The transformative potential of law for gender and cancer

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The *Lancet* Commission[1] on women and cancer investigates the nexus of gender, power, and cancer. The law—by which we mean the wide range of national and international instruments and practices that includes legislation, regulation, court cases, international agreements, administrative instruments, decrees, and customs—has immense power to shape norms and behaviours of individuals, communities, organisations, and governments and as such, impacts all aspects of cancer prevention, research, treatment, and support.[2] Here, we draw a distinction between law and policy, which, although related, are distinct in their form and function. Laws are enforceable through court process and other functions of the state and are enacted through a formal legislative process. Laws can operate at an international level, joining states in regional and global commitments to address, for example, women's right to health; and at a national level, enacting legislation that creates formal and enforceable laws binding on individuals and organisations. Policies refer to norm-setting tools that provide guidance for the application of laws and decision-making procedures. Understanding the role of law (as a form of power) in gender and cancer is integral to any investigation that seeks transformative change in the way we understand and respond to inequities in cancer risks and outcomes.

The Commission's report highlights the intersectional dimensions of discrimination and the lived realities of women and girls in low-income and middle-income countries who are disproportionately affected by cancer because of overlapping experiences of gender inequality, environmental factors, health and social inequities, and the social and commercial determinants of health.[3] Similar inequalities are observed in high-income countries, with poorer outcomes in prevention and treatment of cervical cancer associated with race, ethnicity, and socioeconomic position.[4-6] Accordingly, when examining the role of law in gender and cancer, we must account for the intersection of multiple and overlapping identities, relationships, and social factors and how these are shaped by the content, design and implementation of the law.[7]

The relationship between law and gender is complex. Although law is presumed to be gender neutral, its origins are deeply rooted in patriarchal gender hierarchies that elevate and protect masculine-coded values and interests,[8] often resulting in laws or legal systems that either fail to account for differences in the experience of women and girls arising from embedded structural or social factors; or take a protective approach that reinforces gender stereotypes of motherhood, dependency, or vulnerability.[9] The patriarchal foundations of law manifest laws and systems that have the effect of limiting access to cancer prevention and treatment, such as requiring spousal consent for health examinations or access to sexual or reproductive health care, or discriminatory allocation of health resources increasing the cost of women's health services, which often they can least afford.[10]

Despite its gendered foundations, the essential nature of law to distributing power and setting societal norms means that it is a vital part of an approach to cancer that is gender-responsive and sensitive to the intersectional discrimination that women and girls face. Because laws operate at international, regional, national, and local levels, they can target risk factors or health system responses directly, while also transforming broader gender norms that contribute to cancer inequities. For example, while breastfeeding is protective against cancer,[11] women who breastfeed might lack structural supports in national law such as access to paid parental leave, protections against discrimination, workplace accommodations, and the regulation of breastmilk substitutes; supports which are reliant on laws and

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legal frameworks. Laws also affect broader societal factors, such as women's involvement in government decision making, gender norms regarding labour force participation, the burden of unpaid work, economic security, and societal attitudes towards women's bodies. Breastfeeding for cancer prevention might therefore be promoted both by national laws specific to breastfeeding, such as those implementing the WHO International Code of Marketing of Breast-milk Substitutes[12] (an international instrument), and addressing the gendered impact of laws regarding employment, political representation, equal opportunity and discrimination, social protections, and health and social infrastructure.

Addressing exposure to cancer risk factors such as tobacco, alcohol, and unhealthy foods can benefit from gender-responsive approaches. For example, in many countries, social norms regarding tobacco use could mean that women have low rates of cigarette smoking, but higher usage rates of other tobacco products, such as oral tobacco[13] which might require specific consideration of how non-cigarette tobacco products should be regulated. In other countries, specific marketing techniques, such as so-called slimmer cigarette sticks and packs, might target women,[14] emphasising the importance of regulating both design features and packaging. Ensuring that national laws are drafted to capture these gender dimensions, both to address their specific gendered impacts and to ensure that laws are comprehensive, is important. A WHO report prepared for the WHO Framework Convention on Tobacco Control (FCTC)[15] Conference of the Parties in 2018 identifies priority actions for countries to address gender-specific risks under article 4.2(d) of the FCTC.[16]

The law is also an essential but not always visible factor in facilitating access to cancer screening, treatment, and care for women and girls. Direct and indirect financial costs of treatment and care are common barriers for women affected by cancer, who might also lack financial autonomy or social independence.[17,18] Laws that connect women to social services and economic support are crucial to address the unique barriers women face when seeking to access cancer treatment and care. These include national laws guaranteeing income security and health protection across a woman's life, and particularly in the events of illness and injury, unemployment, childbirth, caring responsibilities, or during retirement and old age.[19] Expanding legal entitlements to paid leave, such as sick and carer's leave, including for those in informal and insecure work, is also important to overcome the financial barriers for women affected by cancer.[20,21]

In cancer research, law can be used to improve gender equity. Australia's National Health and Medical Research Council uses so-called special measures provisions in the federal *Sex Discrimination Act 1984* to set targets for the promotion of female and non-binary applicants in research funding awards.[22] Similarly, laws exist to promote gender equity in participation in cancer research, including clinical trials, such as in the USA and Europe.[23,24]

The law is an important part of realising many of the Commission's recommendations; laws lay the foundation for regulation of cancer risk factors and create the frameworks of our health systems and the way in which cancer research and treatment is conducted. But law is not a panacea; rather, it is part of the complex ecosystem of solutions to address the power imbalances and gender inequalities in cancer prevention and care. Laws that acknowledge the root causes of inequity for women, that are well designed and carefully implemented, and used in a coordinated way with other non-legal responses—such as policies, education and advocacy campaigns, actions by civil society organisations, and standards set by professional bodies—can be a powerful tool for change.

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