**From:** ADF International

**To:** United Nations Office of the High Commissioner for Human Rights

**Date:** 16 October 2017

**Re: OHCHR Report on Sustainable Development Goals (SDGs) and Health**

1. Introduction
2. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Co-operation in Europe, and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.
3. In the context of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in the implementation of the 2030 Agenda for Sustainable Development, it is imperative that the pledge of those who have committed to achieving the SDGs to leave no one behind be respected and fulfilled.
4. This must include all human individuals, born and unborn. It is important to ensure that mechanisms of intergovernmental bodies are used for the purpose of defending internationally recognized human rights, particularly the right to life itself, rather than so-called “rights” lacking any basis in binding international law, such as the so-called “right to abortion.”
5. Overview
6. Article 6(1) of the International Covenant on Civil and Political Rights provides that every human being has the inherent right to life, that this right is to be protected by law, and that no one is to be arbitrarily deprived of it. Furthermore, Article 6(5) provides that, where capital punishment is legal, a death sentence shall never be carried out on pregnant women, and the spirit of this provision indicates that unborn children, who are invariably innocent of any crime, also have the inherent right to life which must be recognized and protected whenever possible.
7. ADF International pays particular regard to high levels of preventable maternal mortality and morbidity in many parts of the developing world and sees minimising and eliminating this phenomenon as being a paramount priority and obligation on the part of all States. It is problematic, however, when this pressing topic is used as a means of promoting abortion under the guise of a “human rights-based approach.”
8. Preventable maternal mortality and morbidity is an issue that mainly falls within the area of the United Nations’ development agenda, although without a doubt it involves dimensions from a human rights-based approach, such as the right to life and the right to health. Too often, however, the UN’s work related to this topic focuses not on remedying this tragedy, but rather on promoting other often controversial issues or agendas.
9. For example, the most recent Human Rights Council resolution on maternal mortality and morbidity at its thirty-third regular session in September 2016 did not originally deal primarily with this issue, but instead focused on giving Member State recognition to the controversial and disputed General Comment 22 of the Committee on Economic, Social and Cultural Rights (CESCR), technical guidance issued by the Office of the High Commissioner for Human Rights, and elements of the Secretary-General’s Global Strategy document.
10. These documents all promoted abortion as a fundamental human right to some extent, sometimes even to the point of declaring that lack of access to “safe and legal abortion” may constitute torture or other forms of cruel, inhuman, or degrading treatment or punishment. Abortion, however, can never actually be safe, whether in terms of the health of the mother or in terms of the fact that it always ends an innocent unborn human life.
11. Moreover, the 1994 International Conference on Population and Development (ICPD) Programme of Action makes clear in Paragraph 8.25 that “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” and that “every attempt should be made to eliminate the need for abortion.” Goal 5.6 of the 2030 Agenda itself hearkens back to the ICPD Programme of Action and the Beijing Platform of Action and the outcome documents of their review conferences when dealing with “reproductive rights,” and as such abortion-oriented advocacy characterizing such a procedure as a fundamental human right transgresses both the letter and the spirit of the 2020 Agenda and the SDGs.
12. It is for this reason that when dealing with the fulfilment of the right of women and girls to the highest attainable standard of physical and mental health, Member States should, both individually and collectively, hone their efforts on improving both the quality of and access to hospitals, availability of necessary medicine and skilled health workers, and sufficient means of transportation.
13. With regard to the right to the highest attainable standard of physical and mental health and the right to life specifically, a doctor can treat the pregnant woman while also taking care to preserve the life of the unborn, with the understanding that the life of the unborn may perish in the course of treatment. In this case, the goal is never to take the life of the unborn, unlike with abortion.
14. With regard to the argument that abortion is necessary to preserve the life of the mother, the evolving definition of “life-threatening” is concerning. Given that “health” exceptions to abortion prohibitions are broadly construed, often including nebulous concepts such as emotional health, it is possible that a “life” exception would eventually be so broad as to cover almost any situation. In this case, the right to life of the unborn would be completely eroded.
15. On a broader community-wide level, recognizing abortion as a human right and requiring abortion legalization are not solutions to maternal mortality and do nothing to guarantee a woman’s right to life.
16. First, legalizing abortion does not guarantee that it becomes safe. A report by the Guttmacher Institute itself states, “Changing the law […] is no guarantee that unsafe abortion will cease to exist.”[[1]](#footnote-1) Recognizing a right to abortion will not meet the needs of pregnant women in countries where the maternal mortality ratio is high, because women die during pregnancy and childbirth most commonly from sepsis and hemorrhage, which are also two of the main causes of abortion-related deaths. The health care system infrastructure is already poor in these countries, and more abortions may well mean more maternal deaths.
17. Further, the most recent evidence controverts the idea that a total prohibition of abortion undermines maternal health. A major study published in the *British Medical Journal* in 2015 concluded that States with “less permissive” abortion laws “exhibited consistently lower maternal mortality rates.”[[2]](#footnote-2) Although the study explains these differences in terms of other independent factors rather than in terms of abortion legislation itself, it nevertheless concludes: “No statistically independent effect was observed for abortion legislation, constitutional amendment or other covariates.”[[3]](#footnote-3) Because abortion legislation has no positive effect on maternal mortality, abortion need not be legalized to protect women’s health.
18. To improve maternal health and decrease the risks women have of dying during pregnancy or childbirth, the focus must be on providing the key interventions necessary to get mother and baby safely through pregnancy and childbirth, not providing abortion. Almost all maternal deaths are preventable,[[4]](#footnote-4) particularly when skilled birth attendants are present to manage complications and the necessary drugs are available, such as oxytocin (to prevent hemorrhage) and magnesium sulfate (to treat pre-eclampsia). Focusing on abortion legalization and liberalization of abortion laws takes money, manpower, and other resources away from these life-saving maternal health interventions.
19. Case studies of three nations—Ireland, Malta, and Chile—are particularly relevant on this point. According to the World Health Organization, Ireland is one of the safest places in the world for an expectant mother to give birth. After banning almost all abortions in 1983, the country strengthened its focus on providing high-quality prenatal care and rose to become an international model in women’s health. UNICEF ranked the country number 1 in 2005 and number 3 in 2008 for the lowest global maternal mortality rate. Richly documented evidence reveals that, in an emergency, Irish doctors will go to virtually any length to save the lives of both mother and baby, and have succeeding in doing so—thus demonstrating that it is possible to protect them both.
20. Similarly, following the total prohibition of abortion in 1989, Chile experienced a steep decline in the number of maternal deaths from 41.3 per 100,000 live births to 12.7 in 2003, a 69.2% reduction.[[5]](#footnote-5) Chile came to have the second-lowest maternal mortality ratio in the Western Hemisphere (after Canada), making its recent legalization of abortion unnecessary at best and gravely misguided and damaging at worst.
21. An unprecedented fifty-year analysis of maternity data from Chile reveals two essential facts. First, restricting access to abortion services does not negatively impact maternal mortality. In fact, prohibiting abortion in Chile resulted in significantly improved maternal health for the country by freeing up resources to care for mothers and babies. Second, the data makes clear that women’s educational levels are the single most important factor in reducing mortality rates among mothers. The more educated a woman is, the greater her ability to access the health care resources available to her and thus go safely through pregnancy and childbirth.
22. Malta, with one of the lowest maternal mortality rates in the world, is another one of the safest places to be pregnant. Abortion is illegal in Malta, and yet Malta had in 2015 a maternal mortality ratio of only 9 deaths per 100,000 lives births, which is equal to or lower than that of 18 countries that allow abortion on demand and is exactly the same as Estonia and the United Kingdom, and comparable to other developed countries like Croatia, France, and Ireland.[[6]](#footnote-6)
23. Conclusion
24. It cannot be denied that sustainable development, including the 2030 Agenda, can be seen through a human rights-based perspective, as the right to life, the right to health, and any number of other civil and political and economic, social, and cultural rights are directly impacted by issues relating to development. It is nevertheless important, however, to avoid putting the horse before the cart on this issue, and weaponizing the need for necessary and sustainable developing as a Trojan horse for controversial and non-consensus based ethical and societal issues.
25. The right to the highest attainable standard of physical and mental health, specifically with regard to preventable maternal mortality and morbidity, is not going to be guaranteed and fulfilled by liberalized or increased access to abortion, and it is a cynical diversionary tactic to claim that it will. It is also necessary to invest in psychological and mental health-care services for pregnant women and other new mothers, especially those in crisis situations, in order that they can be fully supported and cared for without increased demand for the right to life of unborn children being needlessly violated.
26. Given that it is plain to see that States with highly developed health-care infrastructure have lower rates of maternal mortality and morbidity even when legal access to abortion is heavily restricted or even non-existent, and that States with less developed health-care infrastructure have higher rates (and many of these States have relatively loose legal restrictions on abortion), the full realization of the right to health does not require legal and policy reforms promoting abortion and making it more ubiquitous. Rather, what is required are comprehensive development and health-care investments and reforms worldwide to ensure that mothers and babies are taken care of all the way through pregnancy, childbirth, and the postnatal period.

1. See Susan A. Cohen, *Facts and Consequences: Legality, Incidence and Safety of Abortion Worldwide*, Guttmacher Pol’Y Rev. (2009), available at http://www.guttmacher.org/pubs/gpr/12/4/

   gpr120402.html. [↑](#footnote-ref-1)
2. Elard Koch, Monique Chireau, and Fernando Pliego et. al., *Abortion Legislation, Maternal Healthcare, Fertility, Female Literacy, Sanitation, Violence Against Women and Maternal Deaths: A Natural Experiment in 32 Mexican States*, BMJ Open 2015:5 e006013, doi:10.1136/bmjopen-2014-006013, p. 1. [↑](#footnote-ref-2)
3. *Id.* [↑](#footnote-ref-3)
4. World Health Organization, Fact Sheet, Maternal mortality, available at

   http://www.who.int/mediacentre/factsheets/fs348/en/. [↑](#footnote-ref-4)
5. Koch et al., *Women’s Education Level, Maternal Health Facilities, Abortion Legislation and Maternal Deaths: A Natural Experiment in Chile from 1957 to 2007*, Plos One (2012), available at http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0036613. [↑](#footnote-ref-5)
6. WHO, UNICEF, UNFPA, World Bank Group, and the United Nations Population Division, *Trends in Maternal Mortality: 1990 to 2015*, Geneva, World Health Organization (2015), available at: https://data.worldbank.org/indicator/SH.STA.MMRT. [↑](#footnote-ref-6)