

POLICY *Analysis*

Center for Family and Human Rights

Applying the Siljander Amendment to the UN System

July 2020

INTRODUCTION

The U.S. State Department announced reduction in U.S. contributions to human rights bodies connected to the Organization of American States on March 26, 2019, for violations of the Siljander Amendment, which forbids the use of American contributions to lobby for or against abortion.

UN agencies also receive U.S. funding and lobby governments to change laws on abortion.

UN bodies should not receive U.S. funding when they violate U.S. law.

Background

In 1981, Representative Mark Siljander introduced an amendment to the State-Foreign Operations Appropriations Act of fiscal year 1982 specifying that none of the funds made available in the act could be used to lobby for abortion.

The amendment was subsequently modified to prohibit lobbying “for or against abortion,” and has been included in foreign operations appropriations bills on an annual basis, with the exception of the years 1994-1995. While the Siljander Amendment has remained in effect as a matter of law during that time, unlike the Mexico City Policy, which has been in place only during Republican administrations, its enforcement has been uneven.

Application to the OAS

On March 26, Secretary of State Mike Pompeo announced a cut in funding to the Organization of American States (OAS), citing the activities of its subsidiary bodies, the Inter-American Commission on Human Rights (IAHCR) and Inter-American Commission on Women (CIM) lobbying for abortion in Latin American and Caribbean countries with pro-life laws.¹

The Siljander Amendment applies to all programs and activities funded by the Foreign Appropriations Act, not only the global health area covered by the expanded Mexico City Policy. This includes general U.S. funding to OAS, which in turn is redirected to other organs, including IAHCR and CIM. The Amendment also covers any voluntary contributions given by the U.S. directly to those bodies. In December of 2018, Senator James Lankford and other Congressional members issued a letter calling for funding cuts to OAS, proportional to its

¹ Remarks by Secretary Pompeo to the press, March 26, 2019. Available at <https://www.state.gov/remarks-to-the-press-7/>

abortion-lobbying activities, in order to comply with the Siljander Amendment. In March of 2019, Secretary Pompeo announced a funding cut of \$210,000 to the OAS.

Applying the same standard to the UN

While the enforcement of the Siljander Amendment to the OAS is commendable, there are other U.S.-funded international institutions engaging in the same type of abortion lobbying that are overdue for similar assessment.

Chief among these is the United Nations, and in particular, its bodies focused on human rights and the establishment of international norms, including the Office of the High Commissioner for Human Rights (OHCHR) and UN Women.

As of 2018, the U.S. contributed 22% of the total UN budget, the highest of any UN member state. Most UN-related appropriations by Congress fall under State-Foreign Operations (SFOPS), which are covered by the Siljander Amendment. Under SFOPS are different accounts, including Contributions to International Organizations (CIO), which goes to regular U.N. budget assessed contributions, Contributions for International Peacekeeping Activities (CIPA), which goes to assessed contributions to UN peacekeeping, International organizations and Programs (IO&P), which goes to UN funds and programs, usually specified in annual SFOPS bills, and a variety of humanitarian-related accounts that go to UN humanitarian efforts.

To give some examples, the UN regular budget and contributions to the World Health Organization (WHO) come from CIO, while IO&P funds, among others, the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP), the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), the Office of the High Commissioner for Human Rights (OHCHR), the United Nations Population Fund (UNFPA), and UN Women.²

In much the same way as with the OAS, these bodies can have their own subsidiary organs, and the precise use of U.S. funding is not always clear with regard to how it is allocated within the UN entity. Therefore, application of the Siljander Amendment to any such entity may require high-level estimates, as done by Secretary Pompeo with regard to OAS in March 2019.

The Office of the High Commissioner for Human Rights and treaty bodies: U.S. funding

The Office of the High Commissioner for Human Rights (OHCHR) is the branch of the UN secretariat which supports the human rights treaty monitoring bodies, which in turn monitor compliance by States party to multilateral human rights treaties. These treaty bodies, while they have less authority, are analogous in their role and function to the Inter-American Commission on Human Rights, which is essentially the treaty body of the OAS for the Inter-American Convention for Human Rights. It would be appropriate in light of the intense abortion lobbying of UN treaty bodies, to apply the Siljander amendment in a way analogous to that of the OAS.

Among the treaties the U.S. has ratified are the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).

The U.S. has signed, but not ratified such treaties as the Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the

² U.S. Funding to the United Nations System: Overview and Selected Policy Issues. Updated April 2018. Congressional Research Service, Report R45206.

International Covenant on Economic, Social and Cultural Rights (CESCR), and the Convention on the Rights of the Child (CRC).

Treaty bodies periodically review the compliance of States that have ratified their respective treaties and issue concluding observations that recommend ways in which the State can better fulfill its obligations under the treaty. Unlike the treaty text itself, these observations are not binding, but are frequently cited as evidence of “human rights standards” and have occasionally been cited by courts within countries in legal decisions.

All seven of the treaty bodies listed above have issued direct orders to States party to their respective treaties to liberalize their abortion laws. Regardless of the U.S.’s ratification status of specific treaties, funding for the entire treaty body system goes through the OHCHR, which in turn is funded by the U.S. According to the most recent annual report of the OHCHR, for the year 2017, \$15,830,000 was spent on supporting the human rights treaty bodies, which is approximately 14 percent of the total OHCHR regular budget expenditure of \$110,478,000, and approximately 7 percent of OHCHR’s combined regular budget and extrabudgetary expenditures for 2017.³

The OHCHR receives some 40 percent of its funding through the United Nations regular budget, with the remainder coming from Member States and other donors.⁴ In 2018, the U.S. donated \$18,654,743 as a voluntary contribution to OHCHR, the fourth most generous donor behind Norway, Sweden, and the European Commission. This is in addition to the U.S. funding to the UN system as a whole, some of which is subsequently directed toward OHCHR.

As a matter of consistency, just as the abortion lobbying activities conducted within the OAS were deemed to be in conflict with the Siljander Amendment restrictions on U.S. funding, so too would be the activities conducted by the OHCHR and other UN entities if they were shown to directly lobby other countries to change their abortion laws.

Evidence of abortion lobbying by UN human rights treaty bodies under OHCHR

In their concluding observations to States party to human rights conventions, the treaty monitoring bodies have assembled a consistent, and expanding, record of directly ordering the liberalization of the abortion laws in many countries.

This practice has been most prevalent in the seven treaties mentioned above: ICCPR, CESCR, CERD, CEDAW, CAT, CRC, and CRPD.

Beginning in the 1990s, a campaign began to create a de facto “right” to abortion by the reinterpretation of existing human rights treaties to include abortion.⁵ This was despite the fact that none of the treaties mentioned abortion in their text, and any attempt to include such a reference would have been strongly rejected by the UN Member States who negotiated the treaty texts in the first place.

Examples of abortion lobbying by treaty bodies include the following:

³ Available at: https://www2.ohchr.org/english/OHCHRreport2017/allegati/6_Financial_Statements_2017.pdf

⁴ Available at: <https://www.ohchr.org/EN/AboutUs/Pages/FundingBudget.aspx>

⁵ Yoshihara, Susan and Sylva, Douglas. Rights By Stealth: The Role of UN Human Rights Treaty Bodies in the Campaign for an International Right to Abortion. C-Fam, 2007. https://c-fam.org/white_paper/rights-by-stealth-the-role-of-un-human-rights-treaty-bodies-in-the-campaign-for-an-international-right-to-abortion-2/

Human Rights Committee (monitoring ICCPR):

- Review of Colombia, 2016: “The State party should continue and step up its efforts to ensure that women have effective, prompt access to legal abortion services by, inter alia, doing away with the obstacles that could prevent their access to such services and facilitating public access to information on how to go about having an abortion legally. In particular, the State party should establish an effective referral mechanism to ensure the availability of safe abortion services in cases where health-care professionals invoke the conscientious objection clause, and ensure that those professionals who perform abortions receive adequate training. The State party should review the repercussions of the existing legal framework with a view to ensuring that women do not have to resort to clandestine abortions that endanger their life and health.”⁶
- Review of the Dominican Republic, 2017: “The State party should amend its legislation to guarantee safe, legal and effective access to voluntary termination of pregnancy where the life or health of the pregnant woman or girl is in danger or where carrying the pregnancy to term could cause the pregnant woman or girl substantial harm or suffering, especially in cases where the pregnancy is the result of rape or incest or when it is non-viable. Furthermore, the State party may not regulate any pregnancy or abortion in a manner that runs contrary to its obligation to ensure that women and girls need not resort to unsafe abortions; it will have to amend its legislation accordingly. The State party should not impose criminal sanctions on women and girls who undergo an abortion or on medical service providers who provide abortion assistance, as such measures force women and girls to resort to unsafe abortions.”⁷
- Review of Liberia, 2018: “The State party should revise its laws to guarantee safe, legal and effective access to abortion, and remove any existing barriers that deny such access, with a view to preventing those in need to be compelled to resort to clandestine abortions that may endanger their lives and health. It should also: (a) prevent the stigmatization of women and girls seeking abortion, and ensure that criminal sanctions are not applied against them or against medical service providers assisting them in doing so; and, (b) ensure access for women and men, and, especially, girls and boys, to quality and evidence-based information and education about sexual and reproductive health and to a wide range of affordable contraceptive methods.”

Committee on Economic, Social, and Cultural Rights (monitoring CESCR):

- Review of Poland, 2016: “The Committee recommends that the State party: (a) Ensure that safe and legal abortion services can be accessed in practice, take effective measures to prevent unsafe abortions and provide post-abortion care and counselling for those who require it; (b) Immediately establish and regulate an effective referral mechanism in cases where conscientious objection by medical practitioners is exercised; (c) Reconsider the ‘stop abortion’ bill, since it is not compatible with other fundamental rights, such as the woman’s right to health and life, and it is not consistent with the dignity of women.”⁸
- Review of Chile, 2004: “The Committee recommends that the State party revise its legislation and decriminalize abortion in cases of therapeutic abortions and when the pregnancy is the result of rape or incest.”⁹

6 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/COL/CO/7&Lang=En

7 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/DOM/CO/6&Lang=En

8 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/POL/CO/6&Lang=En

9 Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f1%2fAdd.105&Lang=en

- Review of Monaco, 2014: “The Committee recommends that the State party further liberalize its abortion legislation and asks it to provide information in its next periodic report regarding the impact of the amended Criminal Code on abortion and on risky and clandestine abortions.”¹⁰

Committee on the Elimination of Discrimination against Women (monitoring CEDAW):

- Review of Argentina, 2016: “The Committee urges the State party to: (a) Reduce maternal mortality rate, ensuring that women have access to appropriate services, including emergency obstetric services, in connection with pregnancy, including ante-natal, maternity and post-natal services, and increase the budget allocations for the provision of gynecological and obstetric services in rural and remote areas; (b) Initiate accountability procedures to ensure that all provinces approve protocols on the practice of non-punishable abortion, in line with the decision of the Supreme Court of Justice in 2012 and in line with the national Protocol for the Comprehensive Care of Persons Entitled to Legal Interruption of Pregnancy; (c) Ensure that women have access to safe legal abortion and post-abortion services and define and apply strict justification requirements to prevent the blanket use of conscientious objection by doctors refusing to perform abortions, considering in particular the situation of early pregnancies as a result of rape and incest that may amount to torture; and (d) Accelerate the adoption of the draft law for the voluntary interruption of pregnancy increasing legal access to abortion, not only in cases of rape and risk for the life or health of the pregnant woman but also other circumstances such as incest and severe foetal impairment is at risk.”¹¹
- Review of Turkmenistan, 2018: “Legalize abortion not only in cases of threat to the life or health of the pregnant woman and severe fetal impairment but also in cases of rape and incest, decriminalize abortion in all other cases, and increase women’s access to safe abortions and post-abortion care.”¹²
- Review of Uruguay, 2016: “Take measures to ensure that women have access to legal abortion and post-abortion services and introduce stricter justification requirements to prevent the blanket use by medical practitioners of their right to conscientious objection to performing an abortion.”¹³

Committee Against Torture (monitoring CAT):

- Review of Timor-Leste, 2017: “The State party should review its legislation in order to allow for legal exception to the prohibition of abortion in specific circumstances in which the continuation of pregnancy is likely to result in severe pain and suffering, such as when the pregnancy is the result of rape or incest or in cases of fatal fetal impairment, in line with the commitment made by Timor-Leste during the universal periodic review in November 2017.”¹⁴
- Review of the Philippines, 2016: “Review its legislation in order to allow for legal exceptions to the prohibition of abortions in specific circumstances such as when the pregnancy endangers the life or health of the woman, when it is the result of rape or incest and in cases of foetal impairment.”¹⁵

10 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/MCO/CO/2-3&Lang=En

11 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/ARG/CO/7&Lang=En

12 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/TKM/CO/5&Lang=En

13 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/URY/CO/8-9&Lang=En

14 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/TLS/CO/1&Lang=En

15 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/PHL/CO/3&Lang=En

- Review of the United Kingdom 2019: “The Committee recommends that the State party ensure that all women and girls in the State party, including in Northern Ireland, have effective access to termination of pregnancy in situations in which its continuation is likely to result in severe pain and suffering, such as when the pregnancy is the result of rape or incest or in cases of fatal foetal impairment, in addition to cases in which the life or health of the pregnant person is at risk. The State party should also ensure that women and girls in Northern Ireland have effective access to post-abortion health care and that neither patients nor their doctors face criminal sanctions or other threats for seeking or providing such care.”¹⁶

Committee on the Rights of the Child (monitoring CRC):

- Review of Angola, 2018: “Decriminalize abortion in all circumstances on the occasion of the revision of the Penal Code, ensure access to safe abortion and post-abortion care services for adolescent girls and that their views are always heard and given due consideration as a part of the decision-making process.”¹⁷
- Review of Chile, 2015: “Decriminalize abortion and review its legislation with a view to guaranteeing the best interests of pregnant teenage girls and ensure, by law and in practice, children’s access to safe abortion and post-abortion care services and that the views of the child are always heard and respected in abortion decisions.”¹⁸
- Review of Venezuela, 2014: “Review its legislation on abortion and provide for additional exceptions, such as in cases of pregnancy resulting from rape or incest, when the pregnancy poses a risk to the health of the adolescent or when abortion is in the best interests of the pregnant adolescent in order to prevent her from resorting to unsafe abortion. The State party should ensure, in law and in practice, that the views of the child are always heard and respected in abortion decisions.”¹⁹

Committee on the Rights of Persons with Disabilities (monitoring CRPD):

- Review of Canada, 2017: “Adopt measures to ensure universal coverage of health services for all persons with disabilities, including indigenous persons with disabilities, and that services are accessible, affordable and culturally sensitive, and prevent the denial of health-care services, including abortion.”²⁰
- Review of Malta, 2018: “The Committee is concerned about the interpretative declaration that the State party has made on article 25 (a) of the Convention, according to which the State party interprets the phrase ‘sexual and reproductive health’ in Art 25 (a) of the Convention as not constituting recognition of any new international law obligation, creating any abortion rights nor constituting support, endorsement, or promotion of abortion.”²¹
- Review of Poland, 2018: “Take the necessary measures to ensure that the autonomy and decisions of women with disabilities are respected, that women’s rights in relation to reproductive health are secured, that access to safe abortion is provided; and that women with disabilities are protected from forced sterilization and forced abortion.”²²

16 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/GBR/CO/6&Lang=En

17 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/AGO/CO/5-7&Lang=En

18 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/CHL/CO/4-5&Lang=En

19 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/VEN/CO/3-5&Lang=En

20 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/CAN/CO/1&Lang=En

21 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/MLT/CO/1&Lang=En

22 Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/POL/CO/1&Lang=En

Committee on the Elimination of Racial Discrimination (monitoring CERD)

- Review of El Salvador, 2019: “In the area of sexual and reproductive health, the Committee is also concerned about the criminalization of abortion in all circumstances, which has a greater impact on indigenous women and women of African descent. [...] Guarantee access to sexual and reproductive health for indigenous women and women of African descent and review legislation on abortion in order to ensure that it is consistent with other human rights, such as women’s right to life and right to physical and mental health.”²³

As is evident from the examples above, UN human rights treaty bodies have frequently and explicitly issued directives to sovereign Member States to change their laws regarding abortion. In many cases, the treaty bodies directly reference pending legislation, ordering the national legislative bodies to either adopt or refuse to adopt a particular provision. Furthermore, unlike non-governmental actors that might seek to lobby a national government to liberalize its abortion laws, UN treaty bodies claim to do so with the authority of enforcing a binding agreement, referring to their concluding observations as “jurisprudence.”

The extent to which treaty bodies have exceeded their mandates, both in scope and in frequency of repetition, as shown in the table below:

TREATY	YEARS REVIEWED	CUMULATIVE INSTANCES OF ABORTION LOBBYING (AS OF MAY 2019)	PERCENTAGE OF 2018 CONCLUDING OBSERVATIONS INCLUDING ABORTION LOBBYING
ICCPR	1977-present	104	66.7% (10 of 15)
CESCR	1980-present	72	33% (4 of 12)
CEDAW	1983-present	258	88% (21 of 24)
CAT	1989-present	20	6% (1 of 16)
CRC	1993-present	84	65% (11 of 17)
CRPD	2010-present	4	21% (3 of 14)

(CERD is excluded from this analysis as its first instance of direct abortion lobbying took place in September of 2019.)

These data show that while some treaty bodies are more aggressive in their abortion lobbying than others, the practice is continuing to expand, despite calls for reform by UN Member States. For instance, it is notable that three of the four documented instances of abortion lobbying by the Committee on the Rights of Persons with Disabilities occurred in the most recent year. Moreover, three of the seven treaty bodies analyzed lobbied countries under review to liberalize their abortion laws in more than 50% of instances in 2018.

Other UN Entities that Promote Abortion

It may be said that abortion lobbying is nearly systemic in the UN system. Much of this lobbying follows the lead and example of UN treaty bodies.

The UN Secretariat

The UN Secretariat, in particular, has been very active in promoting abortion in humanitarian settings, in recent years. Below are UN secretariat and UN Agency reports that make the case for a humanitarian right to abortion under the rubric of “sexual and reproductive health” in UN agreements.

23 Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fSLV%2fCO%2f18-19&Lang=en

Report of the Secretary-General on Women, Peace, and Security (2013) — Under peacebuilding and recovery efforts (paragraph 72.a) the Secretary General includes “Ensure that humanitarian aid and funding provides for the full range of medical, legal, psychosocial and livelihood services to victims of rape, *including access to services for safe termination of pregnancies resulting from rape, without discrimination and in accordance with international human rights and humanitarian law.*”²⁴

Guidance Note of the Secretary-General on Reparations for Conflict Related Sexual Violence (2014)—Ban Ki-moon directed the UN system to promote abortion as an *urgent interim reparation* (p. 13) as well as to promote legislative reforms to make abortion available as a *guarantee of non-repetition* (p. 20).²⁵

Report of the Secretary-General on Women, Peace, and Security (2014) — In the context of discussing internally displaced persons (paragraph 62) the Secretary General says, “In line with Security Council resolution 2122 (2013), I call upon all actors to support improved access to comprehensive sexual and reproductive health services in conflict-affected settings. *This must include... safe termination of pregnancies for survivors of conflict-related rape.*”²⁶

Report of the Secretary-General on Women, Peace, and Security (2015) — The report, in the context of the rubric of “sexual and reproductive health services” (paragraph 43) states that “In my previous annual reports on women and peace and security, I emphasized the need to make available medical, legal, psychosocial and live livelihood services to survivors of rape, including *access to emergency contraceptives and services for the safe termination of pregnancies resulting from rape, without discrimination, and in accordance with international human rights, refugee and humanitarian law.*”²⁷

UN Women Global Study on Security Council Resolution 1325 (2015) — The seminal report of UN Women follows the pro-abortion Global Justice Center’s lead and says that abortion is a right under the Geneva Conventions (see especially p. 77-78) saying, “Exclusion of one medical service, abortion, from the comprehensive medical care provided to the wounded and sick in armed conflict, where such service is needed by only one gender, is a violation not only of the right to medical care but also of the prohibition on “adverse distinction” found in common Article 3, the Additional Protocols to the Geneva Conventions and customary international law. Importantly, it is also in violation of international human rights law.”²⁸

The 2016 report of the Secretary General on Women Peace and Security (S/2016/822, Paragraph 32) — Under the heading “Respecting the full range of obligations under international law in conflict-affected settings” the report says that “lack of access to health-care services, including abortion- and HIV/AIDS-related reproductive health care, have a devastating impact in conflict affected settings.”²⁹

The 2017 report of the Secretary General on Women Peace and Security (S/2017/861, Paragraph 23) — The report undermines the Helms Amendment and promotes a right to humanitarian abortion by saying, “Investment in resources for survivors must span legal and essential services, addressing distinct vulnerabilities for those forcibly displaced and others. This necessarily includes access to mental health and psychosocial support, shelter, livelihood support, justice and reparations, and sexual

24 Available at: http://www.un.org/ga/search/view_doc.asp?symbol=S/2013/525

25 Available at: <http://www.ohchr.org/Documents/Press/GuidanceNoteReparationsJune-2014.pdf>

26 Available at: https://unama.unmissions.org/sites/default/files/wps-sg_report_on_wps-september_2014_0.pdf

27 Available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/Report%20of%20the%20Secretary%20General%20on%20women%20and%20peace%20and%20security.pdf>

28 Available at: [http://www.peacewomen.org/sites/default/files/UNW-GLOBAL-STUDY-1325-2015%20\(1\).pdf](http://www.peacewomen.org/sites/default/files/UNW-GLOBAL-STUDY-1325-2015%20(1).pdf)

29 Available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/5829d0624.pdf>

and reproductive health services, including the treatment and prevention of HIV/AIDS and sexually transmitted infections and *the safe termination of pregnancies*.”³⁰

The 2018 report of the Secretary General on Women Peace and Security (S/2018/900, Paragraph 58)—The report includes abortion as part of reproductive health, including for adolescents, under a section about “essential services.” It calls on states to promote and fund abortion in humanitarian settings.³¹

The 2019 report of the Secretary General on strengthening of the coordination of emergency humanitarian assistance of the United Nations (Advanced Unedited Version, Paragraph 101)—The report endorses the Inter-Agency Field Manual on Reproductive Health in Humanitarian Settings which includes a chapter on “comprehensive abortion care”, which says abortion must be provided to the full extent of the law and cites the opinion of international experts who say abortion is an international right.³²

UN Agency Manuals That Promote Abortion

In addition to the work of the Secretariat to promote abortion, certain UN agencies, in particular UN Women, UNFPA, and WHO routinely put out manuals that promote abortion. Below are just three recent examples.

- UN Women produced a UN systemwide manual on Access to Justice jointly with UNDP, UNODOC, and OHCHR that instructs UN staff working to reform legal systems to lobby countries to “decriminalize” abortion and repeatedly cites UN treaty bodies’ opinions that states must “ensure that sexual and reproductive health care” includes “safe abortion services” to achieve the Sustainable Development Goals (UN-Women, UNDP, UNODOC, and OHCHR, *A Practitioner’s Toolkit on Women’s Access to Justice Programming* (2018)). The manual even says laws that criminalize abortion amount to “torture or cruel, inhuman or degrading treatment.” Consistent with that manual UN agencies in Mexico, including OHCHR, UN Women, UNFPA, and UNODOC interfered in litigation on the subject of abortion in the State of Veracruz.³³
- The World Health Organization’s reproductive health section is recording the world’s abortion laws as a way to track the implementation of and measure global progress on the 2030 Agenda, as if the legal status of abortion was related to the implementation of the 2030 Agenda.³⁴ The World Health Organization is also promoting abortion as a part of a “human rights-based approach” to health alongside the Office of the High Commissioner for Human Rights.³⁵

Conclusion and recommendation:

Reform of treaty bodies within the UN system is long overdue, and as a major donor to the UN in general and OHCHR specifically, the U.S. has the ability to exert an important influence. Withdrawal of funding for the OHCHR, directly or indirectly, commensurate with the abortion lobbying by treaty monitoring bodies, would be consistent with U.S. law as well as the recent action taken regarding the OAS. It would give the U.S. leverage in UN reform

30 Available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/N1733043.pdf>

31 Available at: <https://undocs.org/S/2018/900>

32 Available at: <https://www.un.org/ecosoc/sites/www.un.org.ecosoc/files/files/en/has/2019%20SG%20report%20on%20strengthening%20of%20the%20coordination%20of%20emergency%20humanitarian%20assistance%20of%20the%20UN%20-%20Advanced%20unedited%20version%20-%20April%202019.pdf>

33 See Press Release, 20 April 2018, available at: <https://www.unodc.org/mexicoandcentralamerica/es/webstories/2018/uno-dc-onu-mujeres-unfpa-y-onudhmexico.html>

34 See WHO database available at: <http://srhr.org/abortion-policies/>

35 See WHO Report, *Human Rights Based Approaches to Women and Children’s Health* (WHO 2017) available at: <http://www.ohchr.org/EN/Issues/Women/WRGS/Pages/MaternalAndChildHealth.aspx>

efforts and be a powerful warning to other UN entities that actively promote abortion following the lead of the treaty bodies. Additionally, it would represent a powerful moral argument against the distortion of human rights standards by unaccountable committees acting in excess of their mandates and threatening the global credibility of human rights more broadly. If accompanied by an official public statement of the United States explaining the reason, it could also be used as evidence against the emergence of a customary international right to abortion.

Finally, the U.S. government should conduct a thorough review of the record of UN agencies, the UN secretariat, and other UN entities, to apply the Siljander memo in a consistent way across the board.



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