ANALYSIS OF CANADA’S REFUSAL TO FUND ABORTION SERVICES ABROAD

Policy brief prepared by Action Canada for Population and Development (ACPD)

This brief was created in response to recent Ministerial announcements regarding the Government of Canada’s refusal to fund abortion services abroad, even in case of sexual violence and for women and girls in early and forced marriages. The brief illustrates the importance of providing survivors of sexual violence and married young women and girls with a comprehensive package of sexual and reproductive health information and services, which includes safe abortion services; the negative consequences of failing to provide such services; Canada’s international obligations to respect and protect women and girls’ human rights through the provision of a comprehensive package of sexual and reproductive health services; and the incongruence of Canada’s approach as it relates to domestic policy on the issue. Topics elaborated on in the brief include:

1. Ministerial announcements over the last 3 years have declared that the Government of Canada will not use aid dollars to fund safe abortion services.

2. Women and adolescents who survive sexual violence – in conflict situations or outside – need access to a range of services, and safe abortion is one such service.

3. Married adolescent girls, like other adolescent girls and women, need access to comprehensive and integrated sexual and reproductive health services, including safe abortion.

4. Unsafe abortion and related maternal deaths are a result of legal restrictions on abortion as well as a lack of availability of safe services.

5. Access to safe abortion services is a recognized component of a comprehensive and integrated package of sexual and reproductive health services, which contributes to the realization of human rights.

6. The majority of countries to which Canada gives aid permit legal abortions in multiple circumstances.

7. Canada’s approach is comparable to US policy that has resulted in an overly broad interpretation, leading to the denial of lawful care for women in developing countries.

8. Canada’s refusal to fund abortion abroad may actually mean that the Government is complicit in torture.

9. Canadian development policy contradicts Canada’s domestic stance on the issue.

10. Canada must be held accountable for its ideologically-restricted development assistance, not only for its deviation from previous agreements but also in terms of its impact on human rights.

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1. Ministerial announcements over the last 3 years have declared that the Government of Canada will not use aid dollars to fund safe abortion services.
   - These first Ministerial announcements were made by Ministers Cannon and Oda and the Prime Minister in the lead-up to the 2010 G8 Summit hosted by Canada. They indicated that the government would not fund safe abortion services as part of what Canada would fund under the Muskoka Initiative on maternal and child health. Minister Paradis’ recent announcement indicated that the government will not fund safe abortion services in its overseas initiatives to address early and forced marriage (or child marriage) and sexual violence in conflict.
   - Canada’s refusal to fund abortion services abroad is not a written policy. It has therefore not been researched by government experts nor has it been subjected to Parliamentary scrutiny.
   - While similar restrictions exist in the US, they came about as a result of Congress enacting the Helms Amendment in 1973 (fuller section on Helms Amendment below).1

2. Women and adolescents who survive sexual violence – in conflict situations or outside – need access to a range of services, and safe abortion is one such service.
   - As many as 70% of women experience physical or sexual violence in their lifetimes, and the first sexual experience of up to a third of them is forced. Women who experience violence are twice as likely to experience unintended pregnancy.2 Of the estimated 80 million unintended pregnancies each year, at least half are terminated through induced abortion and nearly half of those take place in unsafe conditions (22 million).3

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1 http://www.guttmacher.org/pubs/gpr/16/3/gpr160309.html
3 http://apps.who.int/iris/bitstream/10665/85239/1/9789241564625_eng.pdf
Women and girls make up 80% of all refugees and internally displaced persons. In such situations they “are often vulnerable to rape, sexual assault and other gender-based violence.” UN Secretary General Ban-Ki Moon has made it clear that “access to safe emergency contraception and services for the termination of pregnancies resulting from rape should be an integral component of any multisectoral response.”

Without access to safe abortion services, women and girls are more likely to turn to unsafe methods or unskilled providers. Death and injury from unsafe abortion increase dramatically in conflict situations, where 20-50% of maternal deaths are related to unsafe abortion. These deaths are preventable.

It is critical to ensure that a comprehensive package of sexual and reproductive health services, including emergency contraception, safe abortion, post-exposure prophylaxis for HIV infection, and diagnosis and treatment for sexually transmitted infections, is accessible to all survivors of sexual violence.

3. Married adolescent girls, like other adolescent girls and women, need access to comprehensive and integrated sexual and reproductive health services, including safe abortion.

- Millions of girls are forced into marriage every year, and an estimated 90% of adolescents who give birth are married. Married girls are twice as likely to experience sexual violence, encounter unwanted pregnancies and seek out unsafe abortions. In low and middle income countries, complications from pregnancy and childbirth are the leading cause of death among girls aged 15-19.
- The ICPD Programme of Action (PoA) calls on governments to protect and promote the right of adolescents to reproductive health. Similarly, the international human rights system recognizes the need to empower adolescents to make informed decisions about their lives and asserts the duty of States to realize the reproductive rights of adolescents.
- Realizing the reproductive rights of married and unmarried adolescents involves, inter alia, increasing their access to modern forms of contraception, comprehensive sexuality education, and safe abortion services.

4. Unsafe abortion and related maternal deaths are a result of legal restrictions on abortion as well as a lack of availability of safe services.

- In response to Canadian Parliamentary committees’ concerns regarding Canada’s approach, the WHO produced a technical opinion in which it concludes that ready access to contraception and safe abortion significantly reduces high rates of maternal mortality and morbidity, indicating that these interventions are essential components of any response to improve maternal health. Access to safe abortion drastically reduces the negative health outcomes and deaths from unsafe abortion, thereby reducing maternal mortality and morbidity rates.
- In developing countries, abortion rates are higher than in other parts of the world despite legal restrictions and social barriers to accessing abortion services and lack of availability of safe services. Therefore restrictions on abortion do not reduce abortion rates; rather, they force women to resort to clandestine, illegal and therefore unsafe services that put their health at risk and their lives in serious danger.
- The WHO estimates that 22 million unsafe abortions are performed each year, which amounts to 13% of maternal deaths worldwide. In the year 2008 alone, 47,000 women died and millions more (estimated at 5 million) experienced temporary or permanent disabilities as a result of unsafe abortions.
- Limiting women’s access to abortion services through the refusal to fund these services even where not against the law contradicts WHO technical guidance. Despite this, and the fact that Canada is one of the WHO’s largest contributors, Canada continues to put women’s health and lives at stake.
- In addition, given the ample evidence that legal restrictions to abortion result in women resorting to unsafe procedures and maternal deaths and injuries, Canada has a duty to engage in policy discussion with government partners to encourage the removal of legal restrictions to abortion.

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7 WHO, Unsafe abortion Global and Regional estimates of the incidence of unsafe abortion and associated mortality in 2008 (p. 1).
8 WHO, Unsafe abortion. (p. 1).
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- Canada’s refusal to provide women with access to safe abortion services constitutes not only a deeply troubling inconsistency with Canadian law, which permits abortion regardless of reason as an essential medical service, but also international human rights instruments that Canada is party to.  
- According to the Official Development Assistance (ODA) Accountability Act, the Government is responsible for aligning development assistance with international human rights right standards which hold the Government and implementing partners accountable to promoting international human rights standards.
- The ICPD PoA and the Beijing Platform for Action commit governments to provide women with a comprehensive package of sexual and reproductive health services, including safe abortion. The ICPD PoA calls for the realization of reproductive rights through the attainment of the highest standard of sexual and reproductive health. It defines reproductive health as the “freedom to decide if, when and how often to [reproduce]. Implicit in this...are 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, as well as other methods of their choice for the regulation of fertility which are not against the law.”
- Failing to provide women and adolescent girls, including survivors of sexual violence and married young women and girls, with access to a comprehensive package of sexual and reproductive health services, which includes safe abortion, denies them their human rights, including their fundamental rights to life, to health, to bodily autonomy, to decide freely about the number and spacing of children, to self-determination, to freedom from torture, and to freedom from discrimination, as well as the right to be protected from violence.
- By insisting that Canadian aid cannot be used to fund access to safe abortion services, Canada is complicit in the continued violation of women’s and girls’ human rights.
- This position also alienates Canada from its traditional allies who have expressed grave concern regarding the Government’s failure to recognize the linkages between sexual and reproductive health and rights and sexual violence.
- This concern was voiced in June 2013, when Canada led a resolution on sexual violence against women at the UN Human Rights Council. Using its role of chair of the negotiations, Canada blocked commitment to provide access to a comprehensive package of services that are essential to survivors of sexual violence.

6. The majority of countries to which Canada gives aid permit legal abortions in multiple circumstances.

- The majority of countries worldwide permit abortion either in cases of rape or to preserve a woman’s mental health. Globally, 134 countries permit abortion to preserve a woman’s mental health, in cases of rape and/or upon request. Twenty-four out of Canada’s thirty-three priority development countries permit abortion on grounds of women’s mental health, rape or without restriction.
- Given the legal permissibility of abortion in most of these countries, as well as in Canada, there is ample scope for Canadian international cooperation efforts to support increased access to safe and legal abortion services for women and adolescent girls as part of a comprehensive and integrated package of sexual and reproductive health services.
- According to the WHO: “Ready access to contraception and to early, safe abortion significantly reduces high rates of maternal mortality and morbidity; it prevents the costs currently imposed by unsafe abortion on health systems and on society and individuals.”
- Countries in which the Government supports initiatives to address sexual violence in conflict settings, early and forced marriage, and maternal mortality and morbidity, need assistance to provide a comprehensive package of sexual and reproductive health information and services, which includes safe abortion.

7. Canada’s approach is comparable to US policy that has resulted in an overly broad interpretation, leading to the denial of lawful care for women in developing countries.

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14 Including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR).
18 Includes the 14 countries of the Caribbean programme.
• The Helms Amendment in the United States (banning the provision of abortion services as a form of family planning in all US-funded development initiatives) unintentionally led to shortages in resources “and...an incomplete and inconsistent approach to addressing unsafe abortion injuries.” The overly broad application of the Amendment has resulted in denials of lawful care related to abortion. This includes the denial of lawful safe abortions, post-abortion care, and referrals, counselling and information with regard to abortion services.

• The Ministerial statements indicating that Canada will not fund safe abortion services abroad has the potential to be interpreted in a similarly overly broad manner in its implementation and to result in the denial of lawful care to women and girls. For example, implementing partners or health facilities, for fear of losing Canadian government funding, may simply not provide lawful services and information relating to abortion to the detriment of women.

8. Canada’s refusal to fund abortion abroad may actually mean that the Government is complicit in torture.

• The UN Human Rights Committee has explicitly stated that the denial of access to safe abortions to women who have become pregnant as a result of rape breaches of the prohibition against torture and cruel, inhuman and degrading treatment found in article 7 of the International Covenant on Civil and Political Rights.

• The UN Committee against Torture has repeatedly expressed concerns about bans and restrictions on access to abortion as violating the prohibition of torture and ill-treatment. Forcing a woman to carry an unwanted pregnancy, possibly resulting from rape or incest, to term is degrading; forcing her to resort to unsafe abortion methods is inhuman; and denying or discouraging post-abortion medical care, in addition to being a clear violation of the right to health, is cruel.

• The UN Special Rapporteur on torture calls on States to “ensure that women have access to emergency medical care, including post-abortion care,” including in countries where domestic law permits.

• Canada may be complicit in torture for its refusal to fund safe and legal abortion services including to victims of sexual violence because:
  • its approach perpetuates a climate in which the denial of life-saving care is condoned; and
  • this approach could create situations in which lawful care relating to abortion is denied (due to overbreadth in implementation), which may amount to torture or cruel, inhuman or degrading treatment under international law.

9. Canadian development policy contradicts Canada’s domestic stance on the issue.

• Domestically, in accordance with the 1988 Supreme Court of Canada decision R. v. Morgentaler, there are no laws restricting access to abortion in Canada.

• The 1988 Supreme Court decision found that the existing legislation surrounding the regulation of abortion in Canada violated section 7 of the Canadian Charter of Rights and Freedoms by infringing upon a woman’s right to security of the person. The decision clarified that restrictions on access to abortion were discriminatory, particularly against marginalized women, who may experience additional barriers and stigma when attempting to access abortion services.

10. Canada must be held accountable for its ideologically-restricted development assistance, not only for its deviation from previous agreements but also in terms of its impact on human rights.

• As a strong proponent of accountability and transparency, the Government has the responsibility to establish clear policies and mechanisms for the delivery of Canadian funding abroad.

• Through the ODA Accountability Act, the Government has a responsibility to promote international human rights standards through the delivery of aid.

• As the Chair of the Commission on Information and Accountability for Women’s and Children’s Health, this Government has the added responsibility to examine the impact of its development initiatives, with a specific focus on the reproductive health care of women and girls.

• Failing to take responsibility for inaction on this issue will require the Government to be held accountable in Canadian courts for the denial of reproductive health care to women and girls.

20 http://www.guttmacher.org/pubs/gpr/16/3/gpr160309.html