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Restrictive Abortion Laws And Their Impact On Maternal Health: A Global Health Law Perspective

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Abstract

The global landscape of abortion laws is characterized by significant disparities, with a substantial portion of women of reproductive age living under highly restrictive regulations. This paper examines the profound impact of these restrictive abortion laws on maternal health, adopting a global health law perspective. It argues that such laws, rather than eliminating abortion, drive it underground, leading to a surge in unsafe procedures which are a major preventable cause of maternal mortality and morbidity, particularly in low- and middle-income countries. Drawing on international human rights frameworks, the paper asserts that denial of access to safe abortion constitutes a violation of women's fundamental rights to life, health, non-discrimination, and bodily integrity. Furthermore, it explores the economic and societal consequences of restrictive abortion policies, including increased healthcare burdens, exacerbated poverty, and widening health inequities. Through case studies and an analysis of the positions of international organizations, this paper advocates for the liberalization of abortion laws, emphasizing the imperative of aligning national legislation with international human rights norms and public health imperatives to safeguard maternal health globally.

Keywords: Restrictive abortion laws, maternal health, global health law, unsafe abortion, maternal mortality, human rights, reproductive rights, public health, international law.

INTRODUCTION

Abortion, a common yet intensely debated medical procedure, remains a contentious issue worldwide. While estimates suggest approximately 42 million women annually experience unintended pregnancies and choose abortion, nearly half of these procedures (around 20 million) are unsafe, primarily occurring in low- and middle-income countries (LMICs). The legal status of abortion varies drastically across nations, ranging from outright bans to abortion on request. This diversity in legal frameworks has direct and profound implications for women's health, particularly maternal mortality and morbidity.

From a global health law perspective, the question of abortion access is not merely a matter of domestic policy but a critical human rights and public health concern. International human rights instruments increasingly recognize reproductive rights as integral to fundamental human rights, including the right to life, the right to health, and the right to non-discrimination. Restrictive abortion laws, however, often clash with these international norms, creating environments where women are denied essential healthcare and forced to resort to dangerous, clandestine procedures. This paper will delve into the multifaceted ways in which restrictive abortion laws compromise maternal health, analyze these impacts through the lens of global health law, and advocate for policy reforms that prioritize women's well-being and human rights.

THE LANDSCAPE OF RESTRICTIVE ABORTION LAWS

Abortion laws globally can be broadly categorized along a spectrum of restrictiveness. At one end are countries that permit abortion on request, with varying gestational limits. At the other end are nations that prohibit abortion entirely or allow it only under severely limited circumstances, such as to save the pregnant person's life. As of 2017, nearly half of women of reproductive age lived in countries with highly restrictive abortion laws, with 93% of these residing in LMICs (Guillaume et al., 2018). While a recent trend towards liberalization has been observed, with over 60 countries expanding grounds for legal abortion since 1994, significant disparities persist. Approximately 25% of women of reproductive age still live in countries that ban abortion entirely or permit it only to save the pregnant person's life.

These restrictive laws often stem from a complex interplay of cultural, religious, moral, and political factors. In many contexts, the discourse is heavily influenced by "pro-life" narratives that prioritize fetal personhood over a pregnant person's bodily autonomy and health. This often results in legislation that criminalizes abortion, not only for the pregnant person but also for healthcare providers, creating a chilling effect on the provision of essential medical care.

THE DIRECT IMPACT ON MATERNAL MORTALITY AND MORBIDITY

The most devastating consequence of restrictive abortion laws is the surge in unsafe abortions, directly contributing to maternal mortality and morbidity. An "unsafe abortion" is defined by the World Health Organization (WHO) as a procedure for terminating an unintended pregnancy carried out either by persons lacking the necessary skills or in an environment that does not conform to minimal medical standards, or both.

Unsafe Abortion: A Leading Cause of Preventable Maternal Deaths

Unsafe abortions are a significant public health crisis, especially in LMICs. Globally, approximately 68,000 women die annually from unsafe abortions, making it one of the leading causes of maternal mortality, accounting for about 8% of all maternal deaths. Alarming, 99.5% of these deaths occur in LMICs. These deaths are largely preventable.

When legal and safe abortion services are unavailable, individuals with unwanted pregnancies often resort to dangerous methods, including:

- Drinking toxic concoctions (e.g., highly concentrated alcohol, bleach).
- Inserting foreign objects into the uterus.
- Self-inflicting trauma.
- Seeking procedures from untrained practitioners in unhygienic conditions.

These desperate measures frequently lead to severe complications such as hemorrhage, infection (sepsis), uterine perforation, organ damage, and long-term disability. Around 5 million women are hospitalized each year for complications arising from unsafe abortions, leaving an estimated 220,000 children motherless.

Evidence from Case Studies:

Historical and contemporary case studies provide compelling evidence of the link between restrictive abortion laws and increased maternal mortality:

- **Romania (1966-1989):** In 1966, Romania introduced highly restrictive abortion laws, effectively banning abortion on demand. Prior to the ban, the abortion mortality ratio was 20 per 100,000 live births. By 1989, under the strict regulations, this ratio soared to 148 deaths per 100,000 live births. Following the reversal of these restrictions in 1989, the ratio dramatically dropped to 68 within a year and further to 9 by 2002. This case starkly illustrates how legal restrictions directly translate to increased maternal deaths.
- **South Africa (Post-1997 Liberalization):** After South Africa liberalized its abortion laws in 1997, making abortion legal and available on request, abortion-related infections decreased by 52%, and the

abortion mortality ratio from 1998 to 2001 dropped by 91% from its 1994 level. This provides a clear example of how liberalization of laws can significantly reduce maternal mortality and morbidity.

- **Texas, USA (Post-Dobbs Decision):** Following the overturning of *Roe v. Wade* in June 2022 and the implementation of a near-total abortion ban in Texas, maternal mortality rates in the state increased by 56% in the first full year, with a 95% increase among White women. This stands in stark contrast to an 11% overall increase in maternal mortality in the United States during the same period. This recent data from a high-income country underscores that the negative impact of restrictive laws is not limited to LMICs.

These examples unequivocally demonstrate that restricting legal abortion does not eliminate it but rather pushes it underground, making it unsafe and deadly.

GLOBAL HEALTH LAW PERSPECTIVE: HUMAN RIGHTS AND STATE OBLIGATIONS

From a global health law perspective, access to safe abortion is inextricably linked to several fundamental human rights. International human rights treaties and conventions, alongside interpretations by treaty monitoring bodies, increasingly recognize reproductive rights as an essential component of these broader human rights.

Right to Life: The right to life, enshrined in instruments like the International Covenant on Civil and Political Rights (ICCPR), is directly threatened by unsafe abortion. When states impose restrictive abortion laws that lead to preventable maternal deaths, they fail to uphold their obligation to protect the right to life of pregnant persons. As Amnesty International notes, "almost every death and injury from unsafe abortion is preventable"

Right to Health: The right to the highest attainable standard of physical and mental health, as recognized in the International Covenant on Economic, Social and Cultural Rights (ICESCR), encompasses sexual and reproductive health. This includes access to comprehensive reproductive healthcare services, which, according to the WHO, should include safe abortion. Restrictive abortion laws undermine this right by denying access to necessary medical care, forcing individuals to risk their health and lives. UN treaty monitoring bodies have consistently established that states must ensure access to safe abortion services where abortion is legal under domestic law, and that denials of care can constitute human rights violations.

Right to Non-discrimination and Equality: Restrictive abortion laws disproportionately affect marginalized populations, including women in poverty, rural women, ethnic minorities, and adolescents. These groups often lack the resources to travel to places where abortion is legal or to afford safe, clandestine procedures. This exacerbates existing inequalities and constitutes a form of discrimination. The denial of abortion access can also be seen as a form of gender discrimination, as it uniquely impacts women and pregnant persons, impeding their autonomy and control over their bodies and lives.

Right to Freedom from Torture, Cruel, Inhuman, or Degrading Treatment: In some extreme cases, forcing a woman to carry a non-viable pregnancy to term or to endure severe complications from an unsafe abortion can amount to cruel, inhuman, or degrading treatment, violating obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The Human Rights Committee's groundbreaking decision in *Mellet v. Ireland* recognized that the prohibition and criminalization of abortion contravene international human rights law.

Bodily Autonomy and Self-Determination: While not explicitly enumerated in all treaties, the concept of bodily autonomy and self-determination is a foundational principle underlying many human rights. Restrictive abortion laws directly infringe upon an individual's right to make decisions about their own body and reproductive life, free from coercion and violence.

ECONOMIC AND SOCIETAL CONSEQUENCES

Beyond the direct health impacts, restrictive abortion laws inflict significant economic and societal costs, further undermining individual and community well-being.

Economic Burden on Healthcare Systems and Households: The costs associated with treating complications from unsafe abortions are substantial. The WHO estimates that post-abortion treatment costs healthcare systems in developing countries approximately US\$553 million each year. For individual households, long-term disability resulting from unsafe abortion methods can lead to an estimated total income loss of US\$922 million annually. This diversion of resources to treat preventable complications strains already overburdened healthcare systems, especially in LMICs, and places immense financial hardship on families.

Exacerbation of Poverty and Inequality: Research consistently demonstrates that access to abortion has a profound impact on women's educational attainment, labor market outcomes, and overall financial well-being. Studies have shown that women denied a wanted abortion experience worse health outcomes, higher poverty rates, and increased financial distress. Restrictive laws force individuals, particularly those already facing economic hardship, to continue unwanted pregnancies, hindering their ability to pursue education, secure employment, and escape cycles of poverty. This disproportionately affects marginalized communities and entrenches existing socioeconomic disparities.

Impact on Children and Families: The consequences of unwanted pregnancies extend beyond the birthing person to their existing children and families. Studies have shown that children born as a result of denied abortions are more likely to grow up in single-parent households, live in poverty, receive welfare, and experience higher infant mortality rates. This suggests that restrictive abortion laws can contribute to broader societal challenges related to child well-being and social support systems.

Strain on Public Services: An increase in unwanted births due to abortion bans can strain public services such as healthcare, education, and social welfare programs. This is particularly concerning in states and regions that already have inadequate maternity care resources, maternity care deserts, and higher rates of maternal mortality. The Johns Hopkins Bloomberg School of Public Health highlights that the states with abortion bans already have worse maternal and infant health outcomes, and these disparities are only worsening.

INTERNATIONAL ORGANIZATIONS AND THE CALL FOR LIBERALIZATION

Numerous international organizations and human rights bodies have consistently called for the liberalization of abortion laws and increased access to safe abortion services, recognizing their critical importance for maternal health and human rights.

- **World Health Organization (WHO):** The WHO advocates for comprehensive abortion care, emphasizing that restrictive laws do not eliminate the need for abortion but instead push it underground, leading to unsafe practices. They recommend that abortion services should be accessible and integrated into routine healthcare.
- **United Nations Human Rights Treaty Bodies:** As discussed, UN human rights treaty bodies, including the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women (CEDAW), and the Human Rights Committee, have repeatedly urged states to decriminalize abortion and ensure access to safe abortion services. They have explicitly linked restrictive abortion laws to high rates of unsafe abortion and maternal mortality. They also condemn absolute bans on abortion as incompatible with international human rights norms and call for the elimination of punitive measures for those seeking or providing abortion services.
- **International Conference on Population and Development (ICPD) and Beijing Platform for Action:** The 1994 ICPD Programme of Action was a landmark document recognizing reproductive rights as human rights and urging governments to "strengthen their commitment to women's health to deal with the impact of unsafe abortion as a major public health concern." It also affirmed that "where abortion is not against the law, such abortion should be safe". The Beijing Platform for Action further called on governments to review laws containing punitive measures against women who have undergone illegal abortions.
- **Amnesty International:** Amnesty International consistently advocates for abortion rights as human rights, arguing that everyone has a right to bodily autonomy, health, and freedom from discrimination. They emphasize that criminalizing abortion only makes it less safe, leading to preventable deaths and disabilities. These collective positions highlight a strong international consensus that restrictive abortion laws are detrimental to maternal health and violate fundamental human rights.

LEGAL CHALLENGES AND THE PATH FORWARD

In various jurisdictions, restrictive abortion laws face ongoing legal challenges, often rooted in constitutional rights or evolving interpretations of human rights.

- **State-Level Challenges in the USA:** In the United States, following the *Dobbs v. Jackson Women's Health Organization* decision, legal battles are being waged at the state level. Challenges often focus on state constitutional protections for abortion rights, the vagueness of medical exceptions in bans, and the disproportionate impact of these laws on marginalized communities. These legal efforts aim to clarify the scope of permitted abortions and ensure that medical emergencies can be addressed without fear of criminalization for healthcare providers.
- **Global Legal Reforms:** Despite setbacks in some regions, there has been a global trend towards abortion law liberalization over the past three decades. Countries across all regions have reformed their laws to permit abortion on request, reflecting a growing recognition of the public health and human rights imperative. This global movement, often driven by civil society organizations and human rights advocates, demonstrates that legal reform is possible and impactful.

The path forward necessitates a multi-pronged approach:

- **Harmonizing National Laws with International Human Rights Standards:** States must review and reform their abortion laws to align with international human rights obligations, ensuring access to safe, legal, and comprehensive abortion services. This includes decriminalizing abortion and removing punitive measures for those seeking or providing care.
- **Strengthening Healthcare Systems:** Liberalizing laws alone is not sufficient. There must be corresponding investment in robust healthcare systems that can provide accessible, affordable, and high-quality abortion care, along with comprehensive sexual and reproductive health services, including contraception.
- **Addressing Socioeconomic Determinants of Health:** Policies should address the underlying socioeconomic factors that contribute to unintended pregnancies and disproportionately affect marginalized communities. This includes ensuring access to education, economic opportunities, and social support systems.
- **Combating Stigma and Misinformation:** Public education campaigns are crucial to challenge stigma surrounding abortion and counter misinformation that often fuels restrictive policies. Promoting evidence-based understanding of abortion as essential healthcare is vital.
- **Promoting Women's Participation in Policymaking:** As noted by some researchers, the limited number of women in politics has made them objects rather than subjects in decision-making processes

regarding abortion. Ensuring women's meaningful participation in shaping reproductive health policies is critical for achieving reproductive justice.

CONCLUSION

Restrictive abortion laws have a devastating and undeniable impact on maternal health, leading to preventable deaths and disabilities, particularly in resource-limited settings. From a global health law perspective, these laws constitute a grave violation of fundamental human rights, including the rights to life, health, non-discrimination, and bodily autonomy. Beyond the immediate health consequences, they perpetuate cycles of poverty, exacerbate societal inequalities, and place undue burdens on healthcare systems and families.

While the global landscape of abortion laws remains diverse and contested, the overwhelming evidence and the strong consensus among international organizations and human rights bodies point towards a clear imperative: to liberalize abortion laws and ensure universal access to safe and legal abortion services. This is not merely a political or moral issue but a fundamental matter of public health and human rights. Upholding these rights and safeguarding maternal health globally requires concerted efforts to align national legislation with international norms, strengthen healthcare systems, address socioeconomic disparities, and foster societies where every individual has the freedom to make informed decisions about their own reproductive lives. Only then can the unnecessary toll of unsafe abortion on maternal health be truly eradicated.

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