Over the past 30 years, across a wide range of European jurisdictions, significant progress has been made in the adoption of laws and policies that support women’s and girls’ exercise of reproductive autonomy and safeguard their sexual and reproductive health (SRH). Alongside this evolution at the national level we have seen considerable critical developments in the recognition of sexual and reproductive rights as human rights by international and European human rights bodies. Five illustrations of significant legal and policy advancements are highlighted below, ranging from the legalization of abortion to increased protection against gender-based violence.

At the same time, while celebrating these advancements is important, it is equally critical to recall that many women and girls across the European Region continue to face violations of their sexual and reproductive rights. Serious challenges persist and in some contexts the prospect of regression is real. In the coming years European policy makers and advocates must redouble their efforts to guarantee sexual and reproductive rights. They must step up efforts to improve and reform relevant laws and policies, taking them to the next level so all women and girls in the Region can fully enjoy these rights.

1. Legalization of abortion and recognition of women’s access to safe and legal abortion as a human rights issue

Over the past 30 years, the trend towards the liberalization of abortion laws continued in Europe. For example since 1986 Albania, Belgium, Luxembourg, Portugal, Spain and Switzerland all introduced legislation allowing women’s access to abortion upon request (1).

Now abortion is legal in the vast majority of countries in the Region. Highly restrictive laws remain in place only in Andorra, Ireland, Liechtenstein, Malta and Poland and these countries’ laws have attracted considerable criticism from international and European human rights bodies for their failure to guarantee women’s human rights.

In fact there has been very significant progress in the last three decades in advancing the recognition by international and European human rights bodies of women’s access to abortion services as a human rights issue. This was spurred by global political commitments at the 1994 International Conference on Population and Development and the 1995 Fourth World Conference on Women in Beijing and propelled forward by a strong body of jurisprudence developed by the UN human rights treaty monitoring bodies, the European Court of Human Rights and the European Committee of Social Rights.

In this time the UN treaty monitoring bodies have robustly articulated States’ obligations with regard to women’s access to abortion. They have called on States to liberalize restrictive abortion laws, decriminalize abortion and adopt measures to guarantee women and girls access to safe abortion services. Furthermore, they have urged States to ensure that their laws and policies respect women’s right to make decisions about their SRH and to remove barriers that undermine women’s autonomy. This year the UN Human Rights Committee held for the first time, in dealing with an individual complaint, that criminalizing and prohibiting abortion violates international human rights law (2).

Furthermore, in the last decade a number of important judgments from the European Court of Human Rights have recognized that denying women access to legal abortion services violates their fundamental human rights (3). It has held that when States obstruct, delay or otherwise hinder women’s access to legal abortion services or to necessary SRH health information they violate women’s rights. The European Court, and treaty monitoring bodies, have clearly affirmed that when abortion is legal it must be accessible in practice. In addition, the European Committee of Social Rights has ruled that abortion services must be organized in a manner that ensures that the needs of women are met (4).

2. Legalization of emergency contraception over the counter and international recognition of women’s rights to affordable contraception

At the national level, important progress has been achieved over the past 30 years in making modern contraceptive services more widely available to women across Europe. In terms of legal and policy progress the sale of emergency contraception without prescription has become the norm, rather than the exception. France led the way in 1999 and today at least one brand of emergency contraception pills is available over the counter without prescription in most European countries (5).

At the international level, human rights bodies have also affirmed that in order to guarantee the right to health and other human rights, States must ensure that a comprehensive range of contraceptives, including emergency contraception, is available and affordable for women and adolescents.

3. Recognition of access to comprehensive sexuality education as a human rights concern

Over the past 30 years international human rights bodies have recognized that the rights to health, education and equality and non-discrimination require States to provide children with comprehensive evidence-based sexuality education. They have recommended that sexuality education be made compulsory and provided throughout primary and secondary education.

At the regional level, the European Committee of Social Rights has held that sexuality education must be provided on a scientific and non-discriminatory basis without censoring, withholding or intentionally misrepresenting information about SRH (6).

4. Recognition of forced sterilization of Roma women as an acute human rights violation

Across Europe Roma women have faced some of the most concerning violations of their sexual and reproductive rights.
Forced sterilizations of Roma women was widespread in some central and eastern European countries up until the 1990s with devastating consequences.

In the past 15 years both the European Court of Human Rights and the UN Committee on the Elimination of Discrimination Against Women have recognized that sterilizing a woman without her free and informed consent violates her fundamental human rights (7). They have affirmed that forced sterilizations can cause women severe suffering and distress amounting to inhuman and degrading treatment. Furthermore, the CEDAW Committee has held that forced sterilization of Roma women constitutes intersectional discrimination. Human rights bodies have called for effective remedies to be provided to victims and for adoption of effective measures to prevent future violations of Roma women's rights.

At the national level, accountability for abuses has been established in some places through investigations and prosecutions. Furthermore, some countries have adopted laws and policies to safeguard against these types of violations through strengthened procedures for women to give their free and informed consent to sterilization.

5. Increased efforts to prevent and redress violence against women and recognition that such violence is a human rights issue

The past 30 years has seen a fundamental shift in the recognition that violence against women by non-state actors engages the State’s human rights obligations. At the same time the gravity and scale of these abuses have mobilized State action to better prevent and redress violence against women.

As a result, relevant national legal frameworks have been significantly improved and most countries in the Region now have specific laws and policies in place. For example, all members of the Council of Europe have adopted national strategies or action plans addressing violence against women.

Over the last decade, the European Court of Human Rights in a number of landmark judgments has held States responsible for failures to take effective steps to protect women from violence and threats to their lives from private actors, including intimate partners. It has established that such failures violate a number of human rights, including the rights to life, to privacy and to be free from inhuman or degrading treatment (8).

Importantly the European Court has begun to also recognize that domestic violence is often caused by deeply entrenched gender discrimination. It has affirmed that domestic violence disproportionately and distinctly affects women and that it is a form of discrimination against women (9). The European Court has found that inaction by the authorities in the face of reports of violence against women condones such acts and reflects discriminatory attitudes.

Finally it is worth noting the adoption by the Council of Europe of the Convention on Preventing and Combating Violence Against Women and Domestic Violence (also known as the Istanbul Convention), which entered into force on 1 August 2014. This important new instrument reflects a strong commitment to ending violence against women and addressing its root causes.

Conclusion

These are just five examples of positive achievements in the legal and policy protection and recognition of women’s sexual and reproductive rights over the past three decades in Europe. Obviously, many more examples of progress exist both at the national and regional level.

However, we must not forget that many challenges also persist in the Region. In particular, we must not neglect the significant inequalities and disparities in the enjoyment of sexual and reproductive rights that continue to affect many women and girls in Europe. Marginalized groups of women and girls, including those belonging to ethnic minorities, undocumented migrants and asylum seekers and those who are economically disadvantaged, face entrenched discrimination and denial of these rights.

We have a responsibility over the coming years to make further advancements to ensure that all women and girls in Europe can fully and equally enjoy their sexual and reproductive rights.

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