

DEFENDING HUMAN RIGHTS

Abortion Providers Facing Threats,
Restrictions, and Harassment

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Center for Reproductive Rights

120 Wall Street, 14th Floor
New York, NY 10005
United States

Tel +1 917 637 3600
Fax +1 917 637 3666

publications@reprorights.org

www.reproductiverights.org

OUR MISSION

The Center for Reproductive Rights uses the law to advance reproductive freedom as a fundamental human right that all governments are legally obligated to protect, respect, and fulfill.

OUR VISION

Reproductive freedom lies at the heart of the promise of human dignity, self-determination, and equality embodied in both the U.S. Constitution and the Universal Declaration of Human Rights. The Center works toward the time when that promise is enshrined in law in the United States and throughout the world. We envision a world where every woman is free to decide whether and when to have children; where every woman has access to the best reproductive healthcare available; where every woman can exercise her choices without coercion or discrimination. More simply put, we envision a world where every woman participates with full dignity as an equal member of society.


EXECUTIVE SUMMARY

For more than 60 years, the United States has joined most countries of the world in formally recognizing and committing to protect the fundamental human rights set out in the Universal Declaration of Human Rights. These include the rights to life, equality, privacy, medical care, information, education, and freedom from discrimination.

The United States has also joined the U.N. General Assembly in recognizing the special challenges faced by those who promote and defend these rights. These courageous people are known as human rights defenders. In the 1998 Declaration on Human Rights Defenders, the General Assembly acknowledged the important role that the governments play in ensuring that they can function effectively and safely.

At the 1994 International Conference on Population and Development, governments explicitly acknowledged that reproductive rights are human rights, grounded in existing human rights instruments, which include the Universal Declaration. These rights include a woman's right to make decisions about her life and family, to access reproductive health services, and to decide when and whether to have children. In the United States, the Supreme Court recognized women's constitutional right to abortion in 1973.

Despite domestic and international recognition of these rights, however, many women in the United States face severe impediments to obtaining abortion services. This report focuses on a key obstacle to the realization of women's reproductive rights, the challenges faced by abortion providers, and recognizes their work as human rights defenders. These challenges come in many forms, from harassment and intimidation of doctors and clinics to legal restrictions that single out abortion providers. But they all have a common purpose: preventing clinics from providing reproductive health services and women from exercising their right to obtain abortions.



THIS REPORT DOCUMENTS **THE HEROISM OF ABORTION PROVIDERS DEDICATED TO WOMEN'S REPRODUCTIVE HEALTH**

While federal legislation passed in the 1990s has curtailed some of the most violent forms of harassment, attacks, threats and violence continue to this day. The recent murder of Dr. George Tiller at his church in Wichita, Kansas makes all too clear that the long and tragic history of violent attacks on doctors who perform abortion and clinics is not over. By terrorizing providers and their patients, attackers seek to impede others' fundamental rights.

Governments at all levels are frequently part of the problem. Government officials often fail to enforce protective laws. State regulations and restrictions single out abortion providers for disfavored treatment, requiring that they meet expensive, unnecessary, and onerous regulatory requirements in order to impose significant barriers to the provision of services. States have also passed legislation requiring mandatory delays and biased counseling that is specifically designed to deter women from seeking abortions. The net result of these attacks is a shortage of abortion providers that threatens women's ability to obtain services.

This report documents the heroism of abortion providers whose dedication to women's reproductive health compels them to act despite severe personal and professional sacrifices. It describes attacks, harassment and discriminatory legal restrictions imposed on abortion providers in six states: Mississippi, Alabama, Texas, North Dakota, Missouri and Pennsylvania. It also details the pervasive stigma against abortion within the medical and general communities that allows private and government attacks to persist.

The physicians and healthcare workers documented in this report are human rights defenders. They persevere despite threats to their personal safety, harassment, attacks on their reputation, economic reprisals, and discriminatory restrictions, and they actively work to minimize the harm of these burdens on the women they serve.

SHORTAGE OF PROVIDERS. Human rights defenders should be protected and aided by the government in the promotion of fundamental rights. Unfortunately, the harassment, legal restrictions, and persistent stigma documented in this report deter physicians from providing abortions, resulting in a shortage of doctors. In addition to concerns about their safety, physicians


are fearful of the professional, economic, and personal implications of being targeted by abortion opponents. Laws and regulations singling out abortion providers among medical caregivers impose significant financial costs and other administrative and resource burdens on providers.

In the six states included in the investigation, physicians and clinics are few or concentrated unevenly in a few areas of the state. Most clinics rely on a very small number of physicians and often share doctors with other clinics and with the physicians' own private or hospital-based practices. Women travel to clinics from extraordinary distances and the harmful impact of the distances is exacerbated by state laws imposing mandatory 24-hour delays and "counseling." Women with few resources, and those who have difficult personal circumstances, are not able to easily access services in a timely way—or not at all. As a result of delays, women may only be able to obtain more costly, and potentially riskier, later abortions. Or they may pass a clinic's gestational limit altogether and be forced to travel even farther to find services, assuming they are available.

INTIMIDATION AND HARASSMENT. Like other human rights defenders throughout the world, abortion providers face intimidation, harassment, and violence in the course of carrying out their work. Anti-abortion activity at clinics runs the gamut, from peaceful First Amendment-protected activities to civil and criminal offenses, with many behaviors in a legally contested area in between. While outright violence has decreased at most facilities, the legacy of past murders, bombings, arsons, and assaults is well-known, prompting clinics to take new threats seriously. Despite the government's obligation to provide specific and enhanced protection to abortion providers, local law enforcement at many sites is uninformed, unresponsive, or even hostile. As a result, clinics make a significant investment in time and resources to protect their staff and patients. Clinic staff and physicians also experience picketing, stalking, smear campaigns, and harassing leafleting at their residences and other threats to themselves and their families.

LEGAL RESTRICTIONS. Governments should make it easier, not more difficult, for individuals to realize their human rights and defend the rights of others, including reproductive rights. Often, they do not. This report documents discriminatory restrictions aimed at prohibiting abortion providers from exercising their profession and providing services. In many states, providers face legislation designed to deter the provision of abortion services.

- **Mandatory Delay and Biased Counseling.** Each of the states in this report requires a "waiting period" of 24 hours between the time a woman receives "counseling" and/or state-mandated information and obtains an abortion. Across the board, providers agree that there is no medical reason for these requirements. Laws requiring two in-person visits particularly burden women and providers and have the worst effects where there is a severe shortage of providers. Women who have the fewest financial resources, are geographically most isolated from providers, or have later pregnancies are most at risk of being harmed by the barriers that these restrictions impose.



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- **Medical Practice and Facilities Requirements.** Abortion clinics are singled out in many states for discriminatory medical practice and facilities requirements. These laws and regulations bear no relationship to medical evidence concerning the safety of abortion services and are not imposed on other healthcare services that carry similar medical risks. Although the regulations have no medical purpose, they impose a significant burden on providers and on women's access to abortion. These regulations often require extensive renovations of existing facilities or entail building a new, custom-designed facility, which can cause providers to temporarily close or stop providing services altogether. Inconsistent and arbitrary enforcement of regulations by state health departments also creates uncertainty, increases workloads for clinic staff, and takes time away from patient care.
- **Funding Prohibitions.** While Medicaid covers medically necessary services for poor women, federal funding restrictions explicitly prohibit coverage of medically necessary abortions except in cases of rape, incest, or life endangerment. Lack of funds frequently causes women to delay an abortion while they raise the money to pay for it. These delays can result in later abortions, potentially increasing risk to the woman's health. A significant percentage of poor women, unable to afford and access the service, forgo abortion altogether.

RECOMMENDATIONS

STIGMA. Stigma creates needless obstacles for human rights defenders and can erode the number of active providers in a community. Stigma related to abortion is widespread in all six states, in both the medical and general communities. Stigma legitimizes harassment and intimidation, permitting them to take place with impunity. Legal restrictions on abortion promote and reinforce abortion as a stigmatized service, distinct and marginalized from other healthcare services.

Stigma results in economic pressure on physicians not to perform abortions, including by the presence or threat of anti-abortion activity at their private practices. Many medical practices and institutions prohibit doctors from performing abortions, even outside of the practice or hospital. Physicians may refuse to refer patients for abortions, or for other services performed by physicians who are abortion providers. Patients in several states expressed apprehension about their regular physician finding out that they had an abortion because they know that the doctor disapproves. The negative attitude of medical professionals contributes to women's fear, lack of information, and negative experiences when seeking to obtain an abortion.

General community stigma affects clinics that provide abortions in a number of ways. Many landlords and service vendors are unwilling to enter into business relationships with providers because they do not want to be associated with abortion. Towns use zoning restrictions to harass or prevent clinics from locating there. Often stigma is intertwined with safety and economic concerns about being targeted by protestors. Lack of evident support for clinics in turn enhances stigma and endorses impunity for abortion opponents who seek to harm providers.

GOVERNMENT'S OBLIGATION TO PROTECT HUMAN RIGHTS DEFENDERS. The United States and many other nations have recognized that it is government's responsibility to protect human rights defenders and create an environment where they can work safely and effectively. Harassment of and attacks on abortion providers violate the rights of both providers and the women they serve. Private attacks and harassment by abortion opponents violate providers' human rights, including their right to work, to promote human rights, to life and health, to be free from violence and unlawful attacks on reputation, and to receive and impart information. Government restrictions targeting providers violate their right to be free from discrimination on the basis of the medical services that they provide.

To State and Local Governments

Lawmakers

- Adopt resolutions recognizing reproductive healthcare workers, including abortion providers, as human rights defenders
- Adopt resolutions recognizing that access to a full range of reproductive health services, including abortion, is a human right
- Pass laws and ordinances protecting clinic access and ensuring the safety of abortion providers and patients, such as buffer zones, noise and signage restrictions and residential picketing prohibitions
- Repeal mandatory delay and biased counseling laws
- Repeal TRAP laws and regulate abortion providers in the same manner as other medical care providers

Police

- Enforce court orders granting injunctive relief or other protections to abortion providers
- Cooperate with federal agents on alleged FACE violations
- Enforce local laws and ordinances to protect abortion providers from intimidation and harassment, including harassment, stalking, trespass, signage, noise, and permit laws
- Ensure that officers are trained and have supervisory support to enforce ordinances and laws protecting abortion providers

To the U.S. Government

- Recognize the special role of human rights defenders, including reproductive health workers who provide abortions, in ensuring reproductive rights as human rights
 - Implement national laws and guidelines reflecting international obligations to protect human rights defenders
- Repeal federal funding restrictions on abortion, including the Hyde Amendment

Department of Justice

- Devote additional resources to provide training for and improve cooperation between federal, state, and local law enforcement agencies in responding to violence and threats of violence directed at abortion providers
- Devote additional resources to enforcing the Freedom of Access to Clinic Entrances Act and related federal statutes.

To United Nations Special Rapporteurs

- Speak out against violations of reproductive rights as fundamental human rights violations
- Promote respect for reproductive rights defenders by highlighting the importance of their work globally, including in the U.S.
- Issue communications to the U.S. government concerning individual defenders of reproductive rights, particularly U.S. abortion providers who face persecution or heightened risk because of their work as defenders
 - Follow up with the U.S. government to ensure that mechanisms are designed and implemented to address root problems of gender discrimination and the stigma surrounding abortion and to ensure that defenders who are harmed receive appropriate remedies

To the Medical Community

- Support and create measures to increase the number of physicians performing abortions, including by teaching abortion in medical school curricula, clinic rotations, and residency programs
- Advocate the repeal of laws restricting abortion, such as mandatory delay and biased counseling laws and TRAP laws
- Adopt resolutions supporting abortion providers and condemning the stigmatization of abortion and violence and harassment of health workers providing abortion

To Non-Governmental Organizations

- Educate the public and policymakers on access to reproductive health-care as a human right and abortion services as an integral part of women's healthcare
- Support abortion providers in order to reduce stigma and secure the safety of clinic staff and women seeking abortion services, including by assisting with the recruitment of clinic escorts and other volunteers and the documentation of evidence of potential legal and human rights violations. •

Urgent action is required to recognize abortion providers as human rights defenders, to protect their rights and to hold those who perpetrate violations accountable.

The Center for Reproductive Rights is a non-profit legal advocacy organization dedicated to protecting and defending women's reproductive rights worldwide

120 Wall Street
New York, NY 10005
Tel: 917.637.3600
info@reporights.org

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