

HUMAN RIGHTS AND REPRODUCTIVE JUSTICE

Being able to terminate a pregnancy is a prerequisite for bodily self-determination and thus fundamental to gender equality.

In international law, there is no explicit right to abortion. Being able to access a legal and safe abortion is, however, closely tied to human rights enshrined in international law.

Those human rights standards include the right to

- life
- the highest attainable standard of physical and mental health, including sexual and reproductive health and rights
- decide freely and responsibly on the number, spacing, and timing of children, and to have the information and means to do so
- privacy
- right to information and education including on sexual and reproductive health
- non-discrimination and equality
- be free from torture, cruel, inhumane, and degrading treatment and punishment
- benefit from scientific progress and its realisation



INTERNATIONAL SEXUAL AND REPRODUCTIVE RIGHTS OVER TIME

First World Population Conference in Rome: focus on 'overpopulation', racist and colonial problematising of birth rates in the Global South

1954

World Population Conference in Belgrade: similar debates as in Rome

1965

International Conference on Human Rights in Teheran: self-determination of every person whether, how, how many, and by what means they will have children framed as human right for the first time

1968

Committee on the Elimination of Discrimination against Women (CEDAW): right to self-determined family planning established

1979

International Conference on Population and Development in Cairo: right to reproductive health acknowledged as human right; contracting parties asked to secure access to encompassing reproductive health care

1994

Fourth World Conference on Women in Beijing: right to reproductive health confirmed anew

1995

Human Rights Committee determines criminalisation and prohibition of abortion incompatible with human rights standards in reaction to an individual complaint

2016

Generation Equality Forum: Global Acceleration Plan until 2026 includes a Coalition on Bodily Autonomy and Sexual Reproductive Health and Rights

2021

ABORTION-RELATED RECOMMENDATIONS OF THE WORLD HEALTH ORGANIZATION

The World Health Organization makes recommendations as to how the legal framework and health care services best guarantee human rights standards.



Full decriminalisation of abortions:

That is, abortions are not mentioned in criminal law (any more) and other categories of criminal law like murder or manslaughter are not applied to abortions. Furthermore, full decriminalisation means that there is no punishment of pregnant person and abortion performing (medical) staff.



No gestational age limits:

A gestational age limit restricts pregnant persons as to until when they can have a termination. This leads to unsafe, sometimes self-performed abortion, or to the unwanted continuation of a pregnancy.



No grounds-based restrictions of abortions:

This recommendation is based on empirical studies demonstrating that the existence of justifying grounds for abortion (like pregnancies following sexualised violence, abortions due to risk of life to the pregnant person, or severe impairment or non-viability of the embryo / foetus) hinder, slow, and restrict the access to abortions.



No mandatory counselling and no mandatory waiting period:

Both raise the costs of an abortion to the pregnant person because they have to be out of work or unable to fulfil other responsibilities for a longer period. Longer travelling times to consultation facilities or performing clinics further exacerbate this issue. It also often involves pregnant people having to disclose the fact that they are seeking an abortion, which harms their right to privacy.





No third party consent:

Legal stipulations often require the consent of custodians in cases of teenage pregnancies. Studies show how this puts pressure on (young) pregnant persons and possibly endangers them as they fear familial stress or violence upon making their pregnancy or their wish to terminate the pregnancy known. Giving young people the opportunity to avoid the need for third party consent via judicial application is often insufficient in avoiding negative effects like delayed and / or unsafe abortions or the unwanted continuation of a pregnancy.



Eliminate gaps in care provision arising from staff refusing to perform an abortion on grounds of conscience (conscientious objection/refusal):

This recommendation is based on studies evidencing how the possibility of refusing an abortion leads to delayed and/or unsafe abortions, higher costs, emotional stress, and gaps in care provision. Furthermore, conscientious refusal extends work volumes and psychological pressures of medical staff performing abortions as they have to justify abortions rather than following the decision of the pregnant person.

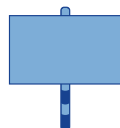
Further recommendations of the World Health Organization:

- Health systems should cover any costs for abortions.
- Provide scientifically accurate, easily accessible, and understandable information should be offered in a way that safeguards the right to privacy.
- Let variety of health providers (including pharmacists) communicate information.
- No regulation on who can provide and manage abortion as long as providers comply with World Health Organization guidance.
- Provide information, legal framework, and medicines that allow pregnant persons to self-manage an abortion.
- Make telemedical care available as an option of care provision.
- Offer interactive, person-centred, non-biased, and voluntary counselling by trained staff, including counselling about post-abortion contraception if the pregnant person seeks advice on this matter.

ABORTION FROM A REPRODUCTIVE JUSTICE PERSPETIVE

In debates about sexual and reproductive rights, the term reproductive justice comes up more and more often. In 1996 in the US, Black activists around Loretta Ross coined the term and as a result the analytical perspective, practice guideline, and political vision of reproductive justice. They demand:

- The human right to own our bodies and control our future.
- The human right to have children.
- The human right to not have children.
- The human right to parent the children we have in safe and sustainable communities.



A reproductive justice perspective puts abortion in the context of other aspects of sexual and reproductive rights. It also raises awareness for the particular situations of vulnerable groups, whose access to abortions holds even more barriers.

Reproductive justice thus highlights barriers that pregnant people seeking an abortion encounter.

Receiving sex education

- Often not diverse enough or not targeted at specific groups like LGBTIQ* people or people with disabilities. Some may not be reached or included in sex education in formal schools (e.g. some people with disabilities, refugees, or asylum seekers)

Accessing contraceptives

- Costs
- Shame or stigma of being sexually active
- Knowledge of and ability to choose between different contraceptive methods
- Ability to plan sexual activity

Having consensual sex free of violence

- Domestic and sexualised violence, including stealthing: removing one's condom during sex without knowledge and consent of the sex partner

Determining an unintended pregnancy early on and finding support

- Shame and Stigma
- Body knowledge
- Privacy/community

Deciding for or against the pregnancy

- Financial and other (in)securities
- Discourse and norms
- Delay and stress of possible mandatory counselling and waiting period exacerbated by costs, language barrier, domestic violence, and harassment by anti-abortion activists

Having an abortion

- Discrimination-free treatment
- Choice of methods
- Getting the costs covered



VULNERABLE GROUPS AND UNWELCOME PREGNANCY AND PARENTHOOD

A reproductive justice perspective not only highlights potential barriers to abortion access like people in vulnerable groups being disproportionately negatively affected by legal restrictions. It also underlines that pregnancy and parenthood of people in vulnerable groups is often similarly stigmatised and unwelcomed.

Group	LGBTIQ* people	People of Colour (PoC)	People with disabilities	Women	Workers	Young people
Explanation	LGBTIQ* is an abbreviation for the terms lesbian, gay, bisexual, trans*, inter*, and queer, and thus an abbreviation for diverse sexual orientations and gender identities who differ from dominant cisgender and heterosexual identities.	People of Colour is a self-designation to express solidarity of people who share experiences of racism. It refers to all people who experience(d) structural, institutional, and interpersonal power inequalities and, therefore, discrimination of a racist and racialising nature vis-a-vis the majority of society.	The social model of disability underlines that physical and psychological differences between humans only become barriers and disabilities in societies not set up for these differences.	Gender describes a spectrum of identities including woman, nonbinary, inter*, trans*, fluid, or man. Most women and some gender minority people are capable of becoming pregnant.	Broadly speaking two social classes can be distinguished from a Marxist perspective: people who have to sell their labour power to survive and people who own the means of production (money, factories, equipment, labour power, patents). Workers having few financial means at their disposal are most relevant as a vulnerable group.	Young people enjoy fewer rights than most adults, examples are minimum voting ages, or being exempt from minimum wages.
Term for discrimination	Homophobia or hostility against gay people primarily affect people with non-heterosexual orientations. Cis-sexism and transphobia or hostility towards trans people primarily affect people with diverse gender identities >> More info	Racism and racialisation	Ableism >> More info	Sexism	Classism describes discrimination and prejudice against working class people who have low income and wealth. >> More info	Adultism >> More info
Power structures	Heteronormativity, gender binary or cistern	White supremacy	Norm and normalcy	Patriarchy	Capitalism	Adult rule, paternalism, authoritarianism of adults
Example	<i>A child needs a mother and a father.</i>	<i>We already have too many of them.</i>	<i>People with disabilities need care themselves and are therefore unable to care for others.</i>	<i>The most important role of a woman is to be a (good) mother. Women are more emotional and are therefore bad at decision-making.</i>	<i>Don't have children if you can't afford them.</i>	<i>Children who have children have unrealistic ideas about parenthood.</i>



Reproductive Justice

Secure the human rights of everyone. Dissolve social power relations and fight the discrimination that results from them.

DISCUSSION

Sexual and reproductive health and rights, and in particular abortions, continue to be highly contested issues: While human rights are established at international level, no European country has fully implemented the abortion care recommendations of the World Health Organization (Factsheets 2, 3, and 4). Anti-gender activists at United Nations, European, and national level question past achievements and consensuses (Factsheet 5).



A reproductive justice perspective further shows how human rights of people in vulnerable groups are more frequently violated. It further contextualises abortions within the realm of sexuality and reproduction. The resulting need for action expands the recommendations of the World Health Organization by underlining the need for more inclusive addressing of e.g. LGBTIQ* patients, awareness of language barriers, or strategies to better support people affected by domestic violence.

While these examples are set at the level of regulation and provision, reproductive justice further envisions transformational change of societal power structures that have born those discriminations and made certain groups vulnerable in the first place.

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