



Hypocrisy behind Bill 122

The passing of Bill 122 in Ontario, supposedly to improve transparency, means abortion statistics will be even harder to find

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The Ontario Liberal Party's Bill 122 slipped quietly into effect in January, 2012. Its laudable goal was to increase public access to information from hospitals and clinics. Instead, it has made some information more readily available while stonewalling other information requests altogether. Unfortunately, few have noticed.

Bill 122, "the Broader Public Sector Accountability Act," is meant to improve public sector transparency. Ironically, it has been used to devise blind spots so that citizens cannot gather information on certain public health issues such as patient care quality and abortion statistics. This has been accomplished through the bill's changes to the Freedom of Information and Privacy Protection Act (FIPPA). [1]

What is the Freedom of Information and Privacy Protection Act (FIPPA)?

Freedom of information requests, also known as access to information or FIPPA requests, are tools used to obtain important information the government might not otherwise release. Many undesirable data sets, adventures in political overspending and ignored briefing notes have become known to the public using freedom of information requests, a favourite tool of journalists. These requests are crucial to accountability.

Anyone who has ever tried to request information through FIPPA will tell you it's far from perfect. Testifying before a committee of the Ontario Legislature on Bill 122 on November 22, 2010, National Citizens Coalition director Peter Coleman reminded MPPs that freedom of information needs to improve. "This shouldn't be about the bureaucracy trying to hide what they're doing," he said. He went on: "It just leads to a higher level of mistrust when people are saying, 'I can't get information. I don't know if they're doing a good job or not. I'm asking for reasonable information and I'm getting no response.'" [2]

FIPPA search terms need to be precise, the government will likely filibuster requests or the information that you receive may turn out to be very different from what you'd asked for. These are just some of the problems with FIPPA. Nonetheless, freedom of information requests were one of the last tools that Ontario citizens had to gather information on abortion.

The history of abortion data as it pertains to FIPPA

The Institute of Marriage and Family Canada became aware of changes to FIPPA when a pro-life blogger, Patricia Maloney at Run With Life, found one of her access to information requests was

denied after Bill 122 became law. [3] After filing a FIPPA request for abortion statistics in spring 2012, Maloney received notice from the Ontario Ministry of Health and Long Term Care that effective January 1, 2012, FIPPA was amended by Bill 122 to exclude individuals from requesting information related to abortion. And where one form of information is denied, it is plausible that other infringements on freedom of information are possible.

That said, inaccurate abortion statistics are nothing new in Canada. Reporting abortions performed in clinics is optional; for example, British Columbia has not reported complete statistics for clinic abortions since 2007.

Starting in 1969, abortion statistics were collected and dispersed by Statistics Canada. [4] The slow death of data availability began following the 1988 decision in *R. v. Morgentaler* that struck down Canada's abortion laws, including those that outlined procedures for reporting data. Between 1988 and today, some clinics ceased reporting abortion statistics altogether. In 2010, Statistics Canada officially gave the Canadian Institute for Health Information (CIHI) total responsibility for the compilation and publication of Canadian abortion statistics.

CIHI admits that the data is incomplete, writing: "While this is probably an underestimate of induced abortions done in the country, it is currently the best way to produce pan-Canadian comparable data." [5]

Because of Ontario's poor abortion data, concerned citizens have relied heavily on FIPPA requests to fill some of the holes. This avenue of inquiry is now closed. Making matters even less transparent, our calls to Ontario Health Minister Deb Matthews's office to find out why abortion is excluded from FIPPA were not returned.

Repercussions of the lack of good data

"Whether you are a CEO, minister of health, policy-maker or analyst, you need good data and information to make good decisions." [6] So reads the splash page of CIHI's web site. True enough. So why has CIHI been complacent in the incomplete collection of abortion statistics? What are the implications of unavailable data?

Without abortion data it will be impossible to have accurate information regarding changes to the pregnancy rate, because the pregnancy rate is also a combination of live births, miscarriages and abortions. [7] A decline in the pregnancy rate may be indicative of other factors, such as changes to diet and exercise, lifestyle choices or environmental pollution. It is crucial to have correct information on the impact that these changes have on women's ability to become pregnant.

For example, in May 2012, the Vanier Institute, an Ottawa-based family think tank, published a fact sheet about teen pregnancy. In it, they state that the teen pregnancy rate has dropped "appreciably" (by 36.9 percent between 1996 and 2006). [8] This would be indeed an appreciable decline and therefore, a very good thing.

However, teen pregnancy rates are calculated as the sum of live births, induced abortions and miscarriages. Here, missing abortion statistics are resulting in missing teen pregnancies. We cannot celebrate the success of a decreasing teen pregnancy rate on the basis of this data.

Another example: Recently in Britain, abortion statistics were used to detect a rise in the number of women having repeat abortions, suggesting that physicians should take greater steps to discuss family planning with their patients. [9] The government of Ontario would have the ability to know, based on OHIP codes, whether we have a high repeat abortion rate. This is precisely the sort of information that a freedom of information request might reveal.

Where are the women?

The usually outspoken feminist organizations have been oddly quiet about the death of abortion data. We know they care about abortion. We know they use data; south of the border abortion statistics are compiled by former Planned Parenthood affiliate, The Guttmacher Institute. So where are their voices?

Improving the woeful state of abortion data in Canada is not a pro-life issue. Joyce Arthur of the decidedly pro-choice Abortion Rights Coalition of Canada has acknowledged in the past that, “[u]nfortunately, Ontario abortion data has been under-reported by an estimated 10-20,000 abortions a year for roughly the last decade because CIHI does not capture abortions done in doctors' offices or clinics not funded by OHIP.” [10]

The collection and provision of abortion data is an ideologically neutral action that governments can take to help facilitate educated and statistically based dialogue.

Recommendations

- **The changes made to FIPPA as a result of Bill 122 should be rescinded.**

Transparency and accountability must be core public sector values, not selective at the government's whim. FIPPA already has mechanisms in place to protect personal privacy while ensuring that information is available to the public. The same FIPPA rules that apply to environmental, transportation and other health statistics should be applied to those pertaining to abortion procedures.

- **Provincial governments should mandate accurate and complete annual reporting of abortion statistics within one year of fiscal year end.**

As with any procedure billed to OHIP, abortion data can be easily calculated using billing records.

- **Ontario citizens also have a responsibility to impress upon their elected provincial officials the consequences that this information gap imposes on public health.**

Citizens should be concerned anytime elected officials claw back information, as it only sets a precedent for withholding future statistics.

- **Finally, the stealth passage of this bill should be a wakeup call for sleepy opposition MPPs, citizens, the media, and other interested organizations.**

Accountability is only effective when voters, politicians, and the media keep a sharp eye on the government's actions. MPPs must ensure that they have read and understand all legislation, especially as behemoth omnibus legislation becomes more common.

Endnotes

- [1] Part 8 of The Broader Public Sector Accountability Act amends Section 65.5.7 of the Freedom of Information and Protection of Privacy Act, decreasing the transparency of abortion statistics in Ontario. This section states that "[t]his Act does not apply to records relating to the provision of abortion services."
- [2] Standing Committee of the Legislative Assembly of Ontario on Social Policy. (2010). Committee transcripts: standing committee on social policy- November 22, 2010- Bill 122, Broader Public Sector Accountability Act, 2010. Retrieved from http://www.ontla.on.ca/web/committee-proceedings/committee_transcripts_details.do?locale=en&Date=2010-11-22&ParlCommID=8875&BillID=2420&Business=&DocumentID=25404#P609_157346
- [3] Maloney, Patricia. (2012). Freedom of information in Ontario aborted. Retrieved from <http://run-with-life.blogspot.ca/search?updated-max=2012-05-17T08:01:00-04:00&max-results=7&start=35&by-date=false>
- [4] Statistics Canada. (2009). Therapeutic abortion survey. Definitions, Data Sources and Methods. Ottawa: Ministry of Industry. Retrieved from <http://www23.statcan.gc.ca/imdb/p2SV.pl?Function=getSurvey&SDDS=3209&lang=en&db=imdb&adm=8&dis=2>
- [5] Canadian Institute for Health Information. (2012). Induced abortions in Canada in 2010. Retrieved from http://www.cihi.ca/CIHI-ext-portal/pdf/internet/TA_10_ALLDATATABLES20120417_EN
- [6] Canadian Institute for Health Information. (2012). Vision and Mandate. Retrieved from <http://www.cihi.ca/CIHI-ext-portal/internet/EN/SubTheme/about+cihi/vision+and+mandate/cihi010703>
- [7] Simcoe Muskoka Health Stats. (2009). Teen pregnancy rate. Retrieved from <http://www.simcoemuskokahealthstats.org/Topics/PregnancyAndBefore/BirthFertilityRates/TeenPregnancyRate.aspx>
- [8] Vanier Institute of the Family. (2012, May 23). Teen pregnancy: supporting young parents. Ottawa: Vanier Institute of the Family. Retrieved from <http://www.vanierinstitute.ca/modules/news/newsitem.php?ItemId=437#.UFyG66DF3Tp>
- [9] Smith, R. (2012, May 30). Rise in women having repeat abortions. *The Telegraph*. Retrieved from <http://www.telegraph.co.uk/health/healthnews/9297552/Rise-in-women-having-repeated-abortions-official-figures.html>
- [10] Arthur, J. (2012). Counter arguments against motion m-312. Retrieved from <http://www.arcc-cdac.ca/action/M-312.html>

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