WOMEN'S LEGAL CENTRE

GENDER CONSIDERATION IN PROMOTING

SEXUAL AND REPRODUCTIVE HEALTH RIGHTS OF WOMXN IN THE NATIONAL HEALTH INSURANCE BILL [B11-2019]

PRESENTATION BY THE WOMEN'S LEGAL CENTRE
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INTRODUCTION TO THE WLC

The Women's Legal Centre ("The Centre") is an African feminist legal centre that advances womxn's rights and equality through strategic litigation, advocacy and education and training.

We aim to develop feminist jurisprudence that recognises and advances womxn's rights.

The Centre drives a feminist agenda that appreciates the impact that discrimination has on womxn within their different classes, race, ethnicity, sexual orientation, gender identity and disability.

The Centre does its work across five programmatic areas including the right to be free from violence, womxn's rights in relationships, and womxn's rights to land, housing property and tenure security, womxn's sexual and reproductive health rights and womxn's rights to work and at conditions of work.

SUMMARY OF SUBMISSION

These submissions focus on the ‘quality’ of, ‘access’ to, and definition of ‘health care services’ which the NHI Fund seeks to provide to its users, especially as they relate to womxn.

OUR SUBMISSION IS THEREFORE TWO-FOLD, ARGUING TWO CENTRAL POINTS, THAT:

- The current health care system does not support womxn, especially as it relates to the provision of sexual and reproductive health care and services.
  - We recognise that the provision of these services, within a sexual and reproductive justice framework, are necessary for the attainment and enjoyment of substantive equality for womxn in South Africa, and more especially for poor, black womxn living in under-resourced parts of the country.
  - The Act and its provisions, irrespective of the formulation, cannot work in the current health care system, which fails womxn;
- If the Bill is to continue along the parliamentary process, then we submit that it needs to make express provision for the procurement of adequate and comprehensive sexual and reproductive health care and services for womxn, and particularly the most vulnerable and under-resourced.

SUBMISSIONS TO BE MADE

OUR SUBMISSION IS THEREFORE GENDERED IN NATURE, AND WILL DEAL WITH THE FOLLOWING IN ARGUING THE FOLLOWING CENTRAL POINTS:

- The status of the current public healthcare system in South Africa and its inability to provide adequate access to comprehensive sexual and reproductive healthcare and services for womxn;
- The public/private divide, and the unequal distribution of health care services and resources in South Africa;
- The effect of unequal distribution on womxn's access to quality sexual and reproductive health and services.

FAILING WOMXN:

THE STATE *of* HEALTH CARE SERVICES IN SOUTH AFRICA

INEQUALITY IN ACCESS TO HEALTH INCLUDING SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS

- The right to healthcare is enshrined in the Constitution includes the right to reproductive healthcare. As one of its goals, the Bill seeks to ensure that the entire population is entitled to benefit from necessary, high quality health care, and no longer to be enjoyed by certain groups. The legacy of apartheid saw that the health system was and remains split along racial lines. The healthcare system continues to benefit the white minority population, whilst remaining severely under-resourced and inaccessible to the black majority. It continues to perpetuate the systemic inequalities designed and implemented by a racist regime.

- It is common cause that majority of South Africans from low-income and poor households rely on public health facilities to meet their healthcare needs. Approximately 83% of the South African population rely on the public health care system, of which majority are women, making up 51% of the total population. Womxn experience higher levels of poverty than their male counterparts, with a headcount of 58.6% in comparison to men at 54.9%.

- In using distance to the nearest hospital as an indicator, a recent joint study by the Department of Planning, Monitoring and Evaluation, Statistics South Africa, and the World Bank showed that the poorest in South Africa (33.8% decile) lived at least 20 kilometres away from a hospital, which was 27 percentage points higher than the proportion of the richest decile. Even more, rural communities (where poverty is consistently higher among persons living in these areas), are only served by 12% of the country's registered doctors, and 19% of its registered nurses.

RACE AND GENDER DIVIDE IN HEALTH AND SRHR

- Within this inequality in access to resources along poverty lines is a racial and gender divide, leaving poor, black womxn in South Africa in the worst position when accessing healthcare services; and the quality of these services are severely stunted, with only 5 out of 649 public health facilities across South Africa complying with the norms and standards set by the Department of Health.

- It follows that the experience of access to sexual and reproductive health and services necessarily tracks the same disproportionate pattern of unequal distribution in general health care services and resources.

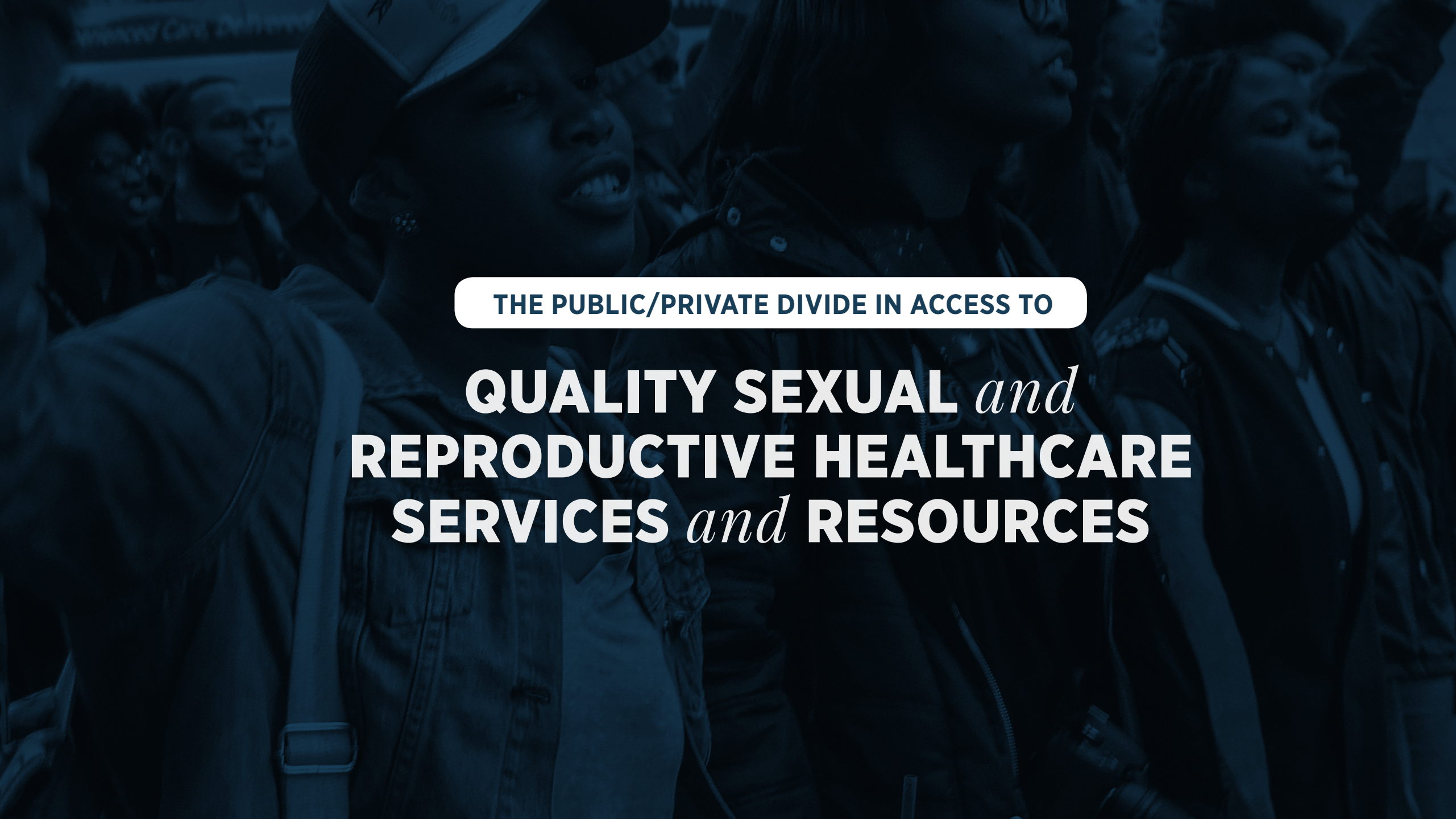
- The public healthcare system is in such a skewed state, unable to provide majority of the population with adequate access to quality healthcare services, which healthcare services necessarily include access to sexual and reproductive healthcare. These services are used by the majority of the population – womxn. It is imperative for the legislature to ensure that women are no longer neglected when formulating laws and policy.

NHI WITHIN AN INEFFECTIVE AND INEQUAL SYSTEM WILL FAIL

- As a result, it is necessary to improve the public healthcare system prior to enacting the NHI Bill and seeking to implement it. The challenges of inequality are exacerbated by the existing, weak healthcare system, and the NHI Bill cannot function in an unsustainable system that is incapable of adequately caring for the majority of the population.

- Furthermore, those sections that speak to the objective of strengthening the healthcare system and putting measures in place are inadequate in ensuring follow through, leaving a great deal of responsibility at the discretion of the Minister of Health to pass effective regulations to ensure such systems are in place to strengthen the current healthcare system.

- It is submitted that in its current formulation, this plan of action or avenue of redress is weak in setting out clear parameters within which the Fund will work within and alongside the current provincial departments of health, the Ministry, statutory bodies, and Parliament to ensure the proper improvement of the public healthcare system. Even more, to do this adequately would require concerted efforts on the part of the state to the exclusion of the implementation of the NHI given the dire state of the public healthcare system. Consequently, we submit that the NHI cannot proceed, as it will not succeed, in the current public healthcare system.



THE PUBLIC/PRIVATE DIVIDE IN ACCESS TO

QUALITY SEXUAL *and* REPRODUCTIVE HEALTHCARE SERVICES *and* RESOURCES

- According to a report compiled by Amnesty International, it was found that the private health care sector employs the majority of health care professionals and spends nearly 6 times more per patient in comparison to the public health care sector.

- This disproportionate access in care and services applies to the provisions of sexual and reproductive health care and services to womxn who rely on the public health care system. As stated before, this divide in access intersects across gender, race, and economic lines.

- Should the NHI be passed, we submit that there is a high probability that more services will be procured from the private health care sector versus from the public health care sector given the disparities in quality and access of care. It is likely that this will occur alongside the 'strengthening' of the public health system, as proposed by the NHI Bill; however, we submit that this will create an over-reliance on access to private health care providers and establishments, set at higher rates than those in the public health sector, but which resources (both human and medical) will not be able to sustain servicing the 83% of the South African population who historically relied on the public health care system.

- Consequently, the current operation of the health care system in South Africa along public and private lines, and the weak state of the public health care system, cannot support the effective implementation of the proposed NHI.
It is necessary to first close the gaps in access and service provision that exist between the private and public health sectors and strengthen and maintain a quality public health system before the NHI, in pursuit of Universal Health Coverage, can be pursued in South Africa.

THE EFFECT OF UNEQUAL ACCESS ON

WOMXN'S ACCESS TO COMPREHENSIVE *and* QUALITY SEXUAL *and* REPRODUCTIVE HEALTH *and* SERVICES

01

With respect to womxn's experiences of health care and services during childbirth, these services continue to be divided along racial lines. Black and coloured womxn give birth primarily in public facilities and white womxn giving birth with specialist physicians in private hospitals.

02

The experience of womxn in public health facilities indicates poor, unequal, and inefficient medical care, which often give rise to medical negligence claims.

03

Womxn accessing maternal health care services at public health facilities attested to negative interpersonal relations with caregivers; lack of information; neglect and abandonment; and the denial of the presence of a labour companion during birth.

ABORTION SERVICE PROVISION IN THE PUBLIC HEALTH SECTOR IS RIDDLED WITH OBSTACLES FOR WOMXN TRYING TO ACCESS THIS SERVICE. THESE INCLUDE:

- Stigma and discrimination. This is often expressed through health facilities and providers refusing services on the grounds of religious beliefs and conscience, turning womxn away when they seek an abortion, and often without referring them to a health care provider who is willing to provide them with the service.
- Restricted access to doctors authorised to provide terminations;
- A limited number of health care facilities at which womxn can access abortion services.
  Of the 505 facilities designed to offer abortion services in South Africa, only 264 are providing access to first and second trimester abortion services.;
- Poorly-trained, or untrained, staff employed at these limited health care facilities are unable to provide womxn access to abortion services in a manner that is respectful and sensitive to their medical needs.
  It is estimated that 50% of abortions are procured in the informal sector as womxn turn to unsafe and illegal abortion services for assistance where the public health system has failed them.

CONCLUSION

- Substantive equality continues to be a aspiration that many womxn of colour have not enjoyed at all especially in accessing health including sexual and reproductive health and rights.
- It is therefore imperative for the legislature to ensure that womxn are no longer neglected and ignored when formulating laws and policy on health in this instance.
- We refer you to our submission for more details on this presentation.

THANK YOU
for the
OPPORTUNITY.