



**Global
Justice Center**
Human Rights Through the Rule of Law

August 12, 2011

President Barack Obama
the White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear President Obama,

August 12, 2011 is the 62nd anniversary of the adoption of the Geneva Conventions. To honor this milestone, the Global Justice Center, and the undersigned legal and human rights organizations, urge you to reaffirm the commitment of the United States (the “U.S.”) to abide by the Geneva Conventions and revoke the “no abortion” condition attached to all U.S. humanitarian aid directed for female victims of rape in armed conflict.

The United States is at the forefront of global efforts to end the systemic use of rape as a weapon of war, recognizing that these gross violations of international humanitarian law can threaten international peace and security. Notably, the U.S. has initiated such measures as Security Council Resolutions 1820 and 1888, which, for the first time, recognize rape as a weapon of war, and acknowledge that sexual violence in armed conflict can constitute “a war crime, a crime against humanity, or a constitutive act with respect to genocide.” However, despite these initiatives, the U.S. systematically violates victims’ rights under the laws of war by placing injurious abortion prohibitions on humanitarian aid

Common Article 3 of the Geneva Conventions guarantees all persons “wounded and sick” in armed conflict, the right to comprehensive and non-discriminatory medical care, regardless of gender or medical condition. Tragically, those girls and women who become pregnant as a result of war rape are routinely discriminated against by the deliberate omission of abortion from medical care provided to these victims. The option of abortion services is a part of medically appropriate care for impregnated rape victims and, in some cases, life-saving. Furthermore, the deliberate omission of abortion from medical services can constitute cruel and inhuman treatment and can force continued unwanted pregnancy and childbearing – with the only alternatives for these women being unsafe clandestine abortions or suicide.

This discriminatory failure to provide abortions in humanitarian aid settings is due in large part to the enormous influence that U.S. abortion restrictions have on the delivery of humanitarian aid. The current U.S. “no abortion” policy is inserted in all foreign aid contracts, including with foreign governments, the UN, and humanitarian and other non-governmental organizations. This policy, formally adopted in June 2008 ([AAPD 08-01](#)), contains no life or rape exception and exceeds any statutory requirement, including the 1973 Helms Amendment to the Foreign Assistance Act.

As President, you have the authority, duty and obligation to revoke the purely administrative “no abortion” policy now attached to all humanitarian aid for situations of armed conflict. This includes

any “no abortion” clauses attached to the Victims of Torture Fund administered by USAID to provide, among other activities, medical services for girls and women raped in conflicts, such as the in Democratic Republic of Congo (DRC).

These abortion prohibitions, as applied to humanitarian aid for victims of conflict, place the U.S. in violation of its obligations under the Geneva Conventions and customary international law. Although state parties to a conflict, such as the DRC, Sudan, Burma or Uganda, have primary obligations under common Article 3 to ensure comprehensive and non-discriminatory medical care for civilian victims of war, all states have the duty to see this is done. Accordingly, the U.S. under common Article 1 of the Geneva Conventions, must both “respect” and “ensure respect” for the Conventions. This means that U.S. humanitarian aid cannot compromise medical care for rape victims and it also imposes a duty on the US to ensure that all states, particularly those in armed conflict, comply with those mandates. Currently, the U.S turns this “ensure respect” mandate on its head - the “no abortion” restrictions imposed on aid to countries in armed conflict can act to encourage countries in conflict to act in violation of their obligations under common Article 3.

Furthermore, the U.S. policy is of growing concern to the global community, including other donor countries whose funds for rape victims are often commingled or, otherwise compromised, by the US restrictions. Norway recommended that the U.S. lift these abortion restrictions on humanitarian aid for victims of rape in armed conflict, as part of the Human Rights Council’s November 2010 Universal Periodic Review of the U.S. The State Department’s response that “currently applicable restrictions” prevent the U.S. from complying with the recommendation, makes clear that these restrictions are not statutorily based requiring congressional action but are purely within the authority of the Executive Branch.

As you so rightfully noted in your remarks upon receiving the Nobel Peace Prize, “actions matter.” We urge you to exercise your authority under the Constitution and the laws of the U.S. and issue an Executive Order ordering all agencies to remove the abortion prohibition as applied to humanitarian aid for girls and women raped in armed conflict. By ensuring the right to complete medical care for women raped in armed conflict, determined solely by their medical condition, the U.S. will buttress the critical authority of the Geneva Conventions, and once again bend “history in the direction of justice.”

Sincerely yours,



Janet Benshoof, President,
Global Justice Center



Alliance for Justice



American Jewish World Service



Anglican Women’s Empowerment



Association for Women in Development



Center for Health and Gender Equity (CHANGE)



Center for Women's Global Leadership



Leslie R. Wolfe, President, Center for Women Policy Studies



Consortium on Gender, Security & Human Rights



Engender, South Africa



Equality Now



Feminist Majority Foundation



Femmes Africa Solidarité



Gender Action



Global Network of Women Peacebuilders



Stella Ugboma, President, International Federation of Women Lawyers



International Federation of Women Lawyers Kenya



International Federation of Women Lawyers Nigeria



Legal Momentum



National Organization for Women Foundation



Unione Degli Ateil E Degli Agnostici Razionalisti



Partners in Health



Physicians for Human Rights



Women's International League for Peace and Freedom, U.S. Section



V-Day

