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Behind the Cover Story: Emily Bazelon on Medical Abortion Through the Mail

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Emily Bazelon, a contributing writer for the magazine, wrote this week's cover story about the online distribution of medical abortions. Bazelon, who is the Truman Capote Fellow for Creative Writing and Law at Yale Law School, is the author of "Sticks and Stones: Defeating the Culture of Bullying and Rediscovering the Power of Character and Empathy."

Where did you first hear about Women on Web?

I got interested in them because an American who used to be on the staff of Women on Web told me about it at a public event. I was at an A.C.L.U. lunch and she just happened to be there. It seemed potentially transformative to me, and I was very intrigued. The reason I was so interested in this topic is that from the point of view of the American perspective on abortion, it is just so different. It's kind of mind-blowing this is happening. That's not to say this is the sort of future we should hope for. But I think it is important as a thought experiment to scramble the way that we think about how we deliver abortion services in this country.

Do the people who run it try to keep it low-profile because of the controversies around abortions or because of international legal issues?

Rebecca Gomperts has kept it relatively low key, but it is online. You can find it really easily. She is very savvy about the press in general. And particularly for an American audience she didn't see a whole lot to gain because she's not trying to serve an American audience, and there is such a heated anti-abortion movement in this country. She really thought about whether she wanted to cooperate with this piece or not and decided in the end that she did.

Did she give you her reasons for agreeing to be interviewed?

Part of it is that she is proud of her work. And she feels confident that she is operating legally. In 2010, the Irish government challenged what she was doing. At that point she was writing prescriptions for women around the world, because she's also a doctor. She published an academic paper in 2008 about her work, so it wasn't a secret, and the Irish government brought a legal argument against her in Austria, in 2010. Gomperts was working in Austria, where she was registered as a doctor. The lower court ruled that she was in violation of a 1998 regulation that requires doctors to treat patients personally and directly. She was fined 280 euros in the first ruling and ordered to stop, and then she appealed. She won. The ruling was very favorable, saying that the 1998 regulation did not bar doctors from treating patients over the Internet, in light of the benefits of telemedicine to people with limited access to health care. I think that was very affirming for her.

So can she be sued again in another jurisdiction, like Brazil?

Well, Rebecca Gomperts herself is not prescribing medicine anymore. She has five doctors in other locations who are writing prescriptions, and she wouldn't tell me where they were. I don't even know if they are all in Europe. And that's because this is a hornet's nest and she is not interested in starting another fight in another country. I think that the real legal risk is to the women receiving packages. That's

what Gomperts worries about. In Brazil, packages of pills are being opened and confiscated before they are delivered. A few years ago, a woman in Brazil was prosecuted. And that happened to a few other women that Women on Web know about, in Ireland and Poland, and the organization — if they are aware — offers legal help. There's a dimension to this organization that has to do with protecting women's rights legally as well as giving them access to an abortion.

**Is the organization worried about government spying?
Finding out who was ordering or receiving packages from
abroad?**

We didn't really talk about that. I think that we live in an era in which that is theoretically possible. One of the things that's so interesting about this organization is that it has nothing to do with the United States. I was really struck working on this piece by how abortion is legal, but it is becoming inaccessible in many states because of a new wave of restrictions succeeding in shutting down clinics. In other countries, abortion may be illegal or almost entirely illegal, but the way the law operates allows for a gray area. So on paper any one of the women could be prosecuted in many countries, but it is not happening very often. And many of these countries protect the right to information about health according to international treaties and covenants that we don't have or haven't signed. Activists in Texas or other states were nervous about even providing information about medical abortion because if you seem like you are advocating or encouraging someone to self-induce, that can be a crime. We don't have the idea that there are free rights to accurate medical information and anyone can disseminate it. We are very legalistic in this country, and we are very good at enforcing the law. So even while you might think that in this country there would be more space for this kind of creative, between-the-joints solution, in fact there is much less space. The law looks more draconian on paper in many countries around the world, but this organization has been able to operate more easily there.

Could the women who are requesting abortion drugs from Women on Web lie about how far along in their pregnancies they are?

Yes, they could lie. And Women on Web rely on women self-reporting. Now, I will tell you that there is some good, solid research that women can accurately report their pregnancies; with the help of some information they can do a good job of it. One thing to note is that about 80 percent of women who use Women on Web say they've had ultrasounds, and they sometimes attach the ultrasound images. So that's a check. One of the tricky parts about medical abortion is that these drugs work all the way through a pregnancy, although they become less effective and the rate of complication rises in the course of pregnancy. So it is not recommended to have a second-trimester medical abortion without the supervision of a doctor. It's not as if someone couldn't try. But it is certainly a risk. It's not happening, but theoretically it could.

There's also a deeper question here. If you know there is a risk someone can misuse a drug, what do you do about it? One of the things that people who advocate for medical abortions say is that there are drugs like Tylenol on the shelves of every pharmacy that anyone could buy and overdose on and kill themselves. You can buy bleach. It doesn't mean we make those substances unavailable. What do you do with the possibility that women might misuse these drugs? Do you take it away from them? Or do you trust them?