

Preserving the Reproductive Rights of Girls and Women in the Era of COVID-19: The Need for a Least Restrictive Solution

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Introduction

Fairchild and colleagues assert that while “equal” on the surface, the rapidly implemented, society-wide public health restrictions enacted in response to the COVID-19 pandemic veil harsh inequities (Fairchild et al. 2020). These inequities are particularly apparent in the deep erosion of sexual and reproductive health rights for women and girls.

The Human Right to Reproductive Health

Human rights are fundamental, and affirm the dignity and worth of all human beings. Everyone is entitled to these rights, without discrimination, and these rights must be universally protected. All individuals have a basic human right to the highest attainable health, including sexual and reproductive health (UN Committee on the Elimination of Discrimination against Women (CEDAW) 1979). For women and girls, this includes the rights to choose a partner, control their fertility, and birth safely, and the access to the necessary information and tools to do so without coercion (UN Committee on the Elimination of Discrimination against Women (CEDAW) 1979). States have an obligation to provide for these rights, especially in times when these rights are at risk. Rights to sexual and reproductive health extend to minor adolescents, and include the rights to access sexual and reproductive health information and services, to determine and consent to one’s own care, and to have that care provided in a confidential environment (Office of the United Nations High Commissioner for Human Rights 2016).

Equal ≠ Equitable

While the COVID-19 public health restrictions apply equally across genders, consideration has not been made to how they disproportionately burden girls and women. Similar to past public health and humanitarian crises, public health restrictions, coupled with social and economic stressors, are leading to increasing reports of gender-based violence (Wenham et al. 2020). Access to long-acting reversible contraception (LARC) has been one of the most effective public health interventions to reduce adolescent pregnancy. Now, shifts from in-person care to telemedicine, coupled with marked reductions in access to safety-net facilities such as federally qualified health centers and Title X funded clinics, have markedly reduced access to LARC. Confidentiality is a cornerstone to adolescent reproductive health care, and restrictions on confidentiality frequently translate into less disclosure, less access, and poorer reproductive health outcomes (Ford et al. 2004). The restrictions in movement and reliance on telemedicine are hurting adolescents’ access to confidential care, as many are sheltering in place with families, making it nearly impossible to guarantee confidentiality on a telephone or video visit. The virtual elimination of well-child and well-woman care has removed any opportunity to screen and treat for sexual abuse, gender-based violence, sexually transmitted infections, and contraceptive needs. Under the guise of restricting “non-essential” care, states have restricted or even eliminated access to

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abortion, pushing women and girls to make the decision to travel far from home to seek care or continue an unwanted pregnancy (Jones et al. 2020). Taken together, these policies effectively erode reproductive rights through denial of the access and tools needed to realize this right.

As Fairchild and colleagues note, the COVID pandemic policies have been enacted in a society characterized by profound inequalities, and are being applied in a manner that is profoundly unequal (Fairchild et al. 2020). For every restrictive sexual and reproductive health policy, the effects are more marked among girls and women from minoritized communities. Prior to the COVID pandemic, African American, Latinx, and immigrant women already experienced reproductive health disparities. Because girls and women from minoritized communities are more dependent upon safety-net facilities, and more likely to experience economic hardships as a result of COVID-19 public health policies (Poteat et al. 2020), we expect to see widening of existing health disparities.

Least Restrictive Solutions

Fairchild and colleagues highlight the interconnectedness of public health and human rights, and challenge the assumption that the population health always trumps individual rights (Fairchild et al. 2020). A least restrictive solution presents a way forward, to balance public safety and human rights, preserving necessary care and ensuring equity. A least restrictive solution to a public health emergency has three key components: the recognition of (1) the moral importance of human rights; (2) that human rights can be limited to ensure the health and well-being of others; and (3) if rights are limited, then the least restrictive approach should be used (Ott and Santelli 2019).

Public health measures do not need to be all-or-nothing. In all cases, ensuring the least restrictive approach means identifying the barriers to access created by COVID policies and creating ways to improve access, while maintaining important public health policies, like shelter-in-place restrictions. For contraception, a least restrictive solution might involve expanding over-the-counter, pharmacy, and telemedicine options, with particular attention to access for adolescents (Williams et al. 2018). Abortion procedures are time-sensitive and have been identified as an essential service in a pandemic setting, given their ability to prevent far worse pregnancy outcomes (Robinson et al. 2020). Increasing access to evidence-based “no touch” and medication abortion through telemedicine may be an important way to protect patients and providers under quarantine (Raymond et al. 2020). At the same time, it is absolutely necessary to ensure access to in-clinic abortions as an “essential” service, similar to other time-sensitive procedures using low personal protective equipment (Robinson et al. 2020).

Conclusions

For girls’ and women’s sexual and reproductive health rights, COVID-19 policies are truly “vexing, veiled, and inequitable.” An ethical solution forward must find the least restrictive approach to containing the pandemic while preserving basic rights to sexual and reproductive health.

Disclosure Statement

Dr. Ott’s spouse is an employee of Eli Lilly, Inc., and she has provided expert consultation on adolescent contraceptive use to Merck, Inc., and Bayer, USA.

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