

# Amnesty International Sexual and Reproductive Rights

Updated 04/20/2007

Dear Volunteer Leaders,

Amnesty International's International Executive Committee (IEC) has adopted a new position on Sexual and Reproductive Rights that includes support for abortion in very particular circumstances, in the context of our work to stop grave human rights abuses against women and girls. This new policy, which grew out of our campaigning to stop violence against women and the tragic circumstances in which women all too often find themselves, will enable the organization to:

Support women who seek a safe, early medical termination of pregnancy in cases of rape, incest or when a woman's life or health is at grave risk.

Urge governments to make medical care available to women who suffer complications from unsafe abortions;

Oppose imprisonment and other criminal penalties for abortion against women and their providers.

It is very important to be aware of the following:

**This policy will not be made public at this time.** As the IEC has written to all sections, "There is to be no proactive external publication of the policy position or of the fact of its adoption issued. This means no section or structure is to issue a press release or public statement or external communication of any kind on the policy decision."

A central reason for this is that there will be no campaigning on these issues until at least later this year, and we will await further guidance on this matter from the IS and IEC.

Because we recognize that word about this decision may enter the public domain, the SRR Working Group has prepared some guidance and materials for you to respond to inquiries and to potential criticism in your communities. The documents include:

- [Letter from the Executive Director](#): This can be sent to those who express concern about our new policy. This is, therefore, an **external document** that can be used for-response to inquiries.
- [Two-page overview](#): This explains the context for this decision and the consultation process. This is an **external document** that can be used for-response to inquiries.
- [Letter to the Editor](#): This is an **external document**, but one that should be used only to respond to critical editorials or letters to the editor in local newspapers.
- [FAQ](#): This is an **internal document** that can be used to respond to inquiries, but not distributed to the public.

**A word about press inquiries:**

Please do not respond to any inquiries from the news media. Any press inquiries should be sent to Gwen Fitzgerald ([fitzgerald@aiusa.org](mailto:fitzgerald@aiusa.org)) or Suzanne Trimel ([strimel@aiusa.org](mailto:strimel@aiusa.org)) in the Communications Department's media office.

We are also establishing an email burst for inquiries from members and the public: [srrinfo@aiusa.org](mailto:srrinfo@aiusa.org). Any questions should be directed there or to your regional office. Thank you.

Best,  
Karen Schneider  
Chair, SRR Working Group



## **Background on Amnesty International's Policy on Sexual and Reproductive Rights**

*April 2007*

Amnesty International has a long history of campaigning on issues related to reproductive and sexual health, especially in the context of its work to stop the global epidemic of violence against women. As the world's largest human rights organization, Amnesty International has led protests against coerced abortion, sterilization and contraception; demanded the prosecution of rapes committed as a weapon of war; called for an end to female genital mutilation and "virginity testing," and campaigned against the imposition of the death penalty for women charged under laws criminalizing abortion and adultery after giving birth outside of marriage.

As part of its Campaign to Stop Violence against Women, launched in 2004, Amnesty International has documented widespread, terrible injustices, including rape, incest and other forms of violence that often lead to unwanted pregnancy. Women who are raped under these circumstances are doubly stigmatized; first, as victims of sexual abuse and then for becoming pregnant. In the context of war, rape has been committed with the deliberate intention of causing pregnancy, thereby destroying community and family bonds through the pernicious influences of humiliation and shame.

For example, in Darfur, Sudan, much of the violence has resulted in grave human rights violations against women and girls, including abductions and rape. In the Democratic Republic of the Congo, an estimated 250,000 women have been raped during the four-year armed conflict. Abortion is illegal in the DRC and many women who seek to terminate their pregnancies have undergone unsafe abortions that often cause debilitating health conditions.

With the goal of strengthening its work to address the suffering and injustice related to these reproductive health issues, Amnesty International has adopted a policy to better address certain specific issues associated with sexual and reproductive health.

Amnesty International's decision will enable the organization to:

- Oppose imprisonment and other criminal penalties for abortion, both for women seeking or having abortions and for those providing information about or performing abortions.
- Support access to comprehensive medical care, including safe termination of pregnancy, for women who become pregnant as a result of rape, sexual assault or incest -- or whose lives or health are at grave risk due to pregnancy.
- Urge governments to ensure access to health and other services to women who have complications from unsafe abortions, regardless of the legal status of abortion in the country.

The policy was adopted after nearly two years of consultation with the organization's 2.2 million members and supporters in 74 countries. These discussions took place in the context of the disturbing magnitude of deaths and irreversible health consequences suffered by women worldwide:

- An estimated 70,000 women die each year from unsafe, illegal abortions, according to the UN Millennium Project.
- Five million women a year are hospitalized as a result of complications from unsafe abortions, which can cause serious disability, infection and lifelong pain and infertility.
- The overwhelming burden of these deaths and injuries falls on poor women living in the developing world.

Under our policy, we call on states to:

- Provide women and men with full information on sexual and reproductive health.
- Repeal laws that allow women to be charged, imprisoned or otherwise subjected to criminal penalties for seeking or having an abortion.
- Ensure that any woman who suffers complications from an abortion will have access to the medical services she needs, whether she obtained the abortion legally or illegally.
- Ensure access to abortion services to any woman who becomes pregnant as the result of rape, sexual assault, or incest, or where a pregnancy poses a risk to a woman's life or a grave risk to her health.

Amnesty International does not take a position on whether abortion should be legal or whether it is right or wrong. Amnesty does not counsel individuals as to whether they should continue or terminate a pregnancy, nor will Amnesty campaign generally for abortion. The policy allows Amnesty International to address specific issues associated with abortion to the extent that these are directly relevant to the organization's work, such as the right to health, and violence against women.

Some religious believers consider abortion a violation of the right to life. International law is silent on the question of when life begins and Amnesty International takes no position on this question. The organization recognizes and respects the diversity of religious viewpoints on abortion and believes that one of its greatest strengths has been the solidarity forged among people of diverse beliefs who nonetheless share a commitment to ending human suffering. In this spirit, the organization's leadership believes that its members and supporters can continue to collaborate on specific human rights issues without having to change or challenge their moral standpoint or views on issues such as abortion. It is in this spirit that Amnesty International calls on its members and supporters to work with the organization to end violence against women, which often lies at the root of many unwanted pregnancies.



April 20, 2007

Dear Members and Supporters of Amnesty International USA:

As many of you know, Amnesty International is in the midst of a global Campaign to Stop Violence against Women. As part of this campaign, we have advocated for a woman's right to be free from any form of inhuman treatment, cruelty, coercion, discrimination or violence.

Violence against women is pervasive throughout the world. In conflict zones from Bosnia to Darfur, Sudan to Guatemala, rape has been used as a weapon of war. The World Health Organization estimates that one woman in five will be the victim of rape or attempted rape in her lifetime. In Africa, the number rises to one in three women. Women who are raped often suffer additional abuse and isolation from their communities. In some countries abortion carries severe criminal punishment. In Nigeria, a woman who actually had a miscarriage was accused of aborting the fetus and threatened with the death penalty.

Women suffer terrible consequences from unsafe abortions when access to medical treatment is blocked. Every year 70,000 women die from unsafe abortions and another five million suffer serious medical complications, often leading to lifelong disabilities and/or infertility.

If Amnesty International is to be true to its mission to address grave abuses of human rights of physical and mental integrity without discrimination and if Amnesty is to be a credible voice on women's human rights then it cannot remain silent in the face of such suffering.

This grave situation prompted Amnesty International in 2005 to begin consultations with its 74 national sections to evaluate its response to forced and unwanted pregnancy that results from violence or that poses a grave risk to the woman's life or health.

Following these movement-wide consultations, Amnesty International's International Executive Committee recently concluded that Amnesty should no longer remain silent on certain aspects of abortion and has adopted a policy on abortion that:

- Supports women who seek a safe, early medical termination of pregnancy in cases of rape, incest or when a woman's life or health is at grave risk.
- Urges governments to make medical care available to women who suffer complications from unsafe abortions;
- Opposes imprisonment and other criminal penalties for abortion against women or their providers.

This policy follows Amnesty International's long-standing human rights work on issues related to reproductive and sexual health, particularly in the context of our work to stop violence against women. Over many years, for example, we have opposed coerced abortion, sterilization and abortion for sex selection, demanded the prosecution of rape committed as a weapon of war and called for an end to female genital mutilation.

The new policy means that Amnesty International will not campaign for legalization of abortion generally. Nor will we take a position on whether abortion is right or wrong or on laws regulating the termination of pregnancy, and we will not counsel individuals about whether to continue or terminate a pregnancy.

Amnesty International's new policy is the result of a consultation through which a wide range of views have been considered. We believe that one of our greatest strengths as a worldwide movement has been the solidarity forged among people of diverse beliefs who nonetheless share a commitment to ending suffering and who come together to work on human rights issues. We hope that those supporters who may disagree with our decision in this particular instance will continue to join our struggle to protect human rights around the world.

Yours truly,

*Larry Cox*  
Executive Director  
Amnesty International USA



**Media Response Letter on Amnesty International's  
Policy on Sexual and Reproductive Rights**  
*April, 2007*

**Note: This letter is only to be sent to newspapers as a response to articles, editorials or letters to the editor that are critical of the new sexual and reproductive rights policy; it is not to be sent proactively.**

To The Editor:

Violence against women is pervasive worldwide. In conflict zones from Bosnia to Sudan to Guatemala, rape has been used as a weapon of war. The World Health Organization estimates that one woman in five will be the victim of rape or attempted rape in her lifetime. Women who are raped suffer additional abuse and isolation. In some countries abortion is a crime with severe penalties. Recently in Nigeria, a woman who miscarried was accused of aborting and threatened with the death penalty. In many countries, women suffer terrible consequences when access to medical treatment is blocked. Every year, 70,000 women died from unsafe abortions and another five million suffer often debilitating complications.

As a human rights organization, Amnesty International cannot remain silent in the face of this suffering. The severe violence and dire circumstances women face inspired Amnesty International to initiate a global campaign to Stop Violence against Women through which we advocate for every woman's right to be free from inhuman treatment, cruelty, coercion, discrimination or violence. This campaign has led us to defend a woman's right to be free from any form of coercion, discrimination or violence as she makes and puts into effect informed decisions concerning reproduction, including decisions in relation to the continuation or termination of pregnancy. In particular, we call for protection of women who seek an abortion as a consequence of rape or incest or who are facing grave risk to their health or loss of life. We support the right of women to receive medical treatment for complications arising from abortion, and we oppose sending women and their health care providers to jail for abortion.

Amnesty International takes no position on whether a woman should have an abortion under any of these circumstances but instead seeks to assure that abortion services are safe and accessible to prevent grave human rights violations that can result if women are denied this option.

*Name*

Amnesty International USA



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## **Sexual and Reproductive Rights: Some Frequently Asked Questions**

*April, 2007*

Below are frequently asked questions and answers on sexual and reproductive rights, including abortion, which is being provided to AIUSA as an internal document to assist in answering questions from members or the public.

### **I. Policy and Background**

#### **1. Why has AI developed a policy on abortion?**

AI recognized the stark realities of women and girls who are victims of gender-based violence and who bear the consequences of the abuse of their sexual and reproductive rights. AI's policy development has been driven by the organization's commitment to addressing the human rights realities confronted by victims, survivors and defenders. For women, those realities too often include:

- Criminalization for seeking or having an abortion;
- Denial of access to life-saving medical treatment for abortion complications, especially when the abortion has been obtained illegally;
- Rape and incest, which may lead to unwanted pregnancies and the stigmatization of victims of sexual abuse;
- The denial of access to safe abortion services where continued pregnancy threatens their lives or health.
- AI has developed its policy to enable the organization to undertake principled and comprehensive human rights research and campaigning on such violations in the future – to continue to work toward enabling women to decide whether and under what circumstances to engage in sexual relations and prevent unwanted pregnancy but also to support them when they face grave human rights violations as a result of unwanted pregnancy.

#### **2. What is AI's policy on abortion?**

AI does not take a position on whether abortion should be legal or whether it is right or wrong. Under our policy, we call on states to:

- Provide women and men with full information on sexual and reproductive health.
- Repeal laws that allow women to be charged, imprisoned or otherwise subject to criminal sanctions for seeking or having an abortion.
- Ensure that any woman who suffers complications from an abortion will have access to the medical services she needs, whether she obtained the abortion legally or illegally.
- Ensure access to abortion services to any woman who becomes pregnant as the result of rape, sexual assault, or incest, or when a pregnancy poses a risk to a woman's life or a grave risk to her health.

AI recognizes that some state regulation of access to abortion is justifiable. For example, states may properly ensure that medical practitioners are licensed, may provide other protection against malpractice, and may set reasonable gestational limits.

The policy is based on the principle that every woman has the right to be free from any form of coercion, discrimination or violence as she makes and puts into effect informed decisions concerning reproduction, including decisions in relation to the continuation or termination of pregnancy. AI does not counsel individuals as to whether they should continue or terminate a pregnancy, nor will AI campaign generally for abortion. The policy allows AI to address specific issues associated with abortion to the extent that these are directly relevant to AI's work, such as the right to health and violence against women.

#### **3. How did AI decide on the scope and content of its abortion policy?**

As a democratic membership-based organization AI has a tradition of reaching major policy decisions after thorough internal discussion and debate with the membership. The issue of abortion has been no exception.

The issue emerged on AI's policy agenda in 2003, around the time of the launch of AI's global campaign to Stop Violence against Women. Following a series of discussions in various policy forums, the 2005 meeting of the International Council (AI's highest decision-making body) decided to adopt a policy on sexual and reproductive rights. It also decided that AI should embark on a movement-wide consultation to clarify its position on selected aspects of abortion.

All AI Sections and Structures consulted with their members, including through debates at their annual meetings, workshops or other means. These were aimed at exploring the diversity of views on abortion and abortion-related issues, building better understanding of the issues and establishing consensus. In July 2006, AI adopted a broad-based policy on the rights of women and men to make informed decisions about sex and reproduction free from coercion, discrimination and violence. The policy covers areas such as sex education, access to sexual health information, the promotion of safe motherhood, contraception and other options to address unwanted pregnancy and reduce resort to abortion. It also covers AI's opposition to coercive population control measures such as forced sterilization and forced abortion. The comprehensive approach that AI has adopted shows that its concern is not only related to abortion but to broader issues of sexual and reproductive rights and violence against women.

#### **4. Does AI promote "abortion as human right"?**

No. Some media reports and individuals have claimed that AI promotes a "human right to abortion." This grossly misrepresents AI's policy on sexual and reproductive rights.

AI takes no position on whether abortion is right or wrong, nor on whether or not abortion should be legal. The particular right AI works to protect is the right of all women to be free of any form of coercion, discrimination or violence as they make and put into effect informed decisions regarding the regulation of their fertility.

AI's sexual and reproductive rights policy emphasizes access to contraceptive services and to sexual health information so that the risk of unwanted pregnancies can be reduced.

#### **5. Is it accurate to say that Amnesty International has a neutral position on the abortion question?**

AI takes no position on whether abortion is right or wrong. AI has long opposed forced abortion, sterilization and contraception in all circumstances. AI currently does not take a position on laws regulating the termination of pregnancy other than in cases when pregnancy results from rape, sexual assault, or incest or where it poses a risk to the woman's life or a grave risk to her health.

#### **6. What will AI be able to do with its policy on abortion? Does this not take the organization beyond its mission?**

Campaigning to stop violence against women, protest torture and ill-treatment, and promote non-discrimination and the right to health are fundamental areas of AI's mission. AI has increasingly had to confront the implications of restrictive abortion laws and policies in key areas of its work. The ultimate objective of Amnesty International's movement-wide policy consultation process over the past two years has been to enable work that will make a difference in the lives of women and girls who have suffered egregious human rights violations and who are deeply affected by their lack of access to appropriate sexual and reproductive information and services.

The policy now adopted allows AI to call governments to account for their laws and policies on abortion and to make appropriate policy recommendations toward the realization of women's human rights.

The policy will allow AI to address specific issues associated with abortion to the extent that these are directly relevant to AI's work, such as access to justice and fair process, the right to health and violence against women.

- (a) **Democratic Republic of Congo and Darfur/Sudan.** AI will be able to address the cases of those who are desperately seeking to terminate their unwanted pregnancies in order to end the cruel treatment that such pregnancy entails for them or to avoid the trauma, stigma, abandonment, and even threats to their lives, by their families/communities because they are bearing "a child of the enemy."
- (b) In **Mexico** AI has interviewed rape survivors who have been denied access to legal abortion services, sometimes in life-threatening situations. AI will be able to take up their concerns regarding the abuse and discrimination they have faced in the health system, and to join broad-based campaigns for policy reform.
- (c) In **El Salvador** abortion is prohibited without any exceptions, as the constitution establishes personhood from the point of conception. This means that even in the case of ectopic pregnancy (where the fetus has attached to fallopian tube rather than uterus and will not develop into viable human life), women cannot access abortion



legally until the foetus has died or the tube has burst, putting their own lives and health at grave risk. AI will be able to support the right of such women to life and health.

- (d) In **Nicaragua** abortion is prohibited without any exception. The consequences for women are the same as described above for women in El Salvador.
- (e) In **Nigeria** AI has campaigned against the death penalty for women prosecuted in relation to abortion and ‘culpable homicide’ charges. Under the new policy, AI will also be able to oppose the imprisonment of such women on abortion-related grounds. AI will be able to argue that such imprisonment should be considered as gender-based violence or as cruel, inhuman or degrading punishment.
- (f) Every year in the **Philippines** approximately 800 of the 473,000 women who have abortions die due to complications resulting from unsafe abortion. In addition to campaigning against women’s widespread lack of access to contraception (including emergency contraception) and reproductive health services, AI could call for the decriminalization of abortion and for abortion law and policy reform to make abortion legal and accessible when a woman faces a threat to her life or grave risk to her health or the pregnancy is the result of rape or incest.
- (g) In the **Middle East and North Africa**, AI could support abortion law reform in countries in the region – including countries that have been the focus of AI research on violence against women such as the **Gulf Cooperation Council countries** – to permit legal and safe access to abortion for victims of rape or incest who are faced with an unwanted pregnancy.
- (h) In **Poland** the law permits abortion for women who face a risk to their health. However, in practice women facing this risk to their health are denied access to abortion. A recent decision by the European Court of Human Rights (ECHR) ruled against Poland in the case of Alicja Tysiac for effectively thwarting her access to an abortion when it was judged necessary to protect her health (medical service providers had agreed her pregnancy posed a serious threat to her health but refused to give her a certificate authorizing an abortion). The court criticized the fact that Polish law does not contain “any special procedure for handling and resolving cases where there is disagreement over the suitability of a therapeutic abortion, either between the mother and doctors or between doctors themselves.”<sup>1</sup> AI could look at how obstacles to services in practice violate women’s rights with egregious consequences.

## **7. What impact will the abortion policy have on AI’s research and campaigning agenda?**

AI’s policy on selected aspects of abortion recognizes the range of conscientiously held views on abortion. AI does not seek to declare itself “for” or “against” abortion or to take a position on the rightness or wrongness of abortion. AI also does not seek to counsel individuals as to what choice they should make regarding the continuation or termination of pregnancy in their particular circumstances. AI does seek to ensure that women do not face risks to their life or grave risks to their health – risks that may result from the denial of medical treatment for complications arising from abortions, from women’s fear of seeking such treatment because of fears of prosecution or imprisonment, or from a lack of sexual and reproductive health information.

Under the policy AI will oppose imprisonment and criminal punishment for abortion; urge governments to ensure access to health and other facilities for women who face complications arising from abortion; and call for victims of sexual violence who have become pregnant and those whose lives are at risk because of pregnancy to have access to a comprehensive range of medical and other support services, including the option of safe, early medical termination of pregnancy.

## **8. How can AI reconcile its position on abortion with its longstanding work on the death penalty?**

AI sees no contradiction between its opposition to the death penalty and its policy position on selected aspects of abortion. AI opposes the death penalty as a violation of the right to life and as the ultimate cruel, inhuman and degrading treatment or punishment.

Unsafe and illegal abortion also raises issues of the right to life and cruel, inhuman and degrading treatment or punishment of women. Denying access to safe and legal abortion in case of pregnancy resulting from rape can amount to cruel, inhuman or degrading treatment. Denying medical treatment to a woman who is suffering complications from an abortion (whether legal or not) can amount to cruel, inhuman or degrading treatment and could violate her right to life. Denying access to safe and legal access to abortion when a woman’s life or health are at risk because of pregnancy is a grave violation of her right to life and health.

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<sup>1</sup> <http://uk.reuters.com/article/worldNews/idUKL2015428920070320?pageNumber=2>.

The lack of safe, legal abortion services is recognized as one of the leading causes of preventable maternal death worldwide. The Millennium Development Goals include a goal aimed at the reduction of maternal mortality as key to the eradication of extreme poverty. According to the Millennium Project, over half a million women die every year due to pregnancy related reasons. Some 70,000 of those deaths are attributable to unsafe abortions. The human rights treaty bodies have repeatedly addressed unsafe abortion as a right to life concern.<sup>2</sup>

The decriminalization of abortion is a death penalty issue in its own right in some countries. For instance, in Nigeria AI has campaigned against the death penalty in cases where women were prosecuted on abortion-related “culpable homicide” charges.

### **9. Does AI recognize that abortion violates the right to life of the fetus?**

AI takes no position as to when life begins. AI’s policy on selected aspects of abortion recognizes that states may impose reasonable gestational limitations on access to abortion. AI will not prescribe particular gestational limitations. Instead, it will judge their reasonableness by taking into account factors such as the evolving protection needs of the fetus and the health needs and autonomy entitlements of the woman. Gestational limits that provide no exemptions for protecting the life of the woman, for example, would not be considered reasonable by AI.

Some people believe that life begins at conception and therefore, abortion represents a violation of the right of life of a fetus. Such views are sometimes grounded in particular religious beliefs.

International law is silent on the point when life begins. The Convention on the Rights of the Child has been interpreted as allowing national legislation to specify the moment when childhood or life begins, set in different countries at varying points between conception and birth. The European Court of Human Rights has found that the issue of when the right to life begins is a question to be decided at the national level and has explicitly refrained from finding whether the unborn child is a person protected by the right to life provision of the Convention. The Inter-American Commission on Human Rights has found that the reference in the American Convention of Human Rights to “respect for the right to life in general, from conception” implies that the practice of abortion for “arbitrary” reasons would be contrary to the ACHR, although the ACHR does not absolutely ban abortion.

International human rights bodies as well as national legal systems recognize the need for reasonable restrictions on access to abortion for a variety of ethical and public health reasons, including the health of the pregnant woman and the evolving protection needs of the fetus. They also recognize that the protection of the fetus is inseparably bound to the right to health and life of the mother.<sup>3</sup>

### **10. What does international law say about abortion?**

International, regional and national human rights mechanisms have increasingly addressed unwanted pregnancy and unsafe abortion as a major public health concern and a key cause of preventable maternal illness and death. AI’s abortion policy reflects the language of relevant human rights treaties and other international and regional instruments.

The independent expert bodies that interpret international human rights treaties, for instance, are increasingly supporting the position – also expressed in the outcome consensus documents of major international conferences – that abortion should be safe and accessible where it is legal, and that it should be permitted in cases where pregnancy results from rape or poses a risk to the woman’s life or health. Echoing the call of the 1995 UN Fourth World Conference on Women for all countries to “consider reviewing laws containing punitive measures against women who have undergone illegal abortions,” they have also expressed opposition to the imprisonment of women on abortion charges.

The expert bodies have similarly endorsed states’ agreement at the 1994 UN International Conference on Population and Development that governments should “in all cases provide for the humane treatment and counselling of women who have had recourse to abortion.”

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<sup>2</sup> In General Comment 28 on the Equality of Rights between Men and Women, the Human Rights Committee urged: “When reporting on the right to life protected by article 6, States parties should provide data on birth rates and on pregnancy- and childbirth-related deaths of women. ... States parties should give information on any measures taken by the State to help women prevent unwanted pregnancies, and to ensure that they do not have to undergo life-threatening clandestine abortions.”

<sup>3</sup> Thus, for instance, the UN Committee on the Rights of the Child calls on states, in implementing the child’s right to the highest attainable standard of health, to undertake appropriate measures “[t]o ensure appropriate pre-natal and post-natal health care for mothers.”

The treaty bodies have repeatedly emphasised the need for contraception and sex education to be available as appropriate so that unwanted pregnancies, and hence women's recourse to abortion, are minimized.

In accordance with the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, states must "ensure that the right to health of women, including sexual and reproductive health is respected and promoted" including by "protect[ing] the reproductive rights of women by authorizing medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the fetus."

**11. If the law provides access to abortion to women who become pregnant as a result of rape or incest, why does AI also call for decriminalization in all cases?**

AI believes that where women have been subjected to non-consensual sexual intercourse, they must be able to access safe abortion services legally, in a timely manner.

Where access to abortion depends on a woman being able to "prove" that she was a victim of rape, women face daunting and sometimes insurmountable challenges. Sexual violence remains one of the least reported and inadequately investigated and prosecuted crimes in virtually every country. There are many reasons why a woman may choose not to report a crime of sexual violence. Rape survivors may be unwilling or unable to meet access requirements such as pressing charges against the perpetrator, obtaining police reports or court authorizations, providing forensic evidence of involuntary intercourse or completing other medically unnecessary steps in order to qualify for access to legal abortion within the window of time in which abortion is legally accessible.

AI calls on states to minimize access requirements to ones that are medically indicated and to develop and implement clear protocols to facilitate prompt referral and access to appropriate care. In order to prevent juridical requirements from delaying or standing in the way of necessary care and increasing the likelihood of unsafe abortion, they must also train police, court officials and health care providers to understand the need for prompt and compassionate action and to coordinate their services.

Norms governing provision of abortion services should be part of the body of comprehensive professional standards for the overall management of survivors of rape, covering physical and psychological care, emergency contraception, treatment for sexually transmitted infections or injuries, collecting forensic evidence, and counselling and follow-up care.<sup>4</sup>

**12. AI supports the decriminalization of abortion. What is the difference between decriminalizing abortion and legalizing it?**

"Decriminalization" means the removal of all criminal penalties (including imprisonment, fines, and other punishments) against those seeking, obtaining, providing information about, or carrying out abortions. The repeal of laws criminalizing abortion does not deprive states of their rights and obligations to promote health policies, including the enforcement of gestational limitations, through the enforcement of appropriate medical regulations.

"Legalization" is when the state sets up a regulatory framework on access to abortion services, for instance dictating under what circumstances a woman may access abortion services. A regulatory framework may also establish the time limits for abortion and licensing arrangements for abortion providers.

According to the Center for Reproductive Rights, 38 countries treat abortion as a crime and provide for criminal sanctions in all circumstances, while a further 35 treat abortion as a crime in all circumstances except when the pregnancy threatens the life of the mother.<sup>5</sup>

In countries where restrictive laws are enforced, women convicted on abortion-related charges have been subjected to lengthy prison sentences. In Nepal, for example, before the law was changed, women were reported to have been imprisoned for life for seeking or providing abortion.<sup>6</sup> In Nigeria, women have received the death penalty and other punishments on abortion-related charges.

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<sup>4</sup> World Health Organization, 'Safe abortion: Technical and policy guidance for health systems', 2003, [www.who.int/reproductive-health/publications/safe\\_abortion/safe\\_abortion.pdf](http://www.who.int/reproductive-health/publications/safe_abortion/safe_abortion.pdf)

<sup>5</sup> Center for Reproductive Rights, The World's Abortion Laws, April 2005, [http://www.crlp.org/pub\\_fac\\_abortion\\_laws.html](http://www.crlp.org/pub_fac_abortion_laws.html)

<sup>6</sup> Center for Reproductive Rights, Abortion in Nepal, Women Imprisoned (2002).

However, experience shows that criminalization of abortion actually has little or no impact on rates of abortion. But it has a dramatic impact on the safety of abortion procedures. The highest rates of unsafe abortion in the world occur in countries where abortion is criminalized under most or all circumstances.<sup>7</sup>

Unsafe abortion<sup>8</sup> is one of the leading causes of maternal mortality worldwide, resulting in some 70,000 deaths each year. Injuries and deaths caused by unsafe abortion harm not only women, but also have an adverse impact on their children, families and communities.

AI believes that no woman should be imprisoned simply because she has had an abortion. Decisions in relation to the continuation or termination of pregnancy are a matter of personal conscience to be decided by the woman in consultation with her health service provider, free of any form of coercion, discrimination or violence. Depriving a woman of her liberty because of a profoundly personal decision regarding abortion represents undue interference by the state in a woman's exercise of her freedom of conscience and her right to physical and mental integrity.

AI's policy will not call for the legalization of abortion except for women who require them in cases of unwanted pregnancy as a result of rape, incest or where pregnancy poses a grave risk to the woman's health or life. Denying access to safe and legal abortion in such circumstances amounts to cruel, inhuman and degrading treatment and is a grave violation of women's rights to life and health.

### **13. What position does AI take on sex-selective and disability-selective abortion?**

AI opposes sex-selective abortion. AI's policy does not address disability-selective abortions, which raise complicated issues of fact and are widely debated among advocates for the rights of persons with disabilities. AI's policy does oppose imprisonment or other criminal sanctions for seeking or having sought an abortion, whatever the reason for doing so.

Regulation in law and policy may place certain restrictions on access to abortion services, but only where these restrictions fulfill a human rights or public health goal, and where the restriction is strictly necessary and proportionate. AI believes that, in order to address sex-selective abortion as a manifestation of gender discrimination, states must take all necessary steps in terms of social policy and regulatory reform toward gender equality and the elimination of gender discrimination. Similarly, AI believes that, in order to address selective abortion on grounds of the potential disability status of the fetus where this is a manifestation of discrimination on the basis of disability, states must take all necessary steps in terms of social policy and regulatory reform towards the elimination of such discrimination. Such steps include creating an enabling environment for people with disabilities and combating stereotypes and prejudices relating to persons with disabilities.

State intervention at the point of individual decision-making must not, however, criminalize women who seek or have sought abortions because of their knowledge of the fetus' sex or of the potential disability status of the fetus. Health service providers should not be imprisoned or suffer any other criminal sanctions for providing information about or carrying out abortions unless they violate reasonable restrictions on the provision of abortion.

### **14. How does AI's new position compare to the recent U.S. Supreme Court decision, *Gonzales v. Carhart*, and the standard set forth in *Roe v. Wade*?**

While Amnesty International does not take a position on specific laws regulating the termination of pregnancy, AI does oppose imprisonment and other criminal sanctions for women and their providers. AI therefore opposes the provision of the federal law upheld by the Court in *Carhart* that imposes fines and up to two years in prison for doctors who perform particular types of abortions.

AI's policy addresses a more limited range of circumstances than the legal standard articulated by the U.S. Supreme Court in *Roe v. Wade* and subsequent cases. Amnesty's policy supports decriminalization of abortion, access to medical treatment for women who have suffered complications from unsafe abortions, **and a range of medical treatment for women who became pregnant through rape or incest or whose lives or health are at grave risk due to pregnancy, including the option of safe early termination of pregnancy.**

### **15. Where does AI's policy stand in relation to national laws around the world?**

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<sup>7</sup> WHO 2003, Millennium Project, Cook

<sup>8</sup> The World Health Organization defines abortion as unsafe when it is performed by "persons lacking the necessary skills or in an environment lacking the minimal standards or both."

In 72 countries (26% of the world's population), abortion is "prohibited altogether or permitted only to save the woman's life."

In all other countries, abortion is accessible to "preserve physical health" (35 countries, 10.1% of world's population), "to preserve mental health" (20 countries, 2.7% of world's population) and on "socio-economic grounds" (14 countries, 20.7% of world's population). In 54 countries, (40.5% of world's population) abortion is accessible "without restriction as to reason."<sup>9</sup>

#### **16. Why is AI's abortion policy not more comprehensive?**

At the 2005 International Council Meeting, AI decided that it would undertake a consultation, education, and awareness-raising process on possible AI positions on the issue of abortion to "enable AI to take an informed decision as to the organization's position –should it choose to do so – on the question of whether a woman's right to physical and mental integrity includes her right to terminate her pregnancy, subject to reasonable limitations, and of whether abortion should therefore be legal, safe and accessible to all women." AI policy on selected aspects of abortion has been adopted as the outcome of the consultation, education, and awareness-raising process and represents a position that is both principled, in that it addresses the grave human rights violations that AI works on and is grounded in international standards and pragmatic, in that it recognises the diversity of views on the subject of abortion.

AI is committed fully to work that addresses how human rights violations may result in unwanted pregnancies. This includes analyzing how obstacles to women's access to information and contraceptive services are a violation of the right to information, the right to privacy and the right to health. AI continues to work on promoting women's sexual autonomy to ensure that women are able to choose if, when, how and with whom they engage in sexual relations. And AI continues to promote the right of women and girls to be free from all forms of violence, including sexual violence. By focusing AI's work on these issues, AI is able to promote women's rights to bodily integrity, significantly lowering the risk factors for unwanted pregnancies.

#### **17. Will there be further discussion of AI's abortion policy at the forthcoming International Council Meeting?**

The 2007 International Council meeting will provide an opportunity for sections to identify strategies for implementing the policy. AI's work on these issues will need to be developed and evaluated across the movement before AI can make an informed decision about further policy development in relation to these or other aspects of sexual and reproductive rights.

#### **18. Will AI develop its abortion policy further in the future?**

As with other human rights issues, in implementing its policy on selected aspects of abortion AI will develop and strengthen its expertise on the relevant issues and analyze country situations to assess priorities and identify how it can best work to prevent and end human rights violations linked to abortion-related laws, policies and practices.

Whether AI will need to develop further its policies on abortion and other aspects of sexual and reproductive rights depends on the organization's future evaluation of the work done under the policies that have been adopted.

#### **19. Some members complained that the consultations with national sections were inadequate and/or biased in favor of abortion. What do you say to that?**

The consultations and policy-making process have gone on for more than two years, with several international meetings at which national chapters were represented, had opportunities to present written views, and to listen to international experts with diverse views on abortion.

AI is a diverse movement of over 2.2 million members and supporters in over 74 countries. The quality and scope of consultations has varied from country to country, depending on local circumstances, resources and style of leadership.

### **II Engagement and Discussion on SRR by AI Members**

#### **20. Members of my group are concerned about the new policy due to their religious beliefs. How can I help keep them involved with Amnesty?**

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<sup>9</sup> Center for Reproductive Rights, 'The World's Abortion Laws', April 2005, [http://www.crlp.org/pub\\_fac\\_abortion\\_laws.html](http://www.crlp.org/pub_fac_abortion_laws.html)

Members have always been able to choose the particular human rights work that they take on – either as an individual or a group. Amnesty engages a diverse range of issues, and members who are uncomfortable with Amnesty’s policy on sexual and reproductive rights can work on issues that match their perspective and their interests. Volunteer leaders should be supportive of their opinions and seek common ground to build a human rights movement in your community.

**21. I am a member of an AI student group at a parochial school and my administration wants more information on the new policy. What information can I provide?**

Amnesty has a two-page overview document and letter from its Executive Director that explains how the organization arrived at this position. You can obtain this document and other resources online in the members section of [www.amnestyusa.org](http://www.amnestyusa.org). In addition, you may contact your regional office to talk through the issue and share your thoughts.

**22. The Amnesty group on my campus was denied official recognition because of Amnesty’s new position on abortion. How can I continue Amnesty’s work?**

First tell your regional office what happened. They might be able to help you plan for discussions with school administrators, and find ways for Amnesty to continue to have a presence on campus – such as working on other critical human rights issues.

**23. An organization in my town has started protesting AI’s new policy. How can we improve this situation?**

For some people, the issue of reproductive rights can be very emotional. Regardless of how you might feel about the policy or the group that is protesting, it is important to respect people’s right to their opinions. Depending on the climate and the comfort level of the group, the following actions could be considered:

- 1) Utilize outreach resources provided to your group by your regional office.
- 2) Host a community forum.
- 3) Invite the organization to meet with your group.

Contact your regional office and provide as detailed an overview as possible about the situation, your response and the outcome.

**24. My neighbor says that AI is violating human rights by adopting this policy. How can I respond to this?**

You should note that Amnesty International is calling on governments to live up to their obligations as it relates to a woman’s right to health and in the context of our work to stop violence against women. Amnesty is working to ensure that women have access to life-saving medical treatment. Where women and girls have been victims of terrible violence, including when rape is used as a weapon during armed conflict, Amnesty has been very vocal in calling for justice and has campaigned for prosecutions. When the survivors become pregnant as a consequence of rape and are then stigmatized and ostracized, AI should be equally vocal in ensuring that they have the support and services they need, including early termination of a pregnancy, if that is their choice.

Furthermore, it is important to understand that Amnesty is not campaigning for the legalization of abortion, nor do we take a position on the rightness or wrongness of abortion. It should also be noted that AI has consistently spoken out against governments that support forced abortions and forced sterilization.

While some religions believe that life begins at conception and that, therefore, abortion represents a violation of the right to life of a fetus, international law is silent on the point when life begins.

**25. I/my group would like to start work on sexual and reproductive rights as soon as possible. How can we start?**

Over the coming six months, AI expects to develop a strategy for its work on this issue. We ask that you not start work on this issue until AIUSA has determined how to effectively engage in this area. This is an important step for the human rights movement, and we want to make sure that we choose appropriate efforts to begin our work in this area.

*Amnesty International volunteers, members or staff members are welcome to contact the SRR Working Group at [srrinfo@aiusa.org](mailto:srrinfo@aiusa.org) for further discussion or consultation on this issue.*