

# Abortion in intergovernmental consensus documents and international and regional human rights instruments

## Purpose of this compilation

Abortion has been addressed by governments in the context of human and reproductive rights in several international consensus documents. Human rights agencies, such as UN Treaty Monitoring Bodies, have also issued statements and guidance on this topic. In 2005, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, also known as the Maputo Protocol, entered into force and became the first human rights treaty to explicitly address women's right to safe abortion.

As governments consider the adoption of new consensus documents at various conferences, summits and UN meetings, their representatives often need to know what language concerning abortion has previously been accepted. This compilation includes relevant language on abortion from several sources with citations for easy reference. It can also be used by civil-society groups in advocacy for reproductive rights.

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## UNITED NATIONS CONFERENCE CONSENSUS DOCUMENTS

### International Conference on Population and Development (ICPD) Programme of Action

Cairo, Egypt, 5-13 September 1994

#### Paragraph 7.6

All countries should strive to make accessible through the primary health-care system, reproductive health to all individuals of appropriate ages as soon as possible and no later than the year 2015. **Reproductive health care in the context of primary health care should, inter alia, include:** family-planning counselling, information, education, communication and services; education and services for prenatal care, safe delivery and post-natal care, especially breast-feeding and infant and women's health care; prevention and appropriate treatment of infertility; **abortion as specified in paragraph 8.25, including prevention of abortion and the management of the consequences of abortion;** treatment of reproductive tract infections; sexually transmitted diseases and other reproductive health conditions; and information, education and counselling, as appropriate, on human sexuality, reproductive health and responsible parenthood. **Referral for family-planning services and further diagnosis and treatment for complications of pregnancy, delivery and abortion,** infertility, reproductive tract infections, breast cancer and cancers of the reproductive system, sexually transmitted diseases, including HIV/AIDS **should always be available, as required.** Active discouragement of harmful practices, such as female genital mutilation, should also be an integral component of primary health care, including reproductive health-care programmes.

#### Paragraph 8.25

In no case should abortion be promoted as a method of family

planning. All Governments and relevant intergovernmental and non-governmental organizations are urged to strengthen their commitment to women's health, to deal with the health impact of unsafe abortion as a major public health concern and to reduce the recourse to abortion through expanded and improved family-planning services. Prevention of unwanted pregnancies must always be given the highest priority and every attempt should be made to eliminate the need for abortion. Women who have unwanted pregnancies should have ready access to reliable information and compassionate counselling. Any measures or changes related to abortion within the health system can only be determined at the national or local level according to the national legislative process. **In circumstances where abortion is not against the law, such abortion should be safe. In all cases, women should have access to quality services for the management of complications arising from abortion.** Post-abortion counselling, education and family-planning services should be offered promptly, which will also help to avoid repeat abortions.

#### Paragraph 12.17

Since unsafe abortion is a major threat to the health and lives of women, research to understand and better address the determinants and consequences of induced abortion, including its effects on subsequent fertility, reproductive and mental health and contraceptive practice, should be promoted, as well as research on treatment of complications of abortions and post-abortion care.

## UNITED NATIONS CONFERENCE CONSENSUS DOCUMENTS (continued)

### Fourth World Conference on Women, Platform for Action

Beijing, China, 4-15 September 1995

#### Paragraph 97

Further, women are subject to particular health risks due to inadequate responsiveness and lack of services to meet health needs related to sexuality and reproduction. Complications related to pregnancy and childbirth are among the leading causes of mortality and morbidity of women of reproductive age in many parts of the developing world. Similar problems exist to a certain degree in some countries with economies in transition. **Unsafe abortions threaten the lives of a large number of women, representing a grave public health problem as it is primarily the poorest and youngest who take the highest risk. Most of these deaths, health problems and injuries are preventable** through improved access to adequate health-care services, including safe and effective family planning methods and emergency obstetric care, recognizing the right of women and men to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant. These problems and means should be addressed on the basis of the report of the International Conference on Population and Development, with particular reference to relevant paragraphs of the Programme of Action of the Conference. In most countries,

the neglect of women's reproductive rights severely limits their opportunities in public and private life, including opportunities for education and economic and political empowerment. The ability of women to control their own fertility forms an important basis for the enjoyment of other rights. Shared responsibility between women and men in matters related to sexual and reproductive behaviour is also essential to improving women's health.

#### Paragraph 106

By Governments, in collaboration with non-governmental organizations and employers' and workers' organizations and with the support of international institutions:.....(j) **Recognize and deal with the health impact of unsafe abortion as a major public health concern**, as agreed in paragraph 8.25 of the Programme of Action of the International Conference on Population and Development; (k) In the light of paragraph 8.25 of the Programme of Action of the International Conference on Population and Development... **consider reviewing laws containing punitive measures against women who have undergone illegal abortions**

#### Paragraph 115

Acts of violence against women also include forced sterilization and forced abortion, coercive/forced use of contraceptives, female infanticide and prenatal sex selection.

### ICPD+5 UN meetings, New York, 8-12 February 1999

Key actions for the further implementation of the Programme of Action of the International Conference on Population and Development  
(UN General Assembly document A/S-21/5/Add.1)

#### Paragraph 63

(i) Women who have unwanted pregnancies should have ready access to reliable information and compassionate counselling. Any measures or changes related to abortion within the health system can only be determined at the national or local level according to the national legislative process. **In circumstances where abortion is not against the law, such abortion should be safe. In all cases, women should have access to quality services for the management of complications arising from abortion. Post-abortion counselling, education and family planning services should be offered promptly**, which

will also help to avoid repeat abortions. (ii) Governments should take appropriate steps to help women avoid abortion, which in no case should be promoted as a method of family planning, and in all cases provide for the humane treatment and counselling of women who have had recourse to abortion. (iii) **In recognizing and implementing the above, and in circumstances where abortion is not against the law, health systems should train and equip health-service providers and should take other measures to ensure that such abortion is safe and accessible.** Additional measures should be taken to safeguard women's health.

## UN TREATY MONITORING COMMITTEES' GUIDANCE TO GOVERNMENTS

### CEDAW Committee

(Convention on the Elimination of  
All Forms of Discrimination Against Women)

#### General Recommendation 19, Paragraph 22, 1992

Compulsory sterilization or abortion adversely affects women's physical and mental health, and infringes the right of women to decide on the number and spacing of their children.

#### General Recommendation 19, Paragraph 24(m), 1992

In light of these comments, the Committee on the Elimination of Discrimination against Women recommends... **States parties should ensure** that measures are taken to prevent coercion in regard to fertility and reproduction, and to ensure **that women are not forced to seek unsafe medical procedures such as illegal abortion** because of lack of appropriate services in regard to fertility control.

#### General Recommendation 21, Paragraph 22, 1994

Some reports disclose coercive practices which have serious consequences for women, such as forced pregnancies, abortions or sterilization. Decisions to have children or not, while preferably made in consultation with spouse or partner, must not nevertheless be limited by spouse, parent, partner or Government. In order to make an informed decision about safe and reliable contraceptive measures, women must have information about contraceptive measures and their use, and guaranteed access to sex education and family planning services, as provided in article 10 (h) of the Convention.

#### General Recommendation 24, Paragraph 31(c), 1999

States parties should also, in particular... Prioritize the prevention of unwanted pregnancy through family planning and sex education and reduce maternal mortality rates through safe motherhood services and prenatal assistance. **When possible, legislation criminalizing abortion should be amended, in order to withdraw punitive measures imposed on women who undergo abortion.**

### Human Rights Committee

(Covenant on Political and Civil Rights)

#### General Comment 28, Paragraph 10, 2000

When reporting on the right to life protected by article 6, States parties should provide data on birth rates and on pregnancy- and childbirth-related deaths of women. Gender-disaggregated data should be provided on infant mortality rates. **States parties should ... give information on any measures taken by the State to help women prevent unwanted pregnancies, and to ensure that they do not have to undergo life-threatening clandestine abortions.** States parties should also report on measures to protect women from practices that violate their right to life, such as female infanticide, the burning of widows and dowry killings. The Committee also wishes to have information on the particular impact on women of poverty and deprivation that may pose a threat to their lives.

#### General Comment 28, Paragraph 11, 2000

To assess compliance with article 7 of the Covenant, as well as with article 24, which mandates special protection for children, the Committee needs to be provided information on national laws and practice with regard to domestic and other types of violence against

women, including rape. **It also needs to know whether the State party gives access to safe abortion to women who have become pregnant as a result of rape. The States parties should also provide the Committee with information on measures to prevent forced abortion or forced sterilization.**

In States parties where the practice of genital mutilation exists information on its extent and on measures to eliminate it should be provided. The information provided by States parties on all these issues should include measures of protection, including legal remedies, for women whose rights under article 7 have been violated.

#### General Comment 28, Paragraph 20, 2000

States parties must provide information to enable the Committee to assess the effect of any laws and practices that may interfere with women's right to enjoy privacy and other rights protected by article 17 on the basis of equality with men. An example of such interference arises where the sexual life of a woman is taken into consideration in deciding the extent of her legal rights and protections, including protection against rape. Another area where States may fail to respect women's privacy relates to their reproductive functions, for example, where there is a requirement for the husband's authorization to make a decision in regard to sterilization; where general requirements are imposed for the sterilization of women, such as having a certain number of children or being of a certain age, or ... **where States impose a legal duty upon doctors and other health personnel to report cases of women who have undergone abortion. In these instances, other rights in the Covenant, such as those of articles 6 and 7, might also be at stake.** Women's privacy may also be interfered with by private actors, such as employers who request a pregnancy test before hiring a woman. States parties should report on any laws and public or private actions that interfere with the equal enjoyment by women of the rights under article 17, and on the measures taken to eliminate such interference and to afford women protection from any such interference.

### Committee on the Rights of the Child

(Convention on the Rights of the Child)

#### General Comment 4, Paragraph 31, 2003

Adolescent girls should have access to information on the harm that early marriage and early pregnancy can cause, and those who become pregnant should have access to health services that are sensitive to their rights and particular needs. **States parties should take measures to reduce maternal morbidity and mortality in adolescent girls, particularly caused by early pregnancy and unsafe abortion practices,** and to support adolescent parents. Young mothers, especially where support is lacking, may be prone to depression and anxiety, compromising their ability to care for their child. **The Committee urges States parties (a) to develop and implement programmes that provide access to sexual and reproductive health services, including family planning, contraception and safe abortion services where abortion is not against the law,** adequate and comprehensive obstetric care and counselling; (b) to foster positive and supportive attitudes towards adolescent parenthood for their mothers and fathers; and (c) to develop policies that will allow adolescent mothers to continue their education.

## UN TREATY MONITORING COMMITTEES' GUIDANCE TO GOVERNMENTS (continued)

### Committee on the Rights of the Child (Convention on the Rights of the Child)

#### General Comment 4, Paragraph 37, 2003

Adolescents who are sexually exploited, including in prostitution and pornography, are exposed to significant health risks, including STDs, HIV/AIDS, unwanted pregnancies, unsafe abortions, violence and psychological distress. They have the right to physical and psychological recovery and social reintegration in an environment that fosters health, self-respect and dignity (art. 39). It is the obligation of States parties to enact and enforce laws to prohibit all forms of sexual exploitation and related trafficking; to collaborate with other States parties to eliminate intercountry trafficking; and to provide appropriate health and counselling services to adolescents who have been sexually exploited, making sure that they are treated as victims and not as offenders.

### Committee on Economic, Social and Cultural Rights (Covenant on Economic, Social and Cultural Rights)

#### General Comment 14, Paragraph 8, 2000

The right to health is not to be understood as a right to be healthy. The right to health contains both freedoms and entitlements. **The freedoms include the right to control one's health and body, including sexual and reproductive freedom**, and the right to be free from interference, such as the right to be free from torture, non-consensual medical treatment and experimentation. By contrast, the entitlements include the right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.

## AFRICAN REGIONAL CONFERENCE CONSENSUS DOCUMENT

### Maputo Plan of Action

Maputo, Mozambique, 18-22 September 2006

#### Paragraph 5-5

This Maputo Plan of Action for the Operationalisation of the Sexual and Reproductive Health and Rights Continental Policy Framework seeks to take the continent forward towards the goal of universal access to comprehensive sexual and reproductive health services in Africa by 2015. **It is a short term plan for the period up to 2010 built on nine action areas:** Integration of sexual and reproductive health (SRH) services into PHC, repositioning family planning, youth-friendly services, **unsafe abortion**, quality safe motherhood, resource mobilization, commodity security and monitoring and evaluation. **The Plan is premised on SRH in its fullest context as defined at ICPD/PoA 1994 taking**

**into account the life cycle approach.** These elements of SRHR includes Adolescent Sexual and Reproductive Health (ASRH); Safe Motherhood and newborn care; **Abortion Care (Abortion as specified in paragraph 8.25 of ICPD/PoA, includes prevention of abortion, management of the consequences of abortion and safe abortion, where abortion is not against the law.);** Family planning; Prevention and Management of Sexually Transmitted Infections including STI/HIV/AIDS; Prevention and Management of Infertility; Prevention and Management of Cancers of the Reproductive System; Addressing mid-life concerns of boys, girls, men and women; Health and Development; the Reduction of Gender-based Violence; Interpersonal Communication and Counselling; and Health education.

## REGIONAL HUMAN RIGHTS TREATY

### Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (also known as the Maputo Protocol)

Maputo, Mozambique ▪ adopted 11 July 2003; entered into force 25 November 2005

#### Article 14

1. States Parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted. This includes: the right to control their fertility; the right to decide whether to have children, the number of children and the spacing of children.

2. States Parties shall take all appropriate measures to: ... c) **protect the reproductive rights of women by authorising medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus.**