

WOMEN'S HEALTH AND REPRODUCTIVE RIGHTS

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ABSTRACT

Women's rights to sexual and reproductive health are essential to women's overall health, according to the ICPD. The Convention on the Elimination of All Forms of Discrimination Against Women contains several articles that serve as the foundation for these rights. The textual underpinning for women's rights to sexual and reproductive health as stated in this and other international human rights instruments is examined in this article. The rights to health care and information, life, liberty, and personal security, as well as the freedom from discrimination in the distribution of resources for health services and their accessibility, comprise the rights to reproductive and sexual health. The rights to informed consent and confidentiality with regard to health care, as well as autonomy and privacy when making sexual and reproductive decisions, are crucial. The issues that are used to illustrate the article's points about systemic violations of the aforementioned rights come in a variety of forms, such as maternal mortality, the absence of legal abortion procedures, the underfunding of family planning, coercive population programs, coerced sterilization consent from spouses, and discrimination against pregnant women in the workplace. Reproductive health, according to the World Health Organization (WHO), is the entire condition of physical, mental, and social well-being in all aspects pertaining to the reproductive system and all of its functions and processes—rather than just the absence of illness or infirmity. The full physical, mental, spiritual, political, social, and economic well-being of women and girls, predicated on the full realization and defence of women's human rights, is known as reproductive justice. This article presents a non-polarized, more inclusive ethical course of action that uses an optimal health approach with new alliances for the reproductive justice movement today while acknowledging the history and limitations of reproductive health and rights.

Keywords: reproductive justice, reproductive health, reproductive rights, human rights; gender discrimination; equality; autonomy.

INTRODUCTION

The Fourth World Conference on Women (FWCW), held in Beijing in 1995, and the 1994 International Conference on Population and Development (ICPD) in Cairo discussed and reframed the field of reproductive health¹⁶⁹⁰. A favourable national and international political climate for reproductive health was established by the Platform for Action and the Beijing Declaration (documents) from the conferences. The terminology surrounding population and family planning issues was changed to

incorporate human rights, and non-governmental organizations (NGOs), governments, and institutions from all over the world became more interested in and involved in reproductive health issues (The First World Conference on Women, 1995). According to Seibert, Stridh-Igo, and Zimmerman (2002), "listening to those closest to the ground and most importantly ensuring that programming was relevant and sensitive to community conditions and cultural norms" was a key component of the strategies that resulted from including NGOs. Reproductive justice is the total physical, mental, spiritual, political, social, and economic welfare of women and girls, based on the full realization and preservation of women's

¹⁶⁹⁰Chukwudi Onwuachi Saunders, *Reproductive Rights, Reproductive Justice: Redefining Challenges to Create Optimal Health for All Women*, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9930478> (Accessed: April 29th 2024)

human rights. It was coined by a group of black women in Chicago prior to their attendance at the ICPD. In order to more effectively communicate the experiences and language of women of colour with regard to sexual and reproductive health issues and rights, this was done. After that, in the late 1990s, SisterSong—the cornerstone of reproductive justice programming—was supported by the Ford Foundation, an organization led by women of colour¹⁶⁹¹. Twenty years later, the application of this idea or broad lens to direct advocacy and programming initiatives in the field of reproductive health is still rather restricted. The abortion choice issue currently dominates the American reproductive health agenda, with little regard for other issues that fall under the same umbrella¹⁶⁹². This article provides a succinct overview of the history of reproductive rights as well as the difficulties encountered during their evolution into the reproductive justice movement. It then urges the reproductive justice movement to embrace a more inclusive and morally sound framework for women's health, one that is even more broadly defined and rooted in ideas that support women embracing their feminine power. With this new paradigm, a new movement will be born, one that will find new allies, develop nontraditional collaborations, and enhance the reproductive justice/optimal health movement to better represent the views of all women.

Context and History of Reproductive Justice

International and charitable development groups concentrated mostly on population and reproduction in the 1950s and 60s. With the establishment of graduate study centres, demography emerged as a separate academic field, and advancements in reproductive and contraceptive technology were funded. In order to promote safe, inexpensive, and effective contraceptive use as well as abortion services if needed, model initiatives involving education

were funded in the 1980s. Maternal and child health initiatives were centred around disadvantaged mothers who made the decision to have children safely and make sure all children grow up safe and healthy. Reproductive health, with an emphasis on women's rights, replaced family planning as the dominant paradigm in the 1990s. Organizations this decade have contributed to the emphasis on the cultural and economic variables (high fertility, poor maternal health, and the spread of STDs and AIDS) that affect reproductive health. Additionally, they addressed the unique requirements of teenagers, supported efforts to combat STDs and AIDS, and gave special attention to underprivileged women in developing nations throughout their reproductive lives¹⁶⁹³. To increase understanding of the socioeconomic aspects influencing reproductive health, this new focus primarily aimed to enhance social science research and teaching.

Governmental efforts to control population increase were superseded by personal reproductive health decision-making at the Cairo ICPD in 1994. Reproductive purpose, the availability of contraceptives, client choice, and satisfaction were all included in the holistic expansion of the previously restricted definitions and scope of family planning programming, which focused on pregnancy and contraception. According to the United Nations Population Fund (UNPF), in 1994, they had the right to guide the development of policies that affected the political, social, and economic spheres of their life and, consequently, their health. The ICPD (1999) and Beijing Plus Five (2000) meetings that followed covered the development and challenges encountered in carrying out the original action plans¹⁶⁹⁴. The two conferences made clear how little was still

¹⁶⁹¹ Reproductive Justice, <https://www.sistersong.net/reproductive-justice/> (Accessed : April 29th 2024)

¹⁶⁹² Rebecca J. Cook and Bernard M. Dickens, Human Rights Dynamics of Abortion Law Reform, (Accessed: April 29th 2024)

¹⁶⁹³ Chukwudi Onwuachi Saunders, Reproductive Rights, Reproductive Justice: Redefining Challenges to Create Optimal Health for All Women, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9930478> (Accessed: April 29th 2024)

¹⁶⁹⁴ Chukwudi Onwuachi Saunders, Reproductive Rights, Reproductive Justice: Redefining Challenges to Create Optimal Health for All Women, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9930478> (Accessed: April 29th 2024)

known about women's reproductive health and other issues affecting their rights, empowerment, and general well-being.

Challenges

The study of reproductive health and rights is now widely recognized on a national and worldwide scale. Important national and international organizations, such as the National Abortion Federation, NARAL-Pro Choice America, International Planned Parenthood Association, and Centre for Reproductive Rights, have formed a broad network of activism that has advanced women's health by promoting funding appropriations, engaging in political advocacy, and demanding more and better reproductive health programming¹⁶⁹⁵. Notwithstanding these well-established networks and programming initiatives, obstacles remain to be addressed. These days, 3,387 groups come up when searching for "reproductive rights" nonprofits on GuideStar. 1,234 organizations are found if the search term "reproductive justice" is used. 42 organizations are found for reproductive rights and just 12 for reproductive justice when the exclusion criterion, "only organizations that have provided data on diversity, equity, and inclusion," is applied. The current national and local reproductive health agenda in the United States is primarily focused on abortion rights and choice. The mainstream framework for reproductive rights, which focuses on legal issues, has been criticized by women of colour for being primarily one-dimensional and failing to take into account the larger issues that affect their communities on a daily basis and have an impact on their reproductive health and rights. These issues include poverty, interpersonal violence, AIDS, STDs/AIDS, limited or no access to health services, hysterectomies, pregnancy-related deaths, environmental injustices, mental health issues, and so on. The concept of "reproductive rights" or "reproductive justice" still

evokes divisive preconceived notions and views in today's world¹⁶⁹⁶.

The ICPD's Action Plan

Almost 180 States engaged in a process of compromise and discussion that resulted in the consensus document known as the ICPD Programme of Action¹⁶⁹⁷. The elimination of sexual discrimination is prioritized by the international community in relation to population and development policies and programs in a separate chapter that discusses gender equality and women's empowerment. An important chapter that explains the concept of autonomy is Chapter VII, "Reproductive Rights and Reproductive Health. The programme of action defines reproductive health as "a state of complete physical, mental, and social well-being in all matters related to the reproductive system. This means that individuals can have a fulfilling and safe sexual life and that they have the ability to reproduce and the freedom to choose if, when and how often to do so. Article 12 of the International Covenant on Economic, Social, and Cultural Rights (1964) (ICESCR) guarantees "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health," one of the human rights already recognized in "international human rights documents".¹⁶⁹⁸ The International Covenant on Civil and Political Rights (1964) safeguards several fundamental freedoms, which include other health-related human rights. These include, among others, the rights to privacy, liberty, and security of person, as well as the right to life. Furthermore, the Women's Convention, also known as the Convention on the Elimination of All Forms of Discrimination Against Women (1978) is especially relevant

¹⁶⁹⁵ Rebecca J. Cook, International Human Rights and Women's Reproductive Health, <https://www.jstor.org/stable/2939201>, (Accessed: April 29th 2024)

¹⁶⁹⁶ Cockrill, Kate; Weitz, Tracy A, Sample records for laws regulating abortion, <https://worldwidescience.org/topicpages/l/laws+regulating+abortion.html>, (Accessed: April 29th 2024)

¹⁶⁹⁷ Dr Carmel Shale, Rights to Sexual and Reproductive Health - the ICPD and the Convention on the Elimination of All Forms of Discrimination Against Women, <https://www.un.org/womenwatch/daw/csw/shalev.htm>, (Accessed: April 29th 2024)

¹⁶⁹⁸ Art.12 of the International Covenant on Economic, Social, and Cultural Rights

when it comes to the exercise of one's sexual and reproductive rights¹⁶⁹⁹.

Reproductive rights, according to the ICPD, "rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health." The text comes from Women's Convention Article 16(1)(e), which says that States Parties shall guarantee, on the basis of equality of men and women, "The same rights to decide freely and responsibly on the number and spacing of their children, and to have access to the information, education, and means to enable them to exercise these rights"¹⁷⁰⁰. The paradigm shift of the ICPD was reaffirmed in the Platform for Action of the Fourth World Conference on Women (FWCW), convened in Beijing in 1995, as a consensus text of the international community before delving deeper into the Convention. Unfair and inadequate access to health care and related services, which take a life cycle approach to women's health from infancy to old age, was one of the major issues raised during the Beijing Conference. The Declaration of Beijing declared the explicit recognition and reaffirmation of the right of all women to control all aspects of their health.

The Women's Convention's Rights Regarding Health

One of the provisions that addresses women's rights with regard to health is Article 16(1)(e) of the Convention, as was previously mentioned¹⁷⁰¹. It provides the right to choose the number and spacing of children. It lays forth the duty of States Parties "to take all appropriate measures

to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning. "In addition, it states that they will" make certain that women receive appropriate services related to pregnancy, childbirth, and the post-natal period, providing free services when required, as well as adequate nutrition during pregnancy and lactation." Remarkably, among the six human rights treaties in the UN system, only the Women's Convention makes reference to family planning. The right to obtain particular educational materials and family planning guidance is protected by article 10(h), in addition to the previously listed provisions. Specifically, Article 14(b) outlines a woman's entitlement to adequate healthcare facilities, including family planning services, counselling, and information, in rural areas¹⁷⁰². Additionally, Article 11(1)(f) of the Convention mentions women's rights to safety and protection of their health in the workplace, including "the safeguarding of the function of reproduction"¹⁷⁰³. Numerous other sections of the convention, some of which have been explained in the general recommendations of the CEDAW committee regarding female genital mutilation, sexual violence, HIV/AIDS, and reproduction, have an implicit or indirect impact on women's health rights.

Differences, Discrimination and Equality

Discrimination is the second idea that requires some explanation. Since discrimination is a breach of one's right to equality, equality entails non-discrimination. Article 1 of the Convention defines "discrimination against women" as any kind of distinction, exclusion, or restriction based on a person's sex that has the intentional or unintentional effect of preventing or undermining women's ability to exercise their human rights and fundamental freedoms in

¹⁶⁹⁹ Rebecca J. Cook, International Human Rights and Women's Reproductive Health, <https://www.jstor.org/stable/2939201>, (Accessed: April 29th 2024)

¹⁷⁰⁰ Dr Carmel Shale, Rights to Sexual and Reproductive Health - the ICPD and the Convention on the Elimination of All Forms of Discrimination Against Women, <https://www.un.org/womenwatch/daw/csw/shalev.htm>, (Accessed: April 29th 2024)

¹⁷⁰¹ Art. 16(1)(e) of the International Covenant on Economic, Social, and Cultural Rights

¹⁷⁰² Art.14(b) of the International Covenant on Economic, Social, and Cultural Rights

¹⁷⁰³ Art.11(1)(f) of the International Covenant on Economic, Social, and Cultural Rights

any field political, economic, social, cultural, or otherwise regardless of their marital status¹⁷⁰⁴. Given what has already been mentioned, the field of health is especially intriguing from the perspective of equality theory because there are "real" disparities between men and women that are social in nature and those that are biological (or physiological). Because of cultural and biological variations, women's health needs differ from men's. Not only are biological differences crucial, but discrimination against women is strongly linked to preconceptions and stereotypes based on patriarchal ideas of women's sexual and reproductive roles and functions.

1. Social construction difference:

Notwithstanding the Convention's recognition of women's maternal roles, social and cultural norms frequently elevate motherhood to the point where it limits women's freedom to make their own decisions. Women's values may be based on their propensity to bear offspring in cultural and religious contexts. Due to the misconception that they are infertile rather than their male spouses, women who have not given birth may be excluded from weddings. Women's freedom of movement and participation in public life is restricted by standards of chastity that stem from stereotypes about women's sexuality. These include pointless procedures like forced virginity tests, hymen repairs, and female genital mutilation. Women are often subjected to hazards of sexual assault and violence because their sexuality is subordinated to the gratification of male demands. Women and girls are more likely to get HIV/AIDS and other sexually transmitted infections because they lack the ability to negotiate safe sex or refuse sex as a result of unequal power relations based on gender.

2. **Biological difference:** Although gender discrimination is undoubtedly a mediating factor in these social phenomena, biological distinctions between men and women may also play a role in health-related discrimination. According to the feminist legal philosophy of today, gender equality recognizes these differences rather than holding women to the expectations of males. To be considered equal, we must treat people with similar interests equally and those with distinct interests in a way that honours their differences¹⁷⁰⁵. Discrimination occurs when the unique health requirements of women are not taken into consideration in order to guarantee their access to relevant health information and services. In actuality, equality is about ensuring that people may effectively experience equal outcomes in terms of health status and well-being rather than merely granting women the same rights as men and fighting deliberate discrimination. Similar health demands as well as sex-specific health needs are covered by women's rights to health and health treatment on an equal footing with men.

CONCLUSION

The current conservative political climate poses significant dangers to women's health and rights. Therefore, it is more important than ever to assist reproductive justice activities by expanding the scope and engaging in optimal health justice activism. A stronger, more inclusive, and successful optimal health justice movement for all women and girls can only be strengthened by adopting an optimal health strategy and forming partnerships with new and atypical supporters, such as men, spirituality, and religion¹⁷⁰⁶. In order to support this new ethical framework, advance pertinent

¹⁷⁰⁴ Art. 1 of the International Covenant on Economic, Social, and Cultural Rights

¹⁷⁰⁵ Nicola Lacey, *Feminist Legal Theory and the Rights of Women*, <https://academic.oup.com/book/3584/chapter-abstract/144867315?redirectedFrom=fulltext>, (Accessed: April 29th 2024)

advocacy initiatives, strengthen its capacity, and maintain it to guarantee its success at the local, state, and federal levels, inclusive involvement is crucial. Any one of the three main ideas of human rights—liberty, social justice, and equality—that are illustrated in the aforementioned cases is violated. Social and economic rights are based on the concept of fairness, whereas civil and political rights are based on the concept of liberty. Overriding all other principles is equality. Discrimination against women is frequently evident in the low priority accorded to their unique requirements regarding sexual and reproductive health. However, a lot of the concerns brought up by this article have to do with how decision-makers and healthcare professionals view their patients, as well as the basic ideas of respect for human dignity and the right to reproductive autonomy, which are fundamentally unrelated to costs. The advancement of women's human rights generally has been greatly aided by the fight for women's rights to sexual and reproductive health. Women's status is inextricably tied to the reduction of women to physical attributes through social and political processes, as noted by advocates for women's human rights. "Women-cantered" approaches to sexual and reproductive health arise when reproductive health is recognized as encompassing more than just the biological functions of a woman's womb. Women must be respected as independent individuals who can take charge of their sexual and reproductive lives and make decisions based on access to sufficient knowledge. She must be free from discrimination in all its manifestations and be able to act as an adult with full legal ability in order to exercise this right and engage in civil society. Human rights discourse never offers prefabricated solutions to the issues and conundrums that crop up in any particular situation. Human rights are not absolute values in the sense that they take precedence over everything else. Indeed, there may be situations where the rights of two people conflict.