

Interventions during the General Assembly Third Committee dialogue with the UN Special Rapporteur on the right to everyone to the enjoyment of the highest attainable standard of physical and mental health, 24 October 2011

(Listed in chronological order after an initial statement delivered by the Special Rapporteur)

Argentina. Statement delivered by Mr. Gustavo Rutilo.

"La Argentina quisiera agradecer al relator sobre el derecho a la salud por su informe que aborda de manera profunda varias dimensiones del derecho a salud de fundamental importancia. Coincidimos en que el derecho a la salud sexual y reproductiva es una parte fundamental del derecho a la salud y que, por ello, los Estados tienen la obligación de garantizar que este aspecto del derecho a la salud se haga plenamente efectivo. Tomamos nota del informe y de sus conclusiones y recomendaciones, que nuestras autoridades aún están examinando.

En particular, queremos rescatar la importancia que otorga el informe a la salud materna y a la atención anterior y posterior al parto y a la necesidad de asegurar el acceso a la educación e información exhaustivas en materia de salud sexual y reproductiva como factor esencial para el ejercicio del derecho a la salud. En este sentido, compartimos la idea de que la educación sexual debe adoptar un enfoque amplio que resulte apropiado a la edad y tenga en cuenta las diferencias culturales, y sobre todo, que se imparta sin discriminaciones de ninguna índole.

La Argentina es uno de los países en donde el aborto está prohibido salvo en muy escasas excepciones. En tal sentido, consideramos que tanto el informe como sus recomendaciones pueden contribuir a un debate que cada país tiene que dar con sus propios tiempos para abordar esta cuestión, reconociendo el carácter universal de los derechos humanos y la obligación que tiene cada estado de asegurar su pleno goce por parte de todas las personas.

Así, si bien no estamos en condiciones de endosar el informe en su totalidad, valoramos la contribución que hace para discutir esta cuestión en el ámbito de la Tercera Comisión, proponiendo cuestiones urgentes y se suma importancia para la consideración de todos los Estados Miembros."

[rough/unofficial English translation]: Argentina would like to thank the Rapporteur on the Right to Health for his report that discusses in depth several dimensions of the right to health, which are of essential importance. We agree that the right to sexual and reproductive health is a fundamental part of the right to health and that, therefore, states have an obligation to ensure that this aspect of the right to health to be fully implemented. We note the report and its concluding recommendations that our authorities are still examining. In particular, we note the report's focus on maternal health and pre-and post-natal and the need to ensure access to comprehensive information and education on sexual and reproductive health as essential to the exercise of right to health. In this sense, we share the idea that sex education should take a broad approach that is appropriate to age and take into account cultural differences, and above all, that is provided without discrimination of any kind. Argentina is a country where abortion is prohibited except in very few circumstances. In this regard, we consider both the report and its recommendations can contribute to a national debate that each hold to address this issue, recognizing the universality of human rights and obligation of every state to ensure their full enjoyment by all people. Thus, although we are not able to endorse the report in its entirety, we value the contribution made to discuss this issue in the context of the Third Committee, proposing urgent and critical issues for the consideration of all Member States."]

European Union

The European Union (EU) would like to take this opportunity to express its gratitude to the Special Rapporteur for his active engagement and tireless efforts in addressing the important issues that derive from the right to everyone to enjoy of the highest attainable standard of physical and mental health.

The EU expresses its full support to your independent report and we also thank you for your report and would like to ask the following questions:

1. In your report you indicate the positive implications that the implementation of family planning measures have on women's and girls health and also their participation and empowerment in society. You also emphasize the need to remove any criminal laws or other restrictions which

- may interfere on access to family planning measures, services and information. Could you please elaborate on measures that can and should be taken in order to ensure peoples – especially women's and girls - access to family planning.
2. In your report, you recommend that steps should be taken to create national, comprehensive, evidence based sexual and reproductive education, including information on human rights, gender and sexuality. Besides establishing national curricular, what measures can be taken in order to promote and ensure the right to such education for young persons, especially those not in school, to sexual and reproductive health education.
 3. Finally, in your report, you focus, in particular, on the impact on women in their enjoyment of the right to health. In relation to other groups who are even more vulnerable, for example, LGBT persons or peoples with disabilities – how can we, in your opinion, address and enhance the right to everyone to the enjoyment of the highest attainable standard of physical and mental health?

Holy See

Mr Chairman, in his interim report, the Special Rapporteur wrongly asserts that criminal laws and other legal restrictions on abortion are violations on the right to health. He fails to take into account revisions of various international instruments which protect the inherent, dignity and worth of the person, guaranteeing the right to life. The ICCP protects the inherent right to life. The ICCPR also makes clear, for example, that capital punishment may not be carried out on pregnant women. The Convention on the Rights of the Child affirms that children are entitled to appropriate protection before as well as after birth.

No right to abortion exists under international law – either under by way of international treaty or under customary international law. No international treaty can be referred to as properly defining or establishing the right to abortion.

It is instructive to point out in this regard, no where in CEDAW is a reference even made to abortion. Confronted with the misstatement of the Special Rapporteur (that obstacles to the right to abortion constitute a violation of international law), my delegation puts forward that the very opposite is in fact the case. Abortion is a violation of the right to health – both of the unborn child and of the mother. Abortion kills the unborn child but it also inflicts physical, spiritual, and sometimes psychological harm on the mother and can bring about her death.

It is a scientific fact that human life begins at conception. For this reason, laws must be enacted and upheld that criminalize all induced abortions.

Finally, Mr Chairman, states are called upon to respect the primary duty of the parents in the upbringing of their children. It follows logically that parental consent is required for all matters that relate to the health of their children. The proposal from the Special Rapporteur to circumvent spousal or parental consent in the implementation of contraceptive and sterilization techniques stands in stark contravention to the very nature of parenthood and marriage. In this regard, the Special Rapporteur has also failed to take into account numerous articles on the Convention on the Right of the Child. Thank you, Mr. Chairman.

Netherlands

The Netherlands would like to welcome this report of the Special Rapporteur, Mr. Anand Grover. We want to express our gratitude to the Special Rapporteur for addressing very important issues on the right of everyone to the highest attainable standard of health, focusing – in this report – on sexual and reproductive health. This report is about obstacles to the implementation of the right to sexual and reproductive health and is a key part of the mandate of the Special Rapporteur.

It is important that the independence of the Special Procedures be vigorously maintained and protected. Special Procedures often deal with sensitive human rights issues, about which States may have many diverse opinions. It is inevitable that not all States will agree with all positions advanced, but it is crucial

that mandate-holders feel free to carry out their work without fear of reprisal, and it is appropriate and healthy for Special Procedures to promote vigorous discussion and challenge States to re-examine their positions with a view to strengthening human rights protections for all.

Sexual and reproductive health and rights' is such a sensitive human rights issue. A human rights issue that is at the same time an important part of the Netherlands' national and international policy. Within this priority theme we focus on adolescents and youth, on safe abortions and on access to sexual and reproductive health services, information and commodities. This very timely report will help further development of our policies and in particular help to focus policy implementation. In relation to this report we would like to make the following three points:

1. Firstly, the report rightfully points out the importance of evidence and information. Something we wholeheartedly concur with. That is why the Netherlands is one of the biggest donors to the UN research programme for SRHR; the Human Reproduction Research and Training Programme. The research undertaken by HRP delivers the data direly needed for protocols and guidelines, for policies and programmes.
2. Secondly, the report elaborates on the violations of and obstacles to the right to sexual and reproductive health, including access to sexual and reproductive health services, contraception, safe abortion and maternity care. We fully support the recommendations in this respect, including the recommendations to impose a moratorium on the application of criminal laws concerning abortion; and to ensure safe and good quality services in line with WHO protocols. Indeed, the report underlines that a law in itself is not enough to fulfill the right to the highest attainable standard of health, nor is the provision of services. So we would like to make a plea for 'law literacy campaigns' to enhance knowledge about laws and law reforms, about policies and programmes and create demand for good quality services.
3. Finally, the importance of the right of young people to have access to information, education and services on sexual and reproductive health is fundamental. In the report there is a reference to the 2009 UNESCO Guidelines on Sexuality Education. The Netherlands aligns itself with the implementation and use of these guidelines, which should – in the end - apply to both in-school and out-of-school adolescents and youth.

To decide on the success of the implementation of the Guidelines it is crucial to have the right set of indicators. In this regard the Special Rapporteur points out that too often we only use 'quantifiable public health indicators, and exclude deprivations of dignity and autonomy'. This is an important observation that brings me to the conclusion that we, as the international community, together with civil society, academia and other partners, still have important work ahead of us. Thank you.

Switzerland

The Special Rapporteur has raised an important aspect of the right to health. The situation of women in armed conflict calls for particular attention. Systematic rape leads to unwanted pregnancies frequently and, when legal access to abortion is not available, victims then engage in illegal abortions which threaten the woman's life. It is essential to guarantee - to the victims of rape - access to appropriate health care in such a legal situation.

In Switzerland, the interruption of pregnancy is permitted during the first 12 weeks, if undertaken by a medical doctor and for medical reasons. Generally speaking, Switzerland supports deep analyzation of any action relating to sexual and reproductive health. Indeed criminalization goes hand in hand with discrimination and can undermine public health.

Particular attention needs to be given to the growing phenomena of early pregnancy where girls have limited access to education and this impacts upon their physical and social development. Ensuring schooling of young girls is one way in which we can prevent early unwanted pregnancy.

In regards to dissemination and education programmes on sexual reproductive health, we emphasize the important role played by local authorities. Frequently it is at this level that government programmes are implemented. Action to raise awareness and provide additional training – targeting these young women - could enhance effectiveness of education programmes.

The Special Rapporteurs work is extremely helpful and useful as is that of the Special Rapporteurs against violence in armed conflict and of UN Women. Could I ask you, how could collaboration between these different actors be enhanced? Thank you.

Norway

Norway welcomes the report which is an important contribution to clarifying international human rights law and the right to sexual reproductive health. Norway supports the recommendation that in a case where a barrier is created in criminal law or in another legal restriction, it is the obligation of the state to remove it in order to ensure full enjoyment of the right to health. Would you be able to give us a couple of examples from member states that have actually managed to do so?

We affirm that public morality cannot serve as a justification for the enactment or enforcement of laws that in themselves result in human rights violations. This is so of the laws intended to regulate sexual and reproductive choices and decision making. We would thus like to ask if you can identify some of the largest challenges in this field.

Norway notes with concern that women are generally more likely to experience infringements of the rights to sexual and reproductive health and that criminal laws linked to reproductive health tend to generate reinforced gender stereotyping, inequalities and stigmatization.

Finally, it is important to stress that credible access to available, accessible, appropriate and good quality health services is essential to achieving MDGs 3, 4, 5 and 6. This is not possible without eliminating criminal and other restrictive laws that constitute barriers to health.

The Special Rapporteurs report plays a leading role in identifying challenges and best practices within the field of the right to health and Norway continues to support your work.

Chile

Thank you Chairman. We are speaking on the Special Rapporteur, Anand Grover's, report and the interaction between criminal law and other legal provisions regarding sexual and reproductive health. The report contains descriptions and conclusions that we share with the Special Rapporteur, regarding the freedom and autonomy of women in society; we recognize the obligation of states for the dissemination of information on sexuality and the need to guarantee real and affective access to the various types of contraception, family planning, and respect for a persons sexuality. We especially share the fact that respect for dignity is essential for realizing all human rights.

Sir, unfortunately, in our view, the report does not give a balanced and comprehensive view of the different views since it emphasizes abortion as a health service that should be accessible and offered by states to fully enjoy rights.

Chile does not recognize abortion. For Chile it is essential to ensure protection to the right to life (for all human beings regardless of circumstances). Therefore we feel that it is unfortunate that there is no visible reference in the report to the right to life.

Also we would have liked to see greater effort to understand the views and positions of some countries to define the difference and interaction between the right to life and abortion. We consider that the right to life begins at the time of conception. And, from that moment onwards, there is a constitutional protection – this is contained in article [19] of the political Chilean constitution, which ensures the right to life of all individuals, their physical integrity, including those not yet born. This protects the mother and the child.

We see that the sexual reproductive activity of young children begins at an increasingly early age and Chile provides access to sexual and reproductive information without discrimination. We feel that all information must be available regarding the responsibility of motherhood and fatherhood. Information is given to avoid early pregnancies as well as information regarding STDs. Therefore, in Chile there is abundant access to information relating to contraception including the pill and the morning after pill.

This is essential to provide all assistance to women at risk. By way of conclusion, Sir, the state provides access to information at broad levels and targets different age groups so that people are well informed such that they can take decisions about their sexual life that are well informed – without any kind of discrimination.

USA. Statement delivered by Ms. Laurie Phipps.

“Thank you Mr. Chair. The United States would like to thank Special Rapporteur Grover for his interim report on criminal laws and other legal restrictions related to sexual and reproductive health. The United States believes that access to family planning is an essential part of meeting broader development objectives. Global estimates indicate that by helping women space births and avoid unintended pregnancies, family planning could prevent 25% of maternal and child deaths in the developing world.

It is important to recognize that family planning is the most effective way to prevent abortion and prevent unplanned pregnancies. Numerous studies show that the incidence of abortion decreases when women have access to contraceptives.

Furthermore, we completely share and strongly agree with the report’s condemnation, in paragraph 12, against forced sterilization, forced abortion, forced contraception and forced pregnancy. Thank you Mr. Chair and Mr. Special Rapporteur.”

Belgium

Mr Chair, Special Rapporteur.

Belgium fully supports the statement made and questions raised by the EU. Belgium would like to thank all the Special Rapporteurs for their reports to the Third Committee and for their presence and presentations today. We particularly commend the Special Rapporteur on the right to everyone to the enjoyment of the highest attainable standard of physical and mental health for his work in the past year.

Belgium would like to re-iterate the importance it attaches to the special procedures which function as the eyes and ears of the Human Rights Council (HRC). Given their importance, the special procedure mandate holders must be able to work in an autonomous and independent manner. In this respect, Belgium hopes that the outcome of the Human Rights Council review considers the independence of special procedure mandate holders who are an essential and integral part of ensuring viability of the human rights system.

Lastly, we would request delegations to respond positively to outstanding requests by mandate holders and invite Special Rapporteur’s to visit their countries. Ten years ago, Belgium issued a standing invitation to the special procedures and encourages all delegations to make similar invitations.

Sweden

Mr. Chairperson,

Sweden aligns itself with the statement by the EU and would like to make some additional comments.

First I would like to thank the Special Rapporteur on the right to the highest attainable standard of physical and mental health for his report to the General Assembly and his presentation here today. We appreciate the work done by Mr. Grover and the way he has fulfilled his mandate.

The right to sexual and reproductive health is a fundamental part of the right to health, and Sweden shares the assessment of the Special Rapporteur that the realization of this right requires the removal of

barriers that interfere with individual decision making and access to health services, education and information.

We fully share the view of Mr. Grover that the criminalization or use of other legal barriers regarding certain sexual and reproductive health services disproportionately effects women's enjoyment of the right to the highest attainable standard of physical and mental health. This report therefore makes an important contribution to the guidance on how to implement existing human rights obligations.

Mr Grover, although your report deals predominantly with the criminalization of certain sexual and reproductive health services and its impact on women and girls it does not discount similar problems faced by men and boys. It would be interesting to hear more about how these laws and regulations, in your opinion, also effect boys and men and their enjoyment of the right to health. However, you make very clear that women and girls are more likely to experience infringements of their right to sexual and reproductive health. You link this to persistent stereotyping of the role of women and men in the society and in the family. Could you please elaborate more on how, in your view, criminal laws and other legal barriers related to reproductive health generate and or reinforce gender stereotyping?

You mention in your report that conscientious objection laws can make otherwise legal health care services inaccessible. In some cases this applies not only to abortion services, but also to information about procedures, referrals to other facilities and providers as well as access to other family planning good and services. In reality, women and men can be put in a situation with very few alternatives are accessible although services – at least in theory - are legal. Would you please explain if and how laws allowing conscientious objection can be compatible with states obligations to ensure the right to health?

Use of family planning is an integral component of the right to health. As you point out in your report, evidence shows that access to voluntary family planning can reduce maternal deaths with 25 – 40 %. Family planning also reduces the number prenatal transmission of HIV as well as unsafe abortion, which is currently responsible for 13% or all maternal deaths globally. However, in many states access to family planning is severely curtailed by criminal laws or other legal restrictions. What in your opinion are the root causes behind this, and what are the steps States should take to implement the report's recommendations in this regard?

I thank you, Chairperson.

Finland

Thank you Mr. Chair. Let me begin by aligning myself with the statement made by the European Union. Finland would like to thank the Special Rapportuer, Anand Grover, for his work and welcomes the latest report. Finland fully supports the Special Rapporteur's mandate and shares his views on the right to sexual and reproductive health. Finland would like to present the following questions based on the report.

In your report, Mr. Grover, you focus on right to health of women including the impact of the criminalization and other legal restrictions of abortion, conduct during pregnancy and family planning and provision of sexual and reproductive education and information. As we know, women's and girls rights – including the right to health - cannot be materialized if the whole of society is not involved in promoting them. Therefore, it would be interesting to see your views on the role of men and boys in promoting the highest attainable standard of physical and mental health of women and girls.

Second, your report indicates that criminal prohibition of abortion is a very clear expression of state interference with the woman's sexual and reproductive health because it restricts a woman's control over her body, possibly subjecting her to unnecessary health risks. You also point out that it is mandatory that women themselves participate in and act independently in all decisions regarding their sexual and reproductive health. Could you please elaborate further best practices (in addition to the decriminalization of abortion, including related laws such as those concerning abetment of abortion) that are taken in order to ensure women's and girls right to and enjoyment of physical and in particular mental health and control over their own body. Thank you Mr. Chairperson.

Swaziland

Thank you Mr. Chair. I take the floor to address the issue of the report attached to the note of the Secretary General contained in document A/66/254. My delegation has followed with appreciation in the past the work of the Special Rapporteurs on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. However, we note with concern in this report the SR has to a large extent ignored his mandate as contained in HRC res 6/29 and 15/22. Rather than concentrating on the principle problems of poverty, hunger, nutrition disease poor medical care as outlined in his mandates, SR has focused much of his attention on the non-existent right to abortion, claiming that free access to abortion is required to improve SRH and women's rights in general and to reduce maternal mortality. Mr. Chair a universal right to H has been recognized in ICESCR and in UDHR but this right does not include abortion.

The ICESCR recognizes the right of everyone to the enjoyment of attainment of the highest attainable standard of physical and mental health. Mr. Chair the SR's's recs contain in his report also undermines the ICDP which clearly states that *"in no case should abortion be promoted as a method of family planning. All Governments and relevant intergovernmental and non-governmental organizations are urged to strengthen their commitment to women's health, to deal with the health impact of unsafe abortion as a major public health concern and to reduce the recourse to abortion through expanded and improved family-planning services. Prevention of unwanted pregnancies must always be given the highest priority and all attempts should be made to eliminate the need for abortion. Women who have unwanted pregnancies should have ready access to reliable information and compassionate counseling. Any measures or changes related to abortion within the health system can only be determined at the national or local level according to the national legislative process. In circumstances where abortion is not against the law, such abortion should be safe. In all cases, women should have access to quality services for the management of complications arising from abortion. Post-abortion counseling, education and family-planning services should be offered promptly, which will also help to avoid repeat abortions."*

Mr. Chair the Constitutions of the Kingdom of Swaziland prohibits abortion except in extreme circumstances where the life of the mother or child is under serious medical threat as a result of the pregnancy. In our view abortion is not a right and it is not accessible on demand. Against this background my delegation rejects the references to abortion in this report.

South Africa

Thank you Mr. Chair. South Africa would like to thank the SR on Special Rapporteur on the right to everyone to the enjoyment of the highest attainable standard of physical and mental health for his interim report. In addition South Africa is pleased to the efficient manner in which you execute your mandate.

The need to emphasize achieving the highest attainable standard of physical and mental health – including the right to sexual and reproductive health – is part of the international effort to meet the MDGS. Your report provides insight into how health related MGDS can be met.

The report calls for the adoption of the right to health approach and for states to take into consideration the need to use sexual and reproductive health information and education to reduce incidences of transference of sexually transmitted diseases. It also looks at the importance of empowering women and ensuring that they are part of decisions.

The state is called upon to use resources – within its capacity - including decriminalization to obstacles and challenges associated with sexual and reproductive health. All are practical and realizable measures that could be adopted to ensure that the right to health – especially as it relates to sexual and reproductive health – is achieved for the benefit of all humanity. Chairperson, it would be appreciated if the Special Rapporteur could advise on interventions to address challenges facing countries such as those dealing with HIV and AIDS.

Denmark

Denmark underlines the importance of a rights based approach to development, including sexual and reproductive health and rights and women's empowerment. On that note, we welcome the timely report of the UN Special Rapporteur on the right to health. It is a very important topic that is fundamental to fulfilment of the Millennium Development Goals, in particular MDGs 3, 5 and 6 – empowering of women, reducing maternal mortality and combating HIV/Aids.

It is striking that the report documents, how these consensual goals – the MDGs - that we all support, cannot be achieved without eliminating criminal and other restrictive laws that constitute barriers to health in regard of abortion, pregnancy, contraception, family planning, and information about sexuality and reproduction.

An integrated and comprehensive SRHR package is required for women and girls to be healthy and empowered, and for the full benefits to be reaped for poverty alleviation and economic growth. Each and every one must have access to modern methods of family planning, including comprehensive and evidence based sexual and reproductive health information, to be able to take informed choices about their own health, reproduction and lives.

Furthermore, reducing unsafe abortion is one of the most important ways to lower overall maternal mortality, since nearly all deaths from unsafe abortion are preventable. For this reason, Denmark firmly believes we must ensure women access to safe abortion. Denmark welcomes the Rapporteur's calls on governments to immediately remove barriers of access to safe abortion and other services. The Rapporteur rightly underscores that legalizing abortion, alone, is not enough, but that states must also actively promote measures to ensure that legal and safe abortion services are available, accessible and of good quality.

The report clearly demonstrates that criminal and other legal restrictions on abortion violates the right to health and restricts access to quality goods, services and information and restricts the freedom of decision-making and thereby human dignity. Denmark further supports the arguments made by the UN Special Rapporteur, underscoring that morality cannot serve as justification for enactment or enforcement of laws that may result in human rights violations and that public health goals are mostly not realized through criminalization, rather they are often undermined by it (para 18).

What is the way forward? What steps should States take to implement this report's recommendations? Can you explain in more detail how criminal laws related to reproductive health generate or reinforce gender stereotyping, gender inequalities, and stigmatization? The report states that development indicators do not capture the full impact of criminalization because they only address specific quantifiable public health data and exclude deprivations of dignity and autonomy. How can reproductive health indicators be improved to take into account in both health and rights issues?

The report falls firmly within the mandate of the UN SR on the right to health, which requires him to report on obstacles to the implementation of the right to health, and make recommendations on appropriate measures to ensure this right.

The report makes an important contribution to guidance on how to implement existing human rights obligations through effective policies and programs. In this way, the report supports States' efforts to respect, protect and fulfil human rights.

UNFPA-WHO-UNAIDS. Statement delivered by UNFPA

"UNFPA, WHO and UNAIDS would like to acknowledge the report of the Special Rapporteur as an important contribution to the provision of recommendations on implementation of existing human rights commitments through effective policies and programs in order to achieve universal access to reproductive access to reproductive health for all. This report focuses specially on the impact of criminal laws and other legal restrictions on the right to sexual and reproductive health. In this regard, the report supports states' efforts to respect, protect and fulfill human rights.

The Report builds on existing references and analysis, including the ICPD Programme of Action, the

Beijing Platform for Action, the Human Rights Council resolutions on preventable maternal mortality and morbidity and the UN Secretary General's Strategy on Women's and Children's Health, the Office of the High Commission on Human Rights' report on maternal mortality and morbidity and several Treaty Monitoring Body General Comments and Concluding Observations.

The report also highlights the individuals and sectors of society, most of whom are poor and marginalized women and girls, who are denied health care and are unable to access information about services, or do not enjoy the ability to make decisions regarding their own health.

As stated by the ICPD Programme of Action, the right to sexual and reproductive health rests on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. This also includes the right of all to make decisions concerning reproduction free of discrimination, coercion and violence. This principle underpins the provision of family planning services and sexuality education as well as efforts to prevent child or coerced marriages, violence against women, unsafe abortion, HIV, and other sexually transmitted infections.

The right to non-discrimination requires governments to ensure equal access to health care for everyone and to address the unique health needs of women, men and adolescents; it implies that sexual and reproductive health services should be accessible to all groups, including adolescents, unmarried women, indigenous people, migrants and refugees.

To that end, Governments must allocate appropriate budgets to sexual and reproductive health programmes; implement effective policies; make comprehensive sexual and reproductive health services available; and remove barriers to accessing good-quality care in order to fulfill people's right to life and health.

This principle is crucial in advancing sexual and reproductive health, reducing maternal mortality, preventing HIV, eliminating unsafe abortion, and ending violence against women. Thank you.

Egypt. Delivered by Monzer Selim.

Thank you Mr. Chairman we will be brief. We would like to welcome the special procedure in this interactive dialogue and thank him very much for the report that he has presented. But we note concern, again, the systematic attempts to reinterpret internationally agreed conventions. To the extent regarding internationally agreed government documents we support ICPD, Beijing, and others in which the right to health (and the derived rights from that including sexual and reproductive health rights) have been defined therein. They have been accepted within an agreed international framework that we are again trying to step beyond in an alarming way, and, unfortunately trying to give input to specific perspectives when it comes to maternal mortality and child mortality.

We are cognoscente of the fact that the MDGs represent a tremendous challenge to countries, in particular, to developing countries like mine. So, we generally do not see that just decriminalizing certain aspects relating to sexual and reproductive health would boost efforts, at least not in the way that it is formulated – or attempting to be formulated. It (decriminalization) is but one of the many efforts and unfortunately we would have a preference that may be in the future the special procedure could point out the other components of or if not of higher importance when it comes to achieving all of the MDGs not just one or two. At the same time Mr Chair. We have noted that when it comes to the right to sexual and reproductive health in and of itself, we are supportive of the fact that everyone should have access to that right. Unfortunately, it is important to make the distinction between sexual and reproductive health and establishing and or trying to derive new rights from the right to health which did raise some concerns with our delegation and we would appreciate if the special procedure can shed more light on at the same time in the future to try to assist us more in addressing other comprehensive challenges facing our ability to realize the right to health. Thank you.

Hondurus

Endorsed what had been said by Chilean delegation.

Special Rapporteur's Response

I am very happy to note the discussion – there has been a lot of discussion and I really welcome further discussion. This issue requires further discussion and this report is not a final conclusion on it.

In order to address quickly some of the concerns, I would respectfully disagree that it is not part of my mandate. If a large number of women die as a result of unsafe abortion - and the estimate of women dying due to a lack of access to safe abortion is roughly 44,000 women – if that is not a part of my mandate on health, I don't know that anything else falls under the right to health mandate. So, I think that concerns relating to whether this issue falls within my mandate is actually not correct. So, I would like to respectfully disagree with the honorable delegate from Swaziland.

Second point, I think the intervention from the delegate from Chile was very nuanced. I think this requires much more debate, but I would like to emphasize (as other people have emphasized) that I'm not articulating the right to abortion – this is a misnomer. The right to health has to be fully realized. The data shows there are 21.6 million unsafe abortions which contribute to about 30% of maternal deaths – in this context, how do we achieve right to health fully being realized for women – that is the crucial question. And, if criminalization is acting as a barrier, then you have to remove it. That's the obligation. Why does criminalization become a barrier? If in a case like Chile – which is a very interesting example to study, and I want to study it much more – it has a chilling effect on services that are provided. The honorable delegate from the US actually pointed me to the direction that there is data available from different countries (including the US, including South Africa) which shows that where you decriminalize a lot of these activities, actual safe services are developed and become available. And, it's essential to have services for family planning, it's essential to have information (evidence based information) which allows for very restricted abortion to take place – but that cannot be denied.

It is not the right to life from conception that is being denied – counter posed with the right to health. And, I try and get out of that to say that it is the right to health that is the correct approach which allows you to think differently, which allows you to think of decriminalization, allows you to think about how to achieve the MDGs goals.

As there is very little time I want to just address a couple of points. A lot of people have asked for examples, concrete examples. But there is no international law (so I see the intervention by the Holy See, which I welcome – this is a debate that needs to be done because we can't be on fixed positions all the time) but in terms of international law there is no denial of abortion. If we look at regional courts, regional conventions, they do not say that there is no right to abortion at all – which is being articulated by people who oppose this report. So, I think it's very important to understand that the right to abortion is part of the right to health where warranted in certain circumstances.

Secondly, I think it is important to understand that criminalization interferes – it has an impact which in itself dehumanizes – it interferes with the dignity of people. If people /women who have undergone an illegal activity feels a criminalization of herself, it lowers her dignity and it lowers the dignity of her partner, her husband. That chilling effect must be recognized which impacts and impedes health services, it impedes access from the health service providers point of view. The health service provider doesn't have access to evidence as regards the patient; there is no way of providing services regarding sexual and reproductive health without evidence relating to the patients past treatments. You see that in drug use, people don't have accurate information – things are criminalized, if activities are criminalized / drug use and possession is criminalized, I pointed out in my last report that what happens is that because of criminalization, health service workers are not able to role out health services for cancer, HIV – that is the chilling effect it has, this situation. So criminalization as a whole has a very deleterious impact on all services.

The other aspect of making sure that the right to health – sexual and reproductive health – is realized is that you need to have other services in place. By decriminalizing it itself, you won't achieve the objective. You will achieve the purpose if you actually put in health services in terms of family planning

(this is very important, many delegates have emphasized that), contraception, education and evidence based information. That is the basic element of evidence based thinking and when you see that you see less deaths as a result of abortion. So we want to achieve the objective that everyone wants of achieving the MDG goals, my respective submission is that this is one of the most important agenda items internationally and locally. I'll stop here as the Chairperson said five minutes and I've restricted myself to that.