

# CONTRACEPTION AND FAMILY PLANNING



## Access to contraception and family planning is well protected under international human rights standards.

In the last two decades, the percentage of women accessing contraceptives in both developed and developing countries has increased. The United Nations Population Fund reports that in 2019, 63 per cent of women aged 15 to 49 were using some form of contraception method and 58 per cent were using a modern contraception method.<sup>1</sup> This has improved women's opportunities to choose when and how many children they want to have, which can positively impact not only their right to health, but also their rights to education, work and an adequate standard of living, amongst other human rights.

Despite these advancements, millions of women continue to lack access to modern contraceptives. Today, an estimated 885 million women in developing regions want to prevent a pregnancy. Three of quarters of these women use a modern method of contraception, however, one quarter—214 million—have an unmet need for contraception.<sup>2</sup> While contraceptive use is above 70 per cent in Europe, Latin America and the Caribbean, and Northern America, it is below 25 per cent in Middle and Western Africa.<sup>3</sup>

Access to contraception is a key dimension of the right to the highest attainable standard of physical and mental health.<sup>4</sup> The Convention on the Elimination of All Forms of Discrimination against Women, guarantees women's rights in deciding "freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights."<sup>5</sup>

Family planning services are also fundamental for ensuring substantive equality between men and women. As the UN Working Group on discrimination against women in law and in practice has emphasized: "since only women can become pregnant, a lack of access to contraceptives is bound to affect their health disproportionately."<sup>6</sup>

At the International Conference on Population and Development in 1994, States recognized the inherent relationship between women's health and their ability to access family planning and other reproductive health services.<sup>7</sup>

In 2015, the United Nations General Assembly reaffirmed these commitments in adopting the 2030 Agenda for Sustainable Development. In Sustainable Development Goal (SDG) 3, target 3.7, States have pledged to ensure universal access to sexual and reproductive health, including family planning, by 2030.

214 MILLION WOMEN OF REPRODUCTIVE AGE IN DEVELOPING COUNTRIES WHO WANT TO AVOID PREGNANCY ARE NOT USING MODERN CONTRACEPTIVE METHODS

BY PREVENTING UNINTENDED AND RISKY PREGNANCIES, CONTRACEPTION/FAMILY PLANNING DECREASES THE RISKS OF MATERNAL MORTALITY AND LONG-TERM MORBIDITY

WOMEN USING MODERN METHODS OF CONTRACEPTION ARE MUCH LESS LIKELY TO BECOME PREGNANT THAN THOSE RELYING ON A TRADITIONAL METHOD

ACCESS TO FAMILY PLANNING SERVICES INCREASES WOMEN'S OPPORTUNITIES TO ENTER THE JOB MARKET

Sources: World Health Organization, *Family Planning/Contraception, Key Facts* (2018); United Nations Population Fund, *State of the World Population, The Power of Choice: Reproductive Rights and the Demographic Transition* (2018).

## KEY ISSUES

### 1 INFORMATION AND EDUCATION ABOUT CONTRACEPTION AND FAMILY PLANNING

*Information and education about contraception are important components of preventing unwanted pregnancies and unsafe abortions.*

The Committee on the Elimination of Discrimination against Women recommends that States should

prioritize the "prevention of unwanted pregnancy through family planning and sex education."<sup>8</sup> Similarly, the Human Rights Committee has held that in order to protect women and girls against the health risks associated with unsafe abortions, States "should ensure access for women and men, and, especially, girls and boys to quality and evidence-based information and education about

sexual and reproductive health and to a wide range of affordable contraceptive methods".<sup>9</sup> The Committee on the Rights of the Child has also explained that "family planning services should be situated within comprehensive sexual and reproductive health services and should encompass sexuality education, including counselling."<sup>10</sup>

## 2 BARRIERS TO ACCESS SERVICES AND CONTRACEPTIVES

### *Requiring third-party consent for access to certain services violates women's rights.<sup>11</sup>*

The Human Rights Committee has deemed legal provisions requiring the husband's consent for a woman to undergo sterilization a violation of her right to privacy.<sup>12</sup> More generally, the Committee on Economic Social and Cultural Rights has held that States are required to repeal "third-party authorization requirements, such as parental, spousal and judicial authorization requirements for access to sexual and reproductive health services and information, including for abortion and contraception."<sup>13</sup>

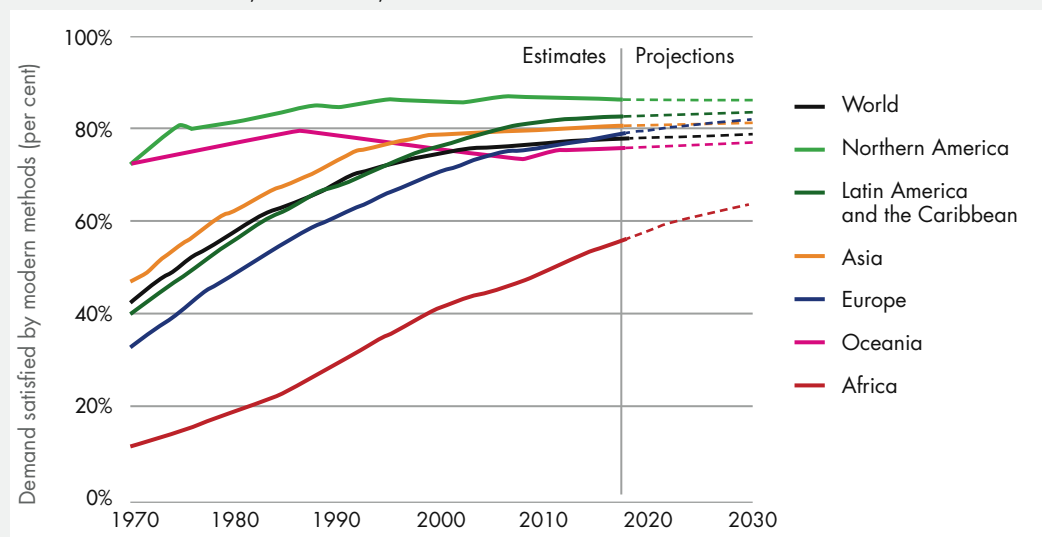
### *Notions of religion or personal convictions of health care providers must not impede the realization of sexual and reproductive health rights.*

In some cases, health workers may assert their right to refuse reproductive health care services based on conscientious objection, including in relation to contraception. Where such conscientious objection claims are made, States must regulate this practice to ensure that it does not inhibit access to contraceptives.<sup>14</sup> At the regional level, the European Court of Human Rights has held that pharmacists "cannot give precedence to their religious beliefs and impose them on others as justification for their refusal to sell" contraceptives.<sup>15</sup>

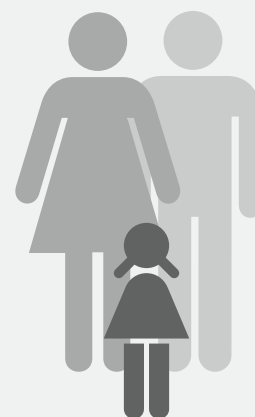
### *Humanitarian emergencies present additional obstacles for accessing family planning services.*

Access to contraception is further strained in periods of conflict or disaster. In response to this, the Committee on the Elimination of Discrimination Against Women has called on States to "accord priority to the provision of family-planning and sexual and reproductive health information and services, within disaster preparedness and response programmes, including access to emergency contraception".<sup>16</sup>

DEMAND FOR FAMILY PLANNING SATISFIED BY MODERN CONTRACEPTIVE METHODS AMONG MARRIED OR IN UNION WOMEN, BY REGION, FROM 1970 TO 2030



Source: United Nations, Department of Economic and Social Affairs, Population Division, *World Family Planning 2017- Highlights (2017)*, p. 12.



THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN has found that a city policy banning modern forms of contraception constituted grave and systematic violations of the rights enshrined in the Convention, including violations of women's right to health and their right to decide the number and spacing of their children. The Committee observed that the ban was "particularly egregious as a result of an official and deliberate policy which places a certain ideology above the well-being of women and was designed and implemented by the [...] local government to deny access to the full range of modern contraceptive methods, information and services."<sup>17</sup>



### *Contraceptives and family planning goods and services must also be:*

**Available** in sufficient quantities, and include a wide range of contraceptive methods, such as condoms and emergency contraception; **accessible** in a physical, economic and non-discriminatory manner, including to women in rural or remote areas; respectful of medical ethics and culturally **acceptable**; scientifically and medically appropriate and up-to-date, and of **good quality**.<sup>18</sup>



### 3 MARGINALIZED GROUPS FACE PARTICULAR CHALLENGES TO ACCESSING CONTRACEPTION AND FAMILY PLANNING

*A great majority of adolescents do not have access to education on sexuality or sexual and reproductive health services.*

Adolescents face significant obstacles in accessing contraception and family planning services. 23 million girls aged 15 to 19 years in developing regions have an unmet need for modern contraception.<sup>19</sup>

The Committee on the Rights of the Child has clarified that “all adolescents should have access to free, confidential, adolescent-responsive and non-discriminatory sexual and reproductive health services, information and education, available both online and in person, including on family planning, contraception, including emergency contraception...”<sup>20</sup>

*Persons with disabilities face particular risks of being denied their human rights in relation to contraception and family planning.*

Article 23 of the Convention on the Rights of Persons with Disabilities protects the right of persons with disabilities to found a family and to retain their fertility on an equal basis with others. The Special

Rapporteur on the rights of persons with disabilities has expressed particular concern about forced contraception imposed on girls with disabilities with their informed consent, often as a means of menstrual regulation, contrary to human rights law.<sup>21</sup>

*Certain marginalized groups face an increased risk of being subjected to forced sterilization.*

Coercive practices such as involuntary sterilization or forced contraception infringe the right of women to decide on the number and spacing of their children and adversely affects women’s physical and mental health.<sup>22</sup> Forced sterilization has been considered as a form of gender-based violence that may constitute cruel, inhumane and degrading treatment.<sup>23</sup> These practices particularly affect women and girls living with disabilities,<sup>24</sup> those living with HIV, indigenous and ethnic minority women and girls, transgender and intersex persons,<sup>25</sup> as well as women and girls living in poverty.

The Committee on the Rights of Persons with Disabilities has called on States to prohibit “all forms of forced sterilization, forced abortion and non-consensual birth control”.<sup>26</sup>



#### FORCED STERILIZATION



*In one case, a refugee woman* was subjected to forced sterilization, without her informed consent, during a caesarean section. In a landmark judgment, the Inter-American Court of Human Rights unanimously held that the forced sterilization violated the woman’s right to autonomy and dignity.<sup>27</sup> The Court explicitly recognized that women’s sexual and reproductive rights can be undermined by discrimination in access to health care services, particularly due to gender stereotypes. The Court emphasized that “*factors such as race, disability, socioeconomic status, cannot be a basis for limiting the patient’s free choice ... or obviate obtaining her consent.*”<sup>28</sup>



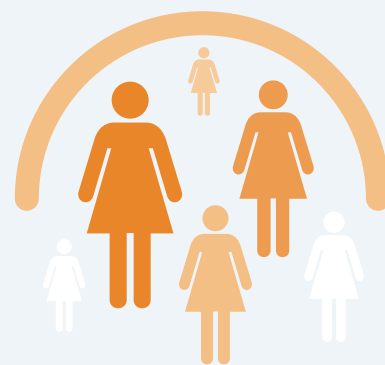
*In another case, a woman of Roma origin* was coercively sterilized in a public hospital after signing a statement of consent to a caesarean section that contained a barely legible consent note for sterilization. The Committee on the Elimination of Discrimination against Women found that by failing to provide information and advice on family planning to enable her full informed consent, the State had violated the victim’s rights under articles 10 (h), 12 and 16 (1) (e) of the Convention on the Elimination of All Forms of Discrimination against Women to information on family planning, to appropriate services in connection with pregnancy, confinement and the post-natal period, and to determine the number and spacing of her children.<sup>29</sup>

## STATES HAVE OBLIGATIONS TO RESPECT, PROTECT AND FULFIL HUMAN RIGHTS RELATED TO CONTRACEPTION AND FAMILY PLANNING

**RESPECT** States should refrain from ordering coercive medical treatments, such as forced sterilization of women with disabilities or women from minority or indigenous groups. Denying access to contraceptives, including based on lack of authorization by a woman's husband, partner, parent or health authority, or because a woman is unmarried, is also a violation of the obligation to respect.

**PROTECT** States should ensure that third parties do not limit women's access to contraceptives and family planning information and services. If health care workers refuse to sell or provide contraceptives based on their personal beliefs, the State must ensure that contraception is available and accessible through other means.

**FULFIL** States should adopt legislative, administrative, budgetary, judicial, and other measures to achieve the full realization of rights related to contraception, which includes the obligation to provide information and access to a wide range of contraception methods, including essential drugs, such as hormonal and emergency contraception.



## NOTES

- 1 United Nations Population Fund, World Population Dashboard (2019).
- 2 United Nations Population Fund, State of the World Population, The Power of Choice: Reproductive Rights and the Demographic Transition (2018), p. 17.
- 3 United Nations, Department of Economic and Social Affairs, Population Division, World Family Planning Highlights (2017), p. 1.
- 4 Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/66/254 (2011), paras. 44, 48. See also International Covenant on Economic, Social and Cultural Rights, Article 12.
- 5 Article 16.
- 6 A/HRC/32/44 (2016), para. 23.
- 7 International Conference on Population and Development, Programme of Action (1994), para. 7.16.
- 8 General Recommendation 24 (1999) on women and health, para. 31(c).
- 9 General Comment 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, para. 8.
- 10 General Comment 15 (2013) on the right of the child to the highest attainable standard of health, para. 69.
- 11 Committee on the Elimination of Discrimination against Women, General Recommendation 24, para. 14; Committee on the Rights of the Child, General Comment 20, para. 60.
- 12 General Comment 28 (2000), on the equality of rights between men and women, para. 20.
- 13 General Comment 22 (2016) on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights), para. 41.
- 14 Ibid., para. 43.
- 15 European Court of Human Rights, Pichon and Sajous v. France, application No. 49853/99 (2001.)
- 16 General Recommendation 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change, para. 68 (d).
- 17 Summary of the inquiry concerning the Philippines under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/OP.8/PHL/1 (2015), para. 48.
- 18 Committee on Economic, Social and Cultural Rights, General Comment 14 (2000) on the right to the highest attainable standard of health, para. 12; General Comment 22, para. 11.
- 19 World Health Organization, Adolescent Pregnancy, Key Facts (2018).
- 20 General Comment 20 (2016) on the implementation of the rights of the child during adolescence, para. 59.
- 21 A/72/133 (2017), para. 31.
- 22 Committee on the Elimination of Discrimination against Women, General Recommendation 19 (1992), on violence against women, para. 22.
- 23 Committee on the Elimination of Discrimination against Women, General Recommendation 35 (2017) on gender-based violence against women, updating general recommendation No. 19, para. 18.
- 24 Special Rapporteur on the rights of persons with disabilities, A/73/161 (2018), para. 40.
- 25 Eliminating forced, coercive and otherwise involuntary sterilization: An interagency statement (2014), p. 1.
- 26 General Comment 3 (2016) on women and girls with disabilities, para. 62 (a). See also Interagency Statement on involuntary sterilization, pp. 5-7; Committee on the Rights of the Child, General Comment 20, para. 31.
- 27 Inter-American Commission of Human Rights, I.V. v. Bolivia, Case 12.655, Report No. 72/14 (2015).
- 28 Ibid., para. 185. (Translated from Spanish).
- 29 A.S. v. Hungary, Communication No. 4/2004 (2006), paras. 11.2-11.5.