



Advokatforeningen

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Oslo, February 3, 2014

Dear President Obama,

I am writing to you on behalf of the Norwegian Bar Association regarding the medical treatment of girls and women raped in armed conflict and urge you to immediately lift the United States ("U.S.") abortion restrictions on humanitarian aid for female rape victims via an Executive Order.

The Norwegian Bar Association, which holds 8000 members currently, is strongly committed to promote the rule of law and believes that international humanitarian law must be interpreted in a gender-sensitive manner. We represent over 90 % of Norwegian advocates and assistant lawyers who are members of our organization. Norwegian lawyers are particularly concerned with uphold the rights to nondiscriminatory medical treatment including abortions for all persons protected by the Geneva Conventions: civilians and wounded service women.

We join the urgent appeals sent to you from legal and human rights groups, who are, like us, deeply concerned about the current practice of the U.S. Agency for International Development prohibiting aid to be used for the provision of abortion services, even in cases of rape or when the life of the mother is at risk. These concerns were voiced by organizations such as Amnesty International USA, the New York Bar Association, the Paris Bar Association, the Queen's Counsel in the United Kingdom, the Federation of Women Lawyers in Kenya and Nigeria, the Egyptian Female Lawyers Association, the European Women Lawyers Association and many more. Their common demand was most recently echoed by the New York Times who called on your executive authority to end this inhuman and degrading policy which breaches international humanitarian law.

The use of systematic mass rapes as a weapon against civilians is still a global epidemic. According to the United Nations Secretary-General's 2013 annual report on sexual violence in conflict, rape is being used in conflict countries such as the Central African Republic, Côte d'Ivoire, Democratic Republic of the Congo, Liberia, Mali, Myanmar, Sudan, Somalia and Syria. The rampant use of rape during the Rwandan and Bosnian genocide not only shocked the international community but led to rape being codified as part of the definition of crimes against humanity in the 2008 Rome Statute of the International Criminal Court.

We deem it equally important that girls and women surviving these crimes receive adequate medical care, including, when pregnant as result of rape, access to safe abortion services. The majority of rape victims in conflict zones are children and among girls pregnancy is a leading cause of death, due to complications of delivery and unsafe abortion. In addition to the physical consequences, the social stigma associated with becoming pregnant from rape is also severe, depriving girls of further education, livelihoods and marriage.

The U.S. abortion restrictions on humanitarian aid are contradictory to the purpose of humanitarian aid to save lives and relieve suffering. We welcomed Norway asking the U.S. 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.” during the Universal Periodic Review at the Human Rights Council in 2010.

We strongly support the legal view of Professor Louise Doswald-Beck, a leading expert for international humanitarian law (“IHL”) and former head of the legal division of the International Committee of the Red Cross (‘ICRC’) who in her letter to you dated April 16, 2013 laid out that:

- The denial of abortion violates the medical care guarantees of international humanitarian law. The failure to provide abortions as part of medical care for girls and women raped in war violates the categorical care and protection guarantees of IHL. These include the rights of the “wounded and sick” to all necessary medical care, as required by their condition, under common Article 3 of the Geneva Conventions.
- The denial of abortion violates the absolute prohibition on gender discrimination under international humanitarian law. The denial of abortions for girls and women impregnated as a result of war rape violates the IHL prohibition on “adverse distinction,” including discrimination based on gender, since boys and men raped in war receive all necessary medical care. Professor Doswald-Beck states that IHL, as well as human rights law, precludes using biological differences to justify less favorable treatment for women and that although the medical treatment for female victims of rape may be different from that of male victims of rape, under IHL, “the outcome for each gender” must be the same.
- The denial of abortion constitutes torture and cruel treatment in violation of international humanitarian law. Given that pregnancy aggravates the serious, sometimes life-threatening, risks of the injuries from brutal rape perpetrated in armed conflict, the failure to provide abortion violates the prohibition against torture or cruel treatment under common Article 3 of the Geneva Conventions.

We also warmly welcomed the United Nations Security Council adoption of Resolution 2122 (2013) on 18 October 2013 which in an historic step made clear that Member States and United Nations entities must ensure that girls and women raped in conflict are given all options and “noting the need for access to the full range of sexual and reproductive health services, including regarding pregnancies resulting from rape, without discrimination,”. Both the U.S. and Norway were co-sponsors of Security Council Resolution 2122. We therefore strongly urge these


governments to implement this new resolution in their foreign policy by eliminating any barriers in accessing such services and upholding women's rights under international humanitarian law which in times of armed conflict, trumps national laws, including those that criminalize abortion.

Mr. President, in your second inaugural address, you stated that "we must be a source of hope to the poor, the sick, the marginalized, the victims of prejudice – not out of mere charity, but because peace in our time requires the constant advance of those principles that our common creed describes: tolerance and opportunity; human dignity and justice."

We hope that you, Mr. President will take action and leave your personal legacy by becoming a standard-bearer for equality in international humanitarian law and ending the suffering for girls and women globally.

We thank you for your attention to this important matter.

Most respectfully,

A handwritten signature in black ink, appearing to read 'Merete Smith', written in a cursive style.

Merete Smith
Secretary General