AUSTRALIAN WOMEN'S HEALTH NETWORK

Policy brief
Abortion

The right to abortion

Abortion is a human right. The United Nations affirmed sexual and reproductive rights within women's human rights in the mid 1990's.[1] Abortion is healthcare. The Right to Health states that healthcare must free from any discrimination, including gender, race, sex, religious and age discrimination.[2] Barriers to abortion in Australia mean that women and pregnant people seeking abortion regularly experience discrimination, leading to abortion inequity.

The issue of abortion equity

Access to abortion care has direct implications on gender equity, affecting a woman's ability to participate in education and employment, and various aspects of their political, social and cultural lives.

For some, abortion access comes at no cost through their local health and hospital services. Others pay thousands of dollars, and / or travel across state and territory borders seeking any service at all. Costs can be direct in service fees, but also indirect in travel, lack of access to caring arrangements for children, time off work and the social and emotional costs of abortion stigma within families and communities. Abortion inequities may be experienced by all women and pregnant people, though they particularly impact women living in regional and remote areas and affect migrant and refugee women, including those on temporary visas.

There are health professional pre-service and in-service training gaps, workforce capacity issues, and a lack of ultrasound and day hospital facilities. In practice, this translates to delayed access to care and a lack of choice between abortion methods, such as medical abortion medication or early gestation surgical abortion. Reproductive coercion, abuse and violence also occurs within families, communities and institutions. Women and pregnant people may be coerced towards or away from abortion. That coercion can be enacted by anyone, including an intimate partner, family member, health professional, or can be influenced by institutional or health policy that restricts reproductive rights.

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[1] Beijing Declaration and Platform for Action (1995), The Fourth World Conference for Women, viewed on 7 December 2022 at https://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf
Cairo Programme of Action (1994), Report of the International Conference on Population and Development, Cairo, 5-13 September 1994. Publisher, viewed on 7 December 2022 at *UN* Population Fund (UNFPA) at https://www.unfpa.org/sites/default/files/event-pdf/PoA_en.pdf

[2] CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)
CESCR (Committee on Economic, Social, and Cultural Rights). 2000). 11 August. Doc. E/C.12/2000/4. At http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmlBEDzFEovLCuW1AVC1NkPsgUedPlF1vfPMJ2c7ey6PAz2qaojTzDJmC0y%2B9t%2BsAtGDNzdEqA6SuP2r0w%2F6sVBGTpvTSCbiOr4XVFTqhQY65auTFbQRPWNDxL

Legal and policy implications

The United Nations Committee on Economic, Social and Cultural Rights and the Convention on the Elimination of Discrimination against Women (CEDAW) Committee have enshrined sexual and reproductive care within women's right to health.[3] As a signatory to CEDAW, the Australian Government is therefore obliged to respect, protect and fulfil sexual and reproductive health and rights.

Over the past 20 years abortion has been increasingly relocated from criminal law to health law. The process has varied between states and territories, creating a patchwork of laws across Australia. Observations on Australia's periodic CEDAW report recommends that Australia harmonise abortion-related legislation across jurisdictions to increase health access and equity.[4] Until abortion law is harmonised, women and pregnant people will continue to travel between jurisdictions in order to access healthcare and Australia's human rights record in abortion care will remain opaque. The National Women's Health Strategy commits to equitable access to abortion and strives for universal access by 2030. Alongside the National Preventative Health Strategy, which also aims to address inequity in health, we have a sound national policy model to support further policy development and implementation in Australia.

Bills constantly surface that aim to convolute the right to choose. These bills are largely focused around creating a legal precedent to imply the 'personhood' of a fetus. Not only do such proposed bills risk overregulating prenatal and postnatal care mechanisms, but they also attempt to erode women's basic human rights during pregnancy.

Conscientious objection is a barrier to access and is often cited by whole health services. Conscientious objection should only be permitted for individual medical providers if at all, and not for or by, whole health services.[5] Abortion related law and policy must include provisions obligating medical professionals to refer abortion seekers to an alternative provider, thus avoiding their duty of care[6] and despite a legal obligation to do so.[7]

Conclusions

Abortion is healthcare. Health professionals and the systems they work within have a duty of care to provide safe, quality, affordable and accessible healthcare. In order to achieve gender equity and health equity [for all Australians], we must enable equitable access to abortion. We must continually reform abortion law, policy and regulations to address inequities within and between states and territories. Models of healthcare must continually evolve to ensure increasingly culturally safe, quality and compassionate abortion care. Reproductive coercion prevention and response mechanisms must be embedded through policy and

[3] Office of the United Nations High Commissioner (2020), Sexual and Reproductive Health and Rights, viewed on 27 July 2020 at <https://www.ohchr.org/en/issues/women/wrgs/pages/healthrights.asp>

[4] Committee on the Elimination of Discrimination against Women (2018), CEDAW/C/AUS/CO/8: Concluding observations on the 8th periodic report of Australia viewed on 27 July 2020 at < https://digitallibrary.un.org/record/1641944?ln=en>.

[5] United Nations General Assembly. Human Rights Council Forty-third session, 24 February–20 March 2020. Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development. A/HRC/43/48: Gender-based violence and discrimination in the name of religion or belief: Report of the Special Rapporteur on freedom of religion or belief Clause 43. Available: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/217/76/PDF/G2021776.pdf?OpenElement

[6] Australian Human Rights Institute. 2019. *Four ways the Religious Discrimination Bill impacts on women's reproductive rights.* https://www.humanrights.unsw.edu.au/news/four-ways-religious-discrimination-bill-impacts-womens-reproductive-rights

[7] Keogh, L.A., Gillam, L., Bismark, M. *et al.* Conscientious objection to abortion, the law and its implementation in Victoria, Australia: perspectives of abortion service providers. *BMC Med Ethics* 20, 11 (2019). https://doi.org/10.1186/s12910-019-0346-1

practice, including beyond health policy and systems. Sexuality and relationships education should be available at all ages, with culturally safe and age appropriate information about reproductive rights.

About us

The Australian Women's Health Network provides a national voice on women's health. It provides a woman-centred analysis of all models of health and medical care and research understanding that women's health is a key social, cultural, environmental, and political issue.

Contact us

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We acknowledge the Traditional Custodians of the lands and waters on which we live and work. We pay our respect to Elders past and present. Sovereignty has never been ceded.