Abortion and human rights

Abortion is a human right; international human rights committees have consistently found that criminalizing abortion violates the rights of women, girls, and people who can become pregnant in a number of ways.[1] Pregnant people themselves—not the state—should have the ultimate authority when it comes to their decision on carrying a pregnancy. If a pregnant person decides to seek an abortion, they should have access to a safe and legal procedure without the fear of discrimination or violation of their human rights.

When states severely limit or entirely ban access to abortion, they are putting the lives of pregnant people at risk. It is estimated that 25 million unsafe abortions take place every year, and a majority of deaths from unsafe abortions take place in countries where it is highly restricted.[2] An estimated 7.9% of annual maternal deaths can be attributed to unsafe abortions, and the people most affected live in poverty or belong to marginalized groups.[3] Access to safe, legal abortions supports the rights to autonomy, the liberty and security of person, non-discrimination, life, health, and the enjoyment of the benefits of scientific progress. Criminalizing or blocking access to abortion directly infringes upon these rights.

People's ability to exercise their reproductive autonomy, control their reproductive lives and decide if, when and how to have children is essential to the full realization of human rights for women, girls and all people who can become pregnant.

Criminalizing Abortion Violates Human Rights

Respect for the autonomous decision-making of women, girls and all those who can become pregnant in laws and policies that affect their lives is a key indicator of the degree of gender equality achieved.[4] Laws that do not place pregnant people at the center and do not respect their autonomous decision-making and human rights cause harm to all women, girls and others who can become pregnant, and in particular to people who are marginalized and/or otherwise face intersecting forms of discrimination.

The Rights to Autonomy and Privacy

The decision to bear and give birth to a child falls within the right to privacy that must be respected by states and protected from third-party interference. Human rights treaty bodies have found that denying

[1] Amnesty International refers to women and girls, people who can become pregnant and pregnant people or individuals in this document. This recognizes that while the majority of personal experiences with abortion relate to cisgender women and girls (that is, women and girls whose sense of personal identity and gender corresponds with the sex they are assigned at birth), intersex people, transgender men and boys, and people with other gender identities may have the reproductive capacity to become pregnant and may need and have abortions.

[2] Office of the United Nations High Commissioner for Human Rights (OHCHR), "Information Series on Sexual and Reproductive Health and Human Rights: Abortion", 2020, available at https://www.ohchr.org/Documents/Issues/Women/WRGS/SexualHealth/INFO_Abortion_WEB.pdf

[3] Office of the United Nations High Commissioner for Human Rights (OHCHR), "Information Series on Sexual and Reproductive Health and Human Rights: Abortion" (previously cited).

[4] R.J. Cook and S. Howard, 'Accommodating women's differences under the Women's Anti-Discrimination Convention', 2007, 56 *Emory Law Journal* 1039, 1050

access to abortion of imposing barriers to access undermines reproductive autonomy, and it violates rights to privacy and equality. The HRC has recognized that an individual's decision to pursue a voluntary termination of pregnancy falls within the scope of the right to privacy.[5] UN experts have noted that restrictive laws and policies on abortion not only contravene human rights law but also "negate [women's] autonomy in decision-making about their own bodies." [6] Furthermore, the HRC has found that failure to act in conformity with a woman's decision to undergo a lawful abortion is a violation of the right to privacy.[7]

The Rights to Liberty and Security of Person

Closely linked to the rights to privacy and autonomy are the rights to liberty and security of person. The right to liberty is not simply a right to not be subjected to arbitrary and unjust detention, [8] which is a common and significant impact of criminal abortion laws, but it also extends to unjust state interference with individuals' personal lives, including regarding decisions around pregnancy and family life.

Criminal abortion laws contribute to women's imprisonment.[9] As noted by the UN Special Rapporteur on the right to health, "[w]here abortion is illegal, women may face imprisonment for seeking an abortion and emergency services for pregnancy-related complications, including those due to miscarriages. Beyond incarceration, forcing a pregnant person to carry a pregnancy to term amounts to both a physical and psychological invasion of their bodies and lives. In the CEDAW Committee's General Comment 35, it is explicitly stated that the criminalization of abortion is a violation of women's sexual and reproductive health and rights and a form of gender-based violence, and it urged states to repeal all legislation that criminalizes abortion.[10] In *P. and S. v Poland,* The European Court of Human Rights found that the Polish government violated an adolescent girls' right to liberty by separating her from her mother and detaining her to prevent her from terminating her pregnancy, when less severe measures could have been taken.[11]

The Rights to Equality and Non-discrimination and Equal Protection of the Law

States must ensure the right to equality and non-discrimination as a fundamental part of realizing the rights to life and health and other human rights, particularly for women and girls, as well as other marginalized groups. The HRC has stated that interference with women's access to reproductive health

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[5] See Human Rights Committee, Mellet v Ireland, Comm. No. 2324/2013, UN Doc. CCPR/C/116/D/2324/2013 (2016). See also Human Rights Committee, L.M.R. v Argentina, Comm. No. 1608/2007, UN Doc.

[6] OHCHR, "'Unsafe abortion is still killing tens of thousands women around the world' – UN rights experts warn", 27 Sept 2016, available at https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20600&LangID=E

[7] See for example, Human Rights Committee, K.L. v Peru, Comm. No. 1153/2003, UN Doc. CCPR/ C/85/D/1153/2003 (2005). See also L.M.R. v Argentina, Comm. No. 1608/2007, UN Doc. CCPR/C/101/D/1608/2007 (2011).

[8] See Human Rights Committee, General Comment 35 (Article 9: Liberty and security of person), UN Doc. CCPR/C/GC/35 (2014), paras 3, 5-6 and 10-14.

[9] See Report of the UN Special Rapporteur on the right to highest attainable standard of physical and mental health, UN Doc. A/HRC/38/36 (2018), para. 75.

[10] CEDAW Committee, General Recommendation 35 on gender-based violence against women, updating General Recommendation 19, UN Doc. CEDAW/C/GC/35 (2017).

[11] European Court of Human Rights, P. and S. v Poland, App. No. 57375/08 (2012).

care, including failure to ensure that women do not have "to undergo life-threatening clandestine abortions" violates their right to non-discrimination, as well as their right to life.[12] The UN Working Group on the issue of discrimination against women in law and in practice has noted that countries violate women's rights when they "neglect women's health needs, fail to make gender-sensitive health interventions, deprive women of autonomous decision-making capacity and criminalize or deny them access to health services that only women require." [13]

The Rights to Health, Life and to be Free from Torture and Other Ill-treatment

The right to equality and non-discrimination[14] together with the rights to health, to be free from torture and other ill-treatment, to privacy and to access to information, require states to accommodate women's specific health needs and take measures to ensure women are not denied the medical services and information they need.[15]

The CEDAW Committee's General Recommendation 35 on gender-based violence against women recognized criminalization of abortion, as well as denial or delay of safe abortion and post-abortion care, not only as violations of women's sexual and reproductive health and rights, but also as "forms of gender-based violence that … may amount to torture or cruel, inhuman or degrading treatment."[16] Human rights standards have also long protected against de facto punitive measures for criminal abortion, specifically abuse and mistreatment, and the withholding care within health settings. The UN Special Rapporteur on Torture[17] and the UN Working Group on the issue of discrimination against women in law and in practice[18] have condemned any degrading treatment towards pregnant people in health care facilities when seeking an abortion. The UN Working Group has explained that "[w]omen face a disproportionate risk of being subjected to humiliating and degrading treatment in health-care facilities, especially during pregnancy … in the name of morality or religion, as a way of punishing what is considered 'immoral' behaviour."[19]

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[12] Human Rights Committee, General Comment 28, UN Doc. CCPR/C/21/Rev.1/Add. 10 (2000), para. 20.
[13] UN Working Group on the issue of discrimination against women in law and in practice, Report of the Working Group, Human Rights Council (32nd Session), UN Doc. A/HRC/32/44 (2016), para. 14
[14] The prohibition of discrimination in the enjoyment of the rights is set out in the respective instruments such as Article 2 ICCPR, Article 2 ACHPR, Article 1(1) and Article 14 ECHR. The equal treatment provided for in these provisions refers only to the enjoyment of the rights contained in each of the instruments. On the other hand, provisions such as Article 26 ICCPR, Article 3 ACHPR, Article 24 ACHR, and Protocol 12 to the ECHR establish a general equality requirement according to which everyone must be treated equally before the law. In other words, it requires that all laws be applied equally to all people under the jurisdiction of the state without discrimination, prohibiting discrimination in any area regulated and protected by public authorities, and thus constituting an autonomous right to non-discrimination.
[15] See CEDAW Committee, General Recommendation 24 (Article 12: Women and Health), UN Doc. A/54/38/Rev.1, chap. 1 (1999), paras 11 and 14; See also CEDAW Committee, L.C. v Peru, Comm. No. 22/2009, UN Doc. CEDAW/C/50/D/22/2009 (2011), para. 8.16.
[16] 3 CEDAW Committee, General Recommendation 35 on gender-based violence against women, updating General Recommendation 19, UN Doc. CEDAW/C/GC/35 (2017), para. 18.
[17] Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/HRC/31/57 (2016), paras 42, 46, 47, 70(k).
[18] The UN Working Group on the issue of discrimination against women in law and in practice, Report of the working group on the issue of discrimination against women in law and in practice, UN Doc. A/HRC/32/44 (2016), para. 17.
[19] The UN Working Group on the issue of discrimination against women in law and in practice, Report of the working group on the issue of discrimination against women in law and in practice, UN Doc. A/HRC/32/44 (2016), para. 17.

The Right to the Enjoyment of the Benefits of Scientific Progress

Women, girls, and people who can become pregnant have the right to the benefits of scientific progress, as stated in the Universal Declaration of Human Rights. [20] All people who can become pregnant have a right to the benefits of scientific progress that can provide safe abortions.

The right to enjoy scientific progress is particularly important in the case of abortion, seeing that medical abortion methods offer some of the safest procedures for pregnant people. In some settings, abortion may be legal but cannot be provided safely. Scientific advancements in abortion provision have made the procedure safer and easier to access, and all pregnant people have a right to enjoy the benefits of these advancements, which is a right denied when the state criminalizes or restricts access to abortion.

[20] Universal Declaration of Human Rights, adopted Dec. 10, 1948, art. 27, G.A. Res. 217A (III), U.N. Doc. A/810 at 71.

States' Human Rights Obligations in the Context of Abortion

As public health evidence has improved the understanding of what is at stake when women, girls and all people who can become pregnant cannot control their reproduction, abortion-related human rights standards have evolved. Human rights treaty bodies have increasingly called upon states to decriminalize abortion and create conditions to ensure people are empowered to make decisions about their own sexualities, reproduction, bodies and lives based on accurate and non-biased information.

States must fulfil their international legal obligations around abortion and fully protect the rights of women, girls, and all people who can become pregnant. Pregnant people who do not have access to safe and legal abortions may risk their lives by seeking out illegal and dangerous methods to terminate their pregnancies. Decriminalizing abortion protects their right to health and life, as they would no longer risk their lives in order to have autonomy of their own bodies. Furthermore, states are obligated to nullify any requirements or barriers that restrict access to abortion-related healthcare. It is necessary for states to actively remove the barriers that can impede the provision of abortion-related services, as this further denies the right to autonomy for pregnant people.

Evolving International Human Rights Law and Standards

Analysis and recommendations by UN treaty bodies regarding states' legal obligations in the context of abortion have undergone substantial evolution in the past decade.[21] The first to express concern about restrictive abortion laws was the HRC in 1993.[22] Since then, various UN treaty bodies[23] have consistently expressed concern about unsafe abortion and its consequences for women and girls. Furthermore, the focus has shifted from calling for access to abortion as a measure to decrease maternal mortality and morbidity due to unsafe abortion, to providing full protection for a range of other women's human rights. There is now a clear shift away from urging additional exceptions to the criminal law to total decriminalization and guaranteeing access to safe abortion. The UN treaty bodies have also increasingly

[21] See Human Rights Committee, Mellet v Ireland, Comm. No. 2324/2013, UN Doc. CCPR/C/116/D/2324/2013 (2016). See also Center for Reproductive Rights, "Breaking ground 2020: Treaty Monitoring Bodies on Reproductive Rights, 2020", available at https://reproductiverights.org/breaking-ground-2020-treaty-monitoring-bodies-on-reproductive-rights/ . See also J.B. Fine et al, "The Role of International Human Rights Norms in the Liberalization of Abortion Laws Globally", Health and Human Rights Journal, 2 June 2017, available at https://www.hhrjournal.org/2017/06/the-role-of-international-human-rights-norms-in-the-liberalization-of-abortion-laws-globally/

[22] See Human Rights Committee, Concluding Observations: Ireland, UN Doc. CCPR/C/79/Add.21 (1993), para. 15.

[23] These bodies include the Human Rights Committee (HRC), the Committee on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC) Committee, the Committee on Economic, Social and Cultural Rights (CESCR), the Committee against Torture (CAT), the Committee for the Elimination of Racial Discrimination, and the Committee on the Rights of Persons with Disabilities (CRPD Committee)"

highlighted equality, autonomy and physical and mental integrity as profound concerns in relation to access to abortion.

Decriminalize Abortion

Initially, the UN treaty bodies focused on the strictest regulation of abortion, expressing concern about states that criminalized abortion in all circumstances[24] or in all but a few limited circumstances.[25] However, over the years, they have come to understand the violations that result from denial of safe abortion services and shifted their recommendations accordingly. The CESCR Committee has called on states to "liberalize restrictive abortion laws" and "guarantee access to safe abortion services and quality post-abortion care"[26] and advised states to ensure that sexual and reproductive health care includes access to safe abortion services.[27] The UN Special Rapporteur on the right to health has also noted the importance of decriminalizing abortion, including the decriminalization of the facilitating abortion.[28] Fully decriminalizing, regardless of reason, is necessary to protect the human rights of all people who can become pregnant, including their rights to health and life, by preventing the harmful impact of illegal and unsafe abortions.

Eliminate Requirements that Nullify the Autonomy and Agency of Women, Girls and Pregnant People

UN treaty bodies and experts have increasingly criticized abortion laws that restrict pregnant people's reproductive autonomy and their right to make decisions about their pregnancy. The CESCR Committee has asserted that increased access to abortion, as well as other sexual and reproductive health services,

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[24] See CESCR Committee, Concluding Observations: Nepal, UN Doc. E/C.12/1/ADD.66 (2001); Chile, UN Doc. E/C.12/1/ADD.105 (2004); Malta, UN Doc. E/C.12/1/ADD.101 (2004); Monaco, UN Doc. E/C.12/MCO/CO/1 (2006); El Salvador, UN Doc. E/C.12/SLV/CO/2 (2007); Costa Rica, UN Doc. E/C.12/CRI/CO/4 (2008); Philippines, UN Doc. E/C.12/PHL/CO/4 (2008); Mauritius, UN Doc. E/C.12/MUS/CO/4 (2010); Nicaragua, UN Doc. E/C.12/NIC/CO/4 (2008). See also CRC Committee, Concluding Observations: CRC/C/CHL/CO/3; CRC/C/NIC/CO/4; CRC/C/MLT/CO/2. See also CEDAW Committee, Concluding Observations: Honduras, UN Doc. CEDAW/C/HON/CO/6 (2007); Chile, UN Doc. CEDAW/C/CHL/CO/5-6 (2012); United Arab Emirates, UN Doc. CEDAW/C/AND/CO/2-3 (2015). See also Human Rights Committee, Concluding Observations: Nicaragua, UN Doc. CCPR/C/NIC/CO/3 (2008); Dominican Republic, UN Doc. CCPR/C/DOM/CO/5 (2012); Philippines, UN Doc. CCPR/C/PHL/CO/4 (2012); Sierra Leone, UN Doc. CCPR/C/SLE/CO/1 (2014); Chile, UN Doc. CCPR/C/CHL/CO/6 (2014); Madagascar, UN Doc. CCPR/C/MDG/CO/3 (2007); Madagascar, UN Doc. CCPR/C/MDG/CO/4 (2017). See also CAT Committee, Concluding Observations: Nicaragua, UN Doc. CAT/C/NIC/CO/1 (2009); Sierra Leone, UN Doc. CAT/C/SLE/CO/1 (2014).

[25] See CAT Committee, Concluding Observations: Paraguay, UN Doc. CAT/C/PRY/CO/4-6 (2011). See also CEDAW Committee, Concluding Observations: Afghanistan, UN Doc. CEDAW/C/AFG/CO/1-2 (2013); Bahamas, UN Doc. CEDAW/C/BHS/CO/1-5 (2012). See also CRC Committee, Gambia, UN Doc. CRC/C/GMB/CO/2-3 (2015). See also Human Rights Committee, Jordan, UN Doc. CCPR/C/JOR/CO/5 (2017).

[26] CESCR Committee, General Comment 22 (2016) on the right to sexual and reproductive health (Article 12 of the ICESCR), UN Doc. E/C.12/GC/22 (2016), para. 28.

[27] See CEDAW Committee, General Recommendation 30 (women in conflict prevention, conflict and post-conflict situations), UN Doc. CEDAW/C/GR/30 (2013), para. 52 (c). See also CEDAW Committee, Concluding Observations: New Zealand, UN Doc. CEDAW/C/NZL/CO/7 (2012), para. 35(a) (permitting abortion where pregnancy poses a risk to the woman's physical or mental health and in instances of rape or incest to amend its abortion law "to ensure women's autonomy to choose."). See also CEDAW Committee, Concluding Observations: Sierra Leone, UN Doc. CEDAW/C/SLE/CO/6 (2014), para. 32.

[28] Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 'Interim rep. of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, transmitted by Note of the Secretary-General', UN Doc. A/66/254 (2011), para. 65(h),(i).

are part of states' obligations to "respect the right of women to make autonomous decisions" about their health.[29]

Women, girls and all pregnant people are the ones who should make decisions about their pregnancies. It should be up to them to decide if they want third parties involved. Third parties have a role to play in the context of abortion – but it is not their role to determine the pregnant person's eligibility for abortion or to make decisions on their behalf. UN treaty bodies have consistently expressed concerns regarding third-party authorization requirements to obtain an abortion – for example from a spouse or partner[30] or from healthcare professionals – and the adverse effect these have on women's ability to access services.[31] The CEDAW Committee noted in its General Recommendation 24 that "States parties should not restrict women's access to health services or to the clinics that provide those services on the ground that women do not have the authorisation of husbands, partners, parents or health authorities, because they are unmarried or because they are women." [32] E.g. in 2012, the CEDAW Committee expressed concern to New Zealand about their restrictions on abortion that forces pregnant people to receive certificates from "two certified consultants" before an abortion can be performed. The committee stated that this rule nullifies the autonomy of pregnant people, and recommended that the state "review the abortion law and practice with a view to simplifying it and to ensure women's autonomy to choose."[33]

Eliminate Other Barriers to Lawful Abortion Services

States have a legal obligation to ensure that abortion access is effectively available to women and girls and others who can become pregnant, free from any barriers, delays or restrictions that violate their human rights including their reproductive autonomy.[34] UN treaty bodies have consistently criticized barriers that states apply to impede or deny safe abortion services, such as cost,[35] unregulated or inadequately regulated refusals by health providers to provide lawful abortion services,[36] mandatory

[29] CESCR Committee, General Comment 22 (2016) on the right to sexual and reproductive health (Article 12 of the ICESCR), UN Doc. E/C.12/GC/22 (2016), para. 28.
[30] See CRC Committee, Concluding Observations: Pakistan, UN Doc. CRC/C/PAK/CO/5 (2016). See also CEDAW Committee, Concluding Observations: Tunisia, UN Doc. CEDAW/C/TUN/CO/6 (2010); Japan, UN Doc. CEDAW/C/JPN/CO/7-8 (2016); Turkey, UN Doc. CEDAW/C/TUR/CO/7 (2016). See also Human Rights Committee, Concluding Observations: Zambia, UN Doc. CCPR/C/ZMB/CO/3 (2007).
[31] See CEDAW Committee, Concluding Observations: Peru, UN Doc. CEDAW/C/PER/CO/7-8 (2014); Rwanda, UN Doc. CEDAW/C/RWA/CO/7-9 (2017); Timor-Leste, UN Doc. CEDAW/C/TLS/CO/2-3 (2015); New Zealand, UN Doc. CEDAW/C/NZL/CO/7 (2012). See also CAT Committee, Concluding Observations: Kenya, UN Doc. CAT/C/KEN/CO/2 (2013)
[32] CEDAW Committee, General Recommendation 24 (Article 12: Women and Health), UN Doc. A/54/38/Rev.1, chap. 1 (1999), para. 14.
[33] CEDAW Committee, Concluding Observations: New Zealand, UN Doc. CEDAW/C/NZL/CO/7 (2012), paras 34, 35(a).
[34] Human Rights Committee, General Comment 36 (Article 6: Right to Life), UN Doc. CCPR/C/GC/36 (2019), para. 8.
[35] See for example, CEDAW Committee, Concluding Observations: Costa Rica, UN Doc. CEDAW/C/CRI/CO/7 (2017); Hungary, UN Doc. CEDAW/C/HUN/CO/7-8 (2013); see also Human Rights Committee, Concluding Observations: Pakistan, UN Doc. CCPR/C/PAK/CO/1 (2017); Ghana, CCPR/C/GHA/CO/1 (2016); see also CRC Committee, Concluding Observations: Slovakia, UN Doc. CRC/C/SVK/CO/3-5 (2016).
[36] See for example CEDAW Committee, Concluding Observations: Romania, UN Doc. CEDAW/C/ROU/CO/7-8 (2017); Italy, UN Doc. CEDAW/C/ITA/CO/7 (2017); Peru, UN Doc. CEDAW/C/PER/CO/7-8 (2014); Poland, UN Doc. CEDAW/C/POL/CO/7-8 (2014); Poland, UN Doc. CEDAW/C/POL/CO/6 (2007); Slovakia, UN Doc. CEDAW/C/SVK/CO/4 (2008); Slovakia, UN Doc. CEDAW/C/SVK/CO/5-6 (2015). See also CRC Committee, Slovakia, UN Doc CRC/C/SVK/CO/3-5 (2016). See also CESCR Committee, Concluding Observations: Italy, UN Doc. E/C.12/ITA/CO/5 (2015), Romania, UN Doc. E/C.12/ROU/CO/3-5 (2014);

counselling,[37] mandatory waiting periods[38] and information barriers.[39] They have called on states not only to refrain from introducing barriers to access to lawful abortion services, but to actively eliminate existing barriers.[40]

Regulate Refusals by Health-Care Professionals to Provide Lawful Abortion Services

Refusals of care based on conscience or religious belief[41] deeply impact the provision of abortion services. Such refusals, if they are not regulated by the state and patients are not provided with alternative care options, can have a significant impact on patients' health and rights and further reinforce discrimination against individuals and groups who are already marginalized and subjected to multiple and intersecting forms of discrimination.

UN and regional human rights bodies have recognized the harmful effects of refusals of care on the health and human rights of women, girls and all pregnant people. They have set out state obligations, under the rights to health, to privacy and to non-discrimination, to ensure that women, girls and all pregnant people can access the reproductive health services that they are lawfully entitled to receive. UN treaty bodies have confirmed that "in cases where abortion procedures may lawfully be performed, all obstacles to obtaining them should be removed," including the unregulated practice of refusing to provide services based on conscience.[42] It is a well-established human rights principle that, regardless of who provides the health care, the state is responsible for fulfilling the right to health and regulating

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Poland, UN Doc. E/C.12/POL/CO/6 (2016), Poland, UN Doc. E/C.12/POL/CO/5 (2009). See also Human Rights Committee, Concluding Observations: Argentina, UN Doc. CCPR/C/ARG/CO/5 (2016), Poland, UN Doc. CCPR/C/POL/CO/6 (2010). See also CAT Committee, Concluding Observations: Bolivia, UN Doc. CAT/C/BOL/CO/2 (2013); Poland, UN Doc. CAT/C/POL/CO/5- 6 (2013). See also Human Rights Committee, General Comment 36 (Article 6: Right to Life), UN Doc. CCPR/C/GC/36 (2019), para. 8.

[37] 8 See CEDAW Committee, Concluding Observations: Hungary, UN Doc. CEDAW/C/HUN/CO/7-8 (2013); Russian Federation, UN Doc. CEDAW/C/RUS/CO/8 (2015).

[38] CEDAW Committee, Concluding Observations: Slovakia, UN Doc. CEDAW/C/SVK/CO/5-6 (2015); Hungary, UN Doc. CEDAW/C/HUN/CO/7-8 (2013); Russian Federation, UN Doc. CEDAW/C/RUS/CO/8 (2015). See also CRC Committee, Concluding Observations, Slovakia, UN Doc. CRC/C/SVK/CO/3-5 (2016).

[39] See CESCR Committee, General Comment 14 (right to health), UN Doc. E/C.12/2000/4 (2000), para. 34. See also CESCR Committee, General Comment 22 (2016) on the right to sexual and reproductive health (Article 12 of the ICESCR), UN Doc. E/C.12/GC/22 (2016), para. 34.

[40] Human Rights Committee, General Comment 36 (Article 6: Right to Life), UN Doc. CCPR/C/GC/36 (2019), para. 8.

[41] The practice of health care providers refusing to perform certain health services, most often in the context of sexual and reproductive health care, which they object to on the grounds of their moral or religious views, is sometimes referred to as "conscience-based refusals" or "conscientious objection." The latter phrase is problematic as it enables conflation of refusals to provide medical care with "conscientious objection to military service" – a different situation where individuals object to compulsory military service imposed by governments. For purposes of clarity and accurate legal and human rights analysis, Amnesty International will use the phrases "refusals of care" or "denial of care" in the context of abortion when refusals of care by health care providers are unregulated or inadequately regulated, and pregnant persons are not promptly referred to willing providers and/or not provided care in emergency situations, amounting to a denial of care.

[42] Human Rights Committee, Concluding Observations: Argentina, UN Doc. CCPR/CO/70/ARG (2000), para. 14; see also CESCR Committee, Concluding Observations: Argentina, UN Doc. E/C.12/ARG/CO/3 (2011), para. 22; Poland, UN Doc. E/C.12/POL/CO/5 (2009), para. 28. See also CEDAW Committee, Concluding Observations: India, UN Doc. CEDAW/C/IND/CO/3 (2007), para. 41; Poland, UN Doc. CEDAW/C/POL/CO/6 (2007), para. 25. See also Human Rights Committee, General Comment 36 (Article 6: Right to Life), UN Doc. CCPR/C/GC/36 (2019), para. 8.

bodies to ensure health care is provided to everybody free from discrimination, coercion and with respect to human rights.

Legal Protection of Human Rights Starts at Birth

Amnesty International does not take a position on where human life begins; this is a moral and ethical question for individuals to decide for themselves.[43] Amnesty International affirms that legal protection of human rights, including the right to life, commences at birth. Some states across the world have adopted and enforced laws and policies that attempt to accord human right protection to fetuses, embryos, zygotes and gametes, to the detriment of the human rights of women, girls and all people who can become pregnant. International human rights law and standards are clear that human rights apply *after* birth, not before.[44] By contrast, no human rights body has ever found abortion to be incompatible with human rights, including the right to life. Additionally, no international human rights body has ever recognized the fetus as a subject of protection under the right to life or other provisions of international human rights treaties, including the Convention on the Rights of the Child.[45] The HRC has repeatedly emphasized the threat to women's and girls' lives posed by abortion prohibitions and restrictions that cause women and girls to seek unsafe abortions and has called upon states to liberalize laws on abortion.[46] In 2014, e.g., the HRC criticized the former Irish Constitution, which used to grant the right to life of the "unborn" on an equal footing with a pregnant woman's right to life. The HRC recognized the negative impact this had on women's access to abortion and called for reform of the constitutional provision and liberalization of the abortion law.[47]

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[43] See Amnesty International, 2018 Global Assembly Decisions (Index: ORG 50/8766/2018), UPDATE OF AMNESTY INTERNATIONAL'S POLICY ON ABORTION, p.5.
[44] Human Rights Committee, General Comment 36 (Article 6: Right to Life), UN Doc. CCPR/C/GC/36 (2019),
[45] See R. Copelon et. al., "Human rights being at birth: International law and the claim of fetal rights", Reproductive Health Matters (2005), Vol. 13, Issue 26, pp. 120-129.
[46] Human Rights Committee, Concluding Observations on Poland, UN Doc. CCPR/CO/82/POL (2004), para. 8. See also Human Rights Committee, General Comment 36 (Article 6: Right to Life), UN Doc. CCPR/C/GC/36 (2019), para 8.
[47] Human Rights Committee, Concluding Observations on Ireland, UN Doc. CCPR/C/IRL/CO/4 (2014), para. 9.