

BRIEFING PAPER

THE RIGHT TO CONTRACEPTIVE INFORMATION AND SERVICES FOR WOMEN AND ADOLESCENTS



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MISSION AND VISION

The Center's Mission and Vision

The Center for Reproductive Rights uses the law to advance reproductive freedom as a fundamental human right that all governments are legally obligated to protect, respect, and fulfill.

Reproductive freedom lies at the heart of the promise of human dignity, self-determination, and equality embodied in both the U.S. Constitution and the Universal Declaration of Human Rights. The Center works toward the time when that promise is enshrined in law in the United States and throughout the world. We envision a world where every woman is free to decide whether and when to have children; where every woman has access to the best reproductive healthcare available; where every woman can exercise her choices without coercion or discrimination. More simply put, we envision a world where every woman participates with full dignity as an equal member of society.

UNFPA's Mission

UNFPA, the United Nations Population Fund, is an international development agency that promotes the right of every woman, man and child to enjoy a life of health and equal opportunity. UNFPA supports countries in using population data for policies and programmes to reduce poverty and to ensure that every pregnancy is wanted, every birth is safe, every young person is free of HIV, and every girl and woman is treated with dignity and respect.

UNFPA - because everyone counts

CONTRACEPTIVE INFORMATION AND SERVICES ARE A HUMAN RIGHT

Women’s and adolescents’ right to contraceptive information and services is grounded in basic human rights protections. The Programme of Action from the International Conference on Population and Development recognized “the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice.”¹⁹

States parties to international and regional human rights treaties have committed to promoting and protecting the basic rights that underlie the right to contraceptive information and services, including the right to equality and non-discrimination; the right to privacy; the right to determine the number, spacing, and timing of one’s children; the right to life; the right to health; the right to information; the right to enjoy the benefits of scientific progress; and the right to be free from torture or cruel, inhuman, or degrading treatment (see Appendix for relevant treaty provisions).

THE RIGHTS TO EQUALITY AND NON-DISCRIMINATION

Women’s and adolescents’ rights to equality and non-discrimination—rights that are protected in essentially every major international and regional human rights treaty—underpin the right to access contraceptive information and services. The rights to non-discrimination and equality not only prohibit discriminatory laws and policies, but also require affirmative measures to combat socially and culturally ingrained discrimination in order to achieve substantive equality.²⁰ Laws and policies that deny women and adolescents access to contraceptive goods and services—for instance, by prohibiting certain contraceptive methods, such as EC, or by requiring spousal or parental authorization—constitute discrimination.²¹ Additionally, practical barriers to accessing contraceptive information and services often stem from socially or culturally ingrained discrimination, and states must take steps to eliminate these barriers to ensure women’s and adolescents’ access to contraception. Such access is central to achieving women’s and adolescents’ participation as full and equal members of society.

THE RIGHTS TO PRIVACY AND TO DETERMINE THE NUMBER AND SPACING OF CHILDREN

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), along with other international and regional human rights treaties, explicitly recognizes a woman’s rights to determine the number, spacing, and timing of her

children and to have access to the contraceptive information and services necessary to exercise that right.²² The right to privacy, protected by other key international and regional treaties, protects the right of individuals and couples to make fundamental decisions about their private lives without government interference,²³ and decisions about whether and when to found a family falls within the protected zone of privacy.²⁴ Women's enjoyment of these rights is incumbent on access to contraceptive information and services without undue interference in their ability to select a contraceptive method that works for them. Restrictions on access to certain contraceptive methods and coercive family planning policies impair the ability of women to make informed, autonomous decisions about their personal lives and health and violate the rights to privacy and to determine the number, spacing, and timing of their children.

THE RIGHTS TO LIFE AND HEALTH (INCLUDING SEXUAL AND REPRODUCTIVE HEALTH)

The rights to life and health are central to the enjoyment of all other human rights, and access to contraceptive information and services bears directly on the enjoyment of these rights. The Human Rights Committee has indicated that the right to life should not be narrowly interpreted²⁵ and that the fulfillment of this right requires governments to take steps to reduce maternal mortality and increase life expectancy.²⁶ Both the Committee on Economic, Social and Cultural Rights (ESCR Committee) and the CEDAW Committee explicitly recognize that the right to health includes sexual and reproductive health²⁷ and that contraceptive information and services are necessary to fulfill this right.²⁸ Legal and practical barriers to contraceptive information and methods lead to higher rates of unwanted pregnancies—with the attendant risks of unsafe abortion or maternal mortality and morbidity—violating women's and adolescents' rights to life and health.

THE RIGHTS TO INFORMATION AND EDUCATION (INCLUDING SEXUAL AND REPRODUCTIVE HEALTH INFORMATION AND EDUCATION)

The rights to information and education include seeking, receiving, and imparting information and education on sexual and reproductive health, including contraceptive information.²⁹ A comprehensive understanding of safe and effective contraceptive methods is essential for women and adolescents to protect their health and make informed decisions about sexuality and reproduction.³⁰ As the CEDAW Committee has explained, “women must have information about contraceptive measures and their use, and guaranteed access to sex education and family planning services” to be able to make informed decisions regarding the contraceptive method that is appropriate for them.³¹ Comprehensive sexuality education, which includes information about contraceptive methods, can delay the onset of sexual activity, increase the use of contraception, and lead to fewer sexual partners, with significant benefits for the overall well-being of women and adolescents.³² Various treaty monitoring bodies have recognized the importance of accurate and objective sexuality education as a means to reduce maternal mortality, abortion rates, adolescent pregnancies, and HIV/AIDS prevalence.³³ Inadequate

NORMATIVE CONTENT OF THE RIGHT TO CONTRACEPTIVE INFORMATION AND SERVICES

The right to contraceptive information and services carries with it freedoms and entitlements for women and adolescents, as well as certain state obligations.

FREEDOMS AND ENTITLEMENTS

Contraceptive Goods and Services

The right to contraceptive information and services entitles women and adolescents to contraceptive goods and services that are available, accessible, acceptable, and of good quality.³⁷ Not every contraceptive method will be right for every person; women and adolescents can realize this right only if they have access to a full range of contraceptive methods in a setting that allows them to make an informed choice as to the appropriate method for them. A full range of methods includes male and female condoms, vaginal barrier methods, oral contraceptives, implants, injectables, intrauterine devices, male and female voluntary sterilization, and EC.³⁸

Access to Contraceptive Goods and Services Includes Emergency Contraception

EC is a safe and effective means of preventing unintended pregnancies.¹ It is intended as a back-up contraceptive method in the event of unprotected intercourse or contraceptive failure.² As such, EC fills a unique role in the range of modern contraceptive methods and is particularly valuable for victims of sexual violence, adolescents, and other marginalized groups who may have greater difficulty accessing other contraceptive methods.³ At the same time, however, EC is one of the most heavily restricted forms of modern contraceptives, due in part to misinformation about its safety and misconceptions that it acts as an abortifacient.⁴ Barriers to accessing EC include legislative or policy restrictions or the absence of a clear government policy on the provision of EC;⁵ requirements for a doctor's prescription;⁶ parental consent and minimum age requirements;⁷ pharmacists' unwillingness to provide women and adolescents with EC;⁸ and lack of awareness of EC.⁹ Because EC is most effective when taken within 72 hours of unprotected intercourse,¹⁰ such barriers can effectively deny women's access to the drug.¹¹ The right to contraceptive information and services obligates states to remove such barriers and ensure access to EC.

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