



Abortion Rights  
Coalition of Canada

*Your  
Voice for Choice*

Coalition pour le droit à  
l'avortement au Canada

*Canada's only national political pro-choice advocacy group*

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## ***Position Paper #64***

### **Why Abortion Needs No Legal Restrictions (Canada as a model for other countries)**

Canada has been a country rooted in freedom of choice for over 30 years. The abortion law was struck down by the Supreme Court on January 28th, 1988. Since this momentous day, there have been no new laws or other restrictions, even gestational limits (which most countries have). Canada is the only country in the world without an abortion law, except for China.

Our country's experience is proof that laws against abortion are unnecessary. A full generation of Canadians has lived without a law and we are better off because of it. We have shown that abortion care can be ethically and effectively managed as part of standard healthcare practice, without being controlled by any civil or criminal law. Not only do abortion rates not increase, women and providers benefit from having no laws. Our success is a role model to the world.

#### **A Brief History**

From Confederation until 1969, abortion was criminalized unless it was to save a woman's life. In 1969, Prime Minister Pierre Trudeau liberalized the abortion law, which, while it was a step forward, resulted in poor and unequal access for women, arbitrary obstacles, and delays.

Since the mid-1960s, Dr. Henry Morgentaler was a public advocate for legal abortion on request. Despite legal action, police raids, and arrests, he continued to provide abortions. He was acquitted in every case brought against him, and, when he reached the Supreme Court level, the Court repealed the entire abortion law, stating that the law violated woman's constitutional rights to security of the person, right to life, personal liberty, freedom of conscience, and privacy.<sup>1</sup> In the 1990s, the government tried and failed to pass a new abortion law.

In 2015, Health Canada approved the drug Mifegymiso,<sup>2</sup> which now allows for drug-induced abortions up to 9 weeks gestation (eliminating the need for a clinic or hospital "D&C" procedure). Health Canada eased some restrictions on the pill since 2015, and most provinces and territories offer full coverage for it.<sup>3</sup>

## **Benefits of 30 Years with No Legal Restrictions on Abortion**

### **Responsible Abortion Care**

When abortion is not a crime, safety rises for women and transgender people who can get pregnant. When doctors and medical staff are schooled in abortion procedures and care, women no longer suffer the consequences of botched abortions (either because a doctor does not have the proper tools, or the woman attempts an abortion on her own using non-medical equipment).

The Canadian Medical Association has an *Induced Abortion Policy*<sup>4</sup> that governs abortion, while the *Canada Health Act*<sup>5</sup> guarantees funding and accessibility for the procedure. Further, like any other healthcare procedure, abortion is governed by medical codes of ethics,<sup>6</sup> evidence-based guidelines,<sup>7</sup> and clinical protocols.<sup>8</sup> Maternal deaths from abortions are virtually unheard of today in Canada.

### **When Abortions are Illegal, Abortion Rates are Higher**

Abortion in Canada has steadily declined since 1997. There were 94,030 reported abortions in Canada in 2017, which is down 14% since 1997<sup>9</sup>. This could also be attributable to increased use of contraceptives. And while the recent Guttmacher report<sup>10</sup> suggests abortion rates are down in the USA, where there are very restrictive state laws, the report only discusses *reported* abortions from states that chose to provide data. Due to restrictive abortion laws, there are very likely many women who have had an illegal abortion, which would *not* be reported. In fact, based on a study in *Demographic Research*, “in the United States ... less than one in two intentional abortions are reported in major surveys on women.”<sup>11</sup> This would suggest that abortions have not slowed in the USA, but are being performed illegally and, most likely, unsafely.

When women have open access to abortion, the state can guarantee these women are receiving the best of care with a procedure they would have chosen regardless of the legal status of said procedure, and the state can track these numbers to see if there are indeed trends. Any information on abortion status in a country that has gross restrictions on abortions will not be accurate, due to the number of unreported, illegal abortions.

Yet, in Canada, with legal abortions, there is a steady and measurable decline in abortions since the procedure was made legal.

### **Earlier Abortions**

When women have easy and available access to abortion, the procedure can happen earlier, which means less complications and less cost/work for medical professionals.

77.6% of Canadian abortions in hospitals in 2017 were done at less than 20 weeks gestation, while ARCC estimates that, at *both* clinics and hospitals, about 99.3% of abortions were done at less than 20 weeks.<sup>12</sup> Almost all abortions after 20 weeks are due to fatal fetal anomaly.

30.4% of abortions at hospitals were done at less than 8 weeks gestation<sup>13</sup>, but the number would be considerably higher if clinics and GPs were included, since most medication abortions are done by them (clinics don't report gestational ages to CIHI). In 2017, over 4,000 doses of Mifegymiso were prescribed<sup>14</sup>. As the pill-based abortion method can only be prescribed at up to 9 weeks gestation, this would bump the percentage of earlier abortions greatly. Without this pill, many women would have been forced to wait for a hospital appointment, making the gestation date longer.

## Conclusion

Government funding of abortion is a critical component to how successful Canada has been at providing abortions and protecting women and transgender people's health. Funding helps integrate abortion care into the healthcare system, protects patients from gender discrimination, facilitates earlier access to the procedure, helps ensure acceptable standards of care, and prevents the service from being marginalized or further stigmatized, despite vehement anti-choice propaganda.

In 2008, the World Health Organization released a report stating that 13% (or 1 in 8) maternal deaths globally were related to unsafe abortions<sup>15</sup>. Canada, which provides abortions in a safe environment, has virtually none.

Marjorie Newman-Williams, vice president for external affairs at Marie Stopes International, states: "Restricting abortion does not stop women from having them. All it does is drive women to desperate measures, putting their health and lives at risk. Every day, 130 women [worldwide] die as a result of an unsafe procedure."

In 2011, a groundbreaking report<sup>16</sup> to the United Nations called on all states to decriminalize abortion. The UN's Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health described laws restricting abortion as an abuse of state power. Such restrictions "infringe human dignity by restricting the freedoms to which individuals are entitled under the right to health, particularly in respect of decision-making and bodily integrity." In recent years, most Australian states have successfully decriminalized abortion,<sup>17</sup> often citing Canada's example. Concerns that other countries may have about eliminating punitive laws on abortion are clearly unfounded.

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<sup>1</sup> <http://www.morgentaler25years.ca/the-struggle-for-abortion-rights/1988-decision/>

<sup>2</sup> <https://www.theglobeandmail.com/news/national/abortion-pill-ru-486-approved-by-health-canada-report/article25769674/>

<sup>3</sup> <https://www.theglobeandmail.com/canada/article-abortion-pill-inequality-how-access-varies-widely-across-canada/>

<sup>4</sup> <http://policybase.cma.ca/dbtw-wpd/PolicyPDF/PD88-06.pdf>

<sup>5</sup> <https://laws-lois.justice.gc.ca/eng/acts/c-6/>

<sup>6</sup> <http://policybase.cma.ca/dbtw-wpd/PolicyPDF/PD04-06.pdf>

<sup>7</sup> <https://sogc.org/wp-content/uploads/2013/01/gui184E0611.pdf>

<sup>8</sup> [https://5aa1b2xfmfh2e2mk03kk8rsx-wpengine.netdna-ssl.com/wp-content/uploads/2018\\_CPGs.pdf](https://5aa1b2xfmfh2e2mk03kk8rsx-wpengine.netdna-ssl.com/wp-content/uploads/2018_CPGs.pdf)

<sup>9</sup> <http://www.arcc-cdac.ca/backgrounders/statistics-abortion-in-canada.pdf>

<sup>10</sup> <https://www.theguardian.com/global-development/2018/mar/21/abortion-rates-drop-dramatically-rich-countries-terminations-study>; and: <https://www.guttmacher.org/fact-sheet/induced-abortion-united-states>

<sup>11</sup> <https://www.demographic-research.org/volumes/vol36/2/36-2.pdf>

<sup>12</sup> <http://www.arcc-cdac.ca/backgrounders/statistics-abortion-in-canada.pdf>

<sup>13</sup> <https://www.cihi.ca/sites/default/files/document/induced-abortion-2017-en-web.xlsx>

<sup>14</sup> <https://nationalpost.com/news/canada/abortion-pill-mifegymiso-prescribed-more-than-4000-times-since-hitting-shelves>

<sup>15</sup> [https://apps.who.int/iris/bitstream/handle/10665/75173/WHO\\_RHR\\_12.01\\_eng.pdf](https://apps.who.int/iris/bitstream/handle/10665/75173/WHO_RHR_12.01_eng.pdf)

<sup>16</sup> [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/66/254](http://www.un.org/ga/search/view_doc.asp?symbol=A/66/254)

<sup>17</sup> <https://www.nytimes.com/2018/10/17/world/australia/queensland-abortion-laws.html>