

**Forum:** Legal Committee

**Issue:** The backsliding of reproductive rights in the legal realm

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## Introduction

Reproductive rights, encompassing the ability to make decisions concerning one's reproductive health free from discrimination, coercion, or violence, are fundamental human rights, as dictated by the Proclamation of Tehran, which confirmed that reproductive rights are, in fact, human rights. Ever since the proclamation, grand efforts have been made on the issue, and on protecting, affirming and reaffirming, and implementing reproductive rights.

Despite these efforts, however, the 21st century has been a period in which a lot of these efforts have been, or at least attempted to have been, undone. Whether these regressions are global or pertain to specific states, it is of no question that laws have regressed. Examples of backsliding of reproductive rights are the overturning of *Roe v Wade*, a Supreme Court ruling which legalized abortion federally, in the United States of America, leading to many American states changing local and state laws to recriminalize abortion, and the Republic of Türkiye opting out of the Istanbul Convention, a convention on preventing and combating violence against women and domestic violence, as well as protecting reproductive rights and combating forced sterilizations and abortions. Along with these specific examples, it is clear that along with conservative or authoritarian governments regressing on their laws of sexual and reproductive freedom, following COVID-19 restrictions, there has been a hindrance in the reimplementation of reproductive measures in health systems.



## Definition of Key Terms

### Reproductive rights

Reproductive Rights: Fundamental human rights encompassing the ability to make decisions concerning one's reproductive health free from discrimination, coercion, or violence. "Reproductive rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. They also include the right of all to make decisions concerning reproduction free of discrimination, coercion and violence." (World Health Organization)

The term *reproductive rights* may refer to the right to abortion and birth control, the accessibility of decent reproductive healthcare, the right to decent education on the topic of reproduction, and, by some definitions, protection from abusive practices such as female genital mutilation (FGM).

### Female Genital Mutilation (FGM)

"All procedures involving partial or total removal of the female external genitalia or other injury to the female genital organs for non-medical reasons." (World Health Organization) FGM is a violation of girls' and women's human and reproductive rights.

### Abortion

The termination of a pregnancy before the birth of the fetus.

### Backsliding

Defined as "the action of relapsing into bad ways or error" by Oxford Dictionary, backsliding in the legal sense refers to the regression of progress.



## Background Information

### Historical Context

The concept of reproductive rights first came up within the United Nations in the Proclamation of Tehran, proclaimed by the International Conference on Human Rights at Tehran on 13 May 1968. (OHCHR, Proclamation of Tehran) Despite previous movements regarding reproductive rights and access to contraception among populations, reproductive rights were not originally part of the ratified United Nations Charter and the United Nations Declaration of Human rights. The Proclamation of Tehran considered reproductive rights as human rights for the first time. This was later affirmed by the United Nations General Assembly resolution 2542 on 11 December 1969.

Following the affirmation of reproductive rights as human rights, they were taken more seriously worldwide. Cases such as Roe v Wade in the Supreme Court of the United States of America legalized abortion nationwide, and these changes happened more commonly throughout the world and the legal realm. The United Nations General Assembly ratified the Convention on Eliminating All Forms of Discrimination against Women (CEDAW) on 3 September 1981. Article 12 Section E of the Convention safeguards women's right to space out the number of children they have. Despite 189 Member States having ratified the convention, many have only done so conditionally, with Palau and the United States not having ratified the convention at all. (Declarations, Reservations and Objections to CEDAW)

In September of 1994, the Cairo Programme of Action was adopted, which stated the need for governments to prioritize individuals' reproductive needs and desires rather than demographic targets in regard to population. Reproductive health services such as contraceptives, services for childbirth, care for sexually transmitted diseases, and post-abortion care. The Cairo Programme of Action is the first international document to define reproductive health. (Knudsen, 2006) Despite being adopted by 184 UN Member States, many states refused to adopt the



programme due to the themes of reproductive rights and sexual freedom. Despite the progressive nature of the programme, its non-binding nature meant that the applicability of the programme varied from state to state in effectiveness. Around a year later, in September 1995, the Fourth World Conference on Women was hosted in Beijing. The conference was in support of the Cairo Programme of Action, but stated a broader definition of reproductive rights. (Cook, 1996) Both the programme and the conference had signatories that declared their support of abortion rights. By using Paragraph 106, Section K of the Beijing Conference, countries reaffirmed their declaration that women should have access to abortion rights, but that family planning should not be encouraged through abortion.

### Current Situation

There have been many important steps taken on the issue of reproductive rights in the past decade, with the Istanbul Convention having been signed on 11 May 2011 and made effective on 1 August 2014. The Istanbul Convention, which was signed by 45 members of the Council of Europe and the European Union, prohibited forced abortions and forced sterilizations. Another recent improvement was the 17 Sustainable Development Goals that were endorsed in September 2015 by 191 UN Member States, in which Goal 3's Target 3.7 particularly focused on ensuring that everyone had access to sexual and reproductive health care. Another important development in recent years is the UN Human Rights Committee's General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights. (ICCPR)

Despite developments which have been made in recent years, the 21st Century marks an era of regression in reproductive rights. Authoritarian regimes have been becoming more politicized and jeopardizing the liberty of women to preserve their reproductive health, and COVID-19 restrictions led to many governments around the world backsliding on their implementations, protections, and affirmations of reproductive rights. The overturning of Roe v Wade in the United States, which removed the federal legalization of abortion nationwide led to many states



criminalizing abortion once again. Contrary to many negative developments, France has put forward progressive laws on reproductive rights. On 8 March 2024, the French parliament ratified the constitutional amendment to Article 34, granting women the right to an abortion, becoming the first nation to acknowledge women's constitutionally guaranteed right to an abortion.

## Major Countries and Organizations Involved

### World Health Organization (WHO)

The World Health Organization defines itself as "the United Nations agency that connects nations, partners and people to promote health, keep the world safe and serve the vulnerable – so everyone, everywhere can attain the highest level of health." The primary goal of the WHO has been to expand global coverage as well as direct and coordinate the world's response to health emergencies since its founding in 1948. (WHO, About WHO) WHO is the leading organization in defining, decreasing, and preventing breaches in reproductive rights as well as damages to sexual and reproductive health. It has taken a leading role in the interagency action regarding the elimination of FGM with the interagency statement of the same name, signed in Geneva, in 2008.

### UN Women

UN Women, a United Nations agency devoted to gender parity and women's empowerment, is an entity that advocates for laws and policies that protect reproductive rights by bringing attention to their significance as fundamental human rights and by pushing for their adoption and implementation. It defines itself as "the global champion for gender equality, working to develop and uphold standards and create an environment in which every woman and girl can exercise her human rights and live up to her full potential." (UN Women, About Us) UN Women commonly cooperates with other United Nations agencies, global organizations, and



governments, enhancing its advocacy efforts and addressing regressions regarding women's reproductive rights. An important example of this includes their collaboration with the Ugandan government to develop the National Policy Guidelines and Service Standards for Sexual and Reproductive Health and Rights, an initiative that aims to improve access to reproductive health services and promote gender equality in healthcare provision.

### United Nations Office on the High Commissioner for Human Rights (OHCHR)

The OHCHR is the leading intergovernmental body on human rights in the world, and particularly focuses on issues of human rights breaches and regressions. It defines itself as "the principal human rights official of the United Nations." (UN Human Rights: Our Organization) The United Nations Human Rights Council, which falls under the OHCHR, adopted the General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights (ICCPR) on the right to life on the 30th of October, 2018. The general comment contains provisions indirectly supporting reproductive rights.

### Timeline of Events

<b>13 May 1968</b>	<b>Tehran Proclamation proclaimed at the International Conference on Human Rights.</b>
<b>3 September 1981</b>	<b>The UN General Assembly ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).</b>



<b>5 to 13 September 1994</b>	<b>179 nations indirectly agreed on women's safe abortion rights at the international population and development conference in Cairo.</b>
<b>4 to 15 September 1995</b>	<b>All participating nations reiterated their declaration more succinctly during the Fourth World Conference on Women in Beijing</b>
<b>25 to 27 September 2015</b>	<b>17 Sustainable Development Goals have been endorsed by all 191 UN member states.</b>
<b>30 October 2018</b>	<b>The UN Human Rights Committee's General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights (ICCPR),</b>
<b>8 March 2024</b>	<b>The French parliament ratified the constitutional amendment to Article 34.</b>

## Relevant UN Resolutions and Other Documents

- Proclamation of Tehran



The Proclamation of Tehran was the first instance of reproductive rights being considered human rights. It states: "Parents have a basic human right to determine freely and responsibly the number and the spacing of their children" in its 16th clause. It was proclaimed on 13 May 1968.

- UN General Assembly Resolution 2542

The UN General Assembly Resolution 2542 affirmed the Proclamation of Tehran, stating "The family as a basic unit of society and the natural environment for the growth and well-being of all its members, particularly children and youth, should be assisted and protected so that it may fully assume its responsibilities within the community. Parents have the exclusive right to determine freely and responsibly the number and spacing of their children" on Article 4. It was adopted on 11 December 1969.

- Cairo Programme of Action

The Cairo Programme of Action is a non-binding document which defined reproductive health for the first time on the international stage. It states: "Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed [about] and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy





and childbirth and provide couples with the best chance of having a healthy infant." (Knudsen, 2006)

- The UN Human Rights Committee's General Comment No. 36 on Article 6

The general comment replaces general comments No. 6, adopted by the Committee at its sixteenth session (1982), and No. 14, adopted by the Committee at its twenty-third session (1984) (OHCHR, General Comment No. 36 on Article 6: right to life) The general comment indirectly supports reproductive rights.

## Previous Attempts to Solve the Issue

Despite many developments over the years in defining and protecting reproductive rights, attempts to solve the recent backsliding of reproductive rights have been lacking by the United Nations and other nongovernmental bodies.

## Possible Solutions

Possible solutions on the issue of the backsliding of reproductive rights in the legal realm may include any further conventions, declarations, programmes of actions that may provide assistance in the development, protection, definition and implementation of reproductive rights in the legal realm.

Delegates may also choose to support any Member States in need with supplies regarding reproductive rights, sexual and abortive care, and access to contraception and reproductive education.

## Bibliography



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