

**A CALL FOR ALL MEMBER STATES OF THE HUMAN RIGHTS COUNCIL:  
END THE GROSS VIOLATIONS OF THE RIGHTS OF GIRLS AND WOMEN RAPED AND  
IMPREGNATED IN ARMED CONFLICT, TO NON-DISCRIMINATORY MEDICAL CARE,  
INCLUDING ABORTIONS, UNDER THE GENEVA CONVENTIONS**

Thousands of girls and women, impregnated by rape in armed conflict are routinely and illegally denied life saving abortions in places like the Democratic Republic of Congo (DRC), Burma and Sudan. The right to non-discriminatory medical care for these victims, which includes the option of abortion, is enshrined in common Article 3 of the Geneva Conventions.

A major reason for the near global “no abortion policy” for these victims can be traced to US abortion restrictions placed on all humanitarian aid. By imposing these restrictions on foreign aid, the US is forcing foreign governments and humanitarian aid providers to exclude the option of abortions from the medical services made available to victims of war rape. Further, when these funds are comingled with funds from other donor governments, these restrictions, in effect, apply to the entire pot of funding. This impedes other states’ ability to comply with their fundamental obligations under the Geneva Conventions, its Additional Protocols and customary international law.

As part of the upcoming Universal Periodic Review of the United States on November 5, 2010, the Global Justice Center urges all member states of the Human Rights Council to question the US about these abortion restrictions.

Norway has already submitted the following question to the US:

“The Global Justice Center (GJC) filed a shadow report for the universal periodic review of the US expressing concern with regard to US blanket abortion restriction on humanitarian aid and abortion speech restrictions on US rule of law and democracy programs. Does the US have any plans to remove its blanket abortion restrictions on humanitarian aid covering the medical care given women and girls who are raped and impregnated in situations of armed conflict? Does the US government apply abortion speech restrictions on its rule of law and democracy programs?”

We urge all countries to join Norway and question the US on this policy which has deadly consequences for victims who are raped and impregnated in armed conflict.

**BACKGROUND INFORMATION ON THE RIGHTS OF GIRLS AND WOMEN IMPREGNATED BY  
RAPE IN ARMED CONFLICT**

**RAPE USED AS A TACTIC OF WAR: THE SCALE OF THE PROBLEM**

The sheer number of girls and women targeted by sexual violence is shocking. Between 250,000 and 500,000 girls and women were raped during the Rwandan genocide in 100 days and approximately 20,000 children were born as a result of these rapes. In Liberia, one government survey showed that 92% of the women interviewed had experienced some form of sexual violence. The targeted use of rape in war is not new. In 1971 the West Pakistani army raped hundreds of thousands of Bangladeshi women resulting in approximately 25,000 children being born of rape due to limited access to abortions.

Local health centers in South Kivu, DRC estimate that approximately 40 women are raped in the region every day, and the International Rescue Committee (IRC) estimates that for every rape reported in the DRC, 30 rapes go unreported.

Today, the major providers of humanitarian aid to girl and women victims of war rape routinely exclude abortion services. Although a few courageous doctors and agencies, such as MSF, provide abortion services episodically, this provision is a discretionary humanitarian act, not a recognition of a woman's non-derogable legal right. The non-provision of abortions is euphemistically referred to as the "unavailability of abortions" and this situation is viewed as an unfortunate but accepted reality in many UN and INGO reports on sexual violence against women in armed conflict.

#### **THE RIGHT TO NON-DISCRIMINATORY MEDICAL CARE NECESSARILY INCLUDES ABORTIONS**

Under common Article 3 of the Geneva Conventions and its Additional Protocols require that during armed conflict States provide non-discriminatory medical care to the "sick and wounded" including girls and women impregnated by war rape. The Additional Protocols make clear that medical care must be given "without distinction" which we argue includes the option of abortions. This principle is now recognized as customary international law and binds all states. Additionally, since this right is enshrined in the Geneva Conventions, it supersedes any local criminal abortions laws during times of armed conflict.

The only class of victims who are not granted their entitlement to complete medical care are those that are impregnated from rape. Boys and men who are raped, or girls and women who are raped but not impregnated, are theoretically given the full range of medical care that is necessitated by their injuries. The provision of EC is helpful only for the small percentage of victims who are able to obtain medical care within 72 hours. For example, of the 303 recent victims of sexual violence in Walikale in the DRC, only two presented for treatment within this 72 hour window.

#### **THE US ABORTION RESTRICTIONS ON HUMANITARIAN AID HAVE A GLOBAL EFFECT**

The United States is the largest provider of humanitarian aid in the world. It imposes, as a condition of foreign aid, abortion restrictions on all its grantees (including foreign governments and NGO's). This has shaped the discrimination towards victims of war rape. By applying abortion restrictions to humanitarian aid the US is effectively inhibiting other states from complying with their obligations under international humanitarian law. For example, when the US provides humanitarian aid to Sudan, it prevents Sudan from using those funds to offer the option of abortion in state funded medical care to girls and women raped during the conflict, which it is required to do under the Geneva Conventions.

#### **ABOUT THE GLOBAL JUSTICE CENTER**

The Global Justice Center (GJC) is a New York based human rights legal organization that develops innovative strategies to enforce international law to guarantee equal access to justice and political power.

*In the community, they made such fun of me that I had to leave the village and live in the forest. Today the only thing that I can think about is that I want an abortion. I am hungry; I have no clothes and no soap. I don't have any money to pay for medical care. It would be better if I died with the baby in my womb.*

- "Josephine" South-Kivu, Democratic Republic of the Congo, March 2004 (as reported to Amnesty International)