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SOCIAL SCIENCES RESEARCH AT THE UNIVERSITY OF OTTAWA



On April 26, 2012, Conservative Party Member of Parliament Stephen Woodward introduced a motion asking for a special committee to consider the legal beginnings of human life. Woodward's action revived fears that the Conservative Government has a "hidden agenda" regarding changes to the status of abortion in Canada even though Prime Minister Stephen Harper stated he opposed the motion and Party whip Gordon O'Connor made the following statement:

I he decision of whether or not to terminate a pregnancy is essentially a moral decision and, in a free and democratic society, the conscience of the

over that of the state ... I do not want women to go back to the previous era where some were forced to obtain abortions from illegal and medically dangerous sources. This should never happen in a civilized society.'

Abortion is recognized globally as a vital component of sexual and reproductive health care for women. It is a commonplace, albeit timesensitive medical procedure that has good health outcomes for women when trained personnel perform it under sanitary conditions within the first trimester. Yet abortion has become a stigmatized

1 Gordon O'Connor quoted in Warren Kinsella, "Harper proves true to his word," Toronto Sun, April 30, 201 http://www.torontosun.com/2012/04/30/harper-proves-true-to-his-word, Retrieved May 2, 2012





Since 1988 access to abortion services throughout the country remains patchy because of numerous extra-legal obstacles, thereby making travel a necessity for many women.

practice. Legal or extra-legal obstacles can impede access to abortion services; indeed, abortion does not have to be illegal in order to be inaccessible. Travel is a major extra-legal obstacle to abortion as the further a woman has to travel to access abortior services, the more likely she is to be young and underprivileged.

Women cross international and national borders for abortion services. This form of travel is commonly known as "abortion tourism." It can be considered an insensitive term that portrays women's decision to have an abortion as frivolous or opportunistic. Nevertheless, abortion tourism has become the generic designation for the transnational travel that women undertake for abortion services. Ireland is often upheld as a prime example of abortion tourism; it is estimated that five to seven thousand women travel to England for pregnancy termination every year. The Irish example distracts us from understanding that travel to access abortion services also occurs within the borders of a nation

Such as Canada. Thanks to the assistance of Dr. Marion Doull, now a post-doctoral researcher at the University of British Columbia, as well as research assistants and volunteers from the University of Ottawa, I undertook a four-year SSHRC-funded study tracking, mapping and analyzing the journeys of Canadian women to freestanding abortion clinics across the country. We are now wrapping up this study and preparing the findings for publication.

In Canada, abortion was traditionally used as a backup birth control method. However, abortion, as well as the sale, dissemination and advertisement of contraception and abortifacients, was criminalized in the late nineteenth century. The eugenics movement lent some support for contraception and sterilization to prevent the birth of individuals deemed "unfit," but abortion remained a clandestine practice. Women who attempted to terminate their pregnancies injured themselves, swallowed potions and pills of various efficacy and/or inserted instruments into their cervixes. Others turned to medical personnel or non-medical abortion providers who performed abortions surreptitiously, sometimes under unhygienic conditions. Some women survived, others developed septic infections and a number died as a result.

In the 1960s, the terrain surrounding abortion began to shift significantly due to several developments. The birth of babies crippled by their mothers' consumption of thalidomide, a drug prescribed for morning sickness, had sensitized the public to abortion and disability. Illegal abortions, particularly among young, white, university-educated women, came to be seen as a major public health issue. Various countries began to liberalize their abortion laws. Simultaneously, as transportation networks and middle class incomes expanded, international tourism boomed. When American children's television host Sherri Finkbine flew to Sweden for an abortion after taking thalidomide, her journey drew global attention. Soon, Canadians who could afford the costs began to travel abroad to countries like Sweden, Japan and England where abortions were legally available.

By the end of the decade, repeated lobbying by politicians, doctors and public interest groups to reform the country's birth control legislation had succeeded. The Liberal government of Pierre Trudeau passed an omnibus bill in 1969, reforming the Criminal Code such that contraception and abortion were both legalized. Nevertheless legal abortion was now available only under very restrictive conditions. A woman seeking a legal abortion needed a referral from her doctor and the approval of a Therapeutic Abortion Committee (TAC) composed of three to five doctors based in an accredited hospital. Referrals were not always forthcoming and TACs had to rule on an individual basis if continuation of the pregnancy threatened the woman's "life or health." Yet, the new law did not determine the meaning of "health." Doctors serving on TACs applied their own medical, psychological or sociological interpretations of the word. Moreover, accredited hospitals were located primarily in urban centres, no hospital had to strike a TAC, no doctor was required to participate on a TAC or to perform abortions, Catholic hospitals refused to deliver abortion services and there was no mechanism to appeal a TAC's rejection of a woman's request for an abortion.

The new legislation resulted in long delays, arbitrary decision-making and regional unevenness in the accessibility of abortion. As a result, women continued to travel. Once American states liberalized their abortion laws, and the American Supreme Court ruled in 1973 that abortion was permissible without state interference in the first trimester of pregnancy.

Canadian women seeking abortions made their way to abortion services south of the border.

Soon after the passage of the 1969 abortion law, a groundswell of feminists, doctors, lawyers and politicians insisted upon its repeal. Some of their organizing coalesced around Dr. Henry Morgentaler, a Montreal doctor who first opened an abortion clinic in that city and later in Toronto and Winnipeg. In 1970, the Vancouver Women's Caucus journeyed from Vancouver to Ottawa, encouraging women to join their "Abortion Caravan" to protest the 1969 abortion law on Parliament Hill. The protesters camped out on the lawn of the Prime Minister's residence and a few even managed to sneak into the House of Commons to make their voices heard. This action shut down Parliament for the first time in its history. Women from different jurisdictions began travelling within Canada looking for abortion services. Some ended up at the Morgentaler clinics. However, because clinic abortions did not have TAC approval, Morgentaler was held to be in violation of the law. His legal struggles led the Canadian Supreme Court to strike down the abortion law on January 28, 1988 in *R. v. Morgentaler* as contravening women's rights under the *Canadian Charter of Rights and Freedoms* (1982).

In publicly funded hospitals, abortion services have decreased from 20.1 percent in 1977 to 15.9 percent in 2006. Some hospitals have imposed gestational limits and TAC-like approval procedures that can be burdensome. Cost-saving mergers between publicly funded hospitals with Catholic hospitals can further reduce the availability of abortion because the resultant institution often operates under Catholic regulations that prohibit abortion. Hospitals are located in urban centers, which mean that urban women are best served; those residing outside that center must travel to it. Freestanding clinics, which exist apart from hospitals and operate in the public or private sectors, are also located in urban centers. Some provinces have only one abortion clinic while women living in cities like Toronto, Vancouver or Montreal can choose from abortion services offered at numerous local clinics and hospitals that can be reached relatively cheaply and easily by dense transportation networks of cars, buses, subways, streetcars or trains

The number of abortion providers has decreased due to ageing, inadequate training at medical school, and harassment and/or violence from anti-abortion activists. Three abortion providers in Canada have been shot and wounded. Morgentaler himself has been physically attacked and his Toronto clinic was firehombed. Anti-abortion protests can disrupt



patients, doctors and staff at hospitals and clinics. Anti-abortion gatekeepers at hospitals (for example, switchboard operators, volunteers, nurses and doctors) can misinform women about abortion, refuse to refer them for abortion services or refer them to anti-abortion agencies instead. These behaviors are especially problematic for women living in towns or on reserves with few medical personnel.

Abortion is considered a "medically necessary" service under the Canada Health Act. Abortion, like any other medically necessary service, should be subject to the Act's five principles. Accordingly, abortion has to be accessible, portable, universal, comprehensive and publicly administered regardless of a woman's place of residence. However, Prince Edward Island (PEI) offers no abortion services at all despite recent pro-choice lobbying. The lack of abortion services mean that women must leave this province for Halifax, Fredericton or Montreal, depending on the length of pregnancy. Abortion is excluded from reciprocal billing agreements between some provinces and territories, meaning that women pay up front for the abortion in addition

to transportation and accommodation costs they incur in travelling for abortion services. Provincial and territorial governments have refused to pay for abortions; in New Brunswick abortions are covered by the province's healthcare system *only* if approved by two physicians and performed by a gynecologist in a hospital within 14 weeks of the pregnancy. Court challenges concerning reimbursements for abortion services and excessive wait times should encourage the federal government to use its power to penalize provinces and territories that do not comply with the provision of abortion services according to the *Canada Health Act*.

Aboriginal women, younger women, poorer women, women from rural areas and women from Atlantic Canada are most likely to travel for abortion services today. Their travel is cloaked in silence although public debates over two-tier health care, wait times and privatization of medical services rage. The lack of attention paid to these journeys not only highlights the vulnerability of this population but also provides confirmation that abortions need not be illegal in order to be inaccessible to many women.





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Christabelle Sethna, Far from Home? Abortion Tourism to Abortion Clinics in Canada, project funded by the Social Sciences and Humanities Research Council of Canada.