

SUMMARY AND RECOMMENDATIONS FOR THE LIST OF ISSUES PRIOR TO REPORTING 59TH SESSION

US Abortion Restrictions on Foreign Assistance and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Summary

Since 1973, US abortion restrictions on foreign assistance have restricted the provision of abortion services and stifled abortion-related speech around the world. Today, these restrictions plainly contravene the object and purpose of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“CAT” or “Convention”). These restrictions have no exceptions and routinely deny women around the world access to needed abortion services, even in cases of rape, life endangerment and incest as well as where legal under domestic or international law. They apply to abortion-related speech and interfere with the ability of other states to comply with their obligations under CAT by curtailing efforts to reform domestic abortions laws to meet human rights standards.

Accordingly, the Global Justice Center urges this Committee to ask the United States Government (“USG”) to provide information with respect to how its abortion restrictions on foreign assistance can be reconciled with its obligations under CAT. **Eight years of progress on human rights issues, especially on torture, is now at risk. It is crucial that the USG be asked to account for the full scope of its violations under international law.**

Recommendations

In light of the above facts, we recommend that the Committee request that the US:

- » Provide detailed information regarding the interpretation of US abortion restrictions and steps the USG is taking to guarantee that its aid can be used to provide abortion services, at a minimum, in cases of rape, life endangerment and incest, including humanitarian aid for girls and women raped during armed conflict.
- » Provide an outline of the steps being taken to ensure that US abortion restrictions do not impede the ability of other States parties to CAT from complying with their own obligations under the Convention to ensure access to abortion services.
- » Describe steps the USG will take to create clear guidelines regarding USG 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 without jeopardizing their US funding.

Background

The USG is the world's single largest donor to humanitarian aid programs, reproductive health programs, and international family planning. However, these funds come with restrictions that result in severe physical and mental harm to women and girls around the world, including victims of war rape and torture, in contravention of the USG's obligations under CAT.

- » The Helms amendment to the Foreign Assistance Act is currently interpreted and enforced as a complete ban on abortion-related services with US aid, with no exceptions for rape, incest or life endangerment. This restriction also curtails abortion-related speech and medical information.
- » The Siljander amendment prohibits the use of foreign assistance funding to lobby for or against abortion—impeding the efforts of NGOs around the world to change abortion laws in their own countries to be in line with human rights standards.
- » These restrictions are implemented through agreements with foreign governments, including States parties to CAT, NGOs and international organizations, including the United Nations.
- » Taken together, these restrictions result in the systematic denial of safe abortion services and access to information for girls and women around the world in violation of their rights guaranteed by the Convention.

While these restrictions are imposed on all US foreign aid funds, victims of sexual violence in war are particularly impacted. In today's conflicts, sexual violence is used systemically against civilians to demoralize, terrorize, destroy, and even alter the ethnic compositions of entire communities. Rape and forced impregnation in war is now a pervasive and ubiquitous problem. For many women, abortion is safer than an unwanted or dangerous pregnancy and the denial of safe abortion services results in extended and intensified physical and mental suffering.

- » Unwanted pregnancies from rape and the conditions imposed by war increase the risk of maternal mortality. Rape in conflict, especially when committed against children or by gang rape, causes many physical injuries that render pregnancy and childbirth even more dangerous. Even outside of conflict, where women and girls face increased maternal mortality due to many factors, childbirth is 14 times more likely to lead to death than a safe abortion.
- » War rape victims' inability to obtain abortions can result in severe mental pain and suffering. Pregnancy and being forced to bear the child of a rapist have been found to prolong the pain associated with rape. Where women are denied access to safe abortion services and must instead seek out clandestine or unsafe services, they suffer from additional mental anguish and fear. Denial of abortion services deprives women of their decision-making power and perpetuates victims' feelings of loss of control, compounding their mental and emotional trauma.

This Committee has affirmed that the denial of abortions may amount to torture where there is a blanket ban. It has also found that States parties have obligations to ensure access to safe abortion services for rape victims, as well as in cases of life and health endangerment, incest and foetal impairment. This Committee has previously questioned States parties with respect to the imposition of their views on abortion on others, and expressed concern over agreements which may hinder the realization of rights under the Convention. It recommended that States parties review such agreements, including bilateral agreements with other States.

- » The USG's abortion restrictions on foreign assistance deny services for women and girls around the world, even where permissible under domestic or international law, prolonging their physical and mental trauma and impeding the realization of their rights under CAT.
- » The USG, through its abortion-related restrictions on services and speech, directly imposes its judgment and views on abortion on women and girls around the world, as well as foreign governments, doctors and aid providers.