Technical Brief

Bodily autonomy: a cornerstone for achieving gender equality and universal access to sexual and reproductive health and rights

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A. What bodily autonomy means

Bodily autonomy for girls and women means they can exercise their choices about what happens to their bodies. In matters related to reproduction and sexuality, bodily autonomy means women and girls determine their lives and their future, and have the information, services and means to do so free from discrimination, coercion and violence.

A "right" to "bodily autonomy" is rarely acknowledged as such in formal human rights instruments. But bodily autonomy is an implicit element in all human rights that recognize the capacity to make decisions about one's body, personal life and future. For example, deciding for oneself, seeking and receiving information, as well as accessing services for reproductive and sexual matters is understood as part of the right to health.[1] The right to decide freely and responsibly on the number, spacing and timing of children is guaranteed in the Convention on the Elimination of All Forms of Discrimination against Women.[2] Child marriage, female genital mutilation and gender-based violence are practices that strip women and girls of their autonomy and violate their human rights, including those related to bodily integrity.[3]

Fundamental to women and girl's bodily autonomy is equal protection of the law and recognition of their legal capacity on the same basis as men. Conversely, achieving gender equality requires protecting the autonomy of girls and women to make their own decisions.[4]

Making autonomous choices implies intersubjectivity. People do not make decisions solely on their own, but rather through consultation and deliberation. They may seek out and consider information from reliable and trustworthy sources such as health-care professionals, family members, life partners, trusted friends, religious advisers or a government. Social and cultural norms can support independent, consultative decision-making, or thwart it as is all too often the case. When young people are expected to defer to their elders or women to their male kin, their bodily autonomy is compromised.[5] Human rights stipulate that decision-making power must rest with the person most directly affected, who feels and bears the consequences of those decisions.[6]

Governments play important roles in addressing and transforming social norms, including gender norms and gender stereotypes. States have human rights obligations to ensure that individuals have access to medically accurate, comprehensive reproductive and sexual health information, and to education. They must ensure that no one is subjected to coercion, violence or discrimination in making such decisions. And they must take active steps to combat harmful stereotypes and discrimination. [7]

B. Why States need to support bodily autonomy in the context of development

Self-determination – which results from exercising bodily autonomy – is an aspect of empowerment. As the 2021 *State of World Population* report states, "The *goal of the empowerment and autonomy of women* is a highly important end in itself and is *essential for the achievement of sustainable development*."[8] The Sustainable Development Goals (SDGs) take into account the ability of women and girl to make their own decisions, and access health care, information and education in reproductive and sexual matters as elemental to achieving SDG 5 on gender equality.[9] By equipping girls and women with education, information, support and services to determine the direction of their reproductive and sexual lives, gender inequality is reduced, public health improves and national economies benefit.[10]

C. Two foundational and enduring international commitments to bodily autonomy and gender equality

The Programme of Action of the 1994 International Conference on Population and Development (ICPD) brought the global community together to forge new consensus around population policy and development. The ICPD firmly established that the rights and dignity of individuals, rather than numerical population targets, were the best way for individuals to realize their own fertility goals. Furthermore, governments acknowledged that these rights are essential for development.

The ICPD represented a resounding endorsement of *reproductive health, individual rights, and women's empowerment and gender equality* as the obligation of every country and community.[11] The 1995 Beijing Platform for Action agreed at the Fourth World Conference on Women amplified these commitments and took them one step further, recognizing that women's human rights include having control over and deciding on matters related to their sexual and reproductive lives. [12]

At the 2019 Nairobi Summit marking the twenty-fifth anniversary of the ICPD, the international community further amplified commitment to women and girls' empowerment and self-determination. The Summit outcome document noted: "As part of the commitment to intensify efforts for the full, effective and accelerated implementation and funding of the ICPD Programme of Action…and Agenda 2030 for Sustainable Development, governments pledge to protect and ensure all individuals' *right to bodily integrity, autonomy and reproductive rights*, and to provide access to essential services in support of these rights."[13]

Through the Generation Equality Forum's Action Coalition on Bodily Autonomy and Sexual and Reproductive Health and Rights, launched in 2021, UNFPA's work continues, in close collaboration with UN Member States and civil society, to achieve bodily integrity, autonomy, reproductive rights, and above all, gender equality by 2030.

D. Governmental human rights obligations to bodily autonomy: UNFPA's role

Human rights related to bodily autonomy and integrity in the context of sexuality and reproduction ensure that women and girls are empowered to make decisions about their reproductive and sexual lives. Accordingly, this requires governments to respect, protect and fulfil a range of sexual and reproductive rights enumerated in the ICPD Programme of Action.

Respect means that governments should not directly interfere with the enjoyment of rights. Governments should repeal or eliminate laws that restrict access to sexual and reproductive health services (e.g., to married women only), or that limit information about sexuality (e.g., abstinence until marriage only) as they infringe on the ability of women and young people to make decisions about their bodies.

Protect means that governments are obliged to ensure that third parties do not directly or indirectly interfere with the enjoyment of the right. Thus, governments must work to educate the public against gender stereotypes and transform social norms that legitimate and naturalize such interference. Governments also must provide effective and transparent remedies and redress, including administrative and judicial ones, for violations by third parties.

Fulfil means that governments must take positive measures to establish an enabling environment for the realization of rights, using all legal, policy, budgetary, administrative and other means to ensure, for example, that comprehensive sexual and reproductive health information and services are available, accessible, acceptable and high in quality, on the basis of non-discrimination, especially for those who are most marginalized.[14]

E. Examples of promoting and protecting bodily autonomy

A few illustrations follow of how to promote and protect bodily autonomy – that is, through decision-making about matters that affect girls and women physically, and advance their sexual and reproductive health and rights. The examples contribute as well to sustainable development and gender equality. While UNFPA's interventions already take bodily autonomy into account, there is ample opportunity to refine the focus to better support reproductive self-determination, especially for populations most at risk of being left behind.

<u>Choosing motherhood: how to enable autonomous decision-making</u>

- **Family planning:** Women need the ability to control their own decisions about if, when and how to have a child in order to seek paid work, invest in their careers and take risks in the labour market. Economic, political and social structures that influence control over women's personal lives, such as family planning decisions, are key determinants of how they can engage in the economy.[15]

Reproductive self-determination requires autonomy in decision-making related to whether or when to have children, and on their number and spacing. Family planning programmes that do not enable choice are those where women's decisions are neither informed nor voluntary. Conversely, family planning programmes grounded in autonomy hew closely to the "AAAQ" (availability, accessibility, acceptability and

quality) framework of the human rights-based approach in that women's informed and voluntary decision-making and ability to implement their decisions are assured.[16]

Having an adequate, steady supply chain of high-quality, diverse contraceptive commodities permits women to exercise real choice over their bodies, as opposed to settling for what is available or what the counsellor thinks is best.[17]

Trust in health-care providers as well as continuity in service provision also bolsters autonomy in decision-making, as exemplified by a UNFPA-supported health centre in Cox's Bazaar, Bangladesh.[18] Serving the Rohingya refugee population from Myanmar, UNFPA and its partners have been able to meet women where they are, in terms of their sexual, reproductive and maternal health-care needs as well as providing economic support through livelihoods training. This holistic approach has empowered women to make informed choices and contributed to wide-spread compliance with pandemic-related controls. A low COVID-19 infection rate has in turn enabled the maintenance of critical economic and health interventions.

- **Seeking maternity care:** Improved maternal health outcomes strongly correlate with sustainable development.[19] Autonomy in decision-making on maternal health care and childbirth is critical in ensuring women can benefit from trained maternal health-care providers.[20] Where women's decision-making is constrained and delayed – due to insufficient information, family member interference, transport difficulties, substandard maternal health services and so on – higher levels of morbidity and mortality result.[21] Mistreatment, neglect and abuse by health service staff and birth attendants who do not listen to women seeking care will drive women away.[22]

Making informed decisions: promoting autonomy for children and adolescents

- **Attending school:** Education is a key driver of sustainable development. For girls and women, it can enable them to make decisions about work and family that will determine their life course.[23] The longer girls stay in school, the less susceptible they are to early marriage and premature pregnancy, and eventually, the more earning power they accrue.[24] Providing **menstrual hygiene products** in private, secure facilities is a relatively simple intervention to keep girls in school and transform social norms that otherwise excuse their absences.[25] Similarly, the practice of expelling **pregnant adolescent girls** from school, based on gender stereotypical beliefs and shame, is considered unlawful discrimination and a human rights violation.[26] Where such girls remain in school, they can complete their education and pursue life choices beyond childrearing.

- **Exercising responsibility:** Learning about and understanding how the body develops physically, and how these changes bring up feelings and emotions is foundational to children becoming responsible adults.[27] Families, religious institutions and schools all play contributing roles in this aspect of education. Yet so-called traditional values, unfounded fear that exposure to information will "corrupt" children and other such beliefs often stand in the way.[28] States bear the ultimate responsibility to ensure that adolescents (and children as they mature) receive **comprehensive sexuality education**. Through this, they should gain knowledge and practical skills, explore their attitudes and values, and practice the skills necessary for making healthy informed choices about their reproductive and sexual lives and **r**elationships.[29]

Bodily autonomy and leaving no one behind: Examples

Certain populations, either because of their age, ethnicity, race, sexuality, and/or diverse physical and mental abilities, face particular challenges in exercising their autonomy.

Women living with disabilities: In many societies, the decision-making power of women living with disabilities is subordinated to that of their families, guardians or the State. Social norms, and sometimes legal ones, deem them incapable of making their own choices. Blatant violations of their rights may result in sexual abuse as well as forced sterilization.

The Convention on the Rights of Persons with Disabilities emphasized that: "All women with disabilities must be able to exercise their legal capacity by taking their own decisions, with support when desired, with regard to medical and/or therapeutic treatment, including by taking their own decisions on retaining their fertility and reproductive autonomy...."[30] States must take measures to protect the bodily autonomy of those living with disabilities by ending practices such as "substituted decision making", and promoting "supported decision making" instead.[31]

Adolescents: National and international laws presume that parents and guardians act in the best interests of their children. Yet families, societies, cultures and religions may resist notions of gender equality, and attempt to control the sexual lives of adolescents and young people by obstructing access to CSE, or by performing child marriage or FGM. Such practices stand in the way of bodily autonomy and violate human rights.[32]

As children mature, the United Nations Convention on the Rights of the Child recognizes that their capacities evolve to make meaningful decisions about important aspects of their lives, such as sexuality and reproduction.[33] States must ensure access to age-appropriate, medically accurate sexual and reproductive health services, commodities, information and counselling.[34]

Non-binary individuals: Individuals whose sexual identity and gender expression do not conform to the dominant male/female dichotomy do not enjoy equal protection of the law compared to heteronormative people.[35] The obstacles are many. Their identities may not be legally recognized, or they may be forced to undergo conversion therapy, or subjected to unwanted, non-consensual surgical procedures.[36] Such practices violate international human rights to non-discrimination. States must end these practices and protect the bodily autonomy of individuals with diverse sexualities and genders.[37]

Indigenous women: Deciding on the number, spacing and timing of children is a bedrock of reproductive rights and bodily autonomy, yet States have all too often flagrantly denied such choices to women who are indigenous or racial and ethnic minorities. Some counties with large indigenous populations have forcibly sterilized indigenous, rural, poor women under official family planning programmes.

Romani women in some Eastern European countries have also been forcibly sterilized and brought successful cases against these governments for violations of their rights to bodily autonomy and integrity. Such practices are blatant violations of rights related to bodily autonomy and integrity.[38]

[1] United Nations Committee on Economic, Social and Cultural Rights, 2016. "General Comment No. 22: (2016) on the Right to Sexual and Reproductive Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights)." E/C.12/GC/22, para. 5. United Nations Committee on the Rights of the Child, 2013. "General Comment No. 15 (2013) on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art. 24)." CRC/C/GC/15, para. 24.

[2] United Nations General Assembly, 1979. Convention on the Elimination of All Forms of Discrimination against Women. Resolution 34/180, Article 16.1(e).

[3] United Nations Committee on the Elimination of Discrimination Against Women and United Nations Committee on the Rights of the Child), 2014. "Joint General Recommendation/General Comment No. 31 of the Committee on the Elimination of Discrimination Against Women and No. 18 of the Committee on the Rights of the Child on Harmful Practices." CEDAW/C/ GC/31/CRC/C/GC/18. United Nations Committee on the Elimination of Discrimination Against Women, 2017. "General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19."

[4] Ibid.

[5] United Nations Development Programme, 2020. *Tackling Social Norms: A game changer for gender inequalities*.

[6] Erin Nelson, 2013. *Law, policy and reproductive autonomy*. Bloomsbury Publishing. Zubia Mumtaz and Sarah Salway, 2009. "Understanding gendered influences on women's reproductive health in Pakistan: moving beyond the autonomy paradigm." *Social Science & Medicine* 68(7): 1349-1356.

[7] United Nations Committee on the Rights of the Child, 2016. "General Comment No. 20 (2016) on the Implementation of the Rights of the Child During Adolescence." CRC/C/GC/20, paras. 59-61. United Nations
Committee on the Rights of Persons with Disabilities, 2016. "General Comment No. 3 (2016) on Women
and Girls with Disabilities." CRPD/C/GC/3.

[8] United Nations Population Fund, 2021. *State of World Population 2021: My Body is My Own: Claiming the Right to Autonomy and Self-Determination*, p. 17 (emphasis added).

[9] United Nations global indicator framework adopted by the General Assembly (resolution 71/313), with annual refinements contained in E/CN.3/2018/2 (Annex II), E/CN.3/2019/2 (Annex II) and the 2020 Comprehensive Review changes (Annex II) and annual refinements (Annex III) contained in E/CN.3/2020/2: indicator 5.6.1 (Proportion of women aged 15-49 years who make their own informed decisions regarding sexual relations, contraceptive use and reproductive health care) and indicator 5.6.2 (Number of countries with laws and regulations that guarantee full and equal access to women and men aged 15 and older to sexual and reproductive health care, information and education).

[10] Lawrence H. Summers, 1994. *Investing in all the people: Educating women in developing countries*. The World Bank. M. Anne Hill and Elizabeth King, 1995. "Women's education and economic well-being." *Feminist Economics* 1(2): 21-46.

[11] United Nations Population Fund, 2019. "Explainer: What is the ICPD and Why Does It Matter?" (emphasis added).

[12] United Nations Fourth World Conference on Women, 1995. Beijing Declaration and Platform for Action, para. 96.

[13] United Nations Population Fund, 2019. *Nairobi Statement on ICPD25: Accelerating the Progress* (emphasis added).

[14] United Nations Population Fund, 2020. *Elevating Rights and Choices for All: Guidance Note for Applying a Human Rights-Based Approach to Programming in UNFPA*, pp. 25-26.

[15] Sarah Gammage, Shareen Joshi and Yana van der Meulen Rodgers, 2020. "The Intersections of Women's Economic and Reproductive Empowerment." *Feminist Economics* 26(1): 1-22.

[16] United Nations Population Fund, 2020. *Elevating Rights and Choices for All: Guidance Note for Applying a Human Rights-Based Approach to Programming in UNFPA.*

[17] Leigh Senderowicz, 2020. "Contraceptive Autonomy: Conceptions and Measurement of a Novel Family Planning Indicator." *Studies in Family Planning* 51(2): 161-176.

[18] United Nations Population Fund, 2020. "The Rohingya influx, three years on."

[19] Wendy Graham and others, 2016. "Diversity and divergence: the dynamic burden of poor maternal health." *The Lancet* 388 (10056): 2164-2175. Monica Ewomazino Akokuwebe and Emeka Emmanuel Okafor, 2015. "Maternal health and the implications for sustainable transformation in Nigeria." *Research on Humanities and Social Sciences* 5(6): 1-3.

[20] United Nations Committee on the Elimination of Discrimination Against Women, 1999. "General Recommendation No. 24: Article 12 of the Convention (Women and Health)." A/54/38/Rev.1, chap. I.

[21] United Nations Committee on the Elimination of Discrimination Against Women, 2006. Concluding comments of the Committee on the Elimination of Discrimination against Women: Mali. CEDAW/C/MLI/CO/5.
Physicians for Human Rights, 2007. *Deadly Delays: Maternal Mortality in Peru: a Rights-Based Approach to Safe Motherhood.* Cambridge.

[22] United Nations Human Rights Council, 2019. "Report of the Special Rapporteur on violence against women, its causes and consequences on a human rights-based approach to mistreatment and violence against women in reproductive health services with a focus on childbirth and obstetric violence." A/74/137.

[23] Mercy Miyang Tembon and Lucia Fort, eds., 2008. *Girl's education in the 21st century: Gender equality, empowerment and growth*. The World Bank. Shireen J. Jejeebhoy, 1996. *Women's Education, Autonomy, and Reproductive Behaviour: experience from developing countries.* Oxford: Clarendon Press.

[24] Jennifer Parsons and others, 2015. "Economic impacts of child marriage: a review of the literature." *The Review of Faith & International Affairs* 13(3): 12-22.

[25] Emily Oster and Rebecca Thornton, 2011. "Menstruation, Sanitary Products, and School Attendance: Evidence from a Randomized Evaluation." *American Economic Journal: Applied Economics* 3(1): 91-100.

[26] Community Court of Justice, ECOWAS, WAVES, CWS-SL and The Republic of Sierra Leone, Judgement no. ECW/CCJ/JUD/37/19, 12 December 2019.

[27] United Nations Educational, Scientific and Cultural Organization and others, 2018. *International Technical Guidance on Sexuality Education: An Evidence-Informed Approach.* Paris, France: UNESCO.

[28] For an example of some of these views, see https://www.comprehensivesexualityeducation.org/, accessed 24 March 2021.

[29] United Nations Committee on the Rights of the Child, 2016. "General Comment No. 20 (2016) on the Implementation of the Rights of the Child During Adolescence. CRC/C/GC/20," paras. 58-61.

[30] United Nations Committee on the Rights of Persons with Disabilities, 2016. "General Comment No. 3 (2016) on Women and Girls with Disabilities." CRPD/C/GC/3.

[31] United Nations Committee on the Rights of Persons with Disabilities, 2018. "General Comment No. 6 (2018) on Equality and Non-discrimination." CRPD/C/ GC/6.

[32] United Nations Committee on the Elimination of Discrimination Against Women and United Nations Committee on the Rights of the Child, 2014. "Joint General Recommendation/General Comment No. 31 of the Committee on the Elimination of Discrimination Against Women and No. 18 of the Committee on the Rights of the Child on Harmful Practices." CEDAW/C/GC/31/CRC/C/GC/18.

[33] United Nations Committee on the Rights of the Child, 2016. "General Comment No. 20 (2016) on the Implementation of the Rights of the Child During Adolescence. CRC/C/GC/20," paras. 58-61.

[34] Ibid.

[35] United Nations Committee on Economic, Social and Cultural Rights, 2009. "General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights, art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights." E/C.12/GC/20.

[36] United Nations Human Rights Council, 2017. "Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity 2017." A/HRC/35/36.

[37] Ibid.

[38] World Health Organization and others, 2014. "Eliminating forced, coercive and otherwise involuntary sterilization: an interagency statement."