

REPRODUCTIVE RIGHTS: How to Move Forward?

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One way of addressing ethical issues in reproductive health is to look at the consequences of current laws, policies and practices and see whether the existing situation gives rise to a preponderance of good or bad consequences. If the bad consequences outweigh the good ones, there is an ethical obligation to seek to change the laws, policies or practices. The data on maternal mortality and morbidity in developing countries make it uncontroversial to state that the harmful consequences for women of inadequate family planning programmes and of laws far outweigh the beneficial consequences.

—Ruth Macklin, “Ethics and Reproductive Health: A Principled Approach”

Giving people, especially women, the ability to make choices in their reproductive lives has implications that go far beyond individuals to society as a whole. The exercise of choice in one domain opens up the possibility of choice in others. For women, the ability to choose whether, when, and how often to have children implies the ability to define their own personal development in terms other than childbearing. Empowering adolescents to choose healthy sexual behaviors implies empowering them to make appropriate choices in other areas of behavior and decision-making. For families, the ability to choose family size offers increased choice as to the use of family resources, education, and employment. For communities, individual choices can result in increased options for economic and social development. An enabling environment is a necessary prerequisite for people to be able to promote and protect their own health

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and that of their partners, as well as for them to be able to act on the decisions they make. It fosters equity and permits people to take control of the factors that determine their health, including healthy and mutually responsible sexual behaviors, and the appropriate use of services. An enabling environment comprises policies, laws, and practices that promote reproductive health, including family planning. In this context, states have both positive and negative obligations towards individuals. They have the responsibility to provide such an environment and to promote the responsible exercise of reproductive rights. They must also refrain from compromising reproductive rights in any way by, for example, resorting to any form of coercion.

International human rights instruments provide a useful tool for determining a state's responsibility in this context, in that they seek to define relations between individuals and the state. For those of us working to improve reproductive health, this understanding is critical because reproductive health concerns not only individual exposure to disease and innate individual capacity for health or vulnerability to ill health, but also behaviors and relations between individuals and the society as a whole.

Reproductive ill health is different from other forms of ill health because of the centrality of intimate human behaviors. Human sexual and reproductive behaviors are heavily dependent on social relationships, on custom, tradition, and taboo. It is therefore inevitable that social groups and individuals with the least power, with the most limited ability to make decisions, with the most constrained capacities for choice, will suffer the major portion of the burden of ill health resulting from these behaviors and relationships.

To give just one example, we know that the major burden of death and disability relating to sexuality and reproduction falls on women. Among women of reproductive age in developing countries, over 36% of healthy years of life lost are due to three conditions associated with sex and reproduction: maternal mortality and morbidity, sexually transmitted diseases, and HIV/AIDS. Among men, the figure is only 12%.¹ Biologically, women are vulnerable

because they undergo the risks of childbearing, and they are more at risk of contracting sexually transmitted diseases. They are also less likely to receive treatment in a timely manner because they often remain symptomless until major damage has occurred.

Beyond this—and herein lies the importance of behaviors and relationships—women are often socially more vulnerable than men because they lack the resources, education, social status and decision-making power of men in deciding whether, when, and in what circumstances they will have sexual relations and if, when, and how often they will bear children. They are also often denied access to services and treatment due to cultural and economic reasons. For women, sexual and reproductive health are not dependent exclusively on their own behaviors, but also, in most situations, on the behaviors of others.

Women's combined biological and social vulnerability to sexual and reproductive health problems means that they need to be able to exercise choice in their sexual and reproductive lives. It is precisely in this area—the promotion of the ability to choose—that human rights instruments, particularly those relating to reproductive rights, play a central role. Improvement in women's health requires more than better science and health care; it also requires state action to correct injustices to women and to help create the enabling conditions necessary to fully exercise these rights.

The basis for the universality of human rights is both moral and normative. By virtue of natural law, every individual possesses certain fundamental freedoms. The normative foundation of universality stems from the universal acceptance of human rights by members of the community of states. While universality is the rule, there is room for variation in the way human rights are implemented in accordance with national, regional, historical, cultural, and religious characteristics. It is the duty of states, however, regardless of their political, economic, and cultural systems, to promote and protect all human rights and fundamental freedoms, including reproductive rights. The implementation of human rights is also subject to supervision by impartial, independent international bodies, rather than by individual states themselves.

While it is our responsibility to advocate the fostering of reproductive health for enabling environments and reproductive rights, it is the responsibility of states to ensure that these rights are realized. Perhaps the best way of describing this responsibility is to describe the worldwide consequences of having failed to successfully promote reproductive health and rights in numerical terms.

- Around 500,000 women die each year from childbirth, and many millions are disabled, yet the overwhelming majority of these deaths and injuries could have been prevented by relatively low-cost improvements in health care.²
- Some 20 million women each year risk their lives and health by resorting to unsafe abortion, and almost 80,000 die as a consequence. The majority of these unsafe abortions could have been avoided through improved family planning information and services and increased access to safe termination of pregnancy.³
- There are 120–150 million women who want to limit or space their pregnancies but do not have access to contraception.⁴
- Almost 6 million people are newly infected with HIV each year. Currently, over 33 million people are living with HIV/AIDS, of which 14.8 million are women.⁵
- One hundred thousand women die each year from other sexually transmitted diseases and reproductive tract infections.⁶
- Each year some 2 million women and girls are at risk of female genital mutilation.⁷
- Two to three million women and girls are introduced into the commercial sex market each year.⁸
- Millions of women and girls suffer sexual abuse and violence related to their sexuality and reproduction. This happens in the context of war and civil strife, but all too often in the domestic sphere as well.⁹

These grim statistics tell a sad story of the consequences of the denial of sexual and reproductive rights, especially the right to free choice with regard to sexual

activity, pregnancy, and childbearing, which is found in many countries.

How, then, to move forward? Reproductive rights are an essential prerequisite for the attainment of reproductive health, and they are of universal validity and applicability. The ability to exercise freedom of choice in reproductive decision-making, however, is still elusive for many people, especially in developing countries. Intergovernmental organizations are in a privileged position as partners in national efforts to improve health, and they have particular responsibilities to promote, protect, and support reproductive health and rights. How can we move the agenda of reproductive rights and health forward?

Relevant to our discussion here are four interrelated core elements of reproductive rights: (1) the right to found a family, (2) the right to decide freely and responsibly the number and spacing of one's children, (3) the right to have access to family planning information and education, and (4) the right to have access to family planning methods and services. The Cairo and Beijing conferences have helped to solidify the content of reproductive rights, but it should be stressed that the right to reproductive choice has only recently begun to gain recognition as a human right. While reproductive rights are understood to represent a bundle of rights drawn from traditional human rights instruments, reproductive rights as such have not yet been codified as legally binding and enforceable rights. While the human rights treaty bodies have to varying degrees accepted responsibility for monitoring the implementation of reproductive rights, no legal procedures have yet been established to ensure the compliance of states. We must move forward by making reproductive rights as such legally binding for states if reproductive health for all is actually to be achieved.

We must move step by step toward this objective. As a first step, all the provisions relevant to reproductive rights that exist in the present legal human rights instruments could be compiled into a declaration of commitment to reproductive rights endorsed by the international community. This could then prepare the foundation for a convention

clearly defining the obligations of states to promote and protect reproductive rights.

The task of promoting and securing sexual and reproductive rights may seem like a mammoth undertaking. Nevertheless, this is a crucial step in securing the reproductive and sexual health of women all over the world.

References

1. World Bank, *World Development Report 1993: Investing in Health* (New York: Oxford University Press, 1993), pp. 215–18.
2. WHO, *The World Health Report 1999: Making a Difference* (Geneva: WHO, 1999), p. 98.
3. WHO, "Unsafe Abortion," in *Global and Regional Estimates of Incidence and Mortality Due to Unsafe Abortion, with a Listing of Available Country Data* (Geneva: WHO, 1998), pp. 1–15.
4. UNFPA, *The State of World Population 1999: Six Billion: A Time for Choices* (New York: UNFPA, 1999), p. 2.
5. UNAIDS, *AIDS Epidemic Update* (Geneva: UNAIDS, 1999), p. 3.
6. WHO (see note 2), p. 98.
7. *Female Genital Mutilation* [Report of a WHO Technical Working Group] (Geneva: WHO, 1996), p. 1.
8. Data from the International Organisation for Migration.
9. WHO, *Violence against Women* (Geneva: WHO, 1997), p. 5.