Policy Position Paper: Reproductive Rights are Human Rights

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Introduction

The Supreme Court ruling in Roe v Wade, 410 U.S. 113 (1973) decided that women have the legal right to abortion in the United States until viability (Supreme.justia.com, 2020). Subsequently, the Hyde Amendment, H.R. 14232, passed by the House of Representatives in 1976 (Embryo.asu.edu, 2017) and Planned Parenthood v Casey, 505 U.S. 833 (1992) (Thirteen.org, 2006) paved the way for states to pass legislative restrictions on abortions. The Hyde Amendment, H.R. 14232, upheld the SupremeCourts' decision that barred federal funds from paying for abortions. Planned Parenthood v Casey, 505 U.S. 833 (1992) challenged the constitutionality of abortion restrictions in Pennsylvania. Upholding Roe v Wade (1973), the Supreme Court ruled that states could regulate abortions as long as restrictions did not pose an undue burden on those seeking abortions (Center for Reproductive Rights, 2018).

The right to sexual and reproductive health is an integral component of the right to health. The International Covenant on Economic, Social and Cultural Rights emphasizes aspects of the right to sexual and reproductive health in article 12.2 (a), “the provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child,” (Office of the High Commissioner Human Rights, 2020). Furthermore, Article 12.2 (a), comment 14 requires “requiring measures to improve child and maternal health, sexual and reproductive health services, including access to family planning, pre-and post-natal care, emergency obstetric services and access to information, resources necessary to act on that information, as well as the removal of all barriers interfering with access to health services, education, and information, including in the area of sexual and reproductive health (Office of the High Commissioner of Human Rights, 2020).

Access to comprehensive sexual and reproductive health and rights is a fundamental human right. But while there is a need for those who may need abortion services, access to safe and legal abortion services are far from guaranteed:

- Human Rights Watch (as cited in Inter Press Service News Agency, 2020) "when I was 13… I got pregnant from my older brother… He raped me starting when I was 11," a girl from Guatemala told one of us in 2015 (as cited from Ximena Casas, Researcher of the Women's Rights Division. She was one of the 2 million girls under 15 worldwide, according to the World Health Organization (WHO) (2014), who give birth each year, often due to sexual violence
- According to the WHO (2012), complications from unsafe abortions account for about 47,000 pregnancy-related deaths every year
- With 22 million unsafe abortions annually, 98% occur in developing countries (WHO, 2012)

According to the Global Fund for Women (2020), 214 million women worldwide want, but lack access to, contraception, more than 800 women die daily from preventable causes related to pregnancy and childbirth, and sexual relations between consenting adults of the same sex are still illegal in 76 countries globally. Stigmas and the undoing of health, education, political principles, representation, and wage models of the labor market, girls and women worldwide are a source of inequality. Faced with restricted or no access to information and services about their reproductive health and rights, 15 million women (McIntyre & WHO, 2006) between 15 and 19 years of age, especially those living in poverty, give birth and die from pregnancy-related causes every year. As progress remains slow, discrimination, stigma, and practices are shown to be engrained in the laws, policies, and traditions. Women's capacity to organize their needs,

interests, and rights can result in public recognition of gender justice; their rights as workers, women, and citizens (Kabeer et al., 2013). To drive equality, I believe we must actively express and commit to the sexual and reproductive health and rights of all women, girls, transgender, and gender-variant people.

States That Have Passed And Are Considering Abortion Restrictions

Identified by the Guttmacher Institute (as cited by Cunningham, 2018), States are categorized by ten significant types of abortion restrictions they have enacted "1) requiring parental involvement before a minor's abortion, 2) mandating medically inaccurate or misleading pre-abortion counseling, 3) requiring a waiting period after abortion counseling at a clinic, thus necessitating two trips to the facility, 4) mandating a non–medically indicated ultrasound before an abortion, 5) banning Medicaid funding of abortion except in cases of life endangerment, rape or incest, 6) restricting abortion coverage in private health plans, 7) imposing medically inappropriate restrictions on medication abortion, 8) requiring onerous and unnecessary regulations on abortion facilities, 9) imposing an unconstitutional ban on abortion before viability or limits on abortion after viability, and 10) enacting a preemptive ban on abortion if *Roe v. Wade* is overturned." The Guttmacher Institute (as cited by Cunningham, 2018) also identifies as hostile if they pass four of these laws and highly aggressive if they pass six or more.

- Alabama Abortion Ban, Amendment 621 of the Constitution of Alabama of 1901, Section 111.05 (Al.com, 2019).
- Arizona requires information on the specific reason for the abortion, ranging from elective to coercion to domestic violence (ABC.com, 2019).
- Arkansas voted to limit abortions to the middle of the second trimester (Arkansasonline.com, 2017).

- Florida is considering the Fetal Heartbeat Bill 235 (CBSnews.com, 2019).

States That Have Enacted Abortion Protections

- Illinois' Gov. J.B. Pritzker signed a bill into law on in early June to protect the state's abortion rights if *Roe v. Wade* were overturned (Chicago.suntimes.com, 2019)
- The Kansas Supreme Court reaffirmed that the constitution's right to abortion is inherent (Time.com, 2016).
- In January, New York passed a bill protecting the fundamental right to abortions (CNN, 2019).
- Virginia expanded in May the range of medical professionals who can perform abortion procedures (Axios, 2019).

Position Statement:

The recent and ongoing political attacks on women's health specifically focused on Sexual and Reproductive Health (SRH) rights and access, continue to strike a loud alarm for the public's health. Although some government officials at the federal and state levels are pursuing an aggressive plan to undermine essential health services broadly, I believe we all must actively express and commit to the sexual and reproductive health and rights of all women, girls, transgender, and gender-variant people and I take strong positions against discriminatory regulations and actions based on ideology over evidence. Summarizing my position with the States that have enacted reproductive protections, I further recommend policies that:

1. Support women's access to safe, quality SRH care and reproductive health care providers
2. Protect Title X family planning funding and access to a full range of FDA-approved prescription contraceptives

3. Oppose restrictive and discriminatory regulations in the DHHS Strategic Plan and programs
4. Oppose changes in health insurance plans that allow inadequate policies and put women and families at significant financial risk
5. Oppose political interference in SRH research and health professional education
6. Support legal actions to protect the patient-provider relationship, overturn abortion facility restrictions and block the administration rules permitting employers to claim religious or moral exemptions to the ACA's contraception mandate.

The General Comment states that ideologically based policies or practices, such as the refusal to provide services based on conscience, must not prevent people from getting care and that an adequate number of health care providers willing and able to offer such services should be available at all times in both public and private facilities. Even in one country, there are vast differences between different generations, urban centers, and rural areas. You cannot say there is always one position between men and women and culture changes over time. The ultimate goal should be what is best for people to enjoy the right to sexual and reproductive health.

Conclusion

Women's sexual and reproductive health is related to multiple human rights, including the right to life, the right to be free from torture, the right to health, the right to privacy, the right to education, and the prohibition of discrimination. This means that States have obligations to respect, protect and fulfill rights related to women's sexual and reproductive health. According to the International Justice Resource Center (n.d.), the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is one of the special thematic procedures also includes engaging in advocacy, development human

rights standards and communicate directly with States on alleged human right violations overseen by the United Nations Human Rights Council (2020). The mandate holder monitors the situation of the right to health around the world and maintains that women are entitled to reproductive health care services, goods, and facilities that are:

- Available in adequate numbers
- Accessible physically and economically
- Accessible without discrimination
- Of good quality

In their legal commentary on the Right to sexual reproductive and health indivisible from other human rights (2016, Mar 8), The United Nations state, "The right to sexual and reproductive health is not only an integral part of the general right to health but fundamentally linked to the enjoyment of many other human rights, including the rights to education, work and equality, as well as the rights to life, privacy and freedom from torture, and individual autonomy" (Office of the High Commissioner Human Rights, 2016).

There is a significant unmet need for information, education, and sexual and reproductive health services for all women. To address gender inequalities for the successful development of nations, according to Dumka et al. (1998), the ideological resistance to contextually-relevant sexuality education and associated geographic network access to comprehensive reproductive health services (United States, 2002); health assessment, monitoring, pattern and trend detection, strategy and development, historical archiving for males and females is not evidence-based. According to Huffer (2006), women and girls are often discriminated against in health, education, political representation, and the labor market, with negative consequences for developing their capabilities and freedom of choice. According to Tavrow (2010), attitudes of

health professionals often pose a barrier to access and must be addressed through strategic management and leadership from health professionals using the evidence to motivate collective action and influence the state, bridge the disconnect between rights and reality, and improve awareness and information to SRH services by men and women.

No single program is likely to be able to serve the needs of all women, adolescents, minors, and the mentally disabled. What is required is that the reproductive disorder or risk of developing a condition needs are addressed, input-output analysis of intersectoral relationships between services in their communities, and to establish a relative weight on deferred outcomes as to opposed immediate impacts in that, "how much more should current as to opposed to future impacts be weighted" as (Sloan, 1996) stated in *Valuing health care: Costs, benefits, and effectiveness of pharmaceuticals and other medical technologies*. Challenging our sense of identity, control, and well-being will require political businesses. Religious leaders to work with the Amerian community to increase public awareness of the reproductive and sexual health issues affecting women, adolescents, minors, and the mentally disabled. Agreed by most member states of the United Nations (OHCHR, 2016), it is unethical and a violation of multiple human rights to continue denying access to consultation, treatment, information, and access to services reproducing cultural ideologies concerning sexuality (Harsch, 1999) that will prevent complications of pregnancy leading to disability and untimely death. To address what is commonly recognized as a gap between safe abortion, expanding contraceptive access and choices, comprehensive sexual and reproductive health services (WHO, 2012) can only be achieved if policymakers and legislators focus their attention on marginalized racial and ethnic groups while continuing the progress on education.

Reference

ABC.com. (2019). Arizona law now requires more questions for women seeking abortion. Retrieved from https://www.abc15.com/news/region-phoenix-metro/central-phoenix/arizona-law-now-requires-more-questions-for-women-seeking-abortion

Al.com. (2019). Alabama abortin law passes: Read the bill. Retrieved from https://www.al.com/news/2019/05/alabama-abortion-ban-passes-read-the-bill.html

Arkansasonline.com (2017). Arkansas bans common second-trimester abortion procudure. Retreived from https://www.arkansasonline.com/news/2017/jan/26/arkansas-senate-oks-ban-common-second-trimester-ab/

Axiox. (2019). Virginia expanded in May the range of medical professionals who can perform abortions. Retreived from https://www.axios.com/virginia-expands-range-medical-professionals-perform-abortions-c67ff726-55cf-4844-95e1-837d481d68a9.html

CBS.news. (2019). Florida bill would be abortins if fetal heartbeat detected. Retrieved by https://www.cbsnews.com/news/florida-mike-hill-house-bill-235-abortion-ban-fetal-heartbeat/

Center for Reproductive Rights. (2018, July 26). *WWH Undue Burden Report* [PDF]. reproductiverights.org. Retrieved July 4, 2022, from https://reproductiverights.org/wp-content/uploads/2020/12/WWH-Undue-Burden-Report-07262018-Edit.pdf

Chicago.suntimes.com. (2019). Pritzker signs abortion measure he says makes Illinois most ‘progressive’ on issue. Retrieved from https://chicago.suntimes.com/politics/2019/6/12/18661670/pritzker-abortion-bill-illinois-sign-reproductive-health-act

CNN.com. (2019). New York puts in measures to protect access to abortion even if Row v. Wade is overturned. Retreived from https://www.cnn.com/2019/01/23/health/new-york-abortion-measures-trnd/index.html

Cunningham, A. C. (2018). *Reproductive rights*.

Dumka, L. E., Gonzales, N. A., Wood, J. L., & Formoso, D. (1998). Using qualitative methods to develop contextually relevant measures and preventive interventions: An illustration. *American journal of community psychology*, *26*(4), 605-637.

Embryo.asu.edu. (2017). The Hyde Amendment of 1976. Retreived from https://embryo.asu.edu/pages/hyde-amendment-1976

Global Fund For Women. (2020). Sexual & Reproductive Health Rights. Retrieved from https://www.globalfundforwomen.org/sexual-reproductive-health-rights/

Harsch, D. (1999). The Struggle for Abortion Rights Before and After Roe v. Wade-Leslie J. Reagan. When Abortion Was a Crime: Women, Medicine, and Law in the United States, 1867–1973 (Berkeley/Los Angeles/London: University of California Press, 1997. xiii, 387 pp.)-Rickie Solinger, Editor. Abortion Wars: A Half Century of Struggle, 1950–2000 (Berkeley/Los Angeles/London: University of California Press, 1998. xvi, 413 pp.). *Journal of Policy History*, *11*(1), 89-93.

Huffer, E. (2006). Desk review of the factors which enable and constrain the advancement of women's political representation in Forum island countries. In *A Woman's Place is in the House–the House of Parliament: Research to advance women's political representation in Forum Island Countries–A regional study presented in five reports*.

HRW.org. (2020). Protecting women's reproductive health during the pandemic. Retrieved from https://www.hrw.org/news/2020/05/12/protecting-womens-reproductive-health-during-pandemic

Ipsnews.net. (2020). Protecting women's reproductive health during the pandemic. Retrieved from http://www.ipsnews.net/2020/05/protecting-womens-reproductive-health-pandemic/

Kabeer, N., Sudarshan, R., & Milward, K. (Eds.). (2013). *Organizing women workers in the informal economy: Beyond the weapons of the weak*. Zed Books Ltd..

Law.cornell.edu. (2020). Planned Parenthood of Southeastern Pa. v. Casey (91-744), 505 U.S. 833 (1992). Retreived https://www.law.cornell.edu/supct/html/91-744.ZO.html

McIntyre, P., & World Health Organization. (2006). Pregnant adolescents: delivering on global promises of hope.

Office of the High Commissioner Human Rights. (8 Mar, 2016). Right to sexual and reproductive health indivisible from other human rights – UN experts. Retrieved from https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17168&LangID=E#:~:text=GENEVA%20(8%20March%202016)%20%E2%80%93,and%20freedom%20from%20torture%2C%20and

Office of the High Commissioner Human Rights. (2020). Promotion and protection of Human Rights around the world. Retreived from https://www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx

Office of the High Commissioner Human Rights. (2020). International Covenant on Economic, Social and Cultural Rights: Adopted and opened for signature, ratification and accession

by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27

Sloan, F. A. (Ed.). (1996). *Valuing health care: Costs, benefits, and effectiveness of pharmaceuticals and other medical technologies*. Cambridge University Press.

Supreme.justia.com. (2020). Roe v. Wade, 410 U.S. 113 (1973). Retreived from https://supreme.justia.com/cases/federal/us/410/113/

Tavrow, P. (2010). Promote or discourage: how providers can influence service use. *Social determinants of sexual and reproductive health*, *15*.

Thirteen.org. (2006). Landmark Cases. Retreived from https://www.thirteen.org/wnet/supremecourt/rights/landmark_casey.html

Time.com. (2016). Kansas Appeals Court strikes down second -trimeser Abortion Ban. Retrieved from https://time.com/4190155/kansas-second-trimester-abortion-ban/

United States. (2002). *Bioterrorism and proposals to combat bioterrorism: Hearing before the Committee on Energy and Commerce, House of Representatives, One Hundred Seventh Congress, first session, November 15, 2001*. Washington: U.S. G.P.O.

World Health Organization. (2012). *Safe abortion: technical and policy guidance for health systems*. World Health Organization.

WHO. (2012). Safe abortion: technical and policy guidance for health systems. Retrieved from https://www.who.int/reproductivehealth/publications/unsafe_abortion/9789241548434/en

WHO. (2014). Adolescent pregnancy. Retrieved from https://apps.who.int/iris/bitstream/handle/10665/112320/WHO_RHR_14.08_eng.pdf