

# Intersecting issues

## Background information

This brief examines areas for potential intervention in terms of addressing issues related to sexual and reproductive health and rights. Due to their nature, the following related rights-based issues can greatly impact how individuals can exercise and claim their sexual and reproductive rights as well as access to quality sexual and reproductive health services and information, that are available to anyone regardless of race, age, religion, migration status, class, geographic location, gender, sexual orientation, and gender identity or expression, among other factors.

Recognizing the ways in which these factors intersect with sexual and reproductive health and rights, this brief reviews how, among many things, laws and policies related to family life and child care intersect with gender, race and class; how racialized individuals are more vulnerable to experiencing violence and oppression; how current immigration policies affect migrants' access to health services; how the targeted profiling and policing of racialized communities can lead to poor health outcomes and rights violations; and what physical and non-physical impacts environmental degradation has on health and well-being, and who is put most at risk. Throughout this brief, attention is drawn to the importance of establishing laws, policies and programmes that contribute to the full realization of sexual and reproductive rights for all.

## Progressive policies for families

Poverty is one of the best predictors of poor health.<sup>1</sup> Low levels of socio-economic development facilitate the spread of sexually transmitted and blood-borne infections (STBBIs), including HIV; create challenges in access to prevention, treatment and support; and coincide with an increasing rate of unintended pregnancies.<sup>2</sup> When governments invest in job creation, health services and social assistance, and legislate increases in the minimum wage, children and families see improved outcomes in both the short and long term.<sup>3</sup> Measures that can reduce poverty rates in the community lead to better health outcomes, including sexual and reproductive health outcomes, and help limit the growing costs of treating poor health.<sup>4</sup>

The 1994 Programme of Action of the International Conference on Population and Development (ICPD) and the 1995 Beijing Declaration and Platform for Action make clear the linkages between human rights, bodily autonomy, poverty, dignity, sustainable development, discrimination, well-being, and sexual and reproductive health. The 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) also includes among its goals: to encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities.<sup>5</sup>

Building on existing international human rights law and development frameworks, reproductive justice makes central the critical intersections between racial, economic, cultural and other power structures that enable and constrain the ability of individuals, particularly women of colour, to make personal decisions about their lives, such as whether to have children, and, when parenting children, to have the ability to do so in healthy environments.<sup>6</sup>



Examining laws, policies and programs related to child care, pay equity, paid parental leave, and child and family tax policies, among others, therefore facilitates a more holistic approach to sexual and reproductive health and rights; these structural factors relating to social and economic rights have an impact on the ability of individuals to carry out decisions to have children without falling into poverty or to effectively parent and provide for their children. Without access to affordable child care, parents may face constraints when returning to the workforce, which contributes to reduced earnings and creates male-dominated workforces that can perpetuate gender stereotypes and violence.<sup>7</sup> This often has gender, class and race implications as women are more often those who exit the workforce to care for children. Racialized women who may experience multiple and intersecting forms of discrimination (along gender, age, economic, educational, and migration status lines, among others) are, among other things, further hindered in their ability to exert control over their reproductive choices and provide for their families.<sup>8</sup> Such situations can lead to barriers in access to support services and health care more broadly, including sexual and reproductive health care.

## We call on the Government to:

**Create support for families to allow them to raise their children with dignity by creating a national child care strategy** that is universal, comprehensive and of high-quality.<sup>9</sup>

**Legislate an Act to reinstate minimum national standards for provincial income assistance** to ensure that welfare is accessible and adequate.<sup>10</sup>

**Re-establish a federal minimum wage** covering all workers under federal jurisdiction at CAD 15.00 per hour, indexing to inflation.<sup>11</sup>

## Violence and oppression

Gender-based and sexual violence is rooted in gender inequality, unequal power relations, gender norms and stereotypes, and often aim to control women's choices, sexualities and bodies. Violence occurs across religions, ages, genders, socioeconomic status, among other communities and lived experiences and has profound effects on physical, sexual, reproductive, and mental health, and on levels of morbidity and mortality. These effects include, among others, HIV infection, sexually transmitted infections, alcohol abuse, depression and suicide, injuries, death from homicide, adolescent pregnancy, unintended pregnancy, nutritional deficiency, neurological disorders, disability, hypertension, anxiety and post-traumatic stress disorder.

Marginalized individuals have a greater likelihood of being subjected to violence, including those living in poverty, women and girls, people with disabilities, sex workers, racial, ethnic, religious and linguistic minorities, and lesbians and transgender women, among others. In Ontario, nearly half (46%) of high school girls in Ontario experience sexual harassment.<sup>12</sup> Indigenous girls face more frequent incidents of violence than non-Indigenous girls, with 17% of missing and murdered Indigenous women being under the age of 18.<sup>13</sup>

Regardless of the relationship or situation, violence is likely to be underreported; facing the legal or health system can be oppressive or hostile toward marginalized people, thereby making it more difficult to seek help and receive appropriate support.<sup>14</sup> Sexual assault rates have stagnated in the last five years, with less than 10% of sexual assaults being reported to police.<sup>15</sup> Those who do seek support may not be able to access the services they need due to geographic location, socio-economic status, age, and migration status, among other factors, or for fear of stigma and discrimination by service providers. These factors can often also result in delays accessing emergency contraception, counselling and other essential services.



The right to live free from violence is enshrined in international human rights law. Article 3 of the Universal Declaration of Human Rights states that everyone has the right to life, liberty and security of person. Other related rights include the right to bodily autonomy and the right to health, among others.

The UN Human Rights Council (HRC) and its special procedures have examined the issue of violence as it relates to sexual and reproductive rights. The 2009 UN HRC resolution on Violence against Women<sup>16</sup> specifically addressed issues related to sexuality and sexual rights including the elimination of policies and practices that violate the human rights of individuals to have control over and make decisions related to their sexuality. The UN Special Rapporteur on Violence against Women has similarly said that in recognizing women's sexual and reproductive autonomy, rather than protecting women's sexual purity, one can tackle the roots of gender-based violence.<sup>17</sup> Addressing the root causes of gender-based violence requires the adoption of a holistic approach to discrimination and violence. In meeting their human rights obligations, efforts initiated by States must extend beyond immediate health outcomes to include strategies across sectors, involving legal, economic, social and political considerations.

## We call on the Government to:

**Develop a national strategy to address violence against women** that is holistic, gives full effect to the sexual rights of women and girls, and includes concrete measures to address the issue of missing and murdered Indigenous women.<sup>18</sup>

## Immigration

Recent cuts to health care for refugees and changes in immigration law disproportionately affect refugee women.<sup>19</sup> The removal of coverage for sexual and reproductive health, including labour and delivery, put refugee women at particular risk as it bars some claimants from getting pre/post-natal and delivery care, as well as limiting access to contraception, cancer screenings, abortion services, and supports in cases of intimate partner violence.<sup>20</sup> Supporting equitable access to health care for migrants and specifically migrant women is therefore paramount, regardless of refugee, immigration or marital status, in addition to developing policies and programs that are grounded in human rights and uphold the principle of universality in the *Canada Health Act*.

The recently passed “so called” *Zero Tolerance for Barbaric Cultural Practices Act*<sup>21</sup> similarly poses substantial risk of creating significant barriers for non-citizens, or those in precarious immigration situations, to access health and other support services, including the sexual and reproductive health services they need. It does so by identifying forced marriages as a separate criminal offence in Canada, which, according to research, creates barriers in access to and deters survivors of forced marriage from seeking support services,<sup>22</sup> including sexual and reproductive health services. The criminalization of forced marriage creates barriers in access to health services out of fear that the health professional will report the individual, which could result in a loss of immigration status, stigma and discrimination associated with reporting forms of domestic violence, and fear that health professionals lack the training to provide appropriate support services.<sup>23</sup> Experts also argue that criminalization could become a tool for police to further profile and harass racialized communities,<sup>24</sup> coupled with the reality that there is no evidence to support that the criminalization of forced marriage would in fact serve to prevent it.<sup>25</sup>

International human rights law requires States to respect, protect and fulfil human rights, without distinction of any kind, including on the basis of migration status. These rights include the right to health, including sexual and reproductive health. UN human rights bodies have outlined that States are obligated to provide access to health care services for all, including migrants regardless of legal status and documentation.<sup>26</sup> States are similarly required to *respect the right of non-citizens to health by, inter alia, refraining from denying or limiting their access to preventive, curative and palliative health services*.<sup>27</sup>



## We call on the Government to:

**Restore Interim Federal Health coverage for refugees and refugee claimants** as it existed before the 2012 changes so as to ensure all individuals in Canada have access to health care, especially sexual and reproductive health services, regardless of immigration status. This includes the removal of waiting periods for temporary and permanent residents to access health care and the provision of health care coverage to undocumented people.

**Repeal the Act to amend the Immigration and Refugee Protection Act, the Civil Marriage Act and the Criminal Code and make consequential amendments to other acts**, ensuring that women's anti-violence experts, survivors of violence, and service providers, among other experts, are consulted in developing relevant proposed changes to the immigration and criminal justice systems.<sup>28</sup>

**Increase funding to Citizenship and Immigration Canada to improve the quality of and access to settlement services**, including sexual and reproductive health services, to meet the needs of all migrants, regardless of status.

## Criminalization and the justice system

Longstanding forms of systemic racism, and other types of discrimination, have resulted in the targeted profiling, policing and criminalization of marginalized populations in Canada. Racialized and Indigenous communities in Canada have experienced the detrimental impacts of systemic racism and discrimination. There is an over-representation of Indigenous peoples in federal prisons: *[While] Aboriginal people in Canada comprise just four per cent of the population, in federal prisons nearly one in four is Métis, Inuit, or First Nations.*<sup>29</sup> Indigenous women make up 36% of all young women incarcerated.<sup>30</sup> In 2011, the Correctional Investigator of Canada reported an 80% increase in Black prisoners in federal jails over the last decade, making Black people the fastest growing prison population in Canada – despite Canada's Black population representing just 2.5% of the total population.<sup>31</sup> Given the disproportionately high rates of incarceration among racialized and Indigenous populations, they are more likely to be given the mandatory minimum sentences, which judges are now required to impose on a range of offences.<sup>32</sup> Longer sentences increase the likelihood of poor health outcomes of those who are incarcerated, especially related to sexual and reproductive health. High rates of incarceration also deeply impact communities as a whole; research shows that the impact of incarceration extends beyond those individuals who are themselves incarcerated.<sup>33</sup> In particular, incarcerating mothers is commonly associated with negative implications for her family and especially her children,<sup>34</sup> including depression, anger, poor school performance, and environmental disruptions.<sup>35</sup>

There are significant issues concerning sexual and reproductive health and rights in prisons. HIV and Hepatitis C rates are on the rise and the sexual and reproductive rights of incarcerated Indigenous persons, in particular, are often violated, including through the *shackling of pregnant women also while in labor, coerced sterilization and sexual violence from prison staff and guards*<sup>36</sup> and the absence of effective facilities for incarcerated mothers.<sup>37</sup>

Current patterns of incarceration put those who are more likely to become incarcerated, specifically Indigenous persons and racialized communities, more susceptible to contracting STIs and HIV.<sup>38</sup> The rise in STI rates can be attributed to the lack of effective harm reduction policies, limited access to comprehensive sexual and reproductive health services, and information in and out of prisons. The Correctional Investigator of Canada has reported delays in inmates' access to health services, cuts to essential health-related programs, unsupported harm reduction strategies, and the exacerbation of inmates' existing health conditions.<sup>39</sup> This is despite the fact that incarcerated people have a right to health, as recognized in sections 85-86 of the Corrections and Conditional Release Act, which requires Corrections Services Canada to provide essential health care that will contribute to the inmate's rehabilitation and successful reintegration into the community.<sup>40</sup>



Realizing incarcerated individuals' right to health requires not only addressing their immediate needs, through for example, information required to prevent the transmission and treat STIs, including HIV, but also strategies to address the underlying determinants of health – which include systemic stigma and discrimination that lead to disproportionately high rates of STIs among racialized communities in Canada. According to the UN Committee on Economic, Social and Cultural Rights (CESCR), the right to health involves *not merely the absence of disease or infirmity but a state of complete physical, mental and social well-being that embraces a wide range of socio economic factors promoting conditions in which people can lead a healthy life and that extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.*<sup>41</sup> Meeting the sexual and reproductive health needs of incarcerated individuals – and particularly racialized individuals in Canada who are disproportionately criminalized and incarcerated – therefore requires addressing immediate health needs as well as underlying root causes of discrimination and other social determinants of health.

## We call on the Government to:

**Ensure all individuals who have been criminalized, or been in conflict with the law, have access to a comprehensive and integrated package of sexual and reproductive health services and information, free of charge.** This must include strategies to address increasing STI transmission rates by repealing the law established through the enactment of Bill C-2 An Act to amend the controlled drugs and substances act and by establishing evidence-based prevention, harm reduction and treatment services,<sup>42</sup> including needle exchange programmes, to be implemented in all federal prisons and urban centres.

**Address systemic forms of racism, and other forms of discrimination,** that result in the targeted profiling, policing and criminalization of marginalized populations, and the poor sexual and reproductive health outcomes that result, by:

**Addressing the overrepresentation of Indigenous and other racialized groups in custody over the next decade,** and issue detailed annual reports that monitor and evaluate progress in doing so.<sup>43</sup>

**Providing sufficient and stable funding to implement and evaluate community-based strategies that provide realistic alternatives to imprisonment for Indigenous and racialized offenders,** and respond to underlying causes of offending.<sup>44</sup>

**Amending the Criminal Code to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences** and restrictions on the use of conditional sentences.<sup>45</sup>

## Environment

Realizing the right to health includes *a wide range of socio economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.*<sup>46</sup> The UN Committee on Economic, Social and Cultural Rights (CESCR) has said that *the health of the individual is often linked to the health of the society as a whole and has a collective dimension and that development-related activities that lead to the displacement of indigenous peoples against their will from their traditional territories and environment, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, has a deleterious effect on their health.*<sup>47</sup>

The ways in which we live in and engage with our physical environment have a direct impact on our well-being and health, including our sexual and reproductive health. Research has shown correlations between living in proximity to extractive resource sites and contaminated breast milk, increases in the number of miscarriages, reproductive health



cancers, sterility, and birth defects, among others.<sup>48</sup> Indigenous communities in Canada, and globally, are at great risk of experiencing these health outcomes, which represent violations of the right to health. According to the Native Youth Sexual Health Network, *the manufacture and export of harmful products to other, primarily developing, countries is unethical and unjust, and violates the rights to health and life of all peoples in developing countries, with greater impact on Indigenous Peoples, particularly women and children.*<sup>49</sup> Many areas affected by extractive industries have also seen an increased prevalence of sexual violence, HIV and other sexually transmitted infections, among other negative impacts.<sup>50</sup>

Indigenous rights groups have advocated for the application of the principle of free, prior and informed consent (FPIC) in line with the UN Declaration on the Rights of Indigenous Peoples and international human rights law. FPIC empowers Indigenous peoples and communities to meaningfully engage in decision-making that affects them, which includes decision-making around health laws, policies and programmes in the realm of sexual and reproductive rights.

## We call on the Government to:

**Take measures to restore the sexual and reproductive health of individuals and communities affected by environmental degradation and remedy harms done**, in part by halting the production, use and export of products that are harmful to sexual and reproductive health and the environment and by applying the precautionary principle in relation to extractives industries and the use of pesticides.<sup>51</sup>

**Apply the principle of free, prior and informed consent to affected Indigenous peoples and communities** as a means of respecting, protecting and fulfilling the sexual and reproductive rights of Indigenous persons, beginning with the empowerment of Indigenous and other women and youth to participate in decision-making related to laws and policies that affect them.<sup>52</sup>

The United Nations is in the process of crafting a universal framework for development for 2015-2030. A set of Sustainable Development Goals has been proposed as a way forward. The proposed goals are universal in nature and will apply to all countries, regardless of economic, social or political realities. In the context of the issues discussed above, the following targets will therefore apply in Canada:

1.3 Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable

1.5 By 2030, build the resilience of the poor and those in vulnerable situations and reduce their exposure and vulnerability to climate-related extreme events and other economic, social and environmental shocks and disasters

3.5 Strengthen the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol

3.7 By 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes

3.8 Achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all



4.7 By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and nonviolence, global citizenship and appreciation of cultural diversity and of culture's contribution to sustainable development

5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation

5.4 Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate

5.6 Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences

8.8 Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment

10.2 By 2030, empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status

10.3 Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard

10.4 Adopt policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality

## Endnotes

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<sup>2</sup> Guttmacher Institute. 2015. "Unintended Pregnancy in the United States." <http://www.guttmacher.org/pubs/FB-Unintended-Pregnancy-US.html>

<sup>3</sup> Bloch, G. Making Evidence Matter. "How an inadequate minimum wage is linked to poorer health outcomes – for everyone." <http://umanitoba.ca/outreach/evidencenetwork/archives/17163>

<sup>4</sup> Forget, E. 2011. "The Town with No poverty: using health administration to revisit outcomes of a Canadian guaranteed annual income field experiment." <http://public.econ.duke.edu/~erw/197/forget-cea%20%282%29.pdf>

<sup>5</sup> UN Convention on the Elimination of All Forms of Discrimination Against Women. <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article11>

<sup>6</sup> Sister Song: Women of Color for Reproductive Justice. [http://sistersong.net/index.php?option=com\\_content&view=article&id=141](http://sistersong.net/index.php?option=com_content&view=article&id=141)

<sup>7</sup> Canadian Centre for Policy Alternatives. 2015. "Time to Grow Up: Family Policies for the Way We Live Now." [https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2015/01/Time\\_to\\_Grow\\_Up.pdf](https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2015/01/Time_to_Grow_Up.pdf)

<sup>8</sup> Wellesley Institute and Canadian Centre for Policy Alternatives. 2011. "Canada's Colour Coded Labour Market: the gap for racialized workers." [http://www.wellesleyinstitute.com/wp-content/uploads/2011/03/Colour\\_Coded\\_Labour\\_MarketFINAL.pdf](http://www.wellesleyinstitute.com/wp-content/uploads/2011/03/Colour_Coded_Labour_MarketFINAL.pdf)

<sup>9</sup> Action Canada endorses the ChildCare 2020 vision for a national child care strategy. This strategy supports a holistic approach to sexual and reproductive health, recognizing that child care, maternal health services, social support services, gender equality, and other issues, are part of larger efforts to advance human rights. For more information, visit: [http://childcare2020.ca/sites/default/files/VisionChildCare2020Nov3ENG\\_.pdf](http://childcare2020.ca/sites/default/files/VisionChildCare2020Nov3ENG_.pdf)

<sup>10</sup> Canadian Centre for Policy Alternatives. 2015. "Alternative Federal Budget." [https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2015/03/AFB2015\\_MainDocument.pdf](https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2015/03/AFB2015_MainDocument.pdf)

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- <sup>17</sup> United Nations. 2003. Economic and Social Council. Commission on Human Rights. Fifty-Ninth Session. "Report by Special Rapporteur on Violence against Women, Radhika Coomaraswamy, on Integration of the Human Rights of Women and the Gender Perspective." E/CN.4/2003/75. Accessed 4 June 2013. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G03/101/00/PDF/G0310100.pdf?OpenElement>, 18.
- <sup>18</sup> This plan would include: Establishing accountability mechanisms that empower survivors of violence to access institutional complaint mechanisms and remedies, funds to raise awareness towards gender norms and stereotypes, ensure survivors have access to confidential sexual and reproductive health information, education and services, including: emergency contraception to prevent unwanted pregnancies; post-exposure prophylaxis for HIV; collection of forensic evidence; screening and treatment for STIs, including HIV; access to safe abortion services; and referral to mental health and social services, measures to address challenges and gaps in legal system which prevents or deters survivors of violence from seeking justice.
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- <sup>30</sup> Native Youth Sexual Health Network, <http://www.nativeyouthsexualhealth.com/emrip2013item5.pdf>
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<sup>52</sup> Recommendation jointly developed by the Sexual Rights Initiative and the Native Youth Sexual Health Network in advance of the 25th session of the UN Human Rights Council. Full report can be found here: <http://www.nativeyouthsexualhealth.com/march112014.pdf>

