sánchez Valverde, Sesma and Cruz Landa remained, and the doctors were interviewed as witnesses without knowing they were being prosecuted as suspects ('Documentación sobre el juicio por aborto de Pamplona,' 1989; Muez, 1987). Despite the Public Prosecutor repeatedly requesting that the charges be dismissed, in April 1989, Judge Pérez admitted the complaint and set bail at four and a half million *pesetas*, leading to the apartments of the three doctors being temporarily seized in May and June of 1989 ('Documentación sobre el juicio por aborto de Pamplona,' 1989; Muez, 1989, 1990).

The impact of radiation on foetal development became central to the trial, with experts for the prosecution claiming the amount received by the patient had not been enough to cause malformation. Mari Cruz Landa has recalled the trial becoming 'a scientific conference on the effects of radiation', and defence lawyers working with 'significant people from across Europe to demonstrate that there was a justified cause' (Cruz Landa, personal communication, 2023). Eventually, even the experts *Acción Familiar* had put on the stand came to accept the body of evidence accumulated by the

defence (Sesma and Cruz Landa, personal communication, 2023; Sánchez Valverde, personal communication, 2023).

The trial activated demonstrations both in support of and against abortion (Altuna, 1990) as well as telephone harassment of the three doctors, destruction of their property (Sánchez Valverde, personal communication, 2023), and death threats during a phone-in radio show ('Documentación sobre el juicio por aborto de Pamplona,' 1989). The case was also widely covered in the national press and closely monitored by the *Instituto de la Mujer*, the archives of which contain a dossier of press cuttings on abortion trials. Self-proclaimed 'Pro-life Committees' distributed pamphlets and daubed graffiti but did not participate in public debates, and neither *Acción Familiar* nor *Jóvenes Pro-Vida* admitted any association with their actions ('Comités pro-vida llaman 'asesinos' a los ginecólogos absueltos,' 1990; I. P., 1990). The organized 'pro-life' movement attempted to present these direct-action strategies as independent grassroots initiatives, a strategic distancing that Karissa Haugeberg (2017) has noted in various strands of US women's 'pro-life activism' that share a common base and resources. This direct action continued after the three doctors were acquitted in January 1990 ('Siguen llamando 'asesinos' a los ginecólogos absueltos,' 1990).

Acción Familiar did not appeal the verdict. The national leadership, while highlighting its commitment to 'unborn children', announced that it would comply with the law even when in disagreement (Iturbide, 1990). During a press conference following the acquittal, lawyer José Ramón Pardinas claimed *Acción Familiar* had 'attained its objectives' (*Acción Familiar no recurrirá la sentencia del juicio del aborto*, 1990). Another lawyer associated with *Acción Familiar* stated that 'behind an abortion there is a previous [abortion, in the sense of an abandonment] by a man, whose macho

attitude makes him leave the woman' and requested more legal support for any woman undergoing a 'problematic pregnancy.' This was a narrative turn to the kind of 'feminist' or women-centred arguments *Acción Familiar* had made in its litigation against the Decree, in which they had patchworked contradictory contentions to pursue their aims. These aims, according to Pardinás, were to strengthen a social perception of the three conditions for legal abortion as exceptional, to frame the practice of abortion as misguided and ill-advised, and to gain support from the judiciary.

What the organization did achieve was to 'place the first doctors accused of abortion practiced in a public hospital in a tough spot' (Iturbide, 1990). As *Acción Familiar* stated in a 1987 newsletter, whatever the result of their legal action, 'it is beyond doubt that it will raise Spanish society's sensibility against this important problem' (El caso del segundo aborto 'legal' realizado en Pamplona, 1987). By 1987 the three doctors had ceased to practice abortion due to a lack of support for patients and extreme hostility from hospital staff (Sesma and Cruz Landa, personal communication, 2023). The public exposure had taken a toll on them and their families, affecting their 'freedom, your sense of autonomy, your self-esteem. It was a sensation of being on top of this trial for three years, looking for lawyers, studying the topic. It was hard' (Sesma and Landa, personal communication, 2023). That same year, all family planning centres in the Navarra region ceased accepting abortion requests and referrals (Laquidain, 1990a). Having apparently intended 'to paralyze, to create fear' (Sesma and Cruz Landa, personal communication, 2023), *Acción Familiar* took pride in effectively bringing access to legal abortion in the region to a halt, a situation that continued until the subsequent abortion law reform of 2010, under which local abortion clinics were

established and medical abortion was gradually integrated within the local healthcare system.

5. Conclusions

In this article, we have demonstrated the importance of studying the first generation of ‘pro-life’ activism in Spain through case studies of the strategic litigation efforts by *Acción Familiar* following the partial decriminalization of abortion in 1985. The two landmark cases brought by *Acción Familiar*, an administrative litigation against the Royal Decree that liberalized the abortion marketplace (1986–1988) and the prosecution of doctors providing abortion services in a public hospital in Pamplona (1985–1990), deployed a wide range of resources and rhetorics to materially and symbolically restrict access to abortion. The organization positioned itself apart from the Catholic Church and mobilized ‘pro-life’ science in their strategic litigation endeavours, while also appealing to the concepts of equality, quality healthcare and women’s rights mobilized by feminists and the political left during the democratic transition. Through its strategic litigation, *Acción Familiar* delayed the Royal Decree coming into force by over a year, and the provision of abortion in public healthcare in and beyond the Navarra region until 2010. Thus, the efforts of this first Spanish ‘pro-life’ generation had a measurable local and national impact on access to abortion.

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