

# Women's Human Rights under the Convention on the Elimination of All Forms of Discrimination against Women: focus on reproductive rights

## Marsha Freeman

PhD, J. D., is a Senior Fellow at the University of Minnesota Human Rights Center, where she is Director of International Women's Rights Action Watch (IWRAP).

Women's reproductive health is a human rights issue. It is not a "women's issue", or a separate category of rights. Health is a human right – as underscored by the Universal Declaration of Human Rights, international human rights treaties such as the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Covenant on Economic, Social and Cultural Rights, and government commitments. All people are entitled to enjoy all aspects of health care without discrimination on the basis of sex. CEDAW states unequivocally that women must have equal access to health care services and that reproductive health care is an integral element of this right.

CEDAW has been ratified by 189 governments. It is the globally accepted standard of equality, a bill of rights for women. The UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) monitors implementation of the treaty and issues General Comments that articulate in detail what governments must do to comply. The Committee reviews State compliance through a process of examining reports submitted by governments, including a "constructive dialogue" with government officials, and issues Concluding Observations and recommendations for changes in policy and practice to implement the provisions of the treaty. The application and impact of sexual and reproductive health laws and policies is a consistent element of these State party reviews. In addition, the Committee may, under its Optional Protocol procedures, review individual complaints and undertake detailed inquiries into a State party's "grave or systematic violations" of treaty provisions. Under the Optional Protocol procedures the Committee has found governments to be out of compliance with the treaty if they refuse to provide access to birth control or fail to provide for safe and timely abortion.

The Committee has established a comprehensive framework for evaluating compliance with respect to women's reproductive rights. CEDAW Article 12 states that women are entitled to equality in all aspects of health care and that states are obligated to provide properly for family planning and maternal and post-natal care. The Committee in General Comment No. 24 (1999) elaborates the details of these obligations, including state obligations to provide education and information on sexual health and family planning to women and girls, as well as access to comprehensive and respectful service delivery.

More recently, in its 2014 statement on the twentieth anniversary of the International Conference on Population and Development, the Committee reiterated its position that the right to health includes bodily autonomy – the right to make decisions relating to all health issues, including use of family planning, without requirement of consent by a third party (husband, partner, parent, court). A number of Convention provisions support elements of autonomy, such as rights to equality in the family, including rights to decide on the number and spacing of children (Article 16), delivery of family planning education to support informed decisions (Article 10), and specific issues of rural women's access to family planning (Article 14).

The Committee has consistently supported reproductive rights as a matter of women's rights to equality in the family and to full recognition of their decision making capacity, including decisions as to bearing children. It disapproves of laws and practices requiring consent of a third party to obtain birth control or to undergo abortion and reproductive health procedures.

The Committee holds that access to safe, legal abortion is a critical discrimination issue as "unsafe abortion is a leading cause of maternal mortality and morbidity" (Beyond ICPD Review statement, 2014). It has recommended to many governments that abortion be decriminalized, at least in cases of risk to the mother's life or health, fetal malformation, incest and rape. The Committee also consistently promotes reproductive and sexual health information and education as essential to preventing unwanted pregnancies – and thereby reducing abortion.

While a number of human rights treaties, including regional treaties, serve to illuminate various women's human rights issues, CEDAW remains the only international treaty that comprehensively addresses women's health and reproductive rights. Use it!

## Sources

- UN Convention on the Elimination of All Forms of Discrimination against Women: <http://www.un.org/womenwatch/daw/cedaw/>.
- Statement of the Committee on the Elimination of Discrimination against Women on sexual and reproductive health and rights: Beyond 2014 ICPD review, <http://www.ohchr.org/Documents/HRBodies/CEDAW/Statements/SRHR26Feb2014.pdf>.
- Rebecca J. Cook & Veronica Undurraga, Article 12, in: Marsha Freeman, Christin Chinkin & Beate Rudolf (eds.), *The UN Convention on the Elimination of All Forms of Discrimination against Women: A Commentary*, Oxford 2012.