REPRODUCTIVE JUSTICE POSITION STATEMENT

The evolving landscape of Canadian migration programs creates and maintains precarious immigration statuses that result in many people experiencing differential access to health care, social services, and other social and legal protections (Goldring et al., 2009). Women and gender-diverse people who have come to Canada as temporary workers, international students, refugee claimants, in-land family sponsorship applicants, and other temporary residents, all of whom are vulnerable to losing their status, experience multiple oppressions and face uniquely gendered challenges throughout their immigration trajectories. These challenges are further exacerbated if the person has been trafficked, engages in sex work or other precarious work, has experienced domestic or gender-based violence, or has been exploited by recruiters or other immigration practitioners. Generally, public health care access is limited for precarious status migrants, with only agricultural workers, other workers with permits that often need to be over 12 months (in several provinces; Ibrahim, 2023), and refugee claimants (via the Interim Federal Health Program) eligible for public coverage. All others rely on private insurance, which is costly and not comprehensive, or go without coverage. As such, one of these challenges is a lack of comprehensive reproductive healthcare and protections, which creates barriers to equitable inclusion in Canadian society for women and gender-diverse individuals. This is despite the fact that international agreements, such as the UN International Covenant on Economic, Social and Cultural Rights (ICESCR), the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the UN Convention on the Rights of the Child (CRC) each position accessible and equitable reproductive and perinatal care as core government responsibilities (Chen, 2022).

There has not been a coordinated response to the problem of comprehensive reproductive healthcare access for women and gender-diverse individuals with precarious status by stakeholders. These groups have specific needs. The Alliance for Gender Justice in Migration was formed to identify trends and promote policy solutions aimed at ending discrimination against women and gender-diverse migrants in Canada. We are a network of people with lived experience, academics, advocates, and service providers across Canada who are actively working together to end discrimination against

women and gender-diverse migrants. We conduct research, develop policy solutions, raise public awareness, and advocate for change by centering the voices of those with lived experience.

As a group, we consider these issues not exclusively as matters of reproductive health or reproductive rights, but as issues of reproductive justice. We agree with the public statement made by The Government of Canada that the "goal of ensuring that women and girls *in all their diversity* [emphasis added] can decide what to do with their bodies, their lives and their futures-without question" should be fully supported (Government of Canada, n.d.). Following in the path of Black feminist advocates, along with other marginalized voices, we recognise the central claim of reproductive justice as: "all fertile persons and persons who reproduce and become parents require a safe and dignified context for these most fundamental human experiences" (Ross & Solinger, 2017, p. 9). Furthermore, we recognize that many of the barriers to reproductive justice are due to a legacy of systemic oppression that has subjugated racialized women and gender-diverse people. As such, we highlight the unique challenges faced by migrant women and gender-diverse people with precarious immigration status as they consider whether to have children or not, how they can parent those children, and the various factors that will ultimately shape these experiences.

The Alliance for Gender Justice in Migration calls for more coordinated, systematic and sustained efforts to ensure accessibility to reproductive justice is broadened for women and gender diverse people with precarious immigrant status so that people of all diverse identities truly *can* decide what to do with their bodies. Providing the necessary care without adding to the financial precarity already existent, as well as reducing barriers often experienced in the process of accessing care, is crucial for the full realization of sexual and reproductive health and rights for all precarious status migrants.

Women and Gender-diverse Migrants face Barriers to Pregnancy Prevention and Termination

"Having this baby is not expected; it was not planned. When I went to [the hospital] to do an abortion, they said, you don't have Manitoba Health and we are not going to abort the [pregnancy]."

-Former international student, Manitoba (Larios, 2023)

Since abortion was fully decriminalized, access has steadily expanded in Canada; however, people with precarious immigration status still face unique challenges. One major concern is cost. Not all private insurance providers cover the cost of abortion care. In addition, private insurance is not an option for many people with precarious status.

Therefore, the cost associated with core essential reproductive health services is often put on the shoulders of women and gender-diverse individuals with precarious immigrant status. These costs are paid directly by the patient, including additional costs for travel and accommodation. Costs will also vary based on weeks of gestation and the procedure required or selected. Because newcomers are often not as familiar with the healthcare system, they tend to be farther along in their pregnancies before they are able to find appropriate care. If abortion care is needed after 24 weeks, the procedure becomes more specialized, and the patient is often sent to receive care in the US. This travel is also a barrier. On top of the additional costs, for people without Canadian citizenship or permanent residency, depending on their nationality, this may require a specific US travel visa. This presents a set of unjust barriers, and is generally impossible for people without status (Chabot, 2021). Furthermore, as more migrant workers are recruited to work in agricultural, food processing, and service sectors in more rural areas of the province, travel within the province is also a barrier to access care. Many migrant workers live on-site at their place of employment and have concerns over having to disclose a pregnancy to their employer, which can result in them being labeled a problematic employee, being unjustly dismissed from work, or not being hired back the following season (Hanley, et al., 2020; Larios, 2023). As we know, for example from BC-based research, female migrant agricultural workers are often explicitly told not to engage in sexual activities by officials in their home countries for this reason (Cohen & Caxaj, 2018). Travelling to clinics and public health offices that do provide access to specific types of free contraception presents a challenge, especially for workers in rural and remote areas.

Women and Gender-diverse Migrants face Barriers Accessing Perinatal and Obstetric Care

"I got pregnant while I was studying during COVID. There were very few resources available to me. I had to get help from a free clinic and paid thousands of dollars out of my own pocket for ultrasounds. Some of my visitations were not covered with my healthcare provider. They even recommend I get an abortion because they would cover it, but I planned on keeping my baby. I felt alone. I was very depressed and there wasn't much I could do about it. There was even a night when I got violently and seriously ill, but I chose to stay at home and not go to the hospital because my coverage had not kicked in yet."

-International Student, Manitoba (Canadian Federation of Students – Manitoba, 2021)

For people without insurance coverage, one of the most significant barriers to accessing prenatal care is financial costs and the associated uncertainties of the final bill after the birth of the baby (Darling et al., 2019; Munro et al., 2013). Patients often have to take on

all of the expenses related to prenatal and obstetric care, as the expenses for this type of care are rarely covered by private insurance. In order to receive consistent prenatal follow-ups with an OBGYN affiliated with a hospital where the birth can take place, patients are often required to pay a considerable deposit to the hospital to cover any potential expenses. For example, within the Winnipeg Regional Health Authority (WRHA) deposits between $20,000 and $30,000 can be requested. Non-profit clinics that can provide some limited prenatal care do not have the capacity to provide the full range of care needed. Other barriers include challenges in accessing information and navigating the health system, encounters of discrimination, and fear of deportation. Ochoa and Sampalis (2014), as well as Campbell et al. (2014), found that discrimination, language, and difficulty in obtaining an appointment are major barriers to accessing reproductive healthcare, underlining the need for culturally-sensitive care and staff. Individual doctors, hospital and clinic staff members, as well as financial administrators, have a considerable amount of discretion in determining when care is provided or not and what accommodations (e.g., payment plans) or penalties (e.g., engagement with debt collectors or border security) are implemented (Jarvis et al., 2019).

These kinds of challenges mean that pregnant people without public health care insurance are more likely to receive care later in their pregnancies, which in some cases can result in long-term consequences-for example, increased risk of emergency caesarean sections (Merry et al., 2016) and post-partum depression, as well as higher incidences of stillbirth, early neonatal death, and maternal health complications (Almeida et al., 2013). A large study examining casefiles of uninsured and refugee claimant pregnant patients in Montreal hospitals and community health centres found that 78% of uninsured patients received no ultrasounds or blood work throughout their pregnancies and 66% had no prenatal visits (Rousseau et al., 2014). This finding is consistent with other studies; for example, four out of five uninsured pregnant patients in Toronto were also found to receive substandard perinatal care (Wilson-Mitchel & Rummens, 2013).

Women and Gender-diverse Migrants face Barriers to Social Supports and Protections

"I called right away to the labour board, and I was basically between the cracks because, this [work permit], [my employer] has the right to not give it to me. He has the right to change his mind. [. . .] I learned after that actually immigration called, and he said,
"Oh, she's gone, 'cause she's pregnant."
-Former temporary worker, Quebec (Larios, 2023)

Although access to healthcare services is a key factor in a person's pregnancy experience, social protections and supports also shape the context in which reproductive and family decision-making are embedded. For example, although labour protections that protect pregnant workers and parents from workplace discrimination are generally applied to all workers, workers on employer-specific worker permits that periodically expire may have employers who refuse to renew them if the worker is pregnant or takes a maternity or parental leave (Larios, 2023). These conditions may be exacerbated for people without formal immigration status due their reliance on informal work, which, generally, lacks the protections provided under provinces' labour standards (Hanley et al., 2020). Additionally, although all workers contribute to Employment Insurance, precarious status workers may be disincentivized by the limitations of their immigration status to take a leave after the birth of a child (Larios, 2023). This could be out of fear that their permit will not be renewed if it expires during this time, and subsequently concerns over gaps in status when status is linked to their ability to access healthcare coverage, child benefits, and other opportunities. Workers may also choose to not take leave as they may be trying to accumulate Canadian work experience or education to eventually apply for permanent residency and do not want to prolong the precarity and family separation often associated with temporary work in Canada.

Responses Across Canada need to be broadened and integrated

Responses to this issue have varied across provinces and have largely been developed in a piecemeal fashion, frequently taken up at the local and community level. One example of this is Médecins du Monde's uninsured migrant clinic in Montreal, a non-profit organization that works with volunteers to provide basic care, assistance navigating the health system, and advocacy at various levels of government. Building on this type of community work, one important approach has been to provide public funding for clinics or healthcare services to provide care to uninsured people. Some clinics have been able to form funding partnerships with provinces—for example, La Maison Bleue clinics in Montreal and the Access Alliance encompassing multiple community health clinics in Toronto. Additionally, because midwifery services are self-regulated in Ontario (unlike, for example in Manitoba, where they fall under the purview of the public regional health authority), the Association of Ontario Midwives provides funded midwifery services at no cost to people without access to provincial public insurance. As of 2015, this also includes provincial funding for laboratory testing, consultations with doctors, and hospital stays for uninsured midwifery patients (Darling et al., 2019).

Another approach has been to expand coverage to certain groups of people who are ineligible for public health insurance but are considered members of a particularly vulnerable group. For example, Quebec waives a usual 3-month waiting period for public

insurance eligibility to people with an immigration status that entitles them to coverage if healthcare related to pregnancy, childbirth, or termination of pregnancy is needed. As of 2021, the province of Quebec has also expanded public healthcare coverage to include all minors, regardless of the immigration status and health care eligibility of their parents. The Interim Federal Health Program, implemented at the federal level, is another example of specialized health coverage that aims at addressing the unique vulnerabilities experienced by refugee claimants, who are ineligible for provincial health insurance.

Lastly, provisions in the health privacy legislation in several jurisdictions—including British Columbia, Ontario, and Quebec—have led to clear limitations on if, and when, any health authority may contact border services with patient information. In Quebec, this protection is further developed within recent health legislation that expressly forbids sharing patient information for the purposes of confirming immigration status without consent of the patient unless compelled under a warrant, court order, or subpoena.

These approaches have been implemented in a piecemeal fashion, and more systematic, sustained, and coordinated efforts are needed to respond to the reproductive health needs of women and gender diverse people with precarious immigrant status.

Recommendations

The Alliance for Gender Justice in Migration calls for a more equitable access to reproductive justice for women and gender-diverse individuals regardless of immigration status. Doing so will not only reduce the severe health complications that, otherwise, occur for immigrants who already have to manage a complex web of systemic barriers, but also reduce the pressures placed on the emergency health care system in Canada (Hynie et al., 2016). Our well-being is connected as a community, as the events of the last past years have shown us, and this realization will lead us towards a more equitable future in the long-term.

In response to these barriers, we put forward the following recommendations for the full realization of sexual and reproductive health and rights for all precarious status migrants:

Provincial-level actions:

- Reduce the number of medically uninsured pregnant people by expanding access to public healthcare coverage
- Ensure care for medically uninsured pregnant people is adequately funded, either through provincial or regional partnerships with community health clinics, midwives, or specific programs catering to these needs

- Improve awareness of service options and provide accurate information about how those without public healthcare coverage can access the medical system, including for reproductive health needs both within migrant communities and also among healthcare staff and providers
- Enact legislation and establish clear policy within Regional Health Authorities to not pass on patient information to the Canadian Border Services Agency by implementing an Access Without Fear policy
- Close gaps in the labour standards and human rights legislation for precarious status migrants so they do not risk losing their employment and immigration status if they disclose a pregnancy
- Make linguistic- and cultural-appropriate, gender-sensitive healthcare services accessible to all migrant women and gender-diverse individuals

Community-level actions:

- Create networks to improve reproductive health care for those without public health care coverage involving multiple stakeholders such as reproductive health services, community health centres, migrant support groups, and international students

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