

**Identification of the human rights dimensions of  
preventable maternal mortality and morbidity in the  
existing international legal framework**

Submitted to the Office of the United Nations High Commissioner for Human Rights

by



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The Office of the United Nations High Commissioner for Human Rights is seeking views and information regarding “identification of the human rights dimensions of preventable maternal mortality and morbidity in the existing international legal framework.”

One proposed (partial) solution to maternal mortality and morbidity—the legalization of abortion—is contrary to the human rights principles espoused in numerous United Nations documents, which call for “appropriate legal protection, before as well as after birth.”

The Universal Declaration of Human Rights (Dec. 10, 1948) states, “Everyone has the right to life, liberty and security of person” (Article 3). According to the Declaration of the Rights of the Child (Nov. 20, 1959, General Assembly Resolution 1386 (XIV)), “[T]he child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.”

The Convention on the Rights of the Child (Nov. 20, 1989, General Assembly Resolution 44) includes the following:

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.”

#### Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

#### Article 24

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
  - (a) To diminish infant and child mortality
  - (d) To ensure appropriate pre-natal and post-natal health care for mothers.

Legalized abortion is a violation of the rights of the youngest and most vulnerable members of the human family, the unborn. Further, it is largely unrelated to maternal health: better medicine and care, not legalized abortion, is the solution to the problem of maternal mortality in the developing world, as explained below.

### **Does Legalizing Abortion Protect Women’s Health? Assessing the Argument for Expanded Abortion Access Around the Globe**

Based on estimates of the number of illegal abortions and abortion-related maternal deaths worldwide, abortion advocacy groups argue that repealing laws prohibiting or restricting abortion would prevent many women from dying or being harmed as a result of dangerous, illegal abortions. “The legalization of abortion and the

provision of family planning services dramatically cut abortion-related deaths,” claims the International Planned Parenthood Federation.<sup>1</sup>

But this conclusion is contrary to the available evidence. The lack of modern medicine and quality health care, not the prohibition of abortion, results in high maternal mortality rates. Legalized abortion actually leads to more abortions—and in the developing world, where maternal health care is poor, this would increase the number of women who die or are harmed by abortion.

### **The Solution to Maternal Mortality: Better Care**

Maternal mortality remains a serious problem in the developing world. But most maternal deaths can be prevented with adequate nutrition, basic health care, and good obstetric care throughout pregnancy, at delivery, and postpartum. In the developed world, for example, the decline in maternal mortality rates coincided “with the development of obstetric techniques and improvement in the general health status of women” (from 1935 to the 1950s), according to the World Health Organization.<sup>2</sup> This took place well before the widespread legalization of abortion. In the United States, abortion was a relatively safe procedure long before it became legal in 1973. Dr. Mary Calderone, former medical director for Planned Parenthood, concluded in 1960 that “abortion, whether therapeutic or illegal, is in the main no longer dangerous, because it is being done well by physicians.”<sup>3</sup>

In England and Wales, the maternal mortality rate fell from a high of more than 550 (maternal deaths per 100,000 live births) in 1931 to less than 50 by 1960. The steep fall corresponded with the use of antibiotics, blood transfusions, and the management of hypertensive pregnancy disorders.<sup>4</sup>

According to the World Bank’s *World Development Report 2006*, Malaysia and Sri Lanka have sharply reduced maternal mortality rates by making professional midwives and supervisory nurse-midwives widely available in rural areas and by providing a steady supply of appropriate drugs and equipment, improved communication, transportation, and backup services. In Sri Lanka the maternal mortality ratio—the number of maternal deaths per 100,000 live births—dropped from 2,136 in 1930 to 24 in 1996. In Malaysia it dropped from 1,088 in 1933 to just 19 in 1997.<sup>5</sup>

### **Legal Abortion Does Not Mean Safe Abortion**

Contrary to the claims of the International Planned Parenthood Federation and other groups advocating legal abortion, no direct relationship exists between permissive abortion laws and maternal mortality rates. Indeed, legalized abortion does nothing to solve the underlying problem of poor medical care in the developing world. According to the United Nations Population Division (UNPD), there has been no substantial decrease in maternal mortality or child mortality since the 1994 International Conference on Population and Development in Cairo and the 1995 Fourth World Conference on Women in Beijing.<sup>6</sup> This is true even though, in that same period, more women have had access to legal abortion than ever before.

Ireland and Poland, which have strong abortion restrictions, actually have significantly lower maternal death rates than Russia and the United States, which permit

abortion on demand.<sup>7</sup> In India abortion is broadly legal, but maternal deaths are common due to dangerous medical conditions. According to *Abortion Policies: A Global Review* by the UNPD, "Despite the liberalization of the abortion law, unsafe abortions have contributed to the high rates of maternal mortality in India [570 maternal deaths per 100,000 live births in 1990]."<sup>8</sup> Conversely, the maternal mortality rate in Paraguay is much lower, despite the prohibition of most abortions and the fact that "clandestine abortion is common."<sup>9</sup>

The evidence shows that a country's maternal mortality rate is determined to a much greater extent by the quality of medical care than by the legal status of abortion. Abortion complications are not a function of the legality of the procedure, but of the overall medical circumstances in which abortion is performed.

### **Legal Abortion Means More Abortion**

The legalization of abortion may not make the procedure less risky, but it does have one clear consequence: legalizing abortion increases the number of abortions. In the United States, the abortion number skyrocketed from an estimated 98,000 per year to a peak of 1.6 million following total legalization in 1973.<sup>10</sup> Explains Stanley Henshaw of the Guttmacher Institute (an advocate for legalized abortion), "In most countries, it is common after abortion is legalized for abortion rates to rise sharply for several years, then stabilize, just as we have seen in the United States."<sup>11</sup>

In South Africa, for example, the number of abortions rose from an estimated 1,600 in 1996, the year before abortion was legalized, to 85,621 in 2005.<sup>12</sup> By contrast, when Poland finally prohibited most abortions following decades of government-funded abortion on demand, evidence suggests that the total number of abortions (legal and illegal) fell dramatically.<sup>13</sup> It is plausible to conclude that given a substantial increase in the total number of abortions following legalization, the number (if not the rate) of abortion-related maternal deaths may actually *increase*, not decrease.

### **Legal Abortion is a Grave Threat**

In the developing world, the danger of legalized abortion is especially profound. Jeanne E. Head, R.N., U.N. representative for the National Right to Life Committee, explains: "Women generally at risk because they lack access to a doctor, hospital, or antibiotics before abortion's legalization will face those same circumstances after legalization. And if legalization triggers a higher demand for abortion, as it has in most countries, more injured women will compete for those scarce medical resources."<sup>14</sup>

Even in the United States, a world leader in modern medicine, nearly 400 women are known to have died from legal abortion since the procedure was legalized nationwide in 1973.<sup>15</sup> Abortion is never entirely safe. But in developing countries without proper maternal health care and medicine, the increase in abortions brought about by legalization would not only increase maternal mortality, but also would have a devastating effect on the lives and health of women and girls. Laws against abortion are necessary to protect not just unborn children, but their mothers as well. Women need care and support, not abortion.

## A Matter of Justice

Justice requires that the law protect the dignity and rights of every member of the human family, including the unborn and their mothers. The “maternal mortality” argument for allowing abortion fails entirely—legal abortion only leads to more abortions and, as a result, more abortion-related complications for women. Better medical care, not abortion, is the solution to the problem of maternal mortality in the developing world.

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<sup>1</sup> “Abortion,” *International Planned Parenthood Federation*, <<http://www.ippf.org/en/What-we-do/Abortion/default.htm>> (20 April 2009).

<sup>2</sup> World Health Organization, *Maternal Mortality: A Global Factbook* (Geneva: World Health Organization, 1991).

<sup>3</sup> Mary S. Calderone, “Illegal Abortion as a Public Health Problem,” *American Journal of Public Health* 50 (July 1960): 949.

<sup>4</sup> World Health Organization, *Maternal Mortality: A Global Factbook*.

<sup>5</sup> The World Bank, *World Development Report 2006* (July 2004).

<sup>6</sup> United Nations, *World Mortality Report 2005* (New York: United Nations, 2006), Sales No. E.06.XIII.3.

<sup>7</sup> *Ibid.*

<sup>8</sup> United Nations, *Abortion Policies: A Global Review* (New York: United Nations, 2002), Sales No. E.01.XIII.18, 56-68.

<sup>9</sup> United Nations, *Abortion Policies: A Global Review* (New York: United Nations, 2002), Sales No. E.02.XIII.5, 29-31.

<sup>10</sup> A research team in 1981 used a reliable mathematical model to estimate an average of 98,000 illegal abortions each year in the 32 years preceding legalization. Barbara J. Syska, Thomas W. Hilgers, M.D., and Dennis O’Hare, “An Objective Model for Estimating Criminal Abortions and Its Implications for Public Policy,” in *New Perspectives on Human Abortion*, ed. Thomas W. Hilgers, M.D., Dennis J. Horan and David Mall (Frederick, MD: University Publications of America, 1981).

<sup>11</sup> Stanley Henshaw, Guttmacher Institute (16 June 1994), Press release.

<sup>12</sup> Wm. Robert Johnston, “Historical abortion statistics, South Africa,” *Johnston’s Archive*, 26 October 2008, <<http://www.johnstonsarchive.net/policy/abortion/ab-southafrica.html>> (22 April 2009).

<sup>13</sup> Wm. Robert Johnston, “Data on abortion decrease in Poland,” *Johnston’s Archive*, 26 May 2008, <<http://www.johnstonsarchive.net/policy/abortion/polandlaw.html>> (22 April 2009).

<sup>14</sup> Jeanné E. Head and Laura Hussey, “Does Abortion Access Protect Women’s Health?” *The World & I*, June 2004, 56.

<sup>15</sup> Centers for Disease Control and Prevention, “Abortion Surveillance—United States, 2005,” *Morbidity and Mortality Weekly Report* 57, no. SS-13 (28 November 2008).