



**Global
Justice Center**

Human Rights Through the Rule of Law

United States of America

Submission to the UN Universal Periodic Review

Twenty-Second Session of the UPR Working Group of the Human
Rights Council

October-November 2015

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A. Executive Summary

This submission sets out concerns over a United States (“US”) policy that results in the systematic denial of safe abortion services to girls and women raped in war in violation of their rights under international humanitarian law. The policy in question is a set of abortion restrictions that the US places on all of its foreign aid, without exception, including on humanitarian assistance to war victims. As a result of the overly narrow interpretation and implementation of these restrictions, US funds cannot be used for the provision of safe abortion services to girls and women raped in war. The restrictions also act to limit and censor abortion-related speech abroad. As explained in this submission, these restrictions by the US Government render the US noncompliant with its obligations under international humanitarian law, UN Security Council Resolutions, and international human rights law.

B. Framework of United States Policy Relevant to this Submission

1. This submission focuses on United States’ (“US”) policy that denies safe abortion services to girls and women raped in armed conflict in violation of the Geneva Conventions, customary international law and international human rights law. This US policy consists of restrictions on abortion services and abortion-related speech that the United States Government (“USG”) attaches to all of its foreign assistance, including humanitarian aid for war rape survivors in places like Syria, Nigeria and Burma.¹
2. During the first cycle of the UPR of the US, Norway recommended that the USG remove these restrictions on humanitarian aid for girls and women raped in war,² a recommendation that the USG rejected, citing “currently applicable restrictions.”³ It is crucial to note that under international law, a State may *not* invoke—as the USG does here—provisions of its internal law as justification for failing to comply with treaty- or customary-based international legal obligations.⁴ The USG refusal to accept Norway’s recommendation has, since 2011, resulted in the denial of comprehensive medical care to war rape survivors in conflicts around the world and censored billions of dollars in humanitarian and development aid.
3. The US policy arises from the overly narrow administrative interpretation and implementation of congressionally-imposed restrictions on foreign aid, in particular the Helms Amendment to the Foreign Assistance Act of 1961. The Helms Amendment provides that “[n]one of the funds made available to carry this part [Part 1 of the Foreign Assistance Act] may be used to pay for the performance of abortions as a

method of family planning or to motivate or coerce any person to practice abortions.”⁵ The phrase “abortion as a method of family planning” is interpreted to allow, at a minimum, funding for abortions in cases of rape, incest or life endangerment.⁶ The interpretation and imposition of these regulations by the USG, eliminates the phrase “as a method of family planning” and amounts to a full ban on abortion services with US foreign aid (see Annex A).⁷

4. The US abortion restrictions are applicable to all US foreign aid without exception⁸ and are imposed on nearly all the major providers of medical care for war victims, including the conflict countries themselves and multilateral agencies such as the United Nations (“UN”) and the International Committee of the Red Cross (“ICRC”). It should also be noted that the United Nations Population Fund (“UNFPA”) is subject to a unique restriction in addition to the general restrictions discussed above: UNFPA cannot perform a single abortion, even with funds from other donors, or it will be defunded by the US entirely.⁹ Since the US is the largest bi-lateral donor of humanitarian aid in the world, this US anti-abortion policy has become the de facto medical protocol for female victims of war rape worldwide,¹⁰ despite growing global consensus on the imperative to provide safe abortion services to girls and women raped in war.
5. In addition to restricting the provision of abortion services, US abortion restrictions also curtail abortion-related speech. The term “motivate,” as used in the Helms Amendment, is interpreted by the USG to prohibit virtually all public discussion of abortion and applies to “information, education, training, or communication programs” about abortion, including political speech.¹¹ Further, the Siljander Amendment prohibits the use of foreign assistance funding to lobby for or against abortion.¹²
6. In recent years, due to the increasing prioritization of preventing and responding to sexual violence in conflict, global consensus has grown around the legal and moral imperative of providing all necessary medical care, including abortion services, to war rape survivors (See Annex B). The UN Security Council has passed two resolutions recognizing a mandate to provide safe abortion services to girls and women raped in war (see Section B below). In response to these resolutions, the United Kingdom reviewed and changed its policy on humanitarian aid for women war rape victims recognizing that safe abortion services for these victims is protected under international humanitarian law (“IHL”).¹³ The Netherlands and France have likewise underlined the importance of complying with this IHL mandate.¹⁴
7. The US imposition of abortion restrictions on medical care for girls and women raped in war has become the subject of increasing global concern. In 2012 and 2013, the European Parliament passed two resolutions asking European Union Member States to segregate their humanitarian aid from that provided by the US due to concerns about the impact of US abortion restrictions on Member State aid.¹⁵ Several countries, including the United Kingdom and the Netherlands, have engaged the US in bilateral discussions on this issue to urge policy change.¹⁶ Finally, over 30 letters, representing over 3,500 groups, have been sent to President Obama urging him to ensure the rights

of girls and women raped in war by taking action to lift US abortion restrictions on foreign assistance (See Annex C).

C. US Abortion Restrictions on Humanitarian Aid for War Victims Violate International Humanitarian Law

8. International humanitarian law, in particular common Article 3 of the Geneva Conventions of 1949, their Additional Protocols (“API” and “APII”), and customary international law (“CIL”), require that all persons “wounded and sick” in armed conflict, including girls and women raped in armed conflict, whether civilian or combatant, be provided with comprehensive, non-discriminatory medical care.¹⁷ Specifically, they must be provided “to the fullest extent practicable and with the least possible delay the medical care and attention required by their condition,” with no adverse distinction made “on any grounds other than medical ones.”¹⁸ In recognition of the fact that the medical needs of men and women may differ based on biological differences, IHL provides that women “shall in all cases, benefit by [medical] treatment as favourable as that granted to men.”¹⁹ This means that the “outcome for each gender must be the same, not that the treatment must be identical.”²⁰ Furthermore, women and girls raped in war have an absolute right to be “treated humanely, without any adverse distinction founded on . . . sex”²¹ and must never be subjected to “cruel treatment and torture.”²²
9. Reinforcing the comprehensive, non-discriminatory nature of medical care owed to the “wounded and sick,” IHL provides that medical personnel treating war victims “shall neither be compelled to perform acts or to carry out work contrary to, nor be compelled to refrain from acts required by, the rules of medical ethics or other rules designed for the benefit of the wounded and sick.”²³ Because IHL trumps national law in times of armed conflict,²⁴ medical personnel are protected with immunity from prosecution under domestic laws that run contrary to IHL,²⁵ including laws criminalizing abortion.
10. Each of the above medical care provisions constitute CIL and are thus binding on the US.²⁶ The US itself, despite the fact that it has not ratified either Additional Protocol, considers itself bound by API’s comprehensive, non-discriminatory medical treatment mandate as CIL.²⁷
11. Common Article 1 of the Geneva Conventions of 1949 requires that all States, whether or not a party to the conflict, “respect” and “ensure respect for” the Conventions and IHL “in all circumstances.”²⁸ The US must therefore “respect” and “ensure respect for” IHL in all of its activities, including by providing humanitarian aid to women and girls in conflict settings “without discrimination of any kind.”²⁹
12. US abortion restrictions on humanitarian aid violate the mandates of IHL to provide comprehensive and non-discriminatory medical care to the “wounded and sick.” The restrictions single out and ban one particular medical procedure, which one sex alone requires, while permitting male war rape victims to be provided all necessary medical

care. This disparity in medical treatment on the basis of sex constitutes a violation of IHL's absolute prohibition on "adverse distinction," or discrimination. As the former head of the ICRC's legal division, Louise Doswald-Beck, has explained, "IHL treaties do not spell out the types of medical treatments that should be given, but only require that they be those necessary for the condition of the patient, without any adverse distinction." For many women, abortion is not only the preferable option but also the safer option as compared to an unwanted and dangerous pregnancy. Even outside of conflict, where women and girls face increased maternal mortality due to many factors,³⁰ childbirth is 14 times more likely to lead to death than a safe abortion.³¹

13. US abortion restrictions also violate IHL's requirement of humane treatment. The denial of abortions to women and girls raped in war results in increased maternal mortality and compounds the damaging physical, psychological, and social consequences of rape.³² By forcing female rape victims to carry their unwanted and oftentimes dangerous pregnancies to term, US policy violates their right to be treated humanely.
14. Finally, US abortion restrictions contravene IHL's prohibition on cruel treatment and torture. War rape victims are considered to be victims of torture.³³ The US recognizes this, utilizing funds appropriated for treating torture victims to provide medical care to war rape survivors in places like the Democratic Republic of Congo. As victims of torture, women and girls raped in armed conflict are entitled to full rehabilitative medical care, including the option of abortion,³⁴ and the denial of such care has been deemed torture or cruel and inhuman treatment.³⁵ US policy, by forcing torture victims to suffer through unwanted and risky pregnancy and childbirth on the one hand or unsafe abortion or suicide on the other hand, violates this IHL prohibition.

D. US Abortion Restrictions on Humanitarian Aid for War Victims Violate United Nations Security Council Resolutions 2106 and 2122

15. In 2013, the Council passed two new resolutions under the Women, Peace and Security umbrella, both of which require donor States to ensure access to comprehensive and non-discriminatory medical care, including safe abortion services, and both of which were voted for by the US.³⁶
16. Security Council Resolution 2106 calls for all donor states to "provide non-discriminatory and comprehensive health services, including sexual and reproductive health . . . services for survivors of sexual violence . . ."³⁷ This language was adopted in reference to the following recommendation by the Secretary-General, in his annual report on sexual violence in conflict, that aid to girls and women raped in armed conflict must include safe abortion services:

Girls and women lack access to services that would allow them to safely terminate a pregnancy and are often forced to either carry out unwanted pregnancies resulting from rape or undergo dangerous abortions. Therefore,

access to safe emergency contraception and services for the termination of pregnancies resulting from rape should be an integral component of any multisectoral response.³⁸

17. Security Council Resolution 2122 reinforces this requirement by “*noting* the need for access to the full range of sexual and reproductive health services, including regarding pregnancies resulting from rape, without discrimination . . .”³⁹ This language was adopted in response to a recommendation by the Secretary-General to the Security Council that Member States should ensure that their humanitarian aid can be used to provide safe abortion services in compliance with the non-discrimination mandates of international law. Specifically, the Secretary-General states that Member States should:

[E]nsure that humanitarian aid and funding provides for the full range of medical . . . services to victims of rape, including access to services for safe termination of pregnancies resulting from rape, without discrimination and in accordance with international human rights and humanitarian law.⁴⁰

18. The US, as a member of the UN, is bound by the UN Charter and must accordingly accept and carry out the decisions of the UN Security Council.⁴¹ By failing to permit the provision of safe abortion services to girls and women raped in war with US humanitarian aid, the US is in violation of Security Council Resolutions 2016 and 2122, and, consequently, its obligation under Article 25 of the UN Charter to accept and carry out the decisions of the Security Council.

E. US Abortion Restrictions on Foreign Aid Violates US Obligations under the Convention against Torture and the International Covenant on Civil and Political Rights

International Covenant on Civil and Political Rights (“ICCPR”)

19. Under article 19 of the ICCPR,⁴² everyone has the right to freedom of expression. US abortion restrictions, including the Helms Amendment and the Siljander Amendment, infringe upon that right “to seek, receive and impart information and ideas of all kinds.” They effectively censor political speech: US funding recipients are prohibited from expressing any ideas that “motivate” or “lobby” for abortion, and women are unable to receive information regarding abortion.
20. Under article 2(1) of the ICCPR, the US has a legal obligation to protect all rights guaranteed by the Covenant and such rights are owed not only to individuals, but also to other State parties to the Covenant.⁴³ In this context, US abortion speech restrictions impede the realization of rights guaranteed in the ICCPR by other State parties, including obligations relating to the right to abortion and obligations to eliminate structural barriers to women’s rights, such as criminal abortion laws.

21. Given that the US is the largest bilateral donor to rule of law and governance programs,⁴⁴ family planning and reproductive health programs,⁴⁵ and humanitarian assistance, funding conditions on abortion speech widely limit access to unbiased training and implementation of equality rights under treaties including the ICCPR. Additionally, the Human Rights Committee (“HRC”) has on numerous occasions recommended that State parties amend their criminal abortion laws to comport with the ICCPR.⁴⁶
22. US abortion censorship stifles domestic dialogue on criminal abortion laws, impeding changes required to comply with the ICCPR.⁴⁷ For example, in December 2013, USAID prevented funding recipients’ participation in a working group to address reproductive health solutions to the high maternal mortality rate in Kenya. It should be noted that the HRC had specifically recommended that Kenya “should review its abortion laws, with a view to bringing it into conformity with the covenant.”⁴⁸ Specifically, USAID stated that given that the meeting would discuss “an RH [reproductive health] approach,” it would violate the Helms Amendment and other US abortion restrictions (including the Siljander Amendment) due to the fact that under these restrictions USAID grantees could not “advocate for or promote certain RH services.”⁴⁹

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“CAT”)

23. The Committee against Torture has increasingly found that access to abortion, at least in certain circumstances, implicates the rights guaranteed by the Convention, including its Article 2 guarantee to be free from torture, or cruel, inhuman or degrading treatment and its Article 14 guarantee of “the means for as full rehabilitation as possible,” which includes complete medical care for injuries resulting from violations.⁵⁰
24. The Committee has also found that impediments to safe abortion access, in particular for rape victims, lead to “grave consequences, including unnecessary deaths of women,”⁵¹ and that “the situation entails constant exposure to the violation committed against her and causes serious traumatic and stress and a risk of long-lasting psychological problems.”⁵² Accordingly, States have obligations under CAT to take steps to “prevent acts that put women’s physical and mental health at grave risk and that constitute cruel and inhuman treatment,”⁵³ including by ensuring access to safe abortion services for rape victims. US abortion restrictions violate these obligations under CAT.

F. Recommendations

25. President Obama should issue an executive order to permit US foreign assistance to be used for safe abortion services in the cases of rape, life endangerment or incest and, in the case of women and girls raped in war, to affirm that their rights to safe abortion are governed and guaranteed by the Geneva Conventions.

26. The USG should issue clear guidance regarding US abortion restrictions so that organizations and foreign governments know that they can provide information about abortion as well as abortion services to women and girls raped and impregnated in war without jeopardizing their US funding.

¹ Global Justice Center, *Lift the Ban: The Impact of US Abortion Restrictions on Kidnapped Nigerian Schoolgirls*, http://globaljusticecenter.net/index.php?option=com_mtree&task=att_download&link_id=420&cf_id=34; Global Justice Center, *How the US is Blocking Access to Safe Abortion Services for Women and Girls Impregnated by Rape in Syria*,

http://globaljusticecenter.net/index.php?option=com_mtree&task=att_download&link_id=419&cf_id=34.

² Human Rights Council, *Report of the Working Group on the Universal Periodic Review: United States of America*, ¶ 92.228, U.N. Doc. A/HRC/16/11 (4 Jan. 2011).

³ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: United States of America, Addendum – Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State Under Review*, ¶¶ 27, U.N. Doc. A/HRC/16/11/Add.1 (8 Mar. 2011).

⁴ Draft Articles of State Responsibility, art. 3 and Commentary ¶¶ 1-7 to art. 3; Vienna Convention on the Law of Treaties, art. 27 1980 U.N.T.S. 331. *See also* Anglo-Norwegian Fisheries, U.K. v. Norway, Order, 1951 I.C.J. 117, 132 (Jan. 18); Nottebohm, Liechtenstein v. Guatemala, Preliminary Objection, Judgment, 1953 I.C.J. 111, 123 (Nov. 18); Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947, Advisory Opinion, 1988 I.C.J. 12, 34-35, ¶ 57.

⁵ Foreign Assistance Act of 1961, Pub. L. No. 87-195, § 104(f)(1), 75 Stat. 424, as amended by the Foreign Assistance Act of 1973 (P.L. 93-189).

⁶ For example, the guidance issued by the Bush Administration in restoring the Mexico City Policy defined “as a method of family planning” as follows: “Abortion is a method of family planning when it is for the purpose of spacing births. This includes, but is not limited to, abortions performed for the physical or mental health of the mother, but does not include abortions performed if the life of the mother would be endangered if the fetus were carried to term or abortions performed following rape or incest (since abortion under these circumstances is not a family planning act).” Memorandum on Restoration of the Mexico City Policy, at 4, 66 Federal Register 17306 (March 29, 2001), available at <http://www.gpo.gov/fdsys/pkg/FR-2001-03-29/pdf/01-8011.pdf>.

⁷ Global Justice Center, *Q&A: How President Obama Can – and Must – Save the Lives of Girls & Women Raped in War by Lifting the Abortion Ban Attached to Humanitarian Aid*, http://globaljusticecenter.net/index.php?option=com_mtree&task=att_download&link_id=413&cf_id=34.

⁸ LUISA BLANCHFIELD, CONG. RESEARCH SERV., R41360, ABORTION AND FAMILY PLANNING-RELATED PROVISIONS IN U.S. FOREIGN ASSISTANCE LAW AND POLICY (2014), available at <http://fas.org/sgp/crs/row/R41360.pdf>.

⁹ United States Consolidated Appropriations Act 2014, Pub. L. No. 113-76, §7063(d)(2), 128 Stat. 5 (Jan. 17, 2014).

¹⁰ *See* Global Justice Center, *The Right to an Abortion for Girls and Women Raped in Armed Conflict*, at 8, <http://globaljusticecenter.net/index.php/publications/briefs-and-white-papers/2-the-right-to-an-abortion-for-girls-and-women-raped-in-armed-conflict-february-2011>.

¹¹ USAID Policy Paper – Bureau for Program and Policy Coordination, Population Assistance, September 1982, at 7.

¹² Siljander Amendment, FY 2006 Appropriations Act, Pub. L. No. 109-102, “Child Survival and Health Programs Fund,” 119 Stat. 2172.

¹³ DEPARTMENT FOR INTERNATIONAL DEVELOPMENT, SAFE AND UNSAFE ABORTION - THE UK’S POLICY ON SAFE AND UNSAFE ABORTION IN DEVELOPING COUNTRIES (a DfID Strategic Document), June 2014, at p. 9.

¹⁴ *See* Written parliamentary answers from Frans Timmermans, Minister of Foreign Affairs, and Liliaane Ploumen, Minister of Foreign Trade and Development Aid, in answer to questions from Parliament Member Sjoerd Sjoerdsma regarding safe abortion for raped women in war zones (Mar. 8, 2013), available at <http://globaljusticecenter.net/index.php/news-and-events/news1/press-releases/319-netherlands-affirms-right-of-women-raped-in-armed-conflict-to-abortions-as-part-of-necessary-medical-care-under-international-law>; Security Council, 6984th meeting, U.N. Doc. S/PV.6984 (June 24, 2013), at 48 (statement by

Netherlands); Security Council, 7160th meeting, U.N. Doc. S/PV.7160 (Apr. 25, 2014), at 15 (statement by France).

¹⁵ European Parliament resolution of 13 March 2012 on equality between women and men in the European Union – 2011, P7_TA(2012)0069, ¶ 61, *available at* <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2012-0069&language=EN&ring=A7-2012-0041> (“Reminds the Commission and the Member States of their commitment to implement UN Security Council Resolution 1325 on Women, Peace and Security, and urges the provision of EU humanitarian aid to be made effectively independent from the restrictions on humanitarian aid imposed by the USA, in particular by ensuring access to abortion for women and girls who are victims of rape in armed conflicts . . .”); European Parliament resolution of 13 June 2013 on the Millennium Development Goals – defining the post-2015 framework, P7_TA-PROV(2013)0283, ¶ 31, *available at* <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2013-0283+0+DOC+XML+V0//EN>.

¹⁶ *See, e.g.*, Questions Asked by Baroness Uddin regarding Abortion – Answered by Baroness Northover (Dec. 2, 2013), *available at*

<http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/131202w0001.htm>; Written parliamentary answers from Frans Timmermans, Minister of Foreign Affairs, and Liliaane Ploumen, Minister of Foreign Trade and Development Aid, in answer to questions from Parliament Member Sjoerd Sjoerdsma regarding safe abortion for raped women in war zones (Mar. 8, 2013), *available at* http://globaljusticecenter.net/index.php?option=com_mtree&task=att_download&link_id=319&cf_id=34.

¹⁷ Protocol Additional (I) to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts [hereinafter “Protocol I”], (1979) 1125 UNTS 3, art. 10, “In all circumstances they [the wounded and sick] shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any grounds other than medical ones”; Additional Protocol (II) to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts [hereinafter “Protocol II”], (1979) 1125 UNTS 609, art. 7. *See also* International Committee of the Red Cross (ICRC), Customary International Law Database, Rule 26 (medical personnel must be allowed to give the best possible care in accordance with medical ethics (this rule is codified in API, art. 16 and also applies to non-international conflicts)) *available at* <https://www.icrc.org/customary-ihl/eng/docs/Home>.

¹⁸ Global Justice Center, *The Right to an Abortion for Girls and Women Raped in Armed Conflict*, at 8, <http://globaljusticecenter.net/index.php/publications/briefs-and-white-papers/2-the-right-to-an-abortion-for-girls-and-women-raped-in-armed-conflict-february-2011> (citing Protocol I art. 10 and Protocol II art. 7 (relating to non-discriminatory health care)).

¹⁹ Geneva Convention (III) Relative to the Treatment of Prisoners of War, (1950) 75 UNTS 135, art. 14.

²⁰ Letter from Professor Louise Doswald Beck (former Legal Advisor to the ICRC) to President Barack Obama (10 Apr. 2013), *available at* http://globaljusticecenter.net/index.php?option=com_mtree&task=att_download&link_id=321&cf_id=34.

²¹ *See* Common Article 3 to the Geneva Conventions of 1949; Protocol I Arts. 8, 10; Protocol II, art. 7; ICRC, Customary IHL Database, Rules 87 (humane treatment) and 88 (non-discrimination).

²² *See* Common Article 3 to the Geneva Conventions of 1949; ICRC, Customary IHL Database, Rule 90 (torture and cruel, inhuman or degrading treatment).

²³ *See* Protocol II, art. 10; Protocol I, art. 16; ICRC, Commentary to Protocol I, art. 16, (General protection of medical duties: protecting those providing medical care to the wounded and sick “against any compulsion to perform acts - or refrain from performing acts - contrary to the patient’s interests”); ICRC, Customary IHL Database, Rule 26 (medical activities).

²⁴ *See* Memorandum of the Deputy U.S. Secretary of Defense to Secretaries of the Military Departments on the Application of Common Article 3 of the Geneva Conventions to the Treatment of Detainees in the Department of Defense (7 July 2006) *available at*

<http://www.defense.gov/pubs/pdfs/DepSecDef%20memo%20on%20common%20article%203.pdf>; ICRC, *Professional Standards for Protection Work: Carried Out by Humanitarian and Human Rights Actors in Armed Conflict and Other Situations of Violence*, at 41 (Oct. 2009) (“pending such changes [to bring national law into

conformity with international law] protection actors should nevertheless be prepared to point out that domestic law cannot be used as an excuse for non-compliance with international obligations”).

²⁵ See Protocol I, art. 16 (“Under no circumstances shall any person be punished for carrying out medical activities compatible with medical ethics . . .”); Protocol II, art. 10 (“Under no circumstances shall any person be punished for having carried out medical activities compatible with medical ethics . . .”).

²⁶ ICRC, Customary IHL Database, Rules 26 (medical activities) and 110 (treatment and care of the wounded, sick and shipwrecked).

²⁷ Michael J. Matheson, *The United States Position on the Relation of Customary International Law to the 1977 Protocols Additional to the 1949 Geneva Conventions*, 2 AM. U.J. INT’L L. & POL’Y 419 (1987).

²⁸ Common Article 1 to the Geneva Conventions of 1949. See International Committee of the Red Cross, Laurence Boisson de Chazournes & Luigi Condorelli, *Common Article 1 of the Geneva Conventions revisited: Protecting collective interests*, INT’L REV. RED CROSS, Article No. 837 (March 31, 2000).

²⁹ Military and Paramilitary Activities in and against Nicaragua (Nicar. v. U.S.), Merits, Judgment, 1986 I.C.J. 14, ¶ 243.

³⁰ Harvard School of Public Health & Physicians for Human Rights, *The Use of Rape as a Weapon of War in the Conflict in Darfur, Sudan*, at 20 (Oct. 2004).

³¹ E.G. Raymond & D.A. Grimes, *The comparative safety of legal induced abortion and childbirth in the United States*, 199(2) Obstetrics and Gynecology 215-219 (Feb 2012).

³² Global Justice Center, *The Right to an Abortion for Girls and Women Raped in Armed Conflict*, at 9, <http://globaljusticecenter.net/index.php/publications/briefs-and-white-papers/2-the-right-to-an-abortion-for-girls-and-women-raped-in-armed-conflict-february-2011>

³³ See International Criminal Tribunal for the former Yugoslavia, *Prosecutor v. Zdravko Mucić, Hazim Delić, Esad Landžo & Zejnil Delalić (Čelebići Camp)*, Appeals Chamber Judgement of 20 February 2001, IT-96-21, ¶ 501 (finding that a woman prisoner’s rape, which was committed by an armed official with “discriminatory intent” and which “caused [her] severe mental and physical pain and suffering,” constituted torture); Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, U.N. Doc. A/HRC/7/3 (15 Jan. 2008), ¶ 36 (noting that “rape can cause suffering that even go[es] beyond the suffering caused by classic torture . . . [including because rape victims] may experience unwanted pregnancies, miscarriages, forced abortions or denial of abortion”) (internal citations omitted).

³⁴ Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides that victims of torture are to be given the “means for as full rehabilitation as possible.” Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment, 1456 U.N.T.S. 85, art. 14 (10 Dec. 1984). In addition, the Istanbul Protocol, which sets out guidelines for doctors and others, provides that doctors treating torture victims have a “duty to act only in the patient’s interest . . . regardless of other considerations, including the instructions of employers, prison authorities or security forces,” and they must “have the professional independence to represent and defend the health needs of patients against all who would deny or restrict needed care for those who are sick or injured.” See UN Office of the High Commissioner for Human Rights, *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Istanbul Protocol”)*, U.N. Doc. HR/P/PT/8/Rev.1, at 13 (2004) (internal citations omitted).

³⁵ K.L. v. Peru, U.N. Doc. CCPR/C/85/D/1153/2003 (Nov. 22, 2005) available at <http://reproductiverights.org/sites/crr.civactions.net/files/documents/KL%20HRC%20final%20decision.pdf>.

³⁶ S.C. Res. 2106, ¶19, U.N. Doc S/RES/2106 (June 24, 2013); S.C Res 2122, preamble, U.N. Doc S/RES/2122 (Oct. 18, 2013).

³⁷ S.C. Res. 2106, ¶19, U.N. Doc S/RES/2106 (June 24, 2013).

³⁸ Report of the Secretary-General on Sexual violence in conflict, ¶12, U.N. Doc. S/2013/149 (14 Mar. 2013).

³⁹ S.C Res 2122, preamble, U.N. Doc S/RES/2122 (Oct. 18, 2013).

⁴⁰ Report of the Secretary-General on women peace and security, ¶ 72(a), U.N. Doc. S/2013/525 (Sept. 4, 2013) (emphasis added).

⁴¹ U.N. Charter art. 25.

⁴² International Covenant on Civil and Political Rights (“ICCPR”), art. 19(2), Dec. 16. 1966, 99 U.N.T.S. 171.

⁴³ Human Rights Committee, General Comment 31: Nature of the General Legal Obligation on States Parties to the Covenant, ¶2, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (29 Mar. 2004).

⁴⁴ USAID, *DCHA/DG User's Guide to DG Programming* (Nov. 2010), available at http://www.usaid.gov/our_work/democracy_and_governance/publications/pdfs/DG_UserGuide_November10.pdf.

⁴⁵ United States Mission on the United Nations, *Non-paper by the United States of America, on the Report of the Secretary General on the Flow of Financial Resources for Assisting in the Implementation of the Programme of Action of the International Conference on Population and Development in the United Nations Economic and Social Council Commission on Population and Development*, 42nd Sess. (Mar. 30, 2009), available at: <http://usun.state.gov/briefing/statements/2009/march/131657.htm>.

⁴⁶ See Human Rights Committee, Concluding Observations: Poland, ¶8, U.N. Doc. CCPR/CO/82/POL (27 Oct. 2010); Human Rights Committee, Concluding Observations: Guatemala, ¶19, U.N. Doc. CCPR/CO/72/GTM (27 Aug. 2001); Human Rights Committee, Concluding Observations: Nicaragua, ¶13, U.N. Doc. CCPR/C/NIC/CO/3 (12 Dec. 2008).

⁴⁷ Kristina Kallas and Akila Radhakrishnan, *If These Walls Could Talk, They Would be Censored: U.S. Restrictions on Pro-Choice Speech*, Center for Women Policy Studies (June 2012), available at http://www.centerwomenpolicy.org/programs/health/statepolicy/documents/REPRO_IfTheseWallsCouldTalk_KristinaKallasAkilaRadhakrishnan.pdf.

⁴⁸ Human Rights Committee, Concluding Observations: Kenya, ¶ 14, U.N. Doc. CCPR/CO/83/KEN (Apr. 29, 2005).

⁴⁹ Ipas, *The Helms Amendment and USAID Censorship and Intimidation in Reproductive Health Policymaking in Kenya*, Feb. 18. 2014.

⁵⁰ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT"), art. 2 and 14, Dec. 10, 1984, 1465 U.N.T.S. 85. See also Amnesty International, *The Impact of the Complete of Abortion in Nicaragua: Briefing to the United Nations Committee Against Torture* (2009), available at: <https://doc.es.amnesty.org/cgi-bin/ai/BRSCGI/NICARAGUA%20THE%20IMPACT%20OF%20THE%20COMPLETE%20BAN%20OF%20ABORTION%20IN%20NICARAGUA:%20BRIEFING%20TO%20THE%20UNITED%20NATIONS%20COMMITTEE%20AGAINST%20TORTURE?CMD=VEROBJ&MLKOB=27451372258>.

⁵¹ Committee against Torture, Concluding Observations: Peru, U.N. Doc. CAT/C/PER/CO/4, ¶23 (25 July 2006).

⁵² Committee against Torture, Concluding Observations: Nicaragua U.N. Doc. CAT/C/NIC/CO/1, ¶16 (10 June 2009).

⁵³ Committee against Torture, Concluding Observations: Peru, U.N. Doc. CAT/C/PER/CO/4, ¶23 (25 July 2006).

Annex A: Excerpts from Abortion Restrictions Attached to United States Foreign Aid

- I. Excerpts from United States Agency for International Development regulations and contract provisions implementing abortion restrictions on grants to US non-governmental organizations, non-US non-governmental organizations, and foreign governments
- II. Evidence of US Department of State's refusal to provide clear guidance to grantees on how to implement US abortion restrictions
- III. Summary of currently applicable congressional abortion restrictions on US foreign assistance
- IV. Additional congressional restrictions on the United Nations Population Fund preventing it from funding abortions with non-US funds

I. Excerpts from United States Agency for International Development regulations and contract provisions implementing abortion restrictions on grants to US non-governmental organizations, non-US non-governmental organizations, and foreign governments

United States Agency for International Development, Standard Provisions for U.S. Non-governmental Organizations, A Mandatory Reference for ADS Chapter 303, August 22, 2013



Standard Provisions for U.S. Nongovernmental Organizations

A Mandatory Reference for ADS Chapter 303

- d. Prohibition on Abortion-Related Activities:
 - (1) No funds made available under this award will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to any person to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and, (v) lobbying for or against abortion. The term "motivate," as it relates to family planning assistance, must not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options.
- b. Ineligible and Restricted Commodities and Services:
 - (1) Ineligible Commodities and Services. The recipient must not, under any circumstances, procure any of the following under this award:
 - (i) Military equipment,
 - (ii) Surveillance equipment,
 - (iii) Commodities and services for support of police or other law enforcement activities,
 - (iv) Abortion equipment and services,
 - (v) Luxury goods and gambling equipment, or
 - (vi) Weather modification equipment.



Standard Provisions for Non-U.S. Nongovernmental Organizations

A Mandatory Reference for ADS Chapter 303

Prohibition on Abortion-Related Activities:

- (1) No funds made available under this award will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to any person to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and (v) lobbying for or against abortion. The term "motivate," as it relates to family planning assistance, must not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options.

b. Ineligible and Restricted Commodities and Services:

- (1) Ineligible Commodities and Services. The recipient must not, under any circumstances, procure any of the following under this award:
 - (i) Military equipment,
 - (ii) Surveillance equipment,
 - (iii) Commodities and services for support of police or other law enforcement activities,
 - (iv) Abortion equipment and services,
 - (v) Luxury goods and gambling equipment, or
 - (vi) Weather modification equipment.



Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: June 12, 2008

AAPD 08-01

Voluntary Population Planning Activities – Updated Requirements and Clause

Subject Category: Acquisition Management
Type: POLICY

(b) *Prohibition on Abortion-Related Activities.*

(1) No funds made available under this contract will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to any person to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and (v) lobbying for or against abortion. The term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options.

(2) No funds made available under this contract will be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning. Epidemiologic or descriptive research to assess the incidence, extent or consequences of abortions is not precluded.

(c) The contractor shall insert this provision in all subcontracts.

Limited Scope Grant Agreement (LSGA)

Title Page

Between the United States of America, acting through the United States Agency for International Development ("USAID")

and

The Government of _____ ("Grantee")

1. Activity Title: _____.
2. USAID Activity Number: _____.
3. Purpose: USAID and the Grantee hereby agree to carry out the Activity described in this Agreement in accordance with (a) the terms of this Agreement and (b) any general agreement between the two governments regarding economic or technical cooperation [optional: title of the governing agreement].
4. USAID Contribution: USAID, pursuant to the Foreign Assistance Act of 1961, as amended, hereby grants to the Grantee U.S.\$ _____ (the "Grant") to be expended as described herein.

Article P: Voluntary Family Planning.

[Agreement Language]

The Parties agree that all USAID funds provided under this Agreement shall be used in accordance with applicable United States policy and statutory requirements relating to voluntary family planning projects, and that none of the USAID funds provided under this Agreement, or goods or services financed by such funds, may be used for:

(a) the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions;

(b) the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations; or

(c) any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a method family planning.

(d) USAID will issue implementation letters that more fully describe the requirements of this section.

United States Agency for International Development, Development Objective Agreement and Bilateral Project Agreement Template (non-health), A Mandatory Reference for ADS Chapters 350 and 220, July 22, 2014



Development Objective Agreement and Bilateral Project Agreement Template

(d) Abortion restrictions

(1) None of the USAID funds provided under this Agreement shall be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to women to coerce or motivate women to have abortions; (iii) payments to persons to perform abortions or to solicit women to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and (v) lobbying for abortion.

Section F.2. Abortion and Involuntary Sterilization Restrictions. [Include in any Agreement that finances any democracy and governance activities that will support constitutional or any health-related legislative reform.]

(a) Funds made available under this Agreement must not be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any individual to practice sterilization.

(b) No funds made available under this Agreement will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to any person to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and (v) lobbying for or against abortion. The term "motivate", as it relates to family planning assistance, must not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options.

II. Evidence of US Department of State's refusal to provide clear guidance to grantees on how to implement US abortion restrictions

United States Government Accountability Office, Report to Congressional Requesters. Foreign Assistance: Clearer Guidance on Compliance Overseas with Legislation Prohibiting Abortion-Related Lobbying, October 2011

Department of State Comments on GAO Draft Report

FOREIGN ASSISTANCE: Clearer Guidance Needed on Overseas Compliance with Legislation Prohibiting Abortion-Related Lobbying (GAO-12-35, GAO Code 320828)

Thank you for the opportunity to comment on your draft report entitled *Foreign Assistance: Clearer Guidance Needed on Overseas Compliance with Legislation Prohibiting Abortion-Related Lobbying*.

Recommendations: To help ensure the actions of U.S. officials and implementing partners comply with the legislative prohibition against using certain U.S. assistance funds to lobby for or against abortion, we recommend that the Secretary of State and the USAID Administrator develop specific guidance on compliance with the Siljander Amendment, indicating what kinds of activities may be prohibited, disseminate this guidance throughout their agencies, and make it available to award recipients and subrecipients.

Response: The Department of State concurs with this recommendation only in part. The Department agrees it would be useful to inform State Department employees of the restriction so that they can seek appropriate guidance from the relevant Department policy and legal offices as to whether their proposed activities, including activities executed through grants and contracts, are subject to this funding restriction and will undertake to disseminate such information within the Department. The Department does not agree that disseminating specific guidance indicating what kinds of activities may be prohibited is appropriate. Determining whether activities are prohibited requires an understanding of the specific facts of any particular case. As general guidance cannot foresee all the relevant facts, it could result in activities being undertaken in reliance upon the guidance without specific legal review by the Department. The Department prefers to take steps to broaden awareness of the provision and have individuals seek advice on a case-by-case basis.

III. Summary of currently applicable congressional abortion restrictions on US foreign assistance

Helms Amendment (1973)

“None of the funds made available to carry out [Part 1 of the Foreign Assistance Act] may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.”

Source: Section 104(f)(1) of the Foreign Assistance Act of 1961 (P.L. 87-195; 22 U.S.C. 2151b(f)(1)), as amended by the Foreign Assistance Act of 1973 (P.L. 93-189), approved December 17, 1973.

Siljander Amendment (1981)

“None of the funds made available under this Act may be used to lobby for or against abortion.”

Source: Consolidated Appropriations Act 2014

Leahy Amendment (1994)

“[F]or the purposes of this or any other Act authorizing or appropriating funds for the Department of State, foreign operations, and related programs, the term “motivate,” as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options.”

Source: Consolidated Appropriations Act 2014

IV. Additional congressional restrictions on the United Nations Population Fund preventing it from funding abortions with non-US funds

Excerpt from the H.R.3547 - Consolidated Appropriations Act, 2014: United Nations Population Fund

UNITED NATIONS POPULATION FUND

SEC. 7063. (a) CONTRIBUTION.—Of the funds made available under the heading “International Organizations and Programs” in this Act for fiscal year 2014, \$35,000,000 shall be made available for the United Nations Population Fund (UNFPA).

(b) AVAILABILITY OF FUNDS.—Funds appropriated by this Act for UNFPA, that are not made available for UNFPA because of the operation of any provision of law, shall be transferred to the “Global Health Programs” account and shall be made available for family planning, maternal, and reproductive health activities, subject to the regular notification procedures of the Committees on Appropriations.

(c) PROHIBITION ON USE OF FUNDS IN CHINA.—None of the funds made available by this Act may be used by UNFPA for a country program in the People’s Republic of China.

(d) CONDITIONS ON AVAILABILITY OF FUNDS.—Funds made available by this Act for UNFPA may not be made available unless—

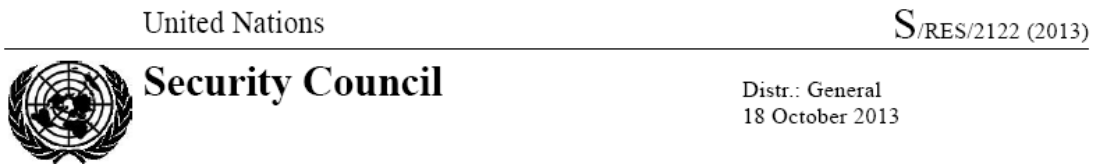
- (1) UNFPA maintains funds made available by this Act in an account separate from other accounts of UNFPA and does not commingle such funds with other sums; and
- (2) UNFPA does not fund abortions.

Annex B: Evidence of growing acknowledgement by the United Nations and countries that international humanitarian law requires abortion access for girls and women raped in armed conflict

- I. Excerpts from United Nations Security Council Resolutions on women, peace and security requiring Member States to provide abortion services to war rape victims
- II. Excerpts from Reports by the United Nations Secretary-General on women, peace and security requiring Member States to provide abortion services
- III. Actions by other states to ensure access safe abortions services for girls and women raped in war under international humanitarian law

I. Excerpts from United Nations Security Council Resolutions on women, peace and security requiring Member States to provide abortion services to war rape victims

U.N. Security Council Resolution 2122 of 18 October 2013 (UN Doc. S/RES/2122 (2013))



Resolution 2122 (2013)

Adopted by the Security Council at its 7044th meeting, on
18 October 2013

Recognizing the importance of Member States and United Nations entities seeking to ensure humanitarian aid and funding includes provision for the full range of medical, legal, psychosocial and livelihood services to women affected by armed conflict and post-conflict situations, and *noting* the need for access to the full range of sexual and reproductive health services, including regarding pregnancies resulting from rape, without discrimination,

United Nations

S/RES/2106 (2013)



Security Council

Distr.: General
24 June 2013

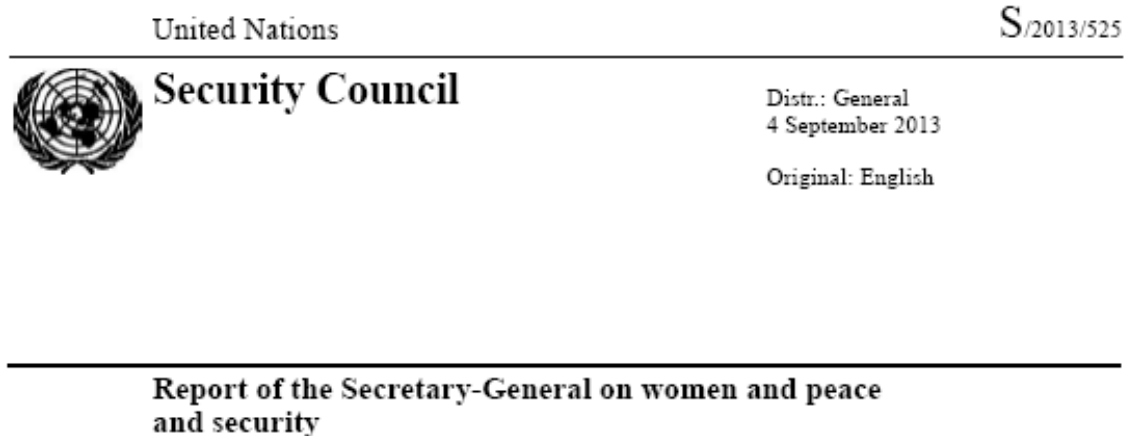
Resolution 2106 (2013)

Adopted by the Security Council at its 6984th meeting, on
24 June 2013

19. *Recognizing* the importance of providing timely assistance to survivors of sexual violence, urges United Nations entities and donors to provide non-discriminatory and comprehensive health services, including sexual and reproductive health, psychosocial, legal, and livelihood support and other multi-sectoral services for survivors of sexual violence, taking into account the specific needs of persons with disabilities; *calls for* support to national institutions

II. Excerpts from Reports by the United Nations Secretary-General on women, peace and security requiring Member States to provide abortion services

U.N. Secretary-General's Report on women, peace and security of 4 September 2013 (UN Doc S/2013/525)



(a) Ensure that humanitarian aid and funding provides for the full range of medical, legal, psychosocial and livelihood services to victims of rape, including access to services for safe termination of pregnancies resulting from rape, without discrimination and in accordance with international human rights and humanitarian law;

United Nations

A/67/792-S/2013/149



**General Assembly
Security Council**

Distr.: General
14 March 2013

Original: English

General Assembly
Sixty-seventh session
Agenda item 33
Prevention of armed conflict

Security Council
Sixty-eighth year

Sexual violence in conflict

Report of the Secretary-General

required for response initiatives. There is also an accountability gap when it comes to children born as a result of rape, as punishment against or redress by the perpetrator rarely includes reparations for the women who were victimized or the children who were born as a result of rape. Girls and women lack access to services that would allow them to safely terminate a pregnancy and are often forced to either carry out unwanted pregnancies resulting from rape or undergo dangerous abortions. Therefore, access to safe emergency contraception and services for the termination of pregnancies resulting from rape should be an integral component of any multisectoral response.

III. Actions by other states to ensure access safe abortions services for girls and women raped in war under international humanitarian law

Statement by Mr. Gérard Araud, Permanent Representative of France to the United Nations at the Security Council debate on sexual violence in conflict, April 25, 2014, S/PV.7160

“Before concluding, I would like to add one point that remains important for France. In peacetime, but even more so during war, access to sexual and reproductive health services is indispensable. We know that women and girls exposed to sexual violence run the risk of premature and unwanted pregnancies. The risk of maternal mortality in such circumstances rises tenfold. The refusal to provide abortion services represents a violation of one of the principles of international humanitarian law, which covers non-discrimination with respect to the provision of medical services to victims. Such discrimination, which adds a terrible injustice to women who have been the victims of sexual violence, must be brought to an end.”

Department for International Development, “Safe and unsafe abortion – The UK’s policy on safe and unsafe abortion in developing countries,” June 2014



Safe and unsafe abortion

The UK’s policy position on safe and unsafe abortion in developing countries

The UN Security Council Resolution 2122²⁸ notes the need for access to comprehensive sexual and reproductive health services for women affected by armed conflict and post conflict situations. It is the UK’s view that in situations of armed conflict or occupation where denial of abortion threatens the woman’s or girl’s life or causes unbearable suffering, international humanitarian law principles may justify offering a safe abortion rather than perpetuating what amounts to inhumane treatment in the form of an act of cruel treatment or torture. Clearly this will depend on the woman’s choice, her condition and the safety and security of the humanitarian staff, as well as other contextual factors.

Written parliamentary questions and answers from Frans Timmermans, Minister of Foreign Affairs and Liliaane Ploumen, Minister of Foreign Trade and Development Aid regarding the questions from Member of Parliament Sjoerdsma about safe abortion for raped women in war zones (March 8, 2013). Note: This is an unofficial translation, The Original document from the Ministerie van Buitenlandse Zaken in Dutch available at: <http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/04/08/beantwoording-kamervragen-over-veilige-abortus-voor-verkrachte-vrouwen-in-oorlogsgebieden.html>

Question 1: Do you believe that women and girls, who have been raped in war zones, are entitled to medical assistance as stated in the Geneva Convention and its protocols? Do you believe that this also covers the right to safe abortion?

Answer: All victims of war, including rape victims, must receive the best care as soon as possible as is also stated in International humanitarian law. This law however does not specifically address the right to safe abortion, but abortion can be seen as a necessary medical procedure in some instances.

Question 2: Do you agree with the UK that these human right principles should take priority over possible restrictive abortion laws in a war zone?

Answer: We agree with the UK that it is a humanitarian law duty (original text states war law) to provide medical care, including abortion of victims of rape, if and when there is a medical necessity for this regardless of national laws in countries.

Question 3: Are you prepared to take a leading role by declaring that raped women and girls in war zones have the right to safe abortions? Are you also prepared to make this declaration part of the National Action Plan on 1325? Next to that, are you willing to move the EU to follow by your example?

Answer: It is our opinion that raped women and girls in war zones have the right to any and all necessary medical care of great quality, this includes safe abortion. We will continue to be active and consequent in carrying out our stance within the EU and UN and every other relevant platforms. The Dutch National Action Plan on 1325 puts its strategic focus on political participation and leadership of women in conflict areas for its collaboration with the (to date) 44 signatories.

Annex C: Examples of Global Concern regarding the Effect of US Abortion Restrictions on Girls and Women Raped and Impregnated in Armed Conflict

- I. Resolutions by the European Parliament calling on EU Member States to ensure that their humanitarian aid is not impacted by US abortion restrictions
- II. Responses by Dutch Ministers to parliamentary questions expressing concern over the impact of US abortion restrictions
- III. List of organizations that sent letters to the President of the United States urging him to immediately lift abortion restrictions on humanitarian aid

I. Resolutions by the European Parliament calling on EU Member States to ensure that their humanitarian aid is not impacted by US abortion restrictions

European Parliament Resolution of June 13, 2013 on the post-2015 UN Millennium Development Goals (2012/2289 (INI))

31. Urges that the provision of EU humanitarian aid that contributes to the attainment of the MDGs and should effectively be excluded from the restrictions on humanitarian aid imposed by the USA or other donors, in particular by ensuring access to abortion for women and girls who are victims of rape in armed conflicts;

European Parliament Resolution of March 13, 2012 on equality between women and men (2011/2244 (INI))

61. Reminds the Commission and the Member States of their commitment to implement UN Security Council Resolution 1325 on Women, Peace and Security, and urges the provision of EU humanitarian aid to be made effectively independent from the restrictions on humanitarian aid imposed by the USA, in particular by ensuring access to abortion for women and girls who are victims of rape in armed conflicts;

II. Responses by Dutch Ministers to parliamentary questions expressing concern over the impact of US abortion restrictions

Written parliamentary answers from Frans Timmermans, Minister of Foreign Affairs, and Liliaane Ploumen, Minister of Foreign Trade and Development Aid, in answer to questions from Parliament Member Sjoerd Sjoerdsma regarding safe abortion for raped women in war zones, March 8, 2013

(Following is an unofficial translation of a relevant excerpt of these questions and answers. The original document from the Ministerie van Buitenlandse Zaken is available in Dutch at <http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/04/08/beantwoording-kamervragen-over-veilige-abortus-voor-verkrachte-vrouwen-in-oorlogsgebieden.html>.)

Question 4: Have you been made aware of the news that the American government imposes a “no abortion” clause on its foreign aid, which means that no safe abortion will be provided to women and girls raped in war zones? If so, what is your response?

Answer: We have recently been made aware of this clause. Our government believes that all women and girls who have been raped in war zones should have access to full medical care, including safe abortions.

Question 5: Are you willing to urge the American government to interpret the so called “Helms Amendment” in such a way that American aid funding can be used to provide safe abortions to women and girls who have been raped in war zones?

Answer: Yes

Question 6: Does the American “no abortion” clause directly or indirectly affect the Dutch, European or UN humanitarian efforts since this clause also applies to all humanitarian activities co financed by the US? If so, are you prepared to guarantee that humanitarian organization (Original text states “aid organization”) funded by the Netherlands or the EU will not be hindered by this clause?

Answer: There have not been any cases as of yet known to Parliament where Dutch foreign aid has had to deal with the “no abortion” clause. However in cases where the UN mixes Dutch unmarked aid with American aid (going towards organizations where the ‘no abortion’ clause applies), there is no guarantee that the Dutch part of this aid won't also fall under this “no abortion” clause. That is why the Netherlands will raise this issue in the EU and in the relevant UN organizations.

III. List of organizations that sent letters to the President of the United States urging him to immediately lift abortion restrictions on humanitarian aid

(All letters are available on the Global Justice Center’s website at <http://globaljusticecenter.net/index.php/our-work/geneva-initiative/august-12th-campaign/u-s-abortion-restrictions/letters-to-president-obama>.)

- Action Aid
- Alliance for Justice
- Amanitare Sexual Rights Network
- American Jewish World Service
- American Medical Women’s Association
- Amnesty International USA
- Anglican Women’s Empowerment
- Association of Egyptian Female Lawyers (AEFL)
- Association for Women’s Development (AWID)
- Center for Health and Gender Equality (CHANGE)
- Centre for Reproductive Rights
- Centre for Women’s Global Leadership,
- Center for Women Policy Studies
- Consortium on Gender, Security and Human Rights
- Criminal Bar Association (London)
- Egyptian Center for Women’s Rights
- Engender South Africa

- Engender Health
- Equality Now
- European Parliament Working Group on Reproductive Health, HIV/Aids and Development
- European Women Lawyers Association
- European Women's Lobby
- Feminist Majority Foundation
- Femmes Africa Solidarite
- International Federation for Human Rights (FIDH USA)
- Gender Action
- German Women Lawyers Association (Deutscher Juristinnenbund)
- Global Network for Women Peacebuilders
- Int'l Criminal Legal Bureau
- International Federation of Women's Lawyers (FIDA International)
- FIDA Kenya
- FIDA Nigeria
- FIDA Uganda
- International Planned Parenthood Foundation
- IPAS
- Latin American and Caribbean Women's Health Network
- Legal Momentum
- Medica Mondiale
- Medical Women's International Association
- National Organization for Women Foundation (NOW)
- National Alliance of Women's Organizations (NAWO)
- Network4Africa
- The New York City Bar Association
- Nine Bedford Row
- The Norwegian Bar Association
- The Paris Bar Association
- Partners in Health
- Physicians for Human Rights
- Pennsylvania Coalition against Rape
- Santa Barbara Women's Lawyers
- Solidarity for African Women's Rights
- Synergie des Femmes pour les Victimes des Violences Sexuelles (SFVS)
- Unione Degli Atei E Degli Agnostici Razionalisti
- V-Day
- Women on Waves
- Women's Global Network for Reproductive Rights,

- Women's League for Peace and Freedom (WILPF)
- Women's Law Project
- Women's Link Worldwide,
- World Organisation Against Torture (OMCT)
- Women's Synergy for Victims of Sexual Violence
- Members of the Queen's Counsel U.K.
- Asociacion y lideres en Accion, Colombia
- Catolicas por el derecho a decidir, Colombia
- Rincon Perfetti Abogados y Consultores Internacionales, Colombia
- Fundacion Orientame, Colombia
- Fundacion Colombia Diversa, Colombia
- Centro de Estudios Interdisciplinario sobre las Mujeres
- Fundacion para la Formacion de Lideres Afrocolombianos Afolider, Colombia
- Conferencia National de Organizaciones Afrocolombianas Cnoa, Colombia

Annex D: Partial List of US Humanitarian Aid Contracts with Abortion Ban for Years 2010-2012¹

2012

AFRICA

1. Agreement No. AID-623-A-10-00013-00
March 20, 2012
International Medical Corps
Democratic Republic of the Congo
Abortion Clause appears on pages 74 and 75.

WORLDWIDE

2. Agreement No. AID-DFG-G-00-09-00060-00
May 2, 2012
International Medical Corps
Worldwide
Abortion Clause appears on page 68.
3. Agreement No. AID-OFDA-IO-11-00007
August 15, 2012
UNICEF
Worldwide
Abortion Clause appears on page 7.

2011

AFRICA

1. Agreement No. AID-OFDA-G-11-00064-00
March 10, 2011
World Relief Corporation
West Darfur, Sudan
Abortion Clause appears on pages 10 and 20.

¹ Copies of excerpted contacts obtained pursuant to FOIA requests and are available on the Global Justice Center's website at <http://globaljusticecenter.net/index.php/publications/advocacy-resources/foia-documents>.

2. Agreement No. AID-DFD-G-00-09-00060-00
April 7, 2011
International Medical Corps
Democratic Republic of the Congo
Abortion Clause appears on pages 6 and 20.
3. Agreement No. AID-OFDA-G-11-00101
May 24, 2011
Medical Emergency Relief International
Central African Republic
Abortion Clause appears on pages 16, 17, 28, 45 and 46.
4. Agreement No. AID-OFDA-G-11-00116
June 13, 2011
Norwegian Refugee Council
Sudan
Abortion Clause appears on pages 16 and 29.
5. Agreement No. AID-OFDA-G-11-00151
June 25, 2011
Christian Mission Aid
South Sudan
Abortion Clause appears on pages 6, 20 and 21.
6. Agreement No. AID-OFDA-G-11-00135
July 7, 2011
International Rescue Committee
South Sudan
Abortion Clause appears on pages 6 and 20.
7. Agreement No. AID-OFDA-G-11-00137
July 12, 2011
Norwegian People's Aid
Sudan
Abortion Clause appears on page 15.
8. Agreement No. AID-OFDA-G-11-00131
July 12, 2011
Cooperative for Assistance and Relief Everywhere, Inc.
South Sudan
Abortion Clause appears on page 21.
9. Agreement No. AID-OFDA-11-00141
July 20, 2011
International Medical Corps
Eastern Chad
Abortion Clause appears on pages 6, 20, and 30-33.

10. Agreement No. AID-OFDA-G-11-00117
July 21, 2011
GOAL
North Darfur, Sudan
Abortion Clause appears on page 16.
11. Agreement No. AID-OFDA-G-11-00152
July 21, 2011
Mercy Corps
Democratic Republic of the Congo
Abortion Clause appears on page 21.
12. Agreement No. AID-OFDA-G-11-00185
August 12, 2011
Medical Emergency Relief International
Democratic Republic of the Congo
Abortion Clause appears on pages 16 and 17.
13. Agreement No. AID-OFDA-G-11-00181
August 15, 2011
American Refugee Committee
South Darfur
Abortion Clause appears on pages 6, 20 and 33.
14. Agreement No. AID-OFDA-G-11-00204
August 26, 2011
International Rescue Committee
South Sudan
Abortion Clause appears on pages 6 and 19.
15. Agreement No. AID-OFDA-G-11-00172
August 26, 2011
Norwegian People's Aid
South Sudan
Abortion Clause appears on page 15.
16. Agreement No. AID-OFDA-G-11-00206
August 31, 2011
International Medical Corps
Darfur, Sudan
Abortion Clause appears on pages 6, 20 and 33.
17. Agreement No. AID-OFDA-G-11-00202
September 6, 2011
Medical Emergency Relief International
Democratic Republic of the Congo
Abortion Clause appears on pages 16, 17 and 28.

18. Agreement AID-OFDA-G-11-00225
September 8, 2011
Save the Children
Ethiopia
Abortion Clause appears on page 6.
19. Agreement No. AID-OFDA-G-11-00202
September 6, 2011
Medical Emergency Relief International
Democratic Republic of the Congo
Abortion Clause appears on pages 16 and 17.
20. Agreement No. AID-OFDA-G-11-00235
September 15, 2011
Mercy Corps
Ethiopia
Abortion Clause appears on pages 4 and 17.
21. Agreement No. AID-OFDA-G-11-00255
September 30, 2011
Cooperazione Internazionale
North Darfur, Sudan
Abortion Clause appears on pages 15 and 77.

WORLDWIDE

22. Agreement No. AID-OFDA-IO-11-00009
February 11, 2011
United Nations Office for the Coordination of Humanitarian Affairs (OCHA)
Worldwide
Abortion Clause not explicitly contained in contract but contract is nevertheless still governed by US's restrictive policy.
23. Agreement No. AID-OFDA-A-11-00002
March 23, 2011
World Health Organization
Worldwide
Abortion Clause appears on page 7.²
24. Agreement No. AID-OFDA-IO-11-00007
April 15, 2011
UNICEF
Worldwide
Abortion Clause appears on page 7.

² The World Health Organization separates US grants from other donors in order to preserve the integrity of their abortion related work.

2010

AFRICA

1. Agreement No. AID-OFDA-G-10-00039
June 4, 2010
Mercy Corps
Darfur, Sudan
Abortion Clause appears on page 21.
2. Agreement No. AID-OFDA-G-10-00053
July 2, 2010
Mercy Corps
Ethiopia
Abortion Clause appears on page 22.
3. Agreement No. AID-623-A-10-00013-00
July 14, 2010
International Medical Corps
Democratic Republic of the Congo
Abortion Clause appears on pages 74 and 75.
4. Agreement No. AID-OFDA-G-10-00088
August 16, 2010
Care
South Darfur, Sudan
Abortion Clause appears on pages 6 and 20.
5. Agreement No. AID-OFDA-G-10-00111
September 15, 2010
Medair
Democratic Republic of the Congo
Abortion Clause appears on page 34.
6. Agreement No. AID-OAA-A-10-00053
September 20, 2010
Cooperative Agreement Management Sciences for Health
Democratic Republic of the Congo
Abortion Clause appears on page 70.
7. Agreement No. AID-OFDA-10-11-00002
December 29, 2010
International Federation of Red Cross and Crescent Societies
Sudan
Abortion Clause not explicitly contained in contract but contract is nevertheless still governed by US's restrictive policy.

UNSPECIFIED LOCATION

8. Agreement No. DFD-G-00-10-00117-00

April 22, 2010

UNICEF

Unspecified location

Abortion Clause not explicitly contained in contract but contract is nevertheless still governed by US's restrictive policy.