

Backstreet Abortion and the **WGNRR** agenda

by Zelda DT Soriano

Backstreet abortion continues to plague women worldwide.

Where abortion is prohibited or restricted as in many countries of the Global South, clandestine abortion services are bound to persist. Performed by untrained persons in sub-standard facilities, the millions of women who put their lives at risk and who died should not be surprising.

The most common complications are incomplete abortion, tears in the cervix, perforation of the uterus, fever, infection, septic shock, and severe hemorrhaging.

The World Health Organisation (WHO) and Guttmacher Institute reported that for every 1,000 women of childbearing age (15–44) worldwide, 29 were estimated to have had an induced abortion in 2003, compared with 35 in 1995. The decline was most substantial in Europe, where the rate fell from 48 to 28 abortions per 1,000 women. This corresponds with increased contraceptive use in the region. On the whole, the abortion rate decreased more in developed countries, where abortion is generally safe and legal on broad grounds from 39 to 26 abortions per 1,000 women than in developing countries, where the procedure is largely illegal and unsafe from 34 to 29 abortions per 1,000 women.

Significantly, the abortion rate for 2003 was roughly equal in developed and developing regions – 26 and 29 abortions per 1,000 women respectively – despite abortion being largely illegal in developing regions. Health consequences, however, vary greatly between the two regions, since abortion is generally safe where it is broadly legal, and mostly unsafe where restricted.

Globally, Guttmacher estimates that unsafe abortion is responsible for 13 per cent of all maternal deaths. About 70,000 women die each year from complications of unsafe abortion. The vast majority of these deaths are said to be preventable. Millions more women suffer from debilitating complications and illness. The most common complications are incomplete abortion, tears in the cervix, perforation of the uterus, fever, infection, septic shock, and severe hemorrhaging. In the same study, the precise causes of maternal mortality vary from country to country. But in developing countries, women's access to contraception,

prenatal care, skilled physicians, and abortion are hampered by poverty, overstretched health systems, and legislative restrictions.

Abortion policies and realities

In a published 2007 report, the Population Division of the United Nations Department of Economic and Social Affairs reports that an overwhelming majority (97%) of countries, permit abortion to save the woman's life. Only in five countries is abortion not permitted. Abortion laws and policies are significantly more restrictive in the developing world. In 78 per cent of developed countries, abortion is permitted for economic or social reasons, and on request in 67 per cent of countries. In contrast, 19 per cent of developing countries permit abortion for economic or social reasons, while only 15 per cent provide abortion on request.

Globally, there are seven grounds on which abortion is permitted: (1) to save the woman's life; (2) to preserve physical health; (3) to preserve mental health; (4) in case of rape or incest; (5) fetal impairment; (6) economic or social reasons; and (7) on request.

Reports by members of the Women's Global Network for Reproductive Rights (WGNRR) in a meeting for the Latin American and the Caribbean region late last year indicate the gravity of illegal and unsafe abortion as well as the scarcity of women's health care services, and reproductive and sexual health and rights education in many rural and urban poor villages of the region.

In Brazil, for example, insufficient public policy to promote the reproductive and

sexual health and rights of the youth contributes to high rates of unwanted pregnancy, unsafe abortion, and morbidity. Unsafe abortion accounts for 16 per cent of maternal deaths in women, aged 15 to 24, in the poorest villages. In Bolivia, the Framework Law of Reproductive and Sexual Rights, which includes legal and safe abortion services was rejected by most Bolivians in a referendum. This was due to the significant influence of the Catholic Church. But in Ecuador, in the context of the WGNRR's campaign for women's access to health, "Safe Abortion Saves Women Lives", women's groups successfully pushed for the national Political Agenda on Sexual and Reproductive Rights. This policy mandates sexual education, young pregnant women access to education, emergency contraceptive pills, access to contraceptive methods and legalisation of abortion.¹

Meanwhile, the women's movement in Nicaragua continues to campaign for a law in favour of safe abortion as

maternal mortality, partly caused by clandestine, illegal and unsafe abortion practices, affects mostly poor women. In Peru, despite the legalisation of therapeutic abortion, there have been recent efforts by the Church and conservative groups to block these initiatives. Social stigma against abortion still prevails.

In Uruguay, during the last 20 years, four legislative bills have attempted the legalisation of abortion. These measures sought to approach the problem from an integral perspective introducing sexual education, universal access to contraceptive methods, and promotion of responsible parenthood. These measures also aimed to strengthen women's human rights, and to create a more democratic state in Uruguay. Despite these efforts and a growing favorable public opinion, some political groups successfully influenced the legislative decisions, thereby impeding the legalisation of abortion.²

In the Middle East and North Africa (MENA), while all countries in the region recognise Islam as their state religion, abortion laws vary widely and include some of the most liberal and restrictive policies in the Muslim world. MENA's abortion policies are based not only on religious law, but also on secular and colonial codes. All countries include saving the pregnant woman's life as a legal indication; close to half permit abortion in case of risk to physical health, and a few also include mental health. Where abortion is restricted, penal and criminal codes include harsh sanctions for the physician or individual responsible for inducing the abortion and for the woman seeking abortion. Laws do not punish the man involved in the unwanted pregnancy unless he tries to perform the abortion himself.³



Access to Abortion in Tunisia

Abortion law reform was part of a larger post-colonial effort to increase women's status and rights, limit population growth, and promote socioeconomic development in Tunisia. It was the first MENA country to liberalise its abortion law, abolish polygamy, and give men and women the same right to divorce, among others. These reforms were based on a progressive interpretation of Islamic principles and beliefs. The abortion law is unique in that spousal consent is not required. Women do not have to be married to obtain an abortion. In recent years, the Tunisian government has introduced adolescent-friendly services and medical abortion into its public clinics.

Source: Heisini, Leila (December 2007), "What do Muslims say about abortion?" in *WGNRR Newsletter*

The UN estimates that up to 50 per cent of all maternal deaths in refugee settings are a result of unsafe abortions. Many more women suffer from severe infections and blood loss, debilitating injuries, and infertility as a consequence of unsafe abortion.

In conflict-ridden countries of Africa where rape and sexual violence are used to traumatise communities, it is estimated that one in 20 rapes during conflict will result in unwanted pregnancies.⁴ Legal, safe and accessible abortion services rarely exist in conflict situations, leaving women to seek out illegal and unsafe abortion providers. This has a devastating impact upon women's health. The UN estimates that up to 50 per cent of all maternal deaths in refugee settings are a result of unsafe abortions.⁵ Many more women suffer from severe infections and blood loss, debilitating injuries, and infertility as a consequence of unsafe abortion.

Asian and Pacific countries are similarly situated with Latin American and the Caribbean. Abortion is generally illegal. But in Japan, since the International Conference on Population and Development, the word "reproductive health rights" has been used gradually by public women's centers and local

public entities. The idea of respecting a woman's choice has gradually come into use. After 2001, however, the Japanese government returned to conservatism and made policy provisions denying abortion rights. As a result, the national second Gender Equality Basic Plan (2005) was extensively altered to limit reproductive rights. The first, in 2000, states that "reproductive health/rights include the rights to choose whether we give birth or not, when we give birth, and how many children we bear. General provisions to promote women's health throughout their lives are needed from the viewpoint of reproductive health/rights."

The second, however, states that "the Japanese government does not accept abortion rights beyond the description of law because abortion is covered by Criminal Law and the Law for the Protection of Mothers' Bodies."⁶

Meanwhile, abortion takes another form and level in Europe and other countries of the Global North where legal and safe abortion services are generally available under certain conditions. Rejecting this conditional abortion in a WGNRR-co-sponsored debate in Utrecht late last year, young people argued that even though one may have had education and contraceptives, unplanned pregnancy may still happen. They asserted that the decision to terminate pregnancy is a right that should belong to the woman or girl *unconditionally*.

A demandable state obligation

WGNRR believes that women's right to legal, safe, and voluntary abortion is a demandable and enforceable state

At least 122 concluding observations by UN treaty bodies on 93 countries, spanning more than a decade, have substantively addressed how abortion relates to fundamental human rights. These bodies assert that firmly established human rights are jeopardised by restrictive or punitive abortion laws and practices.

obligation under international law. There has been a number of authoritative interpretations of international law that recognise abortion as vitally important to women's exercise of their human rights. At least 122 concluding observations by UN treaty bodies on 93 countries, spanning more than a decade, have substantively addressed how abortion relates to fundamental human rights. These bodies assert that firmly established human rights are jeopardised by restrictive or punitive abortion laws and practices. This is so despite the absence of direct abortion provision in any existing international human rights instruments.

For example, the International Covenant on Economic, Social and Cultural Rights provides in Article 12(1) that states must recognise "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) also provides in Article 12(1) that "States Parties shall 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."

Similarly, Article 14(2)(b) provides that states must ensure that women in rural areas "have access to adequate health care facilities, including information, counseling and services in family planning." Supplementing this, CEDAW obliges states to eliminate discrimination against women in all matters regarding marriage and family relations (Article 16).

Article 24(d) of the Convention on the Rights of the Child (CRC) also provides

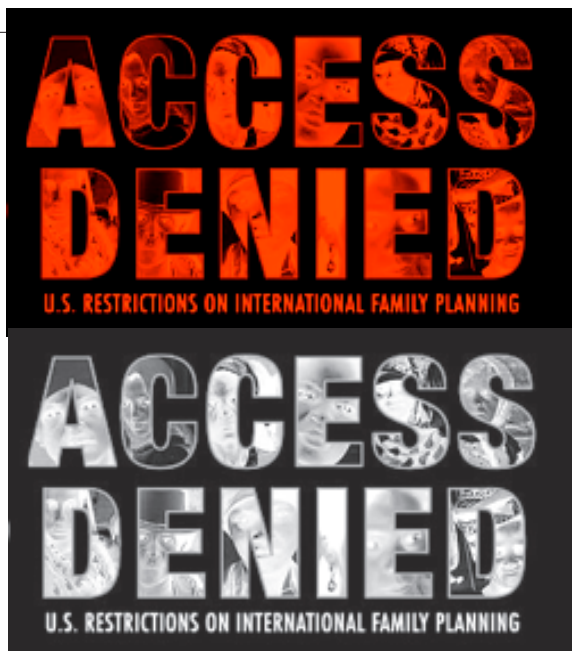
that states must take measures to "ensure appropriate pre- and post-natal health care for expectant mothers" as part of the obligation to recognise children's right to the highest attainable standard of health.

Finally, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) provides in Article 10: "Everyone shall have the right to health, understood to mean the enjoyment of the highest level of physical, mental and social well-being."

As noted under the right to health above, CEDAW also prohibits discrimination against women in the field of health care and in access to health care services, and calls for special efforts to eliminate discrimination against rural women in their access to health care services and information. Article 2(f) requires that states "take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women."

Article 5(a) requires that states take appropriate measures "[t]o modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women."

However, the cases of *Tysiac v. Poland* and *D v. Ireland* are recent abortion cases which have been decided in European courts where women's human right to abortion and state's legal obligation to guarantee abortion service as part of primary health care have not



Logo of the Global Gag Rule Impact Project, which documents the effects of US President George W. Bush decision. The project involves major networks of reproductive rights advocates such as Population Action International, Ipas, Planned Parenthood Federation of America, and International Planned Parenthood.

been successfully argued.⁷ Understandably, in the absence of direct pro-abortion provisions, the application of international human rights instruments need more specific and creative articulation in actual legal battles.

In sum, despite international human rights instruments implicitly providing for legal and safe abortion, backstreet abortion continues to plague women worldwide. Restrictive or punitive abortion laws and practices continue to prevail because of the patriarchal systems in place as primarily maintained by religious fundamentalist and conservative political groups, and the consequent power imbalances that deny women the right to control their own bodies. Interestingly, it is also relevant to advocate for direct provisions or human rights instruments for the women's right to safe, voluntary, and legal abortion.

The WGNRR agenda: Safe abortion to save women's lives

The realities described above prompted WGNRR in 2007 to call for action on women's right to safe abortion. WGNRR's Call for Action is a yearly campaign call addressed to its global network members.

WGNRR's Call is seen as especially timely because of the Global Gag Rule reinstated by US President George W. Bush in January 2001. The Rule mandates that no US family planning assistance can be provided to foreign non-governmental organisations (NGOs) that use funding from any other source to: perform abortions in cases other than a threat to the woman's life, rape or incest; provide counseling and referral for abortion; or lobby to make abortion legal or more available in their country. It not only violates the right to free speech but also limits access to information about safe abortion.

In the WGNRR's abortion discourse, the Call is connected to the Millennium Development Goals (MDGs), which address, among others, the issue of unsafe abortion. MDGs were agreed upon during the world conferences in the 1990s as part of the UN Millennium Declaration. These goals, realisable by 2015, promote human rights, education, environmental sustainability, social equality, and the elimination of poverty. As an international covenant, the MDGs can be used as a tool to measure the progress of governments' efforts to address these problems. In particular, MDG 5 targets improvement of maternal health: *Reduce by three-quarters the maternal mortality ratio.*

Among the recommendations set to achieve this target are: (1) guarantee universal access to reproductive and sexual health and rights services, information and education; (2) eliminate user fees for basic health services, including those for maternal health; (3) ensure access to quality post-abortion care, including treatment for the complications of unsafe abortion, post-abortion family planning counseling and

services; and (4) train and equip health service providers to ensure that abortion is safe and accessible in circumstances where abortion is not against the law.



WGNRR in a mobilisation in December 2007.

The Call outlines demands and actions that respondents can take: (1) create access to basic health care services; (2) lobby to have Mifepristone and Misoprostol registered for distribution locally; (3) inform women on how they can give themselves safe abortion through the use of Misoprostol, where available; (4) demand the elimination of restrictive abortion laws; (5) demand governmental accountability; (6) educate ourselves and our communities about abortion; (7) create safe spaces where women can turn for good, realistic advice

on abortion in a confidential setting; (8) create support structures for and with lawyers and doctors; (9) use creative means such as theatrical presentations, music, art or media to increase visibility of the realities around the issue of abortion; (10) when possible, urge religious leaders to speak out for safe abortion; (11) form coalitions; (12) create visibility projects where women can share their abortion stories and help break the silence and taboo around abortion; (13) utilise the media and public actions to place the abortion issue within the human rights framework; (14) continue researching the use of mid-level healthcare providers and midwives to provide early vacuum aspiration and medical abortion; and (15) increase availability of family planning services to reduce unwanted pregnancy.

For WGNRR, the struggle for safe, legal and voluntary abortion as women's human right remains to be a relevant cause for national, regional, and international policy advocacy. Backstreet abortion is a continuing global health problem. The challenge now is to develop sharper analyses and stronger arguments, and heighten activism in the light of present backstreet abortion realities. ■

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Endnotes

¹ As summarised from members' reports presented during the WGNRR Regional Consultation Meeting in Managua, Nicaragua, November 7, 2007; and from contributed articles published in the WGNRR Newsletter 90, December 2007 edition.

² *Ibid.*

³ Heisini, Leila (December 2007) "What do Muslims say about abortion?" in WGNRR Newsletter 90.

⁴ WGNRR Call for Action 2008 citing *Ipas*, 'A' magazine, Summer 2006.

⁵ *Ibid.*

⁶ Suzuki, Fumi (December 2007) "The abortion movement in Japan" in WGNRR Newsletter 90.

⁷ Case digests are available in WGNRR Newsletter 90, December 2007 edition.